

2010

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**National Vocational Education and  
Training Regulator (Transitional  
Provisions) Bill 2010**

**No.     , 2010**

*(Education, Employment and Workplace Relations)*

**A Bill for an Act to deal with transitional matters  
arising from the enactment of the *National  
Vocational Education and Training Regulator Act  
2010*, and for related purposes**



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1     **A Bill for an Act to deal with transitional matters**  
2     **arising from the enactment of the *National***  
3     ***Vocational Education and Training Regulator Act***  
4     **2010, and for related purposes**

5     The Parliament of Australia enacts:

6     **1 Short title**

7                     This Act may be cited as the *National Vocational Education and*  
8                     *Training Regulator (Transitional Provisions) Act 2010*.

9     **2 Commencement**

10                    (1) Each provision of this Act specified in column 1 of the table  
11                    commences, or is taken to have commenced, in accordance with

1 column 2 of the table. Any other statement in column 2 has effect  
2 according to its terms.

3

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</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.	
2. Schedule 1	Immediately after the commencement of section 3 of the <i>National Vocational Education and Training Regulator Act 2010</i> .	

4 Note: This table relates only to the provisions of this Act as originally  
5 enacted. It will not be amended to deal with any later amendments of  
6 this Act.

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

10 **3 Schedule(s)**

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12 repealed as set out in the applicable items in the Schedule  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

1  
2 **Schedule 1—Transitional provisions**

3 **Part 1—Preliminary**

4 **1 Interpretation**

5 (1) In this Schedule:

6 **commencement** means the day this item commences.

7 **new law** means the *National Vocational Education and Training*  
8 *Regulator Act 2010*.

9 **record**, in relation to a registered training organisation registered by a  
10 State VET Regulator, means a document, or an object, in any form  
11 (including any electronic form) that is, or has been, kept by the  
12 Regulator because of:

13 (a) any information or matter that it contains or that can be  
14 obtained from it; or

15 (b) its connection with any event, person, circumstance or thing.

16 **relevant commencement day** means:

17 (a) for a referring State covered by paragraph 5(1)(a) of the new  
18 law—the later of:

19 (i) the day that the legislation passed by the Parliament of  
20 the State referring the matters covered by subsections  
21 5(3) and (5) of the new law to the Commonwealth  
22 Parliament receives the Royal Assent; and

23 (ii) the day this item commences; or

24 (b) for a State covered by subsection 7(2) of the new law—the  
25 day that the legislation passed by the Parliament of the State:

26 (i) adopting the relevant version of the new law and the  
27 relevant version of this Act; and

28 (ii) referring the matter covered by subsection 5(5) of the  
29 new law to the Commonwealth Parliament;

30 comes into force; or

31 (c) for a non-referring State in relation to a registered training  
32 organisation mentioned in subitem 26(2) or 27(4)—the day  
33 that the National VET Regulator registers the organisation; or

34 (d) for a Territory—the day this item commences.

**Schedule 1** Transitional provisions

**Part 1** Preliminary

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1            ***show cause notice*** means a written notice given to a registered training  
2            organisation that:

- 3                    (a) sets out the grounds on which a State VET Regulator is  
4                    giving the notice; and  
5                    (b) invites the organisation to respond to the State VET  
6                    Regulator, in writing, addressing the grounds on which the  
7                    Regulator has given the notice.

8            The notice may also state the period within which the organisation must  
9            give the written response to the State VET Regulator.

10           ***TVET Australia*** means TVET Australia Limited (ABN 99 062 758  
11           632).

12           (2)    An expression used in this Schedule that is also used in the new law has  
13           the same meaning in this Schedule as it has in the new law.

14           (3)    Unless the context otherwise requires, a reference in this Schedule to a  
15           State VET Regulator includes a reference to a VET Regulator of a  
16           Territory.

17           (4)    In relation to a State VET Regulator of a non-referring State, a  
18           reference in this Schedule to:

- 19                    (a) a registered training organisation registered by the State VET  
20                    Regulator of the non-referring State; or  
21                    (b) a registered training organisation registered in the  
22                    non-referring State;

23           is to be read as a reference to a registered training organisation that:

- 24                    (c) is a registered provider (other than a secondary school); or  
25                    (d) provides all or part of a VET course in the non-referring State  
26                    and a referring State or a Territory; or  
27                    (e) provides all or part of a VET course in the non-referring State  
28                    and offers all or part of a VET course in a referring State or a  
29                    Territory to be provided in the referring State or Territory.

30           (5)    In addition to its effect apart from this subitem, subitem (4) also has the  
31           effect it would have if each reference to a registered training  
32           organisation were, by express provision, confined to a trading  
33           corporation.



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2 **Part 2—Continuation of existing registrations etc.**

3 **Division 1—Continuation of existing registrations etc.**

4 **2 Registration of registered training organisations—referring**  
5 **States**

6 (1) This item applies to a registered training organisation that is,  
7 immediately before the relevant commencement day, registered in a  
8 referring State.

9 (2) Before the end of 90 days beginning on the relevant commencement  
10 day, the registered training organisation must:  
11 (a) apply to the National VET Regulator for registration under  
12 the new law; or  
13 (b) seek confirmation, in writing, from the relevant State VET  
14 Regulator that:  
15 (i) the organisation's registration has been transferred to  
16 the National VET Regulator; and  
17 (ii) a copy of records, of a kind specified in a determination  
18 made by the National VET Regulator, have been  
19 provided by the State VET Regulator to the National  
20 VET Regulator;  
21 and provide that confirmation to the National VET Regulator.

22 (3) However, subitem (2) does not apply if the registered training  
23 organisation and the National VET Regulator are notified, before the  
24 end of 90 days beginning on the relevant commencement day, in  
25 writing, by the relevant State VET Regulator that the State VET  
26 Regulator has:  
27 (a) transferred the organisation's registration to the National  
28 VET Regulator; and  
29 (b) provided a copy of records, of a kind specified in a  
30 determination made by the National VET Regulator, for a  
31 period before the relevant commencement day.

32 (4) If a registered training organisation gives the National VET Regulator  
33 written confirmation, as mentioned in paragraph (2)(b), but a copy of

**Schedule 1** Transitional provisions

**Part 2** Continuation of existing registrations etc.

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1 the records mentioned in subparagraph (2)(b)(ii) have not actually been  
2 provided by the State VET Regulator to the National VET Regulator:

3 (a) the National VET Regulator must notify the organisation, in  
4 writing, of that fact; and

5 (b) the organisation must, within 90 days of being so notified,  
6 apply to the National VET Regulator for registration under  
7 the new law.

8 (5) The registered training organisation is taken to be an NVR registered  
9 training organisation for the period:

10 (a) beginning on the relevant commencement day; and

11 (b) ending on the day on which:

12 (i) the National VET Regulator notifies the organisation of  
13 its decision under the new law to grant or reject its  
14 application; or

15 (ii) the National VET Regulator updates the National  
16 Register to record that the organisation is now registered  
17 by the National VET Regulator.

18 Note 1: An NVR registered training organisation is registered under section 17 of the new law.

19 Note 2: Subparagraph (5)(b)(i) may apply in the circumstances described in subitem (4).

20 Note 3: Records relating to a registered training organisation that applies for registration still  
21 need to be provided by the relevant State regulator, see item 27.

22 **3 Registration of registered training organisations—**  
23 **non-referring States**

24 (1) This item applies to a registered training organisation that is,  
25 immediately before commencement, registered in a non-referring State.

26 (2) Before the end of 90 days beginning on commencement, the registered  
27 training organisation must:

28 (a) apply to the National VET Regulator for registration under  
29 the new law; or

30 (b) seek confirmation, in writing, from the relevant State VET  
31 Regulator that:

32 (i) the organisation's registration has been transferred to  
33 the National VET Regulator; and

34 (ii) a copy of records, of a kind specified in a determination  
35 made by the National VET Regulator, have been

- 1 provided by the State VET Regulator to the National  
2 VET Regulator;  
3 and provide that confirmation to the National VET Regulator.
- 4 (3) However, subitem (2) does not apply if the registered training  
5 organisation and the National VET Regulator are notified, before the  
6 end of 90 days beginning on commencement, in writing, by the relevant  
7 State VET Regulator that the State VET Regulator has:
- 8 (a) transferred the organisation's registration to the National  
9 VET Regulator; and  
10 (b) provided a copy of records, of a kind specified in a  
11 determination made by the National VET Regulator, for a  
12 period before commencement.
- 13 (4) If a registered training organisation gives the National VET Regulator  
14 written confirmation, as mentioned in paragraph (2)(b), but a copy of  
15 the records mentioned in subparagraph (2)(b)(ii) have not actually been  
16 provided by the State VET Regulator to the National VET Regulator:
- 17 (a) the National VET Regulator must notify the organisation, in  
18 writing, of that fact; and  
19 (b) the organisation must, within 90 days of being so notified,  
20 apply to the National VET Regulator for registration under  
21 the new law.
- 22 (5) The registered training organisation is taken to be an NVR registered  
23 training organisation for the period:
- 24 (a) beginning on commencement; and  
25 (b) ending on the day on which:
- 26 (i) the National VET Regulator notifies the organisation of  
27 its decision under the new law to grant or reject its  
28 application; or  
29 (ii) the National VET Regulator updates the National  
30 Register to record that the organisation is now registered  
31 by the National VET Regulator.

32 Note 1: An NVR registered training organisation is registered under section 17 of the new law.

33 Note 2: Subparagraph (5)(b)(i) may apply in the circumstances described in subitem (4).

34 Note 3: Records relating to a registered training organisation that applies for registration still  
35 need to be provided by the relevant State regulator, see item 27.

1 **4 Registration of registered training organisations—**  
2 **Territories**

3 If a registered training organisation was, immediately before the  
4 relevant commencement day, registered under a Territory law, the  
5 organisation is taken to be an NVR registered training organisation for  
6 the period:

- 7 (a) beginning on the relevant commencement day; and  
8 (b) ending on the day on which:  
9 (i) the organisation's registration would expire under the  
10 relevant Territory law but for this item; or  
11 (ii) the organisation's registration is cancelled under  
12 subsection 39(1) of the new law; or  
13 (iii) the withdrawal of the organisation's registration under  
14 section 42 of the new law takes effect;  
15 whichever occurs first.

16 Note: An NVR registered training organisation is registered under section 17 of the new law.

17 **5 Conditions of registration etc.**

- 18 (1) To avoid doubt, if a registered training organisation is taken to be an  
19 NVR registered training organisation under this Division:  
20 (a) any condition imposed on the organisation or the  
21 organisation's registration, before the relevant  
22 commencement day, requiring a fee, however described, to  
23 be paid to the relevant State, Territory or State VET  
24 Regulator continues in force as if it were a condition imposed  
25 under the new law; and  
26 (b) a fee mentioned in paragraph (a) is, on and after the relevant  
27 commencement day, payable to the National VET Regulator,  
28 even if the State or Territory law that imposed the fee, or  
29 allowed such a fee to be imposed, is amended or repealed;  
30 and  
31 (c) the National VET Regulator may, in accordance with the new  
32 law, impose conditions on the organisation's registration, as  
33 if the organisation had applied for registration and the  
34 Regulator had decided to grant the application.
- 35 (2) An inference that a registered training organisation complies with the  
36 VET Quality Framework is not to be made only because the

1 organisation is taken to be an NVR registered training organisation  
2 under this Division.

### 3 **6 Suspension of registered training organisations**

4 If:

- 5 (a) a registered training organisation is taken to be an NVR  
6 registered training organisation under this Division; and  
7 (b) either:  
8 (i) in the case of an organisation registered in a referring  
9 State or a Territory—all or part of the organisation’s  
10 scope of registration, immediately before the relevant  
11 commencement day, was suspended; or  
12 (ii) in the case of an organisation registered in a  
13 non-referring State—all or part of the organisation’s  
14 scope of registration, immediately before  
15 commencement, was suspended;

16 the suspension continues until:

- 17 (c) the National VET Regulator is satisfied that the organisation  
18 has done whatever is required for the suspension to be lifted  
19 (which may be something that was not required by the  
20 relevant State VET Regulator); or  
21 (d) the National VET Regulator takes action in relation to the  
22 suspension under the new law.

23 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
24 Territory, see subitem 1(3).

## 25 **Division 2—Applications for registration or renewal of** 26 **registration**

### 27 **7 Pending applications for registration—referring States and** 28 **Territories**

29 (1) If:

- 30 (a) an organisation has, before the relevant commencement day,  
31 applied to a State VET Regulator of a referring State or the  
32 VET Regulator of a Territory for registration; and  
33 (b) the State VET Regulator has not decided the application  
34 before the relevant commencement day;

35 then:

- 1 (c) the National VET Regulator must decide the application  
2 under the new law within 6 months after the relevant  
3 commencement day; and  
4 (d) if the National VET Regulator decides to grant the  
5 application:  
6 (i) the Regulator must register the organisation as an NVR  
7 registered training organisation under section 17 of the  
8 new law; and  
9 (ii) the Regulator must notify the organisation of its  
10 decision in accordance with section 18 of the new law;  
11 and  
12 (e) if the National VET Regulator decides to reject the  
13 application—the Regulator must notify the organisation of its  
14 decision in accordance with section 18 of the new law.

15 Note 1: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
16 Territory, see subitem 1(3).

17 Note 2: The National VET Regulator is taken to have granted the application if it does not make  
18 a decision within 6 months after the relevant commencement day or a longer period  
19 determined under subitem 11(1), see subitem 11(4).

- 20 (2) To avoid doubt, if the National VET Regulator decides to grant the  
21 application, the Regulator may, in accordance with the new law, impose  
22 conditions on the NVR registered training organisation's registration.

## 23 **8 Pending applications for registration—non-referring States**

- 24 (1) If:  
25 (a) an organisation has, before commencement, applied to a  
26 State VET Regulator of a non-referring State for registration;  
27 and  
28 (b) the State VET Regulator has not decided the application  
29 before commencement;  
30 then:  
31 (c) the National VET Regulator must decide the application  
32 under the new law within 6 months after commencement; and  
33 (d) if the National VET Regulator decides to grant the  
34 application:  
35 (i) the Regulator must register the organisation as an NVR  
36 registered training organisation under section 17 of the  
37 new law; and

- 1 (ii) the Regulator must notify the organisation of its  
2 decision in accordance with section 18 of the new law;  
3 and  
4 (e) if the National VET Regulator decides to reject the  
5 application—the Regulator must notify the organisation of its  
6 decision in accordance with section 18 of the new law.

7 **Note:** The National VET Regulator is taken to have granted the application if it does not make  
8 a decision within 6 months after commencement or a longer period determined under  
9 subitem 11(1), see subitem 11(4).

- 10 (2) To avoid doubt, if the National VET Regulator decides to grant the  
11 application, the Regulator may, in accordance with the new law, impose  
12 conditions on the NVR registered training organisation's registration.

## 13 **9 Pending applications for renewal of registration—referring** 14 **States and Territories**

- 15 (1) **If:**  
16 (a) a registered training organisation registered in a referring  
17 State or a Territory has applied to the relevant State VET  
18 Regulator for renewal of its registration; and  
19 (b) the State VET Regulator has not decided the application  
20 before the relevant commencement day;  
21 **then:**  
22 (c) the National VET Regulator must decide the application  
23 under the new law within 6 months after the relevant  
24 commencement day; and  
25 (d) if the National VET Regulator decides to grant the  
26 application:  
27 (i) the Regulator must register the organisation as an NVR  
28 registered training organisation under section 17 of the  
29 new law; and  
30 (ii) the Regulator must notify the organisation of its  
31 decision in accordance with section 18 of the new law;  
32 and  
33 (e) if the National VET Regulator decides to reject the  
34 application—the Regulator must notify the organisation of its  
35 decision in accordance with section 18 of the new law.

36 **Note 1:** A reference to a State VET Regulator includes a reference to a VET Regulator of a  
37 Territory, see subitem 1(3).

**Schedule 1** Transitional provisions

**Part 2** Continuation of existing registrations etc.

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1 Note 2: The National VET Regulator is taken to have granted the application if it does not make  
2 a decision within 6 months after the relevant commencement day or a longer period  
3 determined under subitem 11(1), see subitem 11(4).

4 (2) To avoid doubt, if the National VET Regulator decides to grant the  
5 application, the Regulator may, in accordance with the new law, impose  
6 conditions on the NVR registered training organisation's registration.

7 (3) The registered training organisation is taken to be an NVR registered  
8 training organisation for the period:

9 (a) beginning on the relevant commencement day; and

10 (b) ending:

11 (i) on the day on which the National VET Regulator makes  
12 its decision; or

13 (ii) if the Regulator determines a longer period under  
14 subitem 11(1)—on the last day of that period; or

15 (iii) if the Regulator does not determine a longer period  
16 under subitem 11(1)—on the day that occurs 6 months  
17 after the relevant commencement day;

18 whichever occurs first.

19 Note: If subparagraph (3)(b)(iii) applies, the registered training organisation's registration will  
20 be taken to be renewed for 2 years, see subitem 11(5).

21 (4) An inference that a registered training organisation complies with the  
22 VET Quality Framework is not to be made only because the  
23 organisation is taken to be an NVR registered training organisation for  
24 the period mentioned in subitem (3).

25 **10 Pending applications for renewal of registration—**  
26 **non-referring States**

27 (1) If:

28 (a) a registered training organisation registered in a non-referring  
29 State has applied to the relevant State VET Regulator for  
30 renewal of its registration; and

31 (b) the State VET Regulator has not decided the application  
32 before commencement;

33 then:

34 (c) the National VET Regulator must decide the application  
35 under the new law within 6 months after commencement; and



- 1 (d) if the National VET Regulator decides to grant the  
2 application:  
3 (i) the Regulator must register the organisation as an NVR  
4 registered training organisation under section 17 of the  
5 new law; and  
6 (ii) the Regulator must notify the organisation of its  
7 decision in accordance with section 18 of the new law;  
8 and  
9 (e) if the National VET Regulator decides to reject the  
10 application—the Regulator must notify the organisation of its  
11 decision in accordance with section 18 of the new law.

12 Note: The National VET Regulator is taken to have granted the application if it does not make  
13 a decision within 6 months after commencement or a longer period determined under  
14 subitem 11(1), see subitem 11(4).

15 (2) To avoid doubt, if the National VET Regulator decides to grant the  
16 application, the Regulator may, in accordance with the new law, impose  
17 conditions on the NVR registered training organisation's registration.

18 (3) The registered training organisation is taken to be an NVR registered  
19 training organisation for the period:

- 20 (a) beginning on commencement; and  
21 (b) ending:  
22 (i) on the day on which the National VET Regulator makes  
23 its decision; or  
24 (ii) if the Regulator determines a longer period under  
25 subitem 11(1)—on the last day of that period; or  
26 (iii) if the Regulator does not determine a longer period  
27 under subitem 11(1)—on the day that occurs 6 months  
28 after commencement;  
29 whichever occurs first.

30 Note: If subparagraph (3)(b)(iii) applies, the registered training organisation's registration will  
31 be taken to be renewed for 2 years, see subitem 11(5).

32 (4) An inference that a registered training organisation complies with the  
33 VET Quality Framework is not to be made only because the  
34 organisation is taken to be an NVR registered training organisation for  
35 the period mentioned in subitem (3).

## 36 **11 Extension of time for considering applications**

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**Schedule 1** Transitional provisions

**Part 2** Continuation of existing registrations etc.

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- 1 (1) If the National VET Regulator is satisfied that, for reasons beyond its  
2 control, a decision cannot be made within the 6 month period mentioned  
3 in paragraph 7(1)(c), 8(1)(c), 9(1)(c) or 10(1)(c), the Regulator may  
4 determine a longer period, of no more than 6 months, within which it  
5 must make a decision on an application.
- 6 (2) If the National VET Regulator determines a longer period, it must do so  
7 not later than 6 weeks before the expiry of the 6 month period  
8 mentioned in paragraph 7(1)(c), 8(1)(c), 9(1)(c) or 10(1)(c), whichever  
9 applies.
- 10 (3) If the National VET Regulator determines a longer period under  
11 subitem (1), the Regulator must, within 7 days of making the  
12 determination:  
13 (a) notify the organisation concerned, in writing, of the  
14 determination; and  
15 (b) give, in writing, the reasons for the determination.
- 16 (4) If:  
17 (a) a decision is not made within the 6 month period mentioned  
18 in paragraph 7(1)(c), 8(1)(c), 9(1)(c) or 10(1)(c) and the  
19 National VET Regulator does not determine a longer period;  
20 or  
21 (b) the Regulator determines a longer period but does not make a  
22 decision within that period;  
23 the Regulator is taken to have granted the application.
- 24 (5) If the National VET Regulator is taken to have granted an application,  
25 as mentioned in subitem (4), the organisation to which the application  
26 relates is taken to have been registered (including by way of a renewal  
27 of registration), for 2 years beginning on the first day after the 6 month  
28 period.
- 29 (6) An inference that an organisation complies with the VET Quality  
30 Framework is not to be made only because the organisation is taken to  
31 have been registered as an NVR registered training organisation for the  
32 period mentioned in subitem (5).

1 **Division 3—Applications for change of scope of**  
2 **registration**

3 **12 Pending applications for change of scope of registration—**  
4 **referring States and Territories**

5 (1) This item applies to a registered training organisation that is,  
6 immediately before the relevant commencement day, registered in a  
7 referring State or a Territory.

8 (2) If:

- 9 (a) a registered training organisation has, before the relevant  
10 commencement day, applied to a State VET Regulator to  
11 change its scope of registration to include a VET course or  
12 part of a VET course; and  
13 (b) the State VET Regulator has not decided the application  
14 before the relevant commencement day;

15 then:

- 16 (c) the National VET Regulator must decide the application  
17 under the new law as soon as practicable; and  
18 (d) if the National VET Regulator decides to grant the  
19 application:  
20 (i) the Regulator must determine the day from which the  
21 VET course, or part of the VET course, may be  
22 delivered by the organisation; and  
23 (ii) the Regulator must notify the organisation of its  
24 decision in accordance with section 34 of the new law;  
25 and  
26 (e) if the National VET Regulator decides to reject the  
27 application—the Regulator must notify the organisation of its  
28 decision in accordance with section 34 of the new law.

29 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
30 Territory, see subitem 1(3).

31 (3) To avoid doubt, if the National VET Regulator decides to grant the  
32 application, the Regulator may, in accordance with the new law, impose  
33 conditions on the NVR registered training organisation's registration.

34 **13 Pending applications for change of scope of registration—**  
35 **non-referring States**

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**Schedule 1** Transitional provisions

**Part 2** Continuation of existing registrations etc.

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- 1 (1) This item applies to a registered training organisation that is,  
2 immediately before commencement, registered in a non-referring State.
- 3 (2) If:
- 4 (a) a registered training organisation has, before commencement,  
5 applied to a State VET Regulator to change its scope of  
6 registration to include a VET course or part of a VET course;  
7 and
- 8 (b) the State VET Regulator has not decided the application  
9 before commencement;
- 10 then:
- 11 (c) the National VET Regulator must decide the application  
12 under the new law as soon as practicable; and
- 13 (d) if the National VET Regulator decides to grant the  
14 application:
- 15 (i) the Regulator must determine the day from which the  
16 VET course, or part of the VET course, may be  
17 delivered by the organisation; and
- 18 (ii) the Regulator must notify the organisation of its  
19 decision in accordance with section 34 of the new law;  
20 and
- 21 (e) if the National VET Regulator decides to reject the  
22 application—the Regulator must notify the organisation of its  
23 decision in accordance with section 34 of the new law.
- 24 (3) To avoid doubt, if the National VET Regulator decides to grant the  
25 application, the Regulator may, in accordance with the new law, impose  
26 conditions on the NVR registered training organisation's registration.

27 **Division 4—Applications for withdrawal of registration**

28 **14 Pending applications for withdrawal of registration—**  
29 **referring States and Territories**

- 30 (1) This item applies to a registered training organisation that is,  
31 immediately before the relevant commencement day, registered in a  
32 referring State or a Territory.
- 33 (2) If:
-

- 1 (a) a registered training organisation has, before the relevant  
2 commencement day, applied to a State VET Regulator to  
3 have its registration withdrawn; and  
4 (b) the State VET Regulator has not decided the application  
5 before the relevant commencement day;  
6 then:  
7 (c) if the National VET Regulator is satisfied, in all the  
8 circumstances, that it is appropriate to allow the  
9 organisation's registration to be withdrawn—the Regulator  
10 must allow the registration to be withdrawn; and  
11 (d) the National VET Regulator must, by notice in writing, notify  
12 the organisation of its decision and, if the organisation's  
13 registration is to be withdrawn, the day from which the  
14 withdrawal takes effect.

15 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
16 Territory, see subitem 1(3).

- 17 (3) If:  
18 (a) a registered training organisation's registration is withdrawn  
19 under this item; and  
20 (b) the organisation was issued with a certificate of registration;  
21 the organisation must return the certificate to the National VET  
22 Regulator within 10 days of the day the withdrawal takes effect.

## 23 **15 Pending applications for withdrawal of registration—** 24 **non-referring States**

- 25 (1) This item applies to a registered training organisation that is,  
26 immediately before commencement, registered in a non-referring State.
- 27 (2) If:  
28 (a) a registered training organisation has, before commencement,  
29 applied to a State VET Regulator to have its registration  
30 withdrawn; and  
31 (b) the State VET Regulator has not decided the application  
32 before commencement;  
33 then:  
34 (c) if the National VET Regulator is satisfied, in all the  
35 circumstances, that it is appropriate to allow the

**Schedule 1** Transitional provisions

**Part 2** Continuation of existing registrations etc.

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- 1 organisation's registration to be withdrawn—the Regulator  
2 must allow the registration to be withdrawn; and
- 3 (d) the National VET Regulator must, by notice in writing, notify  
4 the organisation of its decision and, if the organisation's  
5 registration is to be withdrawn, the day from which the  
6 withdrawal takes effect.
- 7 (3) If:
- 8 (a) a registered training organisation's registration is withdrawn  
9 under this item; and
- 10 (b) the organisation was issued with a certificate of registration;  
11 the organisation must return the certificate to the National VET  
12 Regulator within 10 days of the day the withdrawal takes effect.

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## **Part 3—Continuation of existing course accreditations etc.**

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### **Division 1—Continuation of existing accreditations etc.**

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#### **16 Accreditation of VET accredited courses continue in force**

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(1) If, immediately before the relevant commencement day, a course was accredited by:

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8

(a) the State VET Regulator of a referring State; or

9

(b) the VET Regulator of a Territory;

10

the course is taken to be a VET accredited course for the period:

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(c) beginning on the relevant commencement day; and

12

(d) ending on the day on which:

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(i) the course's accreditation would expire under the

14

relevant State or Territory law but for this subitem; or

15

(ii) the course's accreditation is cancelled under subsection

16

52(1) of the new law.

17

Note: A course is accredited as a VET accredited course under section 44 of the new law.

18

(2) To avoid doubt, if a course is taken to be a VET accredited course under subitem (1), the National VET Regulator may, in accordance with the new law, impose conditions on the accreditation of the VET accredited course.

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(3) An inference that a course meets the Standards for VET Accredited Courses or the Australian Qualifications Framework is not to be made only because the course is taken to be a VET accredited course under subitem (1).

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#### **17 Suspension of a course's accreditation**

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If:

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(a) a course is taken to be a VET accredited course under item 16; and

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(b) the course's accreditation, immediately before commencement, was suspended;

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the suspension continues until:

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**Schedule 1** Transitional provisions

**Part 3** Continuation of existing course accreditations etc.

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- 1 (c) the National VET Regulator is satisfied that the person or  
2 entity in respect of whom the course is accredited has done  
3 whatever is required for the suspension to be lifted (which  
4 may be something that was not required by the relevant State  
5 VET Regulator); or  
6 (d) the National VET Regulator takes action in relation to the  
7 suspension under the new law.

8 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
9 Territory, see subitem 1(3).

10 **Division 2—Applications for accreditation, or renewal of**  
11 **accreditation, of a course**

12 **18 Pending applications for accreditation—referring States**  
13 **and Territories**

- 14 (1) If:  
15 (a) a person or entity has, before the relevant commencement  
16 day, applied to a State VET Regulator of a referring State or  
17 the VET Regulator of a Territory for accreditation of a  
18 course; and  
19 (b) the State VET Regulator has not decided the application  
20 before the relevant commencement day;  
21 then:  
22 (c) the National VET Regulator must decide the application  
23 under the new law within 6 months after the relevant  
24 commencement day; and  
25 (d) if the National VET Regulator decides to grant the  
26 application:  
27 (i) the Regulator must accredit the course as a VET  
28 accredited course under section 44 of the new law; and  
29 (ii) the Regulator must notify the person or entity of its  
30 decision in accordance with section 45 of the new law;  
31 and  
32 (e) if the National VET Regulator decides to reject the  
33 application—the Regulator must notify the person or entity  
34 of its decision in accordance with section 45 of the new law.

35 Note 1: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
36 Territory, see subitem 1(3).

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1 Note 2: The National VET Regulator is taken to have granted the application if it does not make  
2 a decision within 6 months after the relevant commencement day or a longer period  
3 determined under subitem 20(1), see subitem 20(4).

4 (2) To avoid doubt, if the National VET Regulator decides to grant the  
5 application, the Regulator may, in accordance with the new law, impose  
6 conditions on the course's accreditation.

7 **19 Pending applications for renewal of accreditation—**  
8 **referring States and Territories**

9 (1) If:

- 10 (a) a person or entity in respect of whom a VET accredited  
11 course is accredited has applied to a State VET Regulator of  
12 a referring State or the VET Regulator of a Territory for  
13 renewal of the accreditation of the course; and  
14 (b) the State VET Regulator has not decided the application  
15 before the relevant commencement day;

16 then:

- 17 (c) the National VET Regulator must decide the application  
18 under the new law within 6 months after the relevant  
19 commencement day; and  
20 (d) if the National VET Regulator decides to grant the  
21 application:  
22 (i) the Regulator must accredit the course as a VET  
23 accredited course under section 44 of the new law; and  
24 (ii) the Regulator must notify the person or entity of its  
25 decision in accordance with section 45 of the new law;  
26 and  
27 (e) if the National VET Regulator decides to reject the  
28 application—the Regulator must notify the person or entity  
29 of its decision in accordance with section 45 of the new law.

30 Note 1: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
31 Territory, see subitem 1(3).

32 Note 2: The National VET Regulator is taken to have granted the application if it does not make  
33 a decision within 6 months after the relevant commencement day or a longer period  
34 determined under subitem 20(1), see subitem 20(4).

35 (2) To avoid doubt, if the National VET Regulator decides to grant the  
36 application, the Regulator may, in accordance with the new law, impose  
37 conditions on the course's accreditation.

**Schedule 1** Transitional provisions

**Part 3** Continuation of existing course accreditations etc.

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- 1 (3) The course is taken to be a VET accredited course for the period:  
2 (a) beginning on the relevant commencement day; and  
3 (b) ending:  
4 (i) on the day on which the National VET Regulator makes  
5 its decision; or  
6 (ii) if the Regulator determines a longer period under  
7 subitem 20(1)—on the last day of that period; or  
8 (iii) if the Regulator does not determine a longer period  
9 under subitem 20(1)—on the day that occurs 6 months  
10 after the relevant commencement day;  
11 whichever occurs first.

12 Note: If subparagraph (3)(b)(iii) applies, the accreditation of the course will be taken to be  
13 renewed for 2 years, see subitem 20(5).

- 14 (4) To avoid doubt, an inference that a course meets the Standards for VET  
15 accredited courses or the Australian Qualifications Framework is not to  
16 be made only because the course is taken to be a VET accredited course  
17 for the period mentioned in subitem (3).

18 **20 Extension of time for considering applications**

- 19 (1) If the National VET Regulator is satisfied that, for reasons beyond its  
20 control, a decision cannot be made within the 6 month period mentioned  
21 in paragraph 18(1)(c) or 19(1)(c), the Regulator may determine a longer  
22 period, of no more than 6 months, within which it must make a decision  
23 on an application.
- 24 (2) If the National VET Regulator determines a longer period, it must do so  
25 not later than 6 weeks before the expiry of the 6 month period  
26 mentioned in paragraph 18(1)(c) or 19(1)(c), whichever applies.
- 27 (3) If the National VET Regulator determines a longer period under  
28 subitem (1), the Regulator must, within 7 days of making the  
29 determination:  
30 (a) notify the person or entity concerned, in writing, of the  
31 determination; and  
32 (b) give, in writing, the reasons for the determination.
- 33 (4) If:  
34 (a) a decision is not made within the 6 month period mentioned  
35 in paragraph 18(1)(c) or 19(1)(c) and the National VET  
36 Regulator does not determine a longer period; or
-

- 1                                   (b) the Regulator determines a longer period but does not make a  
2                                   decision within that period;  
3                                   the Regulator is taken to have granted the application.
- 4       (5)    If the National VET Regulator is taken to have granted an application,  
5                                   as mentioned in subitem (4), the course to which the application relates  
6                                   is taken to be a VET accredited course (including by way of a renewal  
7                                   of accreditation) for 2 years beginning on the first day after the 6 month  
8                                   period.
- 9       (6)    To avoid doubt, an inference that a course meets the Standards for VET  
10                                  accredited courses or the Australian Qualifications Framework is not to  
11                                  be made only because the course is taken to be a VET accredited course  
12                                  for the period mentioned in subitem (5).

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## **Part 4—References to, and things done by, or in relation to, a VET Regulator**

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### **21 Things done by, or in relation to, a VET Regulator**

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(1) If a thing was done by, or in relation to, the State VET Regulator of a referring State under a law of the State, then the thing is taken after the relevant commencement day, to have been done by, or in relation to, the National VET Regulator.

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(2) If a thing was done by, or in relation to, the VET Regulator of a Territory under a law of the Territory, then the thing is taken after the relevant commencement day, to have been done by, or in relation to, the National VET Regulator.

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(3) If a thing was done by, or in relation to, a State VET Regulator of a non-referring State in respect of a registered training organisation registered by the State VET Regulator, then the thing is taken after commencement, to have been done by, or in relation to, the National VET Regulator in respect of the organisation.

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(4) Subitems (1), (2) and (3) apply only to things done by, or in relation to, a State VET Regulator in respect of a matter dealt with by the new law.

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Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a Territory, see subitem 1(3).

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(5) The Minister may, by writing, determine that subitem (1), (2) or (3) does not apply in relation to a specified thing done by, or in relation to, a State VET Regulator.

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(6) To avoid doubt, doing a thing includes making an instrument.

26

(7) A determination under subitem (5) is not a legislative instrument.

27

### **22 Show cause notices—referring States and Territories**

28

(1) This item applies to a registered training organisation that is, immediately before the relevant commencement day, registered in a referring State or a Territory.

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(2) If, before the relevant commencement day, a State VET Regulator had given a registered training organisation a show cause notice, then,

32

1 within 60 days after the relevant commencement day, the National VET  
2 Regulator must:

- 3 (a) decide what action to take in relation to the organisation  
4 under the new law; and  
5 (b) if the National VET Regulator decides to take action—in  
6 taking the relevant action, notify the organisation that the  
7 Regulator is taking the action in response to the show cause  
8 notice; and  
9 (c) if the National VET Regulator decides not to take action—  
10 within 30 days of its decision, notify the organisation, in  
11 writing, that no further action will be taken in relation to the  
12 show cause notice.

13 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
14 Territory, see subitem 1(3).

15 (3) If a decision is not made within 60 days after the relevant  
16 commencement day, the National VET Regulator is taken to have  
17 decided not to take action under the new law in relation to the registered  
18 training organisation.

19 (4) If, in relation to a show cause notice:

- 20 (a) a State VET Regulator required a person to provide evidence,  
21 information or any document; and  
22 (b) the evidence, information or document was not provided to  
23 the State VET Regulator before the relevant commencement  
24 day;

25 then, the evidence, information or document must be provided to the  
26 National VET Regulator.

## 27 **23 Show cause notices—non-referring States**

28 (1) This item applies to a registered training organisation that is,  
29 immediately before commencement, registered in a non-referring State.

30 (2) If, before commencement, a State VET Regulator had given a registered  
31 training organisation a show cause notice, then, within 60 days after  
32 commencement, the National VET Regulator must:

- 33 (a) decide what action to take in relation to the organisation  
34 under the new law; and  
35 (b) if the National VET Regulator decides to take action—in  
36 taking the relevant action, notify the organisation that the

**Schedule 1** Transitional provisions

**Part 4** References to, and things done by, or in relation to, a VET Regulator

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- 1   Regulator is taking the action in response to the show cause  
2 notice; and
- 3   (c) if the National VET Regulator decides not to take action—  
4   within 30 days of its decision, notify the organisation, in  
5   writing, that no further action will be taken in relation to the  
6   show cause notice.
- 7       (3)    If a decision is not made within 60 days after commencement, the  
8   National VET Regulator is taken to have decided not to take action  
9   under the new law in relation to the registered training organisation.
- 10     (4)    If, in relation to a show cause notice:
- 11   (a) a State VET Regulator required a person to provide evidence,  
12   information or any document; and
- 13   (b) the evidence, information or document was not provided to  
14   the State VET Regulator before the relevant commencement  
15   day;
- 16   then, the evidence, information or document must be provided to the  
17   National VET Regulator.

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## **Part 5—Review of decisions**

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### **24 Rights of review of certain decisions**

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To avoid doubt, an application may be made to the Administrative Appeals Tribunal under Division 1 of Part 9 of the new law for review of any of the following decisions of the National VET Regulator:

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- (a) a decision under section 17 of the new law, as applied by one of the following provisions of this Schedule, to register an organisation as an NVR registered training organisation:

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- (b) a decision under section 17 of the new law, as applied by one of the following provisions of this Schedule, not to register an organisation as an NVR registered training organisation:

(i) paragraph 7(1)(e);

(ii) paragraph 8(1)(e);

(iii) paragraph 9(1)(e);

(iv) paragraph 10(1)(e);

- (c) a decision under subsection 29(1) of the new law, as applied by one of the following provisions of this Schedule, to impose a condition on an NVR registered training organisation's registration:

(i) paragraph 5(1)(c);

(ii) subitem 7(2);

(iii) subitem 8(2);

(iv) subitem 9(2);

(v) subitem 10(2);

(vi) subitem 12(3);

(vii) subitem 13(3);

- (d) a decision under section 44 of the new law, as applied by one of the following provisions of this Schedule, to accredit a course as a VET accredited course:

(i) paragraph 18(1)(d);

(ii) paragraph 19(1)(d);

- 1 (e) a decision under section 44 of the new law, as applied by one  
2 of the following provisions of this Schedule, not to accredit a  
3 course as a VET accredited course:  
4 (i) paragraph 18(1)(e);  
5 (ii) paragraph 19(1)(e);  
6 (f) a decision under subsection 48(1) of the new law, as applied  
7 by one of the following provisions of this Schedule, to  
8 impose a condition on a VET accredited course's  
9 accreditation:  
10 (i) subitem 16(2);  
11 (ii) subitem 18(2);  
12 (iii) subitem 19(2);  
13 (g) a decision under section 33 of the new law, as applied by one  
14 of the following provisions of this Schedule, to change an  
15 NVR registered training organisation's scope of registration:  
16 (i) paragraph 12(2)(d);  
17 (ii) paragraph 13(2)(d);  
18 (h) a decision under section 33 of the new law, as applied by one  
19 of the following provisions of this Schedule, not to change an  
20 NVR registered training organisation's scope of registration:  
21 (i) paragraph 12(2)(e);  
22 (ii) paragraph 13(2)(e);  
23 (i) a decision under section 42 of the new law, as applied by one  
24 of the following provisions of this Schedule, to allow a  
25 registered training organisation to withdraw its registration:  
26 (i) paragraph 14(2)(c);  
27 (ii) paragraph 15(2)(c);  
28 (j) a decision under section 42 of the new law, as applied by one  
29 of the following provisions of this Schedule, not to allow a  
30 registered training organisation to withdraw its registration:  
31 (i) paragraph 14(2)(c);  
32 (ii) paragraph 15(2)(c);  
33 (k) a decision under subitem 11(1) or 20(1) of this Schedule to  
34 determine a longer period within which the National VET  
35 Regulator may make a decision on an application.



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## **Part 6—Treatment of staff employed by VET Regulators etc.**

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### **25 Engagement of staff**

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(1) Without limiting item 30, regulations under that item may provide for:

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(a) the engagement of an employee from a State VET Regulator or the VET Regulator of a Territory, on terms and conditions substantially similar to, and, considered on an overall basis, no less favourable than, the employee's terms and conditions of employment with the relevant VET Regulator immediately before the engagement; and

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(b) the engagement of an employee from TVET Australia, on terms and conditions substantially similar to, and, considered on an overall basis, no less favourable than, the employee's terms and conditions of employment with TVET Australia immediately before the engagement; and

(c) staffing procedures of a State VET Regulator of a referring State or the VET Regulator of a Territory to apply, or to continue to apply, in relation to:

(i) processes begun before, but not completed by, the relevant commencement day; or

(ii) things done by, for or in relation to the relevant VET Regulator or an employee of that VET Regulator before the relevant commencement day; or

(d) staffing procedures of a State VET Regulator of a non-referring State to apply, or to continue to apply, in relation to:

(i) processes begun before, but not completed by, commencement; or

(ii) things done by, for or in relation to the relevant State VET Regulator or an employee of that VET Regulator before commencement; or

(e) staffing procedures of TVET Australia to apply, or to continue to apply, in relation to:

(i) processes begun before, but not completed by, commencement; or

**Schedule 1** Transitional provisions

**Part 6** Treatment of staff employed by VET Regulators etc.

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- 1 (ii) things done by, for or in relation to TVET Australia or  
2 an employee of TVET Australia before commencement;  
3 or  
4 (f) staffing procedures of the National VET Regulator to apply  
5 in relation to:  
6 (i) in the case of a referring State or a Territory—processes  
7 begun before, but not completed by, the relevant  
8 commencement day; or  
9 (ii) in the case of a non-referring State or TVET Australia—  
10 processes begun before, but not completed by,  
11 commencement; or  
12 (iii) things done by, for or in relation to a State VET  
13 Regulator of a referring State before the relevant  
14 commencement day; or  
15 (iv) things done by, for or in relation to the VET Regulator  
16 of a Territory before the relevant commencement day;  
17 or  
18 (v) things done by, for or in relation to a State VET  
19 Regulator of a non-referring State before  
20 commencement; or  
21 (vi) things done by, for or in relation to TVET Australia  
22 before commencement.
- 23 (2) Regulations made for the purposes of this item have effect despite the  
24 *Public Service Act 1999*.
- 25 (3) In this item:  
26 *staffing procedures* includes procedures and policies related to:  
27 (a) recruitment, promotion or performance management; or  
28 (b) inefficiency, misconduct, forfeiture of position, fitness for  
29 duty or loss of essential qualifications; or  
30 (c) disciplinary action, grievance processes or reviews of or  
31 appeals against staffing decisions; or  
32 (d) transfers, resignations or termination of employment; or  
33 (e) leave.

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2 **Part 7—Legal proceedings**

3 **26 Substitution of National VET Regulator as a party to**  
4 **pending proceedings**

- 5 (1) If, immediately before the relevant commencement day:  
6 (a) the State VET Regulator of a referring State or the VET  
7 Regulator of a Territory was a party to proceedings of a kind  
8 described in subitem (3); and  
9 (b) the proceedings were pending in any court or tribunal;  
10 the National VET Regulator is substituted for the State VET Regulator  
11 after the relevant commencement day as a party to the proceedings.

12 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
13 Territory, see subitem 1(3).

- 14 (2) If, immediately before the relevant commencement day:  
15 (a) a State VET Regulator of a non-referring State was a party to  
16 proceedings of a kind mentioned in subitem (3) in relation to  
17 a registered training organisation registered by the State VET  
18 Regulator; and  
19 (b) the proceedings were pending in any court or tribunal;  
20 the National VET Regulator is substituted for the State VET Regulator  
21 after the relevant commencement day as a party to the proceedings in  
22 relation to the organisation.

- 23 (3) Subitems (1) and (2) apply only to proceedings that relate to a decision  
24 by a State VET Regulator in respect of which the National VET  
25 Regulator has the same, or substantially the same, function under the  
26 new law.

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2 **Part 8—Miscellaneous**

3 **27 Transfer of custody of records**

- 4 (1) If any records, of a kind specified in a determination made by the  
5 National VET Regulator, relating to:
- 6 (a) an organisation that is taken to be an NVR registered training  
7 organisation under this Schedule; or
  - 8 (b) an organisation that is registered as an NVR registered  
9 training organisation under the new law because of this  
10 Schedule; or
  - 11 (c) a course that is taken to be a VET accredited course under  
12 this Schedule;

13 are in the custody of a State VET Regulator immediately before the  
14 relevant commencement day, copies of the records must be transferred  
15 to the National VET Regulator as soon as practicable after the relevant  
16 commencement day.

17 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
18 Territory, see subitem 1(3).

19 (2) Subitem (1) does not apply in respect of records that have already been  
20 transferred to the National VET Regulator, as mentioned in  
21 subparagraph 2(2)(b)(ii) or subitem 2(3).

22 (3) Subitem (4) applies in relation to an organisation in a non-referring  
23 State if:

- 24 (a) the organisation is taken to be an NVR registered training  
25 organisation under this Schedule; or
- 26 (b) the organisation is registered as an NVR registered training  
27 organisation under the new law because of this Schedule.

28 (4) Copies of records, of a kind specified in a determination made by the  
29 National VET Regulator, relating to an organisation mentioned in  
30 subitem (3) that are in the custody of the State VET Regulator of the  
31 non-referring State immediately before commencement must be  
32 transferred to the National VET Regulator as soon as practicable after  
33 commencement.

- 1 (5) Subitem (4) does not apply in respect of records that have already been  
2 transferred to the National VET Regulator, as mentioned in  
3 subparagraph 3(2)(b)(ii) or subitem 3(3).

## 4 **28 Determination about records**

- 5 (1) The National VET Regulator may, for the purposes of this Schedule,  
6 determine the kind of records relating to an organisation or a course that  
7 must be provided by a State VET Regulator.

8 Note: A reference to a State VET Regulator includes a reference to a VET Regulator of a  
9 Territory, see subitem 1(3).

- 10 (2) A determination made under subitem (1) is not a legislative instrument.

## 11 **29 Powers of National VET Regulator**

12 To avoid doubt, the National VET Regulator may take action under  
13 Part 4 of the new law (which relates to the Regulator's powers to issue  
14 and cancel VET qualifications and VET statements of attainment) in  
15 respect of:

- 16 (a) an organisation that is taken to be an NVR registered training  
17 organisation under this Schedule; or  
18 (b) an organisation that is registered as an NVR registered  
19 training organisation under the new law because of this  
20 Schedule;

21 even though the organisation was not an NVR registered training  
22 organisation at the time the events in respect of which action is to be  
23 taken occurred.

## 24 **30 Transitional regulations**

- 25 (1) The Governor-General may make regulations prescribing matters:

- 26 (a) required or permitted by this Schedule to be prescribed; or  
27 (b) necessary or convenient to be prescribed for carrying out or  
28 giving effect to this Schedule.

- 29 (2) The regulations may prescribe matters of a transitional nature (including  
30 matters of an application or saving nature):

- 31 (a) arising out of the enactment of the new law; or  
32 (b) relating to the transition from the application of provisions of  
33 laws of a referring State or Territory (as in force before the  
34 relevant commencement day) relating to the regulation of the

**Schedule 1** Transitional provisions  
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- 1 VET sector to the application of provisions of the new law;  
2 or  
3 (c) relating to the transition from the application of provisions of  
4 laws of a non-referring State (as in force before  
5 commencement) relating to the regulation of the VET sector  
6 to the application of provisions of the new law.  
7 The regulations have effect despite anything else in this Act.
- 8 (3) The regulations may provide that certain items of this Schedule are  
9 taken to be modified as set out in the regulations. Those items then have  
10 effect as if they were so modified.
- 11 (4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*,  
12 regulations made under this item may be expressed to take effect from a  
13 day before the regulations are registered under that Act.
- 14 (5) Subitems (2) and (3) do not limit subitem (1).