

STUDENT IDENTIFIERS REGULATION 2014

Select Legislative Instrument No. 133, 2014

EXPLANATORY STATEMENT

Subject – *Student Identifiers Act 2014*
Student Identifiers Regulation 2014

Background

The *Student Identifiers Act 2014* (the Act) provides for the introduction of a student identifier for individuals undertaking nationally recognised vocational education and training (VET) from 1 January 2015. The Act sets out how the identifier will be assigned, collected, used and disclosed and provides for the creation of an authenticated transcript of an individual's record of nationally recognised training undertaken or completed after 1 January 2015.

Authority

Subsection 57(1) of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Purpose and operation

The purpose of the *Student Identifiers Regulation 2014* (the Regulation) is to prescribe matters required and permitted by the Act in order to give effect to the Act.

The Regulation provides for the authorisation of the collection, use and disclosure of student identifiers by Register Training Organisations (RTOs), former RTOs, schools, the National Centre for Vocational Education Research Ltd (the NCVER), departments, statutory bodies, specified entities, VET Regulators and VET admission bodies. These entities are authorised to collect, use and disclose student identifiers for the purpose of delivering VET courses, verifying a student's identifier, research that relates (directly or indirectly) to education or training, assisting in determining an individual's eligibility for a training subsidy and meeting contractual and reporting obligations.

The Regulation also prescribes information that must be contained within an authenticated VET transcript (where an authenticated VET transcript is an individual's record of the nationally recognised training undertaken or completed after 1 January 2015).

The Regulation also prescribes the kinds of conduct for the purpose of subsection 21(f) of the Act. Subsection 21(f) of the Act provides for the kinds of misconduct that would authorise an entity to collect, use or disclose a student identifier if it is necessary to allow an enforcement body to prevent, detect or investigate such misconduct.

Consultation

The Australian Government conducted extensive consultation with Australian States and Territories and the VET sector throughout the development of the Act. Public consultations on the Student Identifiers (SI) legislative package, including an earlier but substantially identical version of this Regulation, were undertaken from 21 January 2013 until 15 February 2013 in each State/Territory capital.

Much of the feedback received during the consultations was positive and supported the introduction of the Student Identifiers scheme. None of the matters raised during consultations related to the provisions in the Regulation.

Subsection 57(2) of the Act specifies that the Commonwealth Minister must obtain the agreement of the Ministerial Council on industry and skills prior to the Regulation being made. This condition was met on 7 June 2013, when the Ministerial Council convened a meeting.

Commencement

The Regulation commences on the day after it is registered.

Detailed explanation of the provisions

For ease of description, this Explanatory Statement uses the following definitions:

“department” has the same meaning as in per paragraph (a) of the definition of VET-related body in subsection 4(1) of the Act.

“statutory body” has the same meaning as in paragraph (b) of the definition of VET-related body in subsection 4(1) of the Act.

“specified entity” means an entity specified in a legislative instrument made pursuant to subsection 4(3) of the Act.

Part 1 – Preliminary

Section 1 – Name of Regulation

This section provides that the name of the Regulation is the *Student Identifiers Regulation 2014*.

Section 2 – Commencement

This section provides that the Regulation commences on the day after it is registered.

Section 3 – Authority

This section provides that the legislative authority for the making of the Regulation is the Act.

Section 4 – Definitions

This section provides for definitions used within the Regulation.

It is important to note that the definition of VET Standards includes the *Australian Quality Training Framework Essential Conditions and Standards for Initial Registration* and the *Australian Quality Training Framework Essential Conditions and Standards for Continuing Registration*. These documents are not legislative instruments. However, pursuant to subsection 57(3) of the Act and despite subsection 14(2) of the *Legislative Instruments Act 2003* (, these documents are incorporated as in force or existing from time to time.

Part 2 – General Provisions

Section 5 – Authenticated VET transcripts

Authenticated VET transcripts are an individual's record of the nationally recognised training undertaken or completed after 1 January 2015.

For the purpose of (b) of the definition of authenticated VET transcript in subsection 4(1) of the Act, section 5 provides that the information contained in 5(1)(a) to 5(1)(f) is to be included in an authenticated VET transcript.

Section 6 – Prescribed conduct

This section prescribes, for subsection 21(f) of the Act, the kinds of matters for which an entity is authorised to collect, use or disclose a student identifier to allow an enforcement body to prevent, detect or investigate misconduct. This section provides that fraudulently obtaining a student identifier and the issuing of a student identifier as a result of misconduct is a kind of misconduct in such matters.

The enforcement bodies which can receive an identifier are listed in the definition of enforcement body in subsection 6(1) of the *Privacy Act 1988* (the Privacy Act).

Section 7 – Extracts from authenticated VET transcripts

This section prescribes, pursuant to 29(2)(a) of the Act, the information which if excluded from an *authenticated VET transcript* would not require the *authenticated VET transcript* to include a statement that it is an extract. This section prescribes; the name and identifier of each unit of competency or module of a VET course, where the individual has (to the extent known by the Registrar) not completed the unit or module referred to in that paragraph at the time access to the extract is given and the source of funding of a unit or module. The purpose of this section is to allow the student an option to include or exclude from their authenticated VET transcript information that may or may not be necessary for them to include, for example, in an authenticated VET transcript to be provided to actual or potential employers.

Part 3 – Collection, use or disclosure of student identifiers

Section 8 – Purpose of Part

Section 8 provides that Part 3 of the Regulation prescribes, for the purposes of section 22 of the Act, the situations when an entity is permitted to collect, use or disclose a student identifier of an individual.

Section 9 – Authorisation - registered training organisations

This section provides authorisations for the collection, use or disclosure of student identifiers by a registered training organisation (RTO).

Subsection 9(1) provides that an RTO is authorised to collect or use a student identifier to meet its reporting obligations or to assist in establishing the eligibility of an individual for a training subsidy. To assist with the latter, the RTO would view, with the individual's permission, the records held in the individual's student identifier account, of nationally recognised training undertaken or completed after 1 January 2015.

Subsection 9(2) provides that for the purpose of delivering a VET course to an individual, an RTO is authorised to collect an identifier from or disclose an identifier to another RTO or school, use an identifier. This will assist the RTO in managing enrolment processes and student records.

Subsection 9(3) provides that for the purposes of meeting reporting obligations under the VET standards or contractual obligations to a VET-related body, an RTO is authorised to collect an

identifier from or disclose an identifier to a VET-related body and use an identifier. RTOs have reporting obligations under the Australian Vocational Education and Training Management Information Statistical Standard (AVETMISS). AVETMISS is the national data standard for VET providers that ensures the consistent and accurate capture of VET information about students, their courses, qualifications completed and student identifiers. RTOs may fulfil their reporting obligations by submitting to a VET-related body information in accordance with AVETMISS. Under a contractual agreement with a VET-related body, an RTO may be required to deliver training to specific individuals or report on training delivered to those individuals, who may be designated by their identifier. This subsection enables the RTO to fulfil its reporting obligations stipulated in contractual agreements.

Subsection 9(4) provides that an RTO is authorised, for the purpose of establishing an individual's eligibility to a training subsidy, to disclose the identifier to a department, a statutory body or specified entity.

Subsection 9(5) provides that an RTO is authorised to use or disclose an individual's identifier for the purposes of section 14 of the Act. Section 14 of the Act provides entities (including RTOs) can request the Registrar to verify an individual's identifier. Subsection 9(5) therefore allows an RTO to provide the Registrar with the necessary information to verify the identifier.

Subsection 9(6) provides that an RTO is authorised to collect, use or disclose an individual's identifier for the purpose of assisting the Registrar to identify, investigate and resolve a problem relating to the assignment of identifiers. This authorisation facilitates the Registrar performing his or her function under section 12 of the Act with respect to resolving problems in relation to the assignment of an identifier. The problems in relation to the assignment of identifiers include the assignment of an individual's identifier to another individual or the assignment to an individual of more than one identifier.

Subsection 9(7) provides that an RTO is authorised, in order to meet its obligations under the VET standards, to disclose an identifier to the NCVET. RTOs are required to report on VET activities to the NCVET consistent with AVETMISS. AVETMISS will comprise the student identifier.

Section 10 – Authorisation - former registered training organisations

Section 10 provides when former RTOs may collect, use or disclose identifiers. These authorisations are necessary as former RTOs may still have ongoing contractual and reporting obligations even though the entity may no longer actually provide VET courses.

Subsection 10(1) provides that, for the purposes of meeting its contractual obligations, a former RTO is authorised to collect an individual's identifier from or disclose an individual's identifier to a VET-related body (other than a VET Regulator).

Subsection 10(2) provides that, for the purposes of acting in accordance with its current or former reporting obligations under the VET standards, a former RTO is authorised to collect or use an individual's identifier or disclose an individual's identifier to the NCVET or to a VET-related body.

Section 11 – Authorisation - schools

VET in Schools are programs undertaken by school students as part of their senior secondary certificate. These programs are delivered by a school which is itself an RTO or a school in partnership with an RTO. These programs, which provide credit towards a nationally recognised VET qualification, are generally integrated within mainstream studies at the senior secondary school level. Schools need to collect, use and disclose identifiers in order to effectively deliver and report on VET in Schools programs.

Subsection 11(1) authorises schools to collect an identifier from, and disclose it to, a VET-related bodies (other than a VET Regulator), an RTO or another school, and to use an identifier for the purpose of delivering and reporting on a VET course undertaken by an individual as part of the individual's education at or through the school.

Subsection 11(2) authorises a school to collect, use or disclose an individual's identifier for the same purposes as an RTO is authorised under subsection 9(6).

Section 12 – Authorisation - NCVER

The NCVER is responsible for collecting, managing, analysing, evaluating and communicating research and statistics about VET nationally.

Subsection 12(1) provides that for the purposes related to the collection and preparation of VET statistics, the NCVER is authorised to collect identifiers from and disclose the identifiers to RTOs, former RTOs and VET-related bodies and use these identifiers.

Subsection 12(2) provides that for the purposes of auditing the accuracy and reliability of data reported to it, the NCVER is authorised to collect identifiers from and disclose identifiers to RTOs, former RTOs and VET-related bodies and use these identifiers.

Subsection 12(3) provides that the NCVER is authorised to disclose student identifiers to or collect student identifiers from the Registrar and use them to enable the Registrar to prepare an authenticated VET transcript or for the purpose of subsection 18(2) of the Act. Subsection 18(2) permits the Registrar to use or disclose student identifiers for the purposes of research.

It is important to note that the kind of research referred to above is limited to research that relates (directly or indirectly) to education or training, or that requires the use of student identifiers or information about education or training and that meets the requirements specified by the Ministerial Council.

Subsection 12(4) authorises the NCVER to collect, use or disclose an individual's identifier for the same purposes as an RTO is authorised under subsection 9(6).

Subsection 12(5) authorises the NCVER to collect an identifier from and disclose an identifier to a VET Regulator and use that identifier. This authorisation is necessary to enable the NCVER to receive from VET Regulators information collected from RTOs that ceased to operate or about the VET qualifications that VET Regulators have issued or cancelled. That is, where this information is required to enable the Registrar to prepare an authenticated transcript.

Section 13 – Authorisation - VET-related bodies other than a VET Regulator

Commonwealth, State and Territory bodies and entities specified by the Registrar in a legislative instrument may deal with matters relating to VET, including the funding of VET. They may have specific policy responsibility for VET within their jurisdiction or may simply be purchasers of VET services. To fulfil their responsibilities or to satisfy accountability requirements, these bodies may need to collect, use and disclose identifiers.

Subsection 13(1) provides that section 13 applies to VET-related bodies other than a VET Regulator. VET related bodies are Commonwealth or State or Territory departments, bodies whose functions relate to VET and entities specified by the Registrar through a legislative instrument.

Subsection 13(2) provides that, to enable an RTO to comply with its reporting obligations under the VET standards, a VET-related body (other than a VET Regulator) is authorised to collect a student identifier from or disclose an identifier to an RTO and use an identifier.

Subsections 13(3) and 13(4) provide that for the purposes of administering VET and VET programs, education-related policy development and research or to assist in establishing an individual's eligibility to a training subsidy, a VET-related body (other than a VET Regulator) is authorised to collect an identifier and disclose an identifier to another VET-related body to which this section applies, an RTO or a VET admission body.

Subsection 13(5) provides that, for the purpose of collection and preparation of statistics relating to VET, a VET-related body to which this section applies is authorised to collect an identifier from the NCVER, use an identifier and disclose an identifier to the NCVER.

Subsection 13(6) provides that, for the purpose of delivering and reporting on a VET course undertaken by an individual as part of their school education, a VET-related body (other than a VET Regulator) is authorised to collect an identifier from a school, use the identifier and disclose an identifier to a school.

Subsection 13(7) provides when a VET-related body (other than a VET Regulator) can collect from or disclose a student identifier to a former RTO. That is, for purposes related to a former RTO's contractual obligations or current or former reporting obligations under the VET standards.

Subsection 13(8) provides that a VET-related body (other than a VET Regulator) is authorised to disclose an identifier to a VET Regulator and the Registrar (for the purpose of subsection 18(2) of the Act). Subsection 18(2) permits the Registrar to use or disclose student identifiers for the purposes of research.

Subsection 13(9) provides when a VET-related body (other than a VET Regulator) is authorised to collect, use or disclose an identifier. That is, for auditing registered training organisations that receive funding from the Commonwealth or a State or Territory and for the purpose of assisting the Registrar to identify, investigate and resolve a problem relating to the assignment of identifiers of a type described in subsection 9(6).

Subsection 13(10) authorises a VET-related body to which this section applies to use or disclose an identifier for the purpose of section 14 of the Act. This subsection mirrors the operation of subsection 9(5) which is explained above.

Section 14 – Authorisation – VET Regulator

VET Regulators are responsible for registering RTOs and monitoring their compliance with VET standards. They can also issue and cancel VET qualifications and collect VET student records from RTOs that have had their registration cancelled or have ceased to operate.

Subsection 14(1) authorises a VET Regulator to collect an identifier from an RTO, and use the identifier to enable the RTO to comply with this reporting obligations under the VET standards.

Subsection 14(2) authorises a specified entity to use or disclose an identifier for the purpose of section 14 of the Act. This subsection mirrors the operation of subsection 9(5) which is explained above.

Subsection 14(3) authorises a VET Regulator to collect, use or disclose an identifier for the purpose of performing its specified functions under various instruments as in force from time to time. These instruments are: the VET Regulator's constituent legislation; the *Standards for VET Regulators*; the *Australian Quality Training Framework Essential Conditions and Standards for Initial Registration*, or any equivalent document prepared by a relevant Ministerial Council; the *Australian*

Quality Training Framework Essential Conditions and Standards for Continuing Registration, or any equivalent document prepared by a relevant Ministerial Council.

Subsection 14(4) provides the meaning of the term “constituent legislation”.

Subsection 14(5) authorises a VET Regulator to collect, use or disclose an individual’s identifier for the same purposes as an RTO is authorised under subsection 9(6) (as discussed above).

Subsection 14(6) authorises a VET Regulator to disclose an identifier to the NCVER for the purposes of assessing compliance with the VET standards.

Section 15 – Authorisation - VET admission bodies

VET admission bodies are bodies that perform functions relating to VET, such as assisting individuals to enrol in appropriate VET courses. To fulfil their responsibilities VET admission bodies may need to collect, use and disclose identifiers. VET admission bodies are specified by the Registrar in a legislative instrument.

Subsection 15(1) authorises a VET admission body, for the purposes of administering VET and VET programs, to collect an identifier from VET-related bodies other than a VET Regulator, use an identifier and disclose the identifier to the mentioned bodies.

Subsection 15(2) authorises a VET admission body to collect, use or disclose an individual’s identifier for the same purposes as an RTO is authorised under subsection 9(6).

Section 16 – Authorisation - research purpose

Section 16 provides that if an entity receives an identifier for a research purpose under subsection 18(2) of the Act, the entity is authorised to use the identifier for that purpose.

Section 17 – Authorisation of disclosure required by law

Section 17 authorises an entity to disclose an identifier if it is required to do so by law.

Section 18– Unauthorised uses of student identifiers

Section 18 explicitly provides that nothing in Part 3 of the Regulation would authorise an entity to use an individual’s identifier as the entity’s own identifier of the individual or print an individual’s identifier on a student card issued by the entity for the individual. This section complements subsection 19(2) of the Act as this subsection prohibits an individual consenting to an entity using their identifier as their own identifier of the individual.

Statement of Compatibility with Human Rights

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

Student Identifiers Regulation 2014

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulation

The Regulation is made under Section 57 of the *Student Identifiers Act 2014* with the agreement of the Ministerial Council.

The Regulation provides for the authorisation of the collection use and disclosure of student identifiers by registered training organisations (RTOs), former RTOs, schools, the National Centre for Vocational Education Research Ltd (the NCVER), departments, statutory bodies, specified entities, VET Regulators and VET administration bodies. These entities are authorised to collect use and disclose student identifiers for many different purposes including for the delivery of VET courses, verifying a student's identifier, research that relates (directly or indirectly) to education or training, assisting in determining an individual eligibility for a training subsidy and meeting contractual and reporting obligations.

The Regulation also prescribes information that must be contained within an authenticated VET transcript (where an authenticated VET transcript is an individual's record of all the nationally recognised training undertaken or completed after 1 January 2015).

The Regulation also prescribes the kinds of conduct for the purpose of subsection 21(f) of the Act. Subsection 21(f) of the Act provides for the kinds of misconduct that would authorise an entity to collect, use or disclose a student identifier if it is necessary to allow an enforcement body to prevent, detect or investigate such misconduct.

Human rights implications

Right to education

The Regulation engages the right to education, contained in Article 13 of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

In particular, Article 13(2)(b) states that secondary education, in all its different forms, including technical and vocational secondary education shall be made generally available and accessible to all by every appropriate means and in particular by the progressive introduction of free education.

To the extent that the right to education is engaged, this right is promoted by the Regulation by:

- improving the accessibility of technical and vocational education. RTOs will be able to use the student identifier to facilitate an individual's enrolment by accessing a consolidated, authenticated transcript of that individual's existing qualifications and prior learning. This will mean that an individual need not miss out on enrolment due to difficulties demonstrating prior learning and will therefore expand the accessibility of technical and vocational education; and

- ensuring that eligibility for subsidised training can be determined with a higher degree of confidence than is currently possible. This means that subsidised places will go to those who most need them. This will further ensure that more students will be able to gain access to VET.

The right to work

The right to work in Article 6 of ICESCR includes the right of everyone to have the opportunity to gain a living by work which they freely choose or accept and will take appropriate steps to safeguard this right.

Article 6(2) states that the steps to be taken to achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

For the reasons outlined above, the Regulation promotes the right to education by improving the accessibility of technical and vocational education and progressively realising the right to secondary education being generally available and accessible. By prescribing detailed information to be included in consolidated authenticated transcripts of VET qualifications, the Regulation will improve individuals' ability to demonstrate their suitability for employment and therefore will promote the right to work.

The right to privacy

The Regulation may engage the right to privacy under Article 17 of the *International Covenant on Civil and Political Rights* (ICCPR) as it authorises the collection, use and disclosure of an individual's identifier.

Article 17 prohibits unlawful or arbitrary interferences with a person's privacy. It provides that persons have the right to the protection of the law against such interference. In order for the interference with privacy not to be 'arbitrary', any interference with privacy must be in accordance with the provisions, aims and objectives of the ICCPR and should be reasonable in the particular circumstances. Reasonableness, in this context, incorporates notions of proportionality to the end sought and necessity in the circumstances.

A student identifier is a unique alpha-numeric code allocated to students which by itself cannot be used to identify a student and is not personal information (as per the definition within the *Privacy Act 1988 Cth* (the Privacy Act)). Ordinarily, however, student identifiers will be stored with information regarding a particular person as part of a student record, such that the student record containing the student identifier would likely contain personal information when taken as a whole. The Regulation may limit the privacy of an individual as it authorises the collection, use and disclosure of the identifiers to various entities, primarily in the VET sector and these collections, uses and disclosures could also involve the personal information of an identifiable student. The entities that are authorised to collect, use and disclose the identifiers include former and current registered training organisations (as defined by the *National Vocational Education and Training Regulator Act 2011* (NVETR Act)), schools whose students undertake a VET course as part of their education, the NCVER, VET-related bodies and VET Admission Bodies.

The authorisations in the Regulation provide appropriate permissions for these entities to undertake their existing functions and continue with existing collections, uses and disclosures of student information once the student identifier is attached to that student data. These authorisations are made to achieve legitimate policy purposes necessary to allow for the proper administration of the VET sector which ultimately enhance access to education for the benefit of students. These purposes are for:

- the prevention, detection, investigation or remedying of misconduct of a serious nature;
- assisting RTOs to meet their reporting obligations under the VET standards;
- establishing an individual's eligibility to a training subsidy;
- the delivery of a VET course;
- the verification of a student identifier;

- resolving problems in the assignment of a student identifier (as outlined in section 12 of the Act);
- the preparation and auditing of the National VET Statistics;
- conducting education-related policy development and research;
- the preparation of an authenticated VET transcript;
- auditing publicly registered training organisations and publically funded VET training or programs;
- allowing VET Regulators to perform their functions under their legislation; and
- when the law otherwise requires disclosure (such as when a subpoena is issued for such information).

To the extent that these authorisations for the use, collection and disclosure of student identifiers impact on the right to privacy, this will not be an arbitrary interference as the authorisations are for legitimate policy objectives. These policy objectives include improving the accessibility of vocational education and training and the promotion of free education which advances the right to education (as outlined above) and is consistent with the aims and objectives of the ICCPR.

Additionally, the Act provides significant safeguards to the privacy of individuals by providing for the following protections that apply to the identifiers when used, collected or disclosed by the authorised entities:

- While the Regulation does provide authorisations for the collection, use and disclosure of a student identifier which may lead to the disclosure of personal information, the Regulation (or the Act) does not replace the protections provided to personal information under the Privacy Act (or the equivalent legislation within the State and Territory jurisdictions). Therefore, any entity that collects, uses or discloses a student identifier will have to comply with the protections of this information under the Act as well as the Privacy Act (to the extent that the collection, use or disclosure involves personal information).
- In addition, the Act extends the application of the Privacy Act by providing that if an entity breaches sections 16 or 17 of the Act (sections relating to the protection of identifiers from misuse and unauthorised collection, use or disclosure respectively) then the entity is taken to be an agency within the meaning of the Privacy Act and will therefore mean that the Australian Information Commissioner may exercise their powers under Part V of that Act with regards to this entity.
- Personal and training information will be stored separately. An individual's identity and contact details will be held by the Student Identifiers Registrar Agency, separate from their VET activity records held by the NCVET in its National VET Provider collection. By storing these records separately, it will not be possible to identify an individual by their student identifier alone and will therefore mean that there is greater protection of the individual's privacy.

With respect to authorisations to entities for the purpose of subsection 18(2) of the Act (a section allowing the Student Identifiers Registrar (Registrar) to collect, use and disclose identifiers for the purposes of research), any such collection, use or disclosure by the Registrar must also meet the requirements specified by the Ministerial Council. Strict protocols governing research will be developed in conjunction with all States and Territories through the Ministerial Council, to ensure that the integrity of the scheme is maintained. It is expected that the protocols could require research proposals to demonstrate, for example, that the information is reasonably necessary for the proposed research, or the compilation or analysis of statistics, and that these are in the public interest or provide an assurance that, if the information could reasonably be expected to identify individuals, the information will not be published in generally available publications. The protocols

are also expected to provide for an appropriate process to examine and approve disclosures for research purposes on the basis that the public interest in the research substantially outweighs the public interest in the protection of privacy.

In addition, individuals applying for a student identifier or interacting with the scheme will be provided with an appropriate notice as to how their information will be handled. This notice will cover, amongst other things:

- the legislative basis for the collection of the information;
- what the information will be used for;
- the consequences for the individual, if the information is not collected;
- who the information may be disclosed to; and
- how the individual may access their information.

Conclusion

The Regulation is compatible with human rights because it promotes the rights to education and work under Articles 13 and 6 of the ICESCR and protects the right to privacy under Article 17 of the ICCPR. Any potential limitations to these rights are reasonable, necessary and proportionate in achieving the Act's legitimate policy objectives.