

STANDARD 6

Training Plan and Nominated Training Organisations

This Standard relates to training organisations and their requirement to provide a workable framework for parties to Training Contracts and their Nominated Training Organisation (NTO). NTOs have requirements under the *South Australian Skills Act 2008* (the *SAS Act*) where they are nominated for an apprentice or trainee in relation to each Training Contract.

The NTO must be a:

- Registered Training Organisation (RTO)
- recognised higher education provider.

The NTO Standard applies to the:

- RTO or higher education provider nominated for an apprentice or trainee under each Training Contract to which the apprentice or trainee is a party
- employer who is party to the Training Contract
- apprentice or trainee who is party to the Training Contract.

Governance arrangements

NTOs are providers and assessors of nationally recognised training that have been registered by the Australian Skills Quality Authority (ASQA) in the case of RTOs or the Tertiary Education Quality and Standards Agency (TEQSA) in the case of higher education providers. Only NTOs can issue nationally recognised qualifications.

The South Australian Skills Commission (the Commission) (or its delegate) regulates apprenticeships and traineeships in South Australia under the *SAS Act*. Obligations of NTOs under the *SAS Act* will be regulated by the Commission.

Compliance with the Standard

6.1 Selection of a Nominated Training Organisation (*SAS Act*, S54P)

- 6.1.1 As part of the process to establish a Training Contract, the employer and apprentice or trainee must agree on which RTO or higher education provider will be the NTO for the Training Contract.
- 6.1.2 Having agreed, the employer and apprentice or trainee must obtain the acceptance of the NTO in relation to the nomination.
- 6.1.3 The Apprenticeship Network Provider (ANP) facilitating the establishment of the Training Contract may assist the employer and apprentice or trainee to select the NTO and may obtain the proposed NTOs acceptance on their behalf.
- 6.1.4 The NTO must accept or decline their nomination in the online portal located at <https://atlas.skills.sa.gov.au>, within 30 calendar days of the data becoming available in the portal.
- 6.1.5 The NTO becomes responsible for their obligations when they accept the nomination.

6.2 Training Plan (*SAS Act*, S54Q, S54R, Regulation 14)

- 6.2.1 The NTO for a Training Contract must prepare (and obtain the necessary endorsement of) the Training Plan for that contract within 28 days of accepting a nomination.
- 6.2.2 If the NTO is unable to prepare a Training Plan within this timeframe, it must apply to the Commission for an extension via <https://providers.skills.sa.gov.au/file/tools/form-training-plan-extension> and in the prescribed manner, at least 7 days in advance of the 28 day deadline. Note: an extension to inform the Commission a training plan has been developed, if granted, will apply for a further period of 28 days only and not an indeterminate or other period of time.
- 6.2.3 The Training Plan must be presented on the form approved by the Commission and contain all the requested information. The Commission has approved a proforma Training Plan, available at <https://providers.skills.sa.gov.au/file/tools/form-training-plan>.
- 6.2.4 The Training Plan must contain the following information:
 - a) contact details of the apprentice or trainee, employer and NTO
 - b) details of the school (for school-based apprenticeships or traineeships)
 - c) details of the apprenticeship or traineeship being undertaken
 - d) the Australian Qualification Framework (AQF) qualification to be undertaken and any other relevant pathway to a trade or declared vocation (including non-accredited training) that the Commission has aligned to the qualification as part of the trade vocational declaration process
 - e) the units of competence/units of study and any other training (accredited/non-accredited) that will make up the AQF qualification (including elective units) and a timeline of when these units will be undertaken by the apprentice or trainee
 - f) the mode of delivery of formal training (on-job or off-job)

- g) the developmental goals of the apprentice or trainee under the Training Plan
 - h) the responsibilities of the apprentice or trainee, employer and NTO, with respect to training under the Training Contract
 - i) any additional expectations of the apprentice or trainee, employer or NTO that are agreed to by the parties to the Training Contract.
- 6.2.5 When developing the Training Plan, the NTO must engage with the employer and the apprentice or trainee and discuss:
- a) how, when and where the training will be delivered
 - b) the units of competence/units of study that will be delivered
 - c) who will assess the apprentice or trainee
 - d) the type of assessments that will be conducted.
- 6.2.6 The Training Plan must be endorsed by the employer and the apprentice or trainee, as well as additional endorsement (as appropriate) from:
- a) an apprentice's or trainee's parent or guardian, where the apprentice or trainee is under 18, and where the apprentice or trainee's parents are party to the Training Contract
 - b) a school principal (or delegate of the principal), where the Training Plan is for a school-based Training Contract.
- 6.2.7 Once a Training Plan has been endorsed by all parties, the NTO must notify the Commission within 28 days.
- 6.2.8 The Training Plan comes into effect from any commencement date specified in the document.
- 6.2.9 The NTO must provide a copy of the Training Plan to the employer and the apprentice or trainee within 14 days of the Training Plan coming into effect.
- 6.2.10 The NTO is responsible for delivering training in accordance with the Training Plan and as agreed with the employer and the apprentice or trainee.
- 6.2.11 The NTO must maintain the currency and suitability of the Training Plan, and monitor the apprentice's or trainee's progress towards meeting the required training, over the life of the Training Contract, until all outcomes are achieved, or the Training Contract ceases.
- 6.2.12 The NTO must review the Training Plan as required, including:
- a) if the training that is the subject of the Training Plan is modified
 - b) upon request by the parties to the Training Contract
 - c) at a minimum, every 6 months regardless.
- 6.2.13 A variation to the Training Plan must be endorsed by all the relevant parties and will come into effect from a date specified in the Training Plan.
- 6.2.14 The NTO must provide a copy of the revised Training Plan to the employer and the apprentice or trainee within 14 days of the revised Training Plan coming into effect, and must notify the Commission of the variation within 28 days.

6.3 Substitution of a Nominated Training Organisation (SAS Act, S54T)

6.3.1 The employer and the apprentice or trainee may substitute the NTO for a Training Contract, where:

- a) the employer and apprentice or trainee agree on the new NTO
- b) the employer and apprentice or trainee seek acceptance of the new NTO in respect of the nomination
- c) the NTO accepts the nomination and agrees to be the NTO for the apprentice or trainee.

6.3.2 The nominated ANP for the Training Contract may assist the employer and apprentice or trainee to select a new NTO and may obtain the new NTO's acceptance on their behalf.

6.3.3 Substitution of the NTO triggers an automatic review of the Training Plan by the new NTO. Notwithstanding any revisions made necessary by this review, the Training Plan for the apprentice or trainee continues in force and any rights, obligations and liabilities of the former NTO are transferred to the new NTO.

6.3.4 Where the NTO ceases to be the NTO in relation to a Training Contract, it must make the Training Plan and progress towards agreed learning outcomes available to the new NTO and maintain records for the period of which it was the NTO in accordance with Section 54U of the *SAS Act*.

6.3.5 The new NTO must notify the Commission of its inclusion under the Training Contract within 14 days.

6.4 Obligations for Nominated Training Organisations (SAS Act, Division 3D, Regulations 14, 15)

6.4.1 Where there are issues with an employer or with the apprentice or trainee, the NTO should engage with the employer and/or apprentice or trainee in the first instance. Where concerns are ongoing, the NTO should contact the Commission.

6.4.2 The NTO must notify the Commission where:

- a) it becomes aware that an apprentice or trainee is not meeting the requirements of the Training Plan
- b) it becomes aware that an employer is not meeting its obligations under the Training Contract or Training Plan
- c) it becomes aware that the health or safety of an apprentice or trainee is at risk
- d) it becomes aware that it may not be able to comply with any obligations applicable to the NTO under the Training Plan
- e) it ceases to be the NTO under the Training Contract
- f) ASQA or TEQSA has made a decision in relation to the NTO that impacts its ability to fulfil its obligations under the Training Plan.

6.4.3 When notifying the Commission of any of the above matters, the NTO must include details of the:

- a) name of the employer
- b) name of the apprentice or trainee
- c) name of the NTO
- d) relevant contact person's name, phone number and email address in the NTO
- e) progress achieved against the Training Plan at the date of the notice
- f) details of efforts made to engage the employer and apprentice or trainee, where the training goals are not being achieved.

- 6.4.4 The NTO for a Training Contract must keep such records in accordance with ASQA requirements for RTOs, TEQSA requirements for higher education providers and the Standard 14, Record Keeping. Records must be retained for at least 7 years after the completion, expiry or termination of the Training Contract to which the record relates.
- 6.4.5 The NTO must not refuse or fail to comply with the obligations outlined in Division 3D of the *SAS Act*.
- 6.4.6 The Commission may notify the Department for Education (DfE), ASQA or TEQSA of any failure to comply with the obligations for NTOs set out in the *SAS Act*.
- 6.4.7 The maximum penalty for a breach of the requirement is \$5,000 and the expiation fee is \$315.

6.5 Obligations for employers (*SAS Act*, S54J)

- 6.5.1 The employer must not prevent or obstruct apprentices or trainees from participating in training required to be delivered by the NTO under a Training Plan or prejudice the employment of the apprentice or trainee as a result of participating in, or attempting to participate in, such training.
- 6.5.2 The employer must not take any other steps to discourage the apprentice or trainee from participating in training as outlined in the Training Plan and must comply with any other obligations specified in the Training Contract or Training Plan that are applicable to the employer.
- 6.5.3 These conditions are taken to be a condition of the employer's registration. If the employer fails to comply with these obligations the Commission may do one or more of the following:
 - a) give the employer a written warning
 - b) vary, suspend or cancel the employers registration under Section 54G(3) of the *SAS Act*
 - c) issue a compliance notice under Section 63 of the *SAS Act*
 - d) declare the employer to be a prohibited employer.

6.6 Obligations for apprentices and trainees (*SAS Act*, S54M)

- 6.6.1 The apprentice or trainee must comply with obligations specified in the Training Contract or Training Plan that are applicable to them.
- 6.6.2 The apprentice or trainee must, participate in the development of their Training Plan as far as is reasonably practicable, attend training specified in the Training Plan, and contribute to the attainment of their development goals under the Training Contract or Training Plan.
- 6.6.3 If the apprentice or trainee fails to comply with these obligations the Commission may do one or more of the following:
 - a) give the apprentice or trainee a written warning
 - b) require the parties to the Training Contract to attend a conciliation conference under Section 52 of the *SAS Act*
 - c) suspend or terminate the Training Contract under Section 51 and 52B of the *SAS Act*.

