

## **EXPLANATORY STATEMENT**

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

### *National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018*

#### **Authority**

Section 235 of the *National Vocational Education and Training Regulator Act 2011 (Act)* empowers the Governor-General to make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

#### **Background**

The Act establishes the National VET Regulator (currently the Australian Skills and Quality Authority) (**Regulator**) and provides a legislative framework for the regulation of vocational education and training (**VET**). This legislative framework consists of the Act, the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011*, the *National Vocational Education and Training Regulator (Consequential Amendments) Act 2011* the *National Vocational Education and Training Regulator (Charges) Act 2012* and associated instruments.

The *National Vocational Education and Training Regulator Regulations 2011 (Principal Regulation)* contain a number of provisions prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

#### **Civil penalties and infringement notices**

Under the Act, the Regulator is empowered to take a range of regulatory actions against NVR registered training organisations.

Section 111 of the Act provides that a civil penalty applies if an NVR registered training organisation breaches certain conditions of the organisation's registration. In particular:

- subsection 111(1) provides that a civil penalty of 240 penalty units applies to a breach of a condition of an organisation's registration if the condition is prescribed by the Principal Regulation for the purposes of subsection 111(1), and
- subsection 111(2) provides that a civil penalty of 120 penalty units applies to a breach of a condition of an organisation's registration if the condition is prescribed by the Principal Regulation for the purposes of subsection 111(2).

Section 149 of the Act provides for infringement notices in respect of civil penalty provisions to be prescribed in the Principal Regulation. In particular, subsection 149(1) of the Act provides that the Principal Regulation may provide for a person, who is alleged to have contravened a civil penalty provision, to pay the Commonwealth a specified penalty as an alternative to civil penalty proceedings against the person.

### Publication of information on the National Register

#### *Review of the Standards for VET Accredited Courses 2012*

The Commonwealth Department of Education and Training (**department**) maintains the National Register referred to in section 216 of the Act, which is a publicly accessible database that contains information on nationally recognised training products and NVR registered training organisations. The National Register is currently maintained on the website: [training.gov.au](http://training.gov.au)

In November 2015, the Council of Australian Governments Industry and Skills Council (**CISC**) agreed that the Australian Government would undertake a review of the *Standards for VET Accredited Courses 2012* (a legislative instrument made under the Act) to ensure the standards for VET accredited courses align with the framework and principles set out in the *Standards for Training Packages* (a policy publication endorsed by the state and territory governments). As part of this review, CISC also asked for consideration to be given to ways of encouraging the publication of additional information about VET accredited courses on the National Register.

The recommendations of the review were endorsed by CISC in November 2017. The review found there was a difference with regards to the level of information available on the National Register between training package qualifications and VET accredited course qualifications. VET accredited courses, unlike training packages, do not have a course description, nor information on their units of competency published on the National Register despite the Regulator collecting this information as part of the accreditation process. This difference was found to make it difficult for prospective students and employers to understand the content and suitability of a VET accredited course. For students who had completed a VET accredited course, it also means that the units of competency or modules within that course are not displayed on their Unique Student Identifier (USI) transcripts. Consequently, the review recommended that a course description and the titles and codes of units of competency and modules be published on the National Register for VET accredited courses. CISC endorsed this recommendation at its 24 November 2017 meeting.

#### *VET Student Loans (Courses and Loan Caps) Determination 2016*

Under subsection 16(1) of the *VET Student Loans Act 2016 (VSL Act)*, the Minister may, by legislative instrument, determine courses of study for which VET student loans may be approved, and the maximum loan amounts, or methods for working out maximum loan amounts, for those courses. The instrument is known as the courses and loans caps determination (currently the *VET Student Loans (Courses and Loan Caps) Determination 2016 (Determination)*).

Currently, VET student loans can only be approved for courses specified in the Determination. Courses are specified in the Determination by reference to their course code, and the Determination is amended twice a year. As a result, the Determination can become outdated if a VET accredited course specified in the Determination becomes reaccredited, and VET student loans cannot be approved for the reaccredited course until the Determination is amended. This can be some months away depending on when the replacement courses are released.

The Education and Other Legislation Amendment (VET Student Loan Debt Separation) Bill 2018, if passed, will insert a new subsection 16(4) into the VSL Act providing that, despite subsection 14(2) of the *Legislation Act 2003*, the Determination may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time. This measure will enable VET accredited courses specified on the National Register that replace non-current VET accredited courses listed on the Determination to be, for the purposes of the Determination, courses of study for which VET student loans may be approved.

To give effect to this measure, linkages will be included on the National Register to map from non-current VET accredited courses to their replacement, meaning that students will be able to access VET student loans when a VET accredited course listed in the Determination is later replaced, without having to wait for the Determination to be updated.

### **Purpose and operation**

The *National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018 (Amendment Regulation)* amends the Principal Regulation for three main purposes.

Firstly, it will insert a provision into the Principal Regulation, prescribing that the condition on an NVR registered training organisation's registration requiring compliance with the Standards for NVR Registered Training Organisations mentioned in subsection 22(1) of the Act, is prescribed for the purposes of paragraph 111(1)(a) of the Act. This measure allows for the Regulator to apply to the Federal Court or the Federal Circuit Court for an order that an NVR registered training organisation pay the Commonwealth a pecuniary penalty for contravening this condition.

Secondly, the Amendment Regulation will insert a provision into the Principal Regulation, prescribing that subsection 111(2) of the Act is a provision that is subject to an infringement notice for the purposes of section 149 of the Act, to the extent that a contravention of that subsection relates to the condition of registration set out in subsection 22(3) of the Act (complying with the Data Provision Requirements). The Data Provision Requirements (currently the *Data Provision Requirements 2012*) are a legislative instrument made by the Minister, as agreed by the CISC, under section 187 of the Act to make requirements for data provision. In effect, a breach of a condition to comply with the Data Provision Requirements will be added to the infringement notice scheme under the Act, and enable the Regulator to impose a specified penalty for such a breach, as an alternative to civil penalty proceedings. This measure will expand the Regulator's access to the suite of regulatory measures in the Act, and enable the Regulator to manage its compliance activities more efficiently.

Thirdly, the Amendment Regulation will insert provisions into the Principal Regulation, prescribing under subsection 216(3) of the Act, additional matters that the Regulator must ensure are entered on the National Register in relation to VET accredited courses and certain former VET accredited courses. These additional matters are:

- the titles and codes of the units of competency and modules that comprise the course
- a course description and the outcomes of the course, and
- a reference to an earlier or later version of the course.

Ensuring these additional matters are entered on the National Register by the Regulator increases the transparency of VET accredited courses which will enable prospective students and employers to better understand their content and suitability. It also ensures that the Regulator maps non-current VET accredited courses to their replacement, thereby enabling the Determination to refer to the National Register by reference and facilitate student access to VET student loans for up-to-date replacement courses.

### **Regulation Impact Statement**

The Office of Best Practice Regulation has advised that a regulatory impact statement is not required (OBPR Reference ID: 21129, 21445, 23592).

### **Commencement**

The preliminary provisions in sections 1 to 4 of the Amendment Regulation, as well as Part 1 of Schedule 1, commence on the day after the Amendment Regulation is registered on the Federal Register of Legislation.

Part 2 of Schedule 1 to the Amendment Regulation commences on 1 September 2018.

### **Consultation**

The Regulator and the states and territories have been consulted regarding the making of the Amendment Regulation and support the proposed measures.

Pursuant to clause 5.2 in the *Intergovernmental Agreement for Regulatory Reform in Vocational Education and Training* entered into between the Commonwealth and states and territories, the Commonwealth “will consult with States and Territories on proposals to make amendments to the National VET Regulator Legislation”. The department undertakes this consultation with the states and territories by consulting with the Skills Senior Officials’ Network (**SSON**).

SSON is comprised of senior officials from each state and territory government department responsible for VET, and sits beneath CISC. It is the primary mechanism through which the department progresses the decisions of CISC with the state and territory governments.

An exposure draft of the Amendment Regulation was circulated to state and territories for noting and comments, through SSON. Jurisdictions in their responses noted the proposed Amendment Regulation and expressed support for the proposed amendments.

## **Detailed explanation of the Amendment Regulation provisions**

### **Section 1 – Name**

This section provides that the title of the regulation is the *National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018* (the Amendment Regulation).

### **Section 2 – Commencement**

This section sets out a table specifying when the various provisions in the Amendment Regulation commence.

Sections 1 to 4 and anything in the Amendment Regulation not elsewhere covered by the table commence on the day after the Amendment Regulation is registered.

Part 1 of Schedule 1 to the Amendment Regulation, which concerns the publication on the National Register of the title and code of each unit of competency or module, and descriptions of VET accredited course and their outcomes, commences on the day after the Amendment Regulation is registered.

Part 2 of Schedule 1 to the Amendment Regulation, which concerns the publication on the National Register of references to an earlier or later version of a VET accredited course or former VET accredited course, commences on 1 September 2018.

### **Section 3 – Authority**

This section provides that the Amendment Regulation is made under the *National Vocational Education and Training Regulator Act 2011* (the Act).

### **Section 4 – Schedule(s)**

This section provides that each instrument that is specified in a Schedule to the Amendment Regulation is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Amendment Regulation has effect according to its terms.

## **Schedule 1 – Amendments**

### **Part 1—Amendments commencing on day after registration**

Part 1 of Schedule 1 to the Amendment Regulation makes amendments to the Principal Regulation that commences on the day after the registration of the Amendment Regulation.

#### **Item 1**

Item 1 amends regulation 5 in the Principal Regulation by inserting a new subregulation (1) after the heading.

For the purposes of paragraph 111(1)(a) of the Act, new subregulation 5(1) prescribes the condition of an NVR registered training organisation's registration mentioned in subsection 22(1) of the Act, being compliance with the Standards for NVR Registered Training Organisations.

Subsection 111(1) of the Act provides that an NVR registered training organisation contravenes subsection 111(1) if the organisation does an act or omits to do an act, and the act or omission breaches a condition of registration that is prescribed the purposes of paragraph 111(1)(a) of the Act. The effect of this item is that a breach of the condition on an NVR registered training organisation's registration to comply with the Standards for NVR Registered Training Organisations, is a contravention of subsection 111(1) of the Act to which a civil penalty of 240 penalty units applies.

The purpose of this amendment is to widen the enforcement options available to the Regulator in instances where an NVR registered training organisation breaches the Standards for NVR Registered Training Organisations. This will provide the Regulator with an alternate enforcement option to use for non-compliance with the Standards for NVR Registered Training Organisations as opposed to utilising administrative sanctions. The expanded enforcement options will enable negative behaviours in the sector to be penalised, if appropriate, through financial sanctions without affecting the provision of services to students.

#### **Item 2**

Item 2 is a technical consequential renumbering amendment resulting from the amendments made by item 1.

#### **Item 3**

Item 3 amends section 5 in the Principal Regulation by removing the term "training organisation" and replacing it with the phrase "training organisation's registration".

This is a technical amendment to address a typographical error.

#### **Item 4**

Item 4 amends section 7 in the Principal Regulation by including a new paragraph 7(da). New paragraph 7(da) prescribes that subsection 111(2) of the Act is a provision that is subject to an infringement notice for the purposes of section 149 of the Act, but only to the extent that a contravention of that subsection relates to the condition of registration set out in subsection 22(3) of the Act (complying with the Data Provision Requirements).

The purpose of this amendment is to include the condition that an NVR registered training organisation must comply with the Data Provision Requirements (as set in in subsection 22(3) of the Act) in the infringement notice scheme under the Act. This widens the enforcement options available to the Regulator under the Principal Regulation, and enables the Regulator to impose fines for breaches of subsection 22(3) without affecting the operation of the NVR registered training organisation, or the provision of services to students.

#### **Item 5**

Item 5 amends the Principal Regulation by inserting a new part Part 4A, titled *National Register*, and a new regulation 15A.

New subregulation 15A(1) provides that the regulation is made for the purposes of subsection 216(3) of the Act.

New subregulation 15A(2) provides that the Regulator must ensure for each VET accredited course and each former VET accredited course that the title and code of each unit of competency or module of the course are entered in the National Register.

New subregulation 15A(3) provides that the Regulator must ensure that for each VET accredited course a description of the course and the outcomes of the course are entered in the National Register.

The purpose of these amendments is to require the Regulator to include additional information on VET accredited courses on the National Register in order to increase transparency about accredited courses.

### **Item 6**

Item 6 amends the Principal Regulation by inserting a new regulation 17 at the end of Part 5, titled *Application provisions for the National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018*.

New subregulation 17(1) provides that the amendments made by items 1 and 4 of Part 1 of Schedule 1 to the Amendment Regulation apply in relation to acts or omissions that occur on or after the commencement of regulation 17.

New subregulation 17(2) provides that subregulation 15A(2) of the Principal Regulation, as inserted by item 5 of Part 1 of Schedule 1 to the Amendment Regulation, applies in relation to:

- a VET accredited course whether the course was accredited before, on or after the commencement of regulation 17; and
- a former VET accredited course if one or more students were enrolled in all or part of the course on or after 1 January 2015.

New subregulation 17(3) provides that subregulation 15A(3) of the Principal Regulation, as inserted by item 5 of Part 1 of Schedule 1 to the Amendment Regulation, applies in relation to a VET accredited course accredited on or after the commencement of regulation 17.

### **Part 2—Amendments commencing 1 September 2018**

Part 2 of Schedule 1 to the Amendment Regulation makes amendment to the Principal Regulation that are to commence on 1 September 2018.

### **Item 7**

Item 7 inserts a new subregulation (4) at the end of regulation 15A of the Principal Regulation.

New subregulation 15A(4) provides that if there is an earlier or later version of a VET accredited course or former VET accredited course (**the relevant VET course**), and the earlier or later version is a VET accredited course on or after 1 September 2018, the National VET Regulator must ensure that a reference to that version is entered in the National Register for the relevant VET course.

The purposes of this amendment is to require the Regulator to ensure that the National Register maps non-current VET accredited courses to their replacement (and vice versa). It is envisaged that references will be made between the different versions of VET accredited courses in the form of a hyperlink.

### **Item 8**

Item 8 inserts an additional subregulation (4) at the end of the application provisions inserted by item 6. New subregulation 17(4) provides that subregulation 15A(4) of the Principal Regulations, as inserted by item 7 of the Amendment Regulation, applies in relation to:

- a VET accredited course whether the course was accredited before, on or after 1 September 2018; and
- a former VET accredited course if it becomes a former VET accredited course on or after 1 September 2018.



## Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

### ***National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018***

The *National Vocational Education and Training Regulator Amendment (Enforcement and Other Measures) Regulations 2018 (Amendment Regulation)* is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Background**

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instrument or other writing as in force or existing from time to time. This measure will enable VET accredited courses specified on the National Register that replace non-current VET accredited courses listed on the Determination to be, for the purposes of the Determination, courses of study for which VET student loans may be approved.

To give effect to this measure, linkages will be included on the National Register to map from non-current VET accredited courses to their replacement, meaning that students will be able to access VET student loans when a VET accredited course listed in the Determination is later replaced, without having to wait for the Determination to be updated.

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Secondly, the Amendment Regulation will insert a provision into the Principal Regulation, prescribing that subsection 111(2) of the Act is a provision that is subject to an infringement notice for the purposes of section 149 of the Act, to the extent that a contravention of that subsection relates to the condition of registration set out in subsection 22(3) of the Act (complying with the Data Provision Requirements). The Data Provision Requirements (currently the *Data Provision Requirements 2012*) are a legislative instrument made by the Minister, as agreed by the CISC, under section 187 of the Act to make requirements for data provision. In effect, a breach of a condition to comply with the Data Provision Requirements will be added to the infringement notice scheme under the Act, and enable the Regulator to impose a specified penalty for such a breach, as an alternative to civil penalty proceedings. This measure will expand the Regulator's access to the suite of regulatory measures in the Act, and enable the Regulator to manage its compliance activities more efficiently.

Thirdly, the Amendment Regulation will insert provisions into the Principal Regulation, prescribing under subsection 216(3) of the Act, additional matters that the Regulator must ensure are entered on the National Register in relation to VET accredited courses and certain former VET accredited courses. These additional matters are:

- the titles and codes of the units of competency and modules that comprise the course
- a course description and the outcomes of the course, and
- a reference to an earlier or later version of the course.

Ensuring these additional matters are entered on the National Register by the Regulator increases the transparency of VET accredited courses which will enable prospective students and employers to better understand their content and suitability. It also ensures that the Regulator maps non-current VET accredited courses to their replacement, thereby enabling the Determination to refer to

the National Register by reference and facilitate student access to VET student loans for up-to-date replacement courses.

### **Human rights implications**

The Amendment Regulation engages the following human rights:

- the right to a fair and public hearing – Article 14 of the *International Covenant on Civil and Political Rights*
- the right to education – Article 13 of the *International Covenant on Economic, Social and Cultural Rights*
- the right to privacy and reputation – Article 17 of the *International Covenant on Civil and Political Rights*.

#### *Right to a fair trial and public hearing*

Article 14 of the *International Covenant on Civil and Political Rights (ICCPR)* contains the right to a fair trial and fair hearing. The right to a fair trial and fair hearing applies to both criminal and civil proceedings, and in cases before courts and tribunals. The right is concerned with procedural fairness, rather than the substantive decision of the court or tribunal. The right to a fair hearing requires recognition of the interests of the accused, the victim and the community (in a criminal trial) and of all parties (in a civil proceeding). The right to a public hearing incorporates the principle that justice should not only be done, but be seen to be done, by subjecting legal proceedings to public scrutiny.

The measures in the Amendment Regulation engage the right to a fair trial and public hearing through:

- inserting a provision into the Principal Regulation which empowers the Regulator to apply to the Federal Court or the Federal Circuit Court for an order that an NVR registered training organisation pay the Commonwealth a pecuniary penalty in instances when an NVR registered training organisation breaches the condition on its registration to comply with the Standards for NVR Registered Training Organisations
- inserting a provision into the Principal Regulation which adds a breach of a condition to comply with the Data Provision Requirements to the infringement notice scheme under the Act, and empowers the Regulator to impose a specified penalty for such a breach, as an alternative to undertaking civil penalty proceedings.

Enabling the Regulator to apply for a civil penalty for a breach of the Standards for NVR Registered Training Organisations, and enabling the Regulator to give an infringement notice for a breach of the Data Provision Requirements in place of pursuing civil penalty proceedings, adds to the flexibility of the regulatory enforcement regime available to the Regulator. These measures also add to the enforcement options available to the Regulator to effectively regulate the VET sector in Australia in accordance with a risk-based approach to regulation.

The Amendment Regulation engages, without limiting, the right to a fair trial and public hearing.. The provisions in the Act (Division 2 in Part 6 of the Act) provide that the Regulator must apply to the Federal Court or the Federal Circuit Court for the civil penalty of 240 penalty units for a breach of the Standards for NVR Registered Training Organisations to be imposed. Accordingly, the

Regulator is not empowered to impose a civil penalty in its own right and must commence proceedings in a court of law. This ensures the right of a fair trial and fair hearing as the Regulator and alleged wrongdoer need to engage with the procedures of the courts before the relevant court makes an order that the wrongdoer must pay the pecuniary penalty to the Commonwealth. The procedures of the courts include the Regulator presenting evidence to the court, and satisfying the court that the evidentiary elements of the breach have been met. The Act provides that the rules of evidence and procedure for civil matters must be applied to determining an application for a civil penalty order, therefore ensuring the alleged wrongdoer has the associated rights and protections afforded by civil court proceedings (i.e. procedural fairness, a case being established according to the standard of proof for civil matters, and the opportunity to be legally represented).

The infringement notice scheme under the Act was established through consultation with states, territories and industry, to introduce an expedited response to non-compliance through financial sanctions that do not affect the provision of services to students through higher financial penalties or administrative sanctions. Enabling the Regulator to issue an infringement notice for a breach of the Data Provision Requirements (rather than commencing civil penalty proceedings) provides the Regulator with flexibility in enforcement options by introducing a smaller financial penalty, the application of which ensures the quality and integrity of data provision in the sector. Issuance of an infringement notice includes the right for the person issued with an infringement notice to elect to have their matter heard by a court rather than pay the amount specified in the notice. This ensures the right of a fair trial and fair hearing for the alleged wrongdoer. In addition, regulation 12 of the Principal Regulation provides a person to whom an infringement notice has been given, an avenue to make written representations to the Regulator seeking the withdrawal of the notice.

Ensuring quality of training by enforcement mechanisms which serve to deter non-compliance, such as the civil penalty and infringement notice measures in the Amendment Regulation, ensures that the requisite standards according to which training must be provided is of an acceptable standard and quality, and enables the Regulator to pursue effective risk-appropriate enforcement action for serious breaches. These measures also allow the broader economy to have confidence in the accountability and integrity of the Australian qualifications system, the VET sector and the quality of the data available to effectively regulate the sector. The measures are reasonable and promote the right to a fair trial and fair hearing while achieving a legitimate policy end.

### *Right to education*

The Amendment Regulation engages the right to education contained in article 13 of the ICESCR. Article 13 recognises the important personal, societal, economic and intellectual benefits of education. Article 13 provides that secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means. It also requires education to be safe, with institutions and programs with appropriate physical facilities, trained teachers, teaching materials, libraries and computer facilities.

The measures in the Amendment Regulation seek to protect the integrity of the VET sector by ensuring that there are strong quality assurance mechanisms in place in order for high quality training outcomes to be delivered to students. An individual's qualifications should be a reliable measure for employers about the knowledge and skills that they possess, regardless of where they trained.

Attaching a civil penalty proceeding if an NVR registered training organisation breaches the Standards for NVR Registered Training Organisations, ensures the objective of ensuring that the

training provided to students is of an acceptable standard and required quality levels are achieved. The Standards for NVR Registered Training Organisations are a legislative instrument made under the Act and form part of the VET Quality Framework. Compliance with the Standards for NVR Registered Training Organisations is a condition of registration as a NVR registered training organisation. The measures in the Amendment Regulation support and bolster the right to education by helping to ensure that students gain the knowledge or skills of the training offered, by only letting nationally recognised training be provided where ongoing compliance with the VET Quality Framework is demonstrated.

Ensuring compliance with the Data Provision Requirements through infringement notices supports the effective regulation by the Regulator by adding to the regulatory mechanisms available to the Regulator to ensure that NVR registered Training Organisations report timely quality data on the VET sector. It enables the Regulator to facilitate access to accurate information relating to the quality of VET, enables students to access their own information and enables governments to develop policy and undertake workforce planning. Ensuring quality of training by bolstering the enforcement mechanisms available to the Regulator serves to deter non-compliance and allows the broader economy to have confidence in the accountability and integrity of the Australian VET qualifications system.

Further, the measures that require the Regulator to ensure details about VET accredited courses are entered on the National Register, also promote the right to education. The measures require the Regulator to ensure that additional information about VET accredited courses is available on the National Register. These additional details include the titles of the units of competency or modules that form the VET accredited course, along with a description and a reference to an earlier or later version of the VET accredited course. Making the additional details on a VET accredited course publicly available increases the transparency of VET accredited courses. The improved transparency of VET accredited courses will enhance the accessibility of VET by clarifying what a VET accredited course contains, leading to students being able to make informed decisions about their education. Ensuring that the Regulator maps non-current VET accredited courses to their replacement for the purposes of the Determination also facilitates student access to VET student loans for up-to-date replacement VET accredited courses. This measure will ultimately make these VET accredited courses more accessible to students.

The Amendment Regulation promotes and is compatible with the right to education.

### *Right to privacy and reputation*

The Amendment Regulation engages the right to privacy and reputation contained in Article 17 of the *International Covenant on Civil and Political Rights*. This article prohibits the unlawful or arbitrary interferences with a person's privacy, family, home and correspondence. The details of persons in respect of whom courses are accredited are published on the National Register in accordance with subparagraph 216(1)(d)(i) of the Act. Such persons are sometimes individuals. The measures in items 5 and 7 of the Amendment Regulation require the Regulator to ensure additional details about a VET accredited course that such persons have developed are included on the National Register.

The publication of these additional details about the VET accredited course a person has developed is necessary and proportionate to meeting the policy objective of improved transparency for VET accredited courses. Currently there is only limited information available on the National Register

about a VET accredited course. However, by including the titles of the units of competency or modules, a description of the VET accredited course, and a reference to an earlier or later version of the VET accredited course, on the National Register, students will have a significantly improved understanding of what the VET accredited course offers and what skills and competencies the student can expect to obtain from undertaking the VET accredited course. This will allow students to make a more informed decision about their education, improving their ability to find a VET accredited course that will provide them with the particular knowledge and skills they need to meet their educational outcome.

The measures in the Amendment Regulation that require the Regulator to ensure additional details about VET accredited courses are published on the National Register are not arbitrary. This is because the additional details are limited in scope, clearly specified in the Amendment Regulation and details that are either already publicly available to students, or accessible from NVR registered training organisations when students make enrolment enquiries. Additionally, a significant part of the additional details (such as the course description and the reference to an earlier or later version of the course) are provided by course owners to the Regulator, limiting the risk that the additional details may misrepresent a person.

The Amendment Regulation promotes and is compatible with the right to privacy and reputation.

## **Conclusion**

The Amendment Regulation promotes and is compatible with human rights.