INDUSTRIAL TRAINING ACT 1975

INDUSTRIAL TRAINING LEGISLATION AMENDMENT REGULATIONS 2008
Industrial Training Act 1975

Industrial Training Legislation Amendment Regulations 2008

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation
   These regulations are the Industrial Training Legislation Amendment Regulations 2008.

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 1 August 2008.
Part 2 — Industrial Training (General Apprenticeship) Regulations 1981

3. The regulations amended

The amendments in this Part are to the Industrial Training (General Apprenticeship) Regulations 1981.

4. Regulation 3 amended

Regulation 3 is amended by deleting “trades and groups of trades specified in the Schedule 1.” and inserting instead — “apprenticeship trades.”.

5. Regulation 4 amended

Regulation 4 is amended as follows:

(a) by deleting the definitions of “advisory board”, “apprentice” and “approved college”;

(b) by inserting in the appropriate alphabetical positions — “ registered training provider” has the meaning given in the Vocational Education and Training Act 1996 section 5(1);

“Training Contract” means the document entitled “Apprenticeship/Traineeship Training Contract Western Australia”, prepared by the Department, the text of which is set out in Schedule 1; “.
Industrial Training Legislation Amendment Regulations 2008
Industrial Training (General Apprenticeship) Regulations 1981

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6. Regulation 7 replaced

Regulation 7 is repealed and the following regulation is inserted instead —

"7. Probationary employment

(1) A notification to the Registrar under section 29A of the Act is to be made by submitting to the Registrar a duly completed and executed copy of the Training Contract.

(2) If an employer submits the Training Contract in accordance with subregulation (1), the employer is taken to have made an application to the Director under section 29A of the Act for approval to establish the apprenticeship specified in the Training Contract."

7. Regulation 8 amended

Regulation 8(3) is amended by deleting “employer, the probationer and the parent or guardian of the probationer” and inserting instead —

"employer and the probationer (and, if the probationer is under 18 years of age, the probationer’s parent or guardian)"

8. Regulation 9 amended

Regulation 9(2) is repealed and the following subregulations are inserted instead —

"(2) If the employment of a probationer is terminated during the period of probation, the employer shall, within 5 working days after the termination, notify the Registrar of that fact."
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(3) If at the expiration of the period of probation, the employer or the apprentice (or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) does not wish to continue with the employment, the employer shall, within 5 working days after the expiration of the period of probation, notify the Registrar of that fact.

Note: The heading to amended regulation 9 is to read “Extension, termination and expiration of probationary period”.

9. Regulation 10 replaced

Regulation 10 is repealed and the following regulation is inserted instead —

10. Agreement

(1) For the purposes of section 30(1)(b) of the Act, an apprenticeship agreement is to be in the form of the Training Contract.

(2) A Training Contract duly completed and executed by an employer and an apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) has effect as an apprenticeship agreement only if —

(a) the Training Contract is submitted in accordance with regulation 7(1); and

(b) the establishment of the apprenticeship specified in the Training Contract is approved by the Director; and

(c) no notice is required to be given under regulation 9(2) or (3) in respect of the employment.
(3) The following provisions apply in relation to a Training Contract that has effect under subregulation (2) —

(a) the employer and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian) are to be taken to have entered into the apprenticeship agreement on the day after the period of probation expires;

(b) the employer is to be taken to have made an application to the Registrar under section 31(2) of the Act, on the 14th day after the period of probation expires, for registration of the apprenticeship agreement.

(4) The Registrar shall not register an apprenticeship agreement unless he or she is satisfied that no objection in relation to that apprenticeship has been lodged, or, if an objection has been so lodged, the Director has approved of the registration of the agreement.

10. Regulation 12 amended

(1) Regulation 12(4) is amended by deleting “, the apprentice and the parent or guardian of the apprentice” and inserting instead —

“and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)

”.  

(2) Regulation 12(6) is amended by deleting “and his parent or guardian,” and inserting instead —

“

(and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian),

”.  

"
Industrial Training Legislation Amendment Regulations 2008
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11. **Regulation 13 amended**

(1) Regulation 13(1) is amended by deleting “or guardian” and inserting instead —

“(or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.

(2) Regulation 13(3) is amended by deleting “and his parent or guardian” and inserting instead —

“(and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.

(3) Regulation 13(4) is amended by deleting “employer, the apprentice and parent or guardian of the apprentice” and inserting instead —

“employer and the apprentice (and, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.

12. **Regulation 15 amended**

Regulation 15 is amended by deleting “apprentice, his parent or guardian” and inserting instead —

“apprentice (or, if the apprentice is under 18 years of age, the apprentice’s parent or guardian)”.
Industrial Training Legislation Amendment Regulations 2008
Industrial Training (General Apprenticeship) Regulations 1981

13. Regulation 17 amended

(1) Regulation 17(9) is amended by deleting “his parent or guardian” and inserting instead —

“him (or, if he is under 18 years of age, his parent or guardian)”.

(2) Regulation 17(14) is amended by deleting “the Technical Education Division of the Education Department or an approved college” and inserting instead —

“a registered training provider”.

14. Regulation 18 amended

(1) Regulation 18(1) is repealed and the following subregulation is inserted instead —

“(1) The results of every examination of an apprentice conducted by a registered training provider shall be forwarded by that registered training provider to the Director.”.

(2) Regulation 18(2) is amended by deleting “Technical Education Division or approved college, as the case requires,” and inserting instead —

“registered training provider”.

15. **Regulation 23 amended**

   Regulation 23(5) is amended by deleting “Regulation 29A of the *Industrial Commission Regulations 1980*” and inserting instead —

   “
   Regulation 101 of the *Industrial Relations Commission Regulations 2005*
   ”.

   Note: The heading to amended regulation 23 is to read “**Appeals to The Western Australian Industrial Relations Commission**”.

16. **Regulation 24 inserted**

   After regulation 23 the following regulation is inserted —

   “
   **24. Transitional provisions**
   Schedule 2 sets out transitional provisions.
   ”.

17. **Schedules 2 and 3 replaced by Schedules 1 and 2**

   Schedules 2 and 3 are repealed and the following Schedules are inserted instead —

   “
   **Schedule 1 — Training Contract**
   
   [r. 4]
Industrial Training Legislation Amendment Regulations 2008
Industrial Training (General Apprenticeship) Regulations 1981
Part 2

An Australian Apprenticeships Centre may assist in completing this Contract.

This is a free service.
## Part 2

### Industrial Training (General Apprenticeship) Regulations 1981

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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, apprenticeship provider and parent/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 the 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 the Training Contract:

- is collected for the purposes of registration, preparing statistics, reporting, programme administration, monitoring and evaluation, calculating remittances and advances paid to employers and apprenticeship providers, training and funding payments;
- may be disclosed and used for these purposes by the Australian Government, including the Department of Education, Employment and Workplace Relations, the States/Territories, government departments and agencies, employers, the Australian Apprenticeship Centre, Registered Training Organisations, non-government education authorities and the CEO and officers of any of these organisations, departments and agencies;
- may also be transferred to the Department of Education and Training (for Youth Allowances, Austudy and Austudy) and the Department of Veterans’ Affairs.

We understand that the registered apprenticeship/traineeship Contract is legally binding in accordance with the Contract Obligations and that the contractor (as defined in the contract) is legally bound under the legislative protections of the Training Contract Obligations Act 1993 (the Act).

We understand that the training plan is required to be included within the period of the registration, in accordance with the requirements of the relevant State/Territory legislation, and that the registration period is administered by the State/Territory Training Authority or relevant training sector agreement.

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 3B)

**Surname (family name)**

<table>
<thead>
<tr>
<th>Given names (if full)</th>
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<tbody>
<tr>
<td>Signd this day:</td>
</tr>
<tr>
<td>1/1/2023</td>
</tr>
<tr>
<td>Signature of employer representative</td>
</tr>
</tbody>
</table>

**Surname (family name)**

<table>
<thead>
<tr>
<th>Given names (if full)</th>
</tr>
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<tbody>
<tr>
<td>Signd this day:</td>
</tr>
<tr>
<td>1/1/2023</td>
</tr>
<tr>
<td>Signature of apprentice/trainee</td>
</tr>
</tbody>
</table>

**Surname (family name)**

<table>
<thead>
<tr>
<th>Given names (if full)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signd this day:</td>
</tr>
<tr>
<td>1/1/2023</td>
</tr>
<tr>
<td>Signature of parent/guardian (for apprentice/trainee aged under 18 years of age)</td>
</tr>
</tbody>
</table>

### Training Contract Obligations

For the employer, apprenticeship provider, and parent/guardian (where applicable)

We agree that:

1. 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.
2. The Contract can only be changed according to State/Territory legislation and the State/Territory Training Authority may be informed of the proposed changes. In some States/Territories, the Employer is required to notify the State/Territory Training Authority of any changes to the Contract.
3. The apprentice/trainee can see, and, correct, any information about his/herself in the Contract or held by the employer in relation to this Contract.
4. We will try to resolve any dispute between us, and, if we fail, we will contact our State/Territory Training Authority to request assistance in or to access the appropriate dispute resolution procedure.
5. The Contract can be ended by the relevant State/Territory Training Authority or the Employer/Government Department.
6. The Apprenticeship/Traineeship is successfully completed when there is agreement from the employer/apprenticeship provider/registered training organisation, and/or the State/Territory Training Authority, that the apprenticeship/traineeship has been satisfactorily completed.
7. The Apprenticeship/Traineeship ends if the end of the Apprenticeship/Traineeship agreement is, in question 1, without the apprenticeship/traineeship having been completed.
8. The training contract can be terminated in accordance with the relevant State/Territory legislation.

For the employee

I/We agree to:

- comply with the apprenticeship/traineeship as agreed in our Training Plan and ensure the apprentice/trainee understands the choice that he/she is making in the training.
- provide the appropriate conditions to facilitate the training and support the apprentice/trainee at work, in accordance with the Training Plan.
- make sure the apprenticeship/traineeship is received at the job training and assessment in accordance with our Training Plan.
- provide work that is relevant and appropriate to the vocational area and also to the achievement of the qualification referred to in this Contract.
- inform the apprenticeship/traineeship provider of any training and assessment involved in the Training Plan.
- meet all legal requirements regarding the apprenticeship/traineeship, including occupational health and safety requirements and payment of wages and conditions under the relevant employment arrangements.
- pay any penalties that I/We am entitled to.
- work with our RTO and the apprenticeship/traineeship provider or, if we follow our Training Plan, keep training records up-to-date, and maintain and support the Apprenticeship/traineeship of the apprentice/traineeship.
- If the relevant State/Territory Training Authority and the RTO have not failed to give effective notice of changes in our current Training Plan or the Training Contract has not ceased.

I/We acknowledge that I/We can receive information in the Contract to discriminate against any person, including the apprenticeship/traineeship.

For the apprenticeship/traineeship

I/We agree to:

- read, work, do my job, and follow my employer’s instructions, as long as they are legal and work towards the qualification stated in our Training Contract.
- undertake any training and assessment in our Training Plan.
- for the parent/guardian

I/We agree that I/We:

- accept the responsibilities listed above for the apprenticeship/traineeship until this person is 18 years of age.
## Industrial Training Legislation Amendment Regulations 2008

### Part 2  Industrial Training (General Apprenticeship) Regulations 1981

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### Employer Details

- Legal name of employer: [Enter information]
- Australian Business Number (ABN): [Enter ABN]
- Trading name:
- Postal Address:
- Telephone number:
- Email:

### Employment Training Details

- Name of Employee where apprenticeship will be employed:
- Address of workplace where apprenticeship will be employed:
- Total number of people employed by the business:
- Total number of apprentices enrolled for the trade:
- Number of workers able to demonstrate the relevant competencies:
- Name of contact person for this workplace:
- Telephone number:

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**Note:**

- Type of employment arrangement:
  - Federal Award
  - Australian Workplace Agreement
  - State Workplace Agreement
  - Other
  - (Enter number of weeks:
    - Full-time
    - Part-time
    - (to be completed with the assistance of your Australian Apprenticeships Centre)

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**Registered Training Organisation Details**

- Name of Registered Training Organisation (RTO): [Enter name]
- Telephone number:
- Contact Officer:

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**Australian Apprenticeships Centre Details**

- Name of Australian Apprenticeships Centre:
- Telephone number:
- Contact Officer:
Industrial Training Legislation Amendment Regulations 2008

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Information You Need to Know

National Code of Good Practice for Australian Apprenticeships
The 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 apprenticeship must be 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 contact info.)

The employer and apprentice/trainee have a right to:

- ask RTOs for course and location information about training options and ask other
- identify and select the training courses 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 on the job and off the job. It sets out how the RTO will deliver the apprenticeship/s and who will be the trainer. It is 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
- where, when and how training is provided
- which certificate or qualification the training is leading to
- who assesses the apprentice/trainee
- how the training is evaluated

Qualifications and records

Once the apprentice/trainee successfully completes all assessment requirements of the Training Plan, the RTO must issue the qualification specified in the Plan. If the apprentice/trainee only completes some of the competency standards, the RTO must issue a Statement of Attainment. The RTO will keep the 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 and State/Territory Apprenticeships Incentives section of this document.

State/Territory government allowances may also be available where the opportunity exists for an Australian Government or State/Territory subsidies and incentives.

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 seeded (*) 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, 3, 4, 5, 21 and 25 — Title, Level and Code of Qualification

Apprentice/trainee 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 in the Australian Qualifications Framework and issued by RTOs. Qualification codes are available from the National Training Information Service website (www.natsis.gov.au). Your Australian Apprenticeships Centre or RTO can also provide this information.

Questions 3 and 5 — Commencement date of employment — WA only

The commencement date is in question 3 is the commencement date of the period of probation. During the period of probation, a reference in this Contract to an apprentice/trainee is to be taken to include a reference to a probationer where appropriate. For an apprenticeship, this Contract is subject to approval under WA training legislation, if approved given, in accordance with the training legislation, for establishment of the apprenticeship, and the probationality is applicable and the employer, apprentice and parent or guardian (where applicable) must continue to give the employers after probation. This Training Contract will have effect, and only then has effect, as the apprenticeship agreement. The employer, apprentice and parent or guardian (where applicable) are to be taken to have entered into the apprenticeship agreement on the day after the period of probation expires.

Question 6 — Trainee Apprenticeships — NSW only

NSW training legislation provides for trainee apprenticeship. Trainee apprentices do not undergo a probationary period and are mainly available in the building and construction industry. They may work for various employers in the same industry at different times. The employer or employer's employee can enrol in trainee apprenticeship in the period of notice specified in their training award. Trainee apprentices will undertake the same on-the-job and off-the-job training as other apprentices and, at the conclusion of the trainee apprenticeship, receive the same qualifications and certificates.

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 on a combination of both, immediately prior to the commencement date in question 3.

State/Territory/Unincorporated Government/education 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 by the Australian Apprenticeships Centre or State/Territory Training Authority for more information.

Question 19 — Australian School-based Apprenticeships

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

[Note: The term Australian Apprenticeship relates to apprenticeship and traineeship]
Industrial Training Legislation Amendment Regulations 2008
Part 2    Industrial Training (General Apprenticeship) Regulations 1981

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Schedule 2 — Transitional provisions

1. Provisions relating to the *Industrial Training Legislation Amendment Regulations 2008*

   (1) In this clause —

   “pre - 1 August 2008 regulations” means these regulations as in force immediately before 1 August 2008.

   (2) Regulations 7 to 10, 12, 13, 15 and 17(9) and Schedules 2 and 3 of the pre – 1 August 2008 regulations continue to apply to and in relation to a person who commenced employment as a probationer before 1 August 2008.

   (3) These regulations do not apply to and in relation to a person who commenced employment as a probationer before 1 August 2008 to the extent that they are inconsistent with the provisions of the pre – 1 August 2008 regulations applied under subclause (2).

   ’"
Part 3 — Industrial Training (Apprenticeship Training) Regulations 1981

18. The regulations amended

The amendments in this Part are to the Industrial Training (Apprenticeship Training) Regulations 1981.

19. Regulation 4 amended

Regulation 4 is amended as follows:

(a) in the definition of “directed” by deleting “the Director of Technical Education or”;

(b) in the definition of “directed” by deleting “an approved college;” and inserting instead —

“  a registered training provider;  ”;

(c) by inserting in the appropriate alphabetical position —

“Council” means the Training Accreditation Council established by the Vocational Education and Training Act 1996 section 25(1);

20. Regulation 5 amended

Regulation 5(3) is repealed.

21. Regulation 7 amended

Regulation 7(2) is amended by deleting “the Technical Education Division of the Education Department or an approved college” and inserting instead —

“  a registered training provider  ”.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.