

Statutory transfer or cancellation of registered training contracts

Purpose

This procedure details the steps to be taken under the *Further Education and Training Act 2014* (FET Act) if a business is sold or a partnership is dissolved and apprentices/trainees employed within the business will be affected.

Note – Racing Queensland has delegations to manage training contracts with support from the Metropolitan North Regional Office of the Department of Employment, Small Business and Training (DESBT), relating to:

- Stablehand traineeship
- Trackrider traineeship
- Advanced Stablehand traineeship
- Jockey apprenticeship.

This procedure does not apply to training contracts in the above mentioned traineeships/apprenticeships. The procedure titled 'Racing Queensland – management of training contracts' applies to these training contracts.

Overview

An employer of an apprentice/trainee is to give the Australian Apprenticeship Support Network (AASN) Provider or DESBT a signed notice if the employer sells or disposes of their business, or a partnership dissolves.

If a business is sold, the new owner (purchaser) continues to train the apprentices/trainees under their registered training contracts unless the new owner provides contrary written advice to the AASN Provider or DESBT prior to the sale taking effect.

If a business partnership dissolves, the remaining partner/s will continue to train the apprentices/trainees under their registered training contracts. If there are no remaining partners, the contract/s is/are taken to be cancelled.

These actions relate to the registered training contract and have no impact on any continuing employment obligations that may be applicable.

Note – where a business which employs an apprentice/trainee has changed its legal name and/or ABN, or changed the name of the trust/s or trustee/s, but these changes are NOT due to the sale or disposal of the business or a partnership being dissolved, the employer should notify the AASN Provider or DESBT using the ATF-046 Amendment – change of legal name or change of legal name and ABN form.

Process

Employer:

- If a business partnership dissolves, provide signed notice within 14 calendar days to the AASN Provider or DESBT, identifying the date of effect and advising details of the partner/s (if any) who will continue the business, or advising that the business will not be continued by any of the partners. Where the business is not continued by any of the partners, the registered training contracts are taken to be cancelled.
- If selling or disposing of a business, provide signed notice of this event within 14 calendar days after the sale or disposal, to the AASN Provider or DESBT, identifying the date of effect.

Form [ATF-041 Notification of change of ownership/statutory transfer \(sale of business\)](#) is available to assist the employer provide signed notice.



Supervising Registered Training Organisation (SRTO):

- Develop a new training plan and have it signed within 28 calendar days after the transfer of the training contract.

Sale/disposal of business where purchaser is continuing the training contract

Purchaser of business:

- If purchasing a business and agreeing to continue training the apprentices/trainees of the business under their registered training contracts, provide signed notice of this agreement within 14 calendar days after the purchase, to the AASN Provider or DESBT.

Form [ATF-041 Notification of change of ownership/statutory transfer \(sale of business\)](#) is available to assist the purchaser provide signed notice.

Delegated Officer – AASN Provider or Training and Skills, DESBT:

- Transfer the registered training contract to the purchaser – the date of effect is the date of sale or disposal of the business.

Sale/disposal of business where purchaser is not continuing the training contract

Purchaser of business:

- If purchasing a business and deciding not to continue training the apprentices/trainees of the business under their registered training contracts (i.e. the purchaser does not want the training contracts transferred to them), provide written notice of this fact to the AASN Provider or DESBT, before the purchase takes effect (note – if written notice is not received before the purchaser takes effect, all registered training contracts will be transferred to the new purchaser).

Form [ATF-041 Notification of change of ownership/statutory transfer \(sale of business\)](#) is available to assist the purchaser provide signed notice.

Delegated officer – AASN Provider or Training and Skills, DESBT:

- Apply the relevant steps, according to the date on which notification of the sale or disposal of the business was received:
 - Notification received before the sale or disposal of the business took effect:
 - cancel the training contract/s with a termination date as per the advice provided.
 - Notification received after the sale or disposal took effect:
 - transfer the registered training contract to the purchaser with a date of effect as per the date of sale or disposal taking effect.
 - the parties may subsequently pursue transfer of the training contract to another employer, or [cancellation](#).

Dissolving partnership where none of the partners continue the business

Delegated officer – AASN Provider or Training and Skills, DESBT:

- Cancel the training contract/s, with a termination date as per the employer’s notification.
- Provide written notice of the cancellation to the apprentices/trainees (note – DESBT will provide the written notice irrespective of whether the AASN Provider or DESBT cancel the training contracts).

Definitions

AIRDOCS	A system used by DESBT for letter templates which are subsequently generated through DELTA.
Australian Apprenticeship Support Network (AASN) Provider	AASN Providers, also known as Apprenticeship Network Providers, are contracted by the Australian Government to provide targeted services which deliver tailored advice and support to employers, apprentices and trainees. AASN Providers also have an agreement with DESBT to provide training contract related services. The AASN Provider is the first point of contact for the administration of all training contracts.

Delegated officer	An appropriately qualified person to whom the chief executive has delegated functions and powers.
DELTA	Direct Entry Level Training Administration, DESBT's database of registered apprentices and trainees.
DESBT	Department of Employment, Small Business and Training

Legislation

- [Further Education and Training Act 2014](#) Sections 29 and 58

Delegations/Authorisations

- [Director-General's Delegations under the Further Education and Training Act 2014](#)
- [Executive Director's delegations under the Further Education and Training Act 2014](#)

Related policies

- Nil

Related procedures

- Nil

Supporting information/websites

Agreements (DESBT and AASN Providers only)

- Protocols between DESBT and the AASN Providers
- Services Agreement (or Deed of Agreement) between DESBT and the AASN Providers

Forms

- [ATF-041 Notification of change of ownership/statutory transfer \(sale of business\)](#)

Work instructions

- Statutory transfer of a registered training contract

AASN officers can access AASN Work Instructions in the [AASN library on SharePoint](#).

DESBT officers can access DESBT Work Instructions at this [internal web site](#).

Online Resources

- Nil.

Letters

- AIRDOCS – Canc by CE – Written Notice – No Show Cause 29.5 (DESBT employees only)
- AIRDOCS – Canc by CE – Written Notice – No Show Cause 29.6c (DESBT employees only)
- AIRDOCS – Statutory transfer (DESBT employees only)

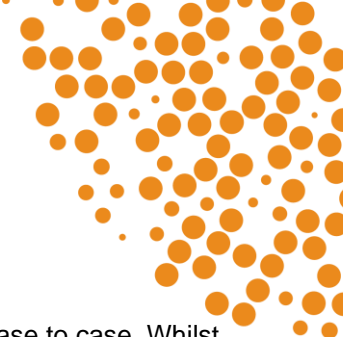
Website

- Nil

Contact

For further information, please contact Apprenticeships Info:

- **Website:** www.desbt.qld.gov.au
- **Telephone:** 1800 210 210
- **Email:** apprenticeshipsinfo@qld.gov.au



Attachment 1

Factors to be considered in decision making process

A range of factors may impact on the decision of the delegated officer and these will vary from case to case. Whilst this is not an exhaustive list of factors and considerations, the information below may assist with taking the most appropriate action.

Factor	Consideration
Has the employer provided signed notice within 14 calendar days that the employer has sold or disposed of the employer's business to someone else?	<p>This is a requirement of section 58(1)(a) of the FET Act.</p> <p>If signed notice is received from an employer later than 14 calendar days after the employer has sold or disposed of the employer's business, the notification can still be actioned, however consider if it is practicable to educate the employer regarding their responsibilities.</p>
Has the purchaser given written notice, before the sale or disposal of the business took effect, that the purchaser does not want the registered training contract/s to be transferred?	<p>Yes - If the purchaser has given written notice before the sale or disposal of the business took effect, the registered training contract/s is/are to be cancelled. Cancellation would occur under s29(5) of the FET Act.</p> <p>No – If the purchaser has not given written notice before the sale or disposal of the business took effect, the registered training contract/s is/are transferred to the purchaser of the employer's business. The training contract/s cannot be cancelled under s29(5) of the FET Act if the purchaser does not wish for the registered training contract/s to continue. If the purchaser does not wish for the registered training contract/s to continue, cancellation would need to occur under one of the other sections of the FET Act.</p>
Has the employer provided signed notice within 14 calendar days that the employer was in a partnership and the partnership dissolved?	<p>This is a requirement of section 58(1)(b) of the FET Act.</p> <p>If signed notice is received from an employer later than 14 calendar days after the partnership has dissolved, and the partnership is continued by 1 person who was a partner of the dissolved partnership, or by 2 or more persons who were partners of the dissolved partnership, the notification can still be actioned.</p> <p>If the partnership hasn't been continued the registered training contract/s must be cancelled under s29(6)(c) of the FET Act.</p>