

Skills Standard 11

Training Contract Completion

This Standard relates to the completion of Training Contracts in accordance with the South Australian Skills Act 2008 (the SAS Act). It is the responsibility of each party to a Training Contract to take appropriate action to support completion of the apprenticeship or traineeship.

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, its powers include the authority to assess, approve or decline applications for Training Contract completion.

Compliance with the Standard

11.1 Means to complete Training Contracts (SAS Act, S49)

11.1.1 A Training Contract may be considered complete when:

- (a) there is agreement from the employer and the apprentice or trainee that the apprentice or trainee has achieved competency in the workplace
- (b) a Nominated Training Organisation (NTO) has certified that the qualification specified in the Training Contract has been completed by the apprentice or trainee.

11.1.2 A party to a Training Contract must notify the Commission, before the nominal completion date for the contract is reached, if the contract will not be completed by that date.

11.1.3 An application to extend the term of a Training Contract must be made prior to the expiry of the training contract, via [mySkillsSA](https://www.myskills.sa.gov.au).

11.1.4 The Commission may consider whether a Training Contract is completed in the following circumstances:

- (a) a party to a Training Contract may apply to the Commission to complete a traineeship or apprenticeship
- (b) the Commission may certify on its own motion that the apprentice or trainee is to be considered to have completed the training required under the contract, without an application from one or both of the parties.

11.1.5 Applications under above Clause 11.1.4 a) must:

- (a) be made in the prescribed form, available at [mySkillsSA](https://www.myskills.sa.gov.au).
- (b) be accompanied by such information or documents as required by the Commission to consider the application, including evidence of successful completion of the qualification specified in the Training Contract.

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- 11.1.6 Where the contractual parties are in dispute, and the employer or apprentice or trainee does not accept the apprentice or trainee is competent, or the employer cannot be found, the Commission may obtain independent industry advice in regard to the competency of the apprentice or trainee.
- 11.1.7 The Commission will notify the parties to a Training Contract of the result of the application, and if successful certify that the apprentice or trainee is to be taken to have completed the training required under the contract.
- 11.1.8 If the Commission certifies that the (current or former) apprentice or trainee has completed the training required under the contract, the Commission may:
- (a) if the contract is still in operation, finalise the contract and relieve the parties of their obligations under the contract; and
 - (b) certify that the apprentice or trainee has completed the training required under the contract for the relevant trade or declared vocation.

11.2 Dispute resolution (SAS Act, S65)

- 11.2.1 Where the contractual parties are in dispute about whether:
- (a) the apprentice or trainee has achieved competency in the workplace
 - (b) there is evidence that the apprentice or trainee has successfully completed the qualification specified in the Training Contract a party to the Training Contract may apply to the South Australian Employment Tribunal (SAET) for consideration of the matter.
- 11.2.2 As per Section 65(2)(a) of the SAS Act, the SAET may make recommendations to the Commission about the assessment of the skills of an apprentice or trainee and, if appropriate, the granting of an appropriate qualification under the Australian Qualifications Framework (AQF).
- 11.2.3 Applications to the SAET under the SAS Act must be during the term of the relevant Training Contract or within 6 months after the expiry, termination, or cancellation of the relevant Training Contract. The SAET may extend the time within which any such application may be made.
- 11.2.4 Under Section 66 of the SAS Act and as described in Section 43 of the SAET Act 2014, parties are required to attend a compulsory conciliation conference, if directed to do so. This applies to both the employer and the apprentice or trainee.
- 11.2.5 If a conflict occurs between a determination of the Commission about the completion of a Training Contract and a determination of the SAET, the determination of the SAET prevails.

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11.2.6 The SAET has powers to exercise an order under the SAS Act. Parties must not contravene an order of the SAET, with the maximum penalty for non-compliance being \$5,000.

11.3 False or misleading information (SAS Act, S75)

11.3.1 A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under the SAS Act.

11.3.2 The maximum penalty for a breach of this requirement is \$10,000.