



Fact sheet

Appeals on a decision made by the Department

A party to a training contract has the right to appeal decisions made by the chief executive in relation to a training contract. If a party is dissatisfied with a decision, they may appeal against it to the Industrial Relations Commission (the Commission).

To lodge an appeal, a party must complete Form 9A and lodge it with the Commission within 14 days of the decision. The form can be downloaded from the Commission's website: wairc.wa.gov.au.

Appeals may be made in relation to the following decisions/actions to a training contract:

- Regulation 39 – Extension to the probation period of a training contract
- Regulation 46 – Variation of a training contact by parties
- Regulation 47 – Assignment of training contract to another employer
- Regulation 48 – Suspension of training contract by parties
- Regulation 52A – Resolution of disputes by chief executive
- Section 60(G)4 – Chief executive's decision in relation to an employer application to terminate a training contract
- Section 60(F)3 – The chief executive may refuse to register a training contract

Appeal process

The *Vocational Education and Training Act 1996* (the Act), provides that on an appeal made against a decision, the Commission must rehear the matter and may confirm the decision or set it aside and either:

- substitute a decision the chief executive has made; or
- order the chief executive to decide the matter again.

The principal task required of the Commission when undertaking a rehearing requires that the Commission must conclude that the Department was either correct in making its decision or in error in reaching the original decision. The Commission may only intervene and substitute a decision made by the Department if the Department:

- acts upon wrong principle;
- allow extraneous or irrelevant matters to guide or affect the decision;
- mistakes the facts; or
- fails to take into account some material consideration.

The Commission is determining whether the Department erred in coming to its conclusion on the basis of the facts presented.

Matters of unfair dismissal

Parties to a training contract wishing to pursue a claim in relation to an unfair dismissal are required to take up the matter with Fair Work Commission. This process is independent of an administrative appeal process.

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