



Standards for VET Regulators 2015

I, Ian Elgin Macfarlane, Minister for Industry, make these Standards under subsection 189(1) of the *National Vocational Education and Training Regulator Act 2011*.

Dated Monday, 20 October 2014

Ian Elgin Macfarlane
Minister for Industry

Commonwealth of Australia

National Vocational Education and Training Regulator Act 2011

Standards for VET Regulators 2015

PART 1 PRELIMINARY

1. Name of Instrument

This legislative instrument may be cited as the *Standards for VET Regulators 2015*.

2. Authority

This legislative instrument is made under subsection 189(1) of the *National Vocational Education and Training Regulator Act 2011*.

3. Purpose

The purpose of this instrument is to make standards for VET Regulators 2015.

4. Commencement

This legislative instrument will come into effect on 1 January 2015.

5. Revocation

The *Standards for VET Regulators 2011* (F2011L01338) are revoked.

6. Transitional Arrangements

6.1 The revocation of the *Standards for VET Regulators 2011* does not affect the validity of any action taken or decision made under that instrument. A decision made under the *Standards for VET Regulators 2011* is taken to continue to have effect as if it were made under the *Standards for VET Regulators 2015*.

6.2 The Victorian Registration and Qualifications Authority (VRQA) and those RTOs regulated by the VRQA are not bound to comply with this instrument until such time as the Victorian Parliament passes an Act to amend the *Education and Training Reform Act 2006* (Vic) to incorporate appropriate references to the Standards, and that Act has commenced.

6.3 The Western Australian Training Accreditation Council (TAC) and RTOs regulated by TAC will not be bound by this instrument until such time as the *Vocational Education and Training (General) Regulations 2009* (WA) have been amended to incorporate appropriate references to the Standards, and those amendments have commenced.

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PART 1 – Preliminary

Name of Standards

These Standards are the *Standards for VET Regulators 2015*. These Standards should be read in conjunction with the:

- VET Quality Framework
- Standards for Registered Training Organisations
- Standards for Training Packages
- Standards for VET Accredited Courses

Purpose

The purpose of these Standards is to ensure:

- the integrity of nationally recognised training by regulating RTOs and VET accredited courses using a risk-based approach that is consistent, effective, proportional, responsive and transparent;
- consistency in the VET Regulator's implementation and interpretation of the RTO Standards and Standards for VET Accredited Courses; and
- the accountability and transparency of the VET Regulator in undertaking its regulatory functions.

Context:

The Standards require a risk-based approach to the regulation of RTOs that is informed by assessments of RTO compliance with the Standards for RTOs on an ongoing basis. This risk management approach enables VET Regulators to more actively and regularly apply strategies to reduce the regulatory burden for high-performing RTOs with a history of strong compliance and to increase regulatory action for those RTOs considered as higher risk. This is achieved through regulatory strategies that can include:

- *an active and dynamic risk assessment process that is based on compliance history, performance data, outcomes of complaints against RTOs, and industry and learner intelligence;*
- *varying the type and regularity of audits, based on risk assessments;*
- *recognising and not duplicating the decisions of other relevant regulators; and*
- *delegating regulatory powers to low-risk RTOs, such as the ability to amend their scope of registration.*

Regulation must be sufficient to assure the quality outcomes of the Standards for RTOs and the Standards for VET Accredited Courses, with VET Regulators using the strength of their regulatory tools to deter non-compliance. The regulatory approach should engender self-evaluation and improvement within RTOs in a way that makes regulation valued for what it contributes to RTOs, industry stakeholders and learners.

Structure

These Standards consist of six Standards. Under each Standard is a set of Clauses. To comply with a Standard, the VET Regulator must meet each Clause.

Definitions

The glossary at the beginning of these Standards defines certain words and expressions which have specific meaning in these Standards.

Glossary

In these Standards, unless the contrary intention appears:

Accredited short course means a course accredited by the VET Regulator in accordance with the Standards for VET Accredited Courses that leads to an AQF statement of attainment.

AQF qualifications means an AQF qualification type endorsed in a training package or accredited in a VET accredited course.

Audit means an audit or compliance audit undertaken by the VET Regulator

Auditor means a person who conducts an audit or compliance audit on behalf of the VET Regulator.

Australian Qualification Framework (AQF) means the framework for regulated qualifications in the Australian education and training system, as agreed by the Commonwealth, State and Territory ministerial council with responsibility for higher education.

Course accreditation assessor means a person who assesses a course accreditation application on behalf of the VET Regulator for compliance with the Standards for VET Accredited Courses.

Delegate means an entity authorised by the VET Regulator to perform any of the Regulator's functions and powers.

Independent means, for the purposes of Clause 1.5, that the validation is carried out by a validator or validators who:

- a) are not employed or subcontracted by the RTO to provide training and assessment; and
- b) have no other involvement or interest in the operations of the RTO.

Industry means the bodies that have a stake in the services provided by RTOs. These can include, but are not limited to:

- a) enterprise/industry clients, e.g. employers;
- b) group training organisations;
- c) industry organisations;
- d) industry regulators;
- e) industry skills councils or similar bodies;
- f) industry training advisory bodies; and
- g) unions.

Industry and Skills Council means the Commonwealth, State and Territory ministerial council, or its successor, established by the Council of Australian Governments (COAG).

Industry regulator means a body or organisation responsible for the regulation and/or licensing arrangements within a specific industry or occupation.

Minister means the Commonwealth Minister who has responsibility for VET, or in the case of a non-referring state, the Minister who has responsibility for VET in that state.

National Register means the register maintained by the Commonwealth Department responsible for VET, and referred to in section 216 of the *National Vocational Education and Training Regulator Act 2011*.

Person includes a body politic or corporate as well as an individual.

Registration means registration as an RTO by the VET Regulator, where that registration is then entered on the National Register.

Risk means the potential for exposure to poor quality outcomes for VET stakeholders if an RTO does not comply with its regulatory obligations.

Risk-based approach means that the VET Regulator's overall regulatory approach and its decisions about regulatory actions are informed through consideration of the likelihood of, and potential for adverse consequence caused by, non-compliance with the VET Quality Framework, the Standards for RTOs or the Standards for VET Accredited Courses.

Risk assessment framework means the guidelines made under section 190 of the *National Vocational Education and Training Regulator Act 2011* or the equivalent guidelines made or adopted by the VET Regulator of a non-referring State as the case requires.

RTO means a Registered Training Organisation.

Service standards means a documented policy which sets out the organisation's commitment to dealing with the public, including principles for the provision of good service, complaints and appeals processes, target timeframes for complaints resolution and contact details.

Standards for VET Accredited Courses are the standards made under subsection 188(1) of the *National Vocational Education and Training Regulator Act 2011* or the equivalent requirements adopted by a non-referring State.

Statistically valid means for the purpose of these Standards, a random sample of appropriate size is selected to enable confidence that the result is sufficiently accurate to be accepted as representative of the total population of assessments being validated.

Training product means AQF qualification, skill set, unit of competency, accredited short course and module.

Validation is the quality review of the assessment process. Validation involves checking that the assessment tool/s produce/d valid, reliable, sufficient, current and authentic evidence to enable reasonable judgements to be made as to whether the requirements of the training package or VET accredited courses are met. It includes reviewing a statistically valid sample of the assessments and making recommendations for future improvements to the assessment tool, process and/or outcomes and acting upon such recommendations.

VET stakeholders include Commonwealth, state and territory ministers and their agencies responsible for VET, RTOs, other VET regulators, accredited course owners, learners and industry.

VET means vocational education and training.

VET accredited course means a course accredited by the VET regulator in accordance with the Standards for VET Accredited Courses.

VET Quality Framework comprises:

- a) the Standards for Registered Training Organisations
- b) the Australian Qualifications Framework
- c) the Fit and Proper Person Requirements
- d) the Financial Viability Risk Assessment Requirements
- e) the Data Provision Requirements

VET Regulator means:

- a) the National VET Regulator; and
- b) a body of a non-referring State that is responsible for the kinds of matters dealt with under the VET legislation for that State.

PART 2 – Regulator Standards

Standard 1. The VET Regulator effectively and efficiently regulates RTOs.

Context:

The quality of the regulation of RTOs is crucial to ensuring the credibility of the VET system. This is achieved through effective and efficient processes and practices that are fair, risk-based, transparent, responsive, consistent, and meet legislative requirements.

In addition to using a risk-based approach the VET Regulator has:

- *robust and transparent decision making processes;*
- *auditors who meet national competency requirements; and*
- *procedures and practices in place to promote consistency in auditor judgements.*

To be compliant with Standard 1 the VET Regulator must meet the following:

- 1.1. The VET Regulator only grants registration or renews registration where it has determined that the person complies with the Standards for RTOs.
- 1.2. The VET Regulator conducts an audit of the RTO within two years of the RTO first being registered.
- 1.3. In enforcing the Standards for RTOs, the VET Regulator:
 - a) adopts a risk-based approach to regulation consistent with the risk assessment framework;
 - b) encourages RTOs to improve their performance;
 - c) ensures that its actions taken to mitigate risk of, or respond to, non-compliance are responsive and proportionate; and
 - d) makes publically available information about how it assesses risk and arrives at risk ratings.
- 1.4. The VET Regulator provides general education and guidance materials to RTOs to assist them to comply with the Standards for RTOs.
- 1.5. The VET Regulator only grants an application to add any AQF qualification or assessor skill set from the Training and Education Training Package (or its successor) to the RTO's scope of registration, if an RTO has:
 - a) held registration for at least two years continuously at the time of adding the qualification and/or skill set to scope; and
 - b) from 1 January 2016, undergone an independent validation of its assessment system, tools, processes and outcomes in accordance with the requirements contained in the Standards for RTOs.
- 1.6. The VET Regulator ensures that:
 - a) an RTO's scope of registration is not extended while instances of non-compliance remain outstanding unless action to address all relevant non-compliance is being progressed to the satisfaction of the VET Regulator;
 - b) subject to Clause 1.7, where a training product is superseded, the VET Regulator removes the training product from the RTO's current scope of registration one year from the date the replacement training product was released on the National Register;
 - c) where an AQF qualification is no longer current and is not superseded, the VET Regulator removes the qualification from the RTO's current scope of

registration two years from the date the qualification was removed or deleted from the National Register; and

- d) where a skill set, unit of competency, accredited short course or module is no longer current and has not been superseded, the VET Regulator removes the skill set, unit of competency, accredited short course or module from the RTO's current scope of registration one year from the date the skill set, unit of competency, accredited short course or module was removed or deleted from the National Register.

1.7. The requirements specified in Clause 1.6.b) do not apply where a training package requires delivery of a superseded unit of competency.

1.8. The VET Regulator implements a risk-based approach to managing changes to RTO ownership or management, and publishes clear information about its processes and requirements.

1.9. The VET Regulator ensures that its auditors:

- a) adopt contemporary best practice auditing approaches; and
- b) exercise their judgement in a manner which maximises consistent interpretation of the Standards for RTOs, audit practice and findings across audits; and
- c) from 1 January 2016, meet the national competency requirements for auditors specified in Schedule 1.

1.10. The VET Regulator makes decisions in a manner consistent with the principles of natural justice and procedural fairness.

1.11. In conducting industry reviews and projects, the VET Regulator engages with other regulators as appropriate, including industry regulators, and with industry.

Standard 2. Courses are accredited in accordance with the Standards for VET Accredited Courses.

Context:

It is important that courses are accredited in a way that maintains the integrity of AQF qualifications. This is achieved through ensuring that decision making about accreditation is robust and fair and that course accreditation assessors meet national competency requirements.

The accreditation of courses needs to comply with the national Standards for VET Accredited Courses; and development processes must involve consultation with industry stakeholders where they are relevant to industry regulation and occupational licensing.

To be compliant with Standard 2 the VET Regulator must meet the following:

2.1. The VET Regulator only accredits courses that comply with the Standards for VET Accredited Courses.

2.2. The VET Regulator:

- a) provides advice to training package developing bodies on gaps in training packages identified as a result of its course accreditation activities; and
- b) accredits courses that have been designed to meet a licensed or regulated outcome only if the accreditation application is supported by the relevant industry regulator/s.

- 2.3. The VET Regulator ensures that its course accreditation assessors:
- a) exercise their judgment in a manner which maximises consistent interpretation of the Standards for VET Accredited Courses, and the consistency of their assessment practice and outcomes; and
 - b) from 1 January 2016, meet the national competency requirements for course accreditation assessors specified in Schedule 1.
- 2.4. The VET Regulator makes decisions about accreditation that are consistent with the principles of natural justice and procedural fairness.
- 2.5. The VET Regulator provides general education and guidance materials to course owners to assist them to comply with the Standards for VET Accredited Courses.

Standard 3. The VET Regulator communicates effectively and implements a transparent complaints process to enhance regulatory practices and outcomes.

Context:

Transparent regulation, based on communication and advice to RTOs and other VET stakeholders, will not only improve understanding of expectations and regulatory decisions, but will also establish an environment of review and improvement in RTO training and assessment and compliance with the Standards for RTOs.

Stakeholders need to be able to pass on reports of non-compliance to a VET Regulator in confidence and be assured that their report will be used to drive better compliance. Where their report includes a matter where the VET Regulator is specifically empowered to remedy a problem for them, they can expect prompt action and are entitled to feedback on the results of that action.

VET stakeholders and VET Regulators benefit from robust mechanisms to allow stakeholders to complain about a VET Regulator's regulatory practices. Stakeholders can expect their complaint to be addressed promptly and to be informed of the results.

To be compliant with Standard 3 the VET Regulator must meet the following:

- 3.1. The VET Regulator establishes and maintains effective communication arrangements with other VET Regulators and relevant VET stakeholders.
- 3.2. The VET Regulator communicates clear and accurate information and advice to relevant VET stakeholders on:
 - a) regulatory requirements, decisions and practice, including publishing, once all review periods have expired, information about decisions to impose a sanction on an RTO and the reasons for imposing the sanction;
 - b) emerging risks in the sector and patterns of non-compliance; and
 - c) cooperative arrangements between VET Regulators that promote consistency of practice and interpretation of the Standards for RTOs and the Standards for VET Accredited Courses.
- 3.3. The VET Regulator ensures that the information kept in the National Register is current as it relates to information within the VET Regulator's scope of responsibility.
- 3.4. The VET Regulator ensures that data on qualifications cancelled or issued by the VET Regulator, is provided to the National Centre for Vocational Education Research for inclusion in the national VET data collection.

- 3.5. The VET Regulator implements a policy to manage and respond to reports of an RTO's non-compliance with the Standards for RTOs which:
- a) is publically available;
 - b) sets out the procedure for making such a report;
 - c) explains how such reports are used in supporting compliance efforts of the VET Regulator;
 - d) explains the circumstances in which it is appropriate for the VET Regulator to inform the provider of the report about its progress, and if so, how this would happen;
 - e) ensures that these reports are processed in accordance with the principles of natural justice and procedural fairness;
 - f) requires the VET Regulator to maintain records of all reports about RTOs and their conclusion; and
 - g) requires the VET Regulator to report on its handling of these reports to its Minister at least on a quarterly basis.
- 3.6. The VET Regulator implements a policy to manage and respond to stakeholder complaints about its regulatory practices which:
- a) is publicly available;
 - b) sets out the procedure for making a complaint;
 - c) includes target timeframes for acknowledging and finalising complaints which are set and monitored by the VET Regulator;
 - d) provides information about how, if applicable, the complainant will be informed about the progress and conclusion of the complaint;
 - e) ensures that complaints are processed in accordance with the principles of natural justice and procedural fairness;
 - f) requires that if the VET Regulator considers more than 90 days will be required to finalise the complaint, the VET Regulator will inform the complainant in writing, including reasons why more than 90 days is required; and
 - g) requires the VET Regulator to maintain records of all complaints about its regulatory services and their conclusion.
- 3.7. The VET Regulator:
- a) uses the information gathered from complaints about RTOs to inform its risk-based approach to regulation; and
 - b) identifies potential causes of complaints about its regulatory practices and takes appropriate corrective and/or preventative action to eliminate or mitigate the likelihood of reoccurrence.

Standard 4. The VET Regulator reports to and responds to requests from the Industry and Skills Council or its delegate.

Context:

VET Regulators are required to report to the Industry and Skills Council or its delegate against the VET Regulator Standards and respond to their requests. Reporting against the Standards plays an important role in improving the quality of regulation by ensuring regular reviews of regulator performance and of their implementation and interpretation of the Standards for RTOs and the Standards for VET Accredited Courses.

To be compliant with 0 the VET Regulator must meet the following:

- 4.1. The VET Regulator reports according to guidelines issued by the Industry and Skills Council or its delegate on its compliance with these Standards, the operations of the VET Quality Framework, and the Standards for Accredited Courses.
- 4.2. The VET Regulator responds to requests by the Industry and Skills Council or its delegate for information regarding the operation of these Standards, the VET Quality Framework, the Standards for Accredited Courses and any related regulatory matters.

Standard 5. The VET Regulator evaluates and improves its regulatory performance and ensures that its delegates comply with the VET Regulator Standards.

Context:

VET Regulators provide leadership by demonstrating their commitment to evaluating and improving their regulatory practice through a range of improvement strategies. This also ensures that any delegates of VET Regulators comply with these Standards.

To be compliant with Standard 5 the VET Regulator must meet the following:

- 5.1. The VET Regulator manages its registration and accreditation functions through a defined and documented quality system that is regularly reviewed to ensure its continuing suitability and effectiveness.
- 5.2. The VET Regulator reviews and improves the way it regulates RTOs and accredits courses, using evidence from sources that include, but are not limited to:
 - a) internal reviews of its regulatory practices, moderation practices and decisions;
 - b) its findings and decisions arising from audits of RTOs;
 - c) reviews of appeals against its regulatory decisions;
 - d) its findings from complaints against RTOs;
 - e) its findings from complaints about its regulatory activities;
 - f) information gained from:
 - i) data and feedback from VET stakeholders; and
 - ii) the outcomes of strategic reviews; and
 - g) information gained from the external review process referred to in Clause 5.3.
- 5.3. The VET Regulator participates in an external review process as directed by the Industry and Skills Council or its delegate.

5.4. The VET Regulator ensures that its delegates comply with these Standards.

Standard 6. The VET Regulator must be effectively and efficiently managed.

Context:

To ensure that the business operations of VET Regulators are efficient and effective, they must have robust management and administrative systems in place. VET Regulators can lead by example by ensuring their business processes are transparent, and reviewed and improved.

To be compliant with Standard 6 the VET Regulator must meet the following:

- 6.1. The regulatory practices and administrative services of the VET Regulator are efficient and effective.
- 6.2. The VET Regulator has service standards it must meet to perform its functions which:
 - a) take account of good practice service standards in developing and updating those service standards; and
 - b) are publicly available.
- 6.3. The VET Regulator has a code of practice that its auditors and course accreditation assessors must meet in performing their functions which:
 - a) takes account of good practice auditing and course accreditation approaches; and
 - b) is publicly available.
- 6.4. The VET Regulator regularly reviews its efficiency and performance against its service standards and adjusts internal management to ensure those standards are consistently met.

Schedule 1 – Competency Requirements

AUDITORS

The VET Regulator must ensure that each auditor holds at a minimum the following qualifications or equivalent competencies as determined by the VET Regulator:

- TAE40110 Certificate IV in Training and Assessment (or its successor); and
- BSB51607 Diploma of Quality Auditing (or its successor).

In undertaking the above qualifications, the auditor must complete the following units of competency, or have equivalent competencies as determined by the VET Regulator:

from the Business Services Training Package (or its successor):

- BSBAUD402B Participate in a quality audit (or its successor);
- BSBAUD501B Initiate a quality audit (or its successor);
- BSBAUD503B Lead a quality audit (or its successor); and
- BSBAUD504B Report on a quality audit (or its successor).

from the Training and Education Training Package (or its successor):

- TAEASS502B Design and develop assessment tools (or its successor);
- TAEDES501A Design and develop learning strategies (or its successor); and
- TAEASS503A Lead assessment validation processes (or its successor).

An audit team may comprise a lead auditor and one or more auditors, and include technical advisers when required, who provide specific knowledge or expertise to the audit team. Technical advisers must operate under the direction of an auditor. Any technical adviser involved in an audit is not required to comply with the minimum competency requirements specified for auditors above.

COURSE ACCREDITATION ASSESSORS

The VET Regulator must ensure that each application for a VET accredited course is considered by a course accreditation assessor who holds at a minimum the following qualification or equivalent competencies as determined by the VET Regulator:

- TAE40110 Certificate IV in Training and Assessment (or its successor); and
- BSB51607 Diploma of Quality Auditing (or its successor)

In undertaking the above qualifications, the course accreditation assessor must complete the following units of competency, or have equivalent competencies as determined by the VET Regulator:

- TAEDES402A Use training packages and accredited courses to meet client needs (or its successor); and
- TAEDES504A Research and develop units of competency (or its successor).