

# Apprenticeship and Traineeship Regulation 2005

[2005-470]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Authorisation

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New South Wales

## Contents

1 Name of Regulation .....	3
2 Commencement .....	3
3 Definitions .....	3
4 Applications to establish apprenticeships and traineeships .....	3
4A Exempt juniors may be employed in recognised trade vocations: section 25 .....	4
5 Witnesses' expenses .....	4
6 Appeals.....	4
7 Certificates of identification.....	4
8 Fees .....	5
9 Progress cards .....	5
10 Nomination of appointed members of Tribunal.....	6
11 Nomination of appointed members of Appeal Panel.....	7
12 Savings.....	8
<b>Schedule 1 Forms.....</b>	<b>8</b>

# Apprenticeship and Traineeship Regulation 2005



New South Wales

## 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This Regulation replaces the *Apprenticeship and Traineeship Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.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(2) An application may be varied or withdrawn by the same method by which it was made.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.

#### **4A Exempt juniors may be employed in recognised trade vocations: section 25**

The employment of a junior in the recognised trade vocation of hairdressing is exempted from the operation of section 25 of the Act if the junior has been awarded an authorised qualification (within the meaning of section 4 of the *Hairdressers Act 2003*) by a registered training organisation.

#### **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 *Civil Procedure Act 2005*.

#### **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.

## **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).
- (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.

## 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*.

*[Affix photograph here]*

.....  
Signature of industry training officer

.....  
Signature of Commissioner