



National Vocational Education and Training Regulator Amendment Act 2015

No. 32, 2015

**An Act to amend the *National Vocational Education
and Training Regulator Act 2011*, and for other
purposes**

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

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National Vocational Education and Training Regulator Amendment Act 2015

No. 32, 2015

**An Act to amend the *National Vocational Education
and Training Regulator Act 2011*, and for other
purposes**

[Assented to 2 April 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *National Vocational Education and Training Regulator Amendment Act 2015*.

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
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	2 April 2015
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	3 April 2015

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Vocational education and training

Part 1—Advertising or offering VET courses

National Vocational Education and Training Regulator Act 2011

1 Section 3

Insert:

registration code, of a registered training organisation, means the code (however described) included on the National Register in respect of the organisation.

2 At the end of section 8

Add:

- (6) In addition to its effect apart from this subsection, this Act also has the effect it would have if each reference to a person in Subdivisions B and C of Division 1 of Part 6, other than section 131, were, by express provision, confined to a trading corporation.

3 After section 123

Insert:

123A Offence—advertising or offering VET course without identifying issuer of VET qualification or statement of attainment

A person commits an offence if:

- (a) the person:
- (i) publishes or broadcasts, or continues to publish or broadcast, an advertisement relating to all or part of a VET course; or
 - (ii) causes an advertisement relating to all or part of a VET course to be published or broadcast, or causes such an

- advertisement to continue to be published or broadcast;
or
- (iii) offers to provide, or continues to offer to provide, all or part of a VET course; or
 - (iv) makes a representation, or continues to make a representation, about the availability of all or part of a VET course; and
- (b) the advertisement, offer or representation does not include the name and registration code of the registered training organisation that will issue a VET qualification or VET statement of attainment relating to the VET course or the part of the VET course.

Note: For the liability of an executive officer of a registered training organisation, see sections 133 and 133A.

Penalty: 60 penalty units.

123B Civil penalty—advertising or offering VET course without identifying issuer of VET qualification or statement of attainment

A person contravenes this section if:

- (a) the person:
 - (i) publishes or broadcasts, or continues to publish or broadcast, an advertisement relating to all or part of a VET course; or
 - (ii) causes an advertisement relating to all or part of a VET course to be published or broadcast, or causes such an advertisement to continue to be published or broadcast; or
 - (iii) offers to provide, or continues to offer to provide, all or part of a VET course; or
 - (iv) makes a representation, or continues to make a representation, about the availability of all or part of a VET course; and
- (b) the advertisement, offer or representation does not include the name and registration code of the registered training organisation that will issue a VET qualification or VET

statement of attainment relating to the VET course or the part
of the VET course.

Civil penalty: 120 penalty units.

4 Section 133A (after table item 12)

Insert:

12A Section 123A

5 After section 233

Insert:

**233A Failure to publish or broadcast advertisement or make offer
or representation not actionable if Act would be
contravened**

No action of any kind lies in any court against a person for refusing
or failing to publish or broadcast an advertisement, or make an
offer or representation, if the publishing or broadcasting of the
advertisement or the making of the offer or representation is
prohibited by this Act.

Part 2—Period of registration

*National Vocational Education and Training Regulator Act
2011*

6 Subsection 17(5)

Omit “5 years”, substitute “7 years”.

Part 3—Quality Standards

National Vocational Education and Training Regulator Act 2011

7 Section 3

Insert:

Quality Standards has the meaning given by section 231A.

8 Section 3 (after paragraph (a) of the definition of VET Quality Framework)

Insert:

(aa) the Quality Standards;

9 After subsection 22(1)

Insert:

(1A) An NVR registered training organisation must comply with the Quality Standards.

10 After Division 3 of Part 12

Insert:

Division 3A—Quality standards

231A Quality Standards

- (1) The Minister may, by legislative instrument, make standards relating to quality in the VET sector.
- (2) The standards are to be known as the *Quality Standards*.

Part 4—Operational improvements

Division 1—Disclosure of VET information

National Vocational Education and Training Regulator Act 2011

11 Section 3 (definition of VET information)

Repeal the definition, substitute:

VET information means information that is held by the National VET Regulator and relates to the performance of the Regulator's functions, including information and documents collected by the Regulator in the course of:

- (a) the exercise of a power, or the performance of a function, under this Act; or
- (b) the administration of this Act.

12 Section 205A

Repeal the section, substitute:

205A Disclosing information to certain government bodies etc.

- (1) The National VET Regulator may disclose VET information to:
 - (a) a Commonwealth authority, or a State or Territory authority, if the Regulator is satisfied that the disclosure is necessary to enable or assist the authority to perform or exercise any of the authority's functions or powers; or
 - (b) a Royal Commission.
- (2) If the National VET Regulator discloses personal information under subsection (1) to a Royal Commission, the Regulator must advise the person about whom the information is disclosed, by notice in writing, of:
 - (a) the disclosure; and
 - (b) the details of the personal information disclosed.

Division 2—Directions to rectify breaches of conditions

National Vocational Education and Training Regulator Act 2011

13 After Subdivision A of Division 3 of Part 2

Insert:

Subdivision AA—Directions to rectify breaches of conditions

35A Directions to rectify breaches of conditions

- (1) If the National VET Regulator is satisfied that it is appropriate to do so, the Regulator may give a written direction to an NVR registered training organisation requiring the organisation to rectify a breach of a condition of the organisation's registration.
- (2) In determining whether it is appropriate to give a direction under this section to an NVR registered training organisation, the National VET Regulator may have regard to the organisation's conduct, or circumstances existing, before the Regulator had cause to consider giving the direction (including before the commencement of this section).
- (3) To avoid doubt, the National VET Regulator may take action, or cause action to be taken, under Part 6 (which deals with enforcement) in addition to, or instead of, giving a direction under this section.

14 Paragraph 36(2)(a)

Repeal the paragraph.

Division 3—Requests for information, documents or things

*National Vocational Education and Training Regulator Act
2011*

15 Section 62 (heading)

Repeal the heading, substitute:

62 Requests for information, documents or things

16 Subsection 62(1)

After “former registered training organisation”, insert “, or with an organisation that holds itself out, or has at any time held itself out, as such an organisation”.

Division 4—VET Quality Framework

*National Vocational Education and Training Regulator Act
2011*

17 Paragraph 209(1)(c)

Omit “Australian Qualifications Framework”, substitute “VET Quality Framework”.

Part 5—Administrative changes

Division 1—Registered training organisations

National Vocational Education and Training Regulator Act 2011

18 Section 3 (at the end of the definition of *registered training organisation*)

Add:

Note: VET Regulators list training organisations on the National Register.

Division 2—Issuing officer

National Vocational Education and Training Regulator Act 2011

19 Section 3 (at the end of the definition of *issuing officer*)

Add:

; or (c) a person employed in a court of a State or Territory who is authorised under a law to issue search warrants.

Division 3—Ministerial Council

National Vocational Education and Training Regulator Act 2011

20 Section 3 (definition of *Ministerial Council*)

Repeal the definition, substitute:

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.

Division 4—Reviewable decisions

National Vocational Education and Training Regulator Act 2011

21 Section 199

Repeal the section, substitute:

199 Reviewable decisions

For the purposes of this Act, each of the following decisions of the National VET Regulator is a *reviewable decision*:

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
1	A decision to grant an application for registration (including renewal of registration) as an NVR registered training organisation.	Section 17
2	A decision to reject an application for registration (including renewal of registration) as an NVR registered training organisation.	Section 17
3	A decision determining the period for which an NVR registered training organisation is registered.	Section 17
4	A decision to impose a condition on an NVR registered training organisation's registration.	Section 29
5	A decision to vary a condition of an NVR registered training organisation's registration.	Section 29
6	A decision not to determine a shorter period for making an application for renewal of registration as an NVR registered training organisation.	Section 31
7	A decision to change, or refuse to change, an NVR registered training organisation's scope of registration.	Section 33
8	A decision to give a written direction to an NVR registered training organisation requiring the	Section 35A

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
	organisation to rectify a breach of a condition of the organisation's registration.	
9	A decision to give a written direction to an NVR registered training organisation requiring the organisation to notify its VET students, in writing, of a matter set out in the direction.	Section 36
10	A decision to shorten the period of an NVR registered training organisation's registration.	Section 36
11	A decision to amend an NVR registered training organisation's scope of registration.	Section 36
12	A decision to suspend all or part of an NVR registered training organisation's scope of registration.	Section 38
13	A decision to cancel an NVR registered training organisation's registration.	Section 39
14	A decision to defer making a decision to change an NVR registered training organisation's scope of registration until the organisation addresses issues identified by the National VET Regulator.	Section 41
15	A decision not to allow an NVR registered training organisation's registration to be withdrawn.	Section 42
16	A decision to grant an application for accreditation of a course (including renewal of accreditation) as a VET accredited course.	Section 44
17	A decision to reject an application for accreditation of a course (including renewal of accreditation) as a VET accredited course.	Section 44
18	A decision to impose a condition on the accreditation of a VET accredited course.	Section 48
19	A decision to vary a condition of the accreditation of a VET accredited course.	Section 48
20	A decision to amend a VET accredited course.	Section 51
21	A decision to cancel the accreditation of a VET	Section 52

Schedule 1 Vocational education and training
Part 5 Administrative changes

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
	accredited course.	
22	A decision to issue, or not issue, a VET qualification.	Section 55
23	A decision to issue, or not issue, a VET statement of attainment.	Section 55
24	A decision to cancel, or not cancel, a VET qualification.	Section 56
25	A decision to cancel, or not cancel, a VET statement of attainment.	Section 56
26	A decision to enter other matters on the National Register.	Section 216

Division 5—Self-incrimination

National Vocational Education and Training Regulator Act 2011

22 Paragraphs 65(2)(e) and (f)

Repeal the paragraphs, substitute:

- (e) civil proceedings for a contravention of a civil penalty provision; or
- (f) criminal proceedings, other than:
 - (i) proceedings for an offence against section 64; or
 - (ii) proceedings for an offence against section 137.1 or 137.2 of the *Criminal Code* (which deals with false or misleading information or documents) that relates to this Act; or
 - (iii) proceedings for an offence against section 149.1 of the *Criminal Code* (which deals with obstruction of Commonwealth public officials) that relates to this Act.

Schedule 2—Transitional provisions

National Vocational Education and Training Regulator (Transitional Provisions) Act 2011

1 Schedule 1 (heading)

Repeal the heading, substitute:

Schedule 1—Transitional provisions relating to the National Vocational Education and Training Regulator Act 2011 as originally enacted

2 At the end of the Act

Add:

Schedule 2—Transitional provisions relating to the National Vocational Education and Training Regulator Amendment Act 2015

1 Definitions

In this Schedule:

Amending Act means the *National Vocational Education and Training Regulator Amendment Act 2015*.

Principal Act means the *National Vocational Education and Training Regulator Act 2011*.

2 Interpretation

An expression used in this Schedule that is also used in the Principal Act has the same meaning in this Schedule as it has in the Principal Act.

3 Application of amendment made by item 3—certain pre-existing publications

The amendment made by item 3 of Schedule 1 to the Amending Act does not apply, on or after the commencement of this item, to the display of an advertisement, offer or representation in a publication that:

- (a) was published before the commencement of this item; and
- (b) is not reasonably practicable to alter.

4 Application of amendment made by item 6

The amendment made by item 6 of Schedule 1 to the Amending Act applies to the grant, on or after the commencement of this item, of an application for registration, including renewal of registration, whether the application was made before, on or after that commencement.

5 Application of amendments made by items 13 and 14

- (1) This item applies if, before the commencement of this item, the National VET Regulator had given an NVR registered training organisation a written notice under section 37 of the Principal Act stating that the Regulator intended to make a decision to give the organisation a direction mentioned in paragraph 36(2)(a) of that Act.
- (2) Despite the amendments made by items 13 and 14 of Schedule 1 to the Amending Act, sections 36 and 37 of the Principal Act continue to apply, in relation to the making of that decision, as if those amendments had not been made.

6 Application of amendment made by item 21

The amendment made by item 21 of Schedule 1 to the Amending Act applies to a decision made before, on or after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 25 February 2015
Senate on 5 March 2015]*

(20/15)
