

Cancel registered training contracts by all parties

Purpose

This procedure details the process for:

- cancelling a registered training contract under the *Further Education and Training Act 2014* (FET Act) by mutual consent of the parties to the contract,
- a party withdrawing their consent under the FET Act to a cancellation by all parties application, and
- re-registering a cancelled training contract following an order by the Queensland Industrial Relations Commission (QIRC) or Fair Work Commission that the employer reinstate an apprentice or trainee's employment.

Note – Racing Queensland has delegations under the FET Act 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 traineeship/apprenticeships. The procedure titled 'Racing Queensland – management of training contracts' applies to these training contracts.

Overview

The parties to a registered training contract (i.e. employer and apprentice/trainee, and parent/guardian if the apprentice/trainee is under 18 years of age and it is appropriate) may apply to cancel the registered training contract by mutual consent.

A party may withdraw their consent to cancel the registered training contract within seven (7) calendar days after the cancellation application is received by their Australian Apprenticeship Support Network (AASN) Provider or DESBT.

If the apprentice/trainee's employment is terminated, the apprentice/trainee may seek to contest the cessation of employment. As a result, the QIRC or Fair Work Commission may order the employer to reinstate the employment of the apprentice/trainee into their former apprenticeship/traineeship position. When notified of such a case, if the training contract is already cancelled, the cancelled training contract will be re-registered by DESBT.

Process

Employer and apprentice/trainee (and parent/guardian, if applicable and appropriate):

- Employers and apprentices/trainees are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss employment related obligations.

- To cancel a registered training contract, all parties (i.e. the employer and apprentice/trainee, and parent/guardian if applicable and appropriate) must apply in the approved form and send the application to the AASN Provider or DESBT. [Form ATF-034: Cancel a registered training contract \(by all parties\)](#) is available to assist the parties to apply (*For the meaning of the 'approved form', refer to [Attachment 1](#)).
- If termination of the training contract has been (or will be) contested, refer to the below section titled 'Contested termination of employment' regarding actions that must be taken.
- If either of the parties wishes to withdraw consent to the cancellation application, provide written notice within 7 calendar days from the date the cancellation application was given to the AASN Provider or DESBT (note – if it is the apprentice/trainee who is withdrawing their consent, and they are under 18, their parent/guardian is required to sign the apprentice/trainee's written notice, if appropriate).

Australian Apprenticeship Support Network (AASN) Provider:

IMPORTANT – Limitation of delegated authority **MUST** be observed when actioning a cancellation application by all parties (or written notice from a party withdrawing consent to the application to cancel). Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

- If notification is received that the apprentice/trainee has commenced (or will be commencing) proceedings contesting the termination of employment (i.e. a contested event) refer to the below section titled 'Contested termination of employment'.
- Upon receiving an application by all parties to cancel a registered training contract, hold the application to cancel a registered training contract by all parties for seven (7) calendar days from the date of receipt (i.e. the period during which an applicant may withdraw consent).
 - If consent to cancel is not withdrawn, process the application and send details to DESBT in the agreed format – refer to the AASN Work Instructions on Mutual Cancellation.
 - If consent to cancel is withdrawn, see [Withdrawing consent to cancel a registered training contract](#) below.

Training and Skills, DESBT

- If notification is received that the apprentice/trainee has commenced (or will be commencing) proceedings contesting the termination of employment (i.e. a contested event) refer to the below section titled 'Contested termination of employment'.
- Where the AASN Provider holds delegation, email cancellation by all parties applications via CEDRIC to the relevant AASN Provider for processing.
- Process cancellation by all parties applications where:
 - the AASN Provider does not hold delegation, or
 - a 'Training assistance for cancelled apprentice or trainee' application is pending, or
 - urgent cancellation is required; or
 - the cancellation is as a result of an investigation by the region.

Withdrawing consent to cancel a registered training contract

Note – If the employer or apprentice/trainee withdraws their consent to the cancellation (by all parties) application as per the process in this procedure, the training contract will continue in force (note - the FET Act provides avenues to pursue cancellation without mutual agreement).

AASN Provider and Training and Skills, DESBT

Note – If an AASN Provider is **not** the nominated AASN Provider for a training contract and receives a withdrawal of consent notification (or does not have delegation) they must **immediately** notify DESBT by telephone and send a copy of the withdrawal notification to DESBT as per the AASN Work Instructions on Mutual Cancellation.

On receipt of withdrawal of consent notification—

- If the notification meets the requirements of the FET Act (i.e. it must be in writing, provided within seven (7) calendar days after the cancellation application was received by the nominated AASN Provider or DESBT and, if the party withdrawing consent is the apprentice/trainee, be signed by a parent/guardian where applicable and appropriate):
 - immediately telephone DESBT via Apprenticeships Info on 1800 210 210 and advise of the withdrawal of consent (if the notification was received by the AASN) or immediately telephone the AASN Provider (if the notification was received by DESBT)

- record a File Note (AASN Provider) or details against the training contract in CEDRIC (DESBT), of the telephone communication
 - send written notice to each party (i.e. employer, apprentice/trainee, and parent/guardian if applicable and appropriate) informing them that the cancellation application has been withdrawn and the training contract remains in force (if the notification was received by the AASN Provider – an AASN letter template is available in the [Apprenticeship Operations SharePoint library](#) for this purpose, titled: 'Withdraw consent to Cancel or Suspend', or if the notification was received by DESBT, a letter titled 'Withdraw consent to cancel or suspend – EMP-APP-Parent-School' is available in DocumentCorePack in CEDRIC).
- If the notification fails to meet the requirements of the FET Act stated above:
 - contact the party who submitted the notification and advise the reason why the withdrawal could not be accepted and that -
 - If the 7 calendar day withdrawal period has elapsed, the training contract is cancelled; or
 - If the 7 calendar day withdrawal period has not yet elapsed, the party may wish to try again to provide the required notification before it elapses.

Contested termination of employment

Employer:

- Notify the nominated AASN Provider or DESBT in writing within 14 calendar days if the employer becomes aware the person who is/was the apprentice/trainee has:
 - made an application for unfair dismissal under section 394 of the *Fair Work Act 2009* (C'wlth); or
 - made an application for reinstatement under section 317 of the *Industrial Relations Act 2016*; or
 - commenced another proceeding contesting the cessation of employment.
- Notify DESBT by calling the Apprenticeships Info line on 1800 210 210 as soon as possible after becoming aware of the outcome of such an application/proceeding.

Apprentice/Trainee:

- If the 'withdrawal of consent' period (i.e. within 7 calendar days of the date the cancellation application was given to the AASN Provider or DESBT) has not elapsed, submit a notice in writing to withdraw consent to the cancellation application before the 'withdrawal of consent' period ends.
- Notify the nominated AASN Provider or DESBT by calling the Apprenticeships Info line on 1800 210 210 if you:
 - make an application for unfair dismissal under section 394 of the *Fair Work Act 2009* (C'wlth); or
 - make an application for reinstatement under section 317 of the *Industrial Relations Act 2016*; or
 - commence another proceeding contesting the cessation of employment.
- Promptly notify DESBT by calling the Apprenticeships Info line on 1800 210 210 after becoming aware of the outcome of such an application/proceeding.

AASN Provider:

- If the AASN Provider becomes aware that the person who is/was the apprentice/trainee has made (or will be making) an application or commenced (or will be commencing) a proceeding contesting termination of employment, take no further action regarding the cancellation application, and immediately email DESBT (even if the training contract has already been cancelled) at apprenticeshipsinfo@qld.gov.au using the following naming convention in the subject line of the email to assist prioritisation:
<ContestedEvent> <Registration number> <Apprentice/trainee's surname>.
 - If the 'withdrawal of consent' period (i.e. within 7 calendar days of the date the cancellation application was given to the AASN Provider or DESBT) has not elapsed, advise the apprentice/trainee that they should submit a notice in writing to withdraw consent to the application to cancel before the 'withdrawal of consent' period ends.
- If the employer or the person who is/was the apprentice/trainee contacts the AASN Provider in relation to an outcome of such an application/proceeding, redirect the party to contact DESBT by calling the Apprenticeships Info line on 1800 210 210.

Training and Skills, DESBT:

- If DESBT becomes aware that the person who is/was the apprentice/trainee has made (or will be making) an application or commenced (or will be commencing) a proceeding contesting termination of employment, record the details in the training contract record in DELTA (and, if the 'withdrawal of consent' period (i.e. within 7 calendar days of the date the cancellation application was given to the AASN Provider or DESBT) has not elapsed, advise the apprentice/trainee that they should submit a notice in writing to withdraw consent to the application to cancel before the 'withdrawal of consent' period ends) and refer the matter to the relevant DESBT regional office to follow up and monitor the outcome. The DESBT regional office will:
 - If the registered training contract has not yet been cancelled, take no action regarding the cancellation application until the outcome of the contested event is known.
 - If notification is received that the Queensland Industrial Relations Commission (QIRC) or the Fair Work Commission has made an order that the employer reinstate the employment of the apprentice or trainee into their former apprenticeship/traineeship position –
 - i. If the registered training contract has not yet been cancelled (i.e. still active or active-recommencement), no further action is required
 - ii. If the registered training contract has already been cancelled, an appropriately delegated officer – DESBT must oversee the re-registration of the cancelled training contract.

Note – Refer to the below section titled [Re-registration of a cancelled training contract](#) for more information.

- If notification is received of an outcome other than above, record the details in CEDRIC against the training contract and take no further action regarding the outcome (i.e. if the training contract is already cancelled no action is required, or if the training contract is still active, continue to action the cancellation as per normal). Examples of other outcomes may be:
 - i. a reinstatement order to another position with the employer; or
 - ii. a reinstatement order to the former apprenticeship/traineeship position that is now with an associated entity of the employer; or
 - iii. an order for the payment of compensation.

Re-registration of a cancelled training contract

Delegated officer – DESBT:

Section 40D of the FET Act provides that an appropriately delegated officer must, as soon as practicable after receiving notification of a decision to reinstate the employment of an apprentice/trainee:

- re-register the apprentice/trainee's training contract; and
- provide each relevant entity (i.e. employer, apprentice/trainee and parent/guardian if applicable and appropriate, the SRTD for the cancelled contract, the school if applicable, and the AASN Provider) written notices stating:
 - that the cancelled training contract has been re-registered as a registered training contract
 - that the nominal term of the re-registered training contract is extended by the period the contract was cancelled before being re-registered
 - the date the nominal term ends taking into account the period of extension
 - that the training plan for the apprentice/trainee under the cancelled training contract continues in force unless the parties enter into a new training plan.
- Record the details regarding the order to reinstate employment and the date training recommences in CEDRIC against the training contract.
- Save all associated documentation in CEDRIC against the training contract.
- At a regional level, develop a strategy for monitoring the apprentice/trainee's re-employment, where necessary.

Note – This provision relates to cancellations under Division 6 of the FET Act and therefore does not include registered training contracts cancelled under section 29 of the FET Act, or relate to completion certificates cancelled under section 53 of the FET Act.

AASN Provider:

- If notified by DESBT that a cancelled training contract has been re-registered as a registered training contract, update organisational records accordingly.

Definitions

AIRDOCS	A system used by DESBT for letter templates which are subsequently generated through DELTA.
Approved form	A form approved by the chief executive (Department of Employment, Small Business and Training).
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.
CEDRIC	A Client Relationship Management system used by DESBT to capture information on client and stakeholder engagement and correspondence (for internal access only).
Contested event	A 'contested event' means the apprentice/trainee is claiming unfair dismissal or seeking the reinstatement of their employment (not just remuneration).
DCC	DESBT Customer Centre (Phone Team) – responsible for managing calls received through the Apprenticeships Info line and emails received in the mailbox apprenticeshipsinfo@qld.gov.au
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 (for internal access only).
DESBT	Department of Employment, Small Business and Training
QIRC	Queensland Industrial Relations Commission
Signed consent of a parent (if appropriate)	It may be inappropriate for a parent/guardian to sign an application if the apprentice or trainee is living independently of his or her parents.

Legislation

- [Further Education and Training Act 2014](#), Sections 33 to 35, 40A to 40D, 58 and 58A

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

- [Electronic signing policy for apprenticeships and traineeships in Queensland](#)

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 AASN Providers

Forms

- [Cancel a registered training contract \(by all parties\) ATF-034](#)

Work Instructions

- Cancellation – mutual agreement

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

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

Online materials

- **SharePoint** - [Frequently asked questions – Forms with missing information](#)

Letters

- AIRDOCS – Cancellation – mutual consent – (s33) (DESBT employees only)
- AIRDOCS – Registration Cancellation combination letter (DESBT employees only)
- AIRDOCS – Reinstate Training Contract to Active (DESBT employees only)
- AIRDOCS – Amendment – Incorrect Termination Date (DESBT employees only)
- DocumentCorePack – Withdraw consent to cancel or suspend – EMP-APP-Parent-School (DESBT employees only)
- DocumentCorePack – Reinstate mutually cancelled training contract – s.33 – EMP-APP-Parent-School-AASN.docx (DESBT employees only)
- SharePoint - Withdraw consent to cancel or suspend (AASN employees only)

Website

- Human Rights: www.qld.gov.au/law/your-rights/human-rights

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 application been received in the approved form?	<p>That is –</p> <ul style="list-style-type: none">○ application by the employer, apprentice/trainee (and, if the apprentice/trainee is under 18, their parent/guardian if appropriate) and the SRT0; and○ state the mutually agreed date on which the cancellation took/will take effect. <p>The FET Act requires that the application be in the approved form, and DESBT has developed a form template to assist the applicants to provide all the required information. 'In the approved form' does not, however, require the applicants to use the available template, but that they provide all the required information in writing, under signature (which includes, for example, by electronic signature).</p>
What is the process if a mutual consent cancellation application (cancel a registered training contract by all parties application) is received that doesn't contain the signatures of all parties (and/or parent/guardian if applicable and appropriate)?	<p>In the first instance attempt to obtain the missing signature/s.</p> <p>If the signature/s cannot be obtained, cancellation cannot be actioned under section 35 of the FET Act (i.e. cancellation on application by all parties), however the application supports that grounds for cancellation may exist therefore cancellation can be progressed under section 36 of the FET Act.</p>
If advice is received that a training contract with an 'expired' status has cancelled, should action be taken to cancel the training contract?	<p>If the effective date of cancellation is after the nominal completion date, an officer should explore why the training contract resulted in a cancellation rather than a completion, given that a training contract only expires once the nominal term has been served.</p> <p>Options may include:</p> <ul style="list-style-type: none">• contacting the supervising registered training organisation (SRT0) to ascertain whether or not the apprentice or trainee successfully completed all the units of competency under their training plan• contacting the employer to discuss whether, because the apprentice/trainee served the full nominal term of the training contract, the apprenticeship/traineeship could be completed rather than cancelled. Discuss whether or not the apprentice/trainee achieved competence in the workplace in all the competencies under the training plan<ul style="list-style-type: none">• if the apprentice/trainee did achieve full workplace competence, and the SRT0 has confirmed they completed all training and assessment under the training plan, discuss completing the apprenticeship/traineeship rather than cancellation (depending on the outcome of the discussion, if applicable advise the parties to complete and sign a completion agreement)• if the apprentice/trainee did not achieve full workplace competence, progress the cancellation application.

Can a training contract be cancelled during a suspension period?	Yes, however the suspension period end date will need to be amended to reflect the date of cancellation to ensure the SRTTO can claim under User Choice funding arrangements, if applicable (note – AASN Providers process the cancellation as normal, DESBT will amend the suspension end date).
If advice is received in writing on a Cancel a registered training contract by all parties application form however the effective date of cancellation is within the probationary period, is this a cancellation under section 35 or a withdrawal in probationary period?	If the apprenticeship/traineeship has ended before the end of the probationary period, process as a withdrawal during the probationary period even if the advice was received in writing on a Cancel a registered training contract by all parties form.
What happens if a mutually agreed cancellation has an effective date of cancellation in the future?	<p>The 'withdrawal of consent' period is still 7 calendar days from the date of receipt of the cancellation application.</p> <p>The AASN Provider should still process the cancellation application as normal, however the DELTA database only allows cancellation data to be entered a maximum of 7 days before the effective date of cancellation (a DELTA mechanics issue) so, upon receipt of the details from an AASN Provider, DESBT will update the DELTA record as soon as possible.</p>
How is the withdrawal of consent period calculated?	<p>A 'withdrawal of consent' period is 7 full calendar days.</p> <p>For example, if a cancellation application was received on Monday 1st, cancellation of the registered training contract would be progressed on Tuesday 9th unless written notice withdrawing consent was received by close of business (COB) on Monday 8th</p> <p>If written notice, as per the example above, was received by COB Monday 8th, the cancellation application is taken to be withdrawn and the registered training contract continues in force.</p> <p>If written notice, as per the example above, was not received by COB Monday 8th, the cancellation application would be progressed.</p>