



National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Act 2017

No. 66, 2017

***An Act to amend the *National Vocational Education
and Training Regulator (Charges) Act 2012*, and for
related purposes***

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 66, 2017

***An Act to amend the *National Vocational Education
and Training Regulator (Charges) Act 2012*, and for
related purposes***

[Assented to 23 June 2017]

The Parliament of Australia enacts:

No. 66, 2017

*National Vocational Education and Training Regulator (Charges)
Amendment (Annual Registration Charge) Act 2017*

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1 Short title

This Act is the *National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Act 2017*.

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.	23 June 2017
2. Schedule 1	At the same time as Schedule 1 to the <i>National Vocational Education and Training Regulator Amendment (Annual Registration Charge) Act 2017</i> commences. However, the provisions do not commence at all if that Schedule does not commence.	1 July 2017

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Amendments

National Vocational Education and Training Regulator (Charges) Act 2012

1 Title

Repeal the title, substitute:

An Act to impose charges in relation to certain functions of the National VET Regulator, and for related purposes

2 After Part 1

Insert:

Part 1A—National VET Regulator annual registration charge

6A Imposition of charge

A National VET Regulator annual registration charge determined under section 6B is imposed by this section, and is so imposed as a tax.

6B Determination of charge

- (1) The Minister may, by legislative instrument, determine an amount of National VET Regulator annual registration charge for a financial year, or a method for working out such an amount, payable by a person to whom section 232A of the *National Vocational Education and Training Regulator Act 2011* applies, for the purposes of that section.

Note 1: Section 232A of the *National Vocational Education and Training Regulator Act 2011* applies to persons registered under that Act as NVR registered training organisations, and to persons registered under the *Education Services for Overseas Students Act 2000* as registered providers for whom the National VET Regulator is the ESOS agency

(within the meaning of that Act). If registered under each of those Acts, the person is liable to pay a charge for each registration.

- Note 2: Different amounts of charge might be determined in different circumstances, for example:
- (a) depending on the number of qualifications offered by a person liable to pay the charge; or
 - (b) for registration under the *National Vocational Education and Training Regulator Act 2011* and the *Education Services for Overseas Students Act 2000*.

See subsection 33(3A) of the *Acts Interpretation Act 1901*.

- (2) Before determining an amount of charge, or a method for working out such an amount, under subsection (1):
 - (a) the Minister must be satisfied that the determination will result in recovering no more than the Commonwealth's likely costs incurred by the National VET Regulator in performing its functions; and
 - (b) the Minister must get the Ministerial Council's agreement to the amount of the charge or to the method.

Note: The Ministerial Council's prior agreement is also required to the amount of certain fees determined under section 232 of the *National Vocational Education and Training Regulator Act 2011*.

- (3) Despite subsection 44(1) of the *Legislation Act 2003*, section 42 of that Act (disallowance of legislative instruments) applies to a legislative instrument made under subsection (1) of this section.

6C Validation of annual registration fees charged for the purposes of the *National Vocational Education and Training Regulator Act 2011*

- (1) This section applies to each amount of an annual registration fee that a person was, before the commencement of this section, purportedly required to pay for the purposes of the *National Vocational Education and Training Regulator Act 2011*, to the extent that the fee could not validly be determined under an ASQA determination.
- (2) By force of this section, a charge of an equal amount is taken to have been imposed on the person, and to have been so imposed as a tax.

- (3) The amount of the charge for which the person is liable is:
- (a) reduced by:
 - (i) the sum of any amounts in relation to the purported fee that have been waived under an ASQA determination; and
 - (ii) the sum of any amounts paid by the person on account of the purported fee and not subsequently refunded or remitted to the person; and
 - (b) increased by so much of the sum of the amounts paid by the person on account of the purported fee as the person recovers from the Commonwealth.
- (4) An **annual registration fee** is a fee in relation to a financial year, payable by a person for the purposes of the *National Vocational Education and Training Regulator Act 2011*:
- (a) for registration under that Act as an NVR registered training organisation; or
 - (b) for registration under the *Education Services for Overseas Students Act 2000* as a registered provider.
- (5) An **ASQA determination** is a determination made before the commencement of this section under subsection 232(1) of the *National Vocational Education and Training Regulator Act 2011* (as that subsection was in force at any time before the commencement of this section).

Note: See the *Australian Skills Quality Authority instrument fixing fees No. 1 of 2011* and the *Australian Skills Quality Authority Instrument Fixing Fees No. 1 of 2013*.

3 Paragraph 13(a)

Omit “payable”.

4 Paragraph 13(b)

Omit “that would otherwise be payable”.

*[Minister's second reading speech made in—
House of Representatives on 30 March 2017
Senate on 20 June 2017]*

(72/17)

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