

## GUIDELINES FOR THE HOURS OF EMPLOYMENT AND TRAINING FOR TRAINING CONTRACTS

### PREAMBLE

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

- determine standard conditions for trades and declared vocations;
- vary the hours of training under a training contract to part-time or full-time on application by the parties; and
- impose or vary a condition of the registration of an employer, and suspend or cancel the registration of an employer.

Section 45 (2) states:

The Commission may, by notice in the Gazette:

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

Section 50 states:

- (1) The Commission may, on application by the parties to a training contract, vary the contract so that it provides for part-time training instead of full-time training, or full-time training instead of part-time training, if to do so is not inconsistent with the award or industrial agreement under which the apprentice/trainee is employed.
- (2) The Commission may, on application by the parties to a school-based training contract, vary the contract so that it provides for full-time training or part-time training (as the case requires) when the school-based apprentice/trainee finishes school.

Section 60 states:

- (1) If— (a) a registered employer contravenes this Act or a corresponding law or a condition of the registration (whether the contravention occurs in this State or elsewhere); or (b) the circumstances are such that it is, in the Commission's opinion, no longer appropriate that the employer be so registered, the Commission may do either or both of the following: (c) impose or vary a condition of the registration; (d) cancel or suspend the registration.

- (2) The Commission may not take action under this section unless the Commission first— (a) gives the holder of the registration 28 days written notice of the nature of the action the Commission intends to take against it; and (b) takes into account any representations made by the holder of the registration within that period.

## 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.
- 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.
- A **Training Plan** is a document that outlines the qualification to be undertaken by the apprentice/trainee, the number of hours required to complete the qualification, the units of competency that will be undertaken, whether recognition of prior learning or current competencies (RPL/RCC) has been offered, and whether the training is to be delivered 'on-the-job' or 'off-the-job'.

## GUIDELINES FOR THE HOURS OF EMPLOYMENT AND TRAINING FOR TRAINING CONTRACTS

These Guidelines set out the requirements for establishing the hours of employment and training under training contracts, and cover the minimum hours for part-time training contracts and arrangements for the averaging of hours.

Training Contract	Averaging of Hours	Part-time Minimum Hours
Training contracts other than school-based Apprenticeships and Traineeships	May be averaged over four weeks	15 hours per week
School-based Apprenticeships and Traineeships	May be averaged over three months	7.5 hours per week

The conditions under which the Commission may approve the setting of hours of employment and training under a training contract are described below.

### 1. Training contracts must be undertaken on a full-time or part-time basis

Training contracts can be undertaken on a full-time or part-time basis but cannot be undertaken on a casual basis.

The conditions for full-time or part-time employment provided under a training contract must be consistent with the relevant industrial award or agreement.

### 2. Minimum hours of employment and training must be met under a part-time training contract

Part-time apprenticeships and traineeships must provide a minimum of 15 hours of employment and training per week, with the exception of school based training contracts, which must provide for a minimum of 7.5 hours of employment and training per week.

### 3. The hours of employment and training may be averaged for full-time or part-time training contracts, including school-based training contracts

Apprenticeships and traineeships, whether full-time or part-time, with the exception of those established under a school-based training contract, may have the hours of employment and training averaged over four week periods. For school-based apprenticeships and traineeships, hours of employment and training may be averaged over three months.

The parties to the training contract must agree, in advance, to the averaging of the hours of employment and training arrangement, and to the rostered hours of employment and training for the period of the averaging.

The averaging arrangement must provide for a regular pattern of both training and employment that enables both on and off the job structured training to be planned, and implemented according to the training plan.

Averaging arrangements must be consistent with the primary goal of ensuring that the requirements of the training plan are met and the averaging does not interfere with the training of the apprentice or trainee.

In the case of school based apprenticeships and traineeships, additional requirements set out in the Guidelines for the Approval of School Based Traineeships and Apprenticeships must be met. In particular, the averaging arrangements should not interfere with the schooling of the apprentice or trainee.

Any additional requirements regarding averaging of hours set out in the relevant industrial award, agreement or national employment standards must also be met where they intersect with these guidelines. For instance, requirements regarding rostering, consultation, and notice periods may be specified.

#### 4. Record of averaging agreement

An accurate record showing the regular pattern of employment and training, agreed between the parties, which is signed and dated by the parties to the Training Contract, must be retained by the employer and be available upon request. An accurate record of the actual pattern of employment and training must also be retained by the employer.

#### Examples of averaging of hours

##### Example 1—Appropriate use of averaging arrangements

An employer wants to take on a full-time carpentry apprentice and to average the hours of employment and training over a period of four weeks. Prior to commencing the averaging arrangement, the employer and the apprentice agree to it. The arrangement will provide for a regular pattern of both training and employment that enables both on and off the job structured training to be planned and implemented according to the training plan.

The arrangement will see the apprentice employed for an average of 38 hours per week averaged over a period of 4 weeks. This involves 40 hours of employment and training in week one, 40 hours for week two, 40 hours for week three, and 32 hours for week four of the period. This equates to an average of 38 hours of employment and training per week.

A roster showing the regular pattern of training and employment for the apprentice is kept by the employer.

##### Example 2—Inappropriate use of averaging arrangements

An employer wants to take on a school based apprentice and to average 10 hours of employment and training per week over a three-month period. The employer suggests the following format:

- Month 1: 20 hours in the first week, 0 hours in the second week, 12 in the third week, and 8 in the fourth week
- Month 2: 30 hours in the first week, 30 hours in the second week, 10 hours in the third week, and 10 hours in the fourth week
- Month 3: 0 hours in the first week, 0 hours in the second week, 0 hours in the third week, and 0 hours in the fourth week.

While the number of hours offered under this proposal averages 10 hours per week, the pattern of employment and training is irregular and would likely cause the student difficulties in attending classes at school. The student explains that this will interfere with their attendance at school and does not agree to the proposal but the employer puts the roster in place.

## TRANSITIONAL ARRANGEMENTS

These guidelines are effective from 1 February 2016.

The hours set under training contracts that commenced prior to 1 February 2016 continue to apply unless an application to vary those hours is approved. This could include an application to vary the hours of a contract from full-time to part-time or to increase or reduce the hours of employment and training of a part-time training contract. Any application to vary the hours must be agreed by the parties to the training contract.

The hours of employment and training for training contracts that commenced prior to 1 February 2016 may be averaged from 1 February 2016, provided the parties have agreed and comply with these guidelines.