National Vocational Education and Training Regulator (Charges) Act 2012
No. 105, 2012

Compilation No. 1

Compilation date: 1 July 2017
Includes amendments up to: Act No. 66, 2017
Registered: 11 July 2017

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the National Vocational Education and Training Regulator (Charges) Act 2012 that shows the text of the law as amended and in force on 1 July 2017 (the compilation date).

The notes at the end of this compilation (the endnotes) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.
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National Vocational Education and Training Regulator (Charges) Act 2012 i

Compilation No. 1  Compilation date: 1/7/17  Registered: 11/7/17

Authorised Version C2017C00217 registered 11/07/2017
An Act to impose charges in relation to certain functions of the National VET Regulator, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the National Vocational Education and Training Regulator (Charges) Act 2012.

2 Commencement

(1) Each provision of this Act 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.

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td>22 July 2012</td>
</tr>
<tr>
<td>2. Sections 3 to 14</td>
<td>1 January 2013</td>
<td>1 January 2013</td>
</tr>
</tbody>
</table>

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.

(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.
Part 1 Preliminary

Section 3

3 Definitions

An expression has the same meaning in this Act as in the *National Vocational Education and Training Regulator Act 2011*.

4 Act to bind Crown

This Act binds the Crown in each of its capacities.

5 Extension of Act to external Territories

This Act extends to every external Territory.

6 Extra-territorial application

Unless the contrary intention appears, this Act extends to acts, omissions, matters and things done outside Australia in relation to:

(a) all or part of a VET course; or
(b) a VET qualification.
Part 1A—National VET Regulator annual registration charge

6A Imposition of charge

A National VET Regulator annual registration charge determined under section 6B is imposed by this section, and is so imposed as a tax.

6B Determination of charge

(1) The Minister may, by legislative instrument, determine an amount of National VET Regulator annual registration charge for a financial year, or a method for working out such an amount, payable by a person to whom section 232A of the National Vocational Education and Training Regulator Act 2011 applies, for the purposes of that section.

Note 1: Section 232A of the National Vocational Education and Training Regulator Act 2011 applies to persons registered under that Act as NVR registered training organisations, and to persons registered under the Education Services for Overseas Students Act 2000 as registered providers for whom the National VET Regulator is the ESOS agency (within the meaning of that Act). If registered under each of those Acts, the person is liable to pay a charge for each registration.

Note 2: Different amounts of charge might be determined in different circumstances, for example:
(a) depending on the number of qualifications offered by a person liable to pay the charge; or
(b) for registration under the National Vocational Education and Training Regulator Act 2011 and the Education Services for Overseas Students Act 2000.

See subsection 33(3A) of the Acts Interpretation Act 1901.

(2) Before determining an amount of charge, or a method for working out such an amount, under subsection (1):

(a) the Minister must be satisfied that the determination will result in recovering no more than the Commonwealth’s likely
Section 6C

costs incurred by the National VET Regulator in performing its functions; and
(b) the Minister must get the Ministerial Council’s agreement to the amount of the charge or to the method.

Note: The Ministerial Council’s prior agreement is also required to the amount of certain fees determined under section 232 of the National Vocational Education and Training Regulator Act 2011.

(3) Despite subsection 44(1) of the Legislation Act 2003, section 42 of that Act (disallowance of legislative instruments) applies to a legislative instrument made under subsection (1) of this section.

6C Validation of annual registration fees charged for the purposes of the National Vocational Education and Training Regulator Act 2011

(1) This section applies to each amount of an annual registration fee that a person was, before the commencement of this section, purportedly required to pay for the purposes of the National Vocational Education and Training Regulator Act 2011, to the extent that the fee could not validly be determined under an ASQA determination.

(2) By force of this section, a charge of an equal amount is taken to have been imposed on the person, and to have been so imposed as a tax.

(3) The amount of the charge for which the person is liable is:
(a) reduced by:
(i) the sum of any amounts in relation to the purported fee that have been waived under an ASQA determination; and
(ii) the sum of any amounts paid by the person on account of the purported fee and not subsequently refunded or remitted to the person; and
(b) increased by so much of the sum of the amounts paid by the person on account of the purported fee as the person recovers from the Commonwealth.
Section 6C

(4) An annual registration fee is a fee in relation to a financial year, payable by a person for the purposes of the National Vocational Education and Training Regulator Act 2011:

(a) for registration under that Act as an NVR registered training organisation; or

(b) for registration under the Education Services for Overseas Students Act 2000 as a registered provider.

(5) An ASQA determination is a determination made before the commencement of this section under subsection 232(1) of the National Vocational Education and Training Regulator Act 2011 (as that subsection was in force at any time before the commencement of this section).

Note: See the Australian Skills Quality Authority instrument fixing fees No. 1 of 2011 and the Australian Skills Quality Authority Instrument Fixing Fees No. 1 of 2013.
Part 2 Charge for compliance audit

Section 7

Part 2—Charge for compliance audit

7 Charge payable

If the National VET Regulator conducts a compliance audit of an NVR registered training organisation’s operations, a charge is payable for:

(a) the costs and expenses incurred by the Regulator in conducting the audit; and

(b) if the audit is conducted outside Australia in whole or in part—any reasonable expenses incurred by the Regulator relating to the audit or part of the audit.

8 By whom charge payable

A charge relating to an audit of an NVR registered training organisation’s operations is payable by the organisation.

9 Amount and calculation of charge

(1) The amount of a charge under this Part is to be calculated according to a formula determined by the Minister by legislative instrument.

(2) The Minister must, by legislative instrument, determine the formula for calculating a charge payable under this Part.
Part 3—Charge for the investigation of a complaint about an NVR registered training organisation

10 Charge payable

If the National VET Regulator investigates a complaint about an NVR registered training organisation and finds the complaint substantiated, a charge is payable for:

(a) the costs and expenses incurred by the Regulator in conducting:

(i) the investigation; and

(ii) any compliance audit conducted as part of the investigation; and

(b) if the investigation is conducted outside Australia in whole or in part—any reasonable expenses incurred by the Regulator relating to the investigation or part of the investigation; and

(c) if the audit is conducted outside Australia in whole or in part—any reasonable expenses incurred by the Regulator relating to the audit or part of the audit.

11 By whom charge payable

A charge relating to a complaint about an NVR registered training organisation is payable by the organisation.

12 Amount and calculation of charge

(1) The amount of a charge under this Part is to be calculated according to a formula determined by the Minister by legislative instrument.

(2) The Minister must, by legislative instrument, determine the formula for calculating a charge payable under this Part.
Part 4—Miscellaneous

13 Circumstances in which charge may be paid in instalments or waived

The Minister may, by legislative instrument, determine the circumstances in which the National VET Regulator may, on behalf of the Commonwealth:

(a) allow a charge under this Act to be paid in instalments; or
(b) waive a charge under this Act, in whole or in part.

14 Regulations

The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
Endnotes

Endnote 1—About the endnotes
The endnotes provide information about this compilation and the compiled law.
The following endnotes are included in every compilation:
Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.
The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.
The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The Legislation Act 2003 authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can
Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.
Endnotes

Endnote 2—Abbreviation key

ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
ed = editorial change
exp = expires/expired or ceases/ceased to have effect
F = Federal Register of Legislation
gaz = gazette
LA = Legislation Act 2003
LIA = Legislative Instruments Act 2003
(md) = misdescribed amendment can be given effect
(md not incorp) = misdescribed amendment cannot be given effect
mod = modified/modification
No. = Number(s)
o = order(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s)
(per….) = previously
Pt = Part(s)
r = regulation(s)/rule(s)
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
s = section(s)/subsection(s)
Sch = Schedule(s)
Sdiv = Subdivision(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
underlining = whole or part not commenced or to be commenced

National Vocational Education and Training Regulator (Charges) Act 2012

Compilation No. 1
Compilation date: 1/7/17
Registered: 11/7/17

Authorised Version C2017C00217 registered 11/07/2017
### Endnote 3—Legislation history

<table>
<thead>
<tr>
<th>Act</th>
<th>Number and year</th>
<th>Assent</th>
<th>Commencement</th>
<th>Application, saving and transitional provisions</th>
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<tr>
<td>National Vocational Education and Training Regulator (Charges) Act 2012</td>
<td>105, 2012</td>
<td>22 July 2012</td>
<td>s 3–14: 1 Jan 2013 (s 2(1) item 2)</td>
<td>Remainder: 22 July 2012 (s 2(1) item 1)</td>
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<td>National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Act 2017</td>
<td>66, 2017</td>
<td>23 June 2017</td>
<td>Sch 1: 1 July 2017 (s 2(1) item 2)</td>
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12 National Vocational Education and Training Regulator (Charges) Act 2012

Compilation No. 1 Compilation date: 1/7/17 Registered: 11/7/17
### Endnote 4—Amendment history

<table>
<thead>
<tr>
<th>Provision affected</th>
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<tbody>
<tr>
<td>Title</td>
<td>rs No 66, 2017</td>
</tr>
<tr>
<td>Part 1A</td>
<td></td>
</tr>
<tr>
<td>Part 1A</td>
<td>ad No 66, 2017</td>
</tr>
<tr>
<td>s 6A</td>
<td>ad No 66, 2017</td>
</tr>
<tr>
<td>s 6B</td>
<td>ad No 66, 2017</td>
</tr>
<tr>
<td>s 6C</td>
<td>ad No 66, 2017</td>
</tr>
<tr>
<td>Part 4</td>
<td></td>
</tr>
<tr>
<td>s 13</td>
<td>am No 66, 2017</td>
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