

CHAPTER 4—VICTORIAN REGISTRATION AND QUALIFICATIONS AUTHORITY

PART 4.1—PRELIMINARY

4.1.1 Interpretation

(1) In this Chapter—

"accredit" in relation to a course of study that leads to an education award or the award of a recognised qualification, means recognise that the standard of the course of study, the rules for the combination of the parts of the course and the way of delivering it, are appropriate to the award or qualification;

"accreditation" includes renewed accreditation;

"AQTF" means the policy framework entitled "Australian Quality Training Framework" that defines the criteria and standards for the registration of training organisations and the accreditation of courses in the vocational education and training sector endorsed by the Ministerial Council on 8 June 2001, and that policy framework as amended from time to time by the Ministerial Council;

"assessment process", in relation to a course, means the methods and criteria used or to be used to determine whether a student has achieved the learning outcomes or competencies specified for that course;

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

"awarding body" means a body recognised by the Authority as being suitable to develop and authorise the delivery of senior secondary qualifications described under the senior secondary certificate of education in the AQF by registered education and training organisations;

"Chairperson" means the Chairperson of the Authority;

"condition", in relation to an RTO, means—

- (a) a condition or limitation on all or some of the operations of an RTO; or
- (b) a restriction;

"corresponding law" means—

- (a) if a regulation prescribes a law of another jurisdiction as the corresponding law for the purposes of this definition, the law prescribed under the regulation; or
- (b) otherwise, a law of another jurisdiction that corresponds with this Act or a provision of this Act;

"course" means—

- (a) a course normally undertaken in, or designed to be undertaken in, year 11 or 12 of the school years; or
 - (b) a course leading to the issue of the VCE or VCAL; or
 - (c) a vocational education and training course, subject, unit of competence or module; or
 - (d) a further education course; or
-

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

(e) a course leading to a higher education award—

and includes—

(f) a program of study or training leading to the award or issue of a particular qualification; and

(g) a subject or other part of a program, unit of competence or module of study or training leading to the award or issue of a particular qualification; and

(h) any other study or training notified by the Minister in the Government Gazette to be a course for the purposes of this Act;

"Director" means the person employed under this Act to be the Director of the Authority;

"institution" includes person or body;

"jurisdiction" means Victoria or, if it has enacted a corresponding law, another State or internal Territory;

"legislative compliance standard" is the standard included in the RTO standards requiring that an RTO ensures that compliance with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations is integrated into its policies and procedures and that compliance is maintained;

"member" means member of the Authority and includes the Chairperson;

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

"Ministerial Council" means—

- (a) in respect of the period before 24 August 2005, the council consisting of the Ministers from each State and the Commonwealth responsible for vocational education and training operating in accordance with the ANTA agreement;
- (b) in respect of the period on or after 24 August 2005, the Ministerial Council within the meaning of the Skilling Australia's Workforce Act 2005 of the Commonwealth;

"National Register" means the National Training Information Service maintained by the Commonwealth to the extent that the Register consists of matters registered in accordance with this Act;

"prohibition", in relation to an RTO, means a prohibition on all or some of the operations of the RTO;

"qualification" means—

- (a) in relation to vocational education and training or further education, formal certification by an RTO and under the AQF that a person has achieved all the units of competencies or modules comprising learning outcomes stated for the qualification in—
 - (i) a nationally endorsed training package for which details of the qualification have been registered by the Commonwealth; or
 - (ii) an accredited course that provides training for the qualification; and
-

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

- (b) in relation to any other education or training, means the recognition, by the award or issue of a certificate or otherwise, that a student has achieved particular learning outcomes or competencies;

"recognised qualification" means a qualification that is registered on the State Register;

"recognised University" means an institution that is—

- (a) established or recognised as a University under an Act; or
- (b) established as a University under an Act of the Commonwealth, another State, the Australian Capital Territory or the Northern Territory;

"registered", in relation to vocational education and training or further education, includes registered on the National Register;

"registering body", in relation to vocational education and training or further education, means the Authority or a body equivalent to the Authority in another jurisdiction responsible for the registration of training organisations under that jurisdiction's legislation relating to vocational education and training;

"registration", in relation to an RTO, includes renewed registration;

"restriction", in relation to an RTO, means a restriction on all or some of the operations of an RTO or a prohibition;

"RTO" means a training organisation registered on the National Register;

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

"RTO standards" means the standards for registered training organisations adopted on 8 June 2001 by the Ministerial Council under the Australian Quality Training Framework endorsed by the council on that date as amended from time to time by the Ministerial Council;

"senior secondary qualifications" means qualifications described under the senior secondary certificate of education in the AQF;

"statement of attainment", in relation to vocational education and training or further education, means formal certification by an RTO under the AQF that a person has achieved—

- (a) part of a qualification; or
- (b) one or more units of competency from a nationally endorsed training package; or
- (c) all the units of competency or modules comprising learning outcomes for an accredited course that does not meet the requirements for a qualification;

"unit of competency", in relation to vocational education and training or further education, means a specification of knowledge and skill and their application to a specified standard of performance.

- (2) In this Chapter, a reference to an institution operating as a University includes a reference to an institution operating as a University in or from Victoria by means of any of the following telecommunication devices—

Education and Training Reform Bill
Exposure Draft

Part 4.1—Preliminary

- (a) a computer adapted for communicating by way of the internet or another communications network; or
 - (b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or another communications network; or
 - (c) a telephone; or
 - (d) any other electronic device.
- (3) In this Chapter, a reference to a course of study includes a reference to a course of study offered in or from Victoria by means of any of the telecommunication devices referred to in subsection (2).
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

**PART 4.2—VICTORIAN REGISTRATION AND
QUALIFICATIONS AUTHORITY**

4.2.1 Establishment of Authority

- (1) There is established a Victorian Registration and Qualifications Authority.
- (2) The Authority—
 - (a) is a body corporate with perpetual succession;
 - (b) has a common seal;
 - (c) may sue and be sued in its corporate name;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all acts and things that a body corporate may by law do and suffer.
- (3) The common seal must be kept as directed by the Authority and must only be used as authorised by the Authority.
- (4) All courts must take judicial notice of the imprint of the common seal on a document and, until the contrary is proved, must presume that the document was properly sealed.

4.2.2 Functions of Authority

- (1) The functions of the Authority are to—
 - (a) register Government and non-Government schools;
 - (b) register students for home schooling;
 - (c) accredit courses and recognise qualifications (including qualifications developed outside Australia);
 - (d) authorise providers of accredited courses;
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

- (e) authorise providers to award recognised qualifications;
 - (f) accredit courses in higher education and approve and authorise providers of higher education;
 - (g) approve providers of specified courses for overseas students;
 - (h) recognise an awarding body and the senior secondary qualifications the awarding body may license a registered provider to deliver;
 - (i) exercise the powers of the Authority to ensure that minimum standards are maintained—
 - (i) by registered schools and by providers of accredited, higher education and specified courses; and
 - (ii) in home schooling;
 - (j) ensure the public availability of meaningful and accurate information about Victorian education and training providers and their compliance with the requirements of this Chapter and any standards prescribed by the regulations;
 - (k) maintain a State Register that includes—
 - (i) accredited courses and recognised qualifications;
 - (ii) registered schools and the year levels or curriculum programs a registered school is authorised to deliver;
 - (iii) authorised education and training providers and the accredited courses they are authorised or licensed to deliver;
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

- (iv) authorised education and training providers of recognised qualifications they are authorised to award or issue;
 - (v) awarding bodies and the senior secondary qualifications that the awarding body may license a registered provider to deliver;
 - (vi) authorised providers of courses of study leading to a higher education award and accredited courses of study in higher education;
 - (vii) Universities deemed to be approved under Part 4.3;
 - (viii) institutions approved to operate as Universities under Part 4.3;
 - (l) register on the National Register—
 - (i) approved providers of vocational education and training and further education;
 - (ii) accredited courses in vocational education and training and further education;
 - (m) conduct audits of education or training organisations;
 - (n) enter into arrangements with other agencies for those agencies to develop and modify courses;
 - (o) consult as it considers appropriate with education bodies and other persons or bodies about linkages between qualifications or parts of qualifications;
 - (p) perform any other function conferred on the Authority by this or any other Act.
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

- (2) In addition to its functions under sub-section (1), the Authority is responsible for—
- (a) generally ensuring that minimum standards for the operation of Government and non-Government schools in Victoria are established, maintained and met and that the standards are regularly reviewed;
 - (b) administering policies and procedures for registration of Government and non-Government schools;
 - (c) making recommendations to the Minister about regulations to be made by the Governor in Council about—
 - (i) the minimum standards for registration, accreditation, endorsement, recognition, licensing or approval under this Chapter;
 - (ii) the requirements for registration, accreditation, endorsement, recognition, licensing or approval under this Chapter.

4.2.3 Powers of Authority

- (1) For the purpose of performing its functions, the Authority has power to do all things necessary or convenient to be done for or in connection with, or as incidental to, the performance of its functions.
 - (2) The Authority, in the performance of its functions, may exercise its powers in Victoria and elsewhere.
 - (3) This section does not limit any other power given to the Authority by any other provision of this Act.
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

4.2.4 Membership of Authority

- (1) The Authority consists of not less than 9 and not more than 12 members of whom—
 - (a) one is to be appointed by the Governor in Council as the Chairperson on the nomination of the Minister as a person who, in the Minister's opinion, is highly regarded in the area of education and training;
 - (b) one is to be the Secretary or the nominee of the Secretary;
 - (c) the remaining members are to be appointed by the Governor in Council on the nomination of the Minister in accordance with sub-section (2).
- (2) In nominating persons to the Governor in Council for appointment to the Authority under sub-section (1)(c) the Minister must have regard to ensuring that—
 - (a) the members of the Authority include—
 - (i) at least 3 persons who, in the Minister's opinion, are highly regarded in the area of school education;
 - (ii) at least 3 persons who, in the Minister's opinion, are highly regarded in the area of post-school education and training;
 - (b) the composition of the Authority—
 - (i) is a fair and balanced reflection of the diversity of the community; and
 - (ii) reflects both metropolitan and country interests;
 - (c) there is sufficient management and regulatory expertise amongst the members of the Authority.

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

- (3) An appointed member may resign from office by delivering to the Governor in Council a signed letter of resignation.
- (4) The Governor in Council may at any time remove an appointed member from office.

4.2.5 Schedule 10

Schedule 10 has effect subject to any contrary intention in this Part.

4.2.6 Director's responsibilities

A Director employed for the purposes of this Chapter is responsible for implementing any policy or decision of the Minister or the Authority made in accordance with this Act.

4.2.7 Delegation of Authority's power

- (1) The Authority may, by instrument under its common seal, delegate any function or power of the Authority, other than this power of delegation to any of the following—
 - (a) a member of the Authority;
 - (b) a member or the members of a committee established by the Authority;
 - (c) the Director or any other person employed for the purposes of this Chapter;
 - (d) the Secretary or any other person employed in the Department;
 - (e) the members of a body established by the Minister;
 - (f) a person, or the members of a body or organisation, offering educational programs;
 - (g) a person, or the members of a body, representing schools or a group of schools;

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

- (h) an organisation acting on behalf of training or higher education providers.
 - (2) The Authority may, by instrument under its common seal, delegate any power of the Authority to award or issue qualifications to any of the persons or bodies referred to in sub-section (1) or a registered education and training organisation.
 - (3) The Authority, by instrument under its common seal, may delegate any of the following powers of the Authority to a registered education and training organisation or a University or institution that has been approved by the Authority under section 4.3.35 for the purposes of this sub-section—
 - (a) the power under Part 4.3 to investigate—
 - (i) a vocational education and training course;
 - (ii) a further education course;
 - (iii) any part of a course referred to in subparagraph (i) or (ii)—

that the registered organisation, University or institution provides or proposes to provide to determine whether it should be registered as accredited or continue to be registered as accredited;
 - (b) the power under Part 4.3 to authorise the organisation, University or institution to provide an accredited vocational education and training course or part of such a course or a further education course;
 - (c) the power under Part 4.3 to authorise the organisation, University or institution to award or issue a recognised vocational education and training qualification or a recognised further education qualification.
-

Education and Training Reform Bill
Exposure Draft

Part 4.2—Victorian Registration and Qualifications Authority

4.2.8 Victorian Registration and Qualifications Authority Fund

- (1) The Authority must establish a Fund to be known as the Victorian Registration and Qualifications Authority Fund.
 - (2) There must be paid into the Fund—
 - (a) any investment income received by the Authority; and
 - (b) the proceeds of the sale of any investment made by the Authority; and
 - (c) any other money received by the Authority.
 - (3) There must be paid out of the Fund any payment that is authorised by the Authority to be made out of the Fund for or towards the costs and expenses of the exercise of powers or performance of functions by the Authority.
 - (4) The Authority may invest money in the Fund—
 - (a) in any manner in which a trustee may invest trust funds under the **Trustee Act 1958**; or
 - (b) in any other manner approved by the Minister.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

PART 4.3—REGISTRATION OF STUDENTS AND PROVIDERS

Division 1—Schools

4.3.1 Requirements for registration

- (1) The Authority may register a school under this Part.
- (2) A school can be registered by the Authority in the name of the school.
- (3) The following persons or bodies may apply to the Authority for registration of a school—
 - (a) in the case of a Government school, the Secretary;
 - (b) in the case of a non-Government school, a person or body who proposes to establish or conduct the school.
- (4) An application to the Authority must be made in the prescribed manner and contain the prescribed particulars and information and be accompanied by any fee fixed by the Minister.
- (5) The Authority may require the applicant to provide further information or material in respect of the application that the Authority reasonably requires.
- (6) The Authority must not register a school unless the Authority is satisfied that—
 - (a) the school policies relating to the discipline of students are based on principles of procedural fairness and do not permit corporal punishment; and

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (b) the school complies with the prescribed minimum standards for registration including standards relating to—
 - (i) student learning outcomes;
 - (ii) enrolment policies and minimum enrolment numbers;
 - (iii) student welfare;
 - (iv) curriculum programs;
 - (v) governance of the school and the probity of any proprietor or person responsible for managing the school;
 - (vi) processes for the review and evaluation of school performance.
- (7) It is a condition of registration of a school that the school or any person involved in the management or operation of the school participates in the review and evaluation process under this Division, unless section 4.3.2(c) applies.

4.3.2 Compliance with standards for registration

The Authority may satisfy itself whether or not a school continues to comply with the prescribed standards for registration on the basis of—

- (a) the conduct of a review and evaluation by the Authority under section 4.3.3; or
- (b) a report from the person who conducts or represents the school or, in the case of a Government school, from the Secretary; or
- (c) a report of the conduct of a review and evaluation by a person or body approved by the Authority to review a school or group of schools.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

4.3.3 Review of operations of schools by Authority

- (1) The Authority may at any time arrange for a review and evaluation of the operation of a school registered under this Division.
- (2) The Authority may review the operations of a school to determine whether—
 - (a) having regard to the prescribed standards the school has attained and continues to attain the standards required for registration; and
 - (b) whether or not the school has complied with any condition imposed by the Authority on a registration under this Division.
- (3) The Authority, by notice in writing, may require a school or any person involved in the management or operation of the school—
 - (a) to provide, in accordance with directions in the notice, to the Authority any information about the management or operation of the school relevant to the prescribed standards for registration under this Division, that is specified in the notice; or
 - (b) to produce to the Authority any records relevant to those matters that are specified in the notice and permit examination of the records and the making of copies of those records.
- (4) If the Authority is satisfied after the conduct of a review in accordance with this section that it is in the interests of the students enrolled at the school or in the public interest that the Authority should take any action referred to in section 4.3.4 the Authority may take that action in accordance with this Division.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (5) The action may be proposed by the Authority giving notice in writing of the proposed action and giving reasons to the school affected.
- (6) The Authority must give the school affected 28 days to make submissions to the Authority and to the Minister to show cause why the proposed action should not be taken.
- (7) The Authority must—
 - (a) consider any submissions made to the Authority; and
 - (b) comply with any directions of the Minister given to the Authority after the Minister has considered any submissions made to the Minister about the proposed action.

4.3.4 Action after review

- (1) The Authority may, after reviewing and evaluating the operation of a school or considering the report of a person referred to in section 4.3.2 who has conducted a review and evaluation of the school, determine that the school no longer complies with the prescribed minimum standards for registration.
- (2) If the Authority determines that the school no longer complies with the prescribed minimum standards for registration, it may—
 - (a) suspend or cancel the registration of the school; or
 - (b) prohibit the school from enrolling any new students; or
 - (c) require the school to report to parents of students at the school that the school does not comply with the prescribed minimum standards for registration; or

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (d) impose conditions on the school's registration.
- (3) Any action that the Authority decides upon takes effect when notice of the decision is given to the school or on any later date that may be specified in the notice.

4.3.5 Reports from registered schools

- (1) The proprietor or principal of a registered school must provide to the Authority in accordance with the regulations a report containing the information required by the regulations.
- (2) The Authority may authorise a person or body which is approved by the Authority to review a school or group of schools to provide a report required by sub-section (1) for the school or group of schools the person or body is approved to review.
- (3) A person must not wilfully provide any false or misleading information in a report under this section.

Penalty: 5 penalty units.

4.3.6 Notice of registration to be displayed

The proprietor or principal of a registered school must have legibly printed or painted in a conspicuous place near the main entrance to the school—

- (a) the name of the school; and
 - (b) the name of the proprietor or principal of the school; and
 - (c) a statement of the fact that the school is registered and of the description under which it is registered.
-

*Education and Training Reform Bill
Exposure Draft*

Part 4.3—Registration of Students and Providers

4.3.7 Attendance register in registered schools

The principal or person in charge of a registered school at which children of school age attend must ensure that the attendance of those children is recorded in an attendance register in accordance with the regulations.

Penalty: 5 penalty units.

4.3.8 Register of schools

- (1) The Authority must make and keep a record of the schools that are registered by the Authority in a division of the State Register.
- (2) The record of registered schools must include—
 - (a) the name of the school;
 - (b) the name of the principal or proprietor of the school;
 - (c) the year levels of schooling the school is registered to offer.

Division 2—Registration of students for home schooling

4.3.9 Authority to register students for home schooling

The Authority may—

- (a) register a student for home schooling in accordance with the regulations; and
 - (b) cancel the registration of a student for home schooling if—
 - (i) the parents of the student or the student refuse permission to authorised officers of the Authority to review the educational program, material or other records used for or related to the home schooling of the student to determine whether the requirements of the registration or the regulations relating
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

to home schooling are being complied with; or

- (ii) the parents or the student fail to comply with the requirements of the registration or any regulations relating to home schooling.

Division 3—Vocational Education and Training

4.3.10 Registration of education and training organisations

- (1) The following persons or bodies may apply to the Authority for registration of that person, body or school on the State Register with respect to a course or qualification—
 - (a) a person or body that provides or proposes to provide an accredited course or the principal of a school that provides or proposes to provide an accredited course;
 - (b) a registered education and training organisation that proposes to provide an accredited course in addition to any other course that the organisation is registered on the State Register to provide;
 - (c) any person or body that proposes to award, confer or issue a recognised qualification;
 - (d) a registered education and training organisation that proposes to award or issue a recognised qualification in addition to any other recognised qualification that the organisation is registered on the State Register to award or issue.
- (2) An application must be in the form approved by the Authority and accompanied by any fee fixed by the Minister for the application.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (3) The applicant must give the Authority any further information it requires to investigate and decide the application.
- (4) A person who has applied under Division 4 for registration on the National Register of an education or training organisation with respect to vocational education and training or further education is to be treated by the Authority as having also applied in accordance with this Division for registration on the State Register.
- (5) The provisions of Division 4 apply to and in relation to the application of a person referred to in sub-section (4) and any registration of that person on the National Register in addition to the requirements of this Division.
- (6) A registration may be limited or restricted by reference to—
 - (a) the course or class of courses determined by the Authority; or
 - (b) the qualification or class of qualifications determined by the Authority; or
 - (c) any other circumstances determined by the Authority.

4.3.11 Criteria for registration

- (1) The Authority must not register a person, body or school as a registered education and training organisation unless it is satisfied that the person, body or school complies with the prescribed minimum standards for registration including standards for—
 - (a) student learning outcomes and welfare services;
 - (b) student enrolment records and certification;
 - (c) teaching, learning and assessment;
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (d) governance, probity and compliance with statutory requirements;
 - (e) quality assurance, review and evaluation processes.
- (2) In determining whether to register a person, body or school the Authority may have regard to whether the person, body or school, any person involved in the management of the person, body or school or any person involved in the business of the provision of courses by the person, body or school—
- (a) has ever had their registration under this section suspended or cancelled; or
 - (b) has ever had conditions imposed on their registration under this section; or
 - (c) has ever been convicted of an indictable offence; or
 - (d) has ever become bankrupt or taken the benefit of any law for the relief of bankrupt debtors, or compounded with their creditors or made an assignment of their property for their benefit; or
 - (e) has ever been disqualified from managing corporations under Part 2D.6 of the Corporations Act; or
 - (f) was involved in the provision of courses by another person or body who is covered by paragraph (a) to (e) at the time of the events that gave rise to the relevant prosecution or other action.
- (3) The Authority may from time to time issue guidelines about the matters referred to in subsection (1) or (2).
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

4.3.12 Terms of registration

- (1) A registration remains in force for a period specified by the Authority not exceeding 5 years unless sooner suspended or cancelled.
- (2) A registered person, body or school must pay the fees for registration of that person, body or school.
- (3) The Authority may suspend or cancel a registration.
- (4) In determining whether to suspend or cancel a registration the Authority may have regard to—
 - (a) whether the registration fees have been paid;
 - (b) any of the matters mentioned in section 4.3.11(1).

Division 4—National Registration

4.3.13 Application of Division

- (1) This Division only applies to vocational education and training and further education.
- (2) If there is any inconsistency between the requirements of this Division and Division 3 of this Part, the provisions of this Division prevail to the extent of the inconsistency.

4.3.14 Registration and national effect of registration

A training organisation or a course is to be treated as being registered on the National Register, to the extent that details of the training organisation or course are recorded on the National Register—

- (a) for the purposes of this Act, by the Authority;

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (b) for the purposes of a corresponding law of another jurisdiction by the body responsible for registering providers of education or training or accrediting courses in that jurisdiction;
- (c) for the purposes of this Act, a corresponding law or a regulation made under this Act.

4.3.15 Applying in Victoria for registration

- (1) A person may apply to the Authority for registration on the National Register as an education or training organisation.
- (2) A person who has applied under Division 3 for registration of an education or training organisation with respect to vocational education and training or further education is to be treated by the Authority as having also applied in accordance with this Division for registration on the National Register.
- (3) The provisions of this Division apply to and in relation to the application of a person referred to in sub-section (2) and any registration of that person on the State Register in addition to the requirements of Division 3 of this Part.

4.3.16 Decision about registration

- (1) On an application for registration, the Authority may register the applicant as a training organisation on the National Register, or refuse to do so.
- (2) In deciding the application, the Authority must apply the RTO standards.
- (3) The Authority must not grant the application unless—

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (a) on registration under the application, the applicant will not otherwise be registered as a training organisation by a registering body; and
 - (b) the Authority considers that the applicant's principal place of business is in Victoria or all or most of its operations will be conducted in Victoria; and
 - (c) a compliance audit has been conducted of the applicant that shows the applicant complies with the RTO standards (other than the legislative compliance standard).
- (4) Sub-section (3)(c) does not apply to an application if—
- (a) the application is made by an RTO registered by another registering body; and
 - (b) the RTO has received a notice from the other registering body under a provision of a corresponding law corresponding to section 4.3.22; and
 - (c) the application does not ask for an amendment of the RTO's existing scope of registration or registered conditions.
- (5) Sub-sections (2) and (3) do not limit the grounds on which the Authority may decide not to grant the application.
- (6) The Authority may impose reasonable conditions on the registration of the training organisation to take effect for the period of registration.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (7) A condition imposed under sub-section (6)—
 - (a) must apply for all jurisdictions (it can not be limited in effect to a particular place or jurisdiction); and
 - (b) must be consistent with this Act and the RTO standards.
- (8) If the Authority decides to grant the application, the Authority must—
 - (a) register the applicant as a training organisation and the applicant's scope of registration; and
 - (b) if the Authority imposes a condition under sub-section (6)—
 - (i) give the applicant a notice of the decision; and
 - (ii) register the condition for the applicant.
- (9) The Authority must comply with sub-section (8)—
 - (a) immediately after granting the application; or
 - (b) if the application is a transfer application mentioned in section 4.3.22, immediately after the existing registration of the training organisation is cancelled under section 4.3.24.
- (10) If the Authority decides not to grant the application, the Authority must immediately give the applicant a notice of its decision.

*Education and Training Reform Bill
Exposure Draft*

Part 4.3—Registration of Students and Providers

4.3.17 Registration conditions

- (1) Registration of an RTO under this Division is subject to—
 - (a) conditions imposed under sub-section (2); and
 - (b) registered conditions imposed—
 - (i) under section 4.3.16(6) or 4.3.21(2); or
 - (ii) by another registering body under a provision of a corresponding law corresponding to section 4.3.21(2)(a).
- (2) For an RTO registered under section 4.3.16, the following conditions are imposed for the RTO's period of registration—
 - (a) the RTO must comply with requirements stated to apply to an RTO under the RTO standards;
 - (b) the RTO must give notice to the Authority of the following matters as soon as practicable after they happen—
 - (i) any substantial change to the RTO's control, management or operations;
 - (ii) any matter the RTO standards state the RTO must give notice of to the Authority;
 - (c) the RTO—
 - (i) must submit to any compliance audit conducted by the Authority under section 4.3.25; and
 - (ii) if a particular compliance audit shows the RTO does not comply with the RTO standards (other than the legislative compliance standard), must

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- take all necessary steps to comply with the standards;
- (d) the RTO must submit to any compliance audit conducted by another registering body under a provision of a corresponding law corresponding to section 4.3.26;
 - (e) the RTO must not contravene a provision of this Act or a corresponding law;
 - (f) the RTO must give to the Authority any information about any of its operations reasonably required by the Authority;
 - (g) the RTO must give to the Authority any information reasonably required by it relating to a registered condition imposed by the Authority under section 4.3.21;
 - (h) the RTO must give to another registering body any information reasonably required by the other registering body under a provision of a corresponding law corresponding to section 4.3.21(2)(a).
- (3) Conditions mentioned in sub-sections (1) and (2) to which an RTO is subject apply in relation to the operations of the RTO in every jurisdiction, unless the contrary intention appears.
 - (4) An RTO must not contravene a condition of its registration.
 - (5) It is declared that a condition to which an RTO registered by another registering body is expressed to be subject in Victoria under a provision of a corresponding law corresponding to sub-section (3) has effect for Victoria.

4.3.18 Term of registration

Registration may be for a term up to 5 years and may be renewed, if application for renewal is made before the registration expires.

4.3.19 Amending registration on application by registered education and training organisation

- (1) The Authority may, on application by an RTO that was registered by it, amend the RTO's registered details.
- (2) If the application is to amend the RTO's scope of registration or registered conditions—
 - (a) the application must be in the form approved by the Authority and accompanied by any fee fixed by the Minister; and
 - (b) the RTO must give the Authority any information reasonably required by it to decide the application.
- (3) For an application mentioned in sub-section (2), section 4.3.16 applies as if it were an application under section 4.3.16, subject to the following—
 - (a) section 4.3.16(3)(a) is not relevant;
 - (b) section 4.3.16(3)(b) applies in relation to the scope of registration or registered conditions amended in accordance with the application;
 - (c) section 4.3.16(3)(c) only requires a compliance audit to the extent an audit is relevant to the amendment.

4.3.20 Removal of registered details

The Authority must remove from the National Register the details of an RTO registered by it—

- (a) if the RTO's registration expires; or
- (b) if the RTO applies to the Authority to have its registration cancelled and the Authority grants the application.

4.3.21 Amending, suspending or cancelling registration without application

- (1) An object of this section is to ensure that, of all registering bodies, the registering body that registers an RTO has the primary responsibility to take action against the RTO if a ground mentioned in sub-section (3) arises.
 - (2) On one or more of the grounds mentioned in sub-section (3), the Authority may on its own initiative—
 - (a) amend the scope of registration or registered conditions of an RTO that was registered by another registering body, but only to impose a restriction applying in this jurisdiction; or
 - (b) amend the scope of registration or registered conditions of an RTO that was registered by it, including by imposing a restriction applying in this or another jurisdiction; or
 - (c) suspend the registration, or part of the scope of registration, of an RTO that was registered by it, by imposing a prohibition applying in this or another jurisdiction while the suspension is in force; or
 - (d) cancel the registration of an RTO that was registered by it.
 - (3) The grounds are as follows—
 - (a) the registration, or the part of the scope of registration, was obtained because of incorrect or misleading information;
 - (b) the RTO has contravened a condition of its registration.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (4) The Authority may not impose a restriction under sub-section (2)(a) unless the registering body that registered the RTO—
 - (a) fails to take any step to deal with the matter to which the grounds relate within 30 days after the matter comes to its attention; or
 - (b) fails, after taking any step to deal with the matter to which the grounds relate, to take another step within 30 days.
 - (5) Sub-section (4) does not apply if the Authority is relying on a ground established by a compliance audit under section 4.3.26.
 - (6) Sub-section (4) does not stop the Authority, before the end of a 30 day period mentioned in the sub-section, taking all steps necessary to impose a restriction at any time after the period has ended.
 - (7) A restriction imposed under sub-section (2)(a), (b) or (c) may, but need not, relate to a particular place or jurisdiction, but if it does so, it may only be imposed because of a particular fact situation that has arisen in the place or jurisdiction.
 - (8) A restriction imposed under sub-section (2)(a), (b) or (c) must be consistent with this Chapter and the RTO standards.
 - (9) In exceptional circumstances, the Authority may exercise its powers under sub-section (2)(c) to direct the RTO to immediately stop conducting operations continued under section 4.3.23(3).
 - (10) Before cancelling the registration of an RTO under sub-section (2)(d), the Authority must consult the registering bodies of each of the other jurisdictions where the RTO is operating.
 - (11) Failure to comply with sub-section (10) does not affect a cancellation of the registration of an RTO.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

4.3.22 Cancelling registration on change of business operations

- (1) This section applies to an RTO registered by the Authority.
- (2) On the grounds that an RTO does not have its principal place of business, and does not conduct all or most of its operations, in Victoria, the Authority may cancel the RTO's registration—
 - (a) on application by the RTO; or
 - (b) on its own initiative.
- (3) The Authority must give notice to the RTO at least 6 months before cancelling the registration.
- (4) If, before the end of the period mentioned in subsection (3), the RTO makes an application to another registering body for registration as a training organisation, the Authority must not cancel the registration of the RTO until the transfer application is decided.

4.3.23 Effect of suspension of registration of RTO

- (1) This section applies if a prohibition is imposed on an RTO under section 4.3.21(2)(c).
- (2) A person must not, for training or an assessment provided or to be provided in operations the subject of the prohibition, do anything for any of the following purposes—
 - (a) recruiting or enrolling anyone;
 - (b) soliciting or accepting any consideration from anyone for anyone's recruitment or enrolment;
 - (c) starting anyone's training or assessment;

*Education and Training Reform Bill
Exposure Draft*

Part 4.3—Registration of Students and Providers

- (d) if the operations have been directed to immediately stop under section 4.3.21(9)—training or assessing anyone.

Penalty: 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate.

- (3) If the RTO, before the prohibition took effect, entered into an agreement to provide training or an assessment to a person, sub-section (2)(a) to (c) does not prohibit anyone from relying on the agreement—
 - (a) to provide the training or assessment; or
 - (b) to solicit or accept consideration for the provision of the training or assessment.

4.3.24 Registering body to register amendment, suspension or cancellation

If, in relation to an RTO, the Authority decides to do anything under section 4.3.21(2) or section 4.3.22(2), it must, on the National Register—

- (a) for an amendment of the scope of registration or registered conditions—amend the scope of registration or registered conditions in accordance with its decision; or
- (b) for a suspension of the registration or part of the scope of registration—register the suspension; or
- (c) for a cancellation of the registration—remove the registered details of the RTO.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

4.3.25 Audit of RTO registered by the Authority

- (1) This section applies in relation to—
 - (a) an RTO registered by the Authority; and
 - (b) any of the RTO's operations.
- (2) The Authority may at any time conduct a compliance audit of the RTO.

4.3.26 Audit of RTO registered by another registering body

- (1) This section applies in relation to—
 - (a) an RTO registered by a registering body other than the Authority (the "other registering body"); and
 - (b) any of the RTO's operations in Victoria.
 - (2) Sub-section (3) applies if—
 - (a) the Authority—
 - (i) suspects on reasonable grounds that the RTO may have contravened the RTO standards; and
 - (ii) has advised the other registering body of the suspected contravention; and
 - (b) the other registering body—
 - (i) within 30 days after receiving the advice, fails to take steps to deal with the suspected contravention to the satisfaction of the Authority; or
 - (ii) at any time advises the Authority that it does not propose to take any step or further step to deal with the suspected contravention.
 - (3) The Authority may conduct a compliance audit of the RTO.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

4.3.27 Conduct of audit

- (1) A compliance audit mentioned in this Division must be conducted in accordance with any relevant national standards.
- (2) A failure to comply with sub-section (1) is of no effect if the failure—
 - (a) does not substantially affect the outcome of the audit; or
 - (b) arises out of inconsistency between the standards mentioned in the sub-section and legislation of the particular jurisdiction in relation to which the failure arises.

4.3.28 Powers not limited by compliance audit provisions

A provision of this Act that makes provision for a compliance audit does not limit the power of any registering body to inquire into the activities of an RTO or training organisation.

4.3.29 Function or power may be used to support national scheme

- (1) This section applies to a person who, apart from this section, may exercise a power or perform a function under this Part in relation to a registered education or training organisation or an RTO or an applicant for registration under section 4.3.8 or 4.3.16.
- (2) The person may also perform the same kind of function or exercise the same kind of power in this jurisdiction—
 - (a) at the request of the Authority, for inquiries into whether an RTO registered by another registering body is complying with this Part or a corresponding law; or

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (b) at the request of another registering body, for a compliance audit that is being conducted under a corresponding law in relation to—
 - (i) an RTO registered by the other registering body; or
 - (ii) an applicant for registration by the other registering body under a provision of a corresponding law corresponding to section 4.3.16.
- (3) Sub-section (2) does not limit the person's functions or powers.

Division 5—Higher Education

4.3.30 Approval of Universities

- (1) The Authority may, by Order published in the Government Gazette, approve an institution, other than an autonomous college or a TAFE institute, to operate as a University or part of a University.
 - (2) An institution that is established as a University under an Act of the Commonwealth, another State, the Australian Capital Territory or the Northern Territory is deemed to have the approval of the Authority under this section to operate as a University or part of a University (as the case requires).
 - (3) A person representing an institution may apply to the Authority in writing for approval to operate as a University.
 - (4) In deciding whether to grant approval under sub-section (1), the Authority may have regard to Government policies and priorities and to all or any of the following matters—
 - (a) in the case of an institution established in a foreign country, whether it is recognised as a University by the authority in the foreign
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- country that, in the Authority's opinion, is the competent authority;
- (b) the National Protocols for Higher Education Approval Processes first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000, as in force from time to time;
 - (c) any other matter relating to the management or operations of the institution that, in the opinion of the Authority, are relevant to the ability of the institution to operate as a University or part of a University;
- (5) The Authority may from time to time issue guidelines about all or any of the matters referred to in sub-section (4) and must publish any guidelines that are issued in the Government Gazette.
 - (6) An approval remains in force for any period not exceeding 5 years that the Authority determines unless sooner revoked.
 - (7) An approval is subject to any other conditions imposed by the Authority.
 - (8) The Authority may charge any fee fixed by the Minister for investigating an application for approval under this section.

4.3.31 Revocation or suspension of approval of University

- (1) The Authority may, after the conduct of a review in accordance with section 4.3.34 and after considering any submissions made in accordance with that section, by notice published in the Government Gazette, revoke or suspend the approval or deemed approval or impose any condition on the approval or deemed approval.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (2) Any suspension, revocation or condition imposed by the Authority under sub-section (1) takes effect on the date the Order is published in the Government Gazette or such later date as is specified in the Order.
- (3) The power to make an Order under this section is subject to the Order being disallowed by Parliament.
- (4) A copy of every Order under this section must be laid before both Houses of Parliament on or before the 6th sitting day after the publication of the Order in the Government Gazette.
- (5) Part 5 of the **Subordinate Legislation Act 1994** applies to an Order under this section as if the Order were a statutory rule within the meaning of that Act laid before each House of the Parliament under section 15 of that Act.
- (6) Sub-sections (3), (4) and (5) do not apply—
 - (a) to an Order granting or revoking an approval relating to an institution that is established as a University under an Act of a Territory or an Act or law of another country; or
 - (b) with respect to a University deemed to be approved to operate as a University under section 4.3.30(2).

4.3.32 Authorisation to conduct higher education courses

- (1) A person representing an institution may apply to the Authority in writing for authorisation to conduct a course of study in higher education.
 - (2) In deciding whether to authorise an institution to conduct a course of study, the Authority may have regard to—
 - (a) the National Protocols for Higher Education Approval Processes first endorsed by the Ministerial Council on Education,
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- Employment, Training and Youth Affairs on 31 March 2000, as in force from time to time;
- (b) any other matter relating to the management or operations of the institution or the administration of the course of study that, in the opinion of the Authority, are relevant to the institution's ability to provide the course of study.
- (3) The Authority may from time to time issue guidelines about all or any of the matters referred to in sub-section (2) and must publish any guidelines that are issued in the Government Gazette.
- (4) An authorisation under this section remains in force for any period not exceeding 5 years that the Authority determines unless sooner revoked.
- (5) An authorisation is subject to any other conditions imposed by the Authority.
- (6) The Authority may charge any fee fixed by the Minister for investigating any application for authorisation under this section.

4.3.33 Suspension or cancellation of authorisation

- (1) The Authority, after conducting a review in accordance with section 4.3.34 of an institution conducting an accredited course of study and after considering any submissions made in accordance with section 4.3.34, may suspend or cancel the authorisation or impose any condition on the authorisation.
- (2) Any suspension, cancellation or condition that the Authority decides upon takes effect when notice of the decision is given to the institution or on any later date that may be specified in the notice.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (3) In determining whether to revoke an authorisation the Authority may have regard to all or any of the matters referred to in section 4.3.30(4).

4.3.34 Review of operations of universities, institutions

- (1) The Authority may at any time arrange for a review of the operation of—
- (a) a University approved or deemed to be approved to operate in Victoria under section 4.3.30; or
 - (b) an institution authorised to conduct a course of study under section 4.3.32.
- (2) In the case of a University that is approved under section 4.3.30(1), the Authority must ensure that a review of the University's operation is conducted within 5 years after the first enrolment of students at that University in Victoria.
- (3) The Authority may appoint a person or committee to review the operations of a University, post-secondary education provider or other institution and advise the Authority—
- (a) having regard to the matters set out in this Act and the guidelines published under this Act whether or not the University, post-secondary education provider or other institution has attained and continues to attain the standards required of a University, post-secondary education provider or other institution for the purposes of this Act; and
 - (b) whether or not the University, post-secondary education provider or other institution has complied with any condition imposed by the Authority on an approval, or authorisation under this Division.
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (4) The Authority, by notice in writing, may require a University, post-secondary education provider or other institution or any person involved in the management or operation of the University, post-secondary education provider or other institution—
- (a) to provide, in accordance with directions in the notice, to the Authority or any person or committee appointed by the Authority any information about the matters set out in this Act or any guidelines published under this Act relevant to the University, post-secondary education provider or other institution, that is specified in the notice; or
 - (b) to produce to the Authority or any person or committee appointed by the Authority any records relevant to those matters that are specified in the notice and permit examination of the records and the making of copies of those records.
- (5) If the Authority is satisfied after the conduct of a review in accordance with this section that it is in the interests of the students enrolled at the University, post-secondary education provider or other institution or in the public interest that—
- (a) the approval or deemed approval of the University should be suspended or revoked; or
 - (b) the authorisation of an institution to conduct a course of study should be suspended or revoked; or
 - (c) any condition should be imposed on an approval or authorisation—

the Authority may suspend, cancel or revoke that endorsement, approval or authorisation or impose that condition in accordance with this Division.

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (6) A suspension, cancellation, revocation or condition may be proposed by the Authority giving notice in writing of the proposed suspension, cancellation, revocation or condition and giving reasons to the University or institution affected.
- (7) The Authority must give the University or institution 28 days to make submissions to the Authority to show cause why the proposed suspension, cancellation, revocation or condition should not be imposed and must consider any submissions made.

Division 6—Approval to exercise delegated powers

4.3.35 Approvals to enable delegation of powers

- (1) The Authority may, on the application of—
 - (a) a registered education and training organisation; or
 - (b) a University or a University approved to operate in Victoria under section 4.3.30; or
 - (c) an institution authorised to conduct a course of study under section 4.3.32—

investigate the organisation, University or institution to determine whether it should be approved for the purpose of delegating to it the powers and functions under section 4.2.7(3).

- (2) The Authority must not approve an organisation, University or institution unless it is satisfied that it is fit and competent to carry out the powers that may be delegated to it under section 4.2.7(3).
 - (3) The Authority must from time to time investigate the fitness and competence of an approved organisation, University or institution to continue to carry out the powers that have been delegated to it under section 4.2.7(3).
-

Education and Training Reform Bill
Exposure Draft

Part 4.3—Registration of Students and Providers

- (4) The Authority may charge an organisation, University or institution that applies for approval under this section fees for the investigation of the organisation, University or institution to—
 - (a) determine whether it is fit and competent to carry out the powers that may be delegated to it under section 4.2.7(3); and
 - (b) determine whether it is fit and competent to continue to carry out the powers that have been delegated to it under section 4.2.7(3).
 - (5) The Authority may have regard to government policy and to any relevant national standards about delegating powers under section 4.2.7(3) in determining whether an organisation, University or institution is fit and competent to carry out those powers.
-

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

PART 4.4—ACCREDITATION AND QUALIFICATIONS

Division 1—Investigation and Accreditation

4.4.1 Investigation of a course or part of a course by Authority

- (1) The Authority may investigate any course or part of a course to determine whether it should be registered as accredited.
- (2) The Authority may, on the application of a person or body that has applied for registration or is registered under Part 4.3, investigate a course or part of a course to determine whether it should be registered as accredited.
- (3) The Authority may investigate a course or part of a course which is registered as accredited to determine whether it should continue to be registered as accredited.
- (4) If the Authority investigates a course or part of a course under sub-section (1), (2) or (3) it must prepare a written report on the content and educational standard of the course.
- (5) Despite sub-section (2), the Authority may consider an application from any person in relation to a course or part of a course in vocational education and training or further education.
- (6) An application must be in the form approved by the Authority and accompanied by any fee fixed by the Minister for the application and investigation of the course.
- (7) The applicant must give the Authority any further information it requires to investigate the course and decide the application.

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

4.4.2 Accreditation of a course or part of a course

- (1) The Authority may accredit a course if it is satisfied—
 - (a) the following matters are appropriate to the qualification (if any) to which the course leads—
 - (i) the aims and learning outcomes of the course or part of a course;
 - (ii) in the case of a course other than a higher education course, the scope of the studies of the course or part of a course;
 - (iii) the assessment processes for the course or part of the course to be used to determine whether a student has achieved the learning outcomes of the course or part of the course; and
 - (b) the course or part of a course are likely to achieve the specified purposes of the course or part of a course; and
 - (c) the contents and standards of the course or part of a course are consistent with any relevant national standards about the principles, processes or other matters to be applied in accrediting the course or part of a course; and
 - (d) that the fee for the application and investigation fixed by the Minister has been paid.

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

- (2) In deciding an application for accreditation of a course or part of a course in vocational education and training or further education, the Authority must also apply the standards for accreditation of courses adopted on 8 June 2001 by the Ministerial Council under the AQTF, as amended from time to time by the Ministerial Council.
- (3) In deciding an application for accreditation of a course or part of a course in higher education, the Authority must also have regard to—
 - (a) the National Protocols for Higher Education Approval Processes first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000, as in force from time to time;
 - (b) any matter relating to the teaching or administration of the course of study;
 - (c) any other matter relating to the management or operations of the institution or the administration of the course of study that, in the opinion of the Authority, are relevant to the institution's ability to provide the course of study.
- (4) Sub-sections (1), (2) and (3) do not limit the grounds on which the Authority may refuse to grant an application.
- (5) The Authority may impose any conditions on the accreditation of a course.
- (6) If the Authority decides to grant the application it must immediately register the course on the State Register.

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

- (7) If the Authority decides not to grant the application it must immediately give the applicant a notice of the decision and a copy of the written report on the content and educational standard of the course prepared under section 4.4.1.
- (8) The Authority may accredit a course for a period not exceeding 5 years and may renew the accreditation if an application for renewal is made before the accreditation expires.
- (9) The Authority may from time to time issue guidelines about all or any of the matters referred to in sub-sections (1), (2) and (3) and must publish any guidelines that are issued in the Government Gazette.

4.4.3 Cancellation or suspension of accreditation

- (1) The Authority may suspend or cancel the accreditation of a course in vocational education and training or further education that was accredited by the Authority if it is of the opinion that the course no longer complies with the standards for accreditation of courses adopted on 8 June 2001 by the Ministerial Council under the AQTF as amended from time to time by the Ministerial Council and considering any submissions made in accordance with sub-section (3).
- (2) The Authority may suspend or cancel the accreditation of a higher education course that was accredited by the Authority or impose a condition on that accreditation after considering the advice of a person or committee appointed to conduct a review under section 4.4.4 and any submissions made in accordance with sub-section (3).

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

- (3) The Authority must give written notification to the person or body who has applied for the accreditation setting out—
- (a) details of the proposed suspension or cancellation of the accreditation or the imposition of conditions; and
 - (b) the reasons for the suspension or cancellation or the imposition of conditions; and
 - (c) that the person may make submissions to the Authority within 14 days of the notice to show cause why the proposed suspension, cancellation or condition should not be imposed.

4.4.4 Review of higher education courses

The Authority may appoint a person or committee to review a course of study accredited by the Authority and advise the Authority as to whether or not the course of study continues to attain the standards required of a higher education course of study under this Act.

Division 2—Qualifications

4.4.5 Who can issue qualifications?

- (1) A person or body that is registered under Division 3 of Part 4.3 or recognised by the Authority as an awarding body may recognise—
- (a) the completion of an accredited course or part of an accredited course that it is registered to provide; or
 - (b) the award or issue of a recognised qualification that it is registered to award or issue—
- by the issue of a written statement or otherwise.

Education and Training Reform Bill
Exposure Draft

Part 4.4—Accreditation and Qualifications

- (2) If a person or body that is registered under Division 3 of Part 4.3 ceases to exist, the Authority may do any thing that the person or body was authorised to do under sub-section (1).
-

Education and Training Reform Bill
Exposure Draft

Part 4.5—Overseas Students

PART 4.5—OVERSEAS STUDENTS

4.5.1 Approval to provide courses for overseas students

- (1) The Authority may approve a registered school, a University or another education or training organisation as suitable to provide a specified course to students from overseas.
 - (2) In deciding whether to grant approval, the Authority may have regard to all or any of the following matters in relation to the school, University or institution where the course is to be provided—
 - (a) the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students issued under Part 4 of the Education Services for Overseas Students Act 2000 of the Commonwealth and as amended from time to time;
 - (b) guidelines issued by the Authority;
 - (c) any other matter relating to the management or operations of the school, University or institution where the course is to be provided.
 - (3) The Authority may from time to time issue guidelines dealing with all or any of the matters referred to in sub-section (2) and must publish any guidelines that are issued.
 - (4) The Authority may charge a fee fixed by the Minister for the investigation of an application or for an approval under this Part.
 - (5) An approval under this section remains in force for a period, not exceeding 5 years, specified by the Authority unless sooner suspended or cancelled by the Authority.
-

Education and Training Reform Bill
Exposure Draft

Part 4.5—Overseas Students

4.5.2 Process for approval

- (1) A person authorised by a registered school, University or another institution may apply in the form approved by the Authority for approval of the school, University or institution under subsection (1) to provide a specified course.
- (2) The person applying for approval must pay—
 - (a) any fees fixed by the Minister for the investigation of an application for approval;
 - (b) any fees fixed by the Minister for the approval.

4.5.3 Suspension or cancellation of approval

- (1) The Authority may suspend or cancel the approval of a school, University or other institution to provide a specified course to overseas students if—
 - (a) the Authority is satisfied after conducting a review in accordance with section 4.5.4 and after considering any submissions made in accordance with that section, that the school, University or other institution is no longer suitable to be approved; or
 - (b) any fee relating to the approval has not been paid
 - (2) The Authority must notify the Minister of the Commonwealth for the time being administering the Education Services for Overseas Students Act 2000 of the Commonwealth as soon as practicable of any approval under or cancellation or suspension of approval under this Part or a decision of VCAT in relation to an approval under this Part.
-

Education and Training Reform Bill
Exposure Draft

Part 4.5—Overseas Students

4.5.4 Review of operations of institutions and courses

- (1) The Authority may at any time arrange for a review of the operation of the approval of a school, University or other institution approved to provide a course of study under this Part.
- (2) The Authority may appoint a person or committee to review the operations of a school, University or other institution or course of study and advise the Authority having regard to the matters set out in section 4.5.1 and the guidelines published under that section whether or not the school, University or other institution or course of study has attained and continues to attain the standards required for approval under this Part.
- (3) The Authority, by notice in writing, may require a school, University, or other institution or any person involved in the management or operation of the school, University or other institution—
 - (a) to provide, in accordance with directions in the notice, to the Authority or any person or committee appointed by the Authority any information about the matters set out in section 4.5.1 or any guidelines published under that section relevant to the school, University or other institution, that is specified in the notice; or
 - (b) to produce to the Authority or any person or committee appointed by the Authority any records relevant to those matters that are specified in the notice and permit examination of the records and the making of copies of those records.

Education and Training Reform Bill
Exposure Draft

Part 4.5—Overseas Students

- (4) If the Authority is satisfied after the conduct of a review in accordance with this section that it is in the interests of overseas students enrolled at the school, University or other institution or in the public interest that the approval should be suspended or cancelled the Authority may suspend, cancel or revoke that approval in accordance with this Part.
 - (5) A suspension, cancellation, revocation or condition may be proposed by the Authority giving notice in writing of the proposed suspension, revocation or condition and giving reasons to the school, University or institution affected.
 - (6) The Authority must give the school, University or institution 28 days to make submissions to the Authority to show cause why the proposed suspension, cancellation, revocation or condition should not be imposed and must consider any submissions made.
-

Education and Training Reform Bill
Exposure Draft

Part 4.6—State Register

PART 4.6—STATE REGISTER

4.6.1 State Register

- (1) The Authority must maintain a State Register containing details of accredited courses and recognised qualifications and other matters required to be registered under this Chapter.
- (2) If the Authority determines that a course or part of a course should be registered as accredited on the State Register the Authority must register the course or part of the course as accredited on the State Register.
- (3) The Authority must, on the request of the Minister—
 - (a) record on the State Register a qualification that the Minister is satisfied should be registered as a recognised qualification; and
 - (b) strike off the State Register a qualification that the Minister is satisfied should be struck off.
- (4) The Authority may record on the State Register any other qualification that the Authority is satisfied should be registered as a recognised qualification.
- (5) If the Authority determines that a course should be struck off the State Register, the Authority must strike the course off the Register.
- (6) The Authority may do any of the things referred to in sub-section (2) or (5) in relation to a course whether or not the course has been investigated under this Part.

Education and Training Reform Bill
Exposure Draft

Part 4.6—State Register

4.6.2 Division of education and training organisations

- (1) The Authority must establish and maintain a division in the State Register of persons or bodies who—
 - (a) are authorised by the Authority under section 4.4.1 to provide accredited courses; and
 - (b) are authorised by the Authority under section 4.4.1 to award or issue recognised qualifications.
- (2) The division must specify—
 - (a) the name of the registered person or body; and
 - (b) the accredited course or courses that the registered person or body is authorised to provide; and
 - (c) the recognised qualification or qualifications that the registered person or body is authorised to award or issue; and
 - (d) any limitations or restrictions on the registration.

4.6.3 Division of Higher Education

- (1) The Authority must establish and maintain a higher education division in the State Register.
- (2) The Authority must ensure that particulars of approvals given under section 4.3.30 and accreditations and authorisations under sections 4.3.32 and 4.4.1 are entered in the higher education division in the State Register.

4.6.4 National registration

- (1) The Authority must register on the National Register a person or body who is registered as an education and training organisation under section 4.3.15 with respect to a course or qualification in vocational education and training or further education.
 - (2) The Authority may register a person on the National Register as a training organisation that provides, within its scope of registration—
 - (a) training and assessments resulting in the issue of qualifications or statements of attainment by the organisation; or
 - (b) assessments resulting in the issue of qualifications or statements of attainment by the organisation.
 - (3) The Authority must register on the National Register a vocational education and training course or a further education course that is registered as accredited on the State Register.
 - (4) If the accreditation of a vocational education and training course or a further education course that was registered on the National Register by the Authority expires, the Authority must remove the registered details of the course from the National Register.
 - (5) If the Authority cancels the accreditation of a vocational education and training course or a further education course that was registered on the State Register and the National Register by the Authority, the Authority must remove the registered details of the course from the National Register.
-

PART 4.7—OFFENCES

4.7.1 Unregistered schools

A person must not carry on or conduct a school unless the school is registered under this Part.

Penalty: 10 penalty units.

4.7.2. Offences by unregistered persons

- (1) A person or body must not use the name or title of "registered provider" or any other name, title, letters or description implying or that may reasonably be understood to imply that the person or body is registered under section 4.3.10 to provide a course or part of a course unless the person or body is registered under section 4.3.10 to do so.

Penalty: For a natural person—60 penalty units;
For a body corporate—300 penalty units.

- (2) A person or body must not use any name, title, letters or description implying that the person or body is registered to provide a course or part of a course under section 4.3.10 in particular circumstances unless the person or body is registered under section 4.3.10 to do so in relation to those circumstances.

Penalty: For a natural person—60 penalty units;
For a body corporate—300 penalty units.

Education and Training Reform Bill
Exposure Draft

Part 4.7—Offences

- (3) This section—
- (a) does not apply to or in relation to a registered school providing a course or part of a course normally undertaken in, or designed to be undertaken in year 11 or 12 of the school years including a course leading to the issue of the VCE or VCAL; and
 - (b) does not apply to a vocational education and training course or a further education course.

4.7.3 Offences in relation to accredited courses and recognised qualifications

- (1) A person, body or school must not in relation to a course or part of a course provided by the person, body or school use the name or title of "government accredited" or any other name, title, letters or description implying or that may reasonably be understood to imply that the course or part of a course is registered as accredited on the State Register unless the person, body or school is registered under section 4.3.10 to do so.

Penalty: For a natural person—60 penalty units;
For a body corporate—300 penalty units.

- (2) A person, body or school must not in relation to a qualification awarded or issued by that person or body use the term "government recognised" or any other term, title, letters or description implying or that may reasonably be understood to imply that the qualification is a recognised qualification unless the person, body or school is registered under section 4.3.10.

Penalty: For a natural person—60 penalty units;
For a body corporate—300 penalty units.

Education and Training Reform Bill
Exposure Draft

Part 4.7—Offences

- (3) Sub-section (1) does not apply to or in relation to a registered school providing a course or part of a course normally undertaken in, or designed to be undertaken in year 11 or 12 of the school years including a course leading to the issue of the VCE or VCAL.
- (4) This section does not apply to vocational education and training or further education.

4.7.4 Offence to falsely claim to be an RTO

- (1) A person who is not an RTO must not claim to be an RTO.

Penalty: 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate.

- (2) A person who is not, or not acting for, an RTO operating within the scope of registration of the RTO must not—

- (a) issue, or claim to be able to issue, a qualification or statement of attainment; or
- (b) claim to be able to provide training or assessments resulting in the issue of a qualification or statement of attainment.

Penalty: 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate.

- (3) A person must not claim to be able to provide training resulting in the issue of a qualification or statement of attainment by another person knowing that the other person is not authorised in accordance with this Act to issue the qualification or statement of attainment.

Penalty: 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate.

Education and Training Reform Bill
Exposure Draft

Part 4.7—Offences

- (4) For the purposes of sub-sections (1) to (3), the person claims to be an RTO or claims to be able to do a particular thing if the person—
- (a) makes that claim; or
 - (b) purports to be an RTO or to be able to do the particular thing; or
 - (c) does any act likely to induce someone else to believe the person is an RTO or is able to do the particular thing.
- (5) This section does not apply to a registering body.

4.7.5 Only approved universities to operate in Victoria

An institution, other than a University established or recognised under an Act, must not operate or purport to operate as a University or part of a University without the approval of the Authority.

Penalty: 200 penalty units.

4.7.6 Accreditation and authorisation of courses required

An institution, other than a recognised University or an institution which has the approval of the Authority to operate as a University under section 4.3.30 or the Melbourne College of Divinity, must not—

- (a) confer or offer to confer a higher education award in relation to a course of study; or
 - (b) offer or conduct a course of study leading to the conferral of a higher education award whether the award is to be conferred by that institution or any other institution; or
-

Education and Training Reform Bill
Exposure Draft

Part 4.7—Offences

- (c) represent in any manner that a course of study offered or conducted by that institution leads to or would entitle a person completing that course to, the conferral of a higher education award whether the award is to be conferred by that institution or any other institution—

unless—

- (d) in the case of an autonomous college, it is authorised by an Order in Council under section 3.2.11 to confer the award;
- (e) in the case of an institution operated by a company established or controlled by a university, the governing body of the university has the power to control the standards and quality of the course of study offered by the institution and confers the award in relation to that course of study;
- (f) in the case of any other institution—
 - (i) the course of study is accredited by the Authority; and
 - (ii) the Authority has authorised the institution to conduct the course of study.

Penalty: 200 penalty units.

4.7.7 Offence to falsely claim to provide an accredited course

- (1) A person must not claim to provide a course that is registered as accredited on the State Register or the National Register unless the course is so registered.

Penalty: 60 penalty units in the case of a natural person and 300 penalty units in the case of a body corporate.

Education and Training Reform Bill
Exposure Draft

Part 4.7—Offences

- (2) For the purposes of sub-section (1), the person claims to provide a course that is registered as accredited if the person—
- (a) makes that claim; or
 - (b) claims to provide a course that purports to be registered as accredited; or
 - (c) does any act likely to induce someone else to believe a course the person is providing is registered as accredited.
-

Education and Training Reform Bill
Exposure Draft

Part 4.8—Review by VCAT

PART 4.8—REVIEW BY VCAT

4.8.1 Review by VCAT

- (1) A person whose interests are affected by any of the following decisions of the Authority may apply to VCAT for review of the decision—
 - (a) not to grant registration under Part 4.3; or
 - (b) to suspend or cancel registration under Part 4.3; or
 - (c) not to grant an approval under Part 4.3; or
 - (d) to revoke an approval under Part 4.3; or
 - (e) not to grant an accreditation or authorisation under Part 4.3 or 4.4; or
 - (f) to revoke an accreditation or authorisation under Part 4.3 or 4.4; or
 - (g) not to approve a school, person, body, institution or provider to provide a specified course under Part 4.5; or
 - (h) to suspend or cancel the approval of a school, person, body, institution or provider to provide a specified course under Part 4.5.
 - (2) An application for review must be made within 28 days after the later of—
 - (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
-

*Education and Training Reform Bill
Exposure Draft*

Part 4.9—Information and Evidence

PART 4.9—INFORMATION AND EVIDENCE

4.9.1 Publication of registers

The Authority must cause a copy of the State Register to be published on a website maintained by the Authority on the Internet.

4.9.2 Certificate prima facie evidence

A certificate purporting to be signed by the Chairperson or any two members of the Authority certifying any matter relating to the contents of the State Register as at that date is evidence, and, in the absence of evidence to the contrary, is proof of the matters stated in it.

4.9.3 False representation

A person must not wilfully make or cause to be made, or provide, any false or misleading information in any matter relating to registration on the State Register under this Chapter.

Penalty: 10 penalty units.

4.9.4 Information may be made available

- (1) The Authority may disclose to a Department of the Commonwealth Government or to another registering body information it has about, or arising from—
 - (a) an application by anyone for registration or approval under this Chapter;
 - (b) the registration or approval of a person or body under this Chapter;
 - (c) a compliance audit conducted under this Chapter;
 - (d) action taken by the Authority in relation to a person or body approved or registered under this Chapter;
-

Education and Training Reform Bill
Exposure Draft

Part 4.9—Information and Evidence

- (e) the performance of a function or the exercise of a power by a person under this Chapter at the request of another registering body.
 - (2) A person disclosing information under subsection (1) or under a provision of a corresponding law corresponding to subsection (1) does not contravene an obligation not to disclose the information, whether imposed by an Act or by another rule of law.
-