

TVET AUSTRALIA (NATIONAL AUDIT AND REGISTRATION AGENCY) CHARTER

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1. PREAMBLE

- 1.1. A Charter to streamline and enhance the national regulatory system through the provision of national registration, audit and approval of eligible training organisations by TVET Australia under delegation from State and Territory Registering Bodies and Designated Authorities.

2. BACKGROUND

- 2.1. As part of reform of the National Training System, the Ministerial Council on Vocational and Technical Education (MCVTE) agreed to establish a national regulatory function within TVET Australia.
- 2.2. MCVTE agreed that States and Territories would enact delegations to TVET Australia (or appropriate persons within TVET Australia) to provide multi-jurisdictional training organisations with the option of national registration and audit against the requirements of the AQTF 2007 and approval against the requirements of the *Education Services for Overseas Students Act 2000*.
- 2.3. MCVTE also agreed that States and Territories could delegate additional responsibilities to TVET Australia.

3. OBJECTIVES

- 3.1. Under delegation(s) from State and Territory Registering Bodies and Designated Authorities, TVET Australia will offer eligible training organisations the option of nationally consistent:
 - 3.1.1 registration and audit against the requirements of the AQTF 2007 Essential Standards for Registration; and
 - 3.1.2 approval of training organisations against the requirements of the ESOS Act 2000 and the National Code 2007.
- 3.2. In cooperation with State and Territory Registering Bodies and Designated Authorities, TVET Australia will ensure that at all times all relevant regulatory responsibilities are:
 - 3.2.1. entirely and professionally discharged in compliance with the requirements of the delegation(s), TVET Australia policies and the requirements of the AQTF Standards for Registering Bodies and the ESOS Act 2000;
 - 3.2.2. accurately recorded on NTIS and CRICOS; and
 - 3.2.3. efficiently delivered to reduce unnecessary compliance costs or duplication.

4. **INTERPRETATIONS**

4.1. For the purposes of this Charter, the following terms are defined:

- **Appeal:** An appeal is an application by an RTO to have a decision of the delegate reviewed by an independent appeal authority as specified in the Principal's enabling legislation.
- **Approval:** Approval for RTOs that meet the requirements of the ESOS Act and the National Code 2007 is granted by the Secretary of the federal Department of Education, Science and Training based on the recommendation of Designated Authorities, or their delegates.
- **AQF:** The Australian Qualifications Framework is a unified system of national qualifications in schools, vocational education and training.
- **AQTF 2007:** The Australian Quality Training Framework is the national set of standards which assures nationally consistent high quality training and assessment services. AQTF 2007 is the current version of the framework, effective 1 July 2007.
- **AQTF Essential Standards for Registration:** The AQTF 2007 Essential Standards for Registration set out the requirements training organisations must meet in order to deliver and assess nationally recognised training and issue nationally recognised qualifications. They include three standards, a requirement for RTOs to gather information on their performance against three quality indicators and nine conditions of registration.
- **Audit:** A systematic, independent and documented process for obtaining evidence to determine whether the activities and related outcomes of a registered training organisation comply, or continue to comply with the AQTF Standards for Registered Training Organisations.
- **CRICOS:** Commonwealth Register of Institutions and Courses for Overseas Students.
- **Delegate:** The delegate is the officer(s) of TVET Australia named or otherwise identified in the delegation(s) instrument.
- **Designated Authorities:** Designated Authorities are the bodies defined under section 5 of the ESOS Act to recommend approval of providers for registration to deliver courses to overseas students in each jurisdiction.
- **Delegation instrument:** A delegation instrument (delegation) is written notification of the Principal's permission for an identified delegate or delegates to exercise specific statutory powers on its behalf.
- **ESOS Act 2000:** *Education Services for Overseas Students Act 2000.*
- **ESOS Implementation Group (ESOS IG):** The ESOS IG is established under the Australian Education Systems Officials Committee, comprising officials from the Australia Government and

states and territories to collaborate on implementation of the ESOS legislative framework.

- **NARA** National Audit and Registration Agency a division of TVET Australia
- **National Code 2007**: The National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 provides nationally consistent standards for the conduct of registered providers and the registration of their courses.
- **NRATC**: National Registration and Accreditation Technical Committee.
- **NTIS**: The National Training Information Service is an online database (www.ntis.gov.au) providing information on vocational education and training in Australia, including details of training packages, competency standards, assessment guidelines, courses, qualifications, and RTOs.
- **Principal**: The Principal is the relevant Registering Body and/or Designated Authority as established under State or Territory law and which formally delegates specific functions to TVET Australia.
- **Registration**: The formal approval and recognition of a training organisation by a State or Territory Registering Body, or its delegate, in accordance with AQTF 2007.
- **Registering Body**: A Registering Body is a body established under State or Territory law with responsibility both for registering training providers and accrediting courses against the requirements of the AQTF 2007.
- **SRF**: The Shared Responsibility Framework sets out the respective roles of the Australian Government and Designated Authorities in administering the ESOS legislative framework.
- **TVET Australia**: Technical and Vocational Education and Training Australia Limited ACN 062 758 632.

- 4.2. The Charter shall be construed in accordance with the delegation(s) and the TVET Australia Constitution and, in the event of any inconsistency, the delegation(s) prevails.
- 4.3. With the exception of the requirements of the delegation(s) and the ESOS Act 2000, where the Charter provides for particular standards, processes, forms or formalities to be observed, exact compliance may not be essential but substantial compliance may equally be deemed by TVET Australia to be sufficient having regard to the immediate purpose and the Objectives as set in 3.
- 4.4. In performing its registration, audit and approval functions in accordance with this TVET Australia Charter, TVET Australia will comply with the Information Privacy Principles as though it were an "agency" under the *Privacy Act 1988*.

5. ELIGIBLE TRAINING ORGANISATIONS

- 5.1. Unless otherwise set out in a specific delegation instrument, only multi-jurisdictional training organisations are eligible to elect to have their registration, audit and approval managed by TVET Australia.
- 5.2. Multi-jurisdictional training organisations are those that are:
 - 5.2.1. registered on the NTIS as operating in more than one state or territory and provide the Registering Body with evidence of multi-jurisdictional operations; or
 - 5.2.2. registered on NTIS as currently operating in their registered jurisdiction only and provide the Registering Body with evidence showing that they will commence operations in another jurisdiction(s) within six months; or
 - 5.2.3. a new training organisation seeking registration for the first time and provide the Registering Body with evidence showing that they will be operating in more than one jurisdiction within six months.
- 5.3. A training organisation that elect to have its registration, audit and approval managed by TVET Australia must first have its eligibility determined by the relevant Registering Body. Registering Bodies will consider a training organisation's application against the evidence guidelines agreed by NSOC (Attachment A).
- 5.4. If, during the term of its registration, a training organisation ceases to operate in more than one jurisdiction for a period of more than twelve months, it will remain registered with TVET Australia until the end of the term of its current registration. At the expiration of its current term of registration, the training organisation will re-register with the relevant Registering Body unless otherwise agreed between the Registering Body and TVET Australia.

6. MANAGING REGISTRATION, AUDIT, APPROVAL & APPEALS

6.1. Fees

- 6.1.1. Fees for registration, audit and approval will be determined by the Board of TVET Australia on an annual basis and will be set at a level sufficient to meet the costs of providing these functions.
- 6.1.2. TVET Australia will publish an annual fee schedule at least one month before the start of a new year.
- 6.1.3. Training organisations that elect to have their registration, audit and approval managed by TVET Australia will pay the relevant fee as set out in the annual fee schedule and will not be required to pay any other fee for the same registration, audit or approval to any other Registering Body or Designated Authority.

6.2. Registering RTO details on to NTIS and CRICOS

- 6.2.1. Where a training organisation elects to have its registration, audit and approval managed by TVET Australia, TVET Australia will be responsible for maintaining the training organisation's NTIS record as stated in 3.2.2.
- 6.2.2. Where TVET Australia recommends a training organisation for approval under the ESOS Act, TVET Australia will be responsible for maintaining the training organisation's record on CRICOS.
- 6.2.3. As soon as is practical, and normally within ten (10) working days, once a training organisation has elected to have its registration, audit and approval managed by TVET Australia, the Principal will transfer the training organisation's current AQTF, and where applicable CRICOS, record to TVET Australia and will provide access, where required, to any other official records sufficient to enable TVET Australia to discharge its delegated regulatory responsibilities.

6.3. Monitoring RTO performance

- 6.3.1. TVET Australia is bound by the AQTF Standards for Registering Bodies and operates in accordance with the Shared Responsibility Framework as it relates to the registration, audit and approval of training organisations.
- 6.3.2. TVET Australia will monitor training organisations' performance against the requirements of the AQTF Essential Standards for Registration and will develop and maintain policies that are consistent with National Guidelines.
- 6.3.3. TVET Australia will co-operate with DEST in monitoring the compliance of training organisations with the ESOS Act 2000 and the National 2007.
- 6.3.4. In accordance with the requirements of the delegation(s), the AQTF Standards for Registering Bodies and TVET Australia policies, both the Chief Executive Officer of TVET Australia and the General Manager, National Audit and Registration Agency may determine any matter relating to a training organisations' registration, audit or approval except for the suspension or cancellation of AQTF registration which may only be determined by the Chief Executive Officer.
- 6.3.5. TVET Australia will benchmark its registration, audit and approval functions with Registering Bodies and Designated Authorities in other jurisdictions to promote national consistency.

- 6.3.6. TVET Australia will promote the development and documentation of good practice in the regulation of training organisations.

6.4. Managing reviews and appeals

- 6.4.1. Before suspending or cancelling the AQTF registration of a training organisation the Chief Executive Officer of TVET Australia must;
 - 6.4.1.1. consult with the Board of TVET Australia to ensure that all relevant policies and procedures have been complied with (but such consultation shall not constrain the Chief Executive in the exercise of delegated powers);
 - 6.4.1.2. provide written advice to the training organisation advising it that suspension or cancellation is under consideration and providing the training organisation with an opportunity to submit further evidence in support of its registration; and
 - 6.4.1.3. notify the Principal and provide a copy of the advice to the training organisation set out in 6.4.1.2.
- 6.4.2. All appeals against decisions of TVET Australia will be heard by the appeal authority specified in the relevant Principal's enabling legislation.
- 6.4.3. Ordinarily, TVET Australia will be responsible for funding and managing appeals on behalf of the relevant Registering Body, however this may be varied by agreement with State and Territory Registering Bodies.
- 6.4.4. TVET Australia will meet any costs arising out of corrective actions required from a successful appeal.
- 6.4.5. For all training organisation registered or recommended for approval by TVET Australia, TVET Australia will be responsible for investigating any complaints referred to it by State and Territory Registering Bodies and Designated Authorities. TVET Australia will manage complaints relating to training organisations obligations under the ESOS Act 200 and the National Code 2007 in accordance with the SRF.
- 6.4.6. Each party to a delegation(s) shall bear its own expenses of and incidental to the performance of its responsibilities under this Charter including any legal expenses relating to advice provided by the Principal's Crown Solicitor regarding the requirements of enabling legislation.

6.5. Reporting to Principals and national committees

- 6.5.1. In accordance with the requirements of the AQTF Standards for Registering Bodies and the requirements of the delegation(s) (if any), TVET Australia will provide an annual report to State and Territory Registering Bodies and Designated Authorities sufficient to allow them to produce Annual Reports.
- 6.5.2. In addition to the reporting in 6.5.1, for the first twelve months after the delegation(s) is enacted, TVET Australia will provide Registering Bodies and Designated Authorities at least quarterly statistical reports.
- 6.5.3. TVET Australia will also provide ad hoc reports or information in response to reasonable written requests made by Registering Bodies and Designated Authorities including where the information is required by Ministers or by other jurisdictional authorities.
- 6.5.4. TVET Australia will also report to the National Quality Council on its performance in relation to AQTF Standards for Registering Bodies and on quality issues arising from the regulation of eligible RTOs.
- 6.5.5. TVET Australia will be a member of NRATC and will attend meetings of the ESOS IG as required.

6.6. Commissioning an independent annual review of performance

- 6.6.1. TVET Australia will publish information on the performance of its delegated functions in accordance with the AQTF Standards for Registering Bodies at least once annually.
- 6.6.2. TVET Australia will commission an annual independent audit of registration functions against the AQTF Standards for Registering Bodies and the requirements of delegation(s). The report of this independent audit will be provided to the Principal and will also be made publicly available.

7. FURTHER DELEGATION

- 7.1. In addition to those training organisations that are eligible in accordance with clause 5, TVET Australia may register a training organisation where it is eligible in accordance with a separate delegation.

8. ADMINISTRATION

- 8.1. TVET Australia will provide written notification to the Board of TVET Australia and the relevant State or Territory Registering Body or Designated Authority of any actual and/or potential conflict of interest that exists, arises or may be reasonably expected to arise for TVET Australia, its staff and its contractors during the course of undertaking

registration, audit functions as soon as practical after it becomes aware of that conflict.

- 8.2. TVET Australia will keep proper records in relation to the performance of all delegated functions. All records used in the exercise of the delegation(s) or brought into existence during the course of exercising the delegation(s) are owned by the relevant Registering Body or Designated Authority.
- 8.3. TVET Australia is subject to the requirements of State and Territory Freedom of Information, Ombudsman and Records legislation and will provide State and Territory Ministers with unrestricted access to records as may be required.
- 8.4. Registering Bodies and Designated Authorities own all intellectual property rights in all things produced by TVET Australia in the course of the performance of the delegated functions and will grant TVET Australia an unrestricted and royalty-free licence in perpetuity for the use of any such intellectual property.
- 8.5. TVET Australia owns all the intellectual property rights in all things that that it produced prior to the enactment of the delegation(s) and all intellectual property rights arising from services provided to training organisations that are additional to the delegated functions and will grant Registering Bodies and Designated Authorities an unrestricted and royalty-free licence in perpetuity for the use of any such intellectual property.
- 8.6. For the duration of the delegation(s), TVET Australia will effect and maintain:
 - 8.6.1. professional indemnity insurance in the amount of five (5) million dollars for any one event and in the aggregate in any one policy period; and
 - 8.6.2. public and products liability insurance in the amount of twenty (20) million dollars for any one event and in the aggregate in any one policy period.

9. *DISPUTES BETWEEN TVET AUSTRALIA AND REGISTERING BODIES/DESIGNATED AUTHORITIES*

- 9.1. In the event that there is any dispute between the Principal and the TVET Australia regarding TVET Australia's performance of delegated functions and/or the requirements of the Charter, the Principal and TVET Australia (who for the purposes of this paragraph 9 are the "parties") will resolve that dispute as follows:
 - 9.1.1. The parties will first attempt to resolve through direct negotiation, however if this does not resolve the dispute, each party will appoint an independent and senior person within the

respective organisation to attempt to resolve the matter within ten (10) working days.

- 9.1.2. In the event that the dispute is not resolved within ten working days of direct negotiation as set out in 9.1.1, each of the parties will provide written advice of the dispute to other party and proposing a specific resolution/remedy to be further considered and determined within a further ten (10) working days.
- 9.2. If the dispute is still not resolved to the satisfaction of both parties, any party may refer the dispute to an independent third person/organisation to either:
 - 9.2.1. if the parties agree, intervene and direct some form of resolution, in which case the parties shall be bound by that resolution; or
 - 9.2.2. in any other case, mediate and recommend some form of nonbinding resolution.
- 9.3. The parties shall cooperate fully with any dispute process in order to achieve a speedy resolution.
- 9.4. Notwithstanding the existence of a dispute each party must continue to perform its obligations under this Charter.
- 9.5. Nothing in this clause shall prevent a party seeking relief in a court of competent jurisdiction.

REQUIREMENTS FOR EVIDENCE

These requirements specify the nature and form of evidence to be considered by Registering Bodies when assessing training organisations' eligibility to elect to have their registration, audit and approval managed by the TVET Australia. Meeting these requirements for eligibility **does not** mean a training organisation is registered or approved.

Registering Bodies must consider evidence of a training organisation's multi-jurisdictional operations including any one of the following:

1. An agreement to provide nationally recognised training and/or assessment.

A training organisation will be eligible to have its registration, audit and approval managed by TVET Australia if it has:

- 1.1. a legally enforceable agreement for the provision of nationally recognised training and/or assessment for one or more legal entities operating in one or more jurisdictions other than the jurisdiction where the training organisation is registered; or
- 1.2. as an enterprise training organisation, a business and/or training plan for the provision of nationally recognised training and/or assessment to be delivered as part of an enterprise's workforce development and involving operations in one or more jurisdictions other than the jurisdiction where the training organisation is registered.

An agreement for nationally recognised training and/or assessment services may require the services to be provided either by the training organisation directly or by a partner organisation operating on behalf of the training organisation and for which the training organisation is responsible for the certification of learners and/or trainees.

Note that an agreement to provide training and/or assessment services that are **exclusively** online will not, by itself, be sufficient evidence.

2. An agreement for premises or facilities that are, or will be, used as part of the provision of nationally recognised training and/or assessment.

A training organisation will be eligible to elect to have its registration, audit and approval managed by TVET Australia if it has:

- 2.1. a lease, or other legally enforceable agreement, for premises or facilities to be used as part of the inter-state provision of nationally recognised training and/or assessment services; or
- 2.2. as an enterprise training organisation, an agreement or other commitment for resources, facilities or expertise or an agreement to release learners and/or employers as part of the provision of nationally recognised training and/or assessment.

The premises or facilities may be used either for the management, administration, promotion and marketing of nationally recognised training and/or assessment or as part of the delivery of nationally recognised training and/or assessment. If the premises or facilities are to be used as part of the delivery of nationally recognised training and/or assessment, they will meet the requirements of element 1.3 of Standard 1 of the Australian Quality Training Framework 2007 Essential Standards for Registered Training Organisations.

3. A statutory declaration by the Chief Executive Officer, or equivalent, of the training organisation.

A training organisation will be eligible to elect to have its registration, audit and approval managed by TVET Australia if it has a record of multi-jurisdictional delivery as set out in a statutory declaration by the Chief Executive or equivalent.

The statutory declaration must provide details of operations in one or more jurisdictions other than the registered jurisdiction including:

- 3.1. previous agreements to provide nationally recognised training and/or assessment; and/or
- 3.2. leases or other agreements for facilities or premises; and/or
- 3.3. prior approval or membership of a panel of preferred suppliers of providers of nationally recognised training and/or assessment.

Administration

No fee is to be charged to a training organisation nor is a site audit required. Registering Bodies should determine eligibility on the basis of the evidence provided by the training organisation only and normally within ten working days.

A training organisation may elect to have its registration managed by TVET Australia at any time providing its registration is free from conditions or sanctions, including any action to cancel registration.