

Temporary suspension of registered training contract by employer

Purpose

This procedure details the process to temporarily suspend a registered training contract under the *Further Education and Training Act 2014* (FET Act).

Overview

An employer of an apprentice/trainee who temporarily cannot provide the training stated in the training plan to an apprentice/trainee can apply to temporarily suspend the registered training contract for a period of up to 30 calendar days.

It should be noted that the intention of a temporary suspension of the training contract is to provide a temporary bridge to assist keeping the apprentice/trainee in the training arrangement. It is not intended for permanent situations or to suit management practices.

Accordingly, a temporary suspension of a training contract should be the last resort, after all other options have been attempted, to assist with continuity of the apprenticeship/traineeship and avert the need for cancellation of the registered training contract.

If a decision is made to approve the temporary suspension of a training contract, the employer may decide to stand down the apprentice or trainee unless the employer and the apprentice/trainee otherwise agree. The employer may stand down the apprentice/trainee without pay only in accordance with the information notice issued by the Department of Employment, Small Business and Training (DESBT).

Further information regarding an employer's obligation under the relevant industrial instrument and the *Fair Work Act 2009* can be obtained by calling the Fair Work Ombudsman on 13 13 94, particularly if an approved period of temporary suspension encompasses one or more public holidays.

Process

Employer:

- If the employer of an apprentice/trainee is facing a period where the employer will temporarily be unable to provide the training stated in the training plan for the apprentice/trainee, the employer may submit an application to temporarily suspend the registered training contract, for a temporary suspension period of no more than 30 calendar days, to DESBT for DESBT to make a decision regarding the application.
 - GTOs/PEOs – must manage the number of apprentices/trainees versus host employers to ensure temporary suspensions are not being used because of a lack of host employers.
 - In instances where the employer is temporarily unable to meet the ordinary working hours (e.g. an employer can provide 10 hours per week averaged over a four week period for a part-time training contract, but temporarily not the required 15 hours per week) a partial temporary suspension may be an option to temporarily reduce the ordinary working hours of the apprentice/trainee. Prior to submitting a temporary suspension application (for reduced hours), contact DESBT on telephone 1800 210 210 to discuss.
- Prior to submitting a temporary suspension application, consider if there are any other alternatives, for example –
 - The apprentice/trainee undertaking off-the-job training;
 - A temporary transfer to another employer; or
 - A permanent transfer to another employer.

- The employer will be required to state the reasons for the temporary suspension and the period of the proposed temporary suspension. The commencement date of an approved temporary suspension will be decided by DESBT. A [Temporary suspension of a registered training contract by employer \(ATF-048\) form](#) is available to assist the employer apply. Retrospective applications for temporary suspension cannot be considered.
- Upon completing an application, the employer must immediately provide a copy of the application to the apprentice/trainee, and advise the apprentice/trainee that the apprentice/trainee can provide a submission in response to the temporary suspension application to DESBT within 5 calendar days of receiving a copy of the application. The employer must retain evidence that a copy of the application was provided to the apprentice/trainee.
- The employer must immediately submit the application to DESBT and contact DESBT by telephone on 1800 210 210 to facilitate a timely investigation into the matter. The employer must keep a copy of the completed application form for their records.
- If DESBT approves a temporary suspension of the registered training contract, however circumstances change during the approved suspension period in that the employer can provide the apprentice/trainee with the training stated in the training plan, the employer must resume training the apprentice/trainee and notify DESBT immediately in writing and by telephone on 1800 210 210 to advise that the apprentice/trainee has resumed training.
- If the registered training contract is temporarily suspended under section 32F of the FET Act, the decision can be appealed through the Queensland Industrial Relations Commission (QIRC).

Apprentice/trainee:

- Upon the employer providing a copy of an application to temporarily suspend the registered training contract, the apprentice/trainee may make a submission (i.e. provide information regarding the proposed temporary suspension) in response to the employer's application, to DESBT within 5 calendar days of receiving a copy of the application, by contacting DESBT by telephone on 1800 210 210.
- If DESBT approves a temporary suspension of the registered training contract and circumstances change during the approved suspension period in that the employer can provide the apprentice/trainee with the training stated in the training plan, training with the employer is to resume.
- If the registered training contract is temporarily suspended under section 32F of the FET Act, the decision can be appealed through the Queensland Industrial Relations Commission (QIRC).

Supervising Registered Training Organisation (SRTO):

- Notify DESBT immediately if an apprentice/trainee attends any off-the-job training during an approved period of temporary suspension of the registered training contract.
- Review and update where required, the training plan of apprentices/trainees when the period of temporary suspension ends.

Australian Apprenticeship Support Network (AASN) Provider, or Racing Queensland Board (RQB):

IMPORTANT – Limitation of delegated authority **MUST** be observed when making a decision regarding applications for temporary suspension of a registered training contract. AASN Providers and the RQB do not have delegation to temporarily suspend a registered training contract under section 32F of the FET Act. Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

- Upon receiving a completed application from an employer, immediately forward it to DESBT at apprenticeshipinfo@qld.gov.au using the following naming convention in the subject line of the email for prioritisation:
<TempSusp> <Registration number> <Apprentice/trainee's surname>.

Training and Skills, Department of Employment, Small Business and Training (DESBT):

- Upon receiving an application for a temporary suspension to a registered training contract, immediately forward the application to a delegated officer – DESBT.

Decision making process for application for temporary suspension:

Delegated officer – DESBT:

IMPORTANT – Limitation of delegated authority **MUST** be observed when making a decision whether to temporarily suspend a registered training contract. Refer to the [Executive Director's sub-delegations under the FET Act 2014](#) for details of delegated authority.

- Upon receiving an application to temporarily suspend a registered training contract (including 'partial' temporary suspension applications), if considered necessary conduct an investigation into the matter. There are a range of factors that may impact on the decision of the delegated officer, and these will vary from case to case. Whilst not an exhaustive list of factors and considerations, [Attachment 1](#) may assist in identifying matters that could be scrutinised during an investigation of an application for temporary suspension.
 - An investigation can commence as soon as an application or notification of an impending application is received (e.g. telephone call from employer), however the apprentice/trainee must be given 5 calendar days from the date the employer gave them a copy of the application, to make a submission to DESBT in response to the employer's application. The employer must keep a record of providing a copy of the application to the apprentice/trainee.
 - Decide to approve or not to approve the application. Note – the decision must be made within 7 calendar days after the application is received by DESBT. An application for temporary suspension of the training contract may only be approved if the delegated officer is satisfied the employer cannot provide the training to the apprentice or trainee stated in the training plan. Otherwise the decision must be to not approve the application.
 - In making a decision, take into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
 - The commencement date of an approved temporary suspension is decided by DESBT.
 - Retrospective applications for temporary suspension cannot be considered.
 - The commencement date for a temporary suspension must allow for the 5 calendar day period an apprentice/trainee has to make a submission (i.e. the commencement date can be no earlier than 6 calendar days after the date the apprentice/trainee received a copy of the temporary suspension application).
 - Send the employer and apprentice/trainee an information notice about the decision.
 - If the application is approved, the information notice must state –
 - the maximum period, of not more than 30 calendar days, over which the training contract may be suspended (note – public holidays are to be excluded from the approved period);
 - the time during the maximum period, or a part of the period, the employer may stand down the apprentice or trainee; and
 - the day the period starts.
- Note** – a letter is also available to send to the parent/guardian if applicable.
- Detailed information must be recorded in CEDRIC throughout the process –
 - if an investigation was undertaken, of any communications;
 - of a submission from an apprentice/trainee to a proposed temporary suspension, if applicable;
 - of the reason for the decision.
 - A copy of the application from the employer, the information notice given to the parties, and any other documentation relating to this matter, including any written submission from the apprentice/trainee, must be saved in CEDRIC against the training contract.
 - If DESBT approves the temporary suspension of the training contract, and the employer notifies DESBT that circumstances have changed in that the apprentice/trainee has resumed the training stated in the training plan with the employer, update DELTA (amend the suspension end date), record in CEDRIC that the apprentice/trainee has resumed training with the employer, and save a copy of the written notification from the employer in CEDRIC against the training contract.

Note – A decision to temporarily suspend a registered training contract under section 32F of the FET Act is appealable to the QIRC.

Definitions

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| 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). |
| Days | <p>Where a timeframe is expressed in days, the reference is to calendar days.</p> <p>Five (5) calendar days for the apprentice/trainee to provide a response to the employer's application is calculated as – date FULLY COMPLETED application is received by apprentice/trainee is 0, then count 5 days, and on day 6 the delegated officer can make a decision on the application.</p> <p>Seven (7) calendar days, being the timeframe in which the delegated officer must make a decision on the application is calculated as – date FULLY COMPLETED application is received by DESBT is 0, then count 7 days, and on day 7 the delegated officer must have made the decision on the application (note: the day the decision is made is the day that the temporary suspension commences).</p> |
| 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 |
| Racing Queensland Board | <p>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 –</p> <ul style="list-style-type: none"> • Stablehand traineeship • Trackrider traineeship • Advanced stablehand traineeship • Jockey apprenticeship |
| Supervising registered training organisation (SRTO) | <p>A registered training organisation that:</p> <ol style="list-style-type: none"> 1. accepts a nomination to deliver training and assessment to apprentices or trainees as negotiated and agreed under individual training plans 2. assess an employer's capacity to provide the supervision, facilities and training required under the training plan for an apprentice or trainee 3. assesses whether the apprentice or trainee has completed the training and assessment required to be completed under a training plan 4. when satisfied the apprentice or trainee has completed the training and assessment required, issues the qualification or statement of attainment stated in the training plan, and is a signatory on a completion agreement verifying that all training and assessment required under the training plan has been completed by the apprentice or trainee. |

Legislation

- [Further Education and Training Act 2014](#) Sections 32E and 32F, 168

Delegations/Authorisations

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

Related policies

- Nil

Related procedures

- Nil

Supporting information/websites

Agreements (internal resources)

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

Forms

- [Temporary suspension of a registered training contract by employer \(ATF-048\)](#)
- [Transfer of registered training contracts – permanent or temporary](#)

Work instructions

- Temporary suspension application by employer (DESBT)

AASN Providers can access AASN Work Instructions at this [internal web site](#).

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

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

Online materials

- Nil

Letters

- DocumentsCorePack – Temporary suspension – 32F – information notice approve.docx (DESBT employees only)
- DocumentsCorePack – Temporary suspension – 32F – information notice, not approve.docx (DESBT employees only)

Website

- Human Rights: <https://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 consider in decision making process

A range of factors may will impact on the decision of the delegated officer and these will vary from case to case. Whilst not an exhaustive list of factors and considerations, the information below may assist in identifying matters that could be scrutinised in an investigation of an application for temporary suspension.

| 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; ○ state the reasons for the proposed temporary suspension; and ○ state the period of the proposed temporary suspension. <p>The FET Act requires that the application be in the approved form, and DESBT has developed a form template to assist the applicant to provide all the required information. 'In the approved form' does not, however, require the applicant 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> |
| How is the situation outside the control of employer (including GTOs/PEOs)? | It is important to consider how the reasons stated in an application for temporary suspension are outside the control of the employer, and contrast this against the benefit that the apprentice/trainee may receive by the temporary suspension to enable continuity in meeting the requirements of the training plan and eventually achieve the completion requirements. |
| Is there a history of similar applications indicating management practice issues? | It is important to be aware of the history of an employer in applying for temporary suspensions, and investigating in more detail if a pattern emerges that may indicate temporary suspensions are being used in lieu of sound workplace management practices. |
| What is a partial temporary suspension? | A partial temporary suspension refers to a request to temporarily reduce the ordinary working hours of an apprentice/trainee, and in doing so, the hours will not meet the minimum requirement for the contract mode (e.g. an employer can provide 10 hours per week averaged over a four week period for a part-time training contract but temporarily not the required 15 hours per week). |
| Is a temporary transfer an option? | As it is important is to ensure continuity of the apprenticeship/traineeship, determine if the employer has attempted to obtain a temporary transfer for the apprentice/trainee (or is aware of the option of a temporary transfer). |
| Is a permanent transfer an option? | Whilst the employer may wish to retain the apprentice/trainee to support their objectives, the interests of completing the training plan are paramount. Determine if the employer is aware of any prospects for a permanent transfer that could be considered by the apprentice/trainee (or is aware of the option of a permanent transfer). |
| Off-the-job training for apprentice/trainee | The employer will need to investigate opportunities for the apprentice/trainee to attend any outstanding off-the-job training and provide a sound reason as to why the apprentice/trainee could not attend off-the-job training at this time. |
| Off-the-job training for another apprentice/trainee | If the employer has other apprentices/trainees, there needs to be a rationale as to why another apprentice/trainee could not attend off-the-job training at this time, and this apprentice/trainee filling their role/work. |
| Other entitlements | Does the apprentice/trainee have any entitlements that could be accessed as an alternative? For example, the apprentice/trainee may have accrued annual leave and may be agreeable to utilising this as an alternative. |
| Equity issues | It is important to be alert to situations where the employer has requested a temporary suspension, and only one apprentice/trainee has been selected. In this case justification may be required from the employer to explain this. |

| Factor | Consideration |
|---|---|
| Compliance with any industrial award or agreement that addresses stand down issues. | These provisions should be complied with before seeking a temporary suspension. For example, some GTO/PEO agreements may provide for additional paid leave of certain durations if there is a gap between host employers. This would need to be utilised before considering the approval of a temporary suspension. |
| Current recruitment practices of the employer | If the employer is currently recruiting staff for the same type of work, especially apprentices/trainees, further justification is required from the employer to reconcile this situation when requesting a temporary suspension. Consideration should also be given to adding an ad hoc identifier to DELTA for new training contracts being lodged by the employer to stop automatic registration of new training contracts. |
| GTO/PEO specific issues | GTO/PEO and similar organisations do not have work facilities themselves and rely on host employers to provide the training for apprentices/trainees. It is important to analyse in detail any applications from these employers to reduce the risk that a temporary suspension is used in lieu of managing the number of apprentices/trainees versus host employers. |
| Temporary suspension across public holiday periods | Where a period of approved temporary suspension encompasses one or more public holidays, the public holidays are to be excluded from the approved period. |
| School-based apprentices and trainees (SATs) | SATs are subject to temporary suspensions and if suspended on a day they had been scheduled to work, will still be required to work the minimum number of days per year to complete. |
| Apprentices and trainees in probation | Temporary suspensions can be considered for apprentices/trainees who are currently within probation, although they should be discouraged as difficulties in providing training at this early stage would indicate greater issues later on. |