



Western Australia

Vocational Education and Training (General) Regulations 2009

Compare between:

[07 Mar 2014, 01-a0-01] and [15 Jul 2014, 01-b0-00]



Reprinted under the
Reprints Act 1984 as
at 7 March 2014

Western Australia

Vocational Education and Training Act 1996

Vocational Education and Training (General) Regulations 2009

Part 1 — Preliminary matters

1. Citation

These regulations are the *Vocational Education and Training (General) Regulations 2009*¹.

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 the day on which the *Training Legislation Amendment and Repeal Act 2008*, other than Part 1, comes into operation¹.

3. Terms used

In these regulations, unless the contrary intention appears —

Act means the *Vocational Education and Training Act 1996*;

AQF means the Australian Qualifications Framework as defined in the Commonwealth Act section 3;

r. 3

AQTF means the Australian Quality Training Framework as defined in the *Higher Education Support Act 2003* (Commonwealth) Schedule 1;

ASQA means the Australian Skills Quality Authority (the National VET Regulator) established under the Commonwealth Act section 155;

Commonwealth Act means the *National Vocational Education and Training Regulator Act 2011* (Commonwealth);

jurisdiction means WA and each jurisdiction listed in regulation 5;

national register has the meaning given in the Commonwealth Act section 3;

personal details —

- (a) of an individual, means his or her name, residential address and date of birth;
- (b) of a body corporate, means its name, the address of its principal place of business and any identifying number it has under the law of the Commonwealth, a State or a Territory;

registering body means —

- (a) the Council; or
- (b) the body responsible for registering training providers under a corresponding law; or
- (c) ASQA;

WA means Western Australia;

working day means a day other than a Saturday, a Sunday or a public holiday in Perth.

[Regulation 3 amended in Gazette 17 Dec 2013 p. 6219.]

Part 2 — General matters

4. Approved VET courses (Act s. 5(1))

- (1) In this regulation —
listed means listed on the national register.
- (2) For the purpose of the definition of *approved VET course* in section 5(1) of the Act, each listed unit of competency that forms part of a listed training package is prescribed.

[Regulation 4 amended in Gazette 17 Dec 2013 p. 6220.]

5. Corresponding laws (Act s. 5(1))

- (1) For the purpose of the definition of *corresponding law* in section 5(1) of the Act, the laws listed of the jurisdictions listed in the Table are prescribed.

Table

Jurisdiction	Law
Australian Capital Territory	<i>Training and Tertiary Education Act 2003</i>
New South Wales	<i>Vocational Education and Training Act 2005</i>
Northern Territory	<i>Northern Territory Employment and Training Act</i>
Queensland	<i>Vocational Education, Training and Employment Act 2000</i>
South Australia	<i>Training and Skills Development Act 2008</i>
Tasmania	<i>Vocational Education and Training Act 1994</i>
Victoria	<i>Education and Training Reform Act 2006</i>

- (2) For the purpose of the definition of *corresponding law* in section 5(1) of the Act, any law passed by a jurisdiction listed in the Table to subregulation (1) in substitution for a law listed in that Table is prescribed.

6. Prescribed VET qualifications (Act s. 5(1))

For the purpose of the definition of *prescribed VET qualification* in section 5(1) of the Act, each of these types of qualification, if conferred or purported to be conferred in respect of vocational education and training, is prescribed —

- (a) Certificate I;
- (b) Certificate II;
- (c) Certificate III;
- (d) Certificate IV;
- (e) Diploma;
- (f) Advanced Diploma;
- (g) Vocational Graduate Certificate;
- (h) Vocational Graduate Diploma.

Part 3 — Regulations for Part 7A of the Act

Division 1 — General matters

7. Terms used

(1) In this Part —

accreditation application means an application to have a VET course accredited under section 58C of the Act;

accreditation standards means the *AQTF 2007 Standards for Accredited Courses* (published by the Commonwealth of Australia 2007);

compliance audit means a compliance audit conducted under Division 3;

compliance monitoring audit means a compliance monitoring audit conducted under Division 3;

continuing registration requirements means the *AQTF Essential Conditions and Standards for Continuing Registration* (published by the Commonwealth of Australia);

initial registration requirements means the *AQTF Essential Conditions and Standards for Initial Registration* (published by the Commonwealth of Australia);

non-referring State has the meaning given in the Commonwealth Act section 7;

owner of a VET course, means the person who owns the copyright in the course;

prescribed registration document means a document that evidences the registration of a training provider and that complies with the requirements of the Standards for VET Regulators;

register means the register created and maintained under regulation 9;

registration application means an application to become a registered training provider under section 58B of the Act;

registration requirements means —

- (a) the initial registration requirements; and
- (b) the continuing registration requirements;

scope of registration of a registered training provider, means —

- (a) the approved VET courses for which the provider is authorised to provide training or assessments or both by the provider's registration; and
- (b) the approved VET qualifications and prescribed VET qualifications that the provider is authorised to confer by the provider's registration;

Standards for VET Regulators has the meaning given in the Commonwealth Act section 189;

VET course for a prescribed VET qualification means a VET course that, if successfully completed by a person, will result in the conferral of a prescribed VET qualification on the person if he or she has also fulfilled any other requirements to obtain the qualification such as those of an apprentice under a training contract;

WA accredited course means a VET course that is an approved VET course by reason of being accredited by the Council under Part 7A of the Act;

WA registered provider means a training provider that is a registered training provider by reason of being registered by the Council under Part 7A of the Act.

- (2) A reference in this Part to a standard forming part of the AQTF or the Standards for VET Regulators is a reference to the standard as published from time to time.

*[Regulation 7 amended in Gazette 25 Oct 2011 p. 4509;
17 Dec 2013 p. 6220.]*

8. Council to have regard to Standards for VET Regulators

- (1) In performing its functions under Part 7A of the Act, the Council must have regard to the Standards for VET Regulators.

- (2) In performing its functions under Part 7A of the Act, the Council must apply —
- (a) the registration requirements; and
 - (b) the accreditation standards.

*[Regulation 8 amended in Gazette 25 Oct 2011 p. 4509;
17 Dec 2013 p. 6220.]*

9. Register

- (1) The Council must create and maintain a register that records this information —
- (a) in relation to each WA registered provider —
 - (i) the information required by regulation 12(7)(a);
 - (ii) any variation, suspension or cancellation of the provider's registration;
 - (iii) any other information the Council decides should be on the register;
 - (b) in relation to each WA accredited course —
 - (i) the information required by regulation 30(2)(a);
 - (ii) any variation, suspension or cancellation of the course's accreditation;
 - (iii) any other information the Council decides should be on the register.
- (2) The Council must make the register available for inspection by the public.
- (3) The Council must give the information on the register, and any change to the information, to the person responsible for managing the national register as soon as practicable after it is recorded on the register.

[Regulation 9 amended in Gazette 17 Dec 2013 p. 6220.]

Division 2 — Registration of training providers

10. Applying to be registered training provider

- (1) A person may apply to be registered as a training provider under section 58B of the Act —
 - (a) if the person's principal place of business —
 - (i) is in WA and all or most of the vocational education and training that the person provides, or intends to provide, is or will be either in WA or another non-referring State (whether or not the person also provides, or intends to provide, vocational education and training elsewhere); or
 - (ii) is in another non-referring State and all or most of the vocational education and training that the person provides, or intends to provide, is or will be in WA (whether or not the person also provides, or intends to provide, vocational education and training elsewhere);
 - and
 - (b) the person is not a training organisation to which the Commonwealth Act applies.
- (2) A WA registered provider whose registration is cancelled by the Council may not apply for registration under section 58B of the Act for 2 years, or such shorter time as the Council considers appropriate, after the day that the cancellation takes effect.
- (3) A registration application made to the Council must be in a form approved by the Council and be accompanied by —
 - (a) any information that the form requires the applicant to provide; and
 - (b) the application fee set under regulation 23.
- (4) If a registration application is not made in accordance with this regulation, the Council may reject it without deciding it.

[Regulation 10 amended in Gazette 17 Dec 2013 p. 6221.]

11. Dealing with applications

- (1) In this regulation —
application means —
 - (a) a registration application; or
 - (b) a renewal application made under regulation 16; or
 - (c) an application made under regulation 17 for a variation of a registration.
- (2) This regulation and regulations 12, 16 and 17 do not limit the grounds on which the Council may decide not to grant an application.
- (3) The Council may ask the applicant to provide it with any information it needs to decide an application.
- (4) The Council may delay deciding an application until it has received any information it has asked the applicant to provide.
- (5) If the Council does not grant an application, it must give the applicant a written notice stating its decision and the reasons for its decision.

12. Registering training providers

- (1) In this regulation, a person is an *associate* of another person if —
 - (a) one is a parent, spouse, de facto partner or child of the other; or
 - (b) one is an employer or employee of the other; or
 - (c) they are partners in a partnership; or
 - (d) one is a body corporate and the other —
 - (i) is a director or a member of the governing body of the body corporate; or

- (ii) is otherwise involved in the control or management of the body corporate; or
 - (iii) has a legal or equitable interest in 5% or more of the share capital of the body corporate;
 - or
 - (e) one is the trustee or beneficiary of a trust of which the other is also a trustee or beneficiary; or
 - (f) a chain of relationships can be traced between them under one or more of the preceding paragraphs.
- (2) This regulation applies whether the Council is deciding a registration application, or deciding on its own initiative whether to register a training provider.
- (3) The Council must not register a training provider unless it is satisfied that the provider satisfies the criteria for making an application for registration under regulation 10(1) and that —
 - (a) the provider complies with the conditions of registration, and meets the standards, in the initial registration requirements; or
 - (b) a compliance audit has been conducted on the provider within the previous 3 months and the provider has been found to comply with those conditions of registration and to meet those standards; or
 - (c) the provider is registered under a corresponding law and the registration application does not seek either —
 - (i) a scope of registration; or
 - (ii) a condition of its registration,that differs from the scope or any condition of its registration under the corresponding law.
- (4) The Council must not register a training provider who is registered under a corresponding law or the Commonwealth Act until the Council receives a notice from the relevant registering

body that the registering body has cancelled the provider's registration.

- (5) The Council must not register a training provider unless the provider has paid the registration fee set under regulation 23.
- (6) The Council may refuse to register a training provider if it is not satisfied the provider is a fit and proper person to be registered having regard to —
 - (a) the prior conduct of the provider or an associate of the provider (whether in WA or elsewhere); and
 - (b) any other matter the Council considers relevant.
- (7) If the Council decides to register a training provider, it must do the following —
 - (a) include this information on the register —
 - (i) the provider's personal details;
 - (ii) the provider's scope of registration;
 - (iii) any condition of the registration imposed under regulation 13(3)(c);
 - (b) give the applicant a prescribed registration document;
 - (c) give the applicant written notice of each condition to which the registration is subject under regulation 13.

*[Regulation 12 amended in Gazette 25 Oct 2011 p. 4509;
17 Dec 2013 p. 6221.]*

13. Conditions of registration

- (1) A WA registered provider's registration is subject to —
 - (a) the conditions of registration in the continuing registration requirements; and
 - (b) the mandatory conditions in subregulation (2); and
 - (c) any conditions imposed under subregulation (3).

- (2) The mandatory conditions that apply to a WA registered provider's registration are these —
- (a) the provider must meet the standards in the continuing registration requirements;
 - (b) the provider must, if a compliance audit or a compliance monitoring audit shows the provider does meet those 3 standards, take all steps necessary to meet them;
 - [(c) deleted]*
 - (d) the provider must, if a compliance audit or a compliance monitoring audit shows the provider is not complying with any condition of its registration, take all steps necessary to comply with it;
 - (e) if any of these events has occurred or is going to occur, the provider must give the Council written notice of it as soon as practicable —
 - (i) a substantial change to the ownership or management of the provider;
 - (ii) a significant change to the provider's operations;
 - (iii) the provider's principal place of business ceases to be in WA;
 - (iv) all or most of the vocational education and training that the provider provides ceases to be in WA.
- (3) The Council may impose any of these conditions when registering or varying the registration of a training provider —
- (a) a condition that specifies or limits the approved VET courses for which the provider is authorised to provide training or assessments or both under the registration;
 - (b) a condition that specifies or limits the approved VET qualifications and the prescribed VET qualifications that the provider is authorised to confer under the registration;

- (c) a condition that otherwise relates to or limits the operations that the provider is authorised to conduct under the registration.
- (4) Any condition imposed under subregulation (3) must be consistent with the continuing registration requirements.

[Regulation 13 amended in Gazette 25 Oct 2011 p. 4510; 17 Dec 2013 p. 6222.]

14. Period of registration

Unless it is sooner cancelled by the Council, a WA registered provider's registration, whether granted initially or renewed, has effect for the period (not over 5 years) set by the Council and specified in the prescribed registration document given to the provider.

15. Annual fees payable by registered training providers

A WA registered provider must pay an annual fee set under regulation 23 on or before each anniversary of the provider's registration or its renewal.

16. Renewal of registration

- (1) An application by a WA registered provider for a renewal of its registration must be in a form approved by the Council and be accompanied by —
 - (a) any information that the form requires the applicant to provide; and
 - (b) the fee set under regulation 23.
- (2) If a WA registered provider makes a renewal application under subregulation (1) at least 3 months before its registration is due to expire —
 - (a) the registration continues to have effect, despite regulation 14, until the expiry or until the Council decides the application, whichever occurs later; and

- (b) if the registration is renewed, the renewal has effect from the expiry, even if the application is not granted until after the expiry.
- (3) The Council, whether on a renewal application or on its own initiative, must not renew the registration of a WA registered provider unless —
 - (a) the Council is satisfied —
 - (i) that the person satisfies the criteria for making an application for registration under regulation 10(1); and
 - (ii) the provider meets the standards in the continuing registration requirements; and
 - (iii) the provider is complying with the conditions of the provider's registration; and
 - (iv) there would be no reason, if the provider were applying to be registered as a training provider, for the Council, under regulation 12(6), to refuse to register the provider;
 - and
 - (b) the provider has paid the fee set under regulation 23.
- (4) If the Council decides to renew a WA registered provider's registration, it must —
 - (a) update the register; and
 - (b) give the provider a prescribed registration document.

*[Regulation 16 amended in Gazette 25 Oct 2011 p. 4510;
17 Dec 2013 p. 6222.]*

17. Varying registrations

- (1) An application by a WA registered provider for a variation of its registration must be in a form approved by the Council and be accompanied by —

- (a) any information that the form requires the applicant to provide; and
 - (b) the fee set under regulation 23.
- (2) On an application made under subregulation (1) the Council may vary —
 - (a) the applicant's scope of registration; or
 - (b) any condition imposed under regulation 13(3)(c); or
 - (c) any other of the applicant's details in the register.
- (3) The Council, on its own initiative, may vary a WA registered provider's registration at any time by doing any of the following —
 - (a) correcting any information in the register that is wrong;
 - (b) changing the provider's scope of registration;
 - (c) imposing a condition that may be imposed under regulation 13(3)(c);
 - (d) varying or cancelling a condition that has been imposed under regulation 13(3)(c).
- (4) The Council must not vary a WA registered provider's registration to change the provider's scope of registration unless it is satisfied that the provider satisfies the criteria for making an application for registration under regulation 10(1) and that —
 - (a) the provider meets the standards in the continuing registration requirements; or
 - (b) a compliance audit or a compliance monitoring audit has been conducted on the provider within the previous 3 months and the provider has been found to meet those standards,

in relation to any operations that the change would authorise the provider to conduct and that, without the change, the provider is not authorised to conduct.
- (5) If the Council varies a WA registered provider's registration, the Council must give the provider written notice of its decision

and, if the decision is made under subregulation (3), the reasons for it.

[Regulation 17 amended in Gazette 25 Oct 2011 p. 4510; 17 Dec 2013 p. 6222.]

18. Cancelling registration if provider's operations change

- (1) Under section 58B of the Act, the Council may cancel a WA registered provider's registration if it is satisfied that the provider is a person who does not satisfy, or no longer satisfies, the criteria for making an application for registration under regulation 10(1).
- (2) The Council must not cancel a WA registered provider's registration under subregulation (1) unless it has given the provider at least 30 days' written notice of its intention to do so.
- (3) If, before the period in the notice expires, the provider applies to another registering body to be registered as a training provider under a corresponding law or the Commonwealth Act, the Council must not cancel the registration until the application is decided.

[Regulation 18 amended in Gazette 17 Dec 2013 p. 6222.]

19. Suspending or cancelling registration

- (1) Under section 58B of the Act, the Council may suspend or cancel a WA registered provider's registration if it is satisfied as to any of these matters —
 - (a) the provider was registered as a result of false or misleading information given by the provider;
 - (b) the provider has requested or consents to the suspension or cancellation;
 - (c) the provider has ceased to exist;
 - (d) the provider does not meet the standards in the continuing registration requirements;

- (e) the provider has contravened a condition to which its registration is subject;
 - (f) the provider is not a fit and proper person to be registered having regard to the matters in regulation 12(6);
 - (g) the provider has not paid any annual fee in accordance with regulation 15.
- (2) Under section 58B of the Act, the Council may suspend or cancel a WA registered provider's registration for a reason specified by subregulation (1) even if —
- (a) the Council is no longer satisfied that the provider satisfies the criteria for making an application for registration under regulation 10(1); or
 - (b) the provider has applied to another registering body to be registered as a training provider under a corresponding law or the Commonwealth Act.
- (3) The suspension of a WA registered provider's registration may relate to the whole or a part of the provider's scope of registration, as the Council decides.
- (4) To suspend a WA registered provider's registration, the Council must give the provider a written order suspending the registration that includes —
- (a) the reasons for the suspension; and
 - (b) any terms applicable to the suspension under regulation 20.
- (5A) The reasons for the suspension referred to in subregulation (4)(a) must identify specific issues to be addressed by the applicant.
- (5) If a WA registered provider's registration is suspended, the provider does not cease to be a registered training provider.
- (6) The Council must not cancel a WA registered provider's registration unless it has consulted any registering body that has,

or may have, registered the provider under a corresponding law or under the Commonwealth Act.

- (7) A contravention of subregulation (6) does not affect the validity of any cancellation of the provider's registration.
- (8) If the Council cancels a WA registered provider's registration, the Council must, if practicable, give the provider written notice of its decision and the reasons for it.
- (9) A request by a WA registered provider for the cancellation of its registration must be accompanied by the fee set under regulation 23.

*[Regulation 19 amended in Gazette 25 Oct 2011 p. 4510;
17 Dec 2013 p. 6223.]*

20. Suspension of WA registered provider may be on terms

- (1) If under section 58B of the Act the Council suspends a WA registered provider's registration, the suspension may be on any terms the Council decides to impose including, but not limited to, the term referred to in subregulation (3).
- (2) The Council may vary or cancel the terms of a suspension during the period of the suspension.
- (3) Unless exceptional circumstances justify the Council in refusing to impose the term, a suspension must include a term that the provider —
 - (a) may provide any training or assessment that the provider, but for the suspension, would have been authorised to provide, if it is provided under an agreement entered into by the provider before the suspension had effect; and
 - (b) may solicit and accept consideration from a person for training or assessment provided, if it was provided under an agreement entered into by the provider before the suspension had effect.

21. Effect of suspension of WA registered provider

- (1) This regulation applies if under section 58B of the Act the Council suspends a WA registered provider's registration.
- (2) A person must not, for any training or assessment that the provider, but for the suspension, would have been authorised to provide, do anything for any of these purposes —
 - (a) recruiting or enrolling any person;
 - (b) soliciting or accepting any consideration from any person for any person's recruitment or enrolment;
 - (c) starting any person's training or assessment.

Penalty: a fine of \$5 000.

22. Requests for reassessment of decision to suspend WA registered provider

- (1) This regulation applies if the Council has decided to suspend a WA registered provider's registration under regulation 19.
- (2) A WA registered provider to whom this regulation applies may request in writing that the Council reassess its decision in relation to the issues identified by the Council in the written order given under regulation 19(4).
- (3) A request by a WA registered provider must —
 - (a) describe the actions taken by the provider to address the issues identified in the order referred to in subregulation (2); and
 - (b) provide evidence to demonstrate that those issues have been addressed by the provider; and
 - (c) be accompanied by the reassessment fee set under regulation 23.

[Regulation 22 inserted in Gazette 17 Dec 2013 p. 6223-4.]

23. Fees

- (1) The fees payable under this Division are to be set by the Council.
- (2) The fees set must be such amounts that in total do not exceed the costs and expenses incurred by the Council in administering Part 7A of the Act in so far as it relates to training providers.
- (3) The Council may set differing fees according to the number of industries in relation to which training providers provide vocational education and training.
- (4) If a fee payable under this Division is not paid, the amount of the fee may be recovered in a court of competent jurisdiction as a debt due to the State.

Division 3 — Audits of, and investigations into, training providers

[Heading amended in Gazette 17 Dec 2013 p. 6224.]

24. Terms used

In this Division —

compliance audit means an audit to establish whether a training provider meets the relevant registration requirements or is complying with the Act;

compliance monitoring audit means an audit in the form of a review or examination of all or any particular aspect of a WA registered provider's operations —

- (a) following a compliance audit; or
- (b) as part of an investigation of a complaint;

investigation, in relation to a complaint, means an investigation into a WA registered provider conducted by the Council as a result of a complaint made about the provider's compliance with the AQTF;

official travel costs means —

- (a) reasonably incurred airfares; and
- (b) such other travel expenses which may reasonably be incurred, including but not limited to accommodation, car rental and meals.

[Regulation 24 inserted in Gazette 17 Dec 2013 p. 6224.]

25. Compliance audits

- (1) An inquiry conducted under section 58D of the Act may be in the form of a compliance audit.
- (2A) The Council may conduct a compliance audit at any time on a training provider if the Council thinks fit having regard to the Act and the relevant registration requirements.
- (2) A compliance audit must comply with the Standards for VET Regulators.
- (3) A contravention of subregulation (2) does not affect the validity of the compliance audit if the contravention —
 - (a) does not substantially affect the outcome of the audit; or
 - (b) arises out of an inconsistency between the audit standards and written laws.

[Regulation 25 amended in Gazette 17 Dec 2013 p. 6225.]

26A. Compliance monitoring audits

- (1) An inquiry conducted under section 58D of the Act may be in the form of a compliance monitoring audit on a WA registered provider.
- (2) The Council may conduct a compliance monitoring audit on a WA registered provider —
 - (a) if the Council thinks fit after assessing the results of a compliance audit; or
 - (b) as part of an investigation of a complaint.

Vocational Education and Training (General) Regulations 2009

Part 3 Regulations for Part 7A of the Act

Division 3 Audits of, and investigations into, training providers

r. 26B

- (3) If the Council conducts a compliance monitoring audit on a WA registered provider, a charge is payable for —
 - (a) the costs and expenses incurred by the Council in conducting the audit, calculated as the sum of —
 - (i) \$1 000; and
 - (ii) if the audit exceeds 4 hours in length — \$250 per subsequent hour; and
 - (iii) the official travel costs;and
 - (b) if any part of the audit is conducted outside Australia — any additional expenses reasonably incurred by the Council relating to that part of the audit.
- (4) A charge under subregulation (3) relating to a compliance monitoring audit on a WA registered provider is payable by that provider.
- (5) If a charge payable under subregulation (3) is not paid, the amount of the charge may be recovered in a court of competent jurisdiction as a debt due to the State.

[Regulation 26A inserted in Gazette 17 Dec 2013 p. 6225-6.]

26B. Investigations of complaints

- (1) An inquiry conducted under section 58D of the Act may be in the form of the investigation of a complaint made about compliance with the AQTF by a WA registered provider.
- (2) An investigation of a complaint must comply with the National Guidelines for Responding to Complaints about Vocational Education and Training Quality in the National Guidelines for a Registering Body, part of the AQTF.
- (3) A contravention of subregulation (2) does not affect the validity of the investigation of a complaint if the contravention —
 - (a) does not substantially affect the outcome of the investigation; or

- (b) arises out of an inconsistency between the National Guidelines for Responding to Complaints about Vocational Education and Training Quality and written laws.
- (4) If the Council investigates a complaint made about a WA registered provider and finds the complaint substantiated, a charge is payable for —
 - (a) the costs and expenses incurred by the Council in conducting the investigation, calculated as the sum of —
 - (i) \$250 per hour; and
 - (ii) the official travel costs;and
 - (b) if a compliance monitoring audit is conducted as part of the investigation — the charges prescribed under regulation 26A(3)(a); and
 - (c) if any part of the investigation, or compliance monitoring audit referred to in paragraph (b), is conducted outside Australia — any additional expenses reasonably incurred by the Council relating to that part of the investigation or audit.
- (5) A charge under subregulation (4) relating to an investigation of a complaint about a WA registered provider is payable by that provider.
- (6) If a charge payable under subregulation (4) is not paid, the amount of the charge may be recovered in a court of competent jurisdiction as a debt due to the State.

[Regulation 26B inserted in Gazette 17 Dec 2013 p. 6226.]

26C. Circumstances in which a charge may be waived in whole or in part

- (1) A charge that would otherwise be payable under this Division may be waived, in whole or in part if, in the opinion of Council —
 - (a) special or unusual circumstances exist which cause the charge to be unreasonable or inequitable; or
 - (b) the amount of the charge that remains unpaid is so small that its recovery would be uneconomical to pursue.
- (2) For the purposes of subregulation (1)(a), the following circumstances do not constitute grounds for granting a waiver —
 - (a) where the WA registered provider required to pay the charge did not consent to the compliance monitoring audit or investigation that resulted in the imposition of a charge;
 - (b) where the WA registered provider required to pay the charge does not agree with the outcome of the compliance monitoring audit or investigation that resulted in the imposition of a charge;
 - (c) where the WA registered provider required to pay the charge ceases to exist, or ceases to be a WA registered provider, or ceases to carry on business as a training provider.

[Regulation 26C inserted in Gazette 17 Dec 2013 p. 6227.]

26D. Rounding

When determining under regulations 26A(3)(a)(ii) and 26B(4)(a)(i) the amount of the charge payable for a compliance monitoring audit or investigation where the hourly rate is \$250 per hour, the following amounts will apply in the following circumstances —

- (a) if the time taken to complete the compliance monitoring audit or an investigation is less than 30 minutes, the total amount payable will be zero dollars;
- (b) if the time taken to complete the compliance monitoring audit or investigation is less than one hour but equal to or greater than 30 minutes, the total amount payable will be \$125.

[Regulation 26D inserted in Gazette 17 Dec 2013 p. 6227.]

Division 4 — Obligations of registered training providers and of the Council

[Heading amended in Gazette 17 Dec 2013 p. 6228.]

26. Reporting to Council

- (1) The Council from time to time may give a WA registered provider a written notice specifying —
 - (a) the date on or before which the provider must give the Council a return containing the information listed in subregulation (3); and
 - (b) the period to which the return must relate; and
 - (c) the format of the return; and
 - (d) the means by which the provider must give the return.
- (2) The Council must not require a WA registered provider to give it a return more frequently than once in every 6 months.
- (3A) Subregulation (2) does not apply if the Council considers that special circumstances exist that warrant the Council giving a WA registered provider a notice under this regulation.
- (3) A return must contain this information for the period to which the return relates —
 - (a) details of the approved VET courses the provider provided, in whole or in part;
 - (b) the name, date of birth and gender of the persons to whom the courses were provided;
 - (c) the approved VET qualifications and prescribed VET qualifications the provider conferred;
 - (d) the name, date of birth and gender of the persons on whom the qualifications were conferred.

- (4) A training provider who is given a notice under this regulation and who does not give the Council a return in accordance with the notice and this regulation commits an offence.

Penalty: a fine of \$5 000.

[Regulation 26 amended in Gazette 16 Mar 2012 p. 1248.]

27. Giving Council information on ceasing operations

- (1) This regulation applies to a WA registered provider if the provider —
- (a) ceases to operate in WA; or
 - (b) ceases to be a registered training provider.
- (2) Within 28 days after becoming a provider to which this regulation applies, the provider must give the Council —
- (a) this information for the period since the end of the period to which the last return given by the provider under regulation 26 related —
 - (i) details of the approved VET courses the provider provided, in whole or in part;
 - (ii) the personal details of the persons to whom the courses were provided;
 - (iii) the approved VET qualifications and prescribed VET qualifications the provider conferred;
 - (iv) the personal details of the persons on whom the qualifications were conferred;and
 - (b) the information, and the means of reproducing or retrieving it, that the provider has kept in accordance with the conditions of registration in the continuing registration requirements of —
 - (i) the approved VET qualifications and prescribed VET qualifications the provider conferred on persons; and

- (ii) the personal details of those persons.

Penalty: a fine of \$5 000.

[Regulation 27 amended in Gazette 25 Oct 2011 p. 4511.]

28A. Person may obtain from Council certified copies of information

- (1) A person may make an application under this regulation if the person was a person to whom a course was provided, or a qualification conferred, by a WA registered provider that has —
 - (a) ceased to operate in WA; or
 - (b) ceased to be a registered training provider.
- (2) On application made to the Council, the Council must supply to a person about whom the Council holds information under this Division, a certified copy of any, or all, of that information as is requested by the person.
- (3) An application made to the Council must be in a form approved by the Council and be accompanied by —
 - (a) any information that the form requires the applicant to provide; and
 - (b) the application fee being \$60 for each certified copy requested.

[Regulation 28A inserted in Gazette 17 Dec 2013 p. 6228.]

Division 5 — Accreditation of VET courses

28. Applying to have VET course accredited

- (1) Any person may apply to the Council to have a VET course accredited under section 58C of the Act.
- (2) An accreditation application must be in a form approved by the Council and be accompanied by —
 - (a) any information that the form requires the applicant to provide; and

- (b) the application fee being —
 - (i) for a VET course for a prescribed VET qualification — \$2 700;
 - (ii) for any other VET course — \$715.

*[Regulation 28 amended in Gazette 25 Oct 2011 p. 4512;
21 Aug 2012 p. 3927; 17 Dec 2013 p. 6228.]*

29. Dealing with applications

- (1) This regulation and regulation 30 do not limit the grounds on which the Council may decide not to grant an accreditation application.
- (2) The Council may ask the applicant to provide it with any information it needs to decide an accreditation application.
- (3) The Council may delay deciding an accreditation application until it has received any information it has asked the applicant to provide.
- (4) The Council must not grant an application except in accordance with regulation 30.
- (5) If the Council does not grant an application, it must give the applicant a written notice stating its decision and the reasons for its decision.

30. Accrediting VET courses

- (1) The Council must not accredit a VET course unless —
 - (a) it has assessed the VET course in accordance with the Standards for VET Regulators; and
 - (b) it is satisfied the VET course meets those standards; and
 - (c) in the case of a VET course for a prescribed VET qualification — it is satisfied the course complies with the guidelines in the AQF for the qualification.

- (2) If the Council decides to accredit a VET course, it must do the following —
- (a) include this information on the register —
 - (i) the personal details of the person who applied to have the course accredited;
 - (ii) the course's details;
 - (b) give that person a course accreditation document in accordance with the Standards for VET Regulators;
 - (c) give that person written notice of any condition to which the accreditation is subject.

[Regulation 30 amended in Gazette 17 Dec 2013 p. 6228-9.]

31. Period of accreditation

Unless it is sooner cancelled by the Council, the accreditation of a VET course by the Council has effect for the period (not over 5 years) set by the Council and specified in the course accreditation document.

32. Renewing accreditation

- (1) At any time before the accreditation of a WA accredited course is due to expire, a person may make an accreditation application to have the course again accredited by the Council.
- (2) Regulations 28, 29, 30 and 31 apply to and in respect of the application.
- (3) If a person makes an accreditation application under subregulation (1) at least 3 months before the accreditation of the course is due to expire —
 - (a) the accreditation continues to have effect, despite regulation 31, until the expiry or until the Council decides the application, whichever occurs later; and

- (b) if the application is granted, the new accreditation of the course has effect from the expiry, even if the application is not granted until after the expiry.

33A. Varying accreditation

- (1) The Council may at any time vary the accreditation of a WA accredited course.
- (2) The Council may take such action —
 - (a) on its own initiative, if the Council is satisfied that the action is reasonable and —
 - (i) updates information in the course; or
 - (ii) corrects false or misleading information in the course; or
 - (iii) has been requested by an occupational licensing body, or other industry body, that deals with, or has an interest in, matters relating to the course's content;
 - or
 - (b) if —
 - (i) an application is made by the owner of the VET course; and
 - (ii) the Council is satisfied that it is appropriate to vary the accreditation.
- (3) An application to vary the accreditation of a WA accredited course must be in a form approved by the Council and be accompanied by —
 - (a) any information that the form requires the applicant to provide; and
 - (b) the application fee of \$500.
- (4) This regulation and regulation 30(1) (as applied by subregulation (6)) do not limit the grounds on which the Council

may decide not to grant an application to vary the accreditation of a WA accredited course.

- (5) The Council must not grant an application except in accordance with subregulation (2) and regulation 30(1) (as applied by subregulation (6)).
- (6) Regulations 29(2), (3) and (5) and 30(1) apply to and in respect of an application to vary the accreditation of a WA accredited course.
- (7) If the Council decides to vary the accreditation of a VET course, it must give to the owner of the course —
 - (a) a course accreditation document in accordance with the Standards for VET Regulators; and
 - (b) written notice of any condition to which the accreditation as varied is subject.

[Regulation 33A inserted in Gazette 17 Dec 2013 p. 6229-30.]

33. Cancelling accreditation

The Council may cancel the accreditation of a WA accredited course if it is satisfied —

- (a) the course does not meet the accreditation standards; or
- (b) the owner of the course —
 - (i) requests the cancellation; or
 - (ii) has ceased to exist; or
 - (iii) has contravened the Act; or
 - (iv) has contravened a condition to which the accreditation is subject.

Part 4 — Regulations for Part 7 of the Act

Division 1 — General matters

34. Term used: nominated training provider

In this Part —

nominated training provider under a training contract, means the registered training provider who, having been selected by the parties to the contract, has agreed to be the training provider who will ensure —

- (a) the apprentice is provided with the on-the-job and off-the-job training that is required for the purposes of the contract; and
- (b) the apprentice is assessed for the purposes of the contract.

35. Chief executive may delegate

- (1) The chief executive may delegate to any person any of the chief executive's functions under Part 7 of the Act and this Part, other than this power to delegate.
- (2) A delegation made under subregulation (1) must be in writing and be signed by the chief executive.
- (3) A person exercising or performing a power or duty delegated to the person under this regulation is to be taken to do so in accordance with the delegation's terms unless the contrary is shown.
- (4) This regulation does not limit the ability of the chief executive to perform a function through an agent.

Division 2 — Classifying prescribed VET qualifications

36. Who Board must consult (Act s. 60C)

- (1) This regulation does not limit who the Board may consult before giving the Minister advice or a recommendation about a decision the Minister may make under section 60C of the Act.
- (2) For the purposes of section 60C(1) of the Act, the Board, before giving the Minister any advice or recommendation about a decision the Minister may make under section 60C of the Act, must —
 - (a) seek advice and recommendations from any industry training advisory body that —
 - (i) is recognised by the Board under the Act; and
 - (ii) is conversant with and capable of giving advice in relation to the requirements of any industry that might be affected by the Minister’s decision;
 - and
 - (b) ensure that any union representing workers, and any body representing employers, who are involved in any industry that might be affected by the Minister’s decision, have been consulted.

37. Board’s advice and recommendations to Minister (Act s. 60C)

- (1) This regulation does not limit the advice or recommendations that the Board may give the Minister for the purposes of section 60C of the Act.
- (2) The Board must ensure that any advice or recommendation it gives the Minister for the purposes of section 60C of the Act is consistent with the AQF.
- (3) For the purposes of section 60C of the Act, the Board, in relation to a prescribed VET qualification, must give the

Minister its advice and recommendations as to the class the qualification should be given under section 60C(3) of the Act.

- (4) If the Board recommends a qualification should be classified under section 60C(3) of the Act as a class A qualification or a class B qualification, it must give the Minister advice and recommendations on these matters about the qualification —
- (a) whether an apprentice under a training contract for the qualification should be called an apprentice, a trainee, an intern, a cadet or some other term;
 - (b) the nominal period of a training contract for the qualification;
 - (c) whether an apprentice under a training contract for the qualification should be able to work part-time under the contract;
 - (d) whether a person at school should be able to enter into a training contract for the qualification;
 - (e) any condition that should apply to the classification of the qualification;
 - (f) any requirement there should be for a training contract for the qualification.

[Regulation 37 amended in Gazette 17 Dec 2013 p. 6230.]

Division 3 — Training contracts

38. Form and content of training contracts

- (1) A training contract must —
 - (a) be in the form in Schedule 1; and
 - (b) be signed by the parties.
- (2) The probation period stated in a training contract must be determined under regulation 39(1).
- (3) A training contract must comply with any requirements imposed under section 60C(5)(b) of the Act in relation to training

contracts for the prescribed VET qualification to which the training contract relates.

- (4) A reference in a training contract to “State/Territory Training Authority” is, in respect of WA, a reference to the chief executive.

39. Probation periods of training contracts

- (1) The probation period of a training contract begins on the commencement date of employment stated in question 3 of the contract and is the shorter of —
- (a) 3 months; or
 - (b) the period that is one-twelfth of the contract’s nominal period,

but in any event must not be less than one month.

- (2) A party to a training contract may apply to the chief executive before the probation period of the contract expires for approval to vary the contract by extending the probation period for a period stated in the application and not exceeding the length of the probation period determined under subregulation (1).
- (3) If the chief executive grants the application, the approval must state the period, decided by the chief executive, by which the probation period may be extended, but it must not exceed the length of the probation period determined under subregulation (1).
- (4) If the application is granted, the parties may vary the contract by extending the probation period from its expiry for the period stated in the chief executive’s approval.

40. Children’s capacity to enter into training contracts

- (1) In this regulation —
child means a person under 18 years of age;

compulsory education period for a child, has the meaning given in the *School Education Act 1999* section 6;

parent of a child, means —

- (a) a person who at law has responsibility for the long-term care, welfare and development of the child; or
 - (b) a person who at law has responsibility for the day-to-day care, welfare and development of the child; or
 - (c) if, in the opinion of the chief executive, there is no person to whom paragraph (a) or (b) applies who is reasonably available at the relevant time, an adult person who is responsible for the child.
- (2) This regulation is subject to the *Children and Community Services Act 2004* Part 7.
- (3) If —
- (a) a child for whom the compulsory education period has not ended is, under the *School Education Act 1999* section 11L, designated to be an independent child for the purposes of Part 2 Division 1 Subdivision 1A of that Act; or
 - (b) a child for whom the compulsory education period has ended is, under subregulation (4), certified to have capacity to enter into training contracts,
- the child has full capacity to enter into any training contract as an apprentice.
- (4) The chief executive, on the application of a child, may certify that the child has capacity to enter into training contracts.
- (5) The chief executive must not certify that a child has capacity to enter into training contracts unless —
- (a) the compulsory education period for the child has ended or is about to end; and

- (b) the chief executive has taken into account —
 - (i) the existence or absence of a relationship between the child and a parent of the child; and
 - (ii) the nature of the relationship, if any;and
 - (c) the chief executive is satisfied —
 - (i) no working relationship exists between the child and a parent of the child; and
 - (ii) the child has the capacity to make his or her own decisions in relation to entering into training contracts.
- (6) A certificate of the chief executive that a child has capacity to enter into training contracts must be in writing and be signed by the chief executive.
- (7) The chief executive, in writing, may at any time cancel such a certificate.
- (8) If subregulation (3) does not apply, a parent of a child, on behalf of the child, may enter into a training contract under which the child is an apprentice, but the contract must be also signed by the child.

41. Lodging training contracts for registration (Act s. 60F)

- (1) For the purposes of section 60F(2) of the Act, the employer named in an executed training contract must lodge a copy of it with the chief executive within 21 days after the commencement date of employment stated in question 3 of the contract.
- (2) To lodge a copy of a training contract with the chief executive, the employer must give it to the chief executive in accordance with the *Interpretation Act 1984* section 76 or by any other means approved by the chief executive.

42. Registering training contracts (Act s. 60F)

- (1) As soon as practicable after a training contract is lodged for registration, the chief executive must register or refuse to register it.
- (2) For the purposes of section 60F(3)(f) of the Act, the chief executive may refuse to register a training contract if —
 - (a) the contract does not say who the nominated training provider is for the contract; or
 - (b) the contract does not contain the information that the form in Schedule 1 requires to be stated in the contract; or
 - (c) the chief executive is satisfied the parties have terminated the contract.
- (3) If the chief executive registers a training contract, he or she must as soon as practicable —
 - (a) enter the details of the contract in a register of training contracts; and
 - (b) notify the parties to the contract that it has been registered.
- (4) If the chief executive registers a training contract, the contract is taken to have been registered on the commencement date of employment stated in question 3 of the contract.
- (5) If the chief executive refuses to register a training contract, he or she must give the parties a written notice of the decision that includes the reasons for it.

43. Training plans for training contracts

- (1) In this regulation —
complying training plan, for a training contract between an employer and an apprentice, means a training plan that —

- (a) complies with any requirements for the contract imposed under section 60C(5) of the Act; and
 - (b) states the approved VET courses that the apprentice will be required to attend in order to achieve the competencies required for the prescribed VET qualification to which the contract relates; and
 - (c) states the training and assessment, both off-the-job and on-the-job, that will be provided to the apprentice; and
 - (d) states when, where and how that training and assessment will be provided to the apprentice; and
 - (e) states who will provide that training and assessment to the apprentice.
- (2) If the employer or the apprentice under a training contract, or the nominated training provider for the contract, does not sign a complying training plan within —
- (a) 6 weeks after the date on which the contract is signed by the parties; or
 - (b) the probation period for the contract,

whichever is the longer, the employer, apprentice or provider, as the case may be, commits an offence.

Penalty: a fine of \$5 000.

44. Cancellation of registration by chief executive (Act s. 60F)

Under section 60F(5) of the Act the chief executive may cancel the registration of a training contract for any of these reasons —

- (a) the chief executive is satisfied that a complying training plan (as defined in regulation 43(1)) has not been signed by the employer, the apprentice and the nominated training provider under the contract within —
 - (i) 6 weeks after the date on which the contract is signed by the parties; or
 - (ii) the probation period for the contract,

whichever is the longer;

- (b) the chief executive is satisfied the employer is not able to train the apprentice adequately or is not a fit and proper person to train apprentices;
- (c) the chief executive is satisfied the registration was obtained through the provision of false or misleading information to the chief executive;
- (d) the contract has been terminated.

45. Chief executive may require persons involved in training contracts to provide information

- (1) In this regulation —
involved person in a training contract, means —
 - (a) each party to the contract; and
 - (b) the nominated training provider under the contract.
- (2) The chief executive from time to time may give each or any involved person in a training contract a written notice specifying the following —
 - (a) the date on or before which the person must give the chief executive a return containing the information specified in the notice;
 - (b) the period to which the return must relate;
 - (c) the format of the return;
 - (d) the means by which the person must give the return.
- (3) An involved person who is given a notice under this regulation must obey it.

Penalty: a fine of \$5 000.

46. Variation of training contract by parties (Act s. 60E)

- (1) This regulation operates for the purposes of section 60E(4)(a) of the Act.

- (2) This regulation does not apply to the variation of the probation period of a training contract.
- (3) The parties to a training contract may vary any or all of these —
- (a) the qualification to which the contract relates;
 - (b) the nominated training provider;
 - (c) the employment arrangement that governs the employment of the apprentice;
 - (d) whether the apprentice is required to work full-time or part-time under the contract;
 - (e) any other detail of the contract.
- (4) If the parties to a training contract vary the qualification to which the contract relates, the parties must also vary —
- (a) the nominal period of the contract; and
 - (b) any other term that it is necessary to vary,
- to ensure the terms of the contract comply with any requirements imposed under section 60C(5)(b) of the Act in relation to training contracts for the prescribed VET qualification to which the training contract relates.
- (5) The parties to a training contract must not vary the contract unless the chief executive —
- (a) has been given written notice of the proposed variation; and
 - (b) has, in writing, approved the variation.
- (6) The chief executive may refuse to approve a proposed variation of a training contract if the variation would mean the contract does not comply with any requirements imposed under section 60C of the Act for training contracts for the qualification to which the contract relates.
- (7) If a training contract is varied other than in accordance with this regulation, the variation has no effect.

**47. Assignment of training contract to another employer
(Act s. 60E)**

- (1) This regulation operates for the purposes of section 60E(4)(c) of the Act.
- (2) An employer must not assign a training contract to another person who will employ the apprentice unless —
 - (a) the employer has given the chief executive —
 - (i) written notice of the proposed assignment; and
 - (ii) the personal details of the other person; and
 - (iii) the written consent of the other person to being assigned the contract; and
 - (iv) the written consent of the apprentice to the assignment;
 - and
 - (b) the chief executive, in writing, has approved the assignment.

Penalty: a fine of \$5 000.

- (3) The chief executive may refuse to approve the assignment of a training contract to another person if the chief executive is satisfied the other person is not able to train the apprentice adequately or is not a fit and proper person to be assigned the contract.
- (4) If an employer assigns a training contract to another person who will employ the apprentice, the apprentice is on probation with the new employer for one month commencing on the date on which the apprentice starts work with the new employer.

48. Suspension of training contract by parties (Act s. 60E)

- (1) This regulation operates for the purposes of section 60E(4)(b) of the Act.

- (2) The parties to a training contract may agree to suspend the contract for a period but, unless the chief executive gives prior approval for a longer period, the period must not exceed a continuous period of 12 months.
- (3) If a training contract is suspended under this regulation, the employer, within 21 days after the date on which the parties agree to the suspension, must give the chief executive written notice that the contract is suspended, the date on which the suspension has effect and the period of the suspension.
Penalty: a fine of \$1 000.

49. Suspension by employer (Act s. 60E)

- (1) This regulation operates for the purposes of section 60E(4)(b) of the Act.
- (2) This regulation does not —
 - (a) prevent the parties to a training contract agreeing to suspend it; or
 - (b) affect any entitlement an employer has to terminate a training contract during its probation period.
- (3) An employer cannot suspend a training contract except on the ground that the apprentice has engaged in serious misconduct.
- (4) To suspend a contract under subregulation (3), the employer must give the apprentice a written notice (the *suspension notice*) that —
 - (a) states the training contract is suspended on the grounds that the apprentice has engaged in serious misconduct; and
 - (b) states when the suspension has effect (which must not be earlier than when the apprentice is given the notice); and
 - (c) describes the apprentice's alleged misconduct.

- (5) If an employer suspends a training contract under this regulation, the employer must give the chief executive a copy of the suspension notice before 5 p.m. on the next working day.
Penalty: a fine of \$1 000.
- (6) An employer may at any time cancel the suspension of a training contract by giving the apprentice a written notice stating the date on which the contract will cease to be suspended.
- (7) If an employer cancels the suspension of a training contract under this regulation, the employer must notify the chief executive that the contract is no longer suspended before 5 p.m. on the next working day.
Penalty: a fine of \$1 000.
- (8) Unless it has ceased to be suspended, the employer, within 7 days after the date on which a training contract is suspended under subregulation (3), must apply to the chief executive for approval under section 60G of the Act to terminate the contract.
- (9) While a training contract is suspended by an employer under this regulation the apprentice may attend any approved VET course required for the qualification to which the contract relates.
- (10) While a training contract is suspended by an employer under this regulation —
- (a) the apprentice must not attend the employer's workplace; and
 - (b) the employer must pay the apprentice as if the contract were not suspended.
- Penalty: a fine of \$5 000.
- (11) If an application made under subregulation (8) is refused, the suspension of the contract is taken to be cancelled on the day after the day on which the application is refused.

50. Termination of training contract by parties (Act s. 60G)

A party to a training contract may terminate the contract during the contract's probation period without the approval of the chief executive.

51. Approval of termination of training contract by chief executive (Act s. 60G)

- (1) To apply for the chief executive's approval, under section 60G(2) of the Act, to terminate a training contract, the employer must —
 - (a) give the chief executive a written application that sets out the reasons why the employer wants to terminate the contract; and
 - (b) give the apprentice a copy of the written application.
- (2) For the purposes of section 60G(3) of the Act, the chief executive must approve the termination of a training contract if satisfied the purpose of the contract has been or will be frustrated by the apprentice's acts or omissions.

52. Completion of training contract

- (1) A registered training provider must not confer an apprentice under a training contract with the prescribed VET qualification to which the contract relates before the date on which a training contract, under its terms, is successfully completed.
Penalty: a fine of \$5 000.
- (2) Within 21 days after the date on which a training contract, under its terms, is successfully completed, the nominated training provider under the contract must give the chief executive a written notice stating the date on which the contract was successfully completed.
Penalty: a fine of \$5 000.

Division 4 — Procedure and appeals

53. Procedure on applications

- (1) This regulation applies to and in relation to any application made to the chief executive under Part 7 Division 2 of the Act or under regulation 39, 40, 46, 47 or 48.
- (2) On the application the chief executive —
 - (a) may inform himself or herself in any way he or she thinks fit; and
 - (b) must give —
 - (i) the applicant; and
 - (ii) if the applicant is a party to a training contract, each other party; and
 - (iii) any other person who may or will be affected by the outcome of the application or who, in the chief executive's opinion, has a sufficient interest in the application,
a reasonable opportunity to provide evidence and make submissions relevant to the application; and
 - (c) may conduct a hearing; and
 - (d) may allow a person referred to in paragraph (b) to be represented at any such hearing.
- (3) As soon as practicable after deciding the application, the chief executive must give the parties to the contract written notice of the decision and the reasons for it.

54. Appeals

- (1) A party to a training contract who is dissatisfied by a decision made in relation to the contract by the chief executive under regulation 39, 46, 47 or 48 may appeal against it to the Western Australian Industrial Relations Commission.

Vocational Education and Training (General) Regulations 2009

Part 4 Regulations for Part 7 of the Act

Division 4 Procedure and appeals

r. 54

- (2) On an appeal made under subregulation (1) against a decision, the Commission must rehear the matter and may confirm the decision or set it aside and either substitute a decision the chief executive could make or order the chief executive to decide the matter again.

Part 5 — Repeals and transitional matters

55. Term used: commencement

In this Part —

commencement means the day on which the *Training Legislation Amendment and Repeal Act 2008*, other than Part 1, comes into operation².

[56. Omitted under the Reprints Act 1984 s. 7(4)(f).]

57. Registered training providers

If immediately before commencement a training provider is registered by the Council, then on commencement the provider is to be taken to be registered by the Council under Part 7A of the Act for the period and subject to the conditions (if any) that applied to its registration immediately before commencement.

58. Accredited courses

If immediately before commencement a VET course is accredited by the Council, then on commencement the VET course is to be taken to be accredited by the Council under Part 7A of the Act for the period and subject to the conditions (if any) that applied to its accreditation immediately before commencement.

59. Traineeship contracts

If —

- (a) immediately before commencement the Director of Industrial Training appointed under the *Industrial Training Act 1975*³ has possession of a contract known as a traineeship contract entered into by an employer and a trainee that has been lodged with the Director; and
- (b) the contract is in force immediately before commencement; and

r. 60

- (c) the terms and conditions of the contract are substantially similar to the terms required to be in a training contract under these regulations; and
- (d) under the contract the trainee is to receive training that is relevant to a prescribed VET qualification that is a class B qualification,

then, on commencement —

- (e) the contract is to be taken to be a training contract entered into on the same terms and conditions and registered under Part 7 Division 2 of the Act; and
- (f) Part 7 Division 2 of the Act applies to the contract accordingly.

60. Apprentices learning trades, transitional provisions for

Schedule 2 sets out transitional provisions.

Schedule 1 — Training contract

[r. 38]

Apprenticeship/Traineeship

Training Contract

Western Australia

including

Assessment for Australian Government

Australian Apprenticeships Incentives

This contract must be completed with the assistance of an Australian

Apprenticeships Centre.

This is a free service.

Please read this before completing the Training Contract.

This Training Contract must be completed with the assistance of your chosen Australian Apprenticeships Centre.

- Find out the Australian Apprenticeships Centres that are contracted in your region by calling **13 38 73**; or
- Visit the Australian Apprenticeships website at **www.australianapprenticeships.gov.au**

Australian Apprenticeships Centres are contracted by the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) to provide a FREE service to employers and apprentices/trainees. Australian Apprenticeships Centres are required to personally visit employers and apprentices/trainees to assist in the completion of this Training Contract and related State/Territory Training Authority documentation.

Only an officially contracted Australian Apprenticeships Centre is authorised to provide advice on the eligibility and payment of Australian Government Australian Apprenticeships Incentives.

Before completing the Training Contract please read the following sections:

- **Information You Need to Know and Information to Help Complete the Training Contract.**
- **Training Contract Declaration and Obligations.**
- **Information on Australian Government Australian Apprenticeships Incentives.**

If filling this Contract out by hand, please write clearly, in BLOCK LETTERS, and push firmly with a ball point pen. Do not use correction fluid. Cross out the error and write the correct information above it.

ALL corrections must be initialled by all parties to the Contract.

When the Training Contract is completed your Australian Apprenticeships Centre will lodge it for approval/registration with the relevant State/Territory Training Authority.

- You should give the original Training Contract with original signatures to your Australian Apprenticeships Centre.
- You should keep a copy of the Training Contract for your records.
- You should give your apprentice or trainee a copy of the Training Contract.

An unsigned or incomplete Training Contract cannot be processed and will be returned for completion. Before you lodge it, make sure you have taken the steps in the following checklist:

- Additional information and/or evidence required by questions 21, 22 and 24 is provided if necessary.
- The employer, the apprentice/trainee, and any guardian or parent as required, have all read, signed and dated the Training Contract.
- Any alterations to any part of the document are initialled by all those who sign the Training Contract.

Contacts for Further Information & Assistance

Australian Apprenticeships Centres

- administer Australian Government incentive payments to employers and allowances for apprentices/trainees;
- provide information on Australian Apprenticeships options to employers and other interested people;
- market and promote Australian Apprenticeships;
- work with the State/Territory government department or agency to provide an integrated service;
- work with training providers, schools and other organisations to support Australian Apprenticeships; and
- provide support to employers and Australian Apprentices throughout the Australian Apprenticeship to encourage successful completion.

Australian Apprenticeships Centres are located throughout each State and Territory.

- Find an Australian Apprenticeships Centre in your region by calling 13 38 73; or
- Visit the Australian Apprenticeships website at www.australianapprenticeships.gov.au

Western Australia Government

Further information can be obtained from:

ApprentiCentre – Department of Education and Training

Locked Bag 145, Leederville WA 6903

Ph: 13 19 54

Ph: (08) 9318 5450

Fax: (08) 9264 8952

Web: www.apprenticentre.wa.gov.au

Training Contract

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, apprentice/trainee 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 entered on this 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 incentives and allowances paid to employers and apprentices/trainees and preventing dual payments;
- may be disclosed to and used for these purposes by the Australian Government, including the Department of Education, Employment and Workplace Relations (DEEWR) and Centrelink, State/Territory government departments and agencies, employers, our Australian Apprenticeships Centre, Registered Training Organisation, non-government education authorities and the contractors or agents of any of these organisations, departments and agencies;
- may also be exchanged between DEEWR and Centrelink (for Youth Allowance, Austudy and ABSTUDY administration) to provide confirmation that the apprentice/trainee who signed this declaration is an Australian Apprentice; and

- may otherwise be disclosed without consent where authorised or required by law.

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

We understand that this Training Contract can only be terminated within the period of the probation and/or, in accordance with the requirements of the relevant State/Territory legislation, and that the probation periods are determined by the State/Territory Training Authority or relevant industrial award/agreement for this qualification and vocation.

We undertake to negotiate and sign a Training Plan with the chosen RTO as required by the relevant State/Territory Training Authority.

The employer representative (on behalf of the employer named in Question 28)	
Surname (family name)	Given names (in full)
Signed this day: Day /Month /Year	Signature of employer representative
The apprentice/trainee	
Surname (family name)	Given names (in full)
Signed this day: Day /Month /Year	Signature of apprentice/trainee
Signed this day: Day /Month /Year	Signature of parent/guardian (for apprentice/trainee under 18 years of age)
Name of Apprenticeship/Traineeship (as designated by legislation/regulation):	

Training Contract Obligations

For the employer, apprentice or trainee, and parent or guardian (where applicable). We agree that:

- the Contract commences from the date stated in question 3, provided that it has been registered or approved under the provisions of the relevant State/Territory legislation;

- b) the Contract can only be changed by our agreement and according to State/Territory legislation and the State/Territory Training Authority must be informed of the proposed change/s. In some States/Territories approval for the change/s must be sought;
- c) the apprentice/trainee can see, and correct, any information about himself/herself in this Contract or held by the employer in relation to this Contract;
- d) the apprentice/trainee is not liable for any unintentional damage to material or property in the course of their work and training;
- e) we will try to resolve any dispute we have between us, and if we can't, we will contact our State/Territory Training Authority to request assistance or to access the appropriate dispute resolution processes;
- f) the Contract can be audited by the relevant State/Territory Training Authority or Australian Government Department;
- g) the Contract is successfully completed when there is agreement from the employer, Registered Training Organisation and apprentice/trainee, and/or an acknowledgment by the State/Territory Training Authority, that the apprentice/trainee has attained all the required competencies;
- h) this Contract expires if it reaches the term of the apprenticeship/traineeship referred to in question 4 without the apprentice/trainee having attained all the required; competencies or a request for an extension of the contract having been endorsed by a State/Territory Training Authority;
- i) this Contract may be terminated in accordance with State/Territory legislation.

For the employer. I agree that I will:

- a) employ and train the apprentice/trainee as agreed in our Training Plan and ensure the apprentice/trainee understands the choices that he/she has regarding the training;
- b) provide the appropriate facilities and experienced people to facilitate the training and supervise the apprentice/trainee while at work, in accordance with the Training Plan;
- c) make sure the apprentice/trainee receives on-the-job training and assessment in accordance with our Training Plan;
- d) provide work that is relevant and appropriate to the vocation and also to the achievement of the qualification referred to in this Contract;
- e) release the apprentice/trainee from work to attend any training and assessment specified in our Training Plan;
- f) pay the apprentice/trainee the appropriate wages to attend any training and assessment specified in the Training Plan (please note that any time spent by the apprentice/trainee in performing his or her obligations under the contract whether at the employer's workplace or not, is to be taken for all

purposes (including the payment of remuneration) to be time spent working for the employer);

- f) meet all legal requirements regarding the apprentice/trainee, including but not limited to, occupational health and safety requirements and payment of wages and conditions under the relevant employment arrangements;
- g) repay any payment I receive that I am not entitled to;
- h) work with our RTO and the apprentice/trainee to make sure we follow our Training Plan, keep training records up-to-date, and monitor and support the apprentice/trainee's progress; and
- i) let the relevant State/Territory Training Authority and the RTO know within five working days (or when the local State/Territory legislation requires, if this is different) if our Training Contract has become jeopardised.

I acknowledge that it is an offence to use information in the Contract to discriminate against any person, including the apprentice/trainee.

For the apprentice/trainee. I agree that I will:

- a) attend work, do my job, and follow my employer's instructions, as long as they are lawful;
- b) work towards achieving the qualification stated in our Training Contract;
- c) undertake any training and assessment in our Training Plan.

For the parent or guardian.

I agree that I will uphold the responsibilities listed above for the apprentice/trainee until this person is 18 years of age.

Apprenticeship/Traineeship details

1	Title and level of qualification
2	National Qualification Code
3	Commencement date of employment for Apprenticeship/Traineeship Day /Month /Year
4	Nominal term of Apprenticeship/Traineeship (months)
5	The period of probation for this Apprenticeship/Traineeship (months)
6	Type of Apprenticeship/Traineeship <input type="checkbox"/> Apprenticeship <input type="checkbox"/> Traineeship
7	Is the apprentice/trainee an existing worker? <input type="checkbox"/> No <input type="checkbox"/> Yes (Refer to Information to Help Complete the Training Contract)

Apprentice/Trainee details

8	Surname (family name) Given names (in full)
9	Address (residential) State Postcode
	Address (postal) State Postcode
10	Telephone number/s Home Mobile
	Email
11	Date of birth Day /Month /Year
12	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female
13	Citizenship (Tick applicable box) <input type="checkbox"/> Australian citizen or permanent resident <input type="checkbox"/> A New Zealand passport holder who has been resident in Australia for 6 months or more (Refer to Information to Help Complete the Training Contract) <input type="checkbox"/> Other – Visa document number
14*	Are you of Aboriginal or Torres Strait Islander origin? For persons of both Aboriginal AND Torres Strait Islander origin mark both 'Yes' boxes. <input type="checkbox"/> No <input type="checkbox"/> Yes, Aboriginal <input type="checkbox"/> Yes, Torres Strait Islander
15*	In which country were you born? <input type="checkbox"/> Australia <input type="checkbox"/> Other (please specify)
16*	Do you speak a language other than English at home? (If more than one language, indicate the one that is spoken most often.) <input type="checkbox"/> English only <input type="checkbox"/> Other (please specify)
17*	Do you consider yourself to have a disability, impairment or long-term condition? <input type="checkbox"/> No <input type="checkbox"/> Yes (If you answered YES you may qualify for additional assistance)
18	Are you still attending secondary school? <input type="checkbox"/> No <input type="checkbox"/> Yes → What Year level are you currently in at school? (e.g. Year 11) Name of Secondary School

19	<p>Is this an approved Australian School-based Apprenticeship/Traineeship?</p> <input type="checkbox"/> No <input type="checkbox"/> Yes (Refer to Information to Help Complete the Training Contract)																				
20	<p>What is your highest COMPLETED school level?</p> <input type="checkbox"/> Year 12 or equivalent <input type="checkbox"/> Year 11 or equivalent <input type="checkbox"/> Year 10 or equivalent <input type="checkbox"/> Year 9 or equivalent <input type="checkbox"/> Year 8 or below <input type="checkbox"/> Did not go to school When did you complete that school level? Month /Year																				
21	<p>Have you successfully COMPLETED any of the following qualifications? <input type="checkbox"/> No <input type="checkbox"/> Yes →tick and complete any applicable boxes</p> <table border="0"> <thead> <tr> <th style="text-align: left;">Commenced</th> <th style="text-align: right;">Completed</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Bachelor degree or higher</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Advanced diploma (or Associate Degree)</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Diploma (or Associate Diploma)</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Certificate IV (eg Advanced Certificate/Technician)</td> <td>Month/Year</td> </tr> <tr> <td><input type="checkbox"/> Certificate III (eg Trade Certificate)</td> <td>Month/Year</td> </tr> <tr> <td><input type="checkbox"/> Certificate II</td> <td>Month/Year</td> </tr> <tr> <td><input type="checkbox"/> Certificate I</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Pre-Apprenticeship/Pre-Vocational</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Certificates of qualifications other than above</td> <td>Month/Year</td> </tr> </tbody> </table> <p>Title and level of qualification/s obtained (Attach list if necessary)</p>	Commenced	Completed	<input type="checkbox"/> Bachelor degree or higher		<input type="checkbox"/> Advanced diploma (or Associate Degree)		<input type="checkbox"/> Diploma (or Associate Diploma)		<input type="checkbox"/> Certificate IV (eg Advanced Certificate/Technician)	Month/Year	<input type="checkbox"/> Certificate III (eg Trade Certificate)	Month/Year	<input type="checkbox"/> Certificate II	Month/Year	<input type="checkbox"/> Certificate I		<input type="checkbox"/> Pre-Apprenticeship/Pre-Vocational		<input type="checkbox"/> Certificates of qualifications other than above	Month/Year
Commenced	Completed																				
<input type="checkbox"/> Bachelor degree or higher																					
<input type="checkbox"/> Advanced diploma (or Associate Degree)																					
<input type="checkbox"/> Diploma (or Associate Diploma)																					
<input type="checkbox"/> Certificate IV (eg Advanced Certificate/Technician)	Month/Year																				
<input type="checkbox"/> Certificate III (eg Trade Certificate)	Month/Year																				
<input type="checkbox"/> Certificate II	Month/Year																				
<input type="checkbox"/> Certificate I																					
<input type="checkbox"/> Pre-Apprenticeship/Pre-Vocational																					
<input type="checkbox"/> Certificates of qualifications other than above	Month/Year																				
22*	<p>If you have completed a qualification at Certificate Level III or above, do any of the following apply to you?</p> <p>The qualification cannot be used because of an injury or disability <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>You are an Intensive Support Customised Assistance Client <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>You are unemployed and have been registered with Centrelink for 12 months or more <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>(If you answered YES to any of the above, you will need to attach evidence. Contact your Australian Apprenticeships Centre regarding evidence requirements.)</p>																				

23	<p>Have you previously worked as an apprentice or trainee?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes → Please provide details below. If you are unsure of any of these details, ask your Australian Apprenticeships Centre for assistance.</p> <p>Name of company</p> <p>Title and level of qualification</p> <p>State/Territory/ Overseas</p> <p>Year of commencement</p> <p>Apprentice/ Trainee number</p>
24	<p>Are you seeking credit to reduce the term of the Training Contract? (Refer to Information to Help Complete the Training Contract) (Evidence is required and must be attached.)</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes → How much credit are the parties seeking? (months)</p>
25	<p>Are you currently undertaking any other study?</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes → Please provide details below.</p> <p>Title and level of qualification</p>

Parent or Guardian details

If under 18 years of age, go to **Question 26**. If 18 years or over, go to **Question 28**.

26	Surname (family name)		
	Given names (in full)		
27	Address		
		State	Postcode
	Telephone number		
	Home ()	Mobile	Work ()

Employer details

28	Legal name of employer (Refer to Information to Help Complete the Training Contract)
29	Australian Business Number (ABN) of your legal entity

30	Trading name
31	Postal Address State Postcode
32	Telephone number Business () Mobile Fax () Email
33	What is the industry or principal activity of the business?
34	Type of employer <input type="checkbox"/> Private sector <input type="checkbox"/> Local Government <input type="checkbox"/> Government Business Enterprise <input type="checkbox"/> State Government <input type="checkbox"/> Group Training Organisation <input type="checkbox"/> Federal Government

Employment and Training details

(For apprentices/trainees employed through Group Training Organisations provide the name and address of the first host employer.)

35	Name of workplace where apprentice/trainee will be employed Address of workplace where apprentice/trainee will be employed State Postcode						
36	Workplace details <table border="1"> <tr> <td>Total number of people employed by the firm</td> <td></td> </tr> <tr> <td>Total number of apprentices/trainees in this workplace</td> <td></td> </tr> <tr> <td>Number of workers able to demonstrate the relevant competencies available to supervise or train the apprentices/trainees in this workplace</td> <td></td> </tr> </table>	Total number of people employed by the firm		Total number of apprentices/trainees in this workplace		Number of workers able to demonstrate the relevant competencies available to supervise or train the apprentices/trainees in this workplace	
Total number of people employed by the firm							
Total number of apprentices/trainees in this workplace							
Number of workers able to demonstrate the relevant competencies available to supervise or train the apprentices/trainees in this workplace							
37	Name of contact person for this workplace Telephone number () Fax () Email						

Australian Apprenticeships Centre details

Name of Australian Apprenticeships Centre	
Telephone number ()	Contact Officer

Information on Australian Government Australian Apprenticeships Incentives

Australian Apprenticeships, formerly known as New Apprenticeships, encompass all apprenticeships and traineeships. They combine time at work with training and can be full-time, part-time or school-based. Australian Apprenticeships are a stepping stone to ongoing employment or further education and training, and a great way to get a head start to a career.

The Australian Apprenticeships Incentives Programme encourages employers to offer the kinds of employment-related training opportunities that will encourage people to acquire and expand their working skills. For further details about the incentives listed here, including application forms and advice about whether you may be eligible, contact your Australian Apprenticeships Centre.

Eligibility for Australian Government Incentives – Information for Employers

This Training Contract has been designed to assess your eligibility for Australian Government Australian Apprenticeships Incentives.

These Incentives can include Commencement, Recommencement, Completion and other special incentives.

Eligibility is assessed on a number of criteria, including but not limited to:

- the date the Australian Apprentice commences or recommences with an employer;
- the employment status of the Australian Apprentice at the date the incentive falls due;
- the location of the workplace;
- the accredited training programme is in place;
- the type of employment relationship; and
- the formal approval by the State or Territory Training Authority.

If you are eligible for Australian Government Incentives, you will need to complete a separate Claim Form available from your Australian Apprenticeships Centre in order to be paid. This Claim Form should be lodged following:

- approval of the Training Contract;
- after the apprentice/trainee has commenced training according to the approved Training Plan; and
- after the Australian Government three-month waiting period has expired and the apprentice/trainee is still employed by your business and any State/Territory probation period has been completed.

Taxation

If you are eligible for Australian Government Incentives you should be aware that if you do not provide your ABN when lodging a Claim Form, the Department of Education, Employment and Workplace Relations will be obliged to withhold 46.5% of the incentive payment and remit it to the Australian Taxation Office.

You should seek independent advice regarding your taxation position.

Other Australian Government Assistance

Assistance for Apprentices/Trainees with a Disability

The Australian Government may provide assistance to employers of apprentices/trainees with a disability, including the Disabled Australian Apprenticeships Wage Support programme, Tutorial Assistance, Mentor/Interpreter Assistance. Workplace modifications may be available for disabled apprentices and trainees. If applying for assistance you will need to complete an Application Form and an Occupational Assessment Form.

Living Away from Home Allowance

Apprentices/trainees may be eligible for a Living Away from Home Allowance for the first 36 months of an Apprenticeship/Traineeship, if they had to move away from their parents'/guardians' home to commence or remain in the Apprenticeship/Traineeship, or if they are homeless.

Information You Need to Know

National Code of Good Practice for Australian Apprenticeships

This 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 apprentice/trainee must select an RTO to provide training from a list available from your Australian Apprenticeships Centre or State/Territory Training Authority. The apprentice/trainee must be enrolled with the selected RTO. Contact your Australian Apprenticeships Centre or State/Territory Training Authority for the list. (See the **Contacts for Further Information and Assistance** section of this document for contacts.)

The employer and apprentice/trainee have a right to:

- ask RTOs for accurate and timely information about training options they can offer you
- identify and select the training outcomes from nationally endorsed Training Packages or accredited courses that are available in your State/Territory
- negotiate a Training Plan with the RTO according to the relevant State/Territory Training Authority.

b. Training Plans

A Training Plan sets out the training that an apprentice/trainee will do both on-the-job and off-the-job. It also sets out how the RTO will ensure the apprentice/trainee will receive quality training - both on-the-job and off-the-job.

It's important that the employer and the apprentice/trainee know how the Plan will work and are well-informed about it.

Training Plans reflect the choices made in relation to:

- the RTO that will provide the training
- which competency standards will be covered and in what order
- when, where and how training is provided
- which trainer/facilitator provides the training
- who assesses the apprentice/trainee
- how the training is evaluated.

Qualifications and records

Once the Training Contract is completed, the RTO must issue the qualification specified in the Training Contract. If the apprentice/trainee only completes some of the competency standards in the Training Plan, the RTO must issue a Statement of Attainment. The RTO will keep the relevant 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.

State/Territory government allowances may also be available where the apprentice/trainee has to travel away from home to attend training.

Check with an Australian Apprenticeships Centre in your region.

Existing workers who become apprentices/trainees may not attract Australian Government or State/Territory subsidies and incentives.

Information to Help Complete the Training Contract

Questions marked (*) 14, 15, 16, 17 and 22 are optional questions

You are not required to complete these questions, however, if you answer question 22 it may assist in processing your claim for incentives.

Questions 1, 2, 21 and 25 – Title, Level and Code of Qualification

Apprentices/trainees who successfully complete their training receive a nationally recognised qualification. Qualification titles and levels are laid out in the relevant nationally endorsed industry Training Package or accredited training course. Titles and levels are also on the Australian Qualifications Framework certificates issued by RTOs. Qualification codes are available from the National Register website (training.gov.au). Your Australian Apprenticeships Centre or RTO can also provide this information.

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 of the Training Contract as shown in question 3.

State/Territory/Australian Government incentives may not apply to existing worker arrangements. You should contact your nominated Australian Apprenticeships Centre for advice in relation to eligibility for any incentives.

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 Training Authority for more information.

Question 19 – Australian School-based Apprenticeship

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

- the student is enrolled in a senior secondary certificate under the relevant Education Act
- the school or education provider at which the student is enrolled acknowledges and endorses the Training Plan/Outline required by the Apprenticeship/Traineeship Training Contract
- the Australian School-based Apprenticeship is recognised on the senior secondary certificate.

(Note: The term Australian Apprenticeships relates to apprenticeships and traineeships)

Question 24 – Credit

An apprentice/trainee may gain “credit” for relevant prior learning or experience. This prior learning or experience must be formally recognised and may mean the duration of the Training Contract can be changed. Credit may also affect industrial relations arrangements and incentive payments. For more information contact your Australian Apprenticeships Centre or RTO.

Your RTO 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 39 – Full-time/Part-time Apprentices and Trainees

Apprenticeships/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, are not less than the usual hours of employment for a full-time employee in that occupation. 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.

[Schedule 1 amended in Gazette 17 Dec 2013 p. 6230.]

Schedule 2 — Provisions about old agreements and old training contracts

[r. 60]

1. Terms used

In this Schedule —

commencement means the day on which the *Training Legislation Amendment and Repeal Act 2008*, other than Part 1, comes into operation²;

old agreement means an agreement that —

- (a) is in, or substantially in, the form of the apprenticeship agreement prescribed in the *Industrial Training (General Apprenticeship) Regulations 1981* Schedule 2⁴ as in force immediately before 1 August 2008; and
- (b) immediately before commencement, was in force and registered under the *Industrial Training Act 1975*³;

old training contract means a training contract that, immediately before commencement, was in force and registered under the *Industrial Training Act 1975*³;

trade apprentice means an apprentice who —

- (a) under an old agreement is learning or being trained in an apprenticeship trade that was prescribed under the *Industrial Training Act 1975*³; or
- (b) under an old training contract is learning or being trained in an apprenticeship trade that was prescribed under the *Industrial Training Act 1975*³, whether or not the contract also specifies the apprentice is being trained for a prescribed VET qualification.

2. Old agreements to be read with modifications

- (1) Under the *Vocational Education and Training Act 1996* Schedule 2 clause 1, an old agreement has effect with these modifications —
 - (a) in clauses 1, 9 and 12 of the agreement, references to the *Industrial Training Act 1975*³ must be read as references to the *Vocational Education and Training Act 1996*;

cl. 2

- (b) in clause 7 of the agreement, the reference to the technical instruction of the apprentice prescribed by or under the *Industrial Training Act 1975*³ must be read as a reference to the technical instruction that the apprentice is directed to undergo by a registered training provider;
 - (c) in clause 8 of the agreement, references to an examiner must be read as a reference to a registered training provider;
 - (d) in clause 10 of the agreement, the reference to the Registrar of Industrial Training appointed under the *Industrial Training Act 1975*³ must be read as a reference to the chief executive;
 - (e) clause 11 must be read as if —
 - (i) the passage “, subject to Section 37 of the *Industrial Training Act 1975*³,” were deleted; and
 - (ii) the passage “apply to the Director for suspension or cancellation of this agreement.” were “apply to the chief executive under the *Vocational Education and Training Act 1996* for approval to terminate this agreement.”; and
 - (iii) the second reference to the *Industrial Training Act 1975*³ were a reference to the *Vocational Education and Training Act 1996*.
- (2) Without limiting the *Vocational Education and Training Act 1996* Schedule 2 clause 1 —
- (a) section 60G(3), (4) and (5) of that Act and regulation 51 apply to and in respect of any application made to the chief executive under clause 11 of an old agreement, as modified by subclause (1)(e), for approval to terminate the agreement; and
 - (b) on such an application for approval to terminate an old agreement, the chief executive may give approval if satisfied the apprentice has engaged in misconduct as defined in clause 11 of the agreement.
- (3) Subclause (2) does not affect the operation of section 60G(3) of the *Vocational Education and Training Act 1996*.

3. Old agreements and contracts not terminated by sale of business

If the employer under an old agreement or an old training contract sells the business or the part of the business in which the apprentice under the agreement or contract is employed, the agreement or contract is taken to be assigned to the purchaser, unless the chief executive, under section 60G of the Act, approves the termination of the agreement or contract.

4. Technical instruction requirements for trade apprentices

- (1) A trade apprentice who is the subject of an old agreement must undertake those approved VET courses that a registered training provider directs the apprentice to undertake.
- (2) A trade apprentice who is the subject of an old training contract must undertake on-the-job and off-the-job training in accordance with the training plan that the apprentice, the employer and a registered training provider have signed as required by the contract.

5. Final certificates for trade apprentices

- (1) If the employer of a trade apprentice and a registered training provider agree that the apprentice has achieved all necessary competencies for the trade the apprentice is learning or being trained in —
 - (a) the employer and provider must jointly notify the chief executive accordingly; and
 - (b) the chief executive must give the apprentice a certificate that he or she has achieved the trade.
- (2) These regulations do not prevent a registered training provider, acting in accordance with the Act, from conferring a trade apprentice with —
 - (a) an approved VET qualification in relation to any approved VET course the apprentice undertook under the apprenticeship; or
 - (b) a prescribed VET qualification the required competencies for which were achieved by the apprentice under the apprenticeship.



Notes

- ¹ This reprint is a compilation as at 7 March 2014 of the *Vocational Education and Training (General) Regulations 2009* and includes the amendments made by the other written laws referred to in the following table^{1a}. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Vocational Education and Training (General) Regulations 2009</i>	22 May 2009 p. 1731-97	r. 1 and 2: 22 May 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jun 2009 (see r. 2(b) and No. 44 of 2008 s. 2(2))
<i>Vocational Education and Training (General) Amendment Regulations 2011</i>	25 Oct 2011 p. 4508-11	r. 1 and 2: 25 Oct 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 26 Oct 2011 (see r. 2(b))
<i>Vocational Education and Training (General) Amendment Regulations (No. 2) 2011</i>	25 Oct 2011 p. 4511-12	r. 1 and 2: 25 Oct 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2012 (see r. 2(b))
<i>Vocational Education and Training (General) Amendment Regulations 2012</i>	16 Mar 2012 p. 1247-8	r. 1 and 2: 16 Mar 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 17 Mar 2012 (see r. 2(b))
<i>Vocational Education and Training (General) Amendment Regulations (No. 2) 2012</i>	21 Aug 2012 p. 3927	r. 1 and 2: 21 Aug 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Sep 2012 (see r. 2(b))
<i>Vocational Education and Training (General) Amendment Regulations 2013</i>	17 Dec 2013 p. 6218-30	r. 1 and 2: 17 Dec 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2014 (see r. 2(b))

Reprint 1: The *Vocational Education and Training (General) Regulations 2009* as at 7 Mar 2014 (includes amendments listed above)

^{1a} [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

Provisions that have not come into operation

<u>Citation</u>	<u>Gazettal</u>	<u>Commencement</u>
<u><i>Vocational Education and Training (General) Amendment Regulations (No. 2) 2014</i> r. 3-6⁵</u>	<u>15 Jul 2014</u> <u>p. 2463-4</u>	<u>1 Aug 2014 (see r. 2(b))</u>

- ² The *Training Legislation Amendment and Repeal Act 2008* (other than Pt. 1) commenced 10 Jun 2009.
- ³ The *Industrial Training Act 1975* was repealed by the *Training Legislation Amendment and Repeal Act 2008*.
- ⁴ The *Industrial Training (General Apprenticeship) Regulations 1981* were repealed by r. 56(2) of these regulations. Regulation 56 was omitted under the *Reprints Act 1984* s. 7(4)(f).

⁵ On the date as at which this compilation was prepared, the *Vocational Education and Training (General) Amendment Regulations (No. 2) 2014* r. 3-6 had not come into operation. They read as follows:

3. Regulations amended

These regulations amend the *Vocational Education and Training (General) Regulations 2009*.

4. Regulation 19 amended

Delete regulation 19(9).

5. Regulation 28 amended

Delete regulation 28(2)(b) and insert:

(b) the application fee being \$8 070 for each course that the application is made in respect of.

6. Regulation 33A amended

Delete regulation 33A(3)(b) and insert:

(b) the application fee of \$2 290.

