

GUIDELINES FOR DETERMINING PROBATIONARY PERIODS AND STANDARD CONDITIONS FOR TRAINING CONTRACTS

PREAMBLE

The Training and Skills Development Act, 2008 (the Act) empowers the Training and Skills Commission to determine:

- probationary periods for training contracts relating to trades and declared vocations, and
- standard conditions for trades and declared vocations.

Section 45 (2) states:

“The Commission may, by notice in the Gazette:

- (b) determine a probationary period for a training contract for a specified trade or declared vocation;
- (c) determine standard conditions for a training contract for a specified trade or declared vocation, including:
 - (i) the term of the contract; and
 - (ii) the qualifications available for a person in the trade or declared vocation; and
 - (iii) any other condition considered necessary by the Commission.”

Section 45 (3) states:

“The Commission may, by further notice in the Gazette, vary or revoke a notice under subsection (2).”

Definitions

For these guidelines:

A **training contract** is an agreement approved under Part 4 of the Act between an employer and an apprentice / trainee, through which the employer agrees to employ and train the apprentice / trainee for a particular trade or declared vocation and qualification.

A **trade** is an occupation declared under section 6 to be a trade for the purposes of the Training and Skills Development Act 2008.

A **declared vocation** is an occupation declared under section 6 to be a declared vocation for the purposes of the Training and Skills Development Act 2008.

An **apprentice/trainee** is a person (who may be either an apprentice or a trainee) undertaking training in a trade or declared vocation under a training contract.

In South Australia, it is unlawful for an employer to train a person in a trade except under a training contract. The Act allows, but does not require, an employer to train a person in a declared vocation under a training contract.

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1. The Commission has approved probationary periods for training contracts as follows:

Training Contract—Nominal duration	Probationary Period
Up to and including 24 months	60 days
Greater than 24 months	90 days

2. The Commission has the discretion to approve probationary periods different to the standard probationary period noted in paragraph 1 of these Guidelines.

Standard conditions for training contracts for trades and declared vocations

3. The terms and qualifications that were gazetted for trades and declared vocations prior to these Guidelines coming into operation, will continue in force until such time as they are varied by notice in the Gazette.
4. Where a qualification has been identified as being suitable for an occupation that is classed as a trade or declared vocation and for delivery under a training contract:
 - (a) the qualification will be gazetted as available for the trade or declared vocation in South Australia;
 - (b) the term and probationary period for a training contract leading to the new qualification will be the same as for other qualifications that have been gazetted as being available for the trade or declared vocation; and
 - (c) any superseded qualifications for the trade or declared vocation will be rescinded by notice in the Gazette.
5. A training contract for the part time employment and training of an apprentice will generally only be approved if the award or industrial agreement under which the apprentice is employed:
 - (a) provides for part-time employment generally; and
 - (b) permits apprenticeships generally; and
 - (c) does not contain any provisions which either expressly prohibit part-time apprenticeships, or restrict apprenticeships to full-time employees only.
6. The probationary period for a part time training contract will be the same as the probationary period determined by the Commission for the corresponding full time training contract.