2016–2017

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Bill 2017

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by the authority of the Assistant Minister for Vocational Education and Skills, the Hon Karen Andrews MP)
National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Bill 2017

OUTLINE

These amendments to the National Vocational Education and Training Regulator (Charges) Amendment (Annual Registration Charge) Bill 2017 (the Bill) address concerns raised by the Senate’s Standing Committee for the Scrutiny of Bills in its Scrutiny Digest number 5 of 2017.

The amendments to the Bill provide that the Minister may determine the amount of a National VET Regulator annual registration charge (charge), or a method for working out such an amount. Before making a determination, by way of a disallowable legislative instrument, the Minister must:

- be satisfied the amount determined will recover no more than the likely costs incurred by the National VET Regulator in performing its functions
- obtain the Ministerial Council’s agreement to the amount of the charge, or the method for working out that amount.

In other words, the amendments will ensure the charge as determined by the Minister (following Ministerial Council approval) does not exceed the likely costs incurred by the National VET Regulator in performing its statutory functions based on cost recovery.

Financial Impact

The Bill has no financial impact on the Commonwealth or registered providers regulated by the National VET Regulator.
PROPOSED GOVERNMENT AMENDMENTS

The Government proposes the following amendments to the Bill.

Amendments (1) and (2)

Item 2 of Schedule 1 inserts a new Part 1A into the NVETR (Charges) Act (National VET Regulator annual registration charge) consisting of new sections 6A, 6B and 6C.

New section 6B sets out how to determine the National VET Regulator annual registration charge.

Amendment (1) amends new subsection 6B(1) by omitting the words “a National VET Regulator annual registration charge (or charges) for a financial year” and inserting the words “an amount of National VET Regulator annual registration charge for a financial year, or a method for working out such an amount,”.

The purpose of this amendment is to clarify that the Minister may, in a legislative instrument, determine an amount of charge for a financial year, or a method for working out such an amount for a financial year.

New subsection 6B(2) currently provides that, before the Minister makes a determination, the Minister must obtain the Ministerial Council’s agreement to the amount of the National VET Regulator annual registration charge.

Amendment (2) omits and substitutes new subsection 6B(2) to provide that, before determining an amount of the charge, or a method for working out the amount of charge under subsection 6B(1):

- the Minister must be satisfied the determination will result in recovering no more than the Commonwealth’s likely costs to be incurred by the National VET Regulator performing its functions
- the Minister must also obtain the Ministerial Council’s agreement to the amount of charge, or the method for working out such an amount.

Amendment (2) also replicates, without change, the note to new subsection 6B(2). This note explains that the Ministerial Council’s prior agreement is required for the determination of fees under section 232 of the NVETR Act.

Amendment (3)

Subsection 44(1) of the Legislation Act 2003 provides that the Parliamentary disallowance process does not apply with respect to legislative instruments that facilitate the operation of an intergovernmental body or scheme involving the Commonwealth and one or more States.

The effect of amendment (3) is to ensure that subsection 6B(1) determinations are disallowable by Parliament. This ensures parliamentary
oversight of the taxation power. The amendment achieves this by providing that section 42 of the Legislation Act (disallowance) applies to subsection 6B(1) determinations, notwithstanding subsection 44(1) of the Legislation Act.