

## Submission

# Victorian Labour Hire Licensing Exposure Draft Regulations

Prepared by

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Trading as Apprenticeship Employment Network

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# Submission

## Victorian Labour Hire Licensing Exposure Draft Regulations

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Thank you for the opportunity to respond to the Victorian Labour Hire Licensing Exposure Draft Regulations.

The Apprentice Employment Network (AEN) is the peak industry body representing Group Training Organisations (GTOs) across Victoria. AEN's purpose is to support members and Government to achieve skilled and sustainable employment and training for the wider community.

Within Victoria, GTOs employ over 6500 apprentices and trainees across all industry sectors. The network supports 10,000+ host employers which are mainly small to medium size businesses.

The core activity of our member organisations is the employment, placement, and vocational training of people in our community. GTOs work within the quality frameworks of the Australian Quality Training Framework (AQT) and the endorsed National standards for GTOs. Alongside their core business many GTOs are also involved in targeted labour market programs, the work of the Australian Apprenticeship Support Network (AASN), Employment Services, Disability Employment Services and various initiatives such as Indigenous Employment programs to improve access and equity within the Vocational Education Training (VET) and employment sectors.

Currently in Victoria there are 24 nationally registered GTOs that are recognised by the Victorian Regulations and Qualifications Authority (VRQA) and the State and Commonwealth Departments of Education. Victorian GTOs also have access to Department of Education funding and payroll tax exemption through the State Revenue Office.

We understand that the key purpose of the Labour Hire Licensing Act 2018 (Vic) (Act) is to establish a business licensing system to regulate the provision of labour hire services and, in turn, protect vulnerable labour hire workers from exploitation especially in the industries of commercial cleaning, horticulture, meat manufacturing and processing and ensure they are protected by the scheme. The Act will also help to improve the transparency and integrity of the labour hire industry and to improve the commercial conditions for law abiding businesses.

We also understand that the current public consultation on the draft regulations is to establish if the regulations will impose a significant or social burden on a sector of the public, to reduce duplication of compliance and reduce community confusion.

Whilst AEN agree with, and support the Victorian Governments Labour Hire Licensing Bill, we feel it extremely important that GTOs in Victoria are not mistakenly bundled in and regulated within the labour hire industry. AEN believe, there are significant differences between group training and labour hire activities.

The key areas of difference include;

- GTOs are already registered with VRQA, and Commonwealth Department of Education and the Victorian State Revenue Office under various agreements and payroll tax exemptions and participate in various audit processes across States and at Commonwealth level.
- GTOs are registered on the national training register and must adhere to the compliance of the national group training standards by the VRQA.
- GTOs are mainly incorporated associations and other not-for-profit organisation structures and have boards of management that are comprised of local community and industry leaders to ensure ethical behaviour and governance.
- All employees' of GTOs are apprentices and trainees who enter into a contract of training with the GTO and Victorian Department of Education.

- All apprentices and trainees employed under a GTO naturally have a training contract (on the job and off the job) component attached to their employment and is a requirement for successfully completing the qualification which may occur over multiple host employers to ensure the full scope of training experiences is achieved.
- GTO field officers ensure that apprentices and trainees placed with host employers have greater support, mentoring that traditional labour hire companies do not have. Additional support with workplace health and safety, mentoring, workplace entitlements and conditions.

**GTOs core business is to support the individual apprentice or trainee through to completion of their training qualification- it is not set up to provide short term labour.**

AEN believe that by not having an exemption for GTOs under the Labour Hire Licensing Act or through the regulations will create confusion in the wider community and will discredit and damage the reputation of GTOs and may lead to the assumption that they are “dodgy labour hire” companies. We feel this assumption will not only be damaging to the reputation of GTOs but may also be damaging to our key stakeholders, including government and the future take up of apprenticeships and traineeships in many skill shortage industries.

The additional cost, administration and layer of complexity will not improve the existing GTO sector or increase opportunities for youth that wish to undertake a skilled vocational pathway that is already heavily regulated

We look forward to working with Industrial Relations Victoria, the Minister and the new commissioner’s office to ensure Victorian youth have every opportunity to enter an apprenticeship or traineeship in a positive environment.

Regards



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The following pages provide the AEN response to the specific questions raised through the Labour Hire Licensing Exposure Draft Regulations process, additional questions raised by AEN and further back ground on the current GTO governance and compliance environment.

## Mutual recognition

*Under section 111, the Act also allows for possible further reduction of compliance obligations for licences or approvals that are provided under a prescribed law or scheme. This entitlement applies beyond natural persons to a body corporate that holds a labour hire licence in another State or Territory.*

*Clause 6 of the exposure draft Regulations prescribes as a relevant law or scheme:*

- *the Queensland labour hire licensing scheme;*
- *the South Australian labour hire licensing scheme; and*
- *the scheme under which the Victorian Registration and Qualifications Authority (VRQA) registers an organisation as a Group Training Organisation (GTO) (but this does not include any organisation that provides workers other than apprentices or trainees).*

*The Queensland and South Australian labour hire licensing jurisdictions have been prescribed because they are equivalent labour hire licensing schemes. In addition, the accreditation process required for recognition of GTOs was found to be a sufficient regulatory regime to allow the Authority the opportunity to rely on this scheme as described.*

*Section 111 of the Act provides that the Authority may rely on such licences or approvals in a variety of ways.*

### **1. Is the prescription of the laws and scheme set out above appropriate?**

The AEN would support the mutual recognition of all of the proposed schemes under the draft Regulations:

- the Queensland labour hire licensing scheme;
- the South Australian labour hire licensing scheme; and
- the scheme under which the Victorian Registration and Qualifications Authority (VRQA) registers an organisation as a Group Training Organisation (GTO) (but this does not include any organisation that provides workers other than apprentices or trainees).

The AEN strongly supports the mutual recognition of group training organisations registered by the VRQA to reduce duplication of compliance and community confusion.

Whilst AEN agree with, and support the Victorian Governments Labour Hire Licensing Bill, we feel it extremely important that GTOs in Victoria are not mistakenly bundled in and regulated within the labour hire industry. AEN believe, there are significant differences between group training and labour hire activities.

The key areas of difference include;

- GTOs are already registered with VRQA, and Commonwealth Department of Education and the Victorian State Revenue Office under various agreements and payroll tax exemptions and participate in various audit processes to ensure they maintain the quality framework in place.
- GTOs are registered on the national training register and must adhere to the compliance of the national group training standards by the VRQA. (Refer to Appendix 1 & 2)
- GTOs are mainly incorporated associations and other not-for-profit organisation structures and have boards of management that are comprised of local community and industry leaders to ensure ethical behaviour and governance. (Refer to Appendix 4)

- All employees' of GTOs are apprentices and trainees who enter into a contract of training with the GTO and Victorian and commonwealth Departments of Education.
- All apprentices and trainees employed under a GTO naturally have a training contract (on the job and off the job) component attached to their employment and is a requirement for successfully completing the qualification which may occur over multiple host employers to ensure the full scope of training experiences is achieved.
- Our GTO field officers ensure that apprentices and trainees placed with host employers have greater support, mentoring that traditional labour hire companies do not have. Additional support with workplace health and safety, mentoring, workplace entitlements and conditions.

**GTOs core business is to support the individual apprentice or trainee through to completion of their training qualification- it is not set up to provide short term labour.**

AEN believe that by not having an exemption for GTOs under the Labour Hire Licensing Act will create confusion in the wider community and will discredit and damage the reputation of GTOs and may lead to the assumption that they are “dodgy labour hire” companies. We feel this assumption will not only be damaging the reputation of GTOs but may also be damaging to our key stakeholders, including government and the future take up of apprenticeships and traineeships in many skill shortage industries.

The additional cost, administration and layer of complexity will not improve the existing GTO sector or increase opportunities for youth that wish to undertake a skilled vocational pathway that is already heavily regulated (Refer Appendix 4)

**2. Are there any other laws or schemes that you believe should be prescribed in the Regulations for the purposes of section 111 of the Act?**

A question to Industrial Relations Victoria – If VRQA registered group training organisations were not to be mutually recognised under the scheme how would the labour Hire authority handle nationally registered interstate GTOs that operated in Victoria. (for example SA GTOs that have an exemption in their State)

**Exemption 3 – workplace learning and vocational placements**

AEN believe further investigation into any exemptions under this category is required as the training and employment arrangements vary significantly with registered training organisations (RTO), and AEN have seen a number of cases where exploitation of vulnerable workers and people seeking “a real job” has been exploited through training programs.

RTOs have been a significant driver of poor employment practices within Victoria over the past 5 years and in this environment an RTO should not be the legal employer or a facilitator in employment arrangements. Many poor practices include – individuals undertaking multiple or consecutive training qualification over a six month period so commonwealth employment incentives are paid – Many of these programs provide “free” work experience and training on the job but do not lead to meaningful employment once the training has been completed.

AEN strongly believe RTOs should not be exempt from the Labour Hire Act. If RTOs are directly employing students and placing them into training and employment. This would include school based programs where employment (not work experience) is involved.

AEN would support school and university based short term work experience and pre-apprenticeship work experience programs along with all registered GTOs are to be exempt from the Labour Hire Act.

## Treatment of businesses as 'separate' for the purposes of the scheme

*The meaning of the word 'business' is relevant (amongst other things) to the definition of 'provides labour hire services' in sections 7, 8 and 9 of the Act.*

*The determination of when one business will be regarded as 'separate' from another business is important for the purpose of administering the Act. For example, businesses that are regarded as separate will have distinct obligations in relation to the application of licences, the payment of fees and the provision of information. However, separate businesses will also be able to operate under their own licence, which may provide more flexibility.*

*Businesses that operate in an independent manner will be treated as 'separate' for the purposes of administering the Act. This is consistent with the manner in which this issue is addressed in the other Australian labour hire licensing schemes.*

- 3. Separate recognition of businesses would allow one business to continue operating if a second business to which they may be related lost or surrendered their licence. What is the nature of your company structure and what impact would separate recognition of businesses have on your business?**

The AEN supports the proposed regulations that would recognise businesses that operate in an independent manner will be treated as 'separate' for the purposes of administering the Act. This is consistent with the manner in which this issue is addressed in the other Australian labour hire licensing schemes.

**4. Clauses 3, 8, 16 and 19 of the exposure draft Regulations establish the fee structure for the labour hire licensing scheme as well as the amounts payable for application and renewal fees and annual licence fees. Do you have any comments about the nature of the fee structure?**

The AEN agrees that the new regulatory structure needs to be financially self-sustainable. The proposed fee structure is appropriate as long as a significant proportion of the fees are used to administer, monitor and investigate labour hire activities.

**If GTOs were not to be granted an exemption or GTOs that have a labour hire division of their business.**

AEN would support that the authority when calculating the fees only take into account the revenue generated from the Labour Hire activities and not the entire organisation.

As many GTOs provide a range of other services with support of government(s) within their local communities such as

- Registered training
- Employment services under state and commonwealth contracts
- Disability employment services under state and commonwealth contracts
- Recruitment services
- OH&S consulting
- Workforce development consulting
- Programs that support disadvantaged job seekers including, non-English backgrounds, indigenous and refugees.

## Review of Labour Hire Licensing Scheme Fees

*Section 113 of the Act requires that a broad policy review of the Act occur after five years following the day on which the Act receives Royal Assent. The purpose of the review will be to determine whether the policy objectives of the Act are being met and whether the terms of the Act remain appropriate for securing those objectives.*

*In addition, an interim financial review of resourcing is planned after three years of operation when there will be more information about the number and composition of licensees. This is likely to include a review of the fee structure and amounts payable by licence applicants and licence holders.*

### **5. Are there any other matters that should be considered during the interim financial review?**

The broad policy review should occur at the same time as the financial review, and AEN would support this full review after the initial three years of operation.

## Exemption for one to two-person businesses

*The exposure draft Regulations provide that an individual will not be a worker for the purposes of the Act in circumstances including where the provider is a body corporate with no more than 2 directors and the person provided by the body corporate is a director of the body corporate who participates in the management of the body or shares in its profits.*

*The purpose of this exemption is to reduce the regulatory burden on small businesses whose staff are less likely to be at risk of worker exploitation if the worker being on-hired is also a director of the body corporate who participates in the management of the body or shares in its profits.*

### **6. Would the proposed exemption be a beneficial component of the Victorian labour hire licensing scheme?**

The AEN have no comment on this question

### **7. Are there likely to be unintended consequences of the proposed exemption?**

The AEN believe the new commissioner's office / authority that is to be established to deliver the objectives of the Act should also have the capacity to investigate new and emerging employment models to ensure individuals are not disadvantaged or exploited in the workplace. This would need to be coordinated with other authorities such as, Worksafe Victoria, Department of Education, Fairwork commission and Small Business Victoria where the wider community may lodge complaints.

## Additional circumstances in which an individual is taken to perform work

Clause 6 of the exposure draft Regulations uses section 12 of the Act to prescribe additional circumstances in which an individual is taken 'to perform work in and as part of a business or undertaking'. This means that such workers will be part of the Victorian labour hire licensing scheme. Of course, these inclusions do not apply to workers that are directly employed or engaged. The additional circumstances in clause 6 include:

- an individual performing activities as a cleaner in a commercial premises that is not a place occupied as a residence - these activities aim to ensure that commercial cleaners are covered by the scheme, despite the operation of the Act that may have otherwise excluded relevant scenarios like outsourcing arrangements;
- an individual performing any one or more of the following horticulture activities in relation to fruit or vegetables at a place where a business or undertaking is being conducted: picking, sorting, labelling, packing or grading;
- an individual performing any of the following activities at a meat manufacturing establishment or meat processing establishment: killing, dressing, boning, slicing, preparation, packing or processing; and an individual performing any of the following activities at a poultry processing establishment: killing, processing, preparation or packing.

In many cases the type of horticulture, meat and poultry activities described may already be covered by the Act based on the current definition of 'provides labour hire services' under section 7. However, the inclusion of such activities is important. This is because of the impetus for the labour hire licensing scheme that arose from the evidence of exploitation particularly in the cleaning, horticulture and meat sectors uncovered by the Victorian Inquiry into the Labour Hire Industry and Insecure Work (Inquiry).

### **8. Are the activities listed above sufficient to include the three industries identified as particularly exploitative in the Inquiry?**

The AEN agrees with the above additional circumstances in clause 6 so workers in the cleaning, horticulture, meat and poultry sectors have adequate coverage and support through the Act..

### **9. Are there any other industries that should be prescribed by the Regulations to ensure they are covered by the scheme?**

With the large increase in Victorian infrastructure projects across the State, AEN believe civil construction and traffic management should be considered for inclusion.

## Additional Feedback

### **Exemptions from the labour hire licensing scheme**

*The exposure draft Regulations exclude certain working arrangements from the labour hire licensing scheme. There are no specific questions listed for these exemptions because they have been the subject of extensive consultation during the development of the exposure draft Regulations and during the passage of the Act through the Victorian Parliament. However, feedback on all elements of the exposure draft Regulations is still welcome. For convenience, a summary of the relevant working arrangements is set out below:*

*secondments (including a general definition of secondments, as well as persons employed by a public sector body within the meaning of the Public Administration Act 2004 (Vic) who are seconded, transferred, provided or made available to do work for another person, however described, pursuant to an Act and also including workers being shared on a fully or partial goodwill basis in certain circumstances);*

- *workers shared as part of an entity or group of entities that carry on business collectively as one recognisable business in certain circumstances;*
- *one to two-person businesses in circumstances where the provider who provides the worker is a body corporate with no more than 2 directors and the person provided by the body corporate is a director of the body corporate who participates in the management of the body or shares in its profits; and*
- *work experience-type placements for students to whom Division 1 and 2 of Part 5.4 of the Education and Training Reform Act 2006 (Vic) apply and for persons undertaking work or services under a vocational placement within the meaning of the Fair Work Act 2009 (Cth).*

#### Deloitte Regulatory Impact Statement

The AEN want to confirm that until this submission, at no stage has our association or any other Victorian GTO been involved with any consultation directly with Deloitte in regard to the regulatory impact statement.

However during December 2017 the AEN were part of consultations with Department of Education, VRQA and the Department of Economic Development, Jobs, Transport and Resources prior to the Act being finalised which indicated that all four stakeholders agreed that including GTOs into the labour hire licensing scheme would create significant duplication, increase costs and confusion for the wider community.

#### **Victoria's Labour Hire Licensing Scheme Consultation Paper – Development of Regulations (December 2017)**

Proposed wording for the exclusion of GTOs;

#### ***Excluding organisations recognised by the Victorian Registration and Qualifications Authority (VRQA) as Group Training Organisations.***

Consequently, the paper also made it clear that in any legislation or regulations that:

- GTOs undertaking labour hire activities other than for apprentices and trainees must be licensed under the Labour Hire Scheme.

- Licensed labour hire companies that are not also GTOs, need to comply with all relevant legislation and regulation, including the Victorian Education and Training Reform Act, when employing apprentices or trainees.

It is disappointing to see that the RIS work undertaken so far has not understood the GTO environment nor explored the exclusion of GTOs further.

The statements regarding the inclusion of GTOs Under section 4 of the RIS  
4.6 options not included in RIS

The regulations do allow for the licensing authority to rely on a licence or accreditation under a scheme under which the VRQA registers an organisation such as a GTO.

However the RIS states that GTOs registered under the VRQA have not been exempted under the Regulations because workers on training contracts under the ETR Act are not focussed on industrial matters in the same way as under the proposed labour hire licensing scheme. In short, the registration of GTOs by VRQA does not take place under a comparable scheme of legal compliance obligations, particularly in terms of obligations under workplace laws.

Under the national GTO standards which are audited by the VRQA in Victoria – the Standards make multiple references that GTOs must comply and show evidence of compliance against a wide range of existing Acts and regulations **on training and employment** including Fairwork and OH&S. (Refer to Appendix 1 & 4)

### **1. Recruitment, Employment and Induction**

### **2. Monitoring and Supporting Apprentices and Trainees to Completion**

### **3. GTO Governance and Administration**

3.1 The GTO complies with Commonwealth, State and Territory legislative and regulatory requirements and policies as they relate to the employment and training of apprentices and trainees in each State and Territory in which they operate.

The 24 registered GTOs in Victoria employ over 6500 apprentices and trainees across a broad range of industry sectors including;

- Building and construction
- Automotive
- Engineering
- Community / Social / Health care
- Business administration

The above sectors are traditionally in skill shortage industries that require assistance with developing new entrants with vocational training and employment opportunities.

AEN members have significant support with

- Workplace health and safety and,
- Industrial relations / modern awards / EBA / employee entitlements to meet FairWork Australia requirements

Whilst AEN agrees with, and support the Victorian Governments Labour Hire Licensing Bill, we feel it extremely important that GTOs in Victoria are not mistakenly bundled with the labour hire industry.

**GTOs core business is to support the individual apprentice or trainee through to completion of their training qualification- it is not set up to provide short term labour.**

By not having an exemption for GTOs under the Labour Hire Act or Labour Hire Regulations, will create confusion in the wider community and will discredit and damage the reputation of GTOs and may lead to the assumption that they are “dodgy labour hire” companies. We feel this assumption will not only be damaging the reputation of GTOs but may also be damaging to our key stakeholders including government and the future take up of apprenticeships and traineeships in many skill shortage industries.

The additional cost, administration and layer of complexity will not improve the existing GTO sector or increase opportunities for youth that wish to undertake a skilled vocational pathway that is already heavily regulated across multiple authorities and at a State and Commonwealth level.

**Current Environment increasing “sub contractor” arrangements.**

Our industry sector is seeing an increase in sub-contracting arrangements where new workers are asked to establish a small business and an ABN so they can then receive work from a contractor.

This behaviour is prevalent within the cleaning, civil construction, transport and building and construction sectors and creates an environment where inexperienced people can be exploited as they don't fully understand the work environment. Issues arising include;

- Under payment of work
- Poor Workplace health and safety practices
- Poor quality of service
- Less employers willing to employ an apprentice / trainee creating a poor training environment which will lead to long term skill shortages in Victoria.

AEN understand that this is outside of the current Labour Hire Act, however this activity should be subject to ongoing monitoring.

## The Deloitte Regulatory Impact Statement

It is not clear that the RIS has shown that the Act and supporting regulations will provide the support to vulnerable workers in the horticulture, cleaning and meat processing sectors and significantly reduce exploitation. The Act and regulations will certainly capture all the organisations already doing the right thing, however these organisations should not bear the cost and administration burden so the government can investigate a small part of sector.

As a community with a strong quality frameworks in place - group training organisations already abide by a wide range of Acts, regulations and authorities including;

Fairwork Act	Fairwork commission
Workplace Health and Safety Act	Worksafe Victoria
Education Act	VRQA & Department of Education
Child safety Act	VRQA
Privacy Act	

(Refer to Appendix 4 for a full list)

The AEN believe these proposed new regulations and commissioner office/ authority should focus on the original intent to establishing regulations by the “Inquiry into the Labour Hire Industry and Insecure Work” to better support vulnerable workers in the horticulture, cleaning and meat processing sectors.

This additional cost and administration burden may seem small from a government perspective, however once it is duplicated across multiple states and is on top of other legislation and compliance already in place – these costs to not for profit group training organisations will have a direct long term impact on the ability to support local communities and youth starting in an apprenticeship or traineeship as an entry point into a meaningful skilled career.

## Background Information

### Appendix 1: National GTO Standards

The national GTO standards were established in the mid-1990s with the most recent review and update in 2015. With Victorian VRQA and AEN have

#### The National and Victorian GTO standards

<https://www.australianapprenticeships.gov.au/publications/national-standards-group-training-organisations>

#### What are Group Training Organisations?

Group Training Organisations (GTOs) employ apprentices and trainees under a Training Contract and place them with host employers. They undertake the employer responsibilities for the quality and continuity of the apprentices' and trainees' employment and training. They also manage the additional care and support necessary to facilitate the successful completion of the Training Contract.

#### The purpose of the National Standards for Group Training Organisations

The purpose of the National Standards for Group Training Organisations is to ensure nationally consistent, high-quality services are provided by GTOs in carrying out their core role as outlined above. The Standards provide a framework to ensure GTOs operate ethically, with due consideration of apprentice, trainee and host employer needs, and enhance the reputation of group training as a model of employment and training within the apprenticeship and traineeship system.

The key outcome for a GTO is to develop an apprentice/trainee to become a skilled worker who has completed a recognised qualification. To achieve this quality outcome a GTO needs to focus on three key elements with the Standards structured to reflect these:

- recruitment, employment and induction;
- monitoring and supporting apprentices and trainees to completion;
- maintaining a sustainable GTO which is well governed and administered.

The Standards have been designed to ensure the quality assurance framework for Group Training Organisations is consistent with and complementary to the framework in place for Registered Training Organisations.

GTOs must comply with the National Standards for Group Training Organisations in order to be registered.

Only registered GTOs are eligible to apply for Australian Government or State or Territory Government group training program funding. Registered GTOs are published on the Group Training National Register Website

([www.australianapprenticeships.gov.au/group-training](http://www.australianapprenticeships.gov.au/group-training)) and are entitled to use the Group Training logo.

## The Standards

### 1. Recruitment, Employment and Induction

1.1 Before apprentices/trainees enter into an Employment Contract and a Training Contract, the GTO informs them about their employment conditions, the host employer arrangement, the training, the support services to be provided and the rights and obligations of the parties.

1.2 The GTO inducts apprentices and trainees to the apprenticeship/traineeship system, including explaining:

- the apprentice/trainee's responsibilities under the Training Contract, to the host employer, the GTO, the Registered Training Organisation (RTO) and the school (if under School-based arrangements); as well as
- the processes involved in accessing support and dealing with employment or training issues that may arise.

1.3 The GTO provides clear and accurate advice to host employers to:

- take reasonable steps to ensure they understand the apprenticeship/traineeship system; and
- Revised National Standards for Group Training Organisations

1.4 The GTO actively participates in the RTO's development of the Training Plan, which is based on competency-based progression and completion principles and relevant to the qualification, the occupation, the host employer's workplace and the needs of the apprentice/trainee, in conjunction with the apprentice/trainee.

### 2. Monitoring and Supporting Apprentices and Trainees to Completion

2.1 The GTO provides services that meet the needs of apprentices and trainees to facilitate the continuity of the Training Contract to completion and the quality and breadth of the training experience, including:

- support and mentoring throughout the Training Contract;
- providing resources or advice or procuring any special equipment for the workplace in order to meet access and equity and Work Health and Safety requirements.

2.2 The GTO monitors each apprentice or trainee's progress against the Training Plan and:

- facilitates the integration of the training and employment experiences, including arranging for workplace rotations if required;
- requests that the RTO review the Training Plan when changes occur with the apprentice/trainee employment arrangements, including any workplace rotations, competency-based progressions or other changes.

2.3 The GTO has appropriate systems in place, based on the scale and scope of its operations, to manage and support apprentices and trainees in times of economic downturn or 'stand down' to facilitate the retention of the apprentice or trainee.

2.4 The GTO provides assistance, coordination and accurate advice to host employers for the duration of the Host Employer Agreement, and works with the host employer to provide appropriate on-the-job training, supervision, support and mentoring to the hosted apprentice/trainee.

2.5 Where there are any performance issues with an apprentice/trainee, the GTO manages these issues fairly, and records the outcome and the feedback provided to the apprentice or trainee.

2.6 The GTO complies with Commonwealth, State and Territory requirements for competency-based progression and completion and supports genuine efforts to achieve the qualification in an appropriate timeframe regardless of the nominal duration of the Training Contract.

### **3. GTO Governance and Administration**

3.1 The GTO complies with Commonwealth, State and Territory legislative and regulatory requirements and policies as they relate to the employment and training of apprentices and trainees in each State and Territory in which they operate.

3.2 The GTO is incorporated in Australia, a government entity, or regulated by the Australian Charities and Not-for-profits Commission.

3.3 The GTO develops, monitors and continually improves its performance and strategic directions using performance data, the results of audits, assessments and surveys plus any other relevant information.

3.4 The GTO can demonstrate that it is financially viable and informs the registering body where early signs indicate issues associated with viability.

3.5 The GTO holds appropriate insurances according to the size and scope of its operations.

3.6 The GTO adheres to the principles of access and equity in all operations including marketing, recruitment, monitoring, support, governance and administration.

3.7 Clear and accurate marketing, advertising materials and other information is provided by the GTO regarding GTO services, the role and responsibilities of the host employer and the requirements of the apprenticeship/traineeship.

3.8 Complaints and appeals are dealt with by the GTO transparently in accordance with a documented complaints and appeals process, or referred to State/Territory dispute resolution mechanisms, where the completion of the Training Contract is at risk

## Appendix 2: Victorian Registration and Qualifications Authority (VRQA)

### **Victorian Registration and Qualifications Authority (VRQA)**

<https://www.vrqa.vic.gov.au/apprenticeships/Pages/group-training-organisations.aspx>

The VRQA regulates group training organisations (GTOs) in Victoria, and recognises those that comply with the relevant national standards.

VRQA work with the Apprenticeship Employment Network (AEN) to coordinate GTO regulation. The AEN coordinates annual compliance surveys against the National Standards for GTOs, and provides networking and support services.

### **What is a group training organisation? VRQA definition of Group Training in Victoria**

A group training organisation (GTO) is an organisation established predominately to provide training and employment opportunities. GTOs employ apprentices and trainees and are responsible for ensuring that they receive suitable work and training. To achieve this, the GTO will find a suitable 'host' employer for each apprentice or trainee to work with on a daily basis.

## Appendix 3: South Australian Government providing an exemption for Group Training under the South Australian Labour Hire Regulations

Current Example of the South Australian Government providing an exemption for Group Training under the South Australian Labour Hire Regulations

SA Governments justification for the group training exemption included;

The government recognises the fact the registered group training organisations must already comply with vigorous requirements under the National Standards for Group Training Organisations

### **South Australian Labour Hire Regulations**

5—Registered group training organisation exempt from the application of Act

(1)

This Act does not apply in respect of a registered group training organisation to the extent that the organisation supplies apprentices or trainees to do work for other persons.

(2)

In this section —

registered group training organisation means a group training organisation registered in South Australia on the Group Training Organisation National Register maintained by the Commonwealth.

## Appendix 4: Current Victorian Acts & Regulations that GTOs work under.

Victorian Act	For all Victorian legislation: <a href="http://www.legislation.vic.gov.au/">http://www.legislation.vic.gov.au/</a>
<i>Workplace Injury Rehabilitation and Compensation Act 2013</i>	<ul style="list-style-type: none"> <li>◆ Replaces the <i>Accident Compensation Act 1985</i> and the <i>Accident Compensation (WorkCover Insurance) Act 1993</i> with respect to claims made on or after 1 July 2014 and WorkCover insurance and premiums.</li> <li>◆ Payment of compensation to workers (as defined) injured in the course of their employment.</li> <li>◆ Rehabilitation and return to work of injured workers.</li> <li>◆ Encourages the provision of suitable employment to workers who are injured to enable early return to work.</li> <li>◆ Powers of the Victorian WorkCover Authority.</li> <li>◆ From 1 July 2014, employers will no longer be required to take out a WorkCover Insurance Policy. Instead they will be required to register with the Victorian WorkCover Authority (VWA) to be covered by WorkCover insurance. From 1 July 2014, employers who have a current WorkCover Insurance Policy will be automatically registered for premium purposes,</li> </ul>
<i>Australian Consumer Law &amp; Fair Trading Act 2012</i>	<ul style="list-style-type: none"> <li>◆ Repeals and re-enacts (with amendments) the <i>Fair Trading Act 1999</i> (Vic).</li> <li>◆ Prohibition of misleading and deceptive conduct in trade and commerce, including as to the availability, nature, terms or conditions of, or any other matter relating to, employment.</li> </ul>
<i>Child Safety and Wellbeing Act 2005</i>	<ul style="list-style-type: none"> <li>◆ The new Victorian Child Safe Standards became law on 1 January 2016. They represent a radical shift in how schools, and other organisations providing services for children, are required to manage their child protection obligations.</li> <li>◆ The purpose of the Child Safe Standards is to improve the way that organisations, which provide services to children, prevent and respond to child abuse.</li> <li>◆ Importantly, from 1 January 2017, the Child Safe Standards apply to organisations in Victoria providing services to children with limited or no funding or regulatory arrangements in place with the Victorian Government</li> <li>◆</li> </ul>
<i>Crimes Act 1958</i>	<ul style="list-style-type: none"> <li>◆ Prohibition of stalking in the workplace; which involves behaviour where a person engages in a course of conduct which includes: following the victim, making threats the victim, using abusive or offensive words to or in the presence of the victim, performing abusive or offensive acts in the presence of the victim or acting in any way that could reasonably be expected to cause physical or mental harm to the victim, including self harm or arouse apprehension or fear in the victim for their safety, with the intention of causing physical or mental harm to the victim, including self harm.</li> <li>◆</li> </ul>
<i>Dangerous Goods Act 1985</i>	<ul style="list-style-type: none"> <li>◆ Regulation of handling and storage of dangerous goods (as defined), including explosives and certain combustible liquids.</li> </ul>
<i>Education &amp; Training Reform Act 2006</i>	<ul style="list-style-type: none"> <li>◆ Repeals and replaces the <i>Vocational Education and Training Act 1990</i> (Vic).</li> <li>◆ Regulation and approval of approved training schemes.</li> <li>◆ Minimum standards for training and employment agreements.</li> <li>◆ Approval by the Victorian Skills Commission (previously the Victorian Learning and Employment Skills Commission) of entry by an employer into a training contract with an apprentice and the employer's obligations under that contract.</li> </ul>

<i>Electricity Safety Act 1998</i>	<ul style="list-style-type: none"> <li>◆ Minimum safety standards for electrical equipment, electrical installations and electrical work.</li> <li>◆ The licensing and registration of electrical contractors, and employees of electrical contractors including apprentices.</li> </ul>
<i>Equal Opportunity Act 2010</i>	<ul style="list-style-type: none"> <li>◆ Repeals and replaces the <i>Equal Opportunity Act 1995</i> (Vic).</li> <li>◆ It is generally unlawful to discriminate against a person due to their attribute (as defined) in relation to employment or engagement as a contract worker including the offer of employment or engagement.</li> <li>◆ Attributes which a person may have in relation to which discrimination is unlawful are: age, <a href="#">breastfeeding</a>, employment activity, <a href="#">gender identity</a>, <a href="#">disability</a>, <a href="#">industrial activity</a>, <a href="#">lawful sexual activity</a>, <a href="#">marital status</a>, <a href="#">parental status</a> or status as a <a href="#">carer</a>, <a href="#">physical features</a>, <a href="#">political belief or activity</a>, pregnancy, <a href="#">race</a>, <a href="#">religious belief or activity</a>, sex, <a href="#">sexual orientation</a>, and <a href="#">personal</a> association (whether as a <a href="#">relative</a> or otherwise) with a <a href="#">person</a> who is identified by reference to any of the above <a href="#">attributes</a>.</li> </ul>
<i>Equipment (Public Safety) Act 1994</i>	<ul style="list-style-type: none"> <li>◆ Applies to certain workplaces.</li> <li>◆ Obligations on proprietors, manufacturers, designers, suppliers, installers etc to take practicable measures to ensure that equipment is safe.</li> </ul>
<i>Long Service Leave Act 1992</i>	<ul style="list-style-type: none"> <li>◆ The entitlement to long service leave of certain employees in Victoria.</li> </ul>
<i>Occupational Health &amp; Safety Act 2004</i>	<ul style="list-style-type: none"> <li>◆ Statutory obligations in relation to maintaining a working environment that is safe and without risks to health apply to employers, occupiers, managers and controllers of premises, employees (as defined) and other persons present in a workplace.</li> <li>◆ Employers have specific duties including to: <ul style="list-style-type: none"> <li>◆ provide or maintain plant or systems of work that are safe and without risks to health;</li> <li>◆ maintain each workplace under the employer's management and control in a condition that is safe and without risks to health;</li> <li>◆ provide adequate facilities for the welfare of employees at any workplace under the management and control of the employer;</li> <li>◆ provide such information, instruction, training or supervision to employees as is necessary to enable those persons to perform their work in a way that is safe and without risks to health;</li> <li>◆ monitor the health conditions of workers;</li> <li>◆ keep information and records relating to health and safety of workers;</li> <li>◆ to consult with employees regarding workplace safety; and</li> <li>◆ notify relevant bodies of incidents in the workplace.</li> </ul> </li> <li>◆ Employees have specific duties including to: <ul style="list-style-type: none"> <li>◆ take reasonable care for their own health and safety;</li> <li>◆ take reasonable care for the health and safety of persons who may be affected by their acts or omissions in the workplace;</li> <li>◆ co-operate with their employer with respect to any action taken by the employer to comply with the Act; and</li> <li>◆ not intentionally or recklessly interfere with or misuse anything provided at the workplace in the interests of health, safety or welfare;</li> </ul> </li> <li>◆ Inspectors of the Victorian WorkCover Authority can enter a premises to inspect it.</li> <li>◆ Penalties may be imposed in the event of a breach of the Act.</li> </ul>
<i>Payroll Tax Act 2007</i>	<ul style="list-style-type: none"> <li>◆ Repeals the <i>Pay-roll Tax Act 1971</i> (Vic).</li> <li>◆ Employer's liability in respect of payroll tax and the collection and recovery of payroll tax.</li> </ul>

<b>Privacy and Data Protection Act 2014</b>	<ul style="list-style-type: none"> <li>◆ Replaces the <i>Information Privacy Act 2000</i> and the <i>Commissioner for Law Enforcement Security Act 2005</i> with a single Act that is intended to strengthen the protection of personal information and other data held by the Victorian public sector.</li> <li>◆ This Act re-enacts the existing Information Privacy Principles, which collectively regulate the collection, use, disclosure, transfer, access, correction, disposal of personally identifying information.</li> <li>◆ Contracted service providers (organisations acting under a state contract to provide services to, or on behalf of, government) are also captured by the information privacy provisions of the Act.</li> </ul>
<b>Public Holidays Act 1993</b>	<ul style="list-style-type: none"> <li>◆ The days prescribed as public holidays in Victoria.</li> </ul>
<b>Racial and Religious Tolerance Act 2001</b>	<ul style="list-style-type: none"> <li>◆ It is unlawful on the ground of the race or the religious belief or activity of another person or class of persons, to engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.</li> <li>◆ Employers and principals will be vicariously liable for any unlawful contravention of the Act, unless the employer took reasonable precautions to prevent the workers contravention.</li> </ul>
<b>Surveillance Devices Act 1999</b>	<ul style="list-style-type: none"> <li>◆ An employer must not install an optical surveillance device (i.e. a video camera) or a listening device to observe, listen to or monitor the activities or conversations of a worker in a toilet, washroom or lactation room in the workplace.</li> </ul>
<b>Working with Children Act 2005</b>	<ul style="list-style-type: none"> <li>◆ Laws to protect children from sexual or physical harm including rules for determining whether a person is suitable to work with children.</li> </ul>
<b>Victorian Regulations</b>	
<b>Accident Compensation Regulations 2012</b>	
<b>Australian Consumer Law &amp; Fair Trading Regulations 2012</b>	
<b>Dangerous Goods (Storage and Handling) Regulations 2012</b>	
<b>Dangerous Goods (HCDG) Regulations 2016</b>	
<b>Occupational Health &amp; Safety Regulations 2007</b> (which revoke: the <i>Occupational Health &amp; Safety (Asbestos) Regulations 2003</i> , <i>Occupational Health &amp; Safety (Certification of Plant Users &amp; Operators) 1994</i> , <i>Occupational Health &amp; Safety (Confined Spaces) Regulations 1996</i> , <i>Occupational Health &amp; Safety (General Amendment) Regulations 1998</i> , <i>Occupational Health &amp; Safety (Hazardous Substances) Regulations 1999</i> , <i>Occupational Health &amp; Safety (Issue Resolution) Regulations 1999</i> , <i>Occupational Health &amp; Safety (Lead) Regulations 2000</i> , <i>Occupational Health &amp; Safety (Major Hazard Facilities) Regulations 2000</i> , <i>Occupational Health &amp; Safety (Manual Handling) Regulations 2004</i> , <i>Occupational Health &amp; Safety (Noise) Regulations 1992</i> and <i>Occupational Health &amp; Safety (Plant) Regulations 1995</i> )	
<b>Surveillance Devices Regulations 2016 (61 of 2016)</b>	
<b>Working with Children Regulations 2016</b> (which revoked the <i>Working with Children Regulations 2006</i> )	
<b>Workplace Injury Rehabilitation and Compensation Regulations 2014</b>	