



Training and Skills Development (Miscellaneous) Amendment Bill 2020

Questions for Feedback on Bill

A simplified Act that is easier to use

The Bill aims to improve the structure and clarity of the Act, to assist stakeholders navigate the Act and understand and exercise obligations under the Act.

Does the Bill provide greater clarity on the training and skills system it regulates for South Australia, including obligations imposed by the Bill?

The South Australian Skills Commission is established

The South Australian Skills Commission (Commission) is established by the Bill and is responsible to the South Australian Skills Commissioner (Commissioner), a new office created by the Bill. The Commission will replace and combine the roles of the Training and Skills Commission and Training Advocate. Importantly, the establishment of the SASC supports the emphasis of skills and training at a national level – including reforms to promote and streamline training and workforce development as a key part of economic recovery.

This reform responds to concerns raised by stakeholders regarding confusion and duplication of roles within the apprenticeship and traineeship system and the need for greater strategic oversight of the system.

Do you have feedback on the establishment and scope of the new Commission and Commissioner?

Pathways and Declaration of trades and declared vocations

To support the modernisation of skill development and improve flexibility in delivery of employment-based training the Bill expands the scope of trades and declared vocations (including higher level apprenticeships/traineeships), in addition to primary qualifications. This responds to stakeholder support for a modern and flexible declaration process, focussed on the essential connection between training and the job it is equipping the apprentice or trainee to do.

Do you have any feedback on the expanded scope and/or the process for declaration of trades and vocations?

Employer registration and Prohibition

The Bill streamlines provisions under the current Act relating to employer registration and introduces a prohibited employer category. The first reform responds to stakeholder feedback that despite improvements to the employer registration process, the current Act uses complex criteria that have little impact on risk. The second, related, reform maintains robust protection for apprentices and trainees against unscrupulous employers and more efficiently directs assessment and response to risk raised by poor performing employers.

Do you have any feedback on the employer registration and prohibited employer processes or conditions?

Apprentice/trainee transfer fee

The Bill introduces a transfer fee payable from an employer to another employer when a training contract is transferred from the former to the latter. The fee would be adjusted according to the time served with the first employer and the size of the businesses involved. Such transfer (or employer substitution) must be approved by the Commission and the fee can be waived in accordance with Regulation.

This reform acknowledges the investment employers make in training new apprentices and trainees and will work to discourage poaching of productive employees by businesses that have made no investment in the apprentice/trainee's training.

Do you have any feedback on the introduction of a transfer fee or the factors affecting adjustments to the fee?

Balance of obligations of parties to training contracts

The Bill places a stronger focus on the obligations of all parties (employer, student and RTO) to training contracts by legislating obligations under the contract of training. This gives clearer guidance to the parties to the training contract, who otherwise may misunderstand or misconstrue the nature and extent of their obligations under the training contract.

Does the Bill clearly articulate and balance the obligations of each party and the penalties for breach of these obligations?

Recognition of other trade training

Alternate forms of skills recognition assist the supply of skilled labour to industries that experience skills shortages, exacerbated by complex or prohibitive skills recognition schemes.

The Bill provides a framework for recognition of qualifications or experience in relation to a trade or vocation outside of a training contract, including in relation to skilled migrants seeking a pathway to having their prior training and work experience recognised.

Do you have any feedback on the recognition framework?

Additional reforms:

The Bill also:

- Places a stronger emphasis on the use of conciliation and mediation to assist parties to a training contract constructively resolve disputes and maintain the employment relationship that underpins the training contract. Matters that cannot be resolved can still be referred to the South Australian Employment Tribunal (SAET) for resolution.
- Adopts a clearer framework for the development and use of training plans for apprentices and trainees, with the early involvement of a Registered Training Organisation (RTO) nominated by the employer and apprentice or trainee.
- Amends the Act to permit a party to a training contract to apply to extend the probationary period for an apprenticeship or traineeship, to a maximum total period of 6 months, to assist the parties agree and make the commitment to the full duration of the training contract.

Do you have any feedback on the additional Reforms proposed by the Bill?