

Vocational Education and Training (General) Amendment Regulations 2015

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Vocational Education and Training (General) Amendment Regulations 2015*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 6 April 2015.

3. Regulations amended

These regulations amend the *Vocational Education and Training (General) Regulations 2009*.

4. Regulation 3 amended

In regulation 3 delete the definition of *AQTF*.

5. Regulation 4 amended

Delete regulation 4(2) and insert:

- (2) For the purpose of the definition of *approved VET course* in section 5(1) of the Act, the following are prescribed —
 - (a) each listed unit of competency that forms part of a listed training package;
 - (b) any VET course accredited by ASQA;
 - (c) any VET course accredited by another non-referring State.

6. Regulation 7 amended

- (1) In regulation 7(1) delete the definitions of:
compliance monitoring audit
continuing registration requirements
initial registration requirements

prescribed registration document
registration requirements

- (2) In regulation 7(1) insert in alphabetical order:

audit means an audit conducted under Division 3;

registration document means a document that evidences the registration of a training provider and that complies with the requirements of the Standards for VET Regulators;

registration standards means the Standards for NVR Registered Training Organisations made under the Commonwealth Act section 185;

- (3) In regulation 7(2) delete “forming part of the AQTF or the Standards for VET Regulators”.
- (4) After regulation 7(2) insert:
- (3) A reference in the registration standards to an RTO includes a reference to a WA registered provider.

7. Regulation 8 amended

In regulation 8(2)(a) delete “requirements; and” and insert:

standards; and

Note: The heading to amended regulation 8 is to read:

Council to have regard to, and apply, certain standards

8. Regulation 12 amended

- (1) In regulation 12(3):
- (a) after “regulation 10(1)” insert:
- and has sufficient resources to be a training provider
- (b) in paragraph (a) delete “registration, and meets the standards, in the initial registration requirements; or” and insert:
- registration, the registration standards and the AQF; or
- (c) delete paragraph (b) and insert:
- (b) an audit has been conducted on the provider within the previous 3 months and the provider

has been found to comply with the conditions of registration, the registration standards and the AQF; or

- (2) In regulation 12(7)(b) delete “prescribed”.

9. Regulation 13 amended

- (1) Delete regulation 13(1)(a) and insert:

(a) the registration standards and the AQF; and

- (2) In regulation 13(2):

(a) in paragraph (a) delete “meet the standards in the continuing registration requirements;” and insert:

comply with the registration standards and the AQF;

(b) delete paragraph (b) and insert:

(b) the provider must, if an audit or a compliance audit shows the provider does not comply with the registration standards or the AQF, take all steps necessary to comply with them;

(c) the provider must have sufficient resources to be a training provider;

(c) in paragraph (d) delete “a compliance audit or a compliance monitoring audit” and insert:

an audit or a compliance audit

(d) in paragraph (e)(ii) delete “operations;” and insert:

operations or any other event that would significantly affect the provider’s ability to comply with the registration standards, the AQF or the conditions of registration;

(e) in paragraph (e)(iv) delete “WA.” and insert:

WA;

(f) after paragraph (e) insert:

(f) the provider must cooperate with the Council at least to the extent necessary for the Council to

perform its functions or to facilitate the Council's performance of its functions.

- (3) In regulation 13(4) delete “continuing registration requirements.” and insert:

registration standards.

10. Regulation 14 amended

In regulation 14 delete “prescribed”.

11. Regulation 16 amended

- (1) Delete regulation 16(3)(a)(ii) and insert:

(ii) the provider complies with the registration standards and the AQF; and

- (2) In regulation 16(4)(b) delete “prescribed”.

12. Regulation 17 amended

- (1) In regulation 17(4):

(a) delete paragraph (a) and insert:

(a) the provider complies with the registration standards and the AQF; or

(b) in paragraph (b) delete “a compliance audit or a compliance monitoring audit” and insert:

an audit or a compliance audit

(c) in paragraph (b) delete “meet” and insert:

comply with

Note: The heading to amended regulation 17 is to read:

Varying registration

13. Regulation 19 amended

Delete regulation 19(1)(d) and insert:

(d) the provider does not comply with the registration standards or the AQF;

14. Regulation 24 amended

- (1) In regulation 24 delete the definitions of:
compliance audit
compliance monitoring audit
- (2) In regulation 24 insert in alphabetical order:

audit means an audit to establish whether a training provider complies with the registration standards or is complying with the Act;

compliance audit means an audit in the form of a review or examination of all or any particular aspect of a WA registered provider's operations —

- (a) following an audit; or
(b) as part of an investigation of a complaint;
- (3) In regulation 24 in the definition of *investigation* delete “AQTF;” and insert:

registration standards, the AQF, the conditions of registration or the accreditation standards;

15. Regulation 25 amended

- (1) In regulation 25(1) and (2A) delete “a compliance” and insert:

an

- (2) Delete regulation 25(2) and insert:

(2B) A training provider must cooperate with the Council in its conduct of an audit and provide any relevant information that the Council requests.

(2) An audit must comply with the Standards for VET Regulators to the extent that they relate to audits.

- (3) In regulation 25(3):

(a) delete “compliance”;

(b) in paragraph (b) delete “audit standards” and insert:

Standards for VET Regulators

Note: The heading to amended regulation 25 is to read:

Audits

16. Regulation 26A amended

- (1) In regulation 26A(1), (2), (3) and (4) delete “monitoring” (each occurrence).
- (2) In regulation 26A(2)(a) delete “a compliance” and insert:

an
- (3) After regulation 26A(2) insert:
 - (3A) A WA registered provider must cooperate with the Council in its conduct of a compliance audit and provide any relevant information that the Council requests.
 - (3B) A compliance audit must comply with the Standards for VET Regulators to the extent that they relate to compliance audits.
 - (3C) A contravention of subregulation (3B) does not affect the validity of the compliance audit if the contravention —
 - (a) does not substantially affect the outcome of the compliance audit; or
 - (b) arises out of an inconsistency between the Standards for VET Regulators and written laws.

Note: The heading to amended regulation 26A is to read:

Compliance audits

17. Regulation 26B amended

- (1) Delete regulation 26B(1) and (2) and insert:
 - (1) An inquiry conducted under section 58D of the Act may be in the form of an investigation of a complaint made about compliance by a WA registered provider with the registration standards, the AQF, the conditions of registration or the accreditation standards.
 - (2A) A WA registered provider must cooperate with the Council in its conduct of an investigation and provide any relevant information that the Council requests.
 - (2) The investigation of a complaint must comply with the Standards for VET Regulators to the extent that they relate to investigations of complaints.
- (2) Delete regulation 26B(3)(b) and insert:

(b) arises out of an inconsistency between the Standards for VET Regulators and written laws.

(3) In regulation 26B(4) delete “monitoring” (each occurrence).

18. Regulation 26C amended

In regulation 26C(2) delete “monitoring” (each occurrence).

19. Regulation 26D amended

In regulation 26D delete “monitoring” (each occurrence).

20. Regulation 26 amended

(1) In regulation 26(3):

(a) before “contain this information” insert:

be in a form required by the Council and

(b) in paragraph (d) delete “conferred.” and insert:

conferred;

(c) after paragraph (d) insert:

(e) any other information —

(i) referred to in the Data Provision Requirements made under the Commonwealth Act section 187; and

(ii) required by the Council.

(2) In regulation 26(4) delete “training” and insert:

WA registered

21. Regulation 27 amended

In regulation 27(2)(b) delete “conditions of registration in the continuing registration requirements of —” and insert:

registration standards of —

22. Regulation 30 amended

(1) In regulation 30(1)(a) delete “Standards for VET Regulators; and” and insert:

accreditation standards; and

- (2) In regulation 30(2)(b) delete “Standards for VET Regulators;” and insert:

accreditation standards;

23. Regulation 33A amended

- (1) In regulation 33A(2)(b)(i) delete “VET”.

- (2) In regulation 33A(7):

- (a) delete “VET course,” and insert:

WA accredited course,

- (b) in paragraph (a) delete “Standards for VET Regulators; and” and insert:

accreditation standards; and

24. Regulation 34A inserted

At the end of Part 3 Division 5 insert:

34A. Validity of decisions unaffected

A contravention of the accreditation standards by the Council in making a decision under regulation 29, 30, 32 or 33A does not affect the validity of that decision if the contravention —

- (a) does not substantially affect the decision; or
(b) arises out of an inconsistency between the accreditation standards and written laws.

25. Part 6 inserted

After regulation 60 insert:

Part 6 — Transitional provisions for *Vocational Education and Training (General) Amendment Regulations 2015*

61. Terms used

In this Part —

amendment regulations means the *Vocational Education and Training (General) Amendment Regulations 2015*;

AQTF means the Australian Quality Training Framework as defined in the *Higher Education Support Act 2003* (Commonwealth) Schedule 1;

commencement day means the day on which regulation 3 of the amendment regulations came into operation;

transitional period means the period of 3 months beginning on the commencement day.

62. Mandatory conditions applicable to WA registered providers during transitional period

During the transitional period a WA registered provider registered before the commencement day may comply with either —

- (a) the mandatory condition referred to in regulation 13(2)(a); or
- (b) the mandatory condition referred to in regulation 13(2)(a) as it was before the commencement day.

63. Applications before commencement day

- (1) An application for registration, renewal of registration or variation of registration made, but not decided, before the commencement day is, on and after the commencement day, to be decided —

- (a) if the application was prepared addressing the AQTF, in accordance with the AQTF under the regulations as they were before the commencement day; and
- (b) if the application was prepared addressing the registration standards, in accordance with the registration standards.

- (2) An application decided under subregulation (1)(a) cannot be granted except on the condition that the provider is to comply with the registration standards after the transitional period.

N. HAGLEY, Clerk of the Executive Council.