

Queensland



Subordinate Legislation 2000 No. 267

Training and Employment Act 2000

**TRAINING AND EMPLOYMENT
REGULATION 2000**

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DICTIONARY

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Training and Employment Regulation 2000*.

Definitions

2. The dictionary in schedule 3 defines particular words used in this regulation.

PART 2—REGISTERING TRAINING ORGANISATIONS AND ACCREDITING COURSES

Division 1—Training organisations

Applying to register training organisation

3.(1) An application for the registration of a training organisation must be accompanied by the prescribed fee.

(2) The council may, by signed notice, require the applicant to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(3) The council may refuse to consider the application until the applicant supplies the requested documents or information.

Amending registration on application by registered training organisation

4. An application by a registered training organisation to amend its registration must—

- (a) state the proposed amendment and the reasons for it; and
- (b) be accompanied by the prescribed fee.

Division 2—Course accreditation

Applying for grant of course accreditation

5.(1) An application by an entity for the grant of an accreditation for a course must be accompanied by the prescribed fee.

(2) The council may, by signed notice, require the entity to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(3) The council may refuse to consider the application until the entity supplies the requested documents or information.

Amending course accreditation on application

6.(1) An entity that has been granted the accreditation of a course may apply in writing to the council to amend the accreditation.

(2) The application must—

- (a) state the proposed amendment and the reasons for it; and
- (b) be accompanied by the prescribed fee.

(3) The council may, by signed notice, require the entity to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(4) The council may refuse to consider the application until the entity supplies the requested documents or information.

(5) The council may amend the accreditation only if satisfied the course under the amended accreditation meets the approved guidelines for accreditation.

How council may deal with application to amend accreditation

7.(1) The council must consider an application to amend a course accreditation and either—

- (a) amend the accreditation, with or without reasonable conditions imposed by the council; or
- (b) refuse to amend the accreditation.

(2) If the council decides to amend the accreditation, the council must promptly give the entity—

- (a) an amended certificate of accreditation for the course; and
- (b) if the amended accreditation is subject to conditions, an information notice.

(3) If the council decides to refuse to amend the accreditation, the council must promptly give the entity an information notice.

Division 3—Provisions about certificates**Application of div 3**

8. This division applies to the following certificates—

- (a) a certificate of registration of a training organisation;
- (b) a certificate of accreditation of a course.

Definition for div 3

9. In this division—

“holder”—

- (a) of a certificate of registration of a training organisation, means the training organisation that has been granted registration; or
- (b) of a certificate of accreditation of a course, means the entity that has been granted accreditation for the course.

Replacement certificates

10.(1) The holder of a lost, damaged or destroyed certificate may apply to the council for its replacement.

(2) The application must be in writing and accompanied by the prescribed fee.

(3) The council may, by signed notice, require the holder to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(4) If the council is satisfied the certificate has been lost, damaged or destroyed the council must replace it.

Displaying invalid certificate

11.(1) An entity must not publicly display a certificate if—

- (a) the certificate is invalid; or
- (b) the entity is not the holder of the certificate.

Maximum penalty—20 penalty units.

(2) In this section—

“**invalid**” means cancelled, expired or suspended.

PART 3—APPRENTICES AND TRAINEES*Division 1—Training contracts***Registering training contracts**

12.(1) This section applies if the council receives a signed training contract from an employer for registration.

(2) The council must consider the contract and register or refuse to register it.

(3) The council may, by signed notice, require the employer to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide whether to register the contract.

(4) The council may refuse to register the contract until the employer supplies the requested documents or information.

Applying for approval to amend registered training contract

13.(1) The parties to a registered training contract may apply in writing to the council to approve an amendment of the contract.¹

(2) The application must—

(a) state—

(i) the proposed amendment; and

(ii) the reasons for the proposed amendment; and

(iii) the proposed amendment is agreed to by the parties; and

(b) be signed by the parties.

(3) The council may, by signed notice, require the parties to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(4) The council may refuse to consider the application until the parties supply the requested documents or information.

How council may deal with application to amend registered training contract

14.(1) The council must consider an application to amend a registered training contract and decide either—

(a) to approve the proposed amendment; or

(b) to refuse to approve the proposed amendment.

¹ Section 52(3) of the Act states who are the parties to a training contract.

(2) If the council decides to approve the proposed amendment, the council must promptly give the parties signed notice of its approval.

(3) The approval is effective from the date of the notice unless an earlier or later day is stated in the notice.

(4) If the council decides to refuse to approve the proposed amendment, the council must promptly give the parties an information notice.

Applying for approval to temporarily assign registered training contract

15.(1) The parties to a registered training contract and an employer (“**new employer**”) may apply in writing to the council to approve the temporary assignment of the contract from the employer under the contract (“**original employer**”) to the new employer.

(2) The application must—

(a) state—

- (i) the term of the proposed temporary assignment; and
- (ii) the reasons for the proposed temporary assignment; and
- (iii) the proposed temporary assignment is agreed to by the parties and the new employer; and
- (iv) the new employer’s name, address and telephone number; and
- (v) any other particulars about the new employer stated in an approved guideline; and

(b) be signed by the parties and the new employer.

(3) The council may, by signed notice, require the parties or the new employer to give within the reasonable time stated in the notice, not less than 14 days, the additional documents or information the council considers necessary to decide the application.

(4) The council may refuse to consider the application until the parties or the new employer supply the requested documents or information.

How council may deal with application to temporarily assign registered training contract

16.(1) The council must consider an application to temporarily assign a registered training contract and decide either—

- (a) to approve the proposed temporary assignment; or
- (b) to refuse to approve the proposed temporary assignment.

(2) However, the council may approve the proposed temporary assignment only if—

- (a) the new employer is not a prohibited employer; and
- (b) the council reasonably believes the new employer is able to meet the training obligations under the training plan that the original employer was unable to meet.

(3) The council may approve the proposed temporary assignment subject to reasonable conditions.

(4) If the council decides to approve the proposed temporary assignment, the council must promptly give the parties and the new employer signed notice of its approval.

(5) The notice must state—

- (a) the duration of the temporary assignment; and
- (b) the day the temporary assignment starts; and
- (c) the conditions, if any, imposed by the council.

(6) The council must promptly give the parties and the new employer an information notice if the council decides—

- (a) to impose conditions on the temporary assignment; or
- (b) to refuse to approve the proposed temporary assignment.

Division 2—Training plans**Changing training plan for an apprentice or trainee**

17. The parties to a training plan (“**original training plan**”) for an apprentice or trainee may change the plan only if—

- (a) all the parties agree to the change; and
- (b) the qualification or statement of attainment to be issued to the apprentice or trainee on completing the training under the changed plan is the same as would have been issued under the original training plan.²

Signing changed training plan for apprentice or trainee

18.(1) When the parties to a training plan for an apprentice or trainee have agreed to change the training plan, they must sign the changed training plan.

(2) The supervising registered training organisation for the apprentice or trainee must take all reasonable steps to ensure that the parties sign the changed training plan within 14 days after the parties agree to the change.

Maximum penalty for subsection (2)—20 penalty units.

Copies of signed changed training plan for apprentice or trainee

19. The supervising registered training organisation for an apprentice or trainee must ensure that a copy of the signed changed training plan for the apprentice or trainee is given to the apprentice or trainee and the employer within 7 days after the parties sign it.

Maximum penalty—20 penalty units.

Division 3—Training records

Keeping training record

20.(1) Within 14 days after a training plan for an apprentice or trainee is signed by the parties to the training plan, the supervising registered training organisation must give the apprentice or trainee the appropriate training record to be kept for the apprenticeship or traineeship.³

Maximum penalty—20 penalty units.

² Section 97(1) of the Act states who are the parties to a training plan.

³ Section 97(1) of the Act states who are the parties to a training plan.

(2) The training record may be kept in any way the supervising registered training organisation considers appropriate.

(3) The training record is to be in the possession of the apprentice or trainee except when it is required to be produced to a person under the Act.

(4) The employer or the supervising registered training organisation may, by reasonable notice, require the apprentice or trainee to produce the training record to the employer or supervising registered training organisation—

- (a) for inspection; or
- (b) to enable the record to be kept as required by subsection (6)(b).

(5) The apprentice or trainee must not contravene the requirement, unless the apprentice or trainee has a reasonable excuse.

Maximum penalty—20 penalty units.

(6) Where training is required to be delivered by the employer or the supervising registered training organisation, the employer or the supervising registered training organisation must, at reasonable intervals of not more than 3 months—

- (a) require the apprentice or trainee to produce the training record to have the particulars of the training completed by the apprentice or trainee during the interval entered in it; and
- (b) if the training record is produced—keep the record complete, accurate and up to date by entering the particulars in it.

Maximum penalty for subsection (6)—20 penalty units.

Falsifying training record

21. A person must not—

- (a) enter in a training record anything the person knows is false or misleading in a material particular; or
- (b) change or delete a particular entered in a training record or omit to enter a particular in a training record if the effect of the change, deletion or omission is to create a training record that is false or misleading in a material particular.

Maximum penalty—20 penalty units.

Ombudsman may require production of training record

22.(1) The ombudsman may, by signed notice, require the apprentice or trainee to produce the training record to the ombudsman.

(2) The apprentice or trainee must not contravene the requirement, unless the apprentice or trainee has a reasonable excuse.

Maximum penalty—20 penalty units.

PART 4—FAIR PROCEDURES**Application**

23.(1) This part applies if, under a relevant section of the Act, an administrator is required to exercise a power or perform a function by fair procedures.

(2) The administrator must exercise the power or perform the function in accordance with this part.

(3) Subsection (2) does not limit the way the administrator exercises the power or performs the function if the way is not inconsistent with this part.

Timeliness

24. The administrator must exercise the power or perform the function as quickly as possible.

Show cause notice

25.(1) The administrator must give the affected person for the relevant section a signed notice (“**show cause notice**”).

(2) The show cause notice must state the following—

- (a)** the action (“**proposed action**”) the administrator proposes taking under the relevant section;
- (b)** the grounds for the proposed action;

- (c) an outline of the facts and circumstances that are the basis of the grounds;
- (d) if the proposed action is suspension of a registered training contract—the proposed maximum suspension period;
- (e) an invitation to the affected person to show within a stated reasonable time (not less than 14 days after the notice is given to the affected person) why the proposed action should not be taken.

Representations about show cause notices

26.(1) The affected person for the relevant section may, in relation to the show cause notice—

- (a) make oral or written representations to the administrator; or
- (b) give the administrator any document or thing (“**material**”).

(2) The representations must be made, or the material given, to the administrator within the time stated in the notice.

(3) The administrator may permit the affected person to make oral representations by telephone, closed circuit television or another form of communication allowing reasonably contemporaneous and continuous communication between the affected person and the administrator.

Administrator may inform itself

27. The administrator may inform itself of any matter relevant to the exercise of the power or the performance of the function in the way it considers appropriate.

Administrator may ask for additional information

28.(1) The administrator may ask the affected person for the relevant section to give the administrator the additional documents or information it considers necessary to exercise the power or perform the function.

(2) The administrator must give the affected person a reasonable time to give the administrator the additional documents or information.

All representations and material to be considered

29. The administrator must, in exercising the power or performing the function, consider all representations made, or material given, to it by or on behalf of the affected person for the relevant section.

PART 5—VOCATIONAL PLACEMENT**Particulars for Act, s 117(3)**

30. The particulars for section 117(3)⁴ of the Act are—

- (a) the name, address and telephone number of the placement person and the student; and
- (b) the training outcome; and
- (c) the start and end dates of the vocational placement.

PART 6—GENERAL**Fees**

31. The fees payable under the Act are stated in schedule 1.

Prescribed persons for Act, s 257

32. The persons mentioned in schedule 2 are prescribed for section 257(1)⁵ of the Act.

⁴ Section 117 (Registration of vocational placement agreement for short placement)

⁵ Section 257 (Appointment)

Appointment of prescribed person as inspector

33.(1) This section applies if a person (“**prescribed person**”) is prescribed for section 257(1) of the Act.

(2) The chief executive may only appoint the prescribed person as an inspector to monitor or enforce compliance with the Act for a single matter stated in the instrument of appointment.

False or misleading statements to registered training organisation

34. In making oral or written representations to a registered training organisation under section 26,⁶ a person must not state anything to the organisation the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

False or misleading document to registered training organisation

35.(1) In giving a document to a registered training organisation under section 26, a person must not give the organisation a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to a person who when giving the document—

- (a) tells the organisation, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can get, the correct information, gives the correct information to the organisation.

Offences about false or misleading statements or documents

36. For an offence against section 21, 34 or 35, it is enough to allege that the relevant statement or document was ‘false or misleading’ without specifying which.

⁶ Section 26 (Representations about show cause notices)

**PART 7—AMENDMENT OF VOCATIONAL
EDUCATION, TRAINING AND EMPLOYMENT
REGULATION 1991**

Regulation amended

37. This part amends the *Vocational Education, Training and Employment Regulation 1991*.

Omission of pts 3 and 4

38. Parts 3 and 4—

omit.

Omission of sch 1, pt 4 (Australian Recognition Framework)

39. Schedule 1, part 4—

omit.

Expiry of part

40. This part expires the day after it commences.

SCHEDULE 1

FEES

		section 31
		\$
1.	Application for, or for renewal of, registration as a training organisation—	
	(a) if the registration is for 1 vocational training area . . .	1200.00
	(b) for each additional area	300.00
2.	Application to amend registration—	
	(a) from recognition services to training services	600.00
	(b) to add a vocational training area, for each area to be added	600.00
	(c) to raise the level of the highest qualification that may be issued in a particular vocational training area . . .	600.00
3.	Application for accreditation of a course—	
	(a) leading to a statement of attainment	500.00
	(b) leading to a qualification—	
	(i) for each course, other than a course for which subparagraph (ii) sets the fee	800.00
	(ii) for each course leading to a lower qualification than an associated higher qualification course for which accreditation is being applied for at the same time	200.00
4.	Application for amendment of course accreditation	150.00

SCHEDULE 2**PRESCRIBED PERSONS FOR SECTION 257 OF THE
ACT**

section 32

1. A person who is a certified practising accountant, a lawyer or a management consultant.
2. A person who has proven experience in any of the following areas—
 - (a) management;
 - (b) the Australian Recognition Framework;
 - (c) group training organisations;
 - (d) industry training advisory bodies;
 - (e) vocational education and training or industrial relations legislation.

SCHEDULE 3**DICTIONARY**

section 2

“administrator” means—

- (a) the board; or
- (b) the council; or
- (c) a registered training organisation.

“affected person”, for a relevant section, means the following—

- for section 24(3)(b)—the training organisation;
- for section 36(1)—the person to whom the qualification or a statement of attainment has been issued;
- for section 45(1) or 47—the entity granted accreditation of a course;
- for section 63(2), 64(6), 65(4), 66(1) or 71(3)—the parties to the training contract;
- for section 76(1)—the person to whom the completion certificate has been issued;
- for section 83(1) or 84(2)—the employer;
- section 182(4)—the person to whom the recognition certificate has been issued;
- for section 220(1)—the industry training advisory body;
- for section 223(1)—the group training organisation;
- for section 301(3)—
 - (i) if the approval is the registration of a training organisation—the organisation; or
 - (ii) if the approval is the accreditation of a course—the entity granted the accreditation.

SCHEDULE 3 (continued)

“original employer” see section 15.

“relevant section” means each of the following sections of the Act—

- section 24(3)(b)
- section 36(1)
- section 45(1)
- section 47
- section 63(2)
- section 64(6)
- section 65(4)
- section 66(1)
- section 71(3)
- section 76(2)
- section 83(1)
- section 84(2)
- section 182(4)
- section 220(1)
- section 223(1)
- section 301(3)

ENDNOTES

1. Made by the Governor in Council on 19 October 2000.
2. Notified in the gazette on 20 October 2000.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Employment, Training and Industrial Relations.