

4 APR 2012

Department of
Education and Training

Mr Tim Bryant
Committee Secretary
Senate Economics Legislation Committee
Email: economics.sen@aph.gov.au

Dear Mr Bryant

Thank you for your email dated 22 March 2012 regarding the inquiry into the *National Vocational Education and Training Regulator (Charges) Bill 2012* and for the opportunity to make a submission to the Senate Economics Legislation Committee.

Officers of the Queensland Department of Education and Training have examined the Bill and I offer the following general observations and comments:

- the position that the National Vocational Education and Training (VET) Regulator (NVR) must, at the completion of the transitional period, operate on a cost recovery basis is acknowledged. This position was, agreed at the Council of Australian Government's December 2009 meeting;
- while I appreciate the reason for the use of the term "charges" in this Bill as opposed to the term "fees" in the *National Vocational Education and Training Regulator Act 2011* (the Main Act), I suggest the subtlety of that difference will not be appreciated by most VET sector practitioners. It would have been useful to explain the reason for the different terms in the associated Explanatory Memorandum;
- continuing that theme, and as an observation only, it adds complexity to the VET legislative framework to introduce an entirely new Bill to provide for these charges. I trust that options to allow for all NVR fees and charges to be included in the Main Act were explored and found to be unacceptable;
- it is noted that this Bill, as opposed to the Main Act, does not require the Minister to obtain the agreement of the Ministerial Council before making a determination in relation to the amount of a charge. The fact that the Bill provides for the Minister to a legislative instrument without the oversight of the Ministerial Council appears to be inconsistent with the tone of the Inter-Governmental Agreement for Regulatory Reform in Vocational Education and Training; and
- it is not clear under what circumstances the NVR would charge for a compliance audit. The currently published Australian Skills Quality Authority (ASQA) fee schedule does not include any advice about what audits (if any) are included in the registration fees. The draft ASQA schedule of fees and charges attached to the Cost Recovery Impact Statement did, however, provide (with regard to Registered Training Organisation registration fees) that, "this fee includes the cost of one *post-registration audit - either a 12 month monitoring audit or a compliance audit*".

Office of the Director-General
Floor 22 Education House
30 Mary Street Brisbane 4000
PO Box 15033 City East
Queensland 4002 Australia
Telephone +61 3237 0900
Facsimile +61 3237 1369
Website www.deta.qld.gov.au
ABN 76 337 613 647

On that basis, noting that the amount of the fees is consistent between the two documents, it seems reasonable that the post initial audit should not attract any charge.

I also offer the following detailed comments regarding the Bill:

- Clause 7 of the Bill provides that a charge applies if the NVR conducts a "compliance audit" of an NVR registered training organisation (NVR RTO). The Main Act defines a compliance audit as below:
 - *"The National VET Regulator may, at any time, conduct a compliance audit of an NVR registered training organisation's operations to assess whether the organisation continues to comply with the VET Quality Framework".*
- Based on that definition, the Bill does not give the NVR power to charge for an audit of providers with respect to their registration on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).
- It is also not clear whether the NVR would have the ability to charge for an extension to scope audit, as this would be determined by how the NVR framed such an audit. It could be either a compliance audit to inform a decision as to whether the application should be approved (which would not reflect the usual practice of VET regulators) or an audit specifically aimed at examining the organisations capacity to deliver the relevant VET course/s (which reflects usual practice). In the first instance, the NVR would have capacity to charge for the audit but, in the second, it would not.
- Clause 10 of the Bill provides that a fee is chargeable when the NVR investigates a complaint against an NVR RTO and finds the complaint substantiated. The experience of the Queensland VET regulator has been that it is often the case that a complaint is partially substantiated. I recommend that in developing the required legislative instrument, consideration be given to the circumstance of a partially substantiated complaint.

It is also noted that the Bill provides no capacity for the NVR to charge CRICOS providers for activity associated with complaints.

If you would like further information, I invite you to contact Mr Michael Bopf, Executive Director, Training and International Quality

I trust this information will assist you with the inquiry.

Yours sincerely

Julie Grantham
Director-General

Ref: 12/113233