

GUIDANCE NOTE FOR THE ESTABLISHMENT AND VARIATION OF APPRENTICESHIPS IN WESTERN AUSTRALIA

This Guidance Note has been approved by the State Training Board to supplement the Guidelines for the establishment and variation of apprenticeships, v2.4 (EVAC Guidelines).

1. Scope and application

This guidance note provides practical guidance for the State Training Board's (STB's) Establishment and Variation of Apprenticeships Committee (EVAC) when assessing EVAC proposals and making its recommendations to the Minister for Education and Training. It will also assist proponents and industry training councils in the development of a proposal.

This note does not in any way limit the Board's discretion when considering proposals under the EVAC process.

The principles in this guidance note are effective from 21 October 2022 and will not be applied retrospectively to apprenticeships already established.

2. Coverage

This Guidance Note provides information on the following matters:

- 2.1 Guiding principles to support the STB's consideration of proposals for a qualification to be classified as Class A or B and to use the term 'apprentice'.
- 2.2 The threshold that must be met for the STB to recommend the establishment of a Class A apprenticeship.

3. Legislative framework for classification of qualifications in WA

Under Section 60C of the *Vocational Education and Training Act 1996* (VET Act), the Minister for Education and Training must classify each prescribed VET qualification as Class A, B or C. The Minister may prescribe conditions on the qualification and impose training contract related requirements for Class A and B qualifications. The Minister must not act under this section of the VET Act without having received and considered the State Training Board's advice after it has consulted with industry training councils and relevant unions and employer associations as appropriate. The STB delegates this function of the Act to EVAC.

Regulations 36 and 37 of the *Vocational Education and Training (General) Regulations 2009*, specify who the Board must consult when making recommendations to the Minister as to the class of the qualification; whether an apprentice under a training contract should be called an apprentice, trainee, intern, cadet or some other term; conditions to be applied to the classification of the qualification; and training contract related requirements.

4. Guiding principles for the use of the term apprentice when classifying qualifications under section 60C of the VET Act

This section outlines the factors EVAC must consider prior to recommending to the Minister that a Class A or B qualification should be associated with the term 'apprentice'.

EVAC must be satisfied that the supporting submission provides sufficient evidence to demonstrate that the use of the term apprentice aligns with the guiding principles below. EVAC retains discretion in assessing each application on a case by case basis.

- 4.1 The qualification and the corresponding occupational outcome is of a sufficiently complex and technical nature to support nominal duration associated with the proposed apprenticeship, which is usually three years or longer.
- 4.2 The qualification's occupational outcome is classified as a technician or trade under the Australian and New Zealand Standard Classification of Occupations (ANZSCO) or the proponent provides sufficient supporting evidence that the occupational outcome could be reasonably considered a trade or technical role.¹
- 4.3 The occupation linked to the qualification seeking to be designated as an apprenticeship is classified as an ANZSCO skill level three or higher.
- 4.4 The apprenticeship terms must be consistent with the relevant industrial instruments. Note: This is subject to operation of s60B of the VET Act which deals with 'inconsistency with *Industrial Relations Act 1979*, awards etc' and provides for Part 7 of the VET Act and the regulations for Part 7 to have precedence over the *Industrial Relations Act 1979* or any awards where there is inconsistency.

5. Threshold for classifying a qualification as a Class A apprenticeship (establishments or variations)

This section outlines factors for EVAC's consideration prior to recommending the classification of a qualification as a Class A to the Minister.

The classification of a qualification as 'Class A' restricts delivery of the qualification to be through a training contract arrangement, with the exception of the recognition of prior learning arrangement as stipulated in s60I of the VET Act.

EVAC must be satisfied that these proposals have considered the following:

- 5.1 Does the training package state that the qualification must be undertaken through a training contract or is developed for apprentices?
- 5.2 Is there a regulatory/licensing requirement for the qualification to be delivered in a workplace based setting? If so, what are the regulatory/licensing requirements and when were they introduced?

¹ ABS Major Group 3 Technicians and Trade Workers,
<https://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/9762670788E261B3CA2575DF002DA5B8?openDocument#:~:text=TECHNICIANS%20AND%20TRADES%20WORKERS%20perform,engineering%2C%20building%20and%20manufacturing%20activities>

- 5.3 There is broad consensus from industry, training providers, unions and employer groups that an employment based training pathway is the preferred pathway for a person to gain the skills needed to work in the relevant occupation, as a Class A qualification can only be done through a training contract except under RPL provisions.
- 5.4 If the proposal differs from apprenticeship arrangements in other states and territories (if already established), there must be justification as to why an alternate approach is necessary to suit local conditions in Western Australia.
- 5.5 Is there adequate evidence in the supporting submission that all stakeholders clearly understand the implications of the proposed 'Class A' classification? For example:
- impact on wages - wage costs associated with an apprenticeship may be considerably higher than a traineeship under the relevant awards;
 - any employer obligations under industrial instruments such as paying apprentices whilst undertaking off-the-job training, reimbursement of training fees and travel expenses – if an apprentice needs to attend block release training and stay overnight, many awards say that their employer must pay the excess reasonable costs to and from training including accommodation if necessary, total cost of reasonable transportation and reasonable expenses including meals;
 - no delivery to international students – institutional training is not allowed to be delivered by registered training organisations if the qualification is a Class A.
 - registered training organisations scoped to deliver the qualification as a Class A apprenticeship – existing registered training organisations may need to undergo a Department of Training and Workforce Development assessment process to be able to access publicly subsidised funding to deliver the apprenticeship; and private RTOs may need to undergo a tender process to deliver the apprenticeship;
 - the issuance of trade certificates - a trade certificate may be issued by the Department of Training and Workforce Development to a person who has achieved an apprenticeship qualification. Will units done institutionally previously by a person be transferrable to the new apprenticeship?
- 5.6 EVAC must consider the wider labour market implications of the proposal. If there is an application to increase the training contract nominal duration, how will a mandated employment based training pathway impact on the supply of workers in times of both high and low unemployment?
- 5.7 Have implications on current delivery of the qualification and other related programs been considered? If there are impacts on current qualification delivery, has consideration been given to transitional arrangements?