

National Vocational Education and Training Regulator (Charges) Determination 2022

I, Brendan O’Connor, Minister for Skills and Training, make the following determination.

Dated 16 June 2022

Brendan O’Connor

Minister for Skills and Training

Contents

Part 1—Preliminary 1

1 Name 1

2 Commencement 1

3 Authority 1

4 Definitions 1

5 Schedules 2

Part 2—National VET Regulator annual registration charge 3

6 Amount of annual registration charge 3

Part 3—Charge for compliance audit 5

7 Amount of and calculation of charge 5

Part 4—Charge for the investigation of a complaint about an NVR registered training organisation 6

8 Amount and calculation of charge 6

Part 5—Circumstances in which a charge may be waived 7

9 Circumstances in which a charge may be waived in whole or in part 7

Schedule 1—Repeals 8

National Vocational Education and Training Regulator (Charges) Determination 2013 (No. 1) 8

Part 1—Preliminary

1 Name

 This instrument is the *National Vocational Education and Training Regulator (Charges) Determination 2022*.

2 Commencement

 (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | 1 July 2022. | 1 July 2022 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

 This instrument is made under subsection 6B(1), subsection 9(2), subsection 12(2) and paragraph 13(b) of the *National Vocational Education and Training Regulator (Charges) Act 2012.*

4 Definitions

Note 1: A number of expressions used in this instrument are defined in section 3 of the Act and the *National Vocational Education and Training Regulator Act 2011*, including the following:

1. compliance audit;
2. Data Provision Requirements;
3. National VET Regulator;
4. NVR registered training organisation; and
5. VET course.

 In this instrument:

***Act*** means the *National Vocational Education and Training Regulator (Charges) Act 2012*.

***National VET Regulator annual registration charge*** means the charge imposed by Part 1A of the Act.

***Number of reported students for the previous calendar year*** means the number of unique student enrolments in a VET course or part of a VET course as reported by a person to whom section 232A of the *National Vocational Education and Training Regulator Act 2011* applies for the previous calendar year in accordance with the person’s reporting obligations under the Data Provision Requirements.

 ***Number of VET courses the organisation is registered to offer on the first day of the financial year*** means the number of unique VET courses a person to whom section 232A of the *National Vocational Education and Training Regulator Act 2011* applies is registered to offer on the first day of the financial year, in accordance with its registration under:

1. the *National Vocational Education and Training Regulator Act 2011*;
2. the *Education Services for Overseas Students Act 2000*; or
3. both the *National Vocational Education and Training Regulator Act 2011* and the *Education Services for Overseas Students Act 2000*,

as applicable.

5 Schedules

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

Part 2—Determination of National VET Regulator annual registration charge

6 Method for working out amount of charge

 (1) For the purposes of subsection 6B(1) of the Act, the amount of annual registration charge payable by a person to whom section 232A of the *National Vocational Education and Training Regulator Act 2011* applies for the financial year commencing on 1 July 2022 and each later financial year is to be worked out in accordance with the following table.

| Table 1 |  |  |
| --- | --- | --- |
| Item | If the number VET courses the organisation is registered to offer on the first day of the financial year is… | and the number of reported students for the previous calendar year is… | the amount payable for the financial year is… |
| 1 | 0 to 4 | 0 to 99 | $1,500 |
| 100 to 249 | $2,300 |
| 250 to 499 | $3,400 |
| 500 to 900 | $5,100 |
| 1000 or more | $7,700 |
| 2 | 5 to 10 | 0 to 99 | $4,400 |
| 100 to 249 | $5,300 |
| 250 to 499 | $6,300 |
| 500 to 900 | $7,500 |
| 1000 or more | $9,000 |
| 3 | 11 to 25 | 0 to 99 | $7,900 |
| 100 to 249 | $8,700 |
| 250 to 499 | $9,700 |
| 500 to 900 | $10,700 |
| 1000 or more | $11,900 |
| 4 | 26 to 50 | 0 to 99 | $11,300 |
| 100 to 249 | $12,500 |
| 250 to 499 | $13,800 |
| 500 to 900 | $15,300 |
| 1000 or more | $16,900 |
| 5 | 51 or more | 0 to 99 | $15,900 |
| 100 to 249 | $17,600 |
| 250 to 499 | $19,500 |
| 500 to 900 | $21,600 |
| 1000 or more | $23,900 |

 (2) If a person to whom section 232A of the *National Vocational Education and Training Regulator Act 2011* applies both:

 (a) starts or continues to be registered during the financial year under the *National Vocational Education and Training Regulator Act 2011* as an NVR registered training organisation; and

 (b) starts or continues to be registered during the financial year under the *Education Services for Overseas Students Act 2000* as a registered provider and the National VET Regulator is the ESOS agency for the registered provider,

 the person is taken to discharge their liability to pay a charge for both registrations by paying the applicable amount of the relevant charge at subsection (1) once.

 *If person becomes registered during a financial year*

(3) If section 232A of the *National Vocational Education and Training Regulator Act 2011* does not apply to a person at the start of a financial year and that section begins to apply to the person during that year, the following proportion of the charge worked out at subsection (1) is payable in relation to that year:

$$\frac{Number of whole months remaining in the financial year after the day section 232A applies to person }{12}$$

Note: If a person ceases to be registered under either the *National Vocational Education and Training Regulator Act 2011* or the *Education Services for Overseas Students Act 2000* during a financial year, such that the person is no longer registered under either of those Acts, a pro rata refund worked out on the same basis is payable to the person: see subsection 232A(4) of the *National Vocational Education and Training Regulator Act 2011*.

Part 3—Charge for compliance audit

7 Amount and calculation of charge

 (1) For the purposes of subsection 9(2) of the Act, the amount of charge for a compliance audit payable by an NVR registered training organisation for the financial year commencing on 1 July 2022 and each later year is to be worked out according to the formula set out in subsection (2).

 (2) The amount of charge payable is $250 per hour the National VET Regulator spends on conducting the compliance audit, with charges applied in 15-minute increments on a pro-rata basis.

Part 4—Charge for the investigation of a complaint about an NVR registered training organisation

8 Amount and calculation of charge

 (1) For the purposes of subsection 12(2) of the Act, the amount of charge payable by an NVR registered training organisation for the financial year commencing on 1 July 2022 and each later financial year is to be worked out according to the formula set out in subsection (2), subject to subsections (3) and (4).

 (2) The amount of charge payable is:

 (a) $250 per hour the National VET Regulator spends on conducting the investigation, with charges applied in 15-minute increments on a pro-rata basis; plus

 (b) if a compliance audit is conducted as part of the investigation—$250 per hour the Regulator spends on conducting the audit, with charges applied in 15-minute increments on a pro-rata basis.

 (3) There is no charge payable for the Regulator investigating a complaint if the total time the Regulator spends on conducting the investigation is less than 30 minutes.

 (4) There is no charge payable for the Regulator conducting a compliance audit as part of an investigation into a complaint if the total time the Regulator spends on conducting the audit is less than 30 minutes.

Part 5—Circumstances in which a charge may be waived

9 Circumstances in which a charge may be waived in whole or in part

 (1) For the purpose of subsection 13(b) of the Act, the National VET Regulator may waive a charge under the Act, in whole or in part, where the Regulator determines that:

 (a) special or unusual circumstances exist which cause the charge to be unreasonable or inequitable; or

 (b) it would be uneconomical to pursue the amount of the charge that remains unpaid.

 (2) For the purposes of paragraph (1)(a), the following circumstances do not constitute special or unusual circumstances:

 (a) where the person required to pay the charge did not consent to the compliance audit or complaint investigation that resulted in the imposition of a charge; or

 (b) where the person required to pay the charge does not agree with the outcome of the compliance audit or complaint investigation that resulted in the imposition of a charge; or

 (c) where the person required to pay the charge ceases to exist, or ceases to be registered under either the *National Vocational Education and Training Regulator Act 2011* or *Education Services for Overseas Students Act 2000*.

 (3) To avoid doubt, circumstances related to the COVID-19 pandemic are special or unusual circumstances which could cause the charge to be unreasonable or inequitable for the purposes of paragraph (1)(a).

Schedule 1—Repeals

National Vocational Education and Training Regulator (Charges) Determination 2013 (No. 1)

1 The whole of the instrument

Repeal the instrument