



Student Identifiers Act 2014

No. 36, 2014

An Act to provide for student identifiers and access to transcripts relating to vocational education and training, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Student Identifiers Act 2014

No. 36, 2014

An Act to provide for student identifiers and access to transcripts relating to vocational education and training, and for related purposes

[Assented to 25 June 2014]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Student Identifiers Act 2014*.

Section 2

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	25 June 2014
2. Sections 3 to 52	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	27 June 2014 (see F2014L00834)
3. Section 53	1 January 2015.	1 January 2015
4. Sections 54 to 57	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	27 June 2014 (see F2014L00834)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Simplified outline of this Act

Generally, a registered training organisation must not issue a VET qualification or VET statement of attainment to an individual after 2014 unless the individual has a student identifier.

The Student Identifiers Registrar must assign a student identifier to an individual on application.

On request by an individual, or an organisation or body involved with vocational education and training, the Registrar may verify that an identifier is the individual's student identifier, or give the individual's student identifier.

Records of student identifiers must be protected from misuse. Collection, use and disclosure of an individual's student identifier without the individual's consent is prohibited, unless it is authorised by this Act. The Information Commissioner may deal with breaches of these rules as interferences with privacy under the *Privacy Act 1988*.

On request, the Registrar may give all or part of an authenticated VET transcript of an individual who has a student identifier to the individual, a registered training organisation or a VET-related body. This is subject to access controls set by the individual.

4 Definitions

(1) In this Act:

access controls has the meaning given by paragraph 32(1)(f).

Account means the Student Identifiers Special Account established by section 48.

authenticated VET transcript of an individual means a document prepared by the Registrar that sets out information:

- (a) that relates to the VET undertaken by the individual; and
- (b) that is prescribed by the regulations.

Section 4

Commonwealth Minister means the Minister administering this Act.

corresponding law of a State or Territory means a law of a State or Territory that corresponds with Division 5 of Part 2 and the regulations made under section 22.

entity means:

- (a) a person; or
- (b) a partnership; or
- (c) any other unincorporated association or body; or
- (d) a trust.

identifier means a unique combination of any or all of the following:

- (a) letters;
- (b) numbers;
- (c) symbols.

Ministerial Council means:

- (a) if there is a body established by the Council of Australian Governments to deal with training and skills—that body; or
- (b) otherwise—a body prescribed by the regulations.

misconduct includes fraud, negligence, default, breach of trust, breach of duty, breach of discipline or any other misconduct in the course of duty.

personal information has the same meaning as in the *Privacy Act 1988*.

public body of a State or Territory means:

- (a) the Crown in right of the State or Territory; or
- (b) a State or Territory authority (within the meaning of the *Privacy Act 1988*) of that State or Territory; or
- (c) the head (however described) of a Department of State of the State or Territory; or
- (d) the Parliament of the State or the legislature of the Territory;
or

- (e) a member of the Parliament of the State or of the legislature of the Territory.

registered training organisation has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

Registrar means the Student Identifiers Registrar.

student identifier means an identifier assigned to an individual by the Registrar under section 10 or 12.

VET means vocational education and training.

VET admission body means an entity specified in an instrument under subsection (2).

VET-related body means:

- (a) a Department of the Commonwealth, or a Department of a State or Territory, that deals with matters relating to VET (including the funding of VET); or
 - (b) a body (whether incorporated or not) established by or under a law of the Commonwealth, a State or a Territory that performs functions relating to VET (including the funding of VET); or
 - (c) a VET Regulator (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); or
 - (d) an entity specified in an instrument under subsection (3).
- (2) The Registrar may, by legislative instrument, specify an entity for the purposes of the definition of **VET admission body** in subsection (1).

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (3) The Registrar may, by legislative instrument, specify an entity for the purposes of paragraph (d) of the definition of **VET-related body** in subsection (1).

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

Part 1 Preliminary

Section 5

5 Act to bind the Crown

This Act binds the Crown in each of its capacities.

6 Extension to external Territories

This Act extends to every external Territory.

7 Extraterritorial application

This Act extends to acts, omissions, matters and things outside Australia.

Part 2—Student identifiers

Division 1—Simplified outline of this Part

8 Simplified outline of this Part

The Student Identifiers Registrar must assign a student identifier to an individual on application by or on behalf of the individual if the Registrar is satisfied of the individual's identity and that the individual does not already have a student identifier.

Generally, anyone who collects personal information about an individual to apply for an identifier for the individual must destroy the information as soon as practicable after it is no longer needed for that purpose.

On request by an individual, or an organisation or body involved with vocational education and training, the Registrar may verify that an identifier is the individual's student identifier, or give the individual's student identifier.

Anyone (including the Registrar) who keeps a record of student identifiers must protect it from misuse and unauthorised access and disclosure.

Collection, use and disclosure of an individual's student identifier without the individual's consent is prohibited, unless it is authorised. This Part authorises collection, use and disclosure by the Registrar for certain purposes or by others to deal with unlawful acts or to help law enforcement.

The Information Commissioner may deal with breaches of the rules about destroying personal information, protecting records of student identifiers and unauthorised collection, use and disclosure of student identifiers as interferences with privacy under the *Privacy Act 1988*.

Division 2—Assignment of student identifiers etc.

9 Application for the assignment of an identifier

- (1) An individual may apply to the Registrar for an identifier to be assigned to the individual.
- (2) The following entities may apply to the Registrar for an identifier to be assigned to an individual if authorised by the individual to make an application under this section:
 - (a) a registered training organisation;
 - (b) a VET admission body;
 - (c) another entity.
- (3) The application must:
 - (a) be made in a manner and form approved by the Registrar;
and
 - (b) include any information required by the Registrar.

10 Assignment of an identifier by the Registrar

- (1) If an application is made under section 9 in relation to an individual, the Registrar must assign an identifier to the individual if the Registrar is satisfied that:
 - (a) the identity of the individual has been appropriately verified;
and
 - (b) the individual has not already been assigned a student identifier.
 - (2) The Registrar must give written notice of the Registrar's decision on the application to:
 - (a) the applicant; and
 - (b) if the applicant is not the individual—the individual.
 - (3) If the Registrar assigns an identifier to the individual, the notice given under subsection (2) must:
 - (a) set out the identifier; and
 - (b) if the notice is given to the individual—explain the purposes and uses of the identifier.
-

- (4) If the Registrar refuses to assign an identifier to the individual, the notice given under subsection (2) must set out the reasons for the refusal.

11 Destruction of personal information collected for the purpose of making an application

- (1) If:
- (a) a registered training organisation, VET admission body or other entity is authorised by an individual to make an application under section 9; and
 - (b) the organisation, body or entity collects personal information about the individual for the purpose of making the application; and
 - (c) some or all of the personal information is collected solely for the purpose of making the application;
- the organisation, body or entity must destroy the personal information collected solely for that purpose as soon as practicable after the application is made or it is no longer needed for that purpose.
- (2) Subsection (1) does not apply if the registered training organisation, VET admission body or other entity is required by or under any law to retain the information.

Note: A contravention of this section is taken to be an interference with the privacy of an individual for the purposes of the *Privacy Act 1988* (see section 23 of this Act).

12 Registrar to resolve problems in relation to the assignment of student identifiers

- (1) The Registrar may do either or both of the following in order to resolve a problem that has occurred in relation to the assignment of one or more student identifiers to one or more individuals:
- (a) revoke one or more of those student identifiers;
 - (b) assign a new identifier to one or more of those individuals.

Part 2 Student identifiers

Division 2 Assignment of student identifiers etc.

Section 13

- (2) If the Registrar does a thing mentioned in subsection (1) in relation to an individual, the Registrar must give written notice of the Registrar's decision to:
- (a) the individual; and
 - (b) a VET-related body of a kind referred to in paragraph (a) of the definition of that expression in subsection 4(1); and
 - (c) any other entity that the Registrar considers appropriate in the circumstances.
- (3) The notice given under subsection (2) must set out:
- (a) if a student identifier of the individual has been revoked—the revoked identifier; and
 - (b) if a new identifier has been assigned to the individual—the new identifier.

13 Review by the Administrative Appeals Tribunal

- (1) Applications may be made to the Administrative Appeals Tribunal by an individual for review of the following decisions of the Registrar:
- (a) a refusal to assign an identifier to the individual under section 10;
 - (b) a decision under section 12 to revoke a student identifier of the individual or to assign a new identifier to the individual.
- (2) Subsection (1) has effect despite subsection 27(1) of the *Administrative Appeals Tribunal Act 1975*.

Division 3—Verification or giving of student identifiers

14 Request to verify or give a student identifier

- (1) Any of the following entities may request the Registrar to verify that an identifier is the student identifier of an individual, or to give the entity the student identifier of an individual:
 - (a) the individual;
 - (b) a registered training organisation;
 - (c) a VET-related body;
 - (d) a VET admission body authorised by the individual to make a request under this section.
- (2) The request must:
 - (a) be made in a manner and form approved by the Registrar;
and
 - (b) include any information required by the Registrar.

15 Verification or giving of a student identifier

- (1) If a request is made under section 14 in relation to an individual, the Registrar may, by written notice given to the entity that made the request, verify or give the student identifier of the individual.
- (2) If the Registrar refuses to verify or give the student identifier, the Registrar must give the entity that made the request written notice of the refusal and the reasons for the refusal.

Division 4—Protection of records of student identifiers

16 Records of student identifiers must be protected from misuse etc.

- (1) The Registrar must take reasonable steps to protect a record of student identifiers kept by the Registrar:
 - (a) from misuse, interference and loss; and
 - (b) from unauthorised access, modification or disclosure.
- (2) If any other entity keeps a record of student identifiers, the entity must take reasonable steps to protect the record:
 - (a) from misuse, interference and loss; and
 - (b) from unauthorised access, modification or disclosure.
- (3) Subsection (2) does not apply to an individual who keeps a record of the student identifier of the individual.

Note: A contravention of this section is taken to be an interference with the privacy of an individual for the purposes of the *Privacy Act 1988* (see section 23 of this Act).

Division 5—Collection, use or disclosure of student identifiers

17 Unauthorised collection, use or disclosure of student identifiers

An entity must not collect, use or disclose a student identifier of an individual if:

- (a) the entity is not the individual; and
- (b) the collection, use or disclosure is not authorised under this Division.

Note: A contravention of this section is taken to be an interference with the privacy of the individual for the purposes of the *Privacy Act 1988* (see section 23 of this Act).

18 Collection, use or disclosure by the Registrar

- (1) The Registrar is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is for the purposes of the Registrar performing his or her functions or exercising his or her powers.
- (2) The Registrar is authorised to use or disclose a student identifier of an individual if the use or disclosure is for the purposes of research:
 - (a) that relates (directly or indirectly) to education or training, or that requires the use of student identifiers or information about education or training; and
 - (b) that meets the requirements specified by the Ministerial Council.

19 Collection, use or disclosure with the individual's consent

- (1) An entity is authorised to collect, use or disclose a student identifier of an individual if the individual consents (expressly or impliedly) to the collection, use or disclosure.

Section 20

- (2) However, the individual cannot consent to the entity using the individual's student identifier as the entity's own identifier of the individual.

20 Collection, use or disclosure relating to unlawful activities etc.

An entity is authorised to collect, use or disclose a student identifier of an individual if:

- (a) the entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in; and
- (b) the entity reasonably believes that the collection, use or disclosure is necessary in order for the entity to take appropriate action in relation to the matter.

21 Collection, use or disclosure for law enforcement purposes etc.

An entity is authorised to collect, use or disclose a student identifier of an individual if the entity reasonably believes that the collection, use or disclosure is reasonably necessary for one or more of following things done by, or on behalf of, an enforcement body (within the meaning of the *Privacy Act 1988*):

- (a) the prevention, detection, investigation, prosecution or punishment of:
 - (i) criminal offences; or
 - (ii) breaches of a law imposing a penalty or sanction;
- (b) the conduct of surveillance activities, intelligence gathering activities or monitoring activities;
- (c) the conduct of protective or custodial activities;
- (d) the enforcement of laws relating to the confiscation of the proceeds of crime;
- (e) the protection of the public revenue;
- (f) the prevention, detection, investigation or remedying of misconduct of a serious nature, or other conduct prescribed by the regulations;

- (g) the preparation for, or conduct of, proceedings before any court or tribunal, or the implementation of the orders of a court or tribunal.

22 Collection, use or disclosure authorised by regulations

An entity is authorised to collect, use or disclose a student identifier of an individual if the collection, use or disclosure is authorised by the regulations.

Division 6—Interaction with the Privacy Act 1988

23 Contraventions that are interferences with the privacy of an individual

- (1) An act or practice that contravenes:
- (a) section 11 in relation to personal information about an individual; or
 - (b) section 16 or 17 in relation to a student identifier of an individual;

is taken, for the purposes of the *Privacy Act 1988*, to be an interference with the privacy of the individual (within the meaning of that Act).

Note: An act or practice that is an interference with the privacy of the individual may be the subject of an investigation by the Information Commissioner under Part V of that Act.

- (2) If:
- (a) an act or practice of an entity that contravenes section 11, 16 or 17 is the subject of a complaint to, or an investigation by, the Information Commissioner under Part V of the *Privacy Act 1988*; and
 - (b) the entity is not an agency (within the meaning of that Act) or organisation (within the meaning of that Act);
- the entity is taken, for the purposes of that Part and any other provision of that Act that relates to that Part, to be an organisation (within the meaning of that Act).

24 Additional functions of the Information Commissioner

- (1) In addition to the Information Commissioner's functions under the *Privacy Act 1988*, the Information Commissioner has the following functions:
- (a) to investigate an act or practice that may be an interference with the privacy of an individual under subsection 23(1) and, if the Information Commissioner considers it appropriate to do so, to attempt by conciliation to effect a settlement of the matters that gave rise to the investigation;

- (b) to conduct an assessment of whether the Registrar is maintaining or handling student identifiers in accordance with the requirements of this Act;
 - (c) to do anything incidental or conducive to the performance of those functions.
- (2) The Information Commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions under subsection (1).
- (3) The Information Commissioner may conduct an assessment under paragraph (1)(b) in such manner as the Commissioner considers fit.
- (4) Section 56 (rather than section 12B of the *Privacy Act 1988*) applies in relation to the matters referred to in paragraph (1)(a) or (b) of this section in the same way as it applies to this Act.

25 Use or disclosure of personal information authorised for the purposes of the *Privacy Act 1988*

- (1) The use or disclosure by an entity of personal information about an individual is taken, for the purposes of the *Privacy Act 1988*, to be authorised by this Act if the use or disclosure is for the purposes of the Registrar performing his or her functions or exercising his or her powers.
- (2) The use or disclosure by the Registrar of personal information about an individual is taken, for the purposes of the *Privacy Act 1988*, to be authorised by this Act if the use or disclosure is for the purposes of research:
 - (a) that relates (directly or indirectly) to education or training, or that requires the use of student identifiers or information about education or training; and
 - (b) that meets the requirements specified by the Ministerial Council.

Part 3—Authenticated VET transcripts

26 Simplified outline of this Part

An individual's authenticated VET transcript is a document prepared by the Student Identifiers Registrar that sets out information that relates to vocational education and training undertaken by the individual and is prescribed by the regulations.

On request, the Registrar may give access to all or part of an authenticated VET transcript of an individual who has a student identifier to the individual, a registered training organisation or a VET-related body. However, access by such an organisation or body is subject to access controls set by the individual.

27 Individual may be given access to an authenticated VET transcript etc.

- (1) The Registrar may, on request, give an individual who has been assigned a student identifier access to:
 - (a) an authenticated VET transcript of the individual; or
 - (b) an extract from an authenticated VET transcript of the individual.
- (2) The request must:
 - (a) be made in a manner and form approved by the Registrar; and
 - (b) include any information required by the Registrar; and
 - (c) if the request is for an extract—specify the information to be excluded from the extract.
- (3) If the Registrar refuses to give access under subsection (1), the Registrar must give the individual written notice of the decision and the reasons for the decision.

28 Registered training organisation or VET-related body may be given access to an authenticated VET transcript etc.

- (1) The Registrar may, on request, give a registered training organisation or VET-related body access to:
 - (a) an authenticated VET transcript of an individual who has been assigned a student identifier; or
 - (b) an extract from an authenticated VET transcript of an individual who has been assigned a student identifier;in accordance with the access controls set by the individual.
- (2) The request must:
 - (a) be made in a manner and form approved by the Registrar; and
 - (b) include any information required by the Registrar.
- (3) The Registrar must not give access under subsection (1) unless access controls have been set by the individual.
- (4) If the Registrar refuses to give access under subsection (1), the Registrar must give the registered training organisation or VET-related body written notice of the decision and the reasons for the decision.

29 Requirement relating to extracts from authenticated VET transcripts

- (1) If the Registrar gives access to an extract from an authenticated VET transcript of an individual, the extract must include a statement that it is an extract.
- (2) Subsection (1) does not apply if:
 - (a) the only information not included in the extract is information of a kind prescribed by the regulations; or
 - (b) the Registrar considers that it is not appropriate for the extract to include a statement that it is an extract.

Part 4—Student Identifiers Registrar etc.

Division 1—Simplified outline of this Part

30 Simplified outline of this Part

There must be a Student Identifiers Registrar appointed by the Commonwealth Minister after consulting the Ministerial Council.

The Registrar's functions include the following:

- (a) assigning student identifiers to individuals;
- (b) verifying or giving an individual's student identifier;
- (c) preparing and providing access to individuals' authenticated VET transcripts;
- (d) enabling individuals with student identifiers to set access controls on their authenticated VET transcripts.

The Registrar is to be assisted by staff from the Department and by other staff and consultants under arrangements made by the Registrar.

There is a Student Identifiers Special Account, to be used for meeting the Commonwealth's costs in the performance of the Registrar's functions.

The Registrar is to report annually to the Commonwealth Minister and the Ministerial Council.

Division 2—Student Identifiers Registrar

Subdivision A—Functions and powers

31 Student Identifiers Registrar

There is to be a Student Identifiers Registrar.

32 Functions of the Registrar

- (1) The Registrar has the following functions:
 - (a) to assign student identifiers to individuals;
 - (b) to verify or give a student identifier of an individual;
 - (c) to prepare and provide access to authenticated VET transcripts of individuals or extracts from such transcripts;
 - (d) to ensure that a record of all student identifiers is kept in such form as the Registrar considers appropriate;
 - (e) to resolve problems that have occurred in relation to the assignment of student identifiers, including cases where:
 - (i) an individual has been assigned more than one student identifier; or
 - (ii) the same student identifier has been assigned to 2 or more individuals;
 - (f) to establish and maintain a mechanism to enable an individual who has been assigned a student identifier to set controls (the *access controls*) on:
 - (i) the registered training organisations and VET-related bodies that may request access to an authenticated VET transcript of the individual; and
 - (ii) the registered training organisations and VET-related bodies that may request access to an extract from an authenticated VET transcript of the individual and the content of the extract;
 - (g) any other functions conferred on the Registrar by this Act, the regulations or any other law of the Commonwealth;
 - (h) to do anything incidental or conducive to the performance of those functions.

Section 33

- (2) The Registrar has power to do all things that are necessary or convenient to be done for or in connection with the performance of his or her functions.

33 Commonwealth Minister may give directions to the Registrar

- (1) The Commonwealth Minister may, by legislative instrument, give written directions to the Registrar about the performance of the Registrar's functions.

Note: Section 42 (disallowance) and Part 6 (sunsetting) of the *Legislative Instruments Act 2003* do not apply to the directions (see sections 44 and 54 of that Act).

- (2) The Registrar must comply with a direction under subsection (1).
(3) Before giving a direction under subsection (1), the Commonwealth Minister must consult the Ministerial Council.

Subdivision B—Appointment of Registrar

34 Appointment

- (1) The Registrar is to be appointed by the Commonwealth Minister by written instrument, on a full-time basis.

Note: The Registrar may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.

- (2) Before making an appointment, the Commonwealth Minister must consult the Ministerial Council.

35 Term of appointment

The Registrar holds office for the period specified in the instrument of appointment. The period must not exceed 5 years.

36 Acting Registrar

- (1) The Commonwealth Minister may, by written instrument, appoint a person to act as Registrar:

- (a) during a vacancy in the office of Registrar (whether or not an appointment has previously been made to that office); or
- (b) during any period, or during all periods, when the Registrar:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any other reason, unable to perform the duties of the office.

Note: See sections 33AB and 33A of the *Acts Interpretation Act 1901* for rules that apply to acting appointments.

- (2) Before the Commonwealth Minister appoints a person to act as Registrar for a continuous period of 3 months or more, the Minister must consult the Ministerial Council.

Subdivision C—Terms and conditions of appointment

37 Remuneration and allowances

- (1) The Registrar is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Registrar is to be paid the remuneration that is prescribed by the regulations.
- (2) The Registrar is to be paid the allowances that are prescribed by the regulations.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

38 Leave of absence

- (1) The Registrar has the recreation leave entitlements that are determined by the Remuneration Tribunal.
- (2) The Commonwealth Minister may grant to the Registrar leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

39 Outside employment

The Registrar must not engage in paid employment outside the duties of his or her office without the Commonwealth Minister's approval.

40 Disclosure of interests

The Registrar must give written notice to the Commonwealth Minister of all interests, pecuniary or otherwise, that the Registrar has or acquires and that conflict or could conflict with the proper performance of the Registrar's functions.

41 Other terms and conditions

The Registrar holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Commonwealth Minister.

42 Resignation

- (1) The Registrar may resign his or her appointment by giving the Commonwealth Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Commonwealth Minister or, if a later day is specified in the resignation, on that later day.

43 Termination of appointment

- (1) The Commonwealth Minister may terminate the appointment of the Registrar:
 - (a) for misbehaviour; or
 - (b) if the Registrar is unable to perform the duties of his or her office because of physical or mental incapacity.
- (2) The Commonwealth Minister may terminate the appointment of the Registrar if:
 - (a) the Registrar:
 - (i) becomes bankrupt; or

- (ii) takes steps to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounds with one or more of his or her creditors; or
 - (iv) makes an assignment of his or her remuneration for the benefit of one or more of his or her creditors; or
 - (b) the Registrar is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) the Registrar engages, except with the Minister's approval, in paid employment outside the duties of his or her office (see section 39); or
 - (d) the Registrar fails, without reasonable excuse, to comply with section 40.
- (3) If the Commonwealth Minister terminates the appointment of the Registrar, the Minister must notify the Ministerial Council of the termination.

Subdivision D—Delegation

44 Delegation by the Registrar

- (1) The Registrar may delegate, in writing, all or any of the Registrar's functions or powers to:
 - (a) a person who is a member of the staff mentioned in section 45; or
 - (b) a person to whom an arrangement under section 46 relates.
- (2) In performing functions or exercising powers under the delegation, the delegate must comply with any written directions of the Registrar.

Division 3—Staff and consultants assisting Registrar

45 Staff

The staff necessary to assist the Registrar are to be persons engaged under the *Public Service Act 1999* and made available for the purpose by the Secretary of the Department.

46 Secondment of Commonwealth, State or Territory officers etc.

Secondment of Commonwealth officers etc.

- (1) The Registrar may arrange with:
 - (a) an Agency Head (within the meaning of the *Public Service Act 1999*) of an Agency (within the meaning of that Act); or
 - (b) an authority of the Commonwealth;for the services of officers or employees of the Agency or authority to be made available to assist the Registrar in the performance of the Registrar's functions.

Secondment of State or Territory officers etc.

- (2) The Registrar may arrange with the appropriate authority of a State or Territory for the services of officers or employees of the following to be made available to assist the Registrar in the performance of the Registrar's functions:
 - (a) the Public Service of the State or Territory;
 - (b) a body, whether incorporated or not, established by or under a law of the State or Territory.
- (3) An arrangement under subsection (2) may provide for the Commonwealth to reimburse the appropriate authority of a State or Territory with respect to the services of a person to whom the arrangement relates.

Directions of the Registrar

- (4) In assisting the Registrar in the performance of the Registrar's functions, a person to whom an arrangement under subsection (1) or (2) relates is subject to the directions of the Registrar.

47 Consultants

- (1) The Registrar may, on behalf of the Commonwealth, engage consultants to assist in the performance of the Registrar's functions.
- (2) The consultants are to be engaged on the terms and conditions that the Registrar determines in writing.

Division 4—Special Account

48 Student Identifiers Special Account

- (1) The Student Identifiers Special Account is established by this section.
- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

49 Credits to the Account

There must be credited to the Account amounts equal to the following:

- (a) amounts allocated by the Ministerial Council in accordance with the National Agreement for Skills and Workforce Development between the Commonwealth, States and Territories, as in force from time to time;
- (b) amounts received by the Commonwealth in connection with the performance of the Registrar's functions;
- (c) interest received by the Commonwealth from the investment of amounts debited from the Account;
- (d) amounts of any gifts given or bequests made for the purposes of the Account.

Note 1: An Appropriation Act may contain a provision to the effect that, if any of the purposes of a Special Account is a purpose that is covered by an item in the Appropriation Act (whether or not the item expressly refers to the Special Account), then amounts may be debited against the appropriation for that item and credited to that Special Account.

Note 2: Amounts standing to the credit of the Account may be invested under section 39 of the *Financial Management and Accountability Act 1997*, but such investments may only be made by the Finance Minister, the Treasurer, or a delegate under section 62 or 62A of that Act.

50 Purposes of the Account

The purposes of the Account are as follows:

- (a) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in the performance of the Registrar's functions;
- (b) paying any remuneration and allowances payable to any person under this Act;
- (c) meeting the expenses of administering the Account.

Note: See section 21 of the *Financial Management and Accountability Act 1997* (debits from Special Accounts).

Division 5—Annual report

51 Annual report

- (1) The Registrar must, as soon as practicable after the end of each financial year, prepare and give to the Commonwealth Minister, for presentation to the Parliament, a report on the operations of the Registrar during that year.

Note: See also section 34C of the *Acts Interpretation Act 1901*, which contains extra rules about annual reports.

- (2) The Registrar must give a copy of the report to the Ministerial Council at the same time as the report is presented to the Parliament.
- (3) If this section does not commence at the start of a financial year, the period:
 - (a) starting at the commencement of this section; and
 - (b) ending at the end of the first 30 June after that commencement;is taken, for the purposes of this section, to be a financial year.

Part 5—Other matters

52 Simplified outline of this Part

Generally, a registered training organisation must not issue a VET qualification or VET statement of attainment to an individual after 2014 unless the individual has a student identifier.

The Commonwealth Minister may exempt a public body of a State or Territory from rules in this Act prohibiting unauthorised collection, use and disclosure of an individual's student identifier without the individual's consent if:

- (a) the Minister is satisfied that equivalent State or Territory rules apply to the body; and
- (b) a Minister of the State or Territory has asked for the exemption; and
- (c) the Ministerial Council agrees to the exemption.

This Act does not limit rights under other laws and does not limit State and Territory laws that can operate concurrently with this Act.

This Part also contains other rules about the constitutional scope of this Act and about making regulations.

53 Issue of VET qualifications etc.

- (1) A registered training organisation must not issue either of the following to an individual unless the individual has been assigned a student identifier:
 - (a) a VET qualification (within the meaning of the *National Vocational Education and Training Regulator Act 2011*);
 - (b) a VET statement of attainment (within the meaning of that Act).

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- (2) Subsection (1) does not apply to an issue specified under subsection (3).
- (3) The Commonwealth Minister may, by legislative instrument, specify an issue to which subsection (1) does not apply, by reference to one or more of the following:
 - (a) the registered training organisation doing the issuing;
 - (b) the VET qualification, or VET statement of attainment, being issued;
 - (c) the individual to whom the VET qualification, or VET statement of attainment, is being issued.

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (4) Before making an instrument under subsection (3), the Commonwealth Minister must obtain the agreement of the Ministerial Council to the making of the instrument.

54 Saving of other laws and remedies

- (1) This Act is not intended to exclude or limit the operation of a law of a State or Territory that is capable of operating concurrently with this Act.
- (2) Nothing in this Act limits, restricts or otherwise affects any right or remedy that a person would have had if this Act had not been enacted.

55 Disapplication of Division 5 of Part 2

- (1) Division 5 of Part 2 does not apply to a public body of a State or Territory if a declaration made under subsection (2) is in force in relation to the body.
- (2) The Commonwealth Minister may, in writing, declare that Division 5 of Part 2 does not apply to a public body of a State or Territory if:
 - (a) a Minister of the State or Territory requests, by written notice, the Commonwealth Minister to make the declaration; and

- (b) the Commonwealth Minister is satisfied that a corresponding law of a State or Territory is in force in the State or Territory and the law applies to the body; and
 - (c) the Ministerial Council agrees to the making of the declaration.
- (3) The Commonwealth Minister may, in writing, revoke a declaration made under subsection (2) in relation to a public body of a State or Territory if:
- (a) a Minister of the State or Territory requests, by written notice, the Commonwealth Minister to do so; or
 - (b) both of the following apply:
 - (i) the Commonwealth Minister is satisfied that a corresponding law of a State or Territory is no longer in force in the State or Territory or no longer applies to the body;
 - (ii) the Ministerial Council agrees to the revocation of the declaration.
- (4) A declaration under subsection (2), and a revocation of a declaration under subsection (3), are legislative instruments, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the declaration or revocation.

56 Severability

- (1) Without limiting its effect apart from each of the following subsections of this section, this Act also has effect as provided by that subsection.
- (2) This Act also has the effect it would have if its operation were expressly confined to matters:
 - (a) in relation to which the Commonwealth is under an obligation under an international agreement, including Article 17 of the International Covenant on Civil and Political Rights, done at New York on 16 December 1966; or
 - (b) that are of international concern, including the matters dealt with in paragraphs 9, 10 and 11 of the Guidelines governing

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the Protection of Privacy and Transborder Flows of Personal Data, recommended by the Council of the Organisation for Economic Co-operation and Development on 11 July 2013.

Note 1: The Covenant is in Australian Treaty Series 1980 No. 23 ([1980] ATS 23) and could in 2014 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Note 2: The Guidelines could in 2014 be viewed on the Organisation for Economic Co-operation and Development website (<http://www.oecd.org>).

- (3) This Act also has the effect it would have if its operation were expressly confined to acts or omissions that occur outside Australia.
- (4) This Act also has the effect it would have if its operation were expressly confined to entities that are corporations to which paragraph 51(xx) of the Constitution applies.
- (5) This Act also has the effect it would have if its operation were expressly confined to acts or omissions that relate to aliens.
- (6) This Act also has the effect it would have if its operation were expressly confined to acts or omissions done for purposes relating to census or statistics.
- (7) This Act also has the effect it would have if its operation were expressly confined to acts done using a postal, telegraphic, telephonic or other like service.
- (8) This Act also has the effect it would have if its operation were expressly confined to acts or omissions done in connection with the provision of benefits to students.
- (9) This Act also has the effect it would have if its operation were expressly confined to acts or omissions that occur in a Territory.
- (10) This Act also has the effect it would have if its operation were expressly confined to acts or omissions done in the course of trade or commerce:
 - (a) between Australia and other countries; or
 - (b) among the States; or

(c) between a Territory and a State or another Territory.

(11) A term used in this section and the Constitution has the same meaning in this section as it has in the Constitution.

57 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Before the Governor-General makes regulations under subsection (1), the Commonwealth Minister must obtain the agreement of the Ministerial Council to the making of the regulations.
- (3) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, the regulations made under subsection (1) of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a matter contained in an instrument or other writing as in force or existing from time.

*[Minister's second reading speech made in—
House of Representatives on 27 March 2014
Senate on 16 June 2014]*

(71/14)
