

# Suspension of a registered training contract by one party

## Purpose

This procedure details the process to suspend a registered training contract under the *Further Education and Training Act 2014* (FET Act) upon application by one party to the registered training contract.

## Overview

A party to the registered training contract (i.e. employer or apprentice/trainee) may apply to suspend the registered training contract if the party reasonably believes that the other party to the registered training contract cannot agree to a proposal for suspension (i.e. where one party is not in a position to provide informed consent, for example, unexpected injury or illness).

The suspension must be overwhelmingly in the interests of the apprentice/trainee. If agreement of both parties to suspend the registered training contract can be facilitated (section 30 of the FET Act – application for suspension by both parties), the applicable process to follow is a suspension by both parties (refer to the procedure titled 'Suspension of a registered training contract').

A suspension by one party process is only to be used in exceptional circumstances where it is demonstrated that the informed consent of the other party is not possible at the time of making the application, and the suspension is necessary to preserve the interests of the apprentice/trainee.

If the training contract is suspended under the FET Act following an application by one party, this **does not** suspend the employment relationship between the employer and apprentice/trainee, and **does not** remove the employer's obligation to continue to pay wages. The employer and apprentice/trainee must determine the ongoing employment arrangement during the period of a training contract suspension in accordance with the relevant industrial instrument and the *Fair Work Act 2009*. Further information relating to employment arrangements such as leave entitlements or suspending or standing-down an employee can be found on the Fair Work Ombudsman website [www.fairwork.gov.au](http://www.fairwork.gov.au) or by telephoning the Fair Work Info Line on 13 13 94 or the Fair Work Helpline for Employers on 1300 052 119.

## Process

### The party applying to suspend the registered training contract (i.e. the employer or the apprentice/trainee, and parent/guardian if applicable and appropriate):

- If a party to the training contract cannot perform their obligations under the training contract, the other party may apply to the Department of Employment, Small Business and Training (DESBT) to suspend the contract for a period of up to 12 months. The party applying must reasonably believe the other party to the contract is not in a position to provide informed consent.
- The party applying will be required to –
  - state the reasons for the proposed suspension, including why the party believes the other party cannot provide consent to the suspension (note – a suspension of a registered training contract is not to be used for reasons related to employment matters. Reasons such as serious misconduct, discipline, or bullying/harassment are not valid reasons to suspend a registered training contract and consequently, a suspension application for reasons which relate to employment matters will not be processed);
  - the period of the proposed suspension;
  - the day the proposed suspension is to take effect (this date must not be less than 7 calendar days after the application is given to DESBT).

- arrange for the parent/guardian of the apprentice/trainee to provide signed consent to the application if the apprentice/trainee is under 18 years and it is appropriate (e.g. it may be inappropriate for a parent/guardian to sign the application if the apprentice/trainee is living independently of his or her parents).

A [Suspension of a registered training contract \(by one party\) \(ATF-049\) form](#) is available to assist the party to apply. DESBT will not regard the application as complete unless all of the above is included in the application.

- It is the responsibility of the party to immediately notify DESBT by telephone on 1800 210 210 if during a period of approved suspension, circumstances change and the other party who was not in a position to provide informed consent, is now in a position to provide informed consent and discuss matters relating to the training contract.
- If a written notice is received from DESBT asking for further information to assist with the decision making process, the party will be given a period of at least 14 calendar days after the day the notice is given, to comply with the notice.
  - If the party does not respond within the period stated in the notice, DESBT will regard the suspension application to have been withdrawn by the party and no further action will be undertaken in relation to suspension of the registered training contract.
- If the decision of DESBT is to suspend the training contract, DESBT will advise the period of the suspension and the day the suspension takes effect.

#### Employer:

- Employers are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss employment related obligations (it is the responsibility of the employer to continue to pay wages to the apprentice/trainee during a period of approved suspension).
- Upon receiving a show cause notice from DESBT relating to an application from a party to suspend the registered training contract, provide a written response to the information outlined in the notice if required, by the date stated in the notice.
  - **Note** – Only responses provided by the date stated in the notice will be considered by the delegated officer when making a decision on the suspension application.
- Upon receiving an information notice from DESBT, the employer must comply with the decision. If DESBT decides to suspend the training contract, the information notice will state the period of the suspension, and the day the suspension takes effect.
- If the training contract is suspended under section 32D of the FET Act, the decision can be appealed through the Queensland Industrial Relations Commission (QIRC).

#### Apprentice/Trainee:

- Apprentices/trainees are encouraged to contact the Fair Work Ombudsman on 13 13 94 to discuss their employment entitlements (it is the responsibility of the apprentice/trainee to telephone the Fair Work Ombudsman on 13 13 94 to discuss the payment of wages during a period of approved suspension).
- Upon receiving a show cause notice from DESBT relating to an application from a party to suspend the registered training contract, provide a written response to the information outlined in the notice if required, by the date stated in the notice.
  - **Note** – Only responses provided by the date stated in the notice will be considered by the delegated officer when making a decision on the suspension application.
- Upon receiving an information notice from DESBT, the apprentice/trainee must comply with the decision. If DESBT decides to suspend the training contract, the information notice will state the period of the suspension, and the day the suspension takes effect.
- If the training contract is suspended under section 32D of the FET Act, the decision can be appealed through the Queensland Industrial Relations Commission (QIRC).

#### Supervising Registered Training Organisation (SRTO):

- Cease training delivery to an apprentice/trainee during an approved suspension period.

- Review and update the apprentice/trainee's training plan when the approved period of suspension ends (note - details of suspension start and end dates are available on the department's [Partner Portal](#)).

### **Apprentice Connect Australia Provider (Provider) or Racing Queensland Board (RQB):**

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

- Upon receiving an application by one party to suspend a registered training contract, consider the reason the applicant believes the other party cannot agree to the suspension.
  - if it is apparent the suspension application should not be actioned as a suspension by one party (i.e. the other party is in a position to provide informed consent), facilitate with the parties an application for suspension by both parties (i.e. mutual suspension). Required information/signatures can be obtained by electronic signature.
  - Record details of conversations and communications in File Notes.
- If it is apparent that the suspension application should be actioned as an application by one party, or if there is any uncertainty in determining if the application should be actioned as an application by one party, immediately email the application to DESBT at [apprenticeshipsinfo@qld.gov.au](mailto:apprenticeshipsinfo@qld.gov.au) using the following naming convention in the subject line of the email to assist prioritisation:  
**<SuspOneParty> <Registration number> <Apprentice/trainee's surname>**.

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

- Upon receiving an application by one party to suspend a registered training contract, immediately forward the application to a delegated officer – DESBT.

## **Decision making process for application to suspend a training contract by one party**

### **Delegated officer – DESBT:**

Limitation of delegated authority **MUST** be observed when making a decision whether to suspend the 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 by one party to suspend a registered training contract, conduct an investigation into the matter, or allocate the investigation to an investigating officer – DESBT. If the investigation process is allocated to an investigating officer, the delegated officer must oversee the investigation, and review and sign off on all show cause notices and information notices prepared by the investigating officer.
  - A suspension of a registered training contract is not to be used for reasons related to employment matters. Reasons such as serious misconduct, discipline, or bullying/harassment are not valid reasons to suspend a registered training contract and consequently, a suspension application for reasons which relate to employment matters are not to be processed.
- A range of factors 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 a suspension application by one party.
- The investigation into the matter should commence as soon as an application is received by the delegated officer, regardless of whether the application contains all the required information. For an application to contain all the required information it must –
  - state the reasons for the proposed suspension, including why the applicant believes the other party to the contract cannot agree to the suspension;
  - state the period of the proposed suspension;
  - state the day the proposed suspension is to take effect;
  - contain the signed consent of the parent/guardian of the apprentice/trainee if the apprentice/trainee is under 18 years of age and it is appropriate.
- If further information is required to decide the application refer to the section below titled [Requests for further information](#).

- Consider whether it is practicable to give the parties to the registered training contract (i.e. employer and apprentice/trainee) a show cause notice proposing to suspend the training contract (refer to [Attachment 1](#) for information to consider).
  - If giving a show cause notice is NOT practicable, decide the suspension application –
    - In making a decision, take into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#). Save in CEDRIC against the training contract.
    - Give each party an information notice about the decision, and if the decision is to suspend the registered training contract, the information notice must state the period of the suspension, and the day the suspension takes effect.
    - Ensure any related documentation is saved in CEDRIC against the training contract.
  - If giving a show cause notice refer to the below section titled [Show cause process](#).

## Requests for further information

### Delegated officer – DESBT:

- If further information is required to decide the application, the delegated officer may give the applicant written notice asking for further information reasonably required to decide the application.
- This written notice must be given to the applicant within 21 calendar days after DESBT receives an application by one party to suspend the registered training contract.
- The applicant must be given a reasonable period of at least 14 calendar days to comply with the written notice.
- The delegated officer must consider any information provided by the applicant within this period. If the applicant does not comply with the written notice within the period stated in the notice, the delegated officer is to regard the application to have been withdrawn by the applicant and no further action is required. The delegated officer may give the applicant a written notice stating the application has been withdrawn due to the applicant not complying with the request for further information.

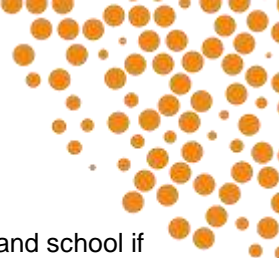
## Show cause process

### Delegated officer – DESBT:

- Prior to giving a show cause notice, undertake a HR compatibility review (by completing Part A of the *Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) regarding the proposed decision, taking into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
- Send a show cause notice to the parties to the registered training contract stating –
  - that an application has been made under section 32A; and
  - the reasons stated in the application for the proposed suspension; and
  - if the chief executive proposes to suspend the contract –
    - the period of the proposed suspension; and
    - the day the proposed suspension is to take effect
  - if the chief executive proposes not to suspend the contract, the reasons for the decision;
  - that the party may, within 14 days after the show cause notice is given, give the chief executive a written response to the proposed suspension.

**Note** – a letter is also available to send to the parent/guardian if applicable and appropriate.

- When the show cause period has elapsed, consider any written responses received from the parties and make a decision (note – if the delegated officer decides to suspend the contract, the delegated officer **must** be satisfied that a party to the registered training contract cannot perform the party's obligations under the registered training contract).
- Undertake a HR compatibility review (by completing Part B of the *Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) regarding the decision, taking into account the 23 fundamental Human Rights under the [Human Rights Act 2019](#).
- Send each party to the training contract an information notice about the decision
  - If the decision is to suspend the registered training contract the information notice must also state the period of the suspension; and the day the suspension takes effect.



**Note** – a letter is also available to send to the parent/guardian if applicable and appropriate, and school if applicable.

- Save a copy of the completed Human Rights Compatibility Review Form (Parts A and B) in CEDRIC against the training contract.
- Detailed information must be recorded by the delegated officer in CEDRIC throughout the process.
- A copy of the application by one party to suspend the registered training contract, the written notice (if applicable) and show cause notice (if applicable) and information notice given to the employer and apprentice/trainee (and correspondence given to the parent/guardian and school if applicable), and any other documentation relating to this matter, including written responses provided by the employer and/or apprentice/trainee, must be saved in CEDRIC against the training contract.

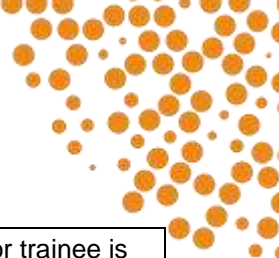
**Note** – A decision to suspend a registered training contract under section 32D of the FET Act is appealable to the QIRC.

**Investigating officer – DESBT:**

- A delegated officer – DESBT may decide to allocate the investigation of the suspension to an investigating officer – DESBT. In these cases, the investigating officer will follow the process as per the delegated officer – DESBT above. The delegated officer will oversee the investigation. The investigating officer will prepare all show cause notices (if applicable) and information notices for review and signing off by the delegated officer.

**Definitions**

<b>Approved form</b>	A form approved by the chief executive
<b>Apprentice Connect Australia Provider</b>	Apprentice Connect Australia Providers, also known as Providers, are contracted by the Australian Government to provide targeted services which deliver tailored advice and support to employers, apprentices and trainees. Providers also have an agreement with DESBT to provide training contract related services. The Provider is the first point of contact for the administration of all training contracts.
<b>CEDRIC</b>	A Client Relationship Management system used by DESBT to capture information on client and stakeholder engagement and correspondence (for internal access only).
<b>Days</b>	Where a timeframe is expressed in days, the reference is to calendar days. Seven (7) calendar days, in relation to the day nominated by the party making the application to suspend the training contract that the proposed suspension is to take effect is calculated as – date the COMPLETE APPLICATION is received by DESBT is 0, then count 7 days, and day 8 is the earliest day that the proposed suspension can take effect. Similar calculations apply to 14 and 21 day timeframes.
<b>Delegated officer</b>	An appropriately qualified person to whom the chief executive has delegated functions and powers.
<b>DESBT</b>	Department of Employment, Small Business and Training
<b>Partner Portal</b>	A secure internet site that provides stakeholders with reporting and searching facilities to support vocational education and training delivery.
<b>QIRC</b>	Queensland Industrial Relations Commission
<b>Racing Queensland Board</b>	The Racing Queensland Board (RQB) is the statutory control body for 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"> <li>• Stablehand traineeship</li> <li>• Trackrider traineeship</li> <li>• Advanced stablehand traineeship</li> <li>• Jockey apprenticeship.</li> </ul>



<b>Signed consent of a parent (if appropriate)</b>	It may be inappropriate for a parent to sign the application if the apprentice or trainee is living independently of his or her parents.
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## Legislation

- [Further Education and Training Act 2014](#) Sections 32A to 32D, 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

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

## Related procedures

- [Suspension of registered training contracts](#)

## Supporting information/websites

### Agreements (internal resources)

- Protocols between DESBT and Providers
- Protocols between DESBT and the Racing Queensland Board
- Services Agreement between DESBT Providers
- Agreement between DESBT and the Racing Queensland Board

### Forms

- [Suspension of a registered training contract \(by one party\) \(ATF-049\)](#)
- **SharePoint** – HR compatibility review form – Show Cause notice (*Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) (DESBT)

### Work instructions

- Application to suspend a registered training contract (by one party) (DESBT)

Providers can access Provider 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

- **SharePoint** – Guide to the show cause process and evidence based decision making (DESBT)
- [Partner Portal](#)

### Letters

- DocumentsCorePack – Suspend applic one party – 32C –show cause suspend (DESBT employees only)
- DocumentsCorePack – Suspend applic one party – 32C – show cause NOT suspend (DESBT employees only)
- DocumentsCorePack – Suspend app one party – 32D – NO show cause – info notice, NOT suspend (DESBT employees only)
- DocumentsCorePack – Suspend app one party – 32D – NO show cause – info notice, suspend (DESBT employees only)
- DocumentsCorePack – Suspend app one party – 32D – show cause given – info notice, NOT suspend (DESBT employees only)
- DocumentsCorePack – Suspend app one party – 32D – show cause given – info notice, suspend (DESBT employees only)
- DocumentsCorePack – Request information from applicant – APP-TNEE – 32B, 35B, 82B (DESBT employees only)
- DocumentsCorePack – Request information from applicant – EMP – 32B, 35B, 82B (DESBT employees only)

- DocumentsCorePack – Notice – 32B, 35B, 82B – application withdrawn – APP-TNEE (DESBT employees only)
- DocumentsCorePack – Notice – 32B, 35B, 82B – application withdrawn – EMP (DESBT employees only)

#### Website

- Human Rights: [www.qld.gov.au/law/your-rights/human-rights](http://www.qld.gov.au/law/your-rights/human-rights)

#### Contact

For further information, please contact Apprenticeships Info:

- **Website:** [www.desbt.qld.gov.au](http://www.desbt.qld.gov.au)
- **Telephone:** 1800 210 210
- **Email:** [apprenticeshipsinfo@qld.gov.au](mailto:apprenticeshipsinfo@qld.gov.au)





## Attachment 1

### Factors to consider 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 not an exhaustive list of factors and considerations, the information below may assist in identifying the matters that could be scrutinised in an investigation into an application to suspend the registered training contract submitted by one of the parties to the contract.

Factor	Consideration
Has the application been received in the approved form?	<p>That is –</p> <ul style="list-style-type: none"> <li>○ application by the employer or apprentice/trainee (and, if the apprentice/trainee is under 18, their parent/guardian if appropriate);</li> <li>○ state the reasons for the proposed suspension, including why the applicant believes the other party cannot agree to the suspension;</li> <li>○ state the period of the proposed suspension; and</li> <li>○ state the day the proposed suspension is to take effect, being not less than 7 days after the application is given to the chief executive.</li> </ul> <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>
What is the reason for the request and the history?	It is important to obtain a clear understanding from the submitting party the reasons for the application, and where relevant, any attempts to resolve the matter between the parties. This will assist the other party in responding to specific reasons if a show cause process is required.
Why is the other party unable to agree to the suspension?	It is important to investigate in more detail why the other party cannot provide informed consent and what attempts have been made to obtain the consent of the other party.
Is the other party able to provide informed consent?	The main rationale for using this provision as opposed to section 30 of the FET Act is that one of the parties is unable to provide informed consent. Accordingly, what attempts have been made to obtain informed consent, and what factors are impeding one of the parties from providing informed consent. For example, the other party may have a medical condition that means they are unable to provide informed consent at this moment, and they are not working at present.
Is this suspension predominately in the interests of the apprentice/trainee?	It is important to consider if this application is in the interests of the apprentice/trainee, and where possible to seek clarification or evidence from the applicant.
Is section 32A the most appropriate section of the FET Act if the employer is seeking to stand down the apprentice/trainee?	Similar to an application under section 30 of the FET Act, matters that are related to stand down type situations are not usually factors for consideration under section 32A to 32D of the FET Act, as other sections of the FET Act contain specific provisions for temporary suspension (stand down of employment).
When might it be considered not practicable to undertake a show cause process?	<p>A delegated officer may reasonably consider that it is not practicable to give a party a show cause notice if the circumstances surrounding the proposed suspension are sensitive, and the issuing of a notice would be regarded as insensitive.</p> <p>Some examples are, where a party –</p> <ul style="list-style-type: none"> <li>• is experiencing mental health issues;</li> <li>• has a significant illness or injury;</li> <li>• has experienced a traumatic event, such as a death in the family.</li> </ul>