

Skills Standard 2

Employer Registration

This Standard relates to the registration of employers to train apprentices and trainees under a Training Contract in accordance with the *South Australian Skills Act 2008* (the *SAS Act*).

The primary purpose of the Training Contract system is to ensure the provision of quality training for apprentices and trainees while they undertake employment relevant to the trade or vocation.

Employer registration assists in this process by ensuring employers are made aware of their rights and obligations when employing apprentices and trainees.

Registered employers will be placed on the South Australian Skills Register at www.skillscommission.sa.gov.au/regulations-and-standards/employer-register

If apprentices and trainees are to be hosted to another employer (or employers) to provide on the job training and experience, this Standard should be read in conjunction with [Standard 4: Host Employment Arrangements](#).

Governance arrangements

Under the *SAS Act*, the South Australian Skills Commission (the Commission) (or its delegate) is responsible for the regulation of the apprenticeship and traineeship system. To this end, it is empowered to:

- register an employer to train a person in a Training Contract for a period of up to 5 years
- renew an employer's registration for a period of up to 5 years
- vary, suspend, or cancel an employer's registration, at any time during the period the registration is in force.

Compliance with the Standard

2.1 Registration of employers (*SAS Act*, S46, S54F)

2.1.1 An employer must not enter into a Training Contract to train a person unless the employer is:

- a) registered
- b) operating within the scope of their registration
- c) complying with any other conditions of the registration.

2.1.2 To become registered, an employer must apply to the Commission.

2.1.3 Upon application, the Commission will register the employer if:

- a) the employer is not prohibited
- b) the employer satisfies the requirements set out in this Standard it is, in the Commission's opinion, appropriate to do so.

2.1.4 An application to be registered as an employer must be made using the online Employer Registration Portal available at <https://skillscommission.sa.gov.au/employer-registration>.

2.1.5 The employer must provide all the information requested in the application form.

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2.1.6 In addition, the employer must:

- a) have completed any training exercises included in the application process
- b) read and accept the terms and conditions contained in the application form
- c) declare the information contained in the application is true and accurate and that the applicant is authorised to make the application on behalf of the employer.

2.2 Scope of registration (*SAS Act, S46, S54F*)

2.2.1 When applying for registration, an employer must select the trades (apprenticeships) or declared vocations (traineeships) for which they wish to be registered.

2.2.2 As part of the application, the employer must certify they are able to deliver and support the full range of on and off-job training required for an apprentice or trainee to become competent in the selected trade or vocation, or that they otherwise have arrangements in place to transfer the Training Contract (whether through host employment arrangements or via the substitution of the employer – for more information, applicants are referred to [Standard 4: Host Employment Arrangements](#), and [Standard 9: Transfer of Training Contracts and Substitute Employer](#), respectively) in order to provide the full range of training.

2.2.3 Each trade or declared vocation selected by the applicant and approved by the Commission represents a condition placed on the employer's registration under Section 54F(3)(b) of the *SAS Act*. Collectively, the list of one or more trades and declared vocations represents the scope of the employer's registration.

2.2.4 An employer must not enter into a Training Contract to train a person unless the employer is operating within the scope of their registration.

2.2.5 An employer will be required to select at least one trade or declared vocation to be registered for during the initial registration process.

2.2.6 The employer may request additional trades or declared vocations be added to their scope of registration by applying through mySkillsSA at <https://skillscommission.sa.gov.au/employer-registration>

2.3 Other conditions of registration (*SAS Act, S54F, Regulation 9*)

2.3.1 In addition to the scope of registration, under Section 54F(3)(b) of the *SAS Act* the Commission may impose such other conditions on an employer's registration as determined by the Commission. Such conditions may include:

- a) limiting the number of apprentices and trainees that the employer may employ at any one time
- b) setting a minimum age limit for the apprentices and trainees an employer may employ
- c) provision to enter into a host employment arrangement in accordance with [Standard 4: Host Employment Arrangements](#).

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- 2.3.2 The Commission must impose a condition on registration as prescribed by the *South Australian Skills Regulations 2021* (the *Regulations*). [Regulation 9](#) makes it a requirement of the registration that an employer satisfies the employer supervision requirements as set out in [Standard 5: Supervision](#).
- 2.3.3 The Commission may impose conditions on an employer's registration at the time of the initial registration, or renewal of registration, or during the period of registration.
- 2.4 Variation, suspension, and cancellation of registration (SAS Act, S54G)**
- 2.4.1 An employer's registration may be varied, suspended, or cancelled, whether through an application by the employer or on the Commission's own volition.
- 2.4.2 An employer may apply to the Commission to vary or revoke a condition placed on their registration, or to cancel their registration. Applications to vary or cancel a registration should be made via mySkillsSA available at:
<https://skillscommission.sa.gov.au/employer-registration>
- 2.4.3 The Commission must cancel an employer's registration upon application by the employer and may vary or revoke a condition (not being a condition imposed by the Regulations) of the registration as outlined in Section 54G(2)(b) of the *SAS Act* and the *Regulations*.
- 2.4.4 If the Commission declares an employer to be prohibited, it must cancel the employer's registration.
- 2.4.5 Additionally, if the Commission is satisfied that:
- a) an employer has contravened a provision of the *SAS Act*, or a corresponding law (the corresponding laws are determined in accordance with Section 54G of the *SAS Act* and are contained in the appendices to these Standards)
 - b) failed to comply with a compliance notice
 - c) contravened a condition of the employer's registration
 - d) it is otherwise in the public interest, or the interest of the apprentices or trainees employed by the employer, to vary, suspend, or cancel the employer's registration, it may do such of the following as it thinks fit:
 - i. vary or revoke a condition of the employer's registration
 - ii. impose a new condition on the registration
 - iii. suspend the registration for a specified period, or until further notice
 - iv. cancel the registration.
- 2.4.6 The Commission may exercise one or more of these powers irrespective of whether the contravention occurred in South Australia or not.
- 2.4.7 The Commission must give the employer at least 28 days written notice before taking action to vary (or revoke a variation), suspend, or cancel the registration.

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2.4.8 However, the Commission may suspend an employer's registration without providing 28 days written notice if it believes on reasonable grounds that:

- a) an apprentice or trainee employed by the employer is at imminent risk of harm
- b) it is reasonably necessary or appropriate to suspend the employer's registration without providing 28 days written notice, in order to manage that risk.

2.5 Substitution of an employer following the variation, suspension, or cancellation of registration (SAS Act, S54H)

2.5.1 When an employer's registration is suspended or cancelled, or varied such that it is no longer, in the opinion of the Commission, appropriate for the employer to continue as the employer in relation to a Training Contract, the Commission may substitute the employer for another employer.

2.5.2 The Commission may do so on its own motion or on the application of a party to the Training Contract. A substitution may be permanent, or for a period specified by the Commission.

2.5.3 The proposed employer must:

- a) not be a prohibited employer
- b) be registered (or have applied for registration)
- c) be complying with all the conditions of their registration
- d) consent to the substitution.

2.5.4 When an employer is substituted under Section 54H of the *SAS Act*, the employment of the apprentice or trainee continues with the new employer and the Training Contract continues in force. Any rights, obligations, and liabilities of the former employer in respect of the Training Contract are transferred to the new employer.

2.5.5 A party to a Training Contract affected by the variation, suspension, or cancellation of an employer's registration may apply to substitute another employer for the Training Contract.

2.5.6 Transfer fees will not apply to the substitution of an employer under Section 54H of the *SAS Act*.

2.6 Renewal of registration (SAS Act, S54F)

2.6.1 The Commission may register an employer for a period of up to 5 years. To continue to enter into Training Contracts to train a person, the employer must renew their registration prior to the expiry of this period.

2.6.2 The Commission will notify an employer within 6 months of the expiry of their registration period, inviting them to apply for renewal of their registration for a further period of up to 5 years.

2.6.3 An application to renew registration must be made using mySkillsSA available at <https://skillscommission.sa.gov.au/employer-registration>

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2.7 Other obligations (SAS Act, S54K, S54L)

- 2.7.1 The employer is responsible for maintaining the accuracy and currency of their registration. An employer must notify the Commission if:
- there is a material change in any information provided to the Commission regarding the registration
 - the employer sells, or offers for sale, the business relating to the registration
 - the employer, or the business relating to the registration, becomes insolvent or bankrupt
 - the employer is convicted of an indictable offence or a summary offence for which a term of imprisonment may be imposed.
- 2.7.2 An employer must maintain appropriate records to demonstrate that the obligations in the *SAS Act, Regulations* and [Standard 14: Record Keeping](#), have been met.

2.8 Offences relating to employer registration (SAS Act, S54I)

- 2.8.1 A person must not falsely represent that they are a registered employer.
- 2.8.2 A registered employer must not falsely represent that the employer's registration is, or is not, subject to a specified condition, or a condition of a specified kind.
- 2.8.3 A person must not falsely represent that:
- another person is a registered employer
 - the registration of another person is, or is not, subject to a specified condition, or a condition of a specified kind.
- 2.8.4 The maximum penalty for each of these offences is \$10,000.

2.9 Review of decisions by the South Australian Civil and Administrative Tribunal (SAS Act, S70F)

- 2.9.1 The South Australian Civil and Administrative Tribunal (SACAT) has jurisdiction to review a decision of the Commission to refuse to register or renew a registration, to impose a condition on a registration, or to vary, suspend or cancel a registration under Part 4, Division 3A of the *SAS Act*.
- 2.9.2 An applicant must apply to the SACAT within 28 days of receiving notice of the relevant decision.
- 2.9.3 The SACAT may allow an extension of time to this application period if it is satisfied that:
- special circumstances exist
 - another party will not be unreasonably disadvantaged because of the delay in commencing proceedings.
- 2.9.4 An application to the SACAT to review a decision must be made using the online form available at:
<https://www.sacat.sa.gov.au/applications-and-hearings/how-to-apply-to-sacat>.

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- 2.9.5 Fees apply for commencing a review in the SACAT. The SACAT can reduce or waive a fee in a particular case, or in relation to a particular class of applicant, based on financial hardship or where it is in the interests of justice to do so. An applicant may also apply for a partial waiver of the fee if they hold a valid concession card.