

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2011 No. 92**

*National Vocational Education and Training Regulator Act 2011*  
*National Vocational Education and Training Regulator Regulations 2011*

#### **Authority**

The *National Vocational Education and Training Regulator Act 2011* (the Act) provides for the establishment of the National Vocational Education and Training Regulator.

Subsection 155(1) specifies that the National Vocational Education and Training Regulator is known as the National VET Regulator. The Act sets out the regulatory framework within which the National VET Regulator will operate. The Act also provides that the National VET Regulator will have jurisdiction over all registered training organisations that deliver training to international students and/or operate in multiple jurisdictions. Subsection 155(2) of the Act provides that the National VET Regulator may also be known by a name specified in the regulations.

Subsection 19(1) of the Act, requires the National VET Regulator to give an applicant a certificate of registration if it registers an applicant as an NVR registered training organisation. Subsection 19(2) provides that a certificate of registration must state the matters prescribed by the regulations.

Subsection 235(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.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

#### **Purpose and operation**

The purpose of the Regulations is to specify:

1. that the National VET Regulator may also be known as the *Australian Skills Quality Authority*; and
2. the matters which a certificate of registration, issued under subsection 19(1) of the Act, must state.

Details of the Regulations are set out below.

#### **Background**

##### **Certificate of registration — prescribed matters**

The National VET Regulator will have jurisdiction over all registered training organisations (RTOs) that deliver training to international students and/or operate in multiple jurisdictions,

as well as all RTOs who operate in the territories or in one of the four referring jurisdictions. The National VET Regulator will form the basis of quality assurance in the vocational education and training sector and will establish a robust regulatory framework, with effective powers and sanctions available to the National VET Regulator to enforce compliance with the standards for providers and courses.

RTOs are required to apply for registration under the Act if they intend to offer nationally recognised training courses. Section 16 of the Act provides that a person may apply to the National VET Regulator for registration as a NVR registered training organisation. If the National VET Regulator decides to grant an application for registration under subsection 17(1), the National VET Regulator must give the applicant a certificate of registration in accordance with subsection 19(1) of the Act. Subsection 19(2) of the Act provides that the certificate of registration must state certain matters prescribed by the regulations.

It will be an offence under the Act for a person to offer or provide nationally recognised training courses without registration. The certificate will contain confirmation that the organisation is registered with the National VET Regulator including the period of registration. Under subsection 19(3) of the Act, a certificate of registration will be *prima facie* evidence of the matters stated in it.

#### Name specified for National VET Regulator

At the time of the Act's drafting, no decision had been reached on the name to be given to the regulator. As an interim measure, it was decided to refer to the regulator as the National VET Regulator, until such time as the name of the regulator was decided.

#### **Commencement**

The Regulations shall commence on 1 July 2011.

#### **Provisions of the Regulations**

##### Regulation 1 – Name of Regulations

This regulation would provide that the title of the Regulations would be the National Vocational Education and Training Regulator Regulations 2011.

##### Regulation 2 – Commencement

This regulation would provide that the Regulations commence on 1 July 2011.

##### Regulation 3 – Definition

This regulation would define the term, *Act*, to mean the National Vocational Education and Training Regulator Act 2011.

This regulation would also provide a note stating that the terms, *National Register*, *National VET Regulator* and *NVR registered training organisation*, are defined in section 3 of the Act.

## Regulation 4 – Certificate of registration — prescribed matters

This regulation prescribes, for the purpose of subsection 19(2) of the Act, that the matters below must be stated in a certificate of registration.

New subregulation 4(a) specifies the name of the issuing body.

New subregulation 4(b) specifies the name of the *NVR registered training organisation*.

New subregulation 4(c) specifies the trading name of the *NVR registered training organisation*.

New subregulation 4(d) specifies the day on which the certificate is issued.

New subregulation 4(e) specifies the period during which the *NVR registered training organisation* is registered. This matter must include the day on which the period of registration begins and ends.

New subregulation 4(f) specifies the registration identifier on the *National Register* given to the *NVR registered training organisation*. All *NVR registered training organisations* will be given a unique registration identifier on the *National Register*.

New subregulation 4(g) specifies the provision of the *Act* under which the certificate is issued.

New subregulation 4(h) specifies the name of the delegate, if the certificate is issued by a delegate of the National VET Regulator.

## Regulation 5 – Name specified for National VET Regulator

This regulation specifies that the National VET Regulator may also be known as the Australian Skills Quality Authority.

### **Consultation**

Regulation 4 prescribes certain matters to be included in a certificate of registration. In accordance with subsection 19(3) of the Act, which provides that a certificate of registration will be *prima facie* evidence of the matters stated in it, it was considered that the matters prescribed under Regulation 4 were of a machinery nature, and did not alter existing arrangements. On this basis consultation was not undertaken as it was not considered necessary or appropriate.

Regulation 5, which specifies a new name by which the National VET Regulator is to be known, was also considered to be of a machinery nature, which did not alter existing arrangements. On this basis consultation was not considered necessary or appropriate and was also not undertaken.