

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's or trainee's employment.

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 contact 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, the Racing Queensland Board (RQB) 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

Note – training contracts in several racing industry occupations are managed by the Racing Queensland Board (RQB). Refer to the section below titled 'Definitions' for training contracts where the RQB exercises regulatory powers and functions under the FET Act.

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, DESBT, or the RQB (for specified racing industry occupations). [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, DESBT,

or the RQB (for specified racing industry occupations) (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, or Racing Queensland Board (RQB) (for specified racing industry occupations):

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
 - AASN Provider – send details to DESBT in the agreed format – refer to the AASN Work Instructions on Mutual Cancellation
 - RQB – send letters to the employer and apprentice/trainee (and parent/guardian and school, where applicable), using the letter template available in the [Racing Queensland Board Files folder on SharePoint](#), titled ‘Cancel – mutual consent’. Upload a Format of Advice and relevant documentation to DESBT via SharePoint.
 - 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.
- Where the RQB holds delegation, upload cancellation by all parties applications to RQB via SharePoint.
- Process cancellation by all parties applications where:
 - the AASN Provider or RQB do not hold delegation, or
 - a ‘Training assistance for cancelled apprentice or trainee’ application is pending (does not apply to training contracts where the RQB has delegation), or
 - urgent cancellation is required (does not apply to training contracts where the RQB has delegation); 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, or Training and Skills – DESBT, or Racing Queensland Board (RQB) (for specified racing industry occupations)

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.

Note – If the RQB receives a withdrawal of consent notification and does not have delegation for the occupation, they must **immediately** notify DESBT by telephone and upload a Format of Advice and any relevant documentation to DESBT via SharePoint.

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, or the RQB (for specified racing industry occupations) and, if the party withdrawing consent is the apprentice/trainee, be signed by a parent/guardian where applicable and appropriate):
 - If the notification was received by the AASN Provider – immediately telephone DESBT via Apprenticeships Info on 1800 210 210 and advise of the withdrawal of consent ; record a File Note of the telephone conversation
 - If the notification was received by DESBT – immediately telephone the AASN Provider and advise of the withdrawal of consent; record details of the telephone conversation against the training contract in CEDRIC
- 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), or
 - If the notification was received by the RQB and the RQB has delegation for the occupation – a letter template is available in the [Racing Queensland Board Files folder on SharePoint](#) for this purpose, titled 'Withdraw consent to cancel or suspend'. Save copies of the notices on file. Upload a Format of Advice and the associated documentation/correspondence to DESBT via SharePoint.
- 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, or the RQB (for specified racing industry occupations) 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'with); 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, or the RQB (for specified racing industry occupations)) 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, or the RQB (for specified racing industry occupations) 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'with); 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.

Racing Queensland Board (RQB):

- If the RQB 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, no action is to be taken until the outcome of the contested event is known (RQB is required to follow-up regarding the decision). In the interim, immediately upload a Format of Advice and any relevant correspondence via SharePoint.
 - If the 'withdrawal of consent' period (i.e. within 7 calendar days of the date the cancellation application was given to the RQB 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.

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 in CEDRIC against the training contract (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, the RQB 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. (**Note** – For training contracts in specified racing industry occupations, notify DESBT's Metro regional office of the matter so they may, if the training contract is still active, notify the RQB to take no action regarding the cancellation notification until the outcome of the contested event is known. RQB is required to follow up regarding the contested event decision).
- 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.

- o If notification is received of an outcome other than as described above, update the details in DELTA and 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

Note – The AASN Provider and RQB do NOT have delegation to re-register a training contract following an order by the QIRC or Fair Work Commission that the employer reinstate an apprentice/trainee's employment.

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 SRTO for the cancelled contract, the school if applicable, and the AASN Provider (and the RQB, for specified racing industry occupations)) written notices stating:
 - o that the cancelled training contract has been re-registered as a registered training contract
 - o that the nominal term of the re-registered training contract is extended by the period the contract was cancelled before being re-registered
 - o the date the nominal term ends taking into account the period of extension
 - o 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.

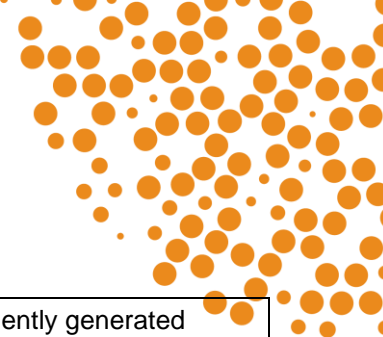
Note – This provision relates to cancellations under Division 6 of the FET Act and therefore does not include registered training contracts cancelled under section 29 of the FET Act, or relate to completion certificates cancelled under section 53 of the FET Act.

AASN Provider:

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

RQB:

- 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
Format of Advice	A document developed and used by Racing Queensland for the purpose of providing information to DESBT regarding actions and decisions relating to training contracts.
QIRC	Queensland Industrial Relations Commission
Racing Queensland Board	The Racing Queensland Board (RQB) is the statutory control body for the thoroughbred harness, and greyhound codes of racing in Queensland with responsibility for the management of these codes. The RQB has an agreement with DESBT to provide training contract related services for training contracts in these codes of racing for the following industry specific occupations – <ul style="list-style-type: none"> • Stablehand traineeship • Trackrider traineeship • Advanced stablehand traineeship • Jockey apprenticeship.
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 (internal resources)

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

Forms

- [Cancel a registered training contract \(by all parties\) ATF-034](#)
- Format of Advice (for RQB use only)

Work Instructions

- DESBT Work Instructions – Cancellation – mutual agreement
- AASN Work Instructions – Cancellation – mutual agreement
- RQB Work Instructions – Mutual cancellation (including 7 day withdrawal of consent period)

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

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

RQB officers can access RQB Work Instructions in the [Racing Queensland Board Files library on SharePoint](#).

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 – Racing Queensland letter template – Cancel – Mutual consent (RQB employees only)
- SharePoint – Withdraw consent to cancel or suspend (AASN employees only)
- SharePoint – Racing Queensland letter template – Withdraw consent to cancel or suspend (RQB employees only)

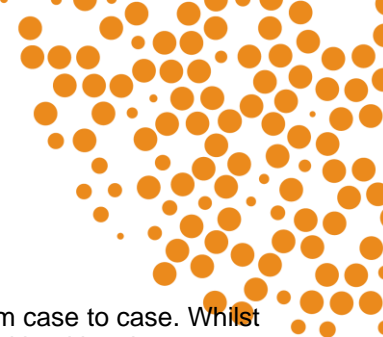
Website

- 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



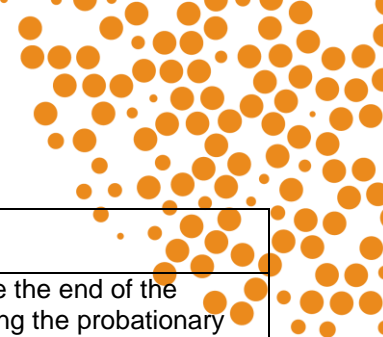
Attachment 1

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
<p>Has the application been received in the approved form?</p>	<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 SRTO; 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>
<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>	<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>
<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>	<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 (SRTO) 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 SRTO 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.
<p>Can a training contract be cancelled during a suspension period?</p>	<p>Yes, however the suspension period end date will need to be amended to reflect the date of cancellation to ensure the SRTO can claim under User Choice funding arrangements, if applicable (note – AASN Providers and RQB process the cancellation as normal, DESBT will amend the suspension end date).</p>





Factor	Consideration
<p>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?</p>	<p>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.</p>
<p>What happens if a mutually agreed cancellation has an effective date of cancellation in the future?</p>	<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 or RQB 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 or the RQB, DESBT will update the DELTA record as soon as possible.</p>
<p>How is the withdrawal of consent period calculated?</p>	<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>

