

I certify that this is a copy of the authorised version of this Act as at 1 July 2023, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023.

K Woodward  
Chief Parliamentary Counsel  
Dated 25 July 2023



TASMANIA

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## VOCATIONAL EDUCATION AND TRAINING (COMMONWEALTH POWERS) ACT 2011

No. 50 of 2011

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**VOCATIONAL EDUCATION AND TRAINING  
(COMMONWEALTH POWERS) ACT 2011**

**No. 50 of 2011**

**An Act to adopt the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth and the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011* of the Commonwealth and to refer certain matters relating to the regulation of vocational education and training to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth and to provide for related matters**

**[Royal Assent 22 December 2011]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

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2011  
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**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *Vocational Education and Training (Commonwealth Powers) Act 2011*.

**2. Commencement**

This Act commences on a day to be proclaimed.

**3. Interpretation**

In this Act –

*adoption* means the adoption under section 5(1);

*amendment reference* means the reference under section 6(1);

*continuing VET matter* has the meaning given in section 4;

*express amendment* of the national VET legislation means the direct amendment of the text of the national VET legislation (whether by the insertion, omission, repeal, substitution or relocation of words or matter) by another Commonwealth Act, but does not include the enactment by a Commonwealth Act of a provision that has or will have substantive effect

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otherwise than as part of the text of the national VET legislation;

***national VET instrument*** means any instrument (whether or not of a legislative character) that is made or issued under the national VET legislation;

***national VET legislation*** means –

- (a) the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth; and
- (b) the *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011* of the Commonwealth.

#### **4. Continuing VET matters**

- (1) Each of the following matters is a continuing VET matter to the extent that it is included in the legislative powers of the Parliament of the State:
  - (a) the registration and regulation of vocational education and training organisations;
  - (b) the accreditation or other recognition of vocational education and training courses or programs;

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- (c) the issue and cancellation of vocational education and training qualifications or statements of attainment;
  - (d) the standards to be complied with by a vocational education and training regulator;
  - (e) the collection, publication, provision and sharing of information about vocational education and training;
  - (f) investigative powers, sanctions and enforcement in relation to any of the above.
- (2) However, a continuing VET matter does not include that matter of making a law that excludes or limits the operation of a State law to the extent that the State law makes provision with respect to –
- (a) primary or secondary education (including the education of children subject to compulsory school education); or
  - (b) tertiary education that is recognised as higher education and not vocational education and training; or
  - (c) the rights and obligations of persons providing or undertaking apprenticeships or traineeships; or

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- (d) the qualifications or other requirements to undertake or carry out any business, occupation or other work (other than that of a vocational education and training organisation); or
  - (e) the funding by the State of vocational education and training; or
  - (f) the establishment or management of any agency of the State that provides vocational education and training.
- (3) In this section –

*State law* means any Act of the State or any instrument made under such an Act, whenever enacted or made and as in force from time to time.

**5. Adoption of national VET legislation**

- (1) The national VET legislation, as originally enacted, is adopted within the meaning of section 51(xxxvii) of the Constitution of the Commonwealth.
- (2) The adoption has effect for a period –
  - (a) beginning when subsection (1) commences; and
  - (b) ending at the end of the day fixed under section 9(1)(a) or (c) as the day on which the adoption is to terminate.

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**6. Reference of continuing VET matters**

- (1) Each continuing VET matter is referred to the Parliament of the Commonwealth, but only to the extent of the making of laws with respect to the matter by making express amendments of the national VET legislation.
- (2) The reference of a matter under subsection (1) has effect only if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth).
- (3) Despite any provision of this Act other than section 10(4), the amendment reference has effect for a period –
  - (a) beginning when subsection (1) commences; and
  - (b) ending at the end of the day fixed under section 9(1)(a) or (b) as the day on which the reference is to terminate –

but not longer.

**7. Amendment of Commonwealth law**

It is the intention of the Parliament of the State that –

- (a) the national VET legislation may be expressly amended, or have its operation

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otherwise affected, at any time by provisions of Commonwealth Acts the operation of which is based on legislative powers that the Parliament of the Commonwealth has apart from a reference of any matters for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and

- (b) the national VET legislation may have its operation affected, otherwise than by express amendment, at any time by provisions of national VET instruments.

**8. Tabling of amendments to national VET legislation**

- (1) The Minister is to cause any express amendment of the national VET legislation, and any amendment to any regulations or other instrument of a legislative character made or issued under the national VET legislation, to be tabled in each House of Parliament within 10 sitting-days from the date on which the amendment takes effect.
- (2) Nothing in this section affects the operation of an amendment referred to in subsection (1).

**9. Termination of adoption and amendment reference**

- (1) The Governor may, at any time, by proclamation published in the *Gazette*, fix a day as the day on which –

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- (a) the adoption and the amendment reference are to terminate; or
  - (b) the amendment reference is to terminate; or
  - (c) the adoption is to terminate (if the amendment reference has been previously terminated).
- (2) A day fixed under subsection (1) must be no earlier than the first day after the end of the period of 6 months beginning with the day on which the proclamation is published.
- (3) The Governor may, by proclamation published in the *Gazette*, revoke a proclamation published under subsection (1).
- (4) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (5) If a revoking proclamation has effect, the revoked proclamation is taken, for the purposes of each or either of sections 5 or 6, never to have been published, but the revocation does not prevent publication of a further proclamation under subsection (1).

**10. Effect of termination of amendment reference before termination of adoption**

- (1) In this section –

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*existing legislation* means the national VET legislation as –

- (a) amended by laws made under the amendment reference that have come into operation before the termination; or
- (b) amended or affected by provisions referred to in section 7(a) or (b) that have come into operation before the termination –

and as in operation immediately before the termination.

- (2) A reference in this section to provisions referred to in section 7(b) includes a reference to national VET instruments made to carry out or give effect to the national VET legislation as amended by laws made under the amendment reference.
- (3) It is the intention of the Parliament of the State that, if the amendment reference terminates before the adoption terminates, the termination of the amendment reference does not affect –
  - (a) laws made under the amendment reference before the termination; or
  - (b) the continued operation in the State of the existing legislation or of the existing legislation as –

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- (i) amended after the termination by laws referred to in paragraph (a) that come into operation after the termination; or
  - (ii) amended or affected after the termination by provisions referred to in section 7(a) or (b).
- (4) Accordingly, the amendment reference continues to have effect for the purposes of subsection (3) unless the adoption is terminated.
- (5) Subsection (3) or (4) does not apply to or in relation to an amendment of the national VET legislation that is excluded from the operation of this section by the proclamation that terminates the amendment reference.

**PART 2 – PROVISIONS SPECIFIC TO TASMANIA**

**11. Provision of information and assistance to National VET Regulator**

- (1) The Tasmanian Assessment, Standards and Certification Board, or a person authorised in writing by that Board, may, on that Board's or authorised person's own initiative or at the request of the National VET Regulator or an agency of the Commonwealth –
  - (a) provide the National VET Regulator or agency of the Commonwealth with such documents and other information in the possession or control of the Tasmanian Assessment, Standards and Certification Board that is reasonably required by the Regulator or agency in connection with the performance or exercise of its functions or powers under the National VET legislation; and
  - (b) provide the National VET Regulator or agency of the Commonwealth with such other assistance as is reasonably required by the Regulator or agency to perform or exercise a function or power under the National VET legislation.
- (2) In subsection (1) –

*National VET Regulator* has the same meaning as in the *National Vocational*

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*Education and Training Regulator Act  
2011* of the Commonwealth;

***Tasmanian Assessment, Standards and  
Certification Board*** means the  
Tasmanian Assessment, Standards and  
Certification Board established by  
section 7 of the *Tasmanian Assessment,  
Standards and Certification Act 2003*.

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**PART 3 – MISCELLANEOUS**

**12. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Education and Skills; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Education.

13. *See Schedule 1.*

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**SCHEDULE 1**

*The amendments effected by Section 13 and this Schedule have been incorporated into authorised versions of the following Acts and Statutory Rules:*

- (a) *Occupational Licensing Act 2005;*
- (b) *Tasmanian Qualifications Authority Act 2003;*
- (c) *Vocational Education and Training Act 1994;*
- (d) *Youth Participation in Education and Training (Guaranteeing Futures) Act 2005;*
- (e) *Gas (Safety) Regulations 2002;*
- (f) *Occupational Licensing (Electrical Work) Regulations 2008;*
- (g) *Poisons Regulations 2008;*
- (h) *Property Agents and Land Transactions Regulations 2006;*
- (i) *Workplace Health and Safety Regulations 1998.*

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**NOTES**

The foregoing text of the *Vocational Education and Training (Commonwealth Powers) Act 2011* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2023 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Vocational Education and Training (Commonwealth Powers) Act 2011</i>	No. 50 of 2011	15.2.2012
<i>Tasmanian Qualifications Authority Amendment Act 2015</i>	No. 15 of 2015	29.5.2015
<i>Education Legislation Amendments (Education Regulation) Act 2022</i>	No. 9 of 2022	1.7.2023

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 11	Amended by No. 15 of 2015, s. 131 and No. 9 of 2022, s. 184