

# Apprenticeship and Traineeship Regulation 2017

[2017-229]



New South Wales

## Status Information

### Currency of version

Current version for 28 June 2019 to date (accessed 27 April 2024 at 20:15)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

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

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2024

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 28 July 2023

# Apprenticeship and Traineeship Regulation 2017



New South Wales

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# Apprenticeship and Traineeship Regulation 2017



New South Wales

## 1 Name of Regulation

This Regulation is the [Apprenticeship and Traineeship Regulation 2017](#).

## 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

### Note—

This Regulation repeals and replaces the [Apprenticeship and Traineeship Regulation 2010](#) which would otherwise be repealed on 1 September 2017 by section 10 (2) of the [Subordinate Legislation Act 1989](#).

## 3 Definition

(1) 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.

(2) Notes included in this Regulation do not form part of this Regulation.

## 4 Applications for establishment of apprenticeships and traineeships

(1) An application under section 7 of the Act 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(2) An application may be varied or withdrawn by the same method by which it was made.

## 5 Electronic applications by agent

(1) An agent must lodge with an application for the establishment of an apprenticeship or traineeship a declaration, in the form approved by the Commissioner, verifying:

- (a) that the agent has entered into an agreement with the Commissioner, in the form approved by the Commissioner, for the purposes of facilitating the provision and co-ordination of support services for employers, apprentices and trainees, and
- (b) that the agent is satisfied that the employer is able to provide the work-based component of the required training in the relevant vocation, and
- (c) that the agent is satisfied that the apprentice or trainee is able to undertake the required training in the relevant vocation, and
- (d) any other matter relating to the appropriateness of the proposed apprenticeship or traineeship that is specified in the approved form.

**Note—**

Section 7 (5C) of the [Apprenticeship and Traineeship Act 2001](#) enables the Commissioner for Vocational Training to refuse to accept any application for the establishment of an apprenticeship or traineeship made by an agent on behalf of an employer if the agent fails to comply with this clause. Section 70 of the Act makes it an offence for a person to make any statement or furnish any information, in relation to any application, that the person knows to be false or misleading in a material particular.

- (2) An electronic copy of the relevant training contract and associated documentation relating to an application for the establishment of an apprenticeship or traineeship:
  - (a) must be kept by the 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: 100 penalty units.

## **6 Applications for trade recognition**

- (1) The Commissioner may require an applicant for recognition of qualifications or experience in a particular recognised trade vocation to provide such information as the Commissioner may reasonably require to determine the application.
- (2) Without limiting subclause (1), the Commissioner may require the applicant to provide either or both 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 in any State or Territory by a registered training organisation verifying the duration of the applicant's training in the recognised trade vocation.

### **6A Independent competency assessments**

- (1) This clause sets out requirements relating to assessments conducted by registered

training organisations for the purpose of determining whether a person has acquired the competencies of a particular recognised trade vocation.

- (2) The registered training organisation must assess whether the applicant has acquired the competencies of the recognised trade vocation by any one or more of the following means, as determined by the Commissioner for the purposes of the application:
  - (a) identifying the competencies previously obtained by the applicant that satisfy the requirements of an appropriate qualification,
  - (b) evaluating any 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.
- (3) The registered training organisation must provide to the Commissioner the following details in relation to a completed assessment:
  - (a) the name and student identifier of the applicant assessed,
  - (b) any work-related evidence supplied to the registered training organisation by the applicant, including any written verification (issued by a current or recent employer of the applicant) of work undertaken by the applicant in the recognised trade vocation,
  - (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.
- (4) The Commissioner may refuse to deal with an application for recognition of a person's qualifications or experience in a particular recognised trade vocation to which an independent competency assessment relates if the registered training organisation fails to comply with a requirement of this clause in relation to the assessment.
- (5) In this clause:

***student identifier*** has the same meaning as in the [Student Identifiers Act 2014](#) of the Commonwealth.

## **7 Juniors may be employed in certain trade vocations**

For the purposes of section 25 (2) (c) of the Act, the employment of a junior in the following recognised trade vocations is exempted from the operation of section 25 of the Act:

- (a) beauty therapy, but only if the junior has been awarded the qualification known as the “Certificate IV in Beauty Therapy SIB40110” (or any qualification which replaces that certificate) by a registered training organisation,
- (b) hairdressing, but only 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.

## **8 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 before the Civil and Administrative Tribunal of New South Wales.

## **9, 10 (Repealed)**

## **11 Certificates of identification**

- (1) The Commissioner must issue each person who is authorised as a conciliator under section 40 of the Act, or as a penalty notice officer under section 73A of the Act, with a certificate of identification in the form set out in this clause.
- (2) For the purposes of section 67 (6) of the Act, the form set out in this clause is prescribed as the form of certificate of identification as an industry training officer.

### **(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](#).

<div style="border: 1px solid black; height: 100px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; height: 100px;"></div>	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.

## **12 Fees**

- (1) For the purposes of section 75 of the Act, the matters for which fees are payable and the amounts of those fees are as follows:
  - (a) for dealing with any application lodged under section 36 of the Act for recognition

of a person's qualifications or experience in a particular recognised trade vocation, \$200,

(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, \$350,

(c) for issuing any replacement certificate of proficiency, \$60,

(d) for verifying the authenticity of a certificate of proficiency, \$60.

(2) 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.

### **13 (Repealed)**

### **14 Repeal and savings**

(1) The *Apprenticeship and Traineeship Regulation 2010* is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the *Apprenticeship and Traineeship Regulation 2010*, had effect under that Regulation continues to have effect under this Regulation.

## **Schedule 1 Penalty notice offences**

For the purposes of section 73A of the Act:

- (a) each offence specified in this Schedule is an offence for which a penalty notice may be issued, and
- (b) the amount payable under any such penalty notice is the amount specified in this Schedule for the offence.

<b>Column 1</b>	<b>Column 2</b>
<b>Provision</b>	<b>Penalty</b>
<b>Offences under the Act</b>	
Section 7 (2)	\$1,100 (for an individual) \$2,750 (for a corporation)
Section 12A (5)	\$1,650
Section 12A (7)	\$550 (for an individual) \$1,100 (for a corporation)
Section 16A (1)	\$5,500
Section 16A (2)	\$5,500

Section 25 (1)	\$1,650 (for an individual) \$2,750 (for a corporation)
Section 29	\$5,500
Section 33 (1)	\$5,500
Section 46 (4)	\$550 (for an individual) \$2,200 (for a corporation)
Section 53 (4)	\$5,500
Section 67 (2)	\$2,200

**Offences under this Regulation**

Clause 5 (2)	\$2,750
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