



New South Wales

Apprenticeship and Traineeship Regulation 2005

under the

Apprenticeship and Traineeship Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Apprenticeship and Traineeship Act 2001*.

CARMEL TEBBITT, M.L.C.,
Minister for Education and Training

Explanatory note

The object of this Regulation is to remake, with only minor changes in substance, the *Apprenticeship and Traineeship Regulation 2000*, which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with the following matters:

- (a) the making of applications to establish apprenticeships and traineeships,
- (b) the payment of the expenses of witnesses who are required to attend or give evidence at hearings of the Vocational Training Tribunal,
- (c) procedures relating to appeals under the *Apprenticeship and Traineeship Act 2001 (the Act)*,
- (d) the form for an industry training officer's certificate of identification,
- (e) the matters for which fees are payable under the Act, the amounts of those fees and the circumstances in which those fees may be waived or remitted,
- (f) the keeping of progress cards for apprentices,
- (g) the nomination of persons for appointment to the Vocational Training Tribunal and the Vocational Training Appeal Panel,
- (h) formal matters and matters of a savings nature.

This Regulation (clause 8 excepted) relates to matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

2005 No 470

Apprenticeship and Traineeship Regulation 2005

Explanatory note

This Regulation is made under the *Apprenticeship and Traineeship Act 2001*, including section 81 (the general regulation-making power) and the sections referred to in the Regulation.

Contents

	Page
1 Name of Regulation	4
2 Commencement	4
3 Definitions	4
4 Applications to establish apprenticeships and traineeships	4
5 Witnesses' expenses	5
6 Appeals	5
7 Certificates of identification	5
8 Fees	6
9 Progress cards	6
10 Nomination of appointed members of Tribunal	7
11 Nomination of appointed members of Appeal Panel	8
12 Savings	9
Schedule 1 Forms	10

2005 No 470

Clause 1 Apprenticeship and Traineeship Regulation 2005

Apprenticeship and Traineeship Regulation 2005

under the

Apprenticeship and Traineeship Act 2001

1 Name of Regulation

This Regulation is the *Apprenticeship and Traineeship Regulation 2005*.

2 Commencement

This Regulation commences on 1 September 2005.

Note. This Regulation replaces the *Apprenticeship and Traineeship Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Apprenticeship and Traineeship Act 2001*.
- (2) Notes included in this Regulation do not form part of this Regulation.

4 Applications to establish apprenticeships and traineeships

- (1) An application under section 7 of the Act that complies with that section may be lodged by an agent on behalf of an employer by electronic means approved by the Commissioner if the agent certifies that the relevant training contract and any associated documentation (such as a training plan) has been duly executed by the parties to the contract.
- (2) An application may be varied or withdrawn by the same method by which it was made.
- (3) If an application complying with section 7 of the Act is made electronically, a hard copy of the relevant training contract and associated documentation:
 - (a) must be kept by the relevant agent, in a manner approved by the Commissioner, for the period specified by the Commissioner, and

- (b) must be made available for inspection by the Commissioner at the Commissioner's request if reasonable notice of the request is given.

Maximum penalty: 5 penalty units.

- (4) The Commissioner may refuse to accept applications lodged by a particular agent (and notify the relevant applicants accordingly) if the agent fails to comply with subclause (3) in respect of any application lodged by the agent.

5 Witnesses' expenses

For the purposes of section 46 (3) of the Act, the allowances and expenses payable to a person who is required to attend or to give evidence at a hearing under Part 4 of the Act are the same as the allowances and expenses payable to a witness in proceedings under the *Local Courts (Civil Claims) Act 1970*.

6 Appeals

- (1) For the purposes of section 54 (1) of the Act, an appeal is to be made by way of a written notice of appeal lodged at, or sent by post to, any of the offices of the Department within 30 days after the appellant is notified of the relevant decision, vocational training direction, refusal or determination.
- (2) In the case of an appeal referred to in section 54 (1) (c) of the Act, a copy of the notice of appeal must be given to the apprentice or trainee, and to the current employer of the apprentice or trainee, within 7 days after the appeal is made.
- (3) In the case of an appeal referred to in section 54 (1) (d) or (e) of the Act, a copy of the notice of appeal must be given to the other party to the apprenticeship or traineeship within 7 days after the appeal is made.
- (4) In the case of an appeal referred to in section 54 (1) (j) or (k) of the Act, a copy of the notice of appeal must be given to the other party or parties to the hearing of the complaint within 7 days after the appeal is made.

7 Certificates of identification

The prescribed form for an industry training officer's certificate of identification referred to in section 67 (6) of the Act is Form 1 in Schedule 1.

2005 No 470

Clause 8 Apprenticeship and Traineeship Regulation 2005

8 Fees

- (1) The matters for which fees are payable as referred to in section 75 of the Act, and the amounts of those fees, are as follows:
 - (a) for dealing with any application lodged under section 36 or 37 of the Act for recognition of a person's qualifications or experience in a particular recognised trade vocation, \$150,
 - (b) for conducting any examination, test or work-based assessment for the purposes of section 35, 36 or 37 of the Act to ascertain if a person has acquired the competencies of a particular recognised trade vocation, \$275,
 - (c) for issuing any replacement craft certificate, certificate of completion or certificate of proficiency, \$30.
- (2) The fee paid for the conduct of an examination, test or work-based assessment, pursuant to an appeal under section 54 of the Act, to ascertain if a person has acquired the competencies of a particular recognised trade vocation, is to be remitted if the results of the examination, test or assessment indicate that the person has acquired those competencies.
- (3) A fee referred to in subclause (1) may be waived or refunded in any circumstances in which the Commissioner is satisfied that it would be harsh or unconscionable, or otherwise inappropriate, to charge the fee.

9 Progress cards

- (1) An employer:
 - (a) must complete a progress card for each trainee apprentice employed by the employer, and
 - (b) must retain each such card at the place where the trainee apprentice is employed, and
 - (c) must produce any such card for inspection on demand made by an industry training officer, and
 - (d) must return each such card to the Commissioner:
 - (i) if the apprenticeship concerned is cancelled, suspended or completed, or
 - (ii) if the Commissioner so requests by notice in writing given to the employer.
- (2) A progress card is to be in the form approved for the time being by the Commissioner and must be completed in accordance with any directions shown on the card.

Maximum penalty: 5 penalty units.

10 Nomination of appointed members of Tribunal

- (1) For the purposes of clause 2 (a) of Schedule 1 to the Act:
 - (a) the prescribed registered training organisations to nominate candidates for appointment as members of the Tribunal to represent those organisations are all the registered training organisations that provide training in respect of a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent registered training organisations is for each prescribed registered training organisation to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (2) For the purposes of clause 2 (b) of Schedule 1 to the Act:
 - (a) the prescribed industrial organisations of employers to nominate candidates for appointment as members of the Tribunal to represent employers are all the industrial organisations of employers that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent employers is for each prescribed industrial organisation of employers to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (3) For the purposes of clause 2 (c) of Schedule 1 to the Act:
 - (a) the prescribed industrial organisations of employees to nominate candidates for appointment as members of the Tribunal to represent employees are all the industrial organisations of employees that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Tribunal to represent employees is for each prescribed industrial organisation of employees to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).

2005 No 470

Clause 11 Apprenticeship and Traineeship Regulation 2005

- (4) For the purposes of clause 5 (2) of Schedule 1 to the Act, the prescribed manner of withdrawing the nomination of a member of the Tribunal is for the organisation by which the nomination was made to give notice in writing to the Director-General that the nomination is withdrawn.

11 Nomination of appointed members of Appeal Panel

- (1) For the purposes of clause 2 (a) of Schedule 2 to the Act:
- (a) the prescribed registered training organisations to nominate candidates for appointment as members of the Appeal Panel to represent those organisations are all the registered training organisations that provide training in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent registered training organisations is for each prescribed registered training organisation to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (2) For the purposes of clause 2 (b) of Schedule 2 to the Act:
- (a) the prescribed industrial organisations of employers to nominate candidates for appointment as members of the Appeal Panel to represent employers are all the industrial organisations of employers that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent employers is for each prescribed industrial organisation of employers to nominate in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).
- (3) For the purposes of clause 2 (c) of Schedule 2 to the Act:
- (a) the prescribed industrial organisations of employees to nominate candidates for appointment as members of the Appeal Panel to represent employees are all the industrial organisations of employees that are parties to an industrial award or agreement relating to the employment of apprentices or trainees in a recognised trade vocation or a recognised traineeship vocation, and
 - (b) the prescribed manner of nominating candidates for appointment as members of the Appeal Panel to represent employees is for each prescribed industrial organisation of employees to nominate

in writing up to 3 candidates (from the total number of whom the Director-General must appoint at least one member).

- (4) For the purposes of clause 5 (2) of Schedule 2 to the Act, the prescribed manner of withdrawing the nomination of a member of the Appeal Panel is for the organisation by which the nomination was made to give notice in writing to the Director-General that the nomination is withdrawn.

12 Savings

Any act, matter or thing that, immediately before the repeal of the *Apprenticeship and Traineeship Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

2005 No 470 Apprenticeship and Traineeship Regulation 2005

Schedule 1 Forms

Schedule 1 Forms

Form 1 Certificate of identification

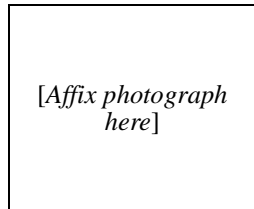
(Clause 7)

(Apprenticeship and Traineeship Act 2001)

I, the Commissioner for Vocational Training, certify that the holder of this certificate:

[Insert name of holder]

whose photograph and signature appear below, is an industry training officer for the purposes of the *Apprenticeship and Traineeship Act 2001*.



.....
Signature of industry training officer

.....
Signature of Commissioner

BY AUTHORITY