

# Policy on Change of Legal Entity of a Registered Training Organisation

In the implementation of this policy, it is important to note:

- **Registration cannot be transferred, sold or otherwise assigned to another individual, legal entity or organisation. Registration is 'personal' to the legal entity that obtains it. It is not a transferable commodity or asset. A business may be bought or sold, but not the registration.**

## Background

The registration of training organisations in Western Australia is a function of the Training Accreditation Council (the Council) under the *Vocational Education and Training Act 1996*. Registration is granted to a legal entity (business or natural person), based on that entity's ability to meet the requirements for registration and the entity's capacity to meet the requirements of the *Standards for Registered Training Organisations (RTOs) 2015*.

## Scope of Policy

This policy applies to all Registered Training Organisations registered by the Council in Western Australia.

Circumstances to which this policy may apply:

- 1) Proposed sale or transfer of a legal entity that is registered with the Council.
- 2) The death of a natural person when registration has been issued to a sole proprietor.
- 3) In the case of bankruptcy / liquidation.

## Policy

Registration with the Council ceases when there is a change in the legal entity. This could occur as a result of change of ownership, sale of the business, liquidation or bankruptcy etc. The legally responsible person in the Registered Training Organisation must:

- in the case when an RTO is to be sold, transferred or otherwise assigned:
  - notify the Training Accreditation Council immediately formal agreement has been reached and at least 30 days prior to settlement that the training organisation is to be sold, transferred or otherwise assigned;
  - carry on the role of responsible person and offer training and assessment services, including issuance of qualifications and Statements of Attainment, until the sale, transfer or assignment is formally completed, at which point the registration with the Council will cease;
- in the case of the death of a natural person who is the legal entity:
  - the Council is to be advised immediately by a representative of the RTO. The Council will provide advice on arrangements for students;
- in the case of bankruptcy/liquidation:
  - notify the Training Accreditation Council immediately it becomes apparent the legal entity is to enter liquidation or bankruptcy.

## Policy continued

In all of the above circumstances,

- arrangements must be made for all current students to receive a copy of their student records including, if not previously provided to students:
  - a parchment for each qualification completed
  - a Statement of Attainment for any units of competency completed in partial fulfilment of a qualification
  - evidence of training and assessment activities undertaken that at the time of expiry of the registration period were only in partial fulfilment of a unit of competence or module;
- provide the Training Accreditation Council in an agreed electronic and/or hard copy form the following information for each student who has undertaken nationally recognised training with the Registered Training organisation since initial registration:
  - full name of student and date of birth
  - name and national code of qualification(s) issued
  - names and national codes of the units of competency and/or modules completed
  - dates on which the requirements for each qualification were achieved or, for qualifications only partially achieved, the date each unit of competency and/or module were achieved.
- return the Certificate of Registration to the Training Accreditation Council on completion of the sale, transfer or assignment.

If the new legal entity wishes to be registered with the Council, the newly appointed legally responsible person must apply to the Council for registration by completing the RTO7 form available on the Council's website at [www.tac.wa.gov.au](http://www.tac.wa.gov.au). Council will consider the application and may register the new legal entity for a period of three months, during which time the new legal entity must make a full application for registration to the Council and undergo an audit against all of the *Standards for RTOs*.

The Office of the Training Accreditation Council will arrange for a registration audit to be undertaken of the organisation against all of the *Standards for RTOs*. The Training Accreditation Council will consider the outcomes of the audit and may grant registration for up to five years. If the new legal entity is unable to demonstrate compliance with the *Standards for RTOs*, registration of the new legal entity will expire at the end of the three month period.

It should be noted that all applications for registration must be approved by the Training Accreditation Council.