



Guidelines for the Establishment and Variation of Apprenticeships

Version 1.1, 2009

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1. Purpose

This document provides guidelines for Training Council's on the process for the establishment of apprenticeships and traineeships ("apprenticeships") by the State Training Board in conjunction with the Minister for Training and in consultation with Training Councils. It describes how the process is managed to ensure that:

1. the State Training Board meets its obligations under the amended *Vocational Education and Training Act 1996* (VET Act), especially with regard to the classification of 'prescribed VET qualifications' in section 60C;
2. the State Training Board meets its obligations under *Vocational Education and Training (General) Regulations 2009*, regulations 36 and 37; and
3. the Training Councils meet requirements under the VET Act sections 21(1)(b) and (c).

2. Definition

"Apprenticeship" is used as an umbrella term to refer to apprenticeships, traineeships, internships or cadetships.

3. Context

The amendments to the VET Act introduce a new legislative framework to modernise apprenticeships. The amended VET Act repeals the *Industrial Training Act 1975* and combines the apprenticeship and traineeship systems within a single legislative framework. The amendments will introduce flexibility to traditional apprenticeships in that it will allow industry to establish the training schemes that it needs and vary existing apprenticeships as required. Under the *Industrial Training Act 1975* traditional apprenticeships must be prescribed in regulations and there is no legislative framework for traineeships.

Under the amended VET Act it will be a function of the State Training Board to provide advice to the Minister on the establishment or variation of apprenticeships. In making a recommendation to the Minister, the Board must consult with Training Councils, however may also consult with any other group, person or agency as it sees fit. The Board must ensure that relevant unions and employer groups have been consulted by the Training Councils. Once approved by the Minister new or varied apprenticeships will be published in the Government Gazette.

The establishment of apprenticeships is based around a new provision in the VET Act that is intended to provide a means of regulating certain qualifications. In particular it is intended that certain qualifications can only be achieved through an employment based training pathway, i.e. a qualification that can only be achieved through entering into a training contract with an employer. Training Council's will be required to state whether industry wants the qualification to be undertaken through a delivery pathway that involves a training contract, or not, and whether any other conditions or requirements need be applied.

Only the qualifications that involve an employment arrangement with a training contract need be considered by the Minister for Training, Board and Training Councils. Only proposals to establish or vary Class A and Class B qualifications need to follow the Guideline process. All other qualifications are Class C qualifications, which do not require the process described in the Guidelines.

The role of the State Training Board and the Minister for Training in the establishment of apprenticeships is given in the *VET Act 1996*. The part of the Act relating to establishment is given in Appendix A and is characterised in the Act as the 'classification of qualifications' which equates to the options outlined above.

4. Roles and Responsibilities

The process for the establishment and variation of apprenticeships is overseen and endorsed by the Board. The Board, the Minister for Training and Training Councils play key roles in the establishment and variation of apprenticeships process.

The following are the key roles and responsibilities for the process:

- **State Training Board** – the Board is responsible for considering proposals for new apprenticeships or changes to existing ones. In making its recommendation to the Minister for Training, the Board will consult with Training Councils, including employer groups and unions. The function of the Board in the VET Act that deals with these matters, section 21(1)(ca), are delegated to the Establishment and Variation of Apprenticeships Committee (EVAC).
- **Minister for Training** – the Minister will consider the Board's recommendation and approve or reject it. The Minister may also use his/her initiative to establish or vary an apprenticeship. However, he/she must seek the advice of the Board who will make a recommendation following consultation with the industry in the prescribed manner.
- **Training Councils** – are required to provide advice and recommendations to the Board prior to the Board providing the Minister with advice and recommendations on the establishment or variation of apprenticeships and traineeships. The Training Councils must notify all industry partners and consult with employer groups and unions.
- **Office of the State Training Board** – will be the first point of contact for, and lodgement of, all 'notices of intent'. The Office will register the 'notice of intent' and send notification to the Board, all registered training organisations (RTOs) and the Department of Education and Training once 'notices of intent' are lodged. The Office will refer the 'notices of intent' to the appropriate Training Council and notify Training Councils and/or the originator of the proposal of the Minister's final decision. The Office will also prepare and submit the appropriate information for gazettal upon Minister's approval, liaise with the Department of Education and Training to update the *Public Register of Apprenticeship and Traineeship Qualifications*, and monitor, report and analyse the establishment and variation process.

5. The Establishment and Variation Process

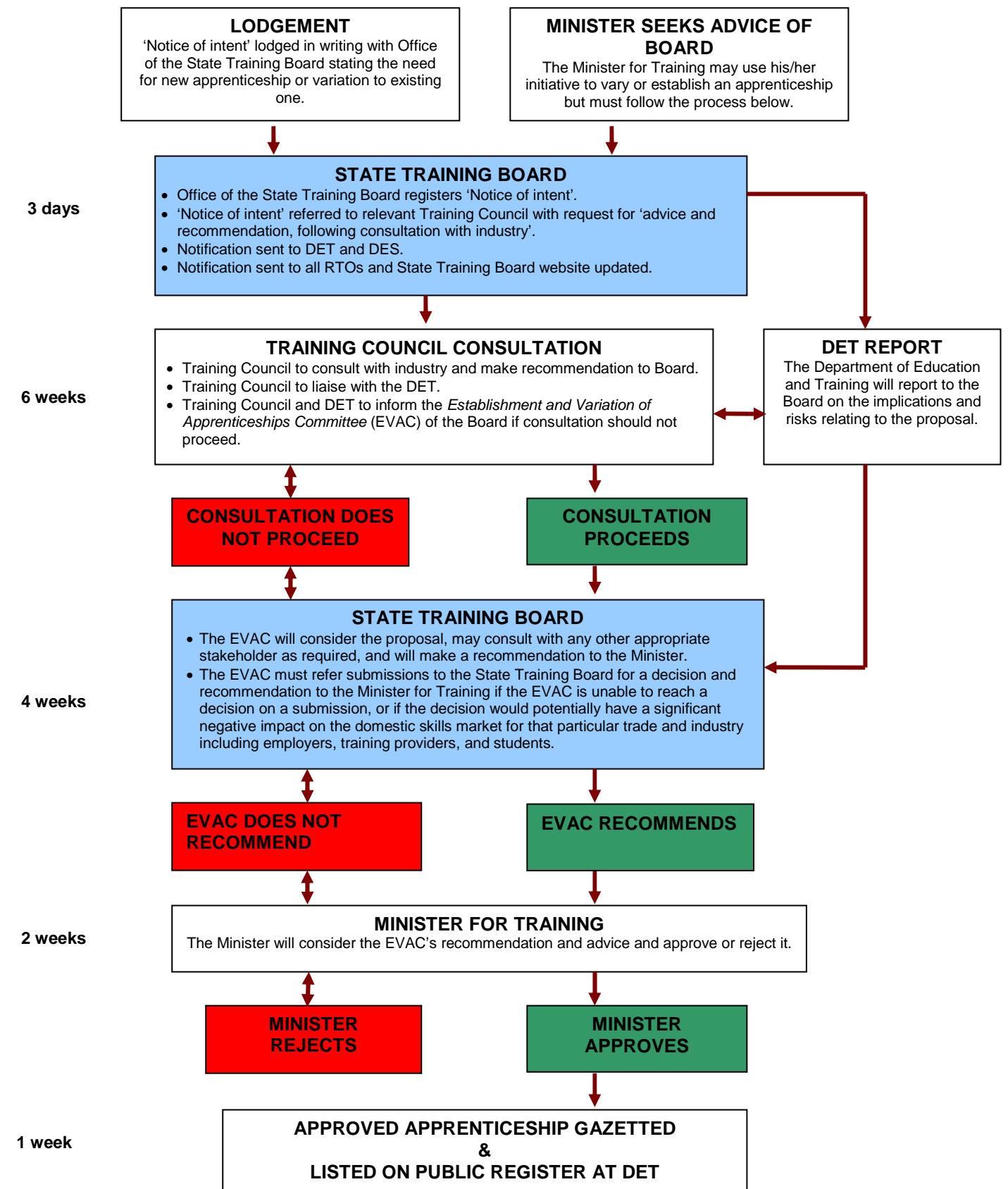
5.1 Work flow

The work flow for dealing with a proposal for the establishment or variation of apprenticeships is shown in Figure 1, including duration of key phases in the process. The establishment of a new apprenticeship or variation to an existing apprenticeship can be initiated from industry groups, individual employers, unions, training councils, the Board, by the Minister for Training or other stakeholders. However, all must follow the same consultation process.

5.2 Variation of apprenticeships for institutional delivery to international students

The process for varying the classification of apprenticeships for institutional delivery to international students is shown in Appendix C and Figure 2.

Figure 1 - Establishment and Variation of Apprenticeships



Process Duration = 13 weeks, 3 days*

* Note that the process could take longer if the Board requires additional information.

6. Process in detail.

6.1 Lodgement

- Proponent lodges a written 'Notice of intent' with the Office of State Training Board.
- The proponent could be an individual business/employer, employer or industry groups, unions, registered training organisations (RTOs), Training Councils, the Board, the Minister for Training, or other stakeholders.
- The 'Notice of intent' should briefly outline the need for a new apprenticeship or for a variation to an existing one, the industry area and the existing qualification's title.
- The process commences from lodgement of the 'Notice of intent'.

6.2 Registration and acknowledgement

- The 'Notice of intent' is registered with the Office of State Training Board on an internal register and the Department of Education and Training electronic tracking system (TRIM).
- A letter of acknowledgement is sent to the proponent, notifying them of the receipt of the 'Notice of intent', the process and who to contact in the interim.

6.3 Referral and notification

- The Office of the State Training Board refers the 'Notice of intent' to the appropriate Training Council with a request for advice and recommendation following consultation with the industry, and a timeline for consultation.
- The request for advice and recommendation from the Office of the State Training Board to the Training Council could include additional guidelines, e.g. if the matter is of such significance that additional or specific consultations are required.
- If the 'Notice of intent' relates to an industry area that is shared by more than one Training Council the lead Training Council will be sent the notification and this lead Training Council will notify and provide copies to the other relevant Training Councils. In this situation, the advice and recommendation should be coordinated by and come through the lead Training Council but must demonstrate consultation with the other relevant Training Councils.
- The Office of the State Training Board will send the 'Notice of intent' to the Department of Education and Training to report on the implications and risks for matters relating to the proposal.
- The Office of the State Training Board will notify all RTOs of the 'Notice of intent' and update a list of current proposals on the State Training Board website.
- The Office of the State Training Board will notify the State Training Board of the 'Notice of intent'.

6.4 Consultation and development of submission

- The Training Council is to enter into a broad consultation process that must include industry and employer views outside the membership of the Training Council's board of governance, and include relevant unions and employer groups. These requirements are set out in Appendix B - *Template for Preparing Training Council Submissions for the Establishment and Variation of Apprenticeships*.
- It is expected that consultation methodology may include industry working parties, industry forums or industry surveys.
- The Training Council will make a formal submission to the State Training Board with its advice and recommendation within six weeks.
- The Training Council will inform the Establishment and Variation of Apprenticeships Committee (EVAC) of the State Training Board at the earliest possible opportunity if the consultation process does not proceed.

6.5 Consideration and recommendation

- The EVAC is required to meet on an as needs basis to consider submissions from Training Councils and, as per s21(ca) of Vocational Education and Training Act 1996 (the Act), to make recommendations that are required or permitted to be made by it to the Minister for Training under Part 7 of the Act.

- The EVAC must ensure that submissions from Training Councils deal only with matters under section 60C of the Act on the establishment or variation of an apprenticeship and in particular the matters outlined in regulation 37(4).
- The EVAC must ensure that Training Councils have followed the due process set out in the *Establishment and Variation of Apprenticeships Guidelines*.
- The EVAC must consider submissions from Training Councils including implications and risks identified in the Department of Education and Training report and make recommendations to the Minister for Training within four weeks of receiving a submission.
- Where a submission does not satisfy the criteria set out in these guidelines, the Training Council will have to provide further supporting evidence to the EVAC.
- The EVAC will report to the State Training Board on the advice and recommendations it provides to the Minister for Training for each submission.
- The EVAC must refer submissions to the State Training Board for a decision and recommendation to the Minister for Training if the EVAC is unable to reach a decision on a submission, or if the decision would potentially have a significant negative impact on the domestic skills market for that particular trade and industry including employers, training providers, and students.
- The EVAC must provide advice and recommendations in the form of a letter from the Chair of the State Training Board to the Minister for Training regarding its approval or disapproval of the submission.
- The EVAC must not make recommendations or provide advice to the Minister for Training on matters not directly relevant to s21(1)(ca) of the Act.

6.6 *Decision and notification by Minister*

- The Minister makes the final determination on all proposals as stipulated in section 60C of the VET Act.
- Minister will notify the State Training Board of his/her decision within two weeks of receiving the EVAC submission.
- Office of the State Training Board notifies the Training Council and the original proponent within one week of the Minister's decision.

6.7 *Gazettal and Listing*

- The Minister authorises the Office of the State Training Board to publish an amendment to the *Public Register of Apprenticeship and Traineeship Qualifications* in the Government Gazette.
- The Office of the State Training Board will liaise with the Department of Education and Training to update the *Public Register of Apprenticeship and Traineeship Qualifications* on VETinfoNet.

7. **Role of the Training Councils**

Training Councils must use the process set out in the Appendix B - *Template for Preparing Training Council Submissions for the Establishment and Variation of Apprenticeships*.

7.1 *Consultation*

- On receipt of the notification from the State Training Board the Training Council is to enter into a broad consultation process that must include:
 - membership of the Training Council's board of governance;
 - broader industry and employer views outside the membership of the Training Council's board of governance including notification and comment to all individual employers;
 - relevant unions and employer groups;
 - the proponent; and,
 - other industries or stakeholders including RTOs that the proposal will affect.
- It is expected that consultation methodology may include industry working parties, industry forums or industry surveys.

- The Training Council should inform the Establishment and Variation of Apprenticeships Committee (EVAC) if it appears that there is a significant reason why the proposal should not proceed to consultation, such as duplication, licensing or legal matters.

7.2 Liaising with Department of Education and Training

- The Training Council should liaise with Apprenticeship and Traineeship Directorate regarding their findings to assist with the Department's own concurrent work on determining implications and risks for the proposal.

7.3 Develop a Submission

- The Training Council is to make a formal submission to the State Training Board with its advice and recommendation within six weeks of receiving the notification.

7.4 Criteria

- The submission to the State Training Board must identify:
 1. Substantial industry support;
 2. An accredited course or training package qualification;
 3. Integration of training; and,
 4. Industrial relations arrangements.

See Appendix B - *Template for Preparing Training Council Submissions for the Establishment and Variation of Apprenticeships* for further information.

8. Management Reviews and Audits

8.1 Monitoring and Evaluation of apprenticeships and traineeships

In consultation with Training Councils, the Board will monitor new apprenticeships and variations to existing apprenticeships for 12 months after they have come into operation and report to the Minister on any issues arising and uptake.

8.2 Management review of the process

To confirm the effectiveness of the establishment process in meeting its objectives, the Manager of the Office of the State Training Board will monitor, report and analyse the establishment and variation process. Where appropriate, process failures will be reported to the State Training Board.

8.3 Evaluation of the process

In addition to the management reviews, an independent review of the process and its application will be conducted after two years. The evaluation will be conducted by the Department of Education and Training. The evaluation findings and any deficiencies identified during the evaluation will be brought to the attention of the Board for action.

Appendix A – Vocational Education and Training Act 1996 Excerpt

Excerpts related to establishment of apprenticeships

21. Functions of the Board

- (1) The functions of the Board are as follows —
- (a) to give the Minister a draft State Training Plan as and when required by the Minister;
 - (b) to recognise various industry training advisory bodies as bodies from which the Board takes advice for the purpose of drafting a State Training Plan or making recommendations to the Minister under Part 7;
 - (ca) to make recommendations that are required or permitted to be made by it to the Minister under Part 7;

23. Committees of the Board

- (1) The Board may appoint committees to assist it to perform its functions, and may abolish or alter any committee it has appointed.
- (2) A committee may include people who are not members of the Board but must include at least one member of the Board.
- (3) The Board may by resolution delegate to a committee, either generally or as otherwise provided in the resolution, any of the Board's functions under this Act other than this power of delegation.
- (4) A committee may determine its own procedures but they must be consistent with any directions of the Board and the terms of any delegation under which the committee is acting.

60C. Classification of prescribed VET qualifications

- (1) The Minister must not act under this section without having received and considered the Board's advice and recommendation given after it has consulted in accordance with the regulations.

Vocational Education and Training General Regulations 2009 Excerpt

Excerpts related to establishment of apprenticeships

Division 2 — Classifying prescribed VET qualifications

36. Who Board must consult (Act s. 60C)

(1) This regulation does not limit who the Board may consult before giving the Minister advice or a recommendation about a decision the Minister may make under section 60C of the Act.

(2) For the purposes of section 60C(1) of the Act, the Board, before giving the Minister any advice or recommendation about a decision the Minister may make under section 60C of the Act, must —

(a) seek advice and recommendations from any industry training advisory body that —

(i) is recognised by the Board under the Act; and

(ii) is conversant with and capable of giving advice in relation to the requirements of any industry that might be affected by the Minister's decision;

and

(b) ensure that any union representing workers, and any body representing employers, who are involved in any industry that might be affected by the Minister's decision, have been consulted.

37. Board's advice and recommendations to Minister (Act s. 60C)

(1) This regulation does not limit the advice or recommendations that the Board may give the Minister for the purposes of section 60C of the Act.

(2) The Board must ensure that any advice or recommendation it gives the Minister for the purposes of section 60C of the Act is consistent with the AQF Implementation Handbook.

(3) For the purposes of section 60C of the Act, the Board, in relation to a prescribed VET qualification, must give the Minister its advice and recommendations as to the class the qualification should be given under section 60C(3) of the Act.

(4) If the Board recommends a qualification should be classified under section 60C(3) of the Act as a class A qualification or a class B qualification, it must give the Minister advice and recommendations on these matters about the qualification —

(a) whether an apprentice under a training contract for the qualification should be called an apprentice, a trainee, an intern, a cadet or some other term;

(b) the nominal period of a training contract for the qualification;

(c) whether an apprentice under a training contract for the qualification should be able to work part-time under the contract;

(d) whether a person at school should be able to enter into a training contract for the qualification;

(e) any condition that should apply to the classification of the qualification;

(f) any requirement there should be for a training contract for the qualification.

Appendix B - Template for Preparing Training Council Submissions for the Establishment and Variation of Apprenticeships

Research Approach and Methodology

The Training Council is to enter into a broad consultation process that must include:

- membership of the Training Council's board of governance;
- broader industry and employer views outside the membership of the Training Council's board of governance;
- relevant unions and employer groups;
- the proponent (if an individual or group other than the Training Council);
- the Department of Education and Training; and
- industries or stakeholders including RTOs that the proposal will affect.

It is expected that consultation methodology include industry working parties and industry forums or industry surveys.

The Training Council will inform the State Training Board's Establishment and Variation of Apprenticeships Committee (EVAC) through the Senior Policy Officer, Office of the State Training Board if it appears that there is a significant reason why the proposal should not proceed to consultation, such as duplication, licensing or legal matters.

The Training Council will liaise with the Department of Education and Training's Apprenticeship and Traineeship Directorate through the Principal Policy Officer, Italo Amato regarding their findings to assist with the Department's own concurrent work on determining implications and risks for the proposal.

Submission Information

1. Substantial Industry Support Identified

- Background to the proposal
 - List the industry groups, union, individual employers, and/or associations that have been consulted and the methodology used, and attach a summary of their comments at the end of submission.
 - Include information to demonstrate how the need to establish or vary an apprenticeship was determined. Such as a new or emerging occupation, new or amended regulations, new industry area, growing demand for services, need for a structured career, industry feedback.
 - Advice in relation to requirements of any industry that might be affected by the approval of this proposal.

1a. Establishing a New Qualification

- Identify what apprentices should be called including industry preference for apprentice, trainee, intern, or cadet.
- Identify the occupation/s that the apprentice, trainee, intern, cadet etc will be undertaking. Consider how industry would like to have them referred to and whether it will be self explanatory for those not in the industry.
- Whether school based or part-time arrangements are required. Indicate if part-time employment arrangements are recommended for the apprentice, trainee, intern or cadet and also include whether this pathway is suitable for school students, and whether they should commence this training in Year 11 or 12.
- Nominal period of the apprenticeship including the period of full time, in months, it will generally take a new entrant to become competent in this employment based pathway.
- Credit to Reduce Nominal Term (if applicable) identifying any credit in months that will apply if any prior qualification related to the proposed pathway has been completed. List the qualification, pathway and the credit in months.
- Identify the qualification from the relevant training package. If there is no training package qualification, identify the accredited course.

- Indicate whether the qualification should be available through a training contract only or not.
- If there is no suitable qualification that industry can propose or recommend, a new course must be developed and accredited prior to submitting an application for establishment. New courses are accredited by the Training Accreditation Council (www.tac.wa.gov.au)
- Evidence that at least one RTO is able to deliver the qualification in Western Australia.

2. *Industrial relations*

Provide advice on the appropriate industrial relations arrangements that are in place for the employment of the apprentices, trainee, interns or cadets. Indicate impacts a variation or establishment of a new qualification will have on the arrangements.

3. *Additional information*

Any further information pertinent to the submission if required. For example, impact on the domestic/international skills and training market.

4. *Recommendation and endorsement*

The submission should include a statement reflecting whether the proponent's proposal is supported or not, and list any qualifying statements / conditions. The submission should be signed by the Chair of the Training Council.

Lodging Submission

The Training Council will make a formal submission to the EVAC with its advice and recommendations within six weeks of receiving the notification from the Office of the State Training Board.

Outcome of Submission

The EVAC will consider submissions from Training Councils including implications and risks identified in the Department of Education and Training report and make recommendations to the Minister for Training within four weeks of receiving a submission.

Where a submission does not satisfy the criteria set out in this template, the Training Council will have to provide further supporting evidence to the EVAC.

The EVAC will report to the State Training Board on the advice and recommendations it provides to the Minister for Training for each submission.

The Minister for Training will notify the State Training Board of his/her decision within two weeks of receiving the EVAC submission.

The Office of the State Training Board will inform the Training Council and original proponent of the outcome in writing within one week of the Minister's decision.

The Office of the State Training Board will update the *Public Register of Apprenticeship and Traineeship Qualifications* on the Department of Education and Training's VETinfoNet and via a Government Gazettal notice.

Appendix C – Variation of Apprenticeships for Institutional Delivery to International Students

Where a proponent is seeking to vary a classification to a VET qualification in a given industry area to allow delivery to international students in an institutional setting the proponent is required to lodge a written 'Notice of Intent' with the State Training Board.

The Board will then write to the relevant Training Council to ascertain if they have any objections to the request, based on preliminary consultation including with relevant unions and employer groups, and any evidence of a potential significant negative impact on the domestic skills market, for that particular trade and industry. The Board will also consult with the Department of Education and Training on the proposal.

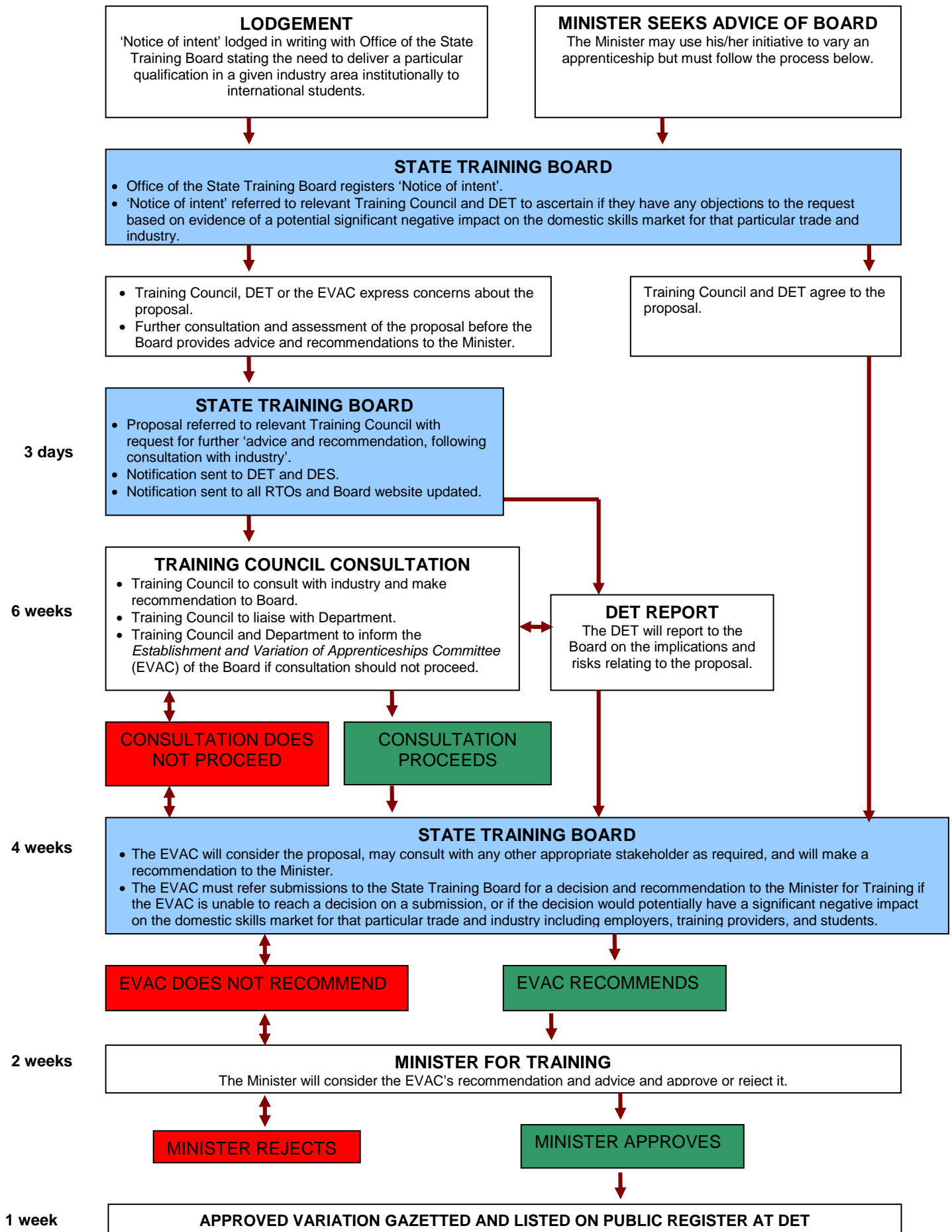
If the Training Council, the Department, and the Board agree to the proposal then the Board would recommend to the Minister for Training that approval be given to the variation.

If the Training Council, the Department, or the Board provide any evidence of why the proposal should not be supported then further consultation and assessment of the proposal would be undertaken before the Board provides advice and a recommendation to the Minister.

If the Minister for Training does in the future approve the reclassification of a qualification, then the State Training Board would recommend to the Minister that a transitional arrangement or 'phasing in period' be put in place to allow the new arrangements to be met.

The process described above is shown in Figure 2.

Figure 2 - Variation of Apprenticeships for Institutional Delivery to International Students



Process Duration = 13 weeks, 3 days*

* Note that the process could take longer if the Board requires additional information.