

## Introduction and summary of important facts

All apprenticeships and traineeships require:

- **a training contract** that is signed by both the employer and apprentice or trainee and approved by State Training Services, a division of the NSW Department of Education and Training (NSW DET)
- **paid employment** under an appropriate industrial arrangement (for example, an award or enterprise agreement)
- **a training plan** endorsed by a registered training organisation (RTO) that meets the requirements of the relevant vocational training order (VTO) for the apprenticeship or traineeship and specifies the training required to achieve the appropriate nationally recognised qualification.

The apprenticeship and traineeship system in NSW is regulated by the Apprenticeship and Traineeship Act 2001, which is administered by NSW DET. NSW DET has nine State Training Services regional offices throughout NSW where employers, apprentices and trainees can obtain advice and assistance. The locations of these offices are listed at the end of this guide.

Australian Apprenticeships Centres (AACs) assist employers, apprentices and trainees to establish apprenticeships and traineeships and apply for Commonwealth and State Government financial incentives, subsidies and concessions. For a list of Australian Apprenticeships Centres, refer to the Australian Apprenticeships website ([www.australianapprenticeships.gov.au](http://www.australianapprenticeships.gov.au)) or phone the Australian Apprenticeships Referral Line on 133873.

It is important that potential employers, apprentices and trainees read this guide carefully in order to understand their roles, rights and responsibilities under training contracts.

### Training requirements

Apprentices and trainees must be provided with “hands on” work, appropriate facilities and training at work to acquire the knowledge and skills they need to complete the apprenticeship or traineeship.

Apprentices and trainees must be enrolled in an approved course of formal training with a registered training organisation.

Apprentices and trainees must be allowed paid work time to undertake their formal training with a registered training organisation. This may involve attendance at a training institution, formal training in the workplace or self-paced learning.

Employers must sign the apprentice’s/ trainee’s competency record book or work evidence guide (if available) which supports formal training.

Employers must liaise with the registered training organisation regarding the apprentice’s/trainee’s attendance and their participation and progress in formal training.

Section 4 gives more detail on the training of apprentices and trainees.

## Keeping Records

It is important for an employer to retain:

- the approval letter from State Training Services containing the Training Contract ID (TCID) number
- their copy of the training contract
- records of time worked and wages paid to the apprentice/trainee
- a copy of the industrial award or workplace agreement under which the apprentice/trainee is employed
- their copy of the training plan (as agreed with the registered training organisation)
- the apprentice's/trainee's attendance details from the registered training organisation
- results of formal training undertaken by the apprentice/trainee with the registered training organisation
- a copy of the trainee apprentice's Progress Card, if applicable

## Employers' responsibilities (Section 6)

Employers must:

- provide apprentices and trainees with workers' compensation insurance coverage
- provide annual and other leave entitlements and superannuation for apprentices and trainees in accordance with relevant legislation or as specified by the relevant industrial award or workplace agreement
- monitor each apprentice's/trainee's progress at work and the training each does with the registered training organisation, and
- discharge his/her obligations as specified in the training contract.

## Wages and awards (Section 5.5)

Apprentices and trainees must be paid at least the minimum or training wage as set out in the State or Federal industrial award or workplace agreement under which they have been employed.

## Transfer (Section 9)

An apprentice or trainee can be transferred to another employer providing that all parties are in agreement. Applications to transfer must be lodged with State Training Services within 14 days of the transfer. Australian Apprenticeships Centres assist employers in this process.

## Dismissal (Section 9)

An apprentice (other than a trainee apprentice) or trainee cannot be dismissed once the contract is binding (that is, after the training contract has been approved by State Training Services and the probationary period has elapsed). However a binding training contract can be cancelled by the mutual agreement of the parties (see below).

Trainee apprenticeships can only be established where the relevant industrial award or agreement provides for them. A trainee apprenticeship may be terminated by either the employer or the trainee apprentice giving notice in accordance with the provisions of the industrial award or agreement under which the trainee apprentice is employed.

## Mutual cancellation (Section 9.2)

An employer and their apprentice or trainee can apply to cancel the training contract at any time if both parties agree. They must then submit an application to cancel the

training contract to State Training Services within 14 days of the cancellation date. Australian Apprenticeships Centres assist employers in this process.

***If either the employer or apprentice/trainee does not agree to the proposed cancellation, a Training Advisor at your local NSW DET State Training Services centre (ph 13 28 11) must be contacted immediately.***

### **Mutual suspension (Section 9.3)**

An employer and their apprentice or trainee can apply to mutually suspend the training contract in certain circumstances, such as if there is a lack of work or if the apprentice/trainee has to take a long time off work through injury or illness. Applications to suspend training contracts must be lodged with the State Training Services centre within 14 days of the date of suspension. Australian Apprenticeships Centres assist employers in this process.

***If either the employer or apprentice/trainee does not agree to the proposed suspension, a Training Advisor from the local State Training Services centre (ph 13 28 11) must be contacted immediately.***

### **Existing worker traineeships - industrial arrangements and financial incentives**

The rights and working conditions of an existing employee are not affected because they are undertaking an existing worker traineeship under an approved training contract. Existing worker trainees continue their employment under the same industrial award or workplace agreement that applied prior to the commencement of the traineeship. Any changes to the award or agreement during the course of traineeship will also apply.

Employers of existing worker trainees do not receive State Government financial incentives but may be eligible for Commonwealth Government incentives. Contact your Australian Apprenticeships Centre for information on eligibility and application forms.

For a definition of existing worker trainees see key terms in Section 15.

