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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**National Vocational Education and
Training Regulator Amendment Bill
2015**

No. , 2015

(Education and Training)

**A Bill for an Act to amend the *National Vocational
Education and Training Regulator Act 2011*, and for
other purposes**

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1 **A Bill for an Act to amend the *National Vocational***
2 ***Education and Training Regulator Act 2011*, and for**
3 **other purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *National Vocational Education and*
7 *Training Regulator Amendment Act 2015*.

8 **2 Commencement**

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

1

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
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. Schedules 1 and 2	The day after this Act receives the Royal Assent.	

2

Note: This table relates only to the provisions of this Act as originally enacted.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

3

4

5

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

6

7

8

3 Schedules

9

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

10

11

12

1 **Schedule 1—Vocational education and**
2 **training**

3 **Part 1—Advertising or offering VET courses**

4 *National Vocational Education and Training Regulator Act*
5 *2011*

6 **1 Section 3**

7 Insert:

8 *registration code*, of a registered training organisation, means the
9 code (however described) included on the National Register in
10 respect of the organisation.

11 **2 At the end of section 8**

12 Add:

- 13 (6) In addition to its effect apart from this subsection, this Act also has
14 the effect it would have if each reference to a person in
15 Subdivisions B and C of Division 1 of Part 6, other than
16 section 131, were, by express provision, confined to a trading
17 corporation.

18 **3 After section 123**

19 Insert:

20 **123A Offence—advertising or offering VET course without**
21 **identifying issuer of VET qualification or statement of**
22 **attainment**

23 A person commits an offence if:

24 (a) the person:

- 25 (i) publishes or broadcasts, or continues to publish or
26 broadcast, an advertisement relating to all or part of a
27 VET course; or
28 (ii) causes an advertisement relating to all or part of a VET
29 course to be published or broadcast, or causes such an

Schedule 1 Vocational education and training
Part 1 Advertising or offering VET courses

- 1 advertisement to continue to be published or broadcast;
2 or
3 (iii) offers to provide, or continues to offer to provide, all or
4 part of a VET course; or
5 (iv) makes a representation, or continues to make a
6 representation, about the availability of all or part of a
7 VET course; and
8 (b) the advertisement, offer or representation does not include
9 the name and registration code of the registered training
10 organisation that will issue a VET qualification or VET
11 statement of attainment relating to the VET course or the part
12 of the VET course.
- 13 Note: For the liability of an executive officer of a registered training
14 organisation, see sections 133 and 133A.
- 15 Penalty: 60 penalty units.

16 **123B Civil penalty—advertising or offering VET course without**
17 **identifying issuer of VET qualification or statement of**
18 **attainment**

- 19 A person contravenes this section if:
20 (a) the person:
21 (i) publishes or broadcasts, or continues to publish or
22 broadcast, an advertisement relating to all or part of a
23 VET course; or
24 (ii) causes an advertisement relating to all or part of a VET
25 course to be published or broadcast, or causes such an
26 advertisement to continue to be published or broadcast;
27 or
28 (iii) offers to provide, or continues to offer to provide, all or
29 part of a VET course; or
30 (iv) makes a representation, or continues to make a
31 representation, about the availability of all or part of a
32 VET course; and
33 (b) the advertisement, offer or representation does not include
34 the name and registration code of the registered training
35 organisation that will issue a VET qualification or VET

1 statement of attainment relating to the VET course or the part
2 of the VET course.

3 Civil penalty: 120 penalty units.

4 **4 Section 133A (after table item 12)**

5 Insert:

6

12A Section 123A

7 **5 After section 233**

8 Insert:

9 **233A Failure to publish or broadcast advertisement or make offer**
10 **or representation not actionable if Act would be**
11 **contravened**

12 No action of any kind lies in any court against a person for refusing
13 or failing to publish or broadcast an advertisement, or make an
14 offer or representation, if the publishing or broadcasting of the
15 advertisement or the making of the offer or representation is
16 prohibited by this Act.

1 **Part 2—Period of registration**

2 *National Vocational Education and Training Regulator Act*
3 *2011*

4 **6 Subsection 17(5)**

5 Omit “5 years”, substitute “7 years”.

1 **Part 3—Quality Standards**

2 *National Vocational Education and Training Regulator Act*
3 *2011*

4 **7 Section 3**

5 Insert:

6 *Quality Standards* has the meaning given by section 231A.

7 **8 Section 3 (after paragraph (a) of the definition of VET**
8 **Quality Framework)**

9 Insert:

10 (aa) the Quality Standards;

11 **9 After subsection 22(1)**

12 Insert:

13 (1A) An NVR registered training organisation must comply with the
14 Quality Standards.

15 **10 After Division 3 of Part 12**

16 Insert:

17 **Division 3A—Quality standards**

18 **231A Quality Standards**

19 (1) The Minister may, by legislative instrument, make standards
20 relating to quality in the VET sector.

21 (2) The standards are to be known as the *Quality Standards*.

1 **Part 4—Operational improvements**

2 **Division 1—Disclosure of VET information**

3 *National Vocational Education and Training Regulator Act*
4 *2011*

5 **11 Section 3 (definition of VET information)**

6 Repeal the definition, substitute:

7 *VET information* means information that is held by the National
8 VET Regulator and relates to the performance of the Regulator's
9 functions, including information and documents collected by the
10 Regulator in the course of:

- 11 (a) the exercise of a power, or the performance of a function,
12 under this Act; or
13 (b) the administration of this Act.

14 **12 Section 205A**

15 Repeal the section, substitute:

16 **205A Disclosing information to certain government bodies etc.**

- 17 (1) The National VET Regulator may disclose VET information to:
18 (a) a Commonwealth authority, or a State or Territory authority,
19 if the Regulator is satisfied that the disclosure is necessary to
20 enable or assist the authority to perform or exercise any of
21 the authority's functions or powers; or
22 (b) a Royal Commission.
- 23 (2) If the National VET Regulator discloses personal information
24 under subsection (1) to a Royal Commission, the Regulator must
25 advise the person about whom the information is disclosed, by
26 notice in writing, of:
27 (a) the disclosure; and
28 (b) the details of the personal information disclosed.

1 **Division 2—Directions to rectify breaches of conditions**

2 *National Vocational Education and Training Regulator Act*
3 *2011*

4 **13 After Subdivision A of Division 3 of Part 2**

5 Insert:

6 **Subdivision AA—Directions to rectify breaches of conditions**

7 **35A Directions to rectify breaches of conditions**

- 8 (1) If the National VET Regulator is satisfied that it is appropriate to
9 do so, the Regulator may give a written direction to an NVR
10 registered training organisation requiring the organisation to rectify
11 a breach of a condition of the organisation's registration.
- 12 (2) In determining whether it is appropriate to give a direction under
13 this section to an NVR registered training organisation, the
14 National VET Regulator may have regard to the organisation's
15 conduct, or circumstances existing, before the Regulator had cause
16 to consider giving the direction (including before the
17 commencement of this section).
- 18 (3) To avoid doubt, the National VET Regulator may take action, or
19 cause action to be taken, under Part 6 (which deals with
20 enforcement) in addition to, or instead of, giving a direction under
21 this section.

22 **14 Paragraph 36(2)(a)**

23 Repeal the paragraph.

1 **Division 3—Requests for information, documents or**
2 **things**

3 *National Vocational Education and Training Regulator Act*
4 *2011*

5 **15 Section 62 (heading)**

6 Repeal the heading, substitute:

7 **62 Requests for information, documents or things**

8 **16 Subsection 62(1)**

9 After “former registered training organisation”, insert “, or with an
10 organisation that holds itself out, or has at any time held itself out, as
11 such an organisation”.

12 **Division 4—VET Quality Framework**

13 *National Vocational Education and Training Regulator Act*
14 *2011*

15 **17 Paragraph 209(1)(c)**

16 Omit “Australian Qualifications Framework”, substitute “VET Quality
17 Framework”.

1 **Part 5—Administrative changes**

2 **Division 1—Registered training organisations**

3 *National Vocational Education and Training Regulator Act*
4 *2011*

5 **18 Section 3 (at the end of the definition of *registered training***
6 ***organisation*)**

7 Add:

8 Note: VET Regulators list training organisations on the National Register.

9 **Division 2—Issuing officer**

10 *National Vocational Education and Training Regulator Act*
11 *2011*

12 **19 Section 3 (at the end of the definition of *issuing officer*)**

13 Add:

14 ; or (c) a person employed in a court of a State or Territory who is
15 authorised under a law to issue search warrants.

16 **Division 3—Ministerial Council**

17 *National Vocational Education and Training Regulator Act*
18 *2011*

19 **20 Section 3 (definition of *Ministerial Council*)**

20 Repeal the definition, substitute:

21 *Ministerial Council* means:

- 22 (a) if there is a body established by the Council of Australian
23 Governments to deal with training and skills—that body; or
24 (b) otherwise—a body prescribed by the regulations.

1 **Division 4—Reviewable decisions**

2 ***National Vocational Education and Training Regulator Act***
3 ***2011***

4 **21 Section 199**

5 Repeal the section, substitute:

6 **199 Reviewable decisions**

7 For the purposes of this Act, each of the following decisions of the
8 National VET Regulator is a ***reviewable decision***:
9

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
1	A decision to grant an application for registration (including renewal of registration) as an NVR registered training organisation.	Section 17
2	A decision to reject an application for registration (including renewal of registration) as an NVR registered training organisation.	Section 17
3	A decision determining the period for which an NVR registered training organisation is registered.	Section 17
4	A decision to impose a condition on an NVR registered training organisation's registration.	Section 29
5	A decision to vary a condition of an NVR registered training organisation's registration.	Section 29
6	A decision not to determine a shorter period for making an application for renewal of registration as an NVR registered training organisation.	Section 31
7	A decision to change, or refuse to change, an NVR registered training organisation's scope of registration.	Section 33
8	A decision to give a written direction to an NVR registered training organisation requiring the	Section 35A

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
	organisation to rectify a breach of a condition of the organisation's registration.	
9	A decision to give a written direction to an NVR registered training organisation requiring the organisation to notify its VET students, in writing, of a matter set out in the direction.	Section 36
10	A decision to shorten the period of an NVR registered training organisation's registration.	Section 36
11	A decision to amend an NVR registered training organisation's scope of registration.	Section 36
12	A decision to suspend all or part of an NVR registered training organisation's scope of registration.	Section 38
13	A decision to cancel an NVR registered training organisation's registration.	Section 39
14	A decision to defer making a decision to change an NVR registered training organisation's scope of registration until the organisation addresses issues identified by the National VET Regulator.	Section 41
15	A decision not to allow an NVR registered training organisation's registration to be withdrawn.	Section 42
16	A decision to grant an application for accreditation of a course (including renewal of accreditation) as a VET accredited course.	Section 44
17	A decision to reject an application for accreditation of a course (including renewal of accreditation) as a VET accredited course.	Section 44
18	A decision to impose a condition on the accreditation of a VET accredited course.	Section 48
19	A decision to vary a condition of the accreditation of a VET accredited course.	Section 48
20	A decision to amend a VET accredited course.	Section 51
21	A decision to cancel the accreditation of a VET	Section 52

Schedule 1 Vocational education and training
Part 5 Administrative changes

Reviewable decisions		
Item	Reviewable decision	Provision under which reviewable decision is made
	accredited course.	
22	A decision to issue, or not issue, a VET qualification.	Section 55
23	A decision to issue, or not issue, a VET statement of attainment.	Section 55
24	A decision to cancel, or not cancel, a VET qualification.	Section 56
25	A decision to cancel, or not cancel, a VET statement of attainment.	Section 56
26	A decision to enter other matters on the National Register.	Section 216

1 **Division 5—Self-incrimination**

2 ***National Vocational Education and Training Regulator Act***
3 ***2011***

4 **22 Paragraphs 65(2)(e) and (f)**

5 Repeal the paragraphs, substitute:

- 6 (e) civil proceedings for a contravention of a civil penalty
7 provision; or
8 (f) criminal proceedings, other than:
9 (i) proceedings for an offence against section 64; or
10 (ii) proceedings for an offence against section 137.1 or
11 137.2 of the *Criminal Code* (which deals with false or
12 misleading information or documents) that relates to
13 this Act; or
14 (iii) proceedings for an offence against section 149.1 of the
15 *Criminal Code* (which deals with obstruction of
16 Commonwealth public officials) that relates to this Act.

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Schedule 2—Transitional provisions

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

1 Schedule 1 (heading)

Repeal the heading, substitute:

Schedule 1—Transitional provisions relating to the National Vocational Education and Training Regulator Act 2011 as originally enacted

2 At the end of the Act

Add:

Schedule 2—Transitional provisions relating to the National Vocational Education and Training Regulator Amendment Act 2015

1 Definitions

In this Schedule:

Amending Act means the *National Vocational Education and Training
Regulator Amendment Act 2015*.

Principal Act means the *National Vocational Education and Training
Regulator Act 2011*.

2 Interpretation

An expression used in this Schedule that is also used in the Principal
Act has the same meaning in this Schedule as it has in the Principal Act.

1 **3 Application of amendment made by item 3—certain**
2 **pre-existing publications**

3 The amendment made by item 3 of Schedule 1 to the Amending Act
4 does not apply, on or after the commencement of this item, to the
5 display of an advertisement, offer or representation in a publication that:

- 6 (a) was published before the commencement of this item; and
7 (b) is not reasonably practicable to alter.

8 **4 Application of amendment made by item 6**

9 The amendment made by item 6 of Schedule 1 to the Amending Act
10 applies to the grant, on or after the commencement of this item, of an
11 application for registration, including renewal of registration, whether
12 the application was made before, on or after that commencement.

13 **5 Application of amendments made by items 13 and 14**

- 14 (1) This item applies if, before the commencement of this item, the
15 National VET Regulator had given an NVR registered training
16 organisation a written notice under section 37 of the Principal Act
17 stating that the Regulator intended to make a decision to give the
18 organisation a direction mentioned in paragraph 36(2)(a) of that Act.
- 19 (2) Despite the amendments made by items 13 and 14 of Schedule 1 to the
20 Amending Act, sections 36 and 37 of the Principal Act continue to
21 apply, in relation to the making of that decision, as if those amendments
22 had not been made.

23 **6 Application of amendment made by item 21**

24 The amendment made by item 21 of Schedule 1 to the Amending Act
25 applies to a decision made before, on or after the commencement of this
26 item.