



# **National Vocational Education and Training Regulator Amendment Act 2020**

**No. 10, 2020**

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

*[Assented to 26 February 2020]*

The Parliament of Australia enacts:

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*No. 10, 2020      National Vocational Education and Training Regulator Amendment      1*  
*Act 2020*

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## 1 Short title

This Act is the *National Vocational Education and Training Regulator Amendment Act 2020*.

## 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.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	26 February 2020
2. Schedule 1	1 July 2020.	1 July 2020
3. Schedules 2 and 3	The day after this Act receives the Royal Assent.	27 February 2020

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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Main amendments**

### ***National Vocational Education and Training Regulator Act 2011***

#### **1 Section 3**

Insert:

***audit report rules*** has the meaning given by section 231B.

***information technology requirements*** includes software requirements.

***National Centre for Vocational Education Research*** means National Centre for Vocational Education Research Ltd (ACN 007 967 311) or any successor of that body.

***tuition assurance scheme operator*** means a person or body who operates a scheme approved by the National VET Regulator for the purposes of requirements that:

- (a) are set out in the Standards for NVR Registered Training Organisations; and
- (b) relate to the protection of fees for courses that an NVR registered training organisation is unable to provide.

#### **2 Section 3 (paragraphs (b) and (c) of the definition of *VET course*)**

Before “modules”, insert “units of competency or”.

#### **3 After section 17**

Insert:

##### **17A Requirements for audits conducted in relation to applications for registration**

- (1) The National VET Regulator must prepare a report of an audit conducted under subsection 17(3) in relation to an application for registration.

- (2) The report must:
  - (a) be in a form (if any) approved by the Minister; and
  - (b) comply with the requirements (if any) prescribed by the audit report rules for the purposes of this paragraph.
- (3) The report must not include personal information, unless the personal information is the name of:
  - (a) the applicant; or
  - (b) an NVR registered training organisation.
- (4) The National VET Regulator must comply with the requirements (if any) prescribed by the audit report rules relating to the publication of the report.

#### **4 Subparagraph 20(1)(a)(i)**

Repeal the subparagraph, substitute:

- (i) if it is a renewal of registration—in accordance with paragraph 31(3B)(b); or

#### **5 Paragraph 20(1)(b)**

Omit “subsection (2)”, substitute “subsections (2) and 31(3) and paragraph 36(2)(c)”.

#### **6 Subsection 20(1) (note)**

Repeal the note, substitute:

Note: Subsection 31(3) provides for a registration to continue in force if a decision is not made on a renewal application until after the registration would otherwise expire. Paragraph 36(2)(c) allows the National VET Regulator to shorten the period of a registration, as a sanction.

#### **7 After section 22**

Insert:

#### **22A Condition—commitment and capability to deliver quality vocational education and training**

An NVR registered training organisation must demonstrate a commitment, and the capability, to deliver quality vocational education and training.

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**8 Paragraph 25(1)(a)**

After “event occurs”, insert “, or is likely to occur,”.

**9 Paragraph 25(1)(c)**

After “there are”, insert “, or are likely to be,”.

**10 Section 26 (heading)**

After “**information**”, insert “**etc.**”.

**11 At the end of subsection 26(1)**

Add “, so long as the organisation is capable of complying with the request”.

**12 Subsection 26(2)**

After “A notice”, insert “under subsection (1)”.

**13 Subsection 26(2)**

After “period within which”, insert “, and the manner in which,”.

**14 At the end of section 26**

Add:

*Production of documents*

- (3) An NVR registered training organisation must produce to the National VET Regulator such documents as the Regulator requests, by notice in writing, for the purposes of this Act, so long as the organisation is capable of complying with the request.
- (4) A notice under subsection (3) must specify the period within which, and the manner in which, the documents are to be produced.

**15 After section 26**

Insert:

**26A Copies of documents**

The National VET Regulator may:

- (a) inspect a document produced under subsection 26(3); and

- (b) make and retain copies of, or take and retain extracts from, such a document.

**26B National VET Regulator may retain documents**

- (1) The National VET Regulator may take, and retain for as long as is necessary, possession of a document produced under subsection 26(3).
- (2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the National VET Regulator to be a true copy.
- (3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
- (4) Until a certified copy is supplied, the National VET Regulator must, at such times and places as the Regulator thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

**16 At the end of section 28**

Add:

- (3) A general direction under subsection (1) is a legislative instrument.
- (4) Despite anything in section 44 of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a general direction.
- (5) Despite anything in section 54 of the *Legislation Act 2003*, Part 4 of Chapter 3 (sunsetting) of that Act applies to a general direction.

**17 Subsection 29(2)**

After “may vary”, insert “or remove”.

**18 Section 30**

Before “The National VET Regulator”, insert “(1)”.

**19 At the end of section 30**

Add:

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- (2) The period for which the condition is imposed:
- (a) may be a period specified in the notice; or
  - (b) may be a period ascertained in accordance with the notice.
- (3) The National VET Regulator must, within 30 days of its decision to remove a condition on an NVR registered training organisation's registration, notify the organisation, in writing, of:
- (a) the decision; and
  - (b) the reasons for the decision.

Note: Details of conditions imposed on an NVR registered training organisation's registration are included on the National Register: see section 216.

## **20 Subsection 31(3)**

Repeal the subsection, substitute:

- (3) If an NVR registered training organisation's registration would, apart from this subsection, expire before the organisation's application is decided, then the organisation's registration is taken to continue in force until:
- (a) if the organisation's application is refused—the refusal takes effect; or
  - (b) if the organisation's registration is renewed in response to the organisation's application—the start of the day after the application is decided.
- (3A) If an NVR registered training organisation's application for renewal is refused:
- (a) the National VET Regulator must notify the organisation of the refusal; and
  - (b) the refusal takes effect:
    - (i) at the start of the day after the day on which the notice of refusal is given to the organisation; or
    - (ii) at the start of such later day as is specified in the notice.
- (3B) If the National VET Regulator decides to renew an NVR registered training organisation's registration in response to the organisation's application:
- (a) the Regulator must determine the period for which the organisation is registered as a result of the renewal; and

- (b) the renewed registration commences at the start of the day after:
  - (i) the day on which the organisation's previous registration expires (subject to subparagraph (ii)); or
  - (ii) if the organisation's previous registration was continued in force under subsection (3)—the day on which the previous registration would have expired except for the operation of that subsection.

(3C) A period determined under paragraph (3B)(a) must not be more than 7 years.

## **21 Before subsection 35(1)**

Insert:

*Compliance audits*

## **22 After subsection 35(1)**

Insert:

- (1A) The National VET Regulator must prepare a report of a compliance audit.
- (1B) The report must:
  - (a) be in a form (if any) approved by the Minister; and
  - (b) comply with the requirements (if any) prescribed by the audit report rules for the purposes of this paragraph.
- (1C) The report must not include personal information, unless the personal information is the name of the NVR registered training organisation to which the report relates.
- (1D) The National VET Regulator must comply with the requirements (if any) prescribed by the audit report rules relating to the publication of the report.

*Reviewing or examining an NVR registered training organisation's operations*

**23 Subsection 38(1)**

After “organisation’s scope of registration”, insert “for a period specified in, or ascertained in accordance with, the notice”.

**24 At the end of section 39**

Add:

- (4) If an NVR registered training organisation’s registration is cancelled under subsection (1), the cancellation takes effect:
  - (a) at the start of the day after the day on which the notice of cancellation is given to the organisation; or
  - (b) at the start of such later day as is specified in the notice.

**25 Subparagraph 46(1)(a)(i)**

Repeal the subparagraph, substitute:

- (i) if it is a renewal of the course’s accreditation as a VET accredited course—in accordance with paragraph 50(3B)(b); or

**26 Paragraph 46(1)(b)**

Omit “subsection (2)”, substitute “subsections (2) and 50(3)”.

**27 At the end of subsection 46(1)**

Add:

Note: Subsection 50(3) provides for the accreditation of a VET accredited course to continue in force if a decision is not made on a renewal application until after the accreditation would otherwise expire.

**28 Section 47**

Repeal the section, substitute:

**47 Complying with conditions**

A person in respect of whom a VET accredited course is accredited must:

- (a) comply with the conditions set out in sections 47A, 47B and 47C; and
- (b) comply with any conditions imposed on the accreditation of the VET accredited course under subsection 48(1).

Note: Failure to comply with a condition is a contravention of a civil penalty provision: see section 130.

**47A Condition—compliance with Standards for VET Accredited Courses**

A person in respect of whom a VET accredited course is accredited must ensure that the course meets the Standards for VET Accredited Courses.

**47B Condition—compliance with Australian Qualifications Framework**

A person in respect of whom a VET accredited course is accredited must ensure that the course meets the Australian Qualifications Framework.

**47C Condition—compliance with directions given by the National VET Regulator**

- (1) A person in respect of whom a VET accredited course is accredited must comply with:
  - (a) any general directions given by the National VET Regulator, in writing, to persons on the way in which VET accredited courses are to meet the Standards for VET Accredited Courses; and
  - (b) any general directions given by the National VET Regulator, in writing, to persons on the way in which VET accredited courses are to meet the Australian Qualifications Framework.
- (2) The National VET Regulator must publish a general direction on its website.
- (3) A general direction under subsection (1) is a legislative instrument.
- (4) Despite anything in section 44 of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a general direction.

- (5) Despite anything in section 54 of the *Legislation Act 2003*, Part 4 of Chapter 3 (sunsetting) of that Act applies to a general direction.

**29 Subsection 48(2)**

After “may vary”, insert “or remove”.

**30 Section 49**

Before “The National VET Regulator”, insert “(1)”.

**31 At the end of section 49**

Add:

- (2) The period for which the condition is imposed:
- (a) may be a period specified in the notice; or
  - (b) may be a period ascertained in accordance with the notice.
- (3) The National VET Regulator must, within 30 days of its decision to remove a condition on the accreditation of a VET accredited course, notify the person in respect of whom the course is accredited, in writing, of:
- (a) the decision; and
  - (b) the reasons for the decision.

Note: Details of conditions imposed on the accreditation of a VET accredited course are included on the National Register: see section 216.

**32 Subsection 50(3)**

Repeal the subsection, substitute:

- (3) If the accreditation of a VET accredited course would, apart from this subsection, expire before the person’s application is decided, then the course’s accreditation is taken to continue in force until:
- (a) if the person’s application is refused—the refusal takes effect; or
  - (b) if the accreditation of the VET accredited course is renewed in response to the person’s application—the start of the day after the application is decided.

- (3A) If an application for renewal of the accreditation of a VET accredited course by the person in respect of whom the course is accredited is refused:
- (a) the National VET Regulator must notify the person of the refusal; and
  - (b) the refusal takes effect:
    - (i) at the start of the day after the day on which the notice of refusal is given to the person; or
    - (ii) at the start of such later day as is specified in the notice.
- (3B) If the National VET Regulator decides to renew the accreditation of a VET accredited course in response to an application by the person in respect of whom the course is accredited:
- (a) the Regulator must determine the period for which the course is accredited as a result of the renewal; and
  - (b) the renewed accreditation commences at the start of the day after:
    - (i) the day on which the course's previous accreditation expires (subject to subparagraph (ii)); or
    - (ii) if the course's previous accreditation was continued in force under subsection (3)—the day on which the course's previous accreditation would have expired except for the operation of that subsection.
- (3C) A period determined under paragraph (3B)(a) must not be more than 5 years.

### **33 Subsection 56(2)**

Omit “However, the National VET Regulator may only”, substitute “The National VET Regulator may”.

### **34 After subsection 56(3)**

Insert:

- (3A) If the National VET Regulator believes on reasonable grounds that, if the Regulator were to give a direction under subsection (2) to an NVR registered training organisation in connection with a VET qualification or VET statement of attainment, the organisation would not comply with the direction, the Regulator may take
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action under subsection (1) in relation to the organisation in connection with the qualification or statement.

**35 At the end of section 56**

Add:

- (5) The National VET Regulator must not take action under subsection (1) unless the action is covered by subsection (2), (3A) or (4).

**36 At the end of Subdivision B of Division 2 of Part 4**

Add:

**61A Civil penalty—failure to comply with direction under subsection 56(2)**

An NVR registered training organisation contravenes this section if:

- (a) the organisation is given a direction under subsection 56(2); and  
(b) the organisation fails to comply with the direction within the period specified in the direction.

Civil penalty: 100 penalty units.

**37 After subsection 116(1)**

Insert:

- (1A) Subsection (1) does not apply to the provision by a person of all or part of a VET course if the person does so on behalf of an NVR registered training organisation in accordance with a written agreement between the person and the NVR registered training organisation.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

**38 At the end of section 116**

Add:

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- (3) Subsection (2) does not apply to the provision by a person of all or part of a VET course if the person does so on behalf of an NVR registered training organisation in accordance with a written agreement between the person and the NVR registered training organisation.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see subsection 13.3(3) of the *Criminal Code*.

### **39 After subsection 117(1)**

Insert:

- (1A) Subsection (1) does not apply to the provision by a person of all or part of a VET course if the person does so on behalf of an NVR registered training organisation in accordance with a written agreement between the person and the NVR registered training organisation.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see section 96 of the *Regulatory Powers (Standard Provisions) Act 2014*.

### **40 At the end of section 117**

Add:

- (3) Subsection (2) does not apply to the provision by a person of all or part of a VET course if the person does so on behalf of an NVR registered training organisation in accordance with a written agreement between the person and the NVR registered training organisation.

Note: A defendant bears an evidential burden in relation to the matter in this subsection: see section 96 of the *Regulatory Powers (Standard Provisions) Act 2014*.

### **41 After subsection 146(1)**

Insert:

- (1A) The National VET Regulator may accept a written undertaking given by a person in connection with a matter relating to this Act.

**42 Subsections 146(2) and (3)**

Omit “The”, substitute “If a person has given an undertaking under subsection (1) or (1A), the”.

**43 Subsection 146(4)**

Omit “the undertaking”, substitute “an undertaking given under subsection (1) or (1A)”.

**44 After subsection 155(1)**

Insert:

(1A) The National VET Regulator may also be known as the Australian Skills Quality Authority.

**45 Subparagraph 157(1)(q)(ii)**

Omit “or any other law of the Commonwealth;”, substitute “; or”.

**46 At the end of paragraph 157(1)(q)**

Add:

- (iii) the *Higher Education Support Act 2003*; or
- (iv) the *VET Student Loans Act 2016*; or
- (v) any other law of the Commonwealth;

**47 Subsection 158(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, ***Financial Viability Risk Assessment Requirements*** means requirements under subsection (1).

**48 At the end of section 158**

Add:

- (4) Despite anything in section 44 of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to Financial Viability Risk Assessment Requirements.
- (5) Despite anything in section 54 of the *Legislation Act 2003*, Part 4 of Chapter 3 (sunsetting) of that Act applies to Financial Viability Risk Assessment Requirements.

**49 Subsection 160(1)**

Omit all the words from and including “a direction” to and including “VET sector”, substitute “directions to the National VET Regulator in relation to the performance of its functions and the exercise of its powers”.

**50 Subsection 185(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Standards for NVR Registered Training Organisations* means standards under subsection (1).

**51 Subsection 186(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Fit and Proper Person Requirements* means requirements under subsection (1).

**52 Subsection 187(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Data Provision Requirements* means requirements under subsection (1).

**53 Subsection 188(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Standards for VET Accredited Courses* means standards under subsection (1).

**54 Subsection 189(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Standards for VET Regulators* means standards under subsection (1).

**55 Subsection 190(2)**

Repeal the subsection, substitute:

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- (2) For the purposes of this Act, *Risk Assessment Framework* means guidelines under subsection (1).

**56 Section 199 (table item 5)**

After “to vary”, insert “or remove”.

**57 Section 199 (table item 19)**

After “to vary”, insert “or remove”.

**58 Section 199 (table item 26)**

Omit “Section 216”, substitute “Subsection 216(4)”.

**59 At the end of section 200**

Add:

- (6) After receiving such an application, the National VET Regulator may, by written notice given to the applicant, determine that the operation of the decision is stayed pending the outcome of the reconsideration.
- (7) A determination in force under subsection (6) is subject to such conditions (if any) as are specified in the determination.

**60 Before subsection 203(1)**

Insert:

*Review of delegate’s decision following reconsideration*

**61 Before subsection 203(2)**

Insert:

*Review of decision not made by delegate*

**62 Subsection 203(2)**

Omit “made by a person other than a member of the staff of the Regulator”, substitute “not made by a delegate of the National VET Regulator”.

**63 Paragraph 205(1)(f)**

Omit “(or any successor of that body)”.

**64 At the end of subsection 205(1)**

Add:

; or (g) a tuition assurance scheme operator.

**65 After subsection 205(1)**

Insert:

(1A) Without limiting subsection (1), the National VET Regulator may disclose information to a person or body under that subsection by giving the person or body electronic access to the information.

**66 Subsection 205(2)**

Omit “(other than to a person or body mentioned in paragraph (1)(a), (b), (c) or (e))”, substitute “to a person mentioned in paragraph (1)(d)”.

**67 After subsection 205A(1)**

Insert:

(1A) Without limiting subsection (1), the National VET Regulator may disclose VET information to a Commonwealth authority, a State or Territory authority or a Royal Commission under that subsection by giving the authority or Commission electronic access to the information.

**68 Section 209 (at the end of the heading)**

Add “by the National VET Regulator”.

**69 Subsection 209(2)**

Omit “or (d)”, substitute “, (d) or (f)”.

**70 After section 209**

Insert:

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### **209A Release of information to the public by the Department**

- (1) The Secretary may (subject to subsection (3)) release to the public information about:
  - (a) vocational education and training provided by a registered training organisation; and
  - (b) the outcomes and experiences, for students and employers, of vocational education and training undertaken with a registered training organisation.
- (2) The Secretary may provide for the release of information under subsection (1) by authorising the National Centre for Vocational Education Research to release the information.
- (3) This section does not authorise the release of personal information, unless the personal information is the name of a registered training organisation.

### **71 Subsection 211(2)**

Omit “A person must provide a copy of VET student records”, substitute “The person mentioned in subsection (1) must provide a copy of the VET student records”.

### **72 After subsection 211(2)**

Insert:

- (2A) If an instrument is in force under subsection (2B), the person mentioned in subsection (1) must provide a copy of the VET student records to the National VET Regulator in electronic form in accordance with the information technology requirements specified in the instrument.

#### *Information technology requirements*

- (2B) The National VET Regulator may, by legislative instrument, specify information technology requirements for the purposes of subsection (2A).
- (2C) The National VET Regulator may waive compliance with subsection (2A) in a particular case.

(2D) Despite anything in section 44 of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (2B).

(2E) Despite anything in section 54 of the *Legislation Act 2003*, Part 4 of Chapter 3 (sunsetting) of that Act applies to a legislative instrument made under subsection (2B).

*Offence and civil penalty*

**73 Subsections 211(3) and (4)**

After “subsection (2)”, insert “or (2A)”.

**74 At the end of section 212**

Add:

- (3) If an instrument is in force under subsection (4), the notice may specify that the copy of the records is to be provided in electronic form in accordance with the information technology requirements specified in the instrument.
- (4) The National VET Regulator may, by legislative instrument, specify information technology requirements for the purposes of subsection (3).
- (5) Despite anything in section 44 of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to a legislative instrument made under subsection (4).
- (6) Despite anything in section 54 of the *Legislation Act 2003*, Part 4 of Chapter 3 (sunsetting) of that Act applies to a legislative instrument made under subsection (4).

**75 Subparagraph 216(1)(a)(i)**

Repeal the subparagraph, substitute:

- (i) the organisation’s name and business name;
- (ia) the physical address and postal address of the organisation’s head office;
- (ib) the physical address of the organisation’s principal place of business;



- (ic) the physical address of the sites or campuses from which the organisation delivers VET courses on a permanent basis;

**76 Subparagraph 216(1)(a)(v)**

Omit “subsection 29(1)”, substitute “subsection 29(1), including, if the condition was imposed only for a particular period, that period”.

**77 After paragraph 216(1)(a)**

Insert:

- (aa) if an NVR registered training organisation has made an application to renew the organisation’s registration—a statement to that effect;
- (ab) if the National VET Regulator has refused to renew an NVR registered training organisation’s registration—the following:
  - (i) a statement to that effect;
  - (ii) the date of effect of the refusal to renew the organisation’s registration;

**78 After paragraph 216(1)(d)**

Insert:

- (da) if the person in respect of whom a VET accredited course is accredited has made an application to renew the course’s accreditation—a statement to that effect;
- (db) if the National VET Regulator has refused to renew the accreditation of a VET accredited course—the following:
  - (i) a statement to that effect;
  - (ii) the date of effect of the refusal to renew the course’s accreditation;

**79 Subsection 216(2) (example)**

Repeal the example.

**80 After subsection 216(3)**

Insert:

- (3A) If information is or was released to the public under section 209, the National VET Regulator may ensure that information is entered on the National Register.

**81 Subsection 216(4)**

Omit “Subsection (3) does”, substitute “Subsections (3) and (3A) do”.

**82 At the end of section 216**

Add:

- (6) The National VET Regulator must ensure that the National Register is kept up-to-date.

**83 Subsection 231A(2)**

Repeal the subsection, substitute:

- (2) For the purposes of this Act, *Quality Standards* means standards under subsection (1).

**84 After Division 3A of Part 12**

Insert:

**Division 3B—Audit report rules**

**231B Audit report rules**

The Minister may, by legislative instrument, make rules (*audit report rules*) prescribing matters required or permitted by this Act to be prescribed by the audit report rules.

**85 After subsection 232(1)**

Insert:

- (1A) To avoid doubt, it is immaterial, and is taken always to have been immaterial, whether the functions mentioned in subsection (1) are conferred by or under:
- (a) this Act; or
  - (b) any other law of the Commonwealth.

## **Schedule 2—Amendments commencing day after Royal Assent**

### ***National Vocational Education and Training Regulator Act 2011***

#### **1 Section 171**

Omit “If a Deputy Chief Commissioner is appointed, the”, substitute “The”.

#### **2 Subsection 172(1)**

Omit “If a Deputy Chief Commissioner is appointed, the Governor-General may, by written instrument, appoint a person”, substitute “The Minister may, by written instrument, appoint a Commissioner”.

#### **3 Paragraph 172(1)(a)**

After “Commissioner”, insert “(whether or not an appointment has previously been made to the office)”.

#### **4 Subsection 172(2)**

Omit “The Governor-General”, substitute “The Minister”.

#### **5 Paragraphs 215(1)(a) and (b)**

Omit “annual operational plan”, substitute “corporate plan”.

#### **6 At the end of paragraph 216(1)(b)**

Add:

- (iv) if any requirements have been made of the organisation under subsection 38(2)—details of those requirements;

#### **7 After paragraph 216(1)(c)**

Insert:

- (ca) if the National VET Regulator has imposed on an NVR registered training organisation a sanction under subsection 36(2) (other than a suspension referred to in

paragraph (b), or a cancellation referred to in paragraph (c), of this subsection)—the following:

- (i) details of the sanction imposed;
- (ii) if the sanction was imposed only for a particular period—that period;

## **8 After subsection 216(1)**

Insert:

- (1A) If an organisation ceases to be an NVR registered training organisation, the National VET Regulator must ensure that any details required to be included on the National Register in respect of a matter that occurs in respect of the organisation before that cessation are, or continue to be, included on the National Register after that cessation.

## **9 Part 11 (heading)**

Omit “and annual operational”.

## **10 Division 1 of Part 11 (heading)**

Repeal the heading.

## **11 Paragraph 218(1)(a)**

Omit “31 January”, substitute “31 May”.

## **12 Paragraph 218(1)(b)**

Omit “31 March”, substitute “30 June”.

## **13 Subsection 219(1) (note)**

Repeal the note.

## **14 Division 2 of Part 11**

Repeal the Division.

## **15 Division 3 of Part 11 (heading)**

Repeal the heading.

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**16 Section 222**

Omit “and annual operational plan”.

**17 Section 223**

Omit “91 or 160”, substitute “91, 160 or 172”.

## **Schedule 3—Transitional and application provisions**

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

#### **1 At the end of the Act**

Add:

## **Schedule 4—Transitional provisions relating to the National Vocational Education and Training Regulator Amendment Act 2020**

### **1 Definitions**

In this Schedule:

*Amending Act* means the *National Vocational Education and Training Regulator Amendment Act 2020*.

*early commencement time* means the start of the day on which Schedule 2 to the Amending Act commences.

*main commencement time* means the start of the day on which Schedule 1 to the Amending Act commences.

*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—audits of applications for registration**

Section 17A of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to an audit that starts to be conducted at or after the main commencement time.

#### **4 Application—notifying the National VET Regulator of material changes**

The amendments of section 25 of the Principal Act made by Schedule 1 to the Amending Act apply to a matter that an NVR registered training organisation becomes aware of at or after the main commencement time.

#### **5 Application—provision of information**

The amendments of subsections 26(1) and (2) of the Principal Act made by Schedule 1 to the Amending Act apply to a notice given under subsection 26(1) of the Principal Act at or after the main commencement time.

#### **6 Application—renewal of registration**

The amendments of subsection 20(1) and section 31 of the Principal Act made by Schedule 1 to the Amending Act apply in relation to a decision on an application for renewal if the application is made at or after the main commencement time.

#### **7 Application—compliance audits**

Subsections 35(1A), (1B), (1C) and (1D) of the Principal Act (as inserted by Schedule 1 to the Amending Act) apply to a compliance audit that starts to be conducted at or after the main commencement time.

#### **8 Application—suspension of registration**

The amendment of section 38 of the Principal Act made by Schedule 1 to the Amending Act applies to a notice given under subsection 38(1) of the Principal Act at or after the main commencement time.

#### **9 Application—cancellation of registration**

Subsection 39(4) of the Principal Act (as added by Schedule 1 to the Amending Act) applies to a notice given under subsection 39(1) of the Principal Act at or after the main commencement time.

### **10 Application—renewal of accreditation**

The amendments of subsection 46(1) and section 50 of the Principal Act made by Schedule 1 to the Amending Act apply in relation to a decision on an application for renewal if the application is made at or after the main commencement time.

### **11 Application—provision of VET course on behalf of NVR registered training organisation**

The amendments of sections 116 and 117 of the Principal Act made by Schedule 1 to the Amending Act apply to the provision of a VET course before, at or after the main commencement time.

### **12 Application—applications for reconsideration of decisions**

Subsections 200(6) and (7) of the Principal Act (as added by Schedule 1 to the Amending Act) apply to:

- (a) an application made under subsection 200(2) of the Principal Act before the main commencement time, if a decision on the application has not been made under section 201 of the Principal Act before the main commencement time; and
- (b) an application made under subsection 200(2) of the Principal Act at or after the main commencement time.

### **13 Application—review by the Administrative Appeals Tribunal**

The amendment of subsection 203(2) of the Principal Act made by Schedule 1 to the Amending Act applies to an application made under that subsection at or after the main commencement time.

### **14 Application—VET student records required to be provided to the National VET Regulator**

The amendments of section 211 of the Principal Act made by Schedule 1 to the Amending Act apply in relation to a requirement to provide a copy of VET student records if the requirement is attributable to:

- (a) the cancellation of an organisation's registration that takes effect at or after the main commencement time; or
- (b) the effective cessation of the operations of an organisation that occurs at or after the main commencement time.



**15 Application—VET student records requested to be provided to the National VET Regulator**

The amendment of section 212 of the Principal Act made by Schedule 1 to the Amending Act applies to a request made at or after the main commencement time.

**16 Application—inclusion of information on the National Register**

*Amendments commencing at early commencement time*

- (1) The amendment of paragraph 216(1)(b) of the Principal Act made by Schedule 2 to the Amending Act applies to requirements made under subsection 38(2) of the Principal Act before, at or after the early commencement time.
- (2) Paragraph 216(1)(ca) of the Principal Act (as inserted by Schedule 2 to the Amending Act) applies to a sanction imposed before, at or after the early commencement time.
- (3) Subsection 216(1A) of the Principal Act (as inserted by Schedule 2 to the Amending Act) applies to a cessation that occurs before, at or after the early commencement time.

*Amendments commencing at main commencement time*

- (4) The amendments of paragraph 216(1)(a) of the Principal Act made by Schedule 1 to the Amending Act apply to an NVR registered training organisation that is registered before, at or after the main commencement time.
  - (5) Paragraph 216(1)(aa) of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to an application made before, at or after the main commencement time.
  - (6) Paragraph 216(1)(ab) of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to a refusal that occurs before, at or after the main commencement time.
  - (7) Paragraph 216(1)(da) of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to an application made before, at or after the main commencement time.
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- (8) Paragraph 216(1)(db) of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to a refusal that occurs before, at or after the main commencement time.

**17 Application—entry of public information on the National Register**

Subsection 216(3A) of the Principal Act (as inserted by Schedule 1 to the Amending Act) applies to information released to the public before, at or after the main commencement time.

**18 Application—approval of corporate plan**

The amendments of section 218 of the Principal Act made by Schedule 1 to the Amending Act apply to a corporate plan for a period that begins after the early commencement time.

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*[Minister's second reading speech made in—  
Senate on 4 December 2019  
House of Representatives on 12 February 2020]*

(236/19)

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