



New South Wales

Apprenticeship and Traineeship Regulation 2024

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*.

STEVE WHAN, MP
Minister for Skills, TAFE and Tertiary Education

Explanatory note

The object of this regulation is to remake, with some changes, the *Apprenticeship and Traineeship Regulation 2017*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation provides for the following—

- (a) requirements for an application to establish an apprenticeship or traineeship,
- (b) particular requirements for an application lodged by an agent,
- (c) the trade vocations in which a person who is less than 21 years of age may be employed without being an apprentice or qualified tradesperson in the vocation,
- (d) record keeping requirements for employers of apprentices and trainees,
- (e) requirements for an application for recognition of qualifications or experience in a recognised trade vocation,
- (f) requirements relating to an independent competency assessment,
- (g) the form of a certificate of identification for conciliators, industry training officers and penalty notice officers,
- (h) the allowances and expenses payable to persons required to attend or to give evidence at certain hearings,
- (i) the matters for which fees are payable, the amount of the fees and the circumstances in which fees may be waived, postponed or remitted,
- (j) penalty notice offences.

Section 6 may be made under a Henry VIII provision because the exemption impliedly amends the *Apprenticeship and Traineeship Act 2001* by affecting the application of the Act.

This regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and

- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Apprenticeship and Traineeship Regulation 2024

under the

Apprenticeship and Traineeship Act 2001

Part 1 Preliminary

1 Name of regulation

This regulation is the *Apprenticeship and Traineeship Regulation 2024*.

2 Commencement

This regulation commences on 1 September 2024.

Note— This regulation replaces the *Apprenticeship and Traineeship Regulation 2017*, which is repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definition

In this regulation—

the Act means the *Apprenticeship and Traineeship Act 2001*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

Part 2 Apprenticeships and traineeships

4 Applications for establishment of apprenticeships and traineeships—the Act, s 7(7)

- (1) An application for the establishment of an apprenticeship or traineeship must be in the form approved by the Commissioner.
- (2) An application may be varied or withdrawn by written notice given to the Commissioner by—
 - (a) the applicant, or
 - (b) for an application lodged by an agent—the agent.

5 Applications by agent—the Act, s 7(5C) and (7)

- (1) An agent must lodge a declaration, in the form approved by the Commissioner, with an application for the establishment of an apprenticeship or traineeship.
- (2) The declaration must verify the following—
 - (a) the agent has entered into an agreement with the Commissioner to facilitate the provision and coordination of support services for employers, apprentices and trainees,
 - (b) the agent is satisfied the prospective employer is able to provide the work-based component of the required training in the relevant vocation,
 - (c) the agent is satisfied the apprentice or trainee is able to undertake the required training in the relevant vocation,
 - (d) other matters relating to the appropriateness of the proposed apprenticeship or traineeship specified in the approved form.

Note— See the Act, section 70.

- (3) An agent who has lodged an application must—
 - (a) keep the following documents for 7 years—
 - (i) an electronic copy of the relevant training contract, and
 - (ii) the associated documents relating to the application, and
 - (b) if requested by the Commissioner during the 7-year period and reasonable notice is given—make the documents available for inspection by the Commissioner.

Maximum penalty—100 penalty units.

6 Juniors may be employed in certain trade vocations—the Act, s 25(2)(c)

- (1) For the Act, section 25(2)(c), the following recognised trade vocations are exempt—
 - (a) for a junior who holds a relevant beauty therapy qualification—beauty therapy,
 - (b) for a junior who holds an authorised qualification issued by a registered training organisation—hairdressing.

- (2) In this section—

authorised qualification has the same meaning as in the *Hairdressers Act 2003*, section 4.

relevant beauty therapy qualification means—

- (a) a Certificate IV in Beauty Therapy, SHB40115, or
- (b) an equivalent qualification issued by a recognised training organisation.

7 Employer to keep training records—the Act, s 81(1)(f)

- (1) The employer of an apprentice or trainee must keep a record of each occasion on which the apprentice or trainee is released to undertake training delivered by a relevant registered training organisation.
- (2) The record must include—
 - (a) the duration of the period for which the apprentice or trainee was released, and
 - (b) whether or not the apprentice or trainee was paid for the period.
- (3) The Commissioner may require an employer to give the Commissioner the records.

Part 3 Recognition of other trade qualifications

8 Applications for trade recognition—the Act, s 37(8)

- (1) The Commissioner may require an applicant for recognition of qualifications or experience in a recognised trade vocation to give information reasonably necessary to determine the application.
- (2) Without limiting subsection (1), the Commissioner may require the applicant to give 1 or more of the following—
 - (a) written verification of work undertaken by the applicant in the recognised trade vocation issued by a current or recent employer of the applicant,
 - (b) a transcript issued by a registered training organisation verifying the applicant's training in the recognised trade vocation,
 - (c) a copy of the evidence of learning used by the registered training organisation to issue the transcript.

9 Independent competency assessments—the Act, s 81(1)(d1)

- (1) A registered training organisation must conduct an independent competency assessment to assess whether an applicant has acquired the competencies of a recognised trade vocation by 1 or more of the following means, as determined by the Commissioner for the application—
 - (a) identifying the competencies previously obtained by the applicant that satisfy the requirements of an appropriate qualification,
 - (b) evaluating work-related evidence supplied by the applicant,
 - (c) assessing theoretical knowledge relevant to the recognised trade vocation,
 - (d) conducting a practical assessment of the applicant's skills in the recognised trade vocation.
- (2) The registered training organisation must give the following details relating to a completed independent competency assessment to the Commissioner—
 - (a) the name and student identifier of the applicant,
 - (b) any work-related evidence supplied to the registered training organisation by the applicant, including written verification of work undertaken by the applicant in the recognised trade vocation issued by a current or recent employer of the applicant,
 - (c) the procedures followed by the registered training organisation to verify the applicant's practical skills that satisfy the requirements of an appropriate qualification,
 - (d) a copy of the report of the results of the assessment.
- (3) In this section—
student identifier has the same meaning as in the *Student Identifiers Act 2014* of the Commonwealth.

Part 4 Miscellaneous

10 Certificates of identification

- (1) The Commissioner must give the following persons a certificate of identification in the form set out at the end of this section—
 - (a) a conciliator under the Act, section 40,
 - (b) a penalty notice officer under the Act, section 73A.
- (2) For the Act, section 67(6), the form set out at the end of this section is prescribed as the form of the certificate of identification for an industry training officer.
- (3) The certificate may be issued digitally or in hard copy.

Apprenticeship and Traineeship Act 2001

I, the Commissioner for Vocational Training, certify that the holder of this certificate [*insert name of holder*] is [**a conciliator/an industry training officer/a penalty notice officer*] under the *Apprenticeship and Traineeship Act 2001*.

[<i>affix photograph here</i>]	Signature of holder: [<i>insert signature</i>]
	Signature of Commissioner: [<i>insert signature</i>]

*Omit a conciliator, an industry training officer or a penalty notice officer, or any combination of them, as required.

11 Witnesses' expenses—the Act, s 46(3)

For the Act, section 46(3), the allowances and expenses that would be payable if the proceedings were before the Civil and Administrative Tribunal of New South Wales are prescribed.

12 Fees—the Act, s 75

- (1) For the Act, section 75, the matters for which fees are payable and the amount of the fees are prescribed as follows—
 - (a) dealing with an application lodged under the Act, section 36 for recognition of a person's qualifications or experience in a particular recognised trade vocation—\$200,
 - (b) conducting an examination, test or work-based assessment for the Act, section 35, 36 or 37 to ascertain whether the person has acquired the competencies of a particular recognised trade vocation—\$350,
 - (c) issuing a replacement certificate of proficiency—\$60,
 - (d) verifying the authenticity of a certificate of proficiency—\$60.
- (2) The Commissioner may waive, postpone or remit the amount of a fee referred to in subsection (1) if—
 - (a) the fee is harsh or unconscionable, or
 - (b) it would be otherwise inappropriate to charge the fee.

13 Savings

An act, matter or thing that, immediately before the repeal of the *Apprenticeship and Traineeship Regulation 2017*, had effect under that regulation continues to have effect under this regulation.

Schedule 1 Penalty notice offences

1 Application of schedule

- (1) For the Act, section 73A—
 - (a) each offence created by a provision specified in this schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) the limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Provision	Penalty
Offences under the Act	
Section 7(2)	
(a) for individuals	\$1,100
(b) otherwise	\$2,750
Section 12A(5)	\$1,650
Section 12A(7)	
(a) for individuals	\$550
(b) otherwise	\$1,100
Section 16A(1)	\$5,500
Section 16A(2)	\$5,500
Section 25(1)	
(a) for individuals	\$1,650
(b) otherwise	\$2,750
Section 29	\$5,500
Section 33(1)	\$5,500
Section 46(4)	
(a) for individuals	\$550
(b) otherwise	\$2,200
Section 53(4)	\$5,500
Section 67(2)	\$2,200
Offences under this regulation	
Section 5(3)	\$2,750
