REGULATORY IMPACT STATEMENT

Education and Training Reform Act 2006: Ministerial Fees Order

September 2012

This Regulatory Impact Statement has been prepared in accordance with the requirements of the Subordinate Legislation Act 1994. Its purpose is to inform interested parties regarding a proposal to make new regulations. Comments are invited and should be addressed to the contact listed at Appendix 3 by no later than 5:00 pm, 23 October, 2012.

Prepared for the Victorian Registration and Qualifications Authority by

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in association with Strategic Economics Consulting Group.

Summary

Overview

This impact assessment relates to a proposed Ministerial Order made under the *Education and Training Reform Act 2006* (the Act). The proposed Order will prescribe the fees payable to the VRQA for various regulatory functions by those providers of education and training services over which it has regulatory jurisdiction. These functions relate primarily to the registration of education and training providers and accreditation of the qualifications and courses that they are seeking to offer.

Table ES.1 provides a breakdown of the VRQA-regulated educational service providers by type and status as at June 2012.

Table ES1.1: Number and profile of education and training providers regulated by VRQA (as at July 2012)

Type of regulated entity	Number
Vocational and Education Training sector	
Community-based Adult Education (ACFE) Provider	141
Education/Training Business or Centre	218
Enterprise – Government	10
Enterprise – Non government	16
Industry association	38
Professional association	3
School – Government	45
School – Catholic	11
School – Independent	26
Other	6
Total RTOs	***514***
School / OSSEO / Higher Education sector	
Schools	2,234
• Government	(1,536)
• Catholic	(483)
• Independent	(215)
Non school, senior secondary education providers	**55**
Senior secondary qualification awarding bodies	2
Overseas Secondary Student Exchange Organisations	26
Higher education providers	1

Source: Victorian Registration and Qualifications Authority

Context

While equivalent fees have been in place for a number of years, the Ministerial Orders establishing them have not previously been subject to the Regulatory Impact Statement (RIS) process. However, the recent extension to the scope of the RIS requirements of the *Subordinate Legislation Act 1994* means a broader range of subordinate instruments – including the proposed Ministerial Order – must now be accompanied by a supporting RIS.

This means that explicit consideration is given to the Department of Treasury and Finance's Cost Recovery Guidelines ("the Guidelines"), which establish general government policy in relation to user charging by government in general and to regulatory fee-setting in particular.

The guidelines establish a general presumption that regulatory fees should be set at full cost recovery levels – that is, that regulatory authorities should recover the efficient costs of regulating a particular industry or activity from the regulated parties. As the Guidelines note, setting regulatory fees at full cost recovery levels favours the achievement of both efficiency and equity goals in most cases.

Efficiency is favoured because passing on the cost of industry regulation effectively ensures that this aspect of the cost of producing its outputs is taken into account in price setting, thus helping to ensure optimal production levels. Equity is favoured because taxpayers who do not consume the industry's outputs are not required to subsidise its activities by contributing to regulatory costs.

A further consideration in this regard is the issue of horizontal equity, which relates to the equitable treatment of the population of regulated entities. An equitable approach would be to ensure that those regulated entities within an industry that generate the greatest cost – by requiring the greatest degree of regulatory oversight, for example – are exposed to an equivalent proportion of those costs. This might be due to the size of a regulated entity, the riskiness of its activities or the consequences of any misconduct or incompetence on its part. Thus, an equitable approach to fee determination would mean that those entities with clearly identifiable characteristics that can be closely linked to the intensity of regulatory effort would incur the highest fees.

Amended regulatory framework

Further context to this impact assessment include recent changes to the arrangements for the regulation of the vocational education and training sector. Most notably, VRQA now retains regulatory jurisdiction of those RTOs that operate solely within Victoria and offer courses to domestic (rather than international) students; all other RTOs – except schools that are RTOs – are now regulated by the Australian Skills Quality Authority (ASQA). This has not only reduced the number of RTOs that VRQA regulates but also their profile.

The fees charged to RTOs and within the school / OSSEO sector have, to date, recovered only a small proportion of VRQA's regulatory costs. In recent years, fees charged within the VET sector have recovered between 20 and 25 per cent of the relevant VRQA regulatory costs, while the fees charged to the school sector have recovered a substantially lower proportion of attributable costs, estimated at around 3 per cent. The remainder of VRQA's regulatory costs have been met via funding from the state budget. Hence, the substantial majority of the regulatory costs incurred in this field have historically been met by the taxpayer.

This historic relativity – in terms of the respective contribution to the recovery of VRQA's costs reflects two factors:

- The policy position of successive governments in Victoria to encourage participation in education and training, which in turn reflects a more widely held view that education and training generate important positive externalities for the broader community; and

- Acknowledgement that there is a high level of government funding in the sector – particularly to schools but also, more recently, to VET through the Victorian Training Guarantee. As a consequence, fee income effectively moves from one part of the budget to another (i.e. higher VRQA fees would generate a need for greater funding of the sector, so achieve limited net gain to the Victorian Budget).

A further key contextual factor is the 2010 review of the VRQA undertaken by the Victorian Auditor-General's Office (VAGO)[1]. This report highlighted the VRQA Board's prior acknowledgement of the unsustainability of the current approach to fee determination. It noted that the Board had recognised in July 2007 that VRQA needed to comprehensively review the cost of its audits and to review its fees accordingly. Moreover:

> *The VRQA Board set up a Fees Working Group in 2007 to recommend what its fees should be. Two of the working group's principles are that fees must reflect the cost or value of services, and fees from one sector must not cross-subsidise another.*

The VAGO report noted that, as at 2010, a new fee structure had yet to be implemented. Consequently, it recommended, *inter alia*, that the VRQA Board should:

> *"...determin[e] the full cost of regulating the vocational education and training sector and review its fee structure on this basis"*

Given these factors, retention of the current framework and the continuation of heavy reliance on budgetary funding appears unsustainable.

However, the historical situation means that a move to seek to recover most or all of the VRQA's costs from regulated entities would imply substantial increases across the majority of prescribed fees. While there is strong *prima facie* case for VRQA to prescribe fees that recover a greater proportion of regulatory costs, there are a number of factors – most notably the historically low level of cost recovery – that complicate the analysis and should be taken into account when considering whether to immediately prescribe fees at a level that fully recover costs.

As such, this impact assessment will consider different approaches for achieving this outcome, including the path VRQA might take in adjusting fees from historic levels.

Potential forum shopping

While the VRQA and ASQA regulatory frameworks are distinct, there is a high level of potential mobility between the Victorian and Federal systems. In short, an RTO could potentially fall under ASQA's jurisdiction simply by stating an intention to operate across borders in the near future and would certainly fall under ASQA's jurisdiction if it chose to register a place of business in a referring jurisdiction or to offer courses to students from outside Victoria and Western Australia - e.g. via distance learning. Thus, many RTOs that currently fall under the Victorian regulatory regime administered by VRQA will, in effect, have the option of moving to the national regulatory structure.

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[1] Victorian Auditor- General (2010), *Victorian Registration and Qualifications Authority: Victorian Auditor General's Report*

An individual Victorian RTO's decision as to whether to seek to move between regulatory regimes will be determined by a range of factors. Clearly, its business model and the general attractiveness of expanding the scope of its operations to include operations in more than one state, or the offering of courses to inter-state or overseas students will be a key factor. However, another will be the relative merits of the regulatory environments, including:

- perceptions of the relative regulatory compliance costs in different regulatory jurisdictions, (e.g. comparing current regulatory obligations under frameworks such as the VRQA's registration process and obligations for Australian RTOs for initial and continuing registration under the Australian Quality Training Framework);and
- the relative level of fees that an RTO is obliged to pay in order to undertake various regulated business activities.

While several factors will necessarily influence the choice of regulatory system, it is anticipated that any substantial difference between fees in different regulatory jurisdictions will likely be a significant consideration. This in turn, has clear implications for decisions regarding fee-setting in Victoria.

In deciding not to refer its legislative powers with respect to VET, the Victorian Government has indicated a clear commitment to maintaining its own, distinct regulatory structure for the VET sector. A key reason for this decision was the government's commitment, prior to the national regulatory system being adopted, to regulate to introduce a range of specific consumer protection measures for VET sector students[2]. The national system does not include explicit consumer protection measures of the kind proposed for Victoria and it is not currently anticipated that any such measures will be introduced in the foreseeable future.

In this context, actions that would tend to encourage Victorian RTOs to seek to move to the national regulatory system must be considered to have negative implications in terms of the regulatory protections likely to be available to their students., That is, the consumer protection objective that is at the core of recent Victorian Government actions in this area would be undermined to the extent that additional Victorian RTOs move to a federal jurisdiction where equivalent protections do not apply.

Therefore, the level of VRQA fees relative to those levied by ASQA, and the consequential impact on an RTO's decision about the regulatory jurisdiction in which it might operate, are further considerations for this impact assessment.

Higher education context

In the higher education area, regulatory responsibility passed to the Federal Government, via the Tertiary Education Quality and Standards Agency (TEQSA) in January 2012. However, there remains one Victorian non self-accrediting higher education provider that cannot currently be regulated Federally and therefore, continues to fall within VRQA's jurisdiction.

Consequently, VRQA does not designate specific staff resources to this regulatory function. Neither is it possible to identify specific resources within VRQA's aggregate expenditure items that could

[2] The regulations establishing these consumer protection based regulations are the subject of a separate RIS process, with the RIS expected to be released for public comment late in 2012.

reasonably be attributed to the regulation of the higher education sector. At the same time, the infrequent nature of the regulatory activities historically undertaken in relation to this sector means there is little historic basis on which to base cost estimates.

As a consequence of these factors, there is no reliable basis for identifying and quantifying the costs associated with regulatory functions. It is clear, however, that few resources are likely to be devoted to these activities. Indeed, regulatory input from VRQA will be required only if the one provider for which it is responsible chooses to apply to seek re-authorisation to conduct higher education courses, vary its authorisation or make changes to its set of accredited courses. Thus, it is entirely possible that there will be effectively zero regulatory input in some years.

Despite the limited overall size of VRQA's regulatory role in this sector, the resources required to undertake specific regulatory functions in terms of changes in registration or course accreditation status are substantial. This fact is reflected in the fees provided for in the current Ministerial Order, which are significantly larger in relation to the higher education sector than in relation to the VET sector. Similarly, a review of the fee structure recently established by TEQSA demonstrates that substantial regulatory inputs are required to complete these functions: While TEQSA states that it has set these fees at a level intended to partially recover the estimated costs of the activities involved in carrying out each regulatory function, the fees set out are comparable in size to the current Victorian fees.

Given the potential for substantial regulatory resources to be devoted to individual applications made in the higher education sector, it is necessary for the proposed Ministerial Fees Order to include fees that can be charged to higher education providers. These fees would be levied in the event that the single currently registered provider seeks to vary the scope of either its registration or accreditation, or that a new provider that falls outside TEQSA's jurisdiction commences operation.

Fee options

VRQA undertook a detailed process to estimate the costs associated with its various regulatory functions across the VET and school / OSSEO sectors. This process identified the various resourcing inputs required to discharge regulatory responsibilities, primarily in terms of registration and accreditation activities. These cost estimates provide a basis against which the different fee structures should be assessed, given the policy objectives inherent in the Cost Recovery Guidelines.

VET sector

The four feasible options for VET fees differ in terms of the level of cost recovery achieved and the structure of the fees. They are as follows:

- ***Option 1*** – retain the existing VET fee structure
- ***Option 2*** – adopt ASQA fee structure
- ***Option 3*** – adapt the ASQA fee structure with a view to immediately moving to fully recover regulatory costs
- ***Option 4*** – adapt the ASQA fee structure to achieve a gradual move to full cost recovery

Options 3 and 4 are described as *adaptations* of the 'broad' ASQA fee structure, rather than a perfect replication. This is because there are some differences in terms of legislative heads of power authorising fee setting across the two regulatory jurisdictions, in addition to some minor differences in policy. This is explained more clearly in the detailed discussion of the options below.

A further issue in this context is whether VRQA should retain the 50% discount on the annual fee for registered schools or ACFE Board registered organisations, of which there are currently 223. This discount reflects the reduced costs to VRQA of regulating these entities due to their ownership, governance and other monitoring arrangements, although the precise magnitude of the cost differential has not been quantified.

School and OSSEO sector

VRQA is currently constrained in its capacity to generate revenue through fees in the school and OSSEO sector and, as a result, is considering the merits of legislative amendments that would broaden its fee-setting powers. However, as the current Ministerial Order is scheduled to expire at the end of 2012 and must be replaced before this expiry date, it is necessary to consider only those fees options that are available under the current legislative head of power in the context of the currently proposed Ministerial Order.

As a result, this impact assessment considers two feasible options for school sector and OSSEO fees:

- ***Option 1 –*** Retention of fees at their current level with annual CPI based adjustment in line with DTF Guidelines; and
- ***Option 2*** – Specification of fees at a level that fully recovers the costs of the specific regulatory activities to which the fee relates.

Higher education sector

There is no sound data on regulatory costs available to form the basis of fee setting. In this context, two feasible options have been identified:

- ***Option 1*** – Continuation of current fees for higher education providers
- ***Option 2 –*** Adopt the TEQSA fee structure.

Multi criteria analysis of fee options

The various fee options involve the achievement of different levels of cost recovery and the adoption of different fee structures. While benefit/cost analysis (BCA) is the default analytical tool to be adopted in the RIS context, there are two broad types of context in which a full BCA is either infeasible or inadequate as a means to guide decisions. These are where full quantification of all significant benefits and costs is not possible and where objectives other than efficiency constitute important to the decision criteria. In these cases, the *Victorian Guide to Regulation* recommends the use of Multi-Criteria Analysis (MCA).

Similar policy considerations apply across each sector but there are some significant differences in the regulatory environment which mean that different judgements may be made as to the appropriate policy position to adopt. Thus, in the VET sector there is the potential for jurisdiction shopping, as RTOs may transfer across to ASQA with relative ease (potentially in response to a substantial increase in fees). By contrast, no such option exists in the school / OSSEO and higher education sectors. The more relevant issue in this case is VRQA's traditional reliance on budgetary funding and the historically low level of fees (in terms of cost recovery). However, any substantial increase in fees may potentially jeopardise the ongoing provision of some qualifications and courses, depending on the cost structures of service providers.

More generally, however, the basic policy considerations in terms of fees RIS – including those relating to regulatory fees – mean that efficiency and equity must be at the core of decision-making in each of the three sectors. This point is made clearly in the DTF Cost Recovery Guidelines. The following identifies and briefly explains the assessment criteria used.

The following are identified as appropriate assessment criteria:

- Efficiency and equity – relevant for the three sectors.
- Equity as between different producers – relevant for the three sectors.
- Consumer protection – included in the MCA for the VET sector due to the potential for forum shopping.
- Affordability – relevant for the three sectors.

MCA of the VET sector fee options

Table ES.2 summarises the result of the scoring of the options against the four relevant assessment criteria. It shows that Options 3 and 4, which involve moving to full cost recovery, receive substantially higher scores than do Options 1 and 2, which would make little or no change to current cost recovery levels. Option 4, which would see full cost recovery achieved in year 4 and thereafter, receives the highest score, of 10 points, while Option 3, involving an immediate move to full cost recovery, scores a somewhat lower 7 points. The key determinant of this outcome is that Option 4 scores more highly than Option 3[3] on the consumer protection criterion. This reflects the fact that an immediate move to full cost recovery would lead to substantial fee increases, averaging over 300%, for RTOs. By contrast, Option 4 would phase in these increases over a three year period.

Both options 1 and 2 receive positive scores, in substantial part because they perform better on the equity and efficiency criteria than the base case in which no fees would be collected. Option 2 receives a higher score, of 4 points (vs 2 for Option 1) largely due to performing better on these two criteria. This, in turn, reflects the fact that its fee structure both yields slightly higher revenue overall than Option 1 and a better matching of individual fees and costs.

Table ES.2: Multi-criteria analysis of VET fee options

Assessment criterion	***Option 1: remake existing fees***	***Option 2: Adopt ASQA fees***	***Option 3: Immediate move to full cost recovery, using adapted ASQA fee structure***	***Option 4: Staged move to full cost recovery, using adapted ASQA fee structure***
Efficiency & equity between regulated entities and taxpayers	+2	+2.5	+10	+8

[3] In practice, receives a lower negative score.

Equity between regulated entities	-1	+2	+10	+9
Consumer protection	+2	+1	-8	-6
Affordability	-1	-1.5	-5	-3
Total	***+2***	***+4***	***+7***	***+10***

MCA of the school / OSSEO fee options

Table ES.3 summarises the results of the above scoring of the options against the three relevant assessment criteria. Table 7.2 shows that Option 1 receives an overall score of +3 points, while Option 2 receives a score of +2 points, i.e. both are superior to the base case. This result reflects the fact that, while Option 2 scores more highly on the first (efficiency and equity) criterion, it receives substantially lower scores in relation to both the horizontal equity and the affordability criteria (with the latter potentially impacting on the ongoing provision of educational services).

A key issue in relation to the assessment of these options is that of the absence of a legislative head of power to charge an annual registration fee to schools. This means that, even under Option 2, which seeks to recover fully the costs associated with particular applications for changes in status, overall cost recovery would be well under 10%. Given this, and the fact that most of VRQA's regulatory effort in this regard relates to general supervision and auditing of schools, consideration is currently being given to the case for amending the relevant legislation to enable such an annual fee to be charged. In this context, attempts to achieve full cost recovery in respect of a small range of specific regulatory activities can be seen as misconceived, when schools that do not make any of these specific applications do not make any contribution to regulatory costs.

By contrast, in a context in which an annual registration fee existed and ensured that all schools contributed to regulatory costs, an increase in specific-purpose fees could be considered to be a more appropriate option. This implies that a higher level of cost recovery in respect of these specific purposes fees could be sought in the future, were the relevant legislative amendments to be made. However, this issue is outside the scope of the current regulatory proposal.

Table ES.3: Multi-criteria analysis of school & OSSEO fees options

Assessment criterion	***Option 1: remake existing school / OSSEO fees***	***Option 2: Adopt full cost recovery based fees***
Efficiency & equity between regulated entities and taxpayers	+4	+10
Equity between regulated entities	-1	-2
Affordability	0	-6
Total	***+3***	***+2***

Option 1 generates some revenue, albeit a very small proportion of costs and VRQA remains highly dependent on budgetary appropriations. This a status quo option, which is considered appropriate in light of VRQA’s intention to revisit current legislative parameters with respect to fees.

Option 2 recovers a higher proportion of costs but only as a result of a very substantial increase above current levels. More significantly, these fees are borne entirely by those regulated entities that undertaken the narrow range of activities for which VRQA is able to charge a fee. It is anticipated that such a change would encounter strong opposition from stakeholders and is problematic in a context where the fee revenue base is acknowledged to be narrow.

MCA of the higher education fee options

Table ES.4 summarises the results of the MCA of the higher education fee options against the three identified assessment criteria. It shows that Option 1 receives an overall score of + 6 points, while Option 2 receives a score of + 9 points. The fact that both options receive positive scores implies that both options are superior to the base case, in which no higher education fees would be made. Option 2 is superior to Option 1 due to its higher scores with regard to both the equity and efficiency criterion and the horizontal equity criterion.

Table ES.4: Multi-criteria analysis of higher education fee options

Assessment criterion	***Option 1: remake existing higher education fees***	***Option 2: Adopt TEQSA fees***
Efficiency & equity between regulated entities and taxpayers	+3	+5
Equity between regulated entities	+3	+5
Affordability	0	-1
Total	***+6***	***+9***

Conclusions

The MCA conducted above in respect of the options in relation to VET sector fees shows that Options 3 and 4, which would both lead to a full cost recovery outcome, albeit over different time horizons, are ranked substantially more highly than Options 1 and 2, both of which involve far lower cost recovery levels. These results reflect the general presumption in favour of full cost recovery based regulatory fees set out in the DTF Cost Recovery Guidelines and the fact that, in the current context, no compelling basis for departing from this presumption has been identified. As noted above, while there are clear positive externalities associated with education, in broader policy terms, these are effectively addressed through the provision of substantial public subsidies to RTOs based on student services provided.

However, while full cost recovery based fees are considered to constitute the most desirable outcome, the significant gap between current cost recovery levels of little more than 20% and the full cost recovery goal suggests that a staged approach is needed in order to provide regulated parties with time to adjust to the new fees environment. For this reason, Option 4 provides for a four year transition, with cost recovery rising from 26% approximately to around 50% the following year, 75% in 2015 and 100% in 2016.

It must be acknowledged that this fee path will create a situation in which, starting in 2014, VRQA-regulated RTOs will pay higher fees than will their Federally regulated equivalents. Furthermore, VRQA will seek to introduce new fees where a head of power exists, although they relate to infrequent regulatory activities. This arguably raises equity issues and also gives rise to the possibility that some VRQA-regulated RTOs may seek to migrate to the national regulatory system in order to avoid the fee increases given the ease with which this can occur. However, this may be offset to some degree by the absence of some legislative heads of power in Victoria that prevent VRQA from adopting some fees that ASQA will impose.

Finally, the preferred option involves retention of a 50% discount on the annual registration fee for registered schools and ACFE Board registered organisations. This is more an issue of affordability – and the ongoing provision of courses – rather than consumer protection, as these RTOs will have little ability to switch jurisdictions.

In the school and OSSEO sector, it is clear that the great majority of VRQA's regulatory effort relates to general oversight, monitoring and informal interaction with the regulated sector, rather than to carrying out the specific tasks to which fees relate. The analysis shows that VRQA would only recover just over 8% of its total expenditure on the regulation of the school sector and OSSEOs even if fees were set to fully recover costs.

The principles for fee determination in the DTF Guidelines therefore support a strong argument for the collection of fees from all schools, through an annual registration fee, for example (and which VRQA is able to charge in the VET sector). Only in this way can equity as between regulated parties be achieved, since this is the only mechanism by which all schools will contribute, rather than only a minority. A hypothetical annual fee of $1,000 would generate more than $2.2m for VRQA and allows it to recover around 50% of its total expenditure on the school sector and OSSEOs (when combined with other fees set at full cost recovery).

At present, VRQA can only charge fees when it undertakes specific activities, some of which occur infrequently. As a consequence, VRQA has limited ability to recover the cost of many of its oversight and ongoing regulatory functions through fee revenue.

While fees for various regulatory functions have not historically been set at levels to recover their cost, even a substantial increase in those fees – e.g. to recover 100% of those costs – would still leave VRQA reliant on budgetary appropriations to fund its activities with respect to the school sector and OSSEOs. In short, the current legislation does not provide a basis for introducing a fee structure that is consistent with broader Victorian Government policies with respect to fees.

Any revised legislative framework would likely introduce additional heads of power that would enhance VRQA's ability to recover the cost of its regulatory functions through efficient and equitable fees.

Stakeholders should note that any such amendment will be subject to impact assessment, as will any subordinate instrument through which school sector and OSSEO fees are made. Interested parties will then have the opportunity to consider and respond to any proposed changes. Therefore, this impact assessment has been prepared on the basis that the fee structure will most likely undergo material change in the short to medium term.

At the very least, this impact assessment indicates there is merit in reassessing the appropriateness of the current legislation in terms of the constraints imposed on VRQA to raise revenue, particularly when the principles underpinning the Government's policy framework for fee determination, as described in the DTF Guidelines.

Finally, the MCA concludes that VRQA should mirror the TEQSA approach to fee determination, although the level of activity for VRQA is currently and likely to remain very small. Interested parties should also bear in mind the TEQSA has flagged an intention to review its fee structure during 2013. Any substantial changes that result from this review would likely encourage VRQA to revisit its own fee structure in order to maintain consistency across the jurisdictions.

Proposed fees

The analysis has concluded that the following are the optimal fee settings for the three primary areas of VRQA's regulatory jurisdiction.

VET sector

Table ES.5: Impact of 4-year phased approach to full cost recovery

Fee type	2013	2014 (50%)	2015 (75%)	2016 (100%)
RTO Registration				
Application lodgement fee	$640	$863	$1,294	$1,726
Assessment fee	$3,400	$6,743	$10,115	$13,486
Assessment of Principal Purpose	$5,000	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)
Annual registration fee for school and ACFE providers	$325	$1,045	$1,568	$2,091
Annual registration fee for all other RTOs	$650	$2,091	$3,137	$4,183
Change of scope of registration (per qualification)	$350	$398	$597	$796
Issue of apprenticeship certificates and / extract from Register	$66	$66 (CPI adjusted)	$66 (CPI adjusted)	$66 (CPI adjusted)
Accreditation				
Course accreditation / renewal	$2,700	$3,561	$5,341	$7,122
Amendment to an accredited course	$500	$982	$1,473	$1,964
Total revenue	***$1,371,400***	***$2,563,570***	***$3,775,476***	***$4,719,664***
Revenue foregone due to fee discount for school and ACFE providers	***$79,500***	***$257,010***	***$385,728***	***$514,386***

School / OSSEO sector

Table ES.6: Proposed fees for 2013 onwards and estimated revenue

Fee type	Indicative 2013 fee	Estimated volumes	Estimated revenue for 2013	Proportion of cost recovery
School registration				
Application: • lodgement • assessment	 $430 $1,280	26	$44,460	19%
Amendment of registration	$856	47	$40,232	139%[4]
Senior Secondary Qualification Registration				
Registration to provide a Senior Secondary Qualification	$425	7	$2,975	8%
Registration to provide an additional Senior Secondary Qualification course	$425	2	$850	18%
Registration to award, confer or issue a Senior Secondary Qualification: • application • assessment	$1,075 $4,295	-	-	
Registration to award, confer or issue an additional Senior Secondary Qualification	$1,710	0	-	-
Approval to Provide Courses to Overseas Students by a registered school or registered Senior Secondary Qualifications provider				
Registration to provide courses to overseas students	$856	4	$3,424	15%
Amendment of registration	$856	4	$3,424	88%
Accreditation of a Senior Secondary Qualification				
Accredit a Senior Secondary Qualification	$2,700	3	$8,100	N/A
Application for extension of accreditation period	$102	0	0	-

[4] See section 5.2.3

Fee type	Indicative 2013 fee	Estimated volumes	Estimated revenue for 2013	Proportion of cost recovery
Overseas Secondary Student Exchange Organisations				
Registration: • application • assessment	 $420 $1,680	3 (forecast annual average)	$6,300	90%
Half term review	Up to $1,680	26	Up to $43,680	-
Annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: No of students: a) 1 – 15 b) 16– 50 **c)** (c) 51 +	 $215 $420 $840	26 (14,11,1)		 43% 42% 57%
Total school sector revenue				***$101,950***
Total OSSEO revenue				***Up to $58,450***

Higher education sector

Table ES.7: Proposed fees for higher education

Activity	Proposed fee
Registration / approval	
Higher education provider: • preliminary assessment application • substantive assessment application	 $5,500 $16,500
Renewal of registration	$20,000
Accreditation	
Preliminary assessment	$2,000
Substantive assessment	$7,000
Renewal of accreditation	$8,000
Other activities	
Applications to vary or revoke a condition of registration or accreditation	$2,500
Application for approval for specific changes under the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007	$2,500

Having established the preferred options, the present value of total fee revenue collected over the life of the Ministerial Order (assumed to be 10 years and using a discount rate of 3.5%) is summarised in Table ES 8.

Table ES 8: Estimated present value of fee revenue

	VET sector	School / OSSEO sector
Annual fee revenue	Ranging from $1,371,400 to $3,775,476 in Years 1 to 3 $4,719,664 in Year 4 and onwards	$160,000
10 year present value	$36,569,039	$1,330,657

NB: Revenue calculations do not include revenue derived from higher education fees due to the absence of regulatory activity for VRQA in this sector.

Contents

1: Introduction

Overview

This impact assessment relates to a proposed Ministerial Order made under Section 5.2.13 of the *Education and Training Reform Act 2006* (the Act). The proposed Order will prescribe the fees levied by VRQA on the various providers of education and training services over which it has regulatory jurisdictions. These providers include:

- schools;
- non school senior secondary qualification providers;
- Overseas Secondary Student Exchange Organisations (OSSEOs);
- bodies registered to issue senior secondary qualifications (such as the Victorian Curriculum and Assessment Authority or the International Baccalaureate organisation);
- Registered Training Organisations (RTOs) under the vocational education and training (VET) system; and
- Higher education providers that fall outside the regulatory jurisdiction of the Tertiary Education Quality and Standards Agency (TEQSA).

While equivalent fees have been in place for a number of years, the Ministerial Orders establishing them have not previously been subject to the Regulatory Impact Statement (RIS) process. However, the recent extension to the scope of the RIS requirements of the *Subordinate Legislation Act 1994* means a broader range of subordinate instruments – including the proposed Ministerial Order – must now be accompanied by a supporting RIS.

Previous Ministerial Orders setting these fees have been renewed annually. However, the proposed Ministerial Order will continue in force until repealed. This is because the provisions of the *Subordinate Legislation Act 1994* (i.e. section 5) which sunsets Statutory Rules after 10 years, do not apply to the proposed Ministerial Order. Where fees are set for the years from 2013 to 2016, the 2016 fees will remain in force from that year onward. This will provide a greater measure of certainty to regulated parties, as well as enabling a policy of progressively increasing cost recovery levels to be adopted and clearly spelled out.

The broader context is one in which there has been substantial recent change to the arrangements for the regulation of the education sector. In particular, the Federal Government has taken over responsibility for the regulation of some kinds of educational provider from the states. These changes relate to both the VET sector and the higher education sector. As a result, VRQA's current role differs substantially from that which it previously undertook. The relevant changes, and VRQA's current role, are explained below.

VRQA's current role

VET Sector

Following an agreement reached by the Council of Australian Governments (CoAG), a national regulatory body, the Australian Skills Quality Authority (ASQA) has been established[5]. Six of Australia's eight States and Territories have referred their regulatory powers in respect of the VET sector to ASQA. However, both Victoria and Western Australia have chosen to retain regulatory responsibilities in this area at state level. Given the constitutional distribution of powers between the Federal and State governments in Australia, the practical implication of this decision is that, in Western Australia and Victoria, there are effectively two, parallel regulatory systems in place. Thus:

- RTOs that provide educational services beyond the borders of Victoria and/or Western Australia are regulated by ASQA;
- RTOs that provide educational services to overseas students are regulated by ASQA (except for schools that are RTOs); and
- RTOs that do neither of the above are regulated by VRQA
- Schools as RTOs are regulated by VRQA.

ASQA became the sole regulatory body for the VET sector in the Australian Capital Territory, the Northern Territory and New South Wales on 1 July 2011. Queensland, South Australia and Tasmania have now also passed the legislation necessary to refer their powers with respect to the regulation of VET to ASQA so that ASQA is now the sole VET regulator in these states. ASQA took over regulatory responsibility for Victorian RTOs providing services to overseas students and/or providing services outside Victoria and Western Australia from 1 July 2011. Since that time, fewer than half of all Victorian RTOs have been regulated by VRQA.

The objective of the creation of ASQA was to improve the quality and consistency of VET training in Australia in light of concerns regarding poor performance of RTOs catering to overseas students and the implications for Australian VET providers' international reputation (and therefore income generated from the export of educational services). At the same time, the changes have sought to encourage a consistent approach to registration, quality control and regulation more generally across all jurisdictions.

A key element of the rationale for the Victorian Government's decision not to refer its regulatory powers over the VET sector to the Commonwealth was its desire to ensure that appropriate and proportionate consumer protection measures were in place to support other aspects of the regulatory framework for the VET sector. Thus, a second key change in the regulatory environment that is currently being implemented is that new Victorian regulations are being finalised which will specifically address a range of consumer protection issues for students within the Victorian-regulated VET sector. These regulations will focus on three key areas, as follows:

- Minimum contract terms;
- RTO conduct with respect to VET students; and
- Complaint handling processes (and associated record keeping obligations).

5 ASQA is established via the *National Vocational Education and Training Regulator Act 2011* (NVETR Act)

The implementation of these regulations will necessarily lead to VRQA taking on a number of additional regulatory responsibilities.

As noted above, Victorian RTOs that provide services outside Victoria and Western Australia or that provide services to overseas students are now regulated by ASQA. The VRQA remains the statutory authority with responsibility for the registration and oversight of education and training providers in the VET sector in Victoria that fall outside ASQA's scope. There are currently 514 providers regulated by VRQA.

Schools and student exchange providers

In addition, VRQA is responsible for regulating Victorian schools, with all schools being required to be registered with VRQA. VRQA's role in relation to schools covers both government and non-government schools. There are currently 2,234 schools registered with VRQA. Within the secondary education context, VRQA is also responsible for the regulation of Overseas Secondary Student Exchange Organisations (OSSEOs), which arrange and monitor international secondary student exchange programs.

Non-schools senior secondary education providers

In addition to schools, a number of other bodies are registered to provide senior secondary education qualifications. These senior secondary education providers include RTOs, Adult Community and Further Education providers and TAFE institutes registered to deliver one or several of the following senior secondary qualifications:

- Victorian Certificate of Education (VCE)
- Victorian Certificate of Applied Learning (VCAL)
- International Baccalaureate Diploma (IB Diploma)

There were 55 providers registered in this category at 30 June 2012, of which approximately half were community based providers and around one third were TAFE institutes.

Higher Education Providers

The Federal government has also taken over responsibility for the regulation of higher education providers. The newly established Tertiary Education Quality and Standards Agency (TEQSA) took over responsibility in this area on 29 January 2012. TEQSA was established by the Commonwealth Government to combine regulatory activity previously undertaken by the States and Territories – through VRQA and its interstate equivalents – with the quality assurance functions of the Australian Universities Quality Agency (AUQA). TEQSA has also assumed the Education Services for Overseas Students (ESOS) functions and responsibilities relating to higher education.

TEQSA's jurisdiction covers those providers that are defined as corporations under the meaning of the *Tertiary Education Quality and Standards Agency Act 2011* (Commonwealth legislation).

Therefore, state and territory regulators have responsibilities for those providers that fall outside this scope.[6] In this context, VRQA's residual roles include the following:

- initial, renewal and variation of registration under Protocol D of the *National Protocols for Higher Education;*
- accreditation, renewal and variation of a higher education course of study.

The regulation of higher education providers represents a very small component of VRQA's current regulatory functions. At present, there is only one higher education provider that falls within VRQA's regulatory jurisdiction. Furthermore, any significant expansion in this sector – including increases in the number of registered providers – would more likely have implications for TEQSA rather than VRQA due to the respective coverage of their jurisdictions.

Table 1.1, below, provides a breakdown of the VRQA-regulated educational service providers by type and status as at June 2012.

Table 1.1: Number and profile of education and training providers regulated by VRQA (as at June 2012)

Type of regulated entity	**Number**
Vocational and Education Training sector	
Community-based Adult Education Provider	141
Education/Training Business or Centre	218
Enterprise – Government	10
Enterprise – Non government	16
Industry association	38
Professional association	3
School – Government	45
School – Catholic	11
School – Independent	26
Other	6
Total RTOs	***514***
School / OSSEO / Higher Education sector	
Schools	2,234
• Government	(1,536)
• Catholic	(483)
• Independent	(215)
Non school, senior secondary education providers	**55**
Senior secondary qualification awarding bodies	2
Overseas Secondary Student Exchange Organisations	26
Higher education providers	1

Source: Victorian Registration and Qualifications Authority

[6] It is possible that this exclusion may be removed through legislative amendment at some future point although the VRQA is not aware of any discussions regarding this issue.

2. Nature and extent of the problem

2.1. Overview

The proposed Ministerial Order deals solely with the establishment of fees to be charged by VRQA to regulated entities and will replace the current Ministerial Order serving the equivalent function. Given the specific focus of the proposed order, the essential problem to be addressed is to determine what fees arrangements best serve the underlying policy objectives of equity and efficiency. Determining the optimal fees arrangements involves questions of:

- the level of cost recovery to be achieved in the aggregate and across different aspects of VRQA's regulatory jurisdiction (relative to the school and OSSEO sector, for example);
- the fee structure to be adopted, i.e. what specific fees will be charged and at what levels the specific fees should be set.

2.2. Government guidelines on setting regulatory fees

The Department of Treasury and Finance's Cost Recovery Guidelines ("the Guidelines") establish general government policy in relation to user charging by government in general and to regulatory fee-setting in particular[7]. Therefore, a fundamental requirement is that any proposed fee structure should demonstrate a high level of consistency with these guidelines.

The guidelines establish a general presumption that regulatory fees should be set at full cost recovery levels – that is, that regulatory authorities should recover the efficient costs of regulating a particular industry or activity from the regulated parties. As the Guidelines note, setting regulatory fees at full cost recovery levels favours the achievement of both efficiency and equity goals in most cases.

Efficiency is favoured because passing on the cost of industry regulation effectively ensures that this aspect of the cost of producing its outputs is taken into account in price setting, thus helping to ensure optimal production levels. Equity is favoured because taxpayers who do not consume the industry's outputs are not required to subsidise its activities by contributing to regulatory costs.

A further consideration in this regard is the issue of horizontal equity, which relates to the equitable treatment of the population of regulated entities. An equitable approach would be to ensure that those regulated entities within an industry that generate the greatest cost – by requiring the greatest degree of regulatory oversight, for example – are exposed to an equivalent proportion of those costs. This might be due to the size of a regulated entity, the riskiness of its activities or the consequences of any misconduct or incompetence on its part. Thus, an equitable approach to fee determination would mean that those entities with clearly identifiable characteristics that can be closely linked to the intensity of regulatory effort would incur the highest fees.

[7] Department of Treasury and Finance (2010) ***Cost Recovery Guidelines.*** Government of Victoria, May 2010. See: http://www.vcec.vic.gov.au/CA256EAF001C7B21/WebObj/CostRecoveryGuidelinesMay2010/$File/Cost%20Recovery%20Guidelines%20May%202010.pdf

However, the guidelines also recognise there can be legitimate policy reasons for departing from this full cost recovery presumption in specific cases. These include circumstances where:

- practical implementation issues make cost recovery infeasible
- services are regarded as merit goods that provide wider social benefits or generate positive externalities
- vertical equity considerations (i.e. where those with greater means contribute proportionately more than those with lesser means) are considered to outweigh the efficiency objectives associated with full cost recovery
- full cost-recovery might adversely affect the achievement of other government or social policy objectives such as the provision of health, education, public transport and social housing[8].

A final consideration for the determination of fees is that of simplicity. A highly disaggregated fee structure may be highly efficient and horizontally equitable if there are clear and identifiable differences between regulated entities that have direct implications for regulatory effort. Alternatively, fee structures may contain different components, an example of which might be a fixed and variable component of an application fee, with the variable component based on the actual time that the regulatory authority takes to process an application. However, such fee structures are necessarily complex both for the regulator and regulated entities. Regulators will incur costs in understanding those factors or characteristics that drive their costs and the relative importance of those factors. Furthermore, substantial differences within a fee structure may encourage inefficient activity or reorganisation on the part of regulated entities, aimed at avoiding higher fees.

These fee setting principles form the basis on which the set of feasible fees options have been identified and their relative merits assessed, as discussed in the following sections.

2.3. Historical practice and current context

Historical practice

Historically, VRQA has only recovered a small proportion of its regulatory costs. In recent years, fees charged within the VET sector have recovered between 20 and 25 per cent of the relevant VRQA regulatory costs, while the fees charged to the school sector have recovered a substantially lower proportion of attributable costs, estimated at around 3 per cent. The remainder of VRQA's regulatory costs have been met via funding from the state budget. Hence, the substantial majority of the regulatory costs incurred in this field have historically been met by the taxpayer.

This historic relativity – in terms of the respective contribution to the recovery of VRQA’s costs reflects two factors:

8 DTF (2010), *op. cit.*, p 7.

- The policy position of successive governments in Victoria to encourage participation in education and training, which in turn reflects a more widely held view that education and training generate important positive externalities for the broader community; and
- Acknowledgement that there is a high level of government funding in the sector – particularly to schools but also, more recently, to VET through the Victorian Training Guarantee. As a consequence, fee income effectively moves from one part of the budget to another (i.e. higher VRQA fees would generate a need for greater funding of the sector, so achieve limited net gain to the Victorian Budget).

In addition to the historically low general level of cost recovery, there has also been the longstanding policy decision to provide a 50% discount on the annual RTO registration fee for registered schools or ACFE Board registered organisations. This policy position reflects several factors. Firstly, as noted above, the fact that these types of RTO are largely publicly funded means that there is a degree of circularity in funding arrangements, with any increase in fees being likely to give rise to the need for additional funding to address the resulting cost increase. A second, closely related point is that this group of RTOs is considered to have in general a lower capacity to pay than commercially oriented RTOs. Third, while VRQA does not have sufficiently detailed activity based costing data to determine specifically the relative cost of regulating these RTOs vs the other groups of RTOs for which it is responsible, it is of the view that the average cost of regulating registered schools or ACFE Board registered organisations is somewhat lower than average.

Current context

The current context of budgetary stringency, giving rise to the government's Sustainable Government Initiative, is one in which consideration must be given to the potential to increase the historically low level of cost recovery being achieved via the VRQA's fee structure. In assessing this issue, the key resource is the Department of Treasury and Finance's Cost Recovery Guidelines, as discussed above. However, a further key contextual factor is the 2010 review of the VRQA undertaken by the Victorian Auditor-General's Office (VAGO)[9].

This report highlighted the VRQA Board's prior acknowledgement of the unsustainability of the current approach to fee determination. It noted that the Board had recognised in July 2007 that VRQA needed to comprehensively review the cost of its audits and to review its fees accordingly. Moreover:

> *The VRQA Board set up a Fees Working Group in 2007 to recommend what its fees should be. Two of the working group's principles are that fees must reflect the cost or value of services, and fees from one sector must not cross-subsidise another.*

The VAGO report noted that, as at 2010, a new fee structure had yet to be implemented. Consequently, it recommended, *inter alia*, that the VRQA Board should:

> *"...determin[e] the full cost of regulating the vocational education and training sector and review its fee structure on this basis"*

[9] Victorian Auditor- General (2010), *Victorian Registration and Qualifications Authority: Victorian Auditor General's Report*

Given these factors, retention of the current framework and the continuation of heavy reliance on budgetary funding appears unsustainable.

However, the historical situation means that a move to seek to recover most or all of the VRQA's costs from regulated entities would imply substantial increases across the majority of prescribed fees. While there is strong *prima facie* case for VRQA to prescribe fees that recover a greater proportion of regulatory costs, there are a number of factors – most notably the historically low level of cost recovery – that complicate the analysis and should be taken into account when considering whether to immediately prescribe fees at a level that fully recover costs.

As such, this impact assessment will consider different approaches for achieving this outcome, including the path VRQA might take in adjusting fees from historic levels.

2.4. The ASQA fee structure and the issue of "forum shopping"

The ASQA fee structure is already in place and, given that it applies throughout most of Australia and to the majority of Victorian RTOs, provides important context for the consideration of the specification of fees for VET providers in Victoria.

While the regulatory frameworks are distinct, there is a high level of potential mobility between the Victorian and Federal systems. In short, an RTO could potentially fall under ASQA's jurisdiction simply by stating an intention to operate across borders in the near future and would certainly fall under ASQA's jurisdiction if it chose to register a place of business in a referring jurisdiction or to offer courses to students from outside Victoria and Western Australia - e.g. via distance learning. Thus, many RTOs that currently fall under the Victorian regulatory regime administered by VRQA will, in effect, have the option of moving to the national regulatory structure.

An individual Victorian RTO's decision as to whether to seek to move between regulatory regimes re will be determined by a range of factors. Clearly, its business model and the general attractiveness of expanding the scope of its operations to include operations in more than one state, or the offering of courses to inter-state or overseas students will be a key factor. However, another will be the relative merits of the regulatory environments, including:

- perceptions of the relative regulatory compliance costs in different regulatory jurisdictions, (e.g. comparing current regulatory obligations under frameworks such as the VRQA's registration process and obligations for Australian RTOs for initial and continuing registration under the Australian Qualifications Training Framework);and
- the relative level of fees that an RTO is obliged to pay in order to undertake various regulated business activities.

While several factors will necessarily influence the choice of regulatory system, it is anticipated that any substantial difference between fees in different regulatory jurisdictions will likely be a significant consideration. This in turn, has clear implications for decisions regarding fee-setting in Victoria.

In deciding not to refer its legislative powers with respect to VET, the Victorian Government has indicated a clear commitment to maintaining its own, distinct regulatory structure for the VET sector. A key reason for this decision was the government's commitment, prior to the national regulatory system being adopted, to regulate to introduce a range of specific consumer protection measures for VET sector students[10]. The national system does not include explicit consumer protection measures of the kind proposed for Victoria and it is not currently anticipated that any such measures will be introduced in the foreseeable future.

In this context, actions that would tend to encourage Victorian RTOs to seek to move to the national regulatory system must be considered to have negative implications in terms of the regulatory protections likely to be available to their students., That is, the consumer protection objective that is at the core of recent Victorian Government actions in this area would be undermined to the extent that additional Victorian RTOs move to a federal jurisdiction where equivalent protections do not apply.

Therefore, the level of VRQA fees relative to those levied by ASQA, and the consequential impact on an RTO's decision about the regulatory jurisdiction in which it might operate, are further considerations for this impact assessment.

2.5. Fee-setting powers

The *Education and Training Reform Act 2006* established powers for specific fees to be charged in respect of many of the major regulatory tasks carried out by VRQA. In addition, the legislation allows fees to be charged to RTOs upon re-registration. The Act also established powers to charge specific fees in respect of regulatory tasks performed in the schools sector, however, there is no equivalent power to charge annual registration fees for schools. These limitations in the scope of the fee-setting power established under the Act necessarily constrain the available fee setting options. Their specific implications are considered further below, while the following summarises the fee-setting powers available under the Act and describes the regulatory activities to which each fee relates.

Vocational Education and Training (VET) sector

VRQA's major VET functions are described below:

- *Initial RTO registration and re-registration of existing RTOs* – VRQA assesses applications from organisations seeking to offer VET services. It must ensure that can demonstrate their understanding of, and compliance with, the requirements for registration, including those established under the Australian Quality Training Framework. VRQA publishes guidance material for RTOs, which is available on its website[11]. All potential applicants for initial registration are then required to attend a VRQA Financial Management Guidance Session prior to applying for registration. RTOs are registered for a period of up to 5 years, after which time they are obliged to apply for re-registration.
- *Determination of scope of registration* – RTOs must explain the desired scope of their registration to VRQA. This consists of the list of training package qualifications, units of competency or state accredited courses which a training organisation wishes to be

10 The regulations establishing these consumer protection based regulations are the subject of a separate RIS process, with the RIS expected to be released for public comment late in 2012.

11 Available documents include the *VRQA Guidelines for VET Providers*, *AQTF Essential Conditions for Initial Registration* and the *AQTF Essential Conditions and Standards for Initial Registration - Self Assessment Checklist for Applicants.*

registered to provide and the services offered (either training and assessment or assessment only).

- *Amendment of scope of registration* – RTOs can apply to amend the scope of their registration, through the addition or removal of qualifications, units of competency or courses.
- *Course accreditation* – VRQA has a role in formally recognising VET courses in accordance with the AQTF. Accreditation is granted for a finite period and can be renewed, amended or cancelled subject to VRQA approval. By accrediting a course, the VRQA confirms that the course meets the national quality assurance requirements set out in the AQTF *Standards for Accredited Courses*. The process of accreditation involves the following steps:
  - Preliminary research
  - Course concept proposal
  - Course development
  - Accreditation submission
  - Assessment of the accreditation submission
  - Submitting proposed course to the VRQA
  - Ongoing monitoring
- *RTO audit* – VRQA is empowered to conduct 'quality' audits to evaluate RTO compliance with registration requirements. The nature of the audit depends on its specific purpose, with VRQA being empowered to undertake audits in the following contexts:
  - upon initial registration
  - during the first 12 months of registration
  - during the final year of registration
  - for some extension to scope applications
  - on a risk management basis.
- *Assessment of financial viability* – the VRQA is required to assess and reassess from time to time the financial capability of registered providers. In practices this occurs generally:
  - Prior to initial registration
  - during the final year of registration
- *Offshore monitoring* – where an RTO delivers training and issues qualifications in countries other than Australia and where VRQA audits an overseas site as part of its regulatory oversight).

School and OSSEO sector

The following is a description of VRQA's role with respect to schools and senior secondary education in Victoria:

- *Registration of a new school* – all schools that operate in Victoria must be registered with the VRQA. Through this registration process, the VRQA ensures that schools comply with the state's registration standards, which are based on standards prescribed in the *Education and Training Reform Act 2006*. Applications for the registration of a government school are managed by the Regional Support Division, Regional Support Group, Department of Education and Early Childhood Development (DEECD). The Catholic Education Commission of Victoria Ltd (CECV) is the approved body for the management of all applications for new and amended registrations from Victorian Catholic schools, while independent schools apply directly to VRQA. VRQA publishes guidance material to assist applicants and holds information briefings.

- *Amendment of school registration* – registered schools can apply to VRQA to amend the scope of their registration in the event, for example, that they wish to add an additional campus, add an additional year level (including adding senior secondary qualifications), merge two or more schools, or relocate a school. As with new registrations, VRQA offers information briefings.
- *Registration to offer a senior secondary qualification course* – schools and other providers (e.g. TAFEs, private RTOs and Adult Community and Further Education Providers can apply to VRQA to be registered to provide courses leading to senior secondary qualifications and are assessed for their ability to comply with prescribed standards. The relevant senior secondary qualification courses are as follows:
    - Victorian Certificate of Education (VCE)
    - Victorian Certificate of Applied Learning (VCAL)
    - International Baccalaureate Diploma (IB)
- *Accreditation of a senior secondary qualification* – organisations registered to offer a senior secondary qualification can apply to VRQA for accreditation of their course. The VRQA assesses the course against national standards, developed under the Australian Qualifications Framework, for post compulsory schooling.
- *Registration of Overseas Secondary Student Exchange Organisations (OSSEOs)* – VRQA has responsibility for the approval and quality assurance of student exchange organisations. Approved student exchange organisations are obliged to meet VRQA guidelines and conditions of approval for both international 'in-bound' exchange students and for Victorian students travelling overseas on 'out-bound' student exchange programs. A student exchange program (SEP) is a reciprocal program whereby Victorian students attend secondary school and enrol in a full-time school program in another country for a minimum period of 29 days to a maximum period of 12 months in duration. Under similar conditions, students from overseas undertake study in Victoria.

Higher education sector

VRQA's activities with respect to the higher education sector are described below:

- Consideration of applications to commence or to continue to conduct a higher education course
- Consideration of applications to substantially change current registration conditions
- Consideration of applications for accreditation of a higher education course (or part of a course)
- Consideration of applications to vary the scope of current accreditation
- Ongoing monitoring and enforcement activities to determine compliance with conditions of registration and accreditation on the part of regulated entities. VRQA actions can include suspension of accreditation, or revocation or variation of accreditation conditions.

Fee setting issues

The limitations on fee-setting arising from the legislation necessarily limits capacity to recover regulatory costs from regulated entities. This is most apparent with respect to schools where VRQA incurs the majority of its regulatory costs in carrying out its more general oversight and monitoring functions, rather than through specific regulatory tasks for which it is able to levy a fee. For example, the VRQA cannot recover a greater percentage of costs through a mechanism such as an annual registration fee to be applied to all schools.

Similarly, the Act empowers VRQA to charge a fee for specific activities with respect to higher education providers – registration, variation of scope, for example – rather than annual fees that all registered providers must pay. In the VET sector, VRQA lacks the legislative capacity to impose fees for some regulatory functions, in contrast to the position of ASQA. Examples of such functions include off shore monitoring, cancellation of course accreditation, the reissue of student certificates and complaints investigations across its entire regulatory jurisdiction.

In general, VRQA is effectively restricted to imposing fees for specific activities that are sometimes relatively minor in nature and tend to be carried out infrequently, in the school / OSSEO and higher education sectors. The historically low level of cost recovery achieved through user fees is, in part, a reflection of these limitations.

This issue raises questions of horizontal equity, in that the majority of schools do not directly bear any of the costs of regulatory administration by VRQA, despite contributing to the generation of those costs. Moreover, any move to increase cost recovery levels significantly in the school sector at an aggregate level would necessarily lead to over-recovery of the costs associated with specific regulatory functions. This would potentially exceed the legislated fee-setting power and would also be inconsistent with the principles for fee determination set out in the Guidelines.

However, while this is a significant issue, it is one that can be dealt with only through a legislative amendment. In the medium term, consideration will be given to amending the legislation in order to provide a basis for moving to a more appropriate fee structure in the schools sector. However, in the current context, the existing heads of power must be taken as given, since the existing fees order expires on December 31 and a replacement order must, therefore, be put in place prior to that date.

3. Estimation of VRQA regulatory costs

3.1. Overview

VRQA undertakes regulatory functions across two segments of the market for education and training services –VET providers and schools, senior secondary qualification awarding bodies and OSSEOs. Its estimated budget for 2012/13 is $9.9 million.

In practice, VRQA's VET and school sector /OSSEO functions are essentially independent of each other, although there are some common functions (and therefore costs) in terms of management and administrative functions and other overheads. While fees for regulatory functions across both segments have been prescribed through a single subordinate instrument, there are some key differences in how they have traditionally been developed and various Governments have not adopted a consistent approach across the two sectors (e.g. in terms of discounts for particular service providers, fixed fee components, imposition of annual fees, etc.). Moreover, as was explained in the preceding section, the heads of power relating to fees are not consistent between VET and the other education providers. Given this context, this impact assessment analyses each segment separately and considers the range of feasible fees options separately for each segment.

3.2. Context for the specification of VET fees

As previously discussed, there have been two major changes to the regulatory environment in which VRQA operates: i) the move of a substantial proportion of Victorian RTOs to the new federal regulatory system and, ii) the need to administer new consumer protection based regulations that will take effect in late 2012 or early 2013.

Both of these changes have significant implications for the costs that the VRQA will incur in discharging its regulatory functions, while also implying that there is some uncertainty as to the costs that will be incurred by the VQRA in future years in discharging its functions. This, in turn, creates challenges in determining the appropriate level and structure of the required fees.

The substantial reduction in the number and average size of RTOs regulated in Victoria by the VRQA also means there will inevitably be some loss of regulatory scale economies, while the absolute size of the fee revenue that would be yielded by any given fee structure will also be reduced substantially.

Structure of regulatory costs

In most contexts, cost structures comprise a mix of fixed and variable costs. Fixed costs can include items such as the development of a database of regulated entities and transactions with those entities, for example. The necessary implication of a substantial reduction in the number of regulated entities is that average regulatory costs per regulated entity will be increased. That is, because the fixed cost component of total regulatory costs is distributed among fewer regulated entities, the average cost rises. The greater the fixed cost component, in relative terms, the greater will be the impact in increasing average regulatory costs.

Regulatory roles with respect to VET

Second, as noted above, the VRQA is taking on responsibility for the administration of new VET regulations designed to enhance the consumer protection available to VET students enrolled with 'for profit' RTOs. These new regulations will be the subject of a separate impact assessment but will generate additional costs for VRQA associated with monitoring and enforcement activities (including additional RTO audits/inspection visits).

Implications for VET fee determination

Both of the above factors will tend to increase the average regulatory cost per RTO regulated by VRQA. This necessarily implies that any given fee structure will yield lower levels of cost recovery than would have been the case prior to the above changes taking effect. This also means that even maintaining existing cost recovery levels will require an increase in fee payments per regulated entity, while increases in cost recovery levels become more challenging to achieve, since the required increases in fee levels will be higher than would otherwise have been the case.

The above dynamic is one of a loss of scale economies: that is, the reduction in the scope of VRQA's regulatory operations will necessarily increase its average costs. By contrast, the newly established national body, ASQA, will potentially benefit from substantial scale economies. Thus, although a simple comparison of the cost structures of the VRQA and ASQA is not feasible at this point, it is reasonable to expect the cost of regulatory administration for each agency to differ and the average cost per regulated entity to be higher for the VRQA.

While the Cost Recovery Guidelines recommend the specification of regulated fees and charges at a level that fully recovers efficient costs, this discussion suggests that a cost reflective fee for VRQA would significantly exceed the equivalent fee for ASQA. Therefore, this impact assessment will consider whether there is merit in departing from full cost recovery – at least to some degree – with a view to aligning VRQA fees for specific regulatory functions with their ASQA equivalents, irrespective of any difference in their cost structures.

Possible arguments in favour of alignment of the fees and fee structure – and therefore, departure from full cost recovery – include the following:

- VRQA regulated RTOs in the VET sector would not have a strong incentive to move to the national regulatory structure via strategic modifications to the nature and scope of their operations in order to avoid exposure to higher fees[12];
- Fee alignment avoids creating an appearance of horizontal inequity, which would arise under full cost recovery, due to the fact that different Victorian RTOs could pay substantially different fees depending on which regulatory body they fell under; and
- The VRQA's VET fees will inevitably be benchmarked against the ASQA fees structure by interested parties, irrespective of any differences in the regulatory framework.[13]

[12] This is more likely to be a feasible option for larger, privately operated RTOs than for school and community VET service providers.

[13] While the impact assessment for the proposed ASQA fees includes an expected path for the next three years, it also states that ASQA intends to review the 'fees and charges, methods of charging, revenue and cost recovery arrangements' annually. See page 21 of the document for a more detailed discussion.

As noted however, alignment of fees would represent a departure from the basic presumption in favour of full cost recovery contained in the Cost Recovery Guidelines.

The ASQA cost structure and corresponding fees were subject to impact assessment through the Department of Education, Employment and Workplace Relations' public consultation document, *Cost Recovery Impact Statement: National VET Regulator fees and charges for registration of training organisations, accreditation of courses and associated services*. This document includes a comprehensive discussion of the methodology by which ASQA's cost base was calculated and specification of fees at a level necessary to recover those costs (given existing legislative heads of power) over the period from 1 July 2011 to 30 June 2014.

This document is available at www.asqa.gov.au and those interested in reviewing the ASQA cost base and the underlying assumptions are encouraged to review this document.

3.3. VET sector regulatory costs

Methodology

Foreshadowed changes in the regulatory environment with respect to VET – namely, the assumption by VRQA of new functions and responsibilities that will require additional monitoring and enforcement – create substantial difficulties in the formulation of 'top down' analysis of VET sector regulatory costs. Given these difficulties, the VRQA engaged independent consultants Grant Thornton Australia Pty Ltd (GTA) to undertake a comprehensive bottom-up analysis of the full range of costs – including both direct and indirect costs – associated with the performance of the regulatory activities for which it is able to charge a fee. This was undertaken to inform the development and specification of fees from 2013 onwards. This process, described in more detail in Appendix 2, involved the following steps:

- Costing data was based on VRQA estimated future costs and were supplied by VRQA staff. These costs were used to identify VET corporate overhead and direct costs.
- Business volumes were based on estimated annual volumes post July 1 2011 (i.e. after providers have moved to ASQA) and were supplied by VRQA staff.
- Outsourced audits/financial assessments were costed at a cost per unit i.e. (outsourced audit/ financial assessment type x volume of audits). The estimated cost per audit/financial assessment and volume data were supplied by the VRQA.
- Estimated effort spent on regulatory activity was determined through interviews with VET staff and their self-assessment of time per activity together with management review of these activity levels.
- An hourly staff labour rate was then applied to each activity. Staff labour rates were based on the mid-point of the staff member's VPS salary range of each position classification, rather than actual salaries. The hourly staff labour rate includes salary on costs, annual leave loading and the corporate overhead hourly allocation.
- Corporate costs were allocated across activities based on estimated effort hours per activity.
- Estimated efforts for new VET requirements were based on comparison to similar regulation tasks in operation today where possible. Activity estimations were determined through interviewing VET staff and their self-assessment of time per activity, together with management review of these activity levels.

Costing example: Initial registration fee

Based on the above methodology, the process for determining the cost of processing an application for initial registration as an RTO involves the following steps:

1. Applicant attends financial (mandatory) and pre-registration (optional) briefing conducted by VRQA and its advisers
2. Applicant submits registration application (AQTF Form A, fees, phase 1 information)
3. VRQA assesses application to determine whether eligibility criteria are met
4. Where eligibility criteria are met application proceeds to phase 1 Financial Health Assessment (FHA)
5. Phase 1 FHA is conducted by contracted firm and financial viability assessed against relevant Australian Quality Training Framework (AQTF) *Essential Conditions and Standards for Initial Registration* and the *VRQA Guidelines for VET providers* requirements; reports are submitted to the VRQA
6. VRQA reviews report and assesses application to determine whether applicant satisfies the requirement of having the principal purpose of education and training or meets the exemption requirements
7. Where the applicant is found financially viable under FHA requirements the application proceeds to phase 2 quality audit or the applicant is advised that does not meet financial viability requirements
8. Quality audit is conducted by contracted audit firm; reports are submitted to the VRQA
9. Quality audit report is reviewed to assess level of compliance with quality standards and report prepared for VRQA delegate
10. VRQA delegate determines applicant's level of compliance
11. Application for registration granted or not granted; applicant informed of the outcome
12. VRQA records registration details on State Register (CRM)

The following tables provide detail on the costs incurred by VRQA in carrying out the various registration-related tasks, including initial receipt and assessment of the application and follow up audit activity that relates directly to registration. The various tasks can be thought of as cost pools that make up the total annual cost to VRQA of the registration function (calculated via the summation of the various highlighted sub totals). The total amount is then adjusted to incorporate an appropriate proportion of VRQA management and other overheads (based on the proportionate contribution that the registration function makes to total costs, described in more detail in Appendix 2), which is then divided by the expected volume per annum in order to derive a unit cost.

The various steps and the commensurate costs for VRQA are as follows:

Registration Effort Input:

New Registration (inc. FHA):	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Receive application	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
Prepare and Process Application	VPS 5	$111.71	9.1	$1,016.59	50	$50,829.70	455.0	59.9
Conduct Financial Health Assessment	Outsourced			$8,500.00	50	$425,000.00		
Quality review, issue resolution	VPS 6	$131.04	3.7	$484.86	50	$24,243.22	185.0	24.3
Recommend appropriate action on application	VPS 6	$131.04	1.0	$131.04	50	$6,552.22	50.0	6.6
Approve or reject application	EO2	$217.55	0.5	$108.78	50	$5,438.86	25.0	3.3
Implement decision	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
File and update records	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
Total New Registration:	*verage per unit effort & cost*		**15.8**	**$10,379.53**	**50.0**	**$518,976.48**	**790.0**	**103.9**

Renewal of Registration:	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Receive application for re-registration	VPS 3	$92.17	0.5	$46.08	100	$4,608.32	50.0	6.6
Prepare for Financial Viability Assessment (a)	VPS 5	$111.71	2.1	$236.94	100	$23,693.68	212.1	27.9
Undertake Financial Viability Assessment	Outsourced			$8,500.00	25	$212,500.00		
Quality review and issue resolution	VPS 6	$131.04	2.7	$353.82	100	$35,381.99	270.0	35.5
Recommend appropriate action on application	VPS 6	$131.04	0.5	$65.52	100	$6,552.22	50.0	6.6
Approve or reject application	EO2	$217.55	0.3	$65.27	100	$6,526.63	30.0	3.9
Implement decision	VPS 3	$92.17	0.3	$24.43	100	$2,443.48	26.5	3.5
File and update records	VPS 3	$92.17	0.3	$24.43	100	$2,443.48	26.5	3.5
Total Renewal of Registratio	*erage per unit effort & cost*		**6.7**	**$2,941.50**	**100.0**	**$294,149.81**	**665.1**	**87.5**

Registration Audit Activity:

New Registrations	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Auditor cost for Initial Registration	Outsourced			$5,735.00	50	$286,750.00	0.0	0.0
Audit report review (a)	VPS 5	$111.71	1.7	$184.33	50	$9,216.37	82.5	10.9
Audit report review (b)	VPS 4	$101.10	2.9	$293.18	50	$14,658.83	145.0	19.1
Audit report review (c)	VPS 5	$111.71	0.5	$50.27	50	$2,513.56	22.5	3.0
Update CRM system (a)	VPS 5	$111.71	0.2	$18.62	50	$930.95	8.3	1.1
Update CRM system (b)	VPS 4	$101.10	0.2	$16.85	50	$842.46	8.3	1.1
Update CRM system (c)	VPS 5	$111.71	0.2	$18.62	50	$930.95	8.3	1.1
Compliance (simple)	VPS 4	$101.10	3.8	$384.16	17.5	$6,722.84	66.5	8.8
Compliance (complex)	VPS 4	$101.10	7.6	$768.32	17.5	$13,445.68	133.0	17.5
QA and close off record	VPS 5	$111.71	0.3	$33.51	50	$1,675.70	15.0	2.0
Total New Registrations:	*verage per unit effort & cost*		**9.8**	**$6,753.75**	**50.0**	**$337,687.34**	**489.5**	**64.4**

Total Post Initial Audit: (12 mo	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Post Initial Registration Auditor Activity	Outsourced	[redacted]	[redacted]	$4,300.00	50	$215,000.00	0.0	0.0
Create record in system	VPS 5	$111.71	0.1	$11.17	50	$558.57	5.0	0.7
Perform risk assessment	VPS 5	$111.71	0.2	$26.81	50	$1,340.56	12.0	1.6
Audit report review (a)	VPS 5	$111.71	1.3	$147.46	50	$7,373.10	66.0	8.7
Audit report review (b)	VPS 4	$101.10	2.3	$234.54	50	$11,727.06	116.0	15.3
Audit report review (c)	VPS 5	$111.71	0.4	$40.22	50	$2,010.85	18.0	2.4
Update CRM system (a)	VPS 5	$111.71	0.0	$2.98	50	$148.95	1.3	0.2
Update CRM system (b)	VPS 4	$101.10	0.0	$2.70	50	$134.79	1.3	0.2
Update CRM system (c)	VPS 5	$111.71	0.0	$2.98	50	$148.95	1.3	0.2
Compliance (simple)	VPS 4	$101.10	3.8	$384.16	17.5	$6,722.84	66.5	8.8
Compliance (complex)	VPS 4	$101.10	7.6	$768.32	17.5	$13,445.68	133.0	17.5
QA and close off record	VPS 5	$111.71	0.2	$22.34	50	$1,117.14	10.0	1.3
Total Total Post Initial Audit: (12 month)	*Average per unit effort & cost*		**8.6**	**$5,194.57**	**50.0**	**$259,728.50**	**430.5**	**56.6**

Renewal of Registration Audit	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Create record in system	VPS 5	$111.71	0.1	$11.17	100	$1,117.14	10.0	1.3
Perform risk assessment (a)	VPS 4	$101.10	0.2	$24.26	100	$2,426.29	24.0	3.2
Perform risk assessment (b)	VPS 5	$111.71	0.1	$11.17	100	$1,117.14	10.0	1.3
Contact RTO and request fee payment / follow up	VPS 5	$111.71	0.5	$55.86	100	$5,585.68	50.0	6.6
Renewal Auditor Activity	Outsourced	[redacted]	[redacted]	$5,735.00	100	$573,500.00	0.0	0.0
Audit report review (a)	VPS 5	$111.71	1.7	$184.33	50	$9,216.37	82.5	10.9
Audit report review (b)	VPS 4	$101.10	2.9	$293.18	50	$14,658.83	145.0	19.1
Audit report review (c)	VPS 5	$111.71	0.5	$50.27	50	$2,513.56	22.5	3.0
Update CRM system (a)	VPS 5	$111.71	0.0	$2.98	50	$148.95	1.3	0.2
Update CRM system (b)	VPS 4	$101.10	0.0	$2.70	50	$134.79	1.3	0.2
Update CRM system (c)	VPS 5	$111.71	0.0	$2.98	50	$148.95	1.3	0.2
Compliance (simple)	VPS 4	$101.10	3.8	$384.16	35	$13,445.68	133.0	17.5
Compliance (complex)	VPS 4	$101.10	7.6	$768.32	35	$26,891.37	266.0	35.0
QA and close off record	VPS 5	$111.71	0.2	$22.34	100	$2,234.27	20.0	2.6
Total Renewal of Registration Audits:	*Average per unit effort & cost*		**7.7**	**$6,531.39**	**100.0**	**$653,139.02**	**767.0**	**100.9**

In addition to detailing the inputs of internal resources devoted to registration-related functions, the tables also show that VRQA engages suitably qualified external advisers through a competitive tendering process to assist with some aspects of the registration and audit process (specifically in relation to the assessment of financial health and the conduct of quality audits). This is one mechanism through which VRQA is able to improve the efficiency of its operations by ensuring that services requiring specialised skills are delivered by subject matter experts selected through a competitive tendering process.

In addition, the VRQA has reviewed all VET sector regulatory processes to ensure that tasks are undertaken by those staff best able to perform them at the most appropriate classification level. Wherever appropriate, the VRQA is also in-sourcing a range of VET regulatory activities including inspections, quality audit verifications and auditor reviews. This is occurring in circumstances in which VRQA has the appropriate expertise to complete the tasks and where cost analysis indicates that the result will be an expected reduction in its cost base, vis-a-vis an outsourced service provision option.

Aggregate VRQA costs – VET sector

The following table summarises the cost to VRQA of its VET activities at an aggregate level, including fees paid to external contractors as part of its compliance audit and financial viability review activities.

Table 3.1: Estimated VRQA costs - VET sector regulatory activities

Estimated VET Costs:	Est. cost P/A ($):
VET Effort Costs (inc. Corporate Overhead Allocated)	
Registration	1,068,456
Accreditation	492,027
VET Management	418,650
New Requirements	714,659
Total VET Effort Costs:	**2,693,792**
VET Outsourced Auditor/Financial Assessment Costs	**2,110,500**
VET Direct Costs:	
Total Accommodation	50,129
Total Information Sessions	10,000
Total VET Direct Costs:	**60,129**
Overall Total Estimated VET Costs:	**$4,864,421**
Adjustment for expected increase in inspection activity	**$255,779**
Adjusted Total Estimated VET Costs	**$5,120,200**

Source: Grant Thornton Australia Pty Ltd

Table 3.1 indicates that some of the cost estimates out of the total of approximately $4.9m can be readily attributed to specific VET regulatory functions for which VRQA is able to charge a fee. This includes costs incurred in assessing applications for initial registration and re-registration (including outsourced auditor/financial assessment costs) and accreditation of courses. Other cost pools such as VET Management, monitoring and enforcement of the proposed new consumer protection requirements, accommodation and information sessions were allocated to the various regulatory functions following further analysis and consultation between VRQA and the consultants who have prepared this impact assessment. Costs were allocated by initially calculating the relative contribution of different regulatory functions to total costs and then allocating overheads to those functions on a proportionate basis.

VRQA also advised that it expected to increase by a factor of 10 the number of spot inspections of RTOs that it would undertake (from 12 per annum to 120 per annum) following the introduction of the new regulations referred to above. The additional oversight activity is due to the introduction of various consumer protection measures for VET students and conditions of RTO operation – complaint handling systems, public liability and professional indemnity insurance, for example – for which VRQA will need to monitor to determine compliance.

The incremental cost of this additional inspection activity was calculated by simply increasing the initial estimated costs for inspections under the current arrangements - $28,419.95 – by a factor of 10. This resulted in the addition of a further $255,779 to total regulatory costs.

Stakeholder question: Interested parties are invited to comment on the appropriateness of the budgeted increase in current inspection costs by a factor of 10.

The volume estimates on which the cost estimates were based, were employed to estimate the following:

- Total costs associated with specific regulatory functions;
- Unit costs associated with specific regulatory functions (and therefore, the level at which fees would need to be set in order to fully recover costs), calculated by dividing total cost by expected annual volumes;
- Expected annual fee revenue under a range of different fee options;
- Percentage of costs recovered at an aggregated and disaggregated level under a range of different fee options.

Each of these estimates is employed in the cost benefit analysis of this impact assessment. Having calculated VRQA's costs and expected annual volumes, it is possible to consider feasible options for the recovery of those costs. This is the focus of the next chapter.

3.4. School/OSSEO sector regulatory costs

Table 3.2, below, provides a summary of the regulatory costs incurred in relation to the regulation of the school/OSSEO sector. It must be emphasised that these estimates necessarily contain a high degree of imprecision. In practice, the global estimate of regulatory costs in the school/OSSEO sector has been derived by subtracting the identified VET sector regulatory costs from the VRQA budget, reflecting the fact that these are the organisation's two key activities.

Table 3.2's cost estimates relating to specific functions for which fees are levied have been derived via the following methodology, set out below in Table 3.3. Consistent with the methodology used for the VET sector, the regulatory cost estimates for the school and OSSEO sector were developed on an activity based costing basis, through a bottom up approach. The process involved discussions with VRQA staff that identified the time taken by VPS staff, Executive Officers and external contractors to undertake various tasks related to specific regulatory functions.

Table 3.2: Calculating School/OSSEO sector regulatory costs

Cost Item	Description
VPS resourcing inputs (VPS 3, 5, 6)	• Estimated time allocated to each function, cost per hour based on current VPS payscales (same rates as employed for VET fee estimates) • Tasks include assessment of applications, site visits, discussions with applicants, preparation of briefing material for senior

Cost Item	Description
	staff
EO resourcing inputs	• Estimated time allocated to each function, cost per hour based on current EO payscales (same rates as employed for VET fee estimates)
Overheads	• Resourcing cost adjusted by factor of 1.75 to account for overheads
External contractors	• Estimated contribution from quality compliance auditors, financial and legal experts

The unit cost for each regulatory activity for which VRQA is able to charge a fee under current legislation was calculated by dividing the total costs attributed to that activity – those directly estimated through discussions with VRQA staff and then an additional proportion to account for overheads – by the estimated volume of that activity. This methodology is described in more detail in Appendix 3.

Table 3.3: Breakdown of VRQA regulatory costs - school/OSSEO sector

Fee type	Average cost	Total annual regulatory cost
School registration		
Application	$9,129	$234,000
Amendment of registration	$612	$28,944
Senior Secondary Qualification Registration		
Registration to provide a Senior Secondary Qualification	$5,183	$37,188
Registration to provide an additional Senior Secondary Qualification course	$2,295	$4,722
Registration to award, confer or issue a Senior Secondary Qualification: • application • assessment	$18,611	(zero volume)
Approval to Provide Courses to Overseas Students by a registered school or registered Senior Secondary Qualifications provider		
Registration to provide courses to overseas students	$5,610	$22,827
Amendment of registration	$972	$3,891
Overseas Secondary Student Exchange Organisations		
Registration: • application • assessment	$2,355	$7,000
Half term review	Up to $1,486	
Annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: No of students:		

Fee type	Average cost	Total annual regulatory cost
a) 1 – 15	$494	
b) 16– 50	$987	
c) (c) 51 +	$1,481	
Total Cost of specific (fee related) activities.		***$338,571***
Other regulatory costs (general supervision & monitoring)		***$4,350,000***
Total schools related regulatory costs		***$4.7 million***

Table 3.3 shows that the substantial majority - more than 90% - of VRQA regulatory costs in the school/OSSEO sector relate to ongoing monitoring of compliance with the minimum standards and reviewing of the more than 2,000 regulated schools. By contrast, less than 10% of these costs relate to the processing of the relatively small number of applications for registration or course accreditation (or changes to these) that are received each year14. When the average number of applications recorded in column 2 of Table 3.4 - amounting to approximately 30 to 40 per annum - is compared with the total number of regulated entities of well over 2,000, it is apparent that only a small proportion of this group makes applications for changes to their registration or accreditation annually.

Given that there is currently no head of power to charge schools an annual registration fee, it is clear that there is no prospect of achieving more than a very small proportion of cost recovery under current arrangements, even if fees in respect of the specific functions identified above are set at full cost recovery levels.

The cost analysis produced as part of this RIS process has, therefore, highlighted some of the shortfalls of the existing legislation, in terms of VRQA's ability to recover the cost of its regulatory functions in a manner consistent with the DTF Guidelines.

14 Note that school registration has no fixed duration. Hence, there is no re-registration cycle for currently registered schools.

4. VET fee options

This chapter identifies and analyses four feasible options for VET fees. These differ both in terms of the level of cost recovery achieved and the structure of the fees. They are as follows:

- *Option 1* – retain the existing VET fee structure
- *Option 2* – adopt ASQA fee structure
- *Option 3* – adapt the ASQA fee structure with a view to immediately moving to fully recover regulatory costs
- *Option 4* – adapt the ASQA fee structure to achieve a gradual move to full cost recovery

Options 3 and 4 are described as *adaptations* of the 'broad' ASQA fee structure, rather than a perfect replication. This is because there are some differences in terms of legislative heads of power authorising fee setting across the two regulatory jurisdictions, in addition to some minor differences in policy. This is explained more clearly in the detailed discussion of the options below.

Each option differs in terms of its performance against the general criteria of efficiency and equity outlined in the DTF guidelines. This chapter describes the options and includes a discussion of their respective costs and benefits. Later sections of this impact assessment then contain a more formal assessment of these options against specific assessment criteria.

Each option will be assessed in the following sections against a base case in which no fees are charged. This approach has been adopted in light of the fact that the current Ministerial Order on fees will expire at the end of 2012 and the requirements of the Victorian Guide to Regulation in relation to sunsetting regulations and other subordinate instruments (such as the proposed Ministerial Order). However, additional discussions highlighting the comparison between each option and the existing fees arrangements have also been included so that stakeholders can readily understand the extent of the changes to current practice implicit in the adoption of each option.

This RIS also provides an opportunity to reconsider the current 50% discount for registered schools or ACFE Board registered organisations with respect to some of their annual registration fee. As noted above, this historical policy position reflects several factors. Firstly, the fact that these types of RTO are largely publicly funded means that there is a degree of circularity in funding arrangements, with any increase in fees being likely to give rise to the need for additional funding to address the resulting cost increase. Second, this group of RTOs is considered to have in general a lower capacity to pay than commercially oriented RTOs. Third, while VRQA does not have sufficiently detailed activity based costing data to determine specifically the relative cost of regulating these RTOs vs the other groups of RTOs for which it is responsible[15], it is of the view that the average cost of regulating school and community based adult education providers is somewhat lower than average.

The historic basis for this discount was the assumption by VRQA that it generally incurs lower costs in terms of regulatory oversight of this group of providers, In effect, VRQA assesses this group as

15 The detailed process for estimating the costs that VRQA incurs in the administration of its VET regulatory functions calculated the average cost across all RTOs.

having a lower than average risk profile due largely to their ownership and governance structures and the other oversight arrangements that are in place. As such, they devote less of their monitoring resources to it in relative terms.

4.1. Option 1: Retain the existing fee structure

4.1.1. Description of the option

Under this option, VRQA would retain the existing level of fees and fee structure, albeit with minor annual adjustments consistent with DTF guidelines for the adjustment of annual fees and charges. Table 4.1 summarises the fees that would apply under this option.

Table 4.1: Current VET fees

Fee category	Fee level	Cost recovery percentage
RTO registration		
RTO registration:		13%
• application	$406	
• assessment	$1,636	
Annual registration:		
• school and ACFE providers	$553	13%
• other RTOs	$1,107	26%
Amendment of registration:		
• application	$102	
• assessment		
o where Training Package is already in scope	$523	78%
o where Training Package is not currently in scope	$784	111%
o additional place of delivery	$523	78%
Additional audit	$130	-
Course accreditation		
Application fee for intention to accredit	$205	14%
Assessment fee for accreditation	$1,112	
Application fee for extension of accreditation period	$102	1%

4.1.2. Expected benefits of the option

Retention of the existing fees, in the context of the reduced number of RTOs regulated in Victoria, is forecast to generate total fee revenue of $1.069m in a full year, based on volume estimates developed by the independent consultants.[16] Given total VRQA costs in relation to VET sector regulation of $5.12 million, as set out in the preceding section, this represents a cost recovery level of 21%.

This is clearly a transitional option and could be justified on the grounds that the VET industry in Victoria is undergoing substantial change with respect to its regulatory framework, primarily with the establishment of ASQA but also with the proposed introduction of new VRQA regulations. As such, retention of current fee arrangements might go some way to minimising the complexity and uncertainty of the changing regulatory environment and, therefore, the potential impact of the transition for some RTOs. Similarly, it would allow VRQA to simply continue on with current administrative arrangements.

4.1.3. Expected costs of the option

As fees have previously been set with little direct reference to VRQA's costs of regulatory administration, this option performs poorly in terms of both aggregate cost recovery levels and consistency between specific regulatory charges as to the extent of cost recovery. That is, as Table 4.1 demonstrates, it implies that cost recovery levels would be well below 20% in respect of some fees, while others would over-recover the direct regulatory costs to which they relate. This means that this option performs relatively poorly from both an efficiency and equity perspective.

This option also maintains a difference between VET fees at a VRQA and national level which is the result of historic factors, rather than any policy rationale or cost differential.

4.2. Option 2: Adopt proposed 2014 ASQA fee structure

4.2.1. Description of the option

Under this option, VRQA would, as far as possible given the extent of the fee making heads of power provided in the legislation under which it operates, adopt the same general fee structure as that implemented by ASQA. It would also set fees at the same level as those charged by ASQA in Year 1.While ASQA is deferring introduction of an annual registration fee until 2014, this option assumes that VRQA would introduce this fee immediately.

Another minor difference between the ASQA fees and those that would be adopted under Option 2 is that Option 2 would retain the 50% discount on the annual registration fee for registered schools or ACFE Board registered organisations to reflect the ongoing policy preference for the discount to be retained. In practice, the effect of this discount in terms of overall cost recovery is small, as it applies only to one fee – the annual registration fee – of the numerous fees that would apply.

[16] Volume estimates were derived as part of the cost estimate process and consideration of the profile of currently registered RTOs. For example, the average number of qualifications offered by each RTO is 11, which is an important consideration when calculating expected revenue under fee options that incorporate a base component and a variable component that depends on the number of qualifications or courses.

ASQA is still developing its approach to regulation and will extend its coverage over the next few years as it develops additional regulations in order to achieve its legislative objectives and as RTOs in other states gradually come under its jurisdiction. However, ASQA presented estimates of the likely future cost of carrying out its regulatory functions in a Cost Recovery Impact Assessment document prepared by the Department of Education, Employment and Workplace Relations. This impact assessment covered the period from 1 July 2011 to 30 June 2014 and concluded that ASQA would be able to achieve and maintain a full cost recovery outcome over the relevant period without further changes to the currently announced fees. Thus, because the essence of this option is the achievement of fee uniformity between VRQA and ASQA, this implies that fees would remain at their current levels over the next three years (with minor adjustments in line with movements in the Consumer Price Index).

Table 4.2 sets out the currently applicable ASQA fees, which would also be charged by VRQA under this option. The ASQA VET fee structure also incorporates a series of fees that vary according to the number of qualifications or units of competency that an RTO is seeking to offer, or the number of additional qualifications where it is seeking to expand the scope of its current registration. For example, applicants for initial registration are required to pay a non refundable amount of $640 for lodgement, $3,300 for assessment (for up to 10 qualifications, 20 units of competency and 2 delivery sites) and then a further $100 for each additional qualification, and / or an additional $40 for each additional unit of competency, and / or an additional $400 for each additional delivery site (with a cap of $4,000 for each).

Similarly, applicants seeking to extend the scope of their current registration are required to pay $350 for each of the four additional qualifications they are seeking to add, and then a fixed fee that differs according to the number of qualifications beyond the initial four.

Therefore, the equivalent ASQA fees in the following table have been calculated on the basis of the following assumptions, which reflect the recent and current profile of Victorian RTOs:

- VRQA regulated RTOs offer an average of 11 qualifications
- Applications from currently registered RTOs that seek to expand the scope of their current registration generally involve the addition of two qualifications or units of competency.

Table 4.2: Comparison of VRQA and ASQA fees

Activity	VRQA fee 2012	ASQA fee	Comments
RTO Registration (initial & renewal)			
New applications	$405	$640	ASQA Fee is $235 higher than VRQA's corresponding fee.
Assessment of new application	$1,635 (max)	$3,400 (based upon 11 qualifications – VRQA RTO average)	ASQA Fee is $1,765 (approx. 100%) higher than VRQA's corresponding fee.
Re-Registration Assessment Fee (5 year anniversary)	$1,635 (max)	Nil	ASQA does not have a corresponding fee for this activity. Every 5 years from the initial

Activity	VRQA fee 2012	ASQA fee	Comments
			registration of an RTO, VRQA conducts a quality audit of the RTO and charges an hourly rate of $125 per hour up to a maximum fee of $1,635. Based upon discussions with VRQA the vast majority of these assessments are charged at the maximum fee of $1,635.
Annual Registration Fee (Schools / ACFE providers)	$540	$650 (based upon 11 qualifications per RTO– VRQA RTO average)	ASQA Fee is $110 higher than VRQA's corresponding fee. VRQA apply a 50% discount for annual registration fees for Schools and ACFE Providers.
Annual Registration Fee (all other RTOs)	$1,080	$650 (based upon 11 qualifications per RTO – VRQA RTO average)	ASQA Fee is $430 lower than VRQA's corresponding fee.
Change of Scope of RTO Registration			
Amendment of Registration – Application Fee	$100	Nil	ASQA does not have a corresponding fee for this activity.
Amendment of Registration – Assessment Fee	$510 or $765 (depending on scope of changes)	$700 (based upon assumption of 2 additional qualifications)	Roughly equivalent
Amendment of Registration – Site Audit Fee			ASQA Fee is $1,490 (300%) higher than VRQA's corresponding site audit fee.
Course accreditation			
Application fee for intention to accredit	$200 (plus $1,085 where accreditation panel is managed by VRQA)	Nil	
Course accreditation renewal of accreditation	$100 (plus $1,085 where accreditation panel is managed by VRQA)	$2,700 per course	ASQA fee substantially higher even where accreditation panel is managed by VRQA
Amendment to an accredited course	$200 (plus $1,085 where accreditation panel is managed by VRQA)	$500 per application	Outcome of comparison depends on whether accreditation panel is managed by VRQA

Activity	VRQA fee 2012	ASQA fee	Comments
Cancellation of the accreditation of a course	No legislative head of power	$120 per course (from 1/1/2013)	
Qualifications and Statements of Attainment issued by Regulator			
Issue of student certificate	No legislative head of power	$60 per certificate	
Requests for Reassessment and Reconsideration			
Reassessment of ASQA position	No legislative head of power	$400 per application	A person may apply for ASQA to review a decision it has made
Reconsideration of decision	No legislative head of power	$500 per application	A person may apply for ASQA to review a decision it has made

As Table 4.2 demonstrates, some fees would increase above their current level while others would fall under this option.

4.2.2. Expected benefits of the option

Adoption of the 2014 ASQA fee structure by VRQA in 2013 is forecast to generate revenue of approximately $1.179m. Cost recovery of 23% would be achieved at an aggregate level. In contrast, retention of the prevailing VRQA fee structure is forecast to generate revenue of $1.069m, based on the same volume estimates, representing a cost recovery level of 21%.

Detailed analysis of the relative revenue contribution of each fee under the ASQA 2014 option and the estimated unit cost is contained in the following table.

Table 4.3: Comparative ASQA fees and VRQA costs

Fee type	ASQA fee	Forecast revenue	Estimated total cost	Estimated unit cost[17]	% cost recovery
RTO Registration					
Application lodgement fee	$640	$96,000	$2,307,285	$15,382*	26%
Assessment fee	$3,300	$495,000			
Annual registration fee for school and ACFE RTOs (246)	$325 (assuming 11 qualifications)	$79,950	$2,150,149	$4,183	8%
Annual registration fee for all other RTOs (268)	$650 (assuming 11 qualifications)	$174,200		$4,183	16%
Change of scope of registration	$350 (per qualification)	$194,700	$281,631	$796	44%

17 Based on volume estimates developed through the cost quantification exercise or VRQA estimates otherwise.

Fee type	ASQA fee	Forecast revenue	Estimated total cost	Estimated unit cost[17]	% cost recovery
Accreditation					
Course accreditation / renewal	$2,700	$129,600	$341,851	$7,121	38%
Amendment to an accredited course	$500	$10,000	$39,283	$1,964	25%
Total		***$1,179,450***	***$5,120,200***		***23%***

*The estimates bundle the costs associated with the receipt and assessment of applications.

**As noted above, aggregate fee revenue is calculated according to the current profile of Victorian RTOs, namely, initial registration to offer 11 qualifications, and applications to amend the current scope of registration relate to two additional qualifications.

The above table shows that the expected annual fee revenue under this option would total $1,179,450, representing 23% of the attributable VRQA costs of $5,120,200. The table also shows that the expected annual registration fee revenue derived from registered schools and ACFE Board registered organisations is $79,950. Given that this is the revenue expected to be generated in the presence of a 50% fee discount, it is clear that the revenue foregone due to the maintenance of the current 50% fee discount policy under Option 2 is equal to $79,950 per annum.

While recovering a slightly greater proportion of regulatory costs than Option 1, VRQA also avoids, as far as possible, the somewhat anomalous situation whereby two RTOs located in near proximity to each other who differ only in terms of the framework under which they are regulated – and hence, their regulatory obligations – are charged a significantly different fee and are subject to a different fee structure that charges fees for some activities but not others. This would both achieve equity benefits and potentially reduce any incentives toward migration to the national regulatory system that could arise due to significant fee differentials. In addition, there is a generally improved matching of individual fees and costs than under Option 1 (i.e. the maintenance of the current regulations).

In addition to the fees set out in the above table, this option necessarily also implies charging the various subsidiary or sub category fees that ASQA has introduced. The specific fees are as follows:

- Additional charges relating to applications where the number of qualifications, units of competency, and delivery sites exceed 10, 20 and 2 respectively. The fees are:
  - $100 for each additional qualification (up to $4,000)
  - $40 for each additional unit of competency (up to $4,000)
  - $100 for each additional delivery site (up to $4,000)
- Additional annual instalment fee of $50 for each additional qualification where the RTO is registered to offer more than 10 qualifications (up to $5,000)
- Additional charges relating to applications to extent the scope of existing registration in the following manner:
  - $75 where the RTO is seeking to add a unit of competency
  - $140 where the RTO is seeking to undertake a training package transition to an equivalent qualification(s) or accredited course transition

- Fixed fee of $1,600 where the RTO is seeking to add five qualifications
- Fixed fee of $1,800 where the RTO is seeking to add six qualifications
- Fixed fee of $2,000 where the RTO is seeking to add seven qualifications
- Fixed fee of $2,400 where the RTO is seeking to add eight qualifications
- $100 per qualification where the RTO is for each additional qualification more than eight.

The expected incidence of these fees in Victoria is extremely low, given the current profile of VRQA-regulated RTOs: most large Victorian-based RTOs are now regulated by ASQA, with the remaining, VRQA regulated group largely comprising smaller entities. Similarly, the majority of applications for extension of scope of current registration involve the addition of two qualifications.

Consequently, revenue from these additional fees has only been factored into the revenue calculations in Table 4.3 to the extent that applications for registration as an RTO generally incorporate 11 qualifications (which would trigger an additional charge of $100 per application).[18]

4.2.3. Expected costs of the option

Comparison of the ASQA 2014 fees with the cost estimates reveals that individual fees would differ widely in terms of the percentage of estimated direct regulatory costs that they recovered. This is explained by differences in the relative cost structures of ASQA and VRQA (and differences in the scope of their activities).

However, the result of this wide divergence in cost recovery levels is that, in common with Option 1, above, this option would perform poorly in terms of achieving equity between regulated parties and this inequity would be maintained over the life of the Ministerial Order. Moreover, while it would achieve a slightly higher level of cost recovery than Option 1, it would still mean that around three quarters of the cost of regulating the VET sector would be borne by the taxpayer.

4.3: Option 3 – Adapt the ASQA 2014 fee structure, but with fees set at levels that fully recovers costs

4.3.1. Description of the option

Under this option, VRQA would adapt the ASQA fee structure by replicating the fee structure as far as possible, but then introducing additional fees where a Victorian head of power exists in order to recover the costs of activities undertaken by VRQA but in respect of which ASQA charges no fee[19] . All fees would then be prescribed at levels that fully recover the costs of those regulatory functions to which they relate.

Unlike Option 2, this option would introduce some minor differences between the two fee structures. These would effectively reflect differences in legislative heads of power and the precise nature of the regulatory functions undertaken in the two jurisdictions. The primary objective under

[18] As noted, applications to extend the scope of registration generally relate to two additional qualifications so the standard ASQA fee of $350 per qualification would apply.

[19] Because ASQA does not undertake similar functions.

this option is to fully recover VRQA regulatory costs, so would introduce fees for some regulatory functions, where ASQA has no comparable requirements. This option would also involve removal of the 50% discount on the annual registration fee for registered school and ACFE Board registered organisations, as its retention is not consistent with an approach that has an immediate move to full cost recovery as its fundamental objective.

The unit cost of each regulatory function is calculated according to the independent cost estimation exercise undertaken to support this impact assessment, as described in Chapter 3. It should be noted that these cost estimates relate to 'standard' VET functions, namely, initial registration (for 11 qualifications) and extensions of scope (an additional two qualifications). These unit cost estimates are the basis for the fee for each regulatory function, outlined in Table 4.4 (below).

The employment of a uniform fee for RTOs (for the respective regulatory functions) necessarily implies some degree of cross subsidy if there are differences in the actual cost of regulatory administration to VRQA. This might be due to the industry or type of service offering on the part of the RTO, its size (in terms of enrolments, for example) or even its legal status. For example, schools and ACFE VET providers are subject to other forms of regulatory oversight, which is expected to reduce the cost of regulatory administration for VRQA (although the precise magnitude of the cost differential has not been quantified). Acknowledgement of this (expected) cost differential was one contributor to the historic policy of applying a 50% discount on the annual registration fee for school and ACFE RTOs, in addition to an explicit policy objective to maintain the 'affordability' of regulatory administration. In practice, removal of this discount would mean that VRQA would slightly over recover its costs in respect of school and ACFE VET providers, given that the fee calculations on which this option are based do not specifically account for these lower regulatory costs.

However, VRQA has not considered introducing a more complex fee structure – that sets fees at different levels for different types of RTOs, for example – as there is no reliable or accurate basis on which to base any such differential fees. That is, it does not have data that would enable it to determine the extent to which regulatory costs for ACFE providers and schools fell short of the average. In short, there is a minor trade off between simplicity and issues of efficiency and equity implicit in this option.

A further aspect of this option is the treatment of more complex applications. The previous section noted that the ASQA fee structure incorporates additional charges where the number of qualifications, units of competency or delivery sites exceeds certain threshold levels. The *Cost Recovery Impact Statement* published in relation to the ASQA fees indicates that these additional fees were incorporated into the ASQA fee structure to ensure a better alignment of the fees charged and regulatory costs incurred between different regulated entities. Thus, the statement indicates that:

> *"Major fees and charges are structured as follows:*
>
> - *base fees and charges for predictable activities that apply to all registrations/accreditations;*
> - *additional fees and charges for identifiably more complex activities;*
>
> *.....*

For complex regulatory activities that can vary significantly based on the nature of the application, a tiered component has been built into the fee, based on the scope and scale of the application" (pp 14-15).

Thus, these fees were structured to ensure that the incremental costs to ASQA associated with the assessment of more complex applications were recovered.

While VRQA has commissioned an analysis of its own cost structures, which allows most fees to be aligned directly with identified average costs, this analysis did not contain the level of detail required to identify separately the additional costs incurred by VRQA in assessing more complex registration and accreditation applications.

Therefore, the question arises under this option as to how determine at what level VRQA should set these various subsidiary fees. In the absence of VRQA-specific cost estimates, it has been determined that these fees should be set at the same level as that proposed by ASQA, in Year 1 of the Ministerial Order. The degree of cost recovery that would be achieved by VRQA in respect of these subsidiary fees cannot be determined precisely.

However, Chapter 3 concluded that VRQA's unit costs are likely to exceed significantly those of ASQA, given the material set out in ASQA's *Cost Recovery Impact Statement*, with the difference believed to be largely influenced by the substantial differences in the number of RTOs that fall within their respective jurisdictions. Given this, it is unlikely that specification of these incremental fees at the same level as those proposed by ASQA will fully recover VRQA's costs.

The implications of setting these fees at levels that under-recover VRQA costs are unlikely to be significant, however, either in terms of aggregate revenue for VRQA or in terms of efficiency and equity. This is because VRQA expects to receive very few applications from RTOs which have operations of sufficient scale as to prompt these fees to be levied. Thus, while there is currently no reliable basis for estimating what additional revenue is likely to accrue from these fees, it is clear that the amounts involved will be minimal in relation to the overall fee revenues expected to be derived under this Ministerial Order.

Additional fees

Finally, this option includes additional fees, not prescribed in the ASQA fee structure, as it seeks to recover all regulatory costs where a legislative head of power exists and where the magnitude of costs for VRQA is known.

The cost estimation exercise undertaken for this RIS identified a further element of the RTO application process that generates significant unit costs for VRQA, even though its incidence is expected to be relatively low (around five per annum). This is the additional assessment undertaken at the time of initial application or renewal of registration to determine whether a private RTO is exempt from the 'principal purpose' provisions in the Act, which in turn, determines whether the RTO will be bound by the forthcoming consumer protection regulations.

ASQA does not undertake this function and therefore, does not have an equivalent fee. However, the Act allows for VRQA to apply an additional fee for this process and as such, it is included in the proposed fee schedule (and at a level intended to fully recover VRQA's costs). This inclusion is consistent with the general cost recovery based focus of this option.

Another two minor fees that would be imposed under this option relates to the following:

- Application fee for the issue of a certificate confirming completion of an apprenticeship
- Applications for reissue of Completion Certificate or for an extract from the Register in relation to an apprenticeship.

Strictly speaking, apprenticeships are not VET qualifications and there are no equivalent ASQA fees or functions. However, these are activities for which a legislative head of power exists to impose fees.

Regulatory responsibility for these functions will transfer to the VRQA on 1 October 2012 as a result of changes introduced by the *Education Legislation Amendment (VET Sector, Universities and Other Matters) Act 2012*.

VRQA has advised that the resourcing required to respond to these requests involves 0.75 hours of a VPS2 staff member's time and 0.5 hours of a VPS6 staff member's time on average. A unit cost of $66 is derived by using the VPS rates employed for the previous VET cost estimates – and used later in the estimation of school / OSSEO costs – and with a multiplier of 1.75 to account for overheads. An average of 1725 requests has been received per annum in recent years. This is the basis for this fee and expected revenue under Option 3.

4.3.2. Expected benefits of the option

VRQA fully recovers the costs of its regulation of the VET sector under this option and, as a consequence, is not reliant on budgetary appropriations (and by implication, taxpayer subsidisation). Therefore, this option performs strongly from an efficiency and equity perspective, in that the RTOs that generate costs for VRQA directly bear those costs through regulated fees. The following table summarises outcomes under this option.

Table 4.4: VRQA under full cost recovery

Fee type	Prescribed fee	Forecast revenue
RTO Registration		
Application lodgement fee	$1,726	$2,281,861
Assessment fee	$13,486	
Assessment of 'Principal Purpose'	$5,000	$25,000
Annual registration fee	$4,183	$2,150,149
Change of scope of registration (per qualification)	$796	$281,631
Issue of apprenticeship certificates and / extract from Register	$66	$113,850

Fee type	Prescribed fee	Forecast revenue
Accreditation		
Course accreditation / renewal	$7,122	$341,852
Amendment to an accredited course	$1,964	$39,283
Total		***$5,234,050***

*Forecast revenue is based on a common fee for all RTOs.

**Revenue from the various subsidiary fees for applications for registration and extension of scope where the number of qualifications exceeds 11 and 2 respectively is not included in these estimates due to the very low expected incidence.

4.4.3. Expected costs of the option

While broadly consistent with the DTF Cost Recovery Guidelines, this option would represent a substantial immediate increase in fees for all RTOs and introduce a significant degree of disparity between the VRQA and national fees. It is therefore, at least arguably, inequitable in that different Victorian RTOs would face very different fee levels, depending on which jurisdiction regulated them.[20]

The more mobile RTOs could be encouraged to move across to the national framework in response to these differences, were they to consider the impact on their overall cost structures to be sufficient to justify such a change. To the extent that this occurred, their students would not be afforded the consumer protections that will shortly become available under the Victorian regulatory arrangements.

4.4. Option 4: Adaptation of ASQA fee structure for 2013, then a staged move toward full cost recovery

4.4.1. Description of the option

The discussion of Option 3 noted that the fee increase required to fully recover costs is substantial and the immediate implementation of fees at this level might, as suggested above, encourage some RTOs – particularly private 'for profit' operators – to consider moving to the national regulatory framework. However, it has been noted that Victorian Government policy with respect to regulated fees generally recommends that they are set with a view to fully recovering costs, while recent analysis of the VRQA's activities by the Victorian Auditor General also recommended that fees be set with greater reference to cost.

Option 4, therefore, is similar to Option 3 in terms of fee structure but entails moving the individual fees progressively toward the achievement of full cost recovery over a four year period.

[20] Specification of the various subsidiary fees at the same level as that prescribed by ASQA under this option is not expected to have any material impact on RTOs or VRQA due to the very low volumes of such activities.

In practice, this means the current ASQA fees would be adopted, and additional fees introduced where a legislative head of power exists (as per Option 3), in Year 1. However, the quantum of most fees - i.e. those that are consistent with the ASQA fee structure - would be identical to the ASQA fees in year 1. This would imply that individual fees would recover costs to varying degrees, as is the case under Option 2.

In year 2, fees would be set at a level that recovered 50% of VRQA's VET sector regulatory costs, while also recovering 50% of the specific costs to which the fees related. That is, there would be restructuring of the relative size of the various fees in Year 2 in order to achieve a better alignment of individual fees and costs than would be achieved by adopting the ASQA fees unamended. In Years 3 and 4, cost recovery levels would increase to 75% and 100% respectively, through equal percentage increases in each fee.

As with the previous option, this option includes the implementation of a fee for assessment relating to an RTO's principal purpose at a level that fully recovers VRQA's costs in Year 1, and the two fees relating to the preparation of certificates relating to apprenticeships, even though there are no equivalent fee in the ASQA fee structure.

In terms of the various subsidiary fees, it was noted above there is no reliable basis for determining the precise incremental costs to VRQA of undertaking these relatively large assessments (even though they are expected to exceed those for ASQA and therefore, would not be fully recovered under the ASQA fee structure). Thus, under this option, VRQA would specify them at the same level as ASQA in Year 1 and then adjust these subsidiary fees to reflect CPI increases in subsequent years. As noted above, the aggregate impact of these fees is expected to be small in light of the very small incidence of these applications and CPI adjustment means it is unlikely that VRQA will over-recover costs.

Finally, this option would also retain the 50% discount on the annual registration fee for ACFE and school RTOs. This reflects the fact that there remains a strong policy commitment to the retention of this discount – which has been in place for many years.

The fees that would be adopted and the revenue expected to be generated under this approach are described in the following table. The table also highlights the revenue foregone due to the maintenance of the 50% discount on annual registration fees for school and ACFE RTOs. This amount increases progressively with the level of cost recovery being achieved, until it reaches a level of approximately $0.5 million per annum in year 4 and thereafter, or around 10% of the total revenue that would be generated were this discount not to be applied.

Stakeholder Question: *In light of the move to full cost recovery implicit in the adoption of Option 3, stakeholder views on the appropriateness of maintaining the fee discount for school and ACFE RTOs are particularly sought.*

Table 4.5: Impact of 4-year phased approach to full cost recovery

Fee type	2013	2014 (50%)	2015 (75%)	2016 (100%)
RTO Registration				
Application lodgement fee	$640	$863	$1,294	$1,726
Assessment fee	$3,400	$6,743	$10,115	$13,486
Assessment of Principal Purpose	$5,000	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)
Annual registration fee for school and ACFE providers	$325	$1,045	$1,568	$2,091
Annual registration fee for all other RTOs	$650	$2,091	$3,137	$4,183
Change of scope of registration (per qualification)	$350	$398	$597	$796
Issue of apprenticeship certificates and / extract from Register	$66	$66 (CPI adjusted)	$66 (CPI adjusted)	$66 (CPI adjusted)
Accreditation				
Course accreditation / renewal	$2,700	$3,561	$5,341	$7,122
Amendment to an accredited course	$500	$982	$1,473	$1,964
Total revenue	***$1,371,400***	***$2,563,570***	***$3,775,476***	***$4,719,664***
Revenue foregone due to fee discount for school & ACFE RTOs	***$79,500***	***$257,010***	***$385,728***	***$514,386***

NB: Volumes are assumed constant over the period. Fees increase at different rates and some decrease as each fee recovers a different proportion of allocated costs in Year 1 under the ASQA fee structure

*The estimated costs for application lodgement and assessment did not differentiate between the two functions so the unit cost for the application process is recovered through the two relevant fees in the same proportion as Year 1.

**As with Options 2 and 3, expected aggregate revenue under this option does not include revenue from the various subsidiary fees that would apply to applications for registration and extension of scope where the number of qualifications exceeds 11 and 2 respectively due to low volumes.

4.4.2. Expected benefits of the option

This option represents a more gradual adjustment towards full cost recovery and therefore provides Victorian RTOs with more time to adjust to the new fee structure and the higher quantum of fees than would be available under Option 3. Despite this, it would achieve a full cost recovery outcome within a limited period of time and would substantially increase cost recovery above the levels provided in Option 2 from year 2 onward.

4.4.3. Expected costs of the option

While VRQA would ultimately recover all regulatory costs under this option, it will introduce a situation where VRQA-regulated RTOs are obliged to pay substantially higher fees than those regulated by ASQA, thereby arguably conflicting with the principle of horizontal equity.

5. Options for School and OSSEO fees

5.1. Introduction

As noted above, VRQA is currently constrained in its capacity to generate revenue through fees in the school and OSSEO sector and, as a result, may seek Government support for legislative amendments that would broaden its fee-setting powers. However, as the current Ministerial Order is scheduled to expire at the end of 2012 and must be replaced before this expiry date, it is necessary to consider only those fees options that are available under the current legislative head of power in the context of the currently proposed Ministerial Order.

As a result, this impact assessment considers two feasible options for school sector and OSSEO fees:

- ***Option 1 –*** Retention of fees at their current level with annual CPI based adjustment in line with DTF Guidelines; and
- ***Option 2*** – Specification of fees at a level that fully recovers the costs of the specific regulatory activities to which the fee relates.

Another feasible option for the school and OSSEO fees would be to establish a gradual path towards full cost recovery over the life of the Ministerial Order. For example, VRQA could prescribe the fees at their current level or seek to recover a common proportion of unit costs in year 1, and then increase each fee in subsequent years. There would appear to be some merit in considering this option for the school and OSSEO sector – even at a hypothetical level – as it is similar to Option 4 for the VET sector (as discussed in the previous chapter).

However, the remainder of this chapter will demonstrate that there is little difference between Options 1 and 2 in terms of the recovery of costs at an aggregate level (3.5% compared with 8.4%). As this additional option would fall between the two in terms of contribution to the cost recovery at an aggregate level, the decision has been made to exclude any detailed calculations for this option in this impact assessment and exclude it from it from the formal comparison of options in Chapter 7. In summary, there is deemed to be insufficient distinction between this additional option and the 2 options identified above to warrant further analysis.

5.2. Option 1: Retain current fees

5.2.1. Description of the option

Under this option, VRQA would retain its current fees and fee structure as prescribed under the current Ministerial Order, with annual adjustments in line with DTF guidelines over the life of the Order.

Table 5.1 sets out the resulting fees and the estimated revenue that would be generated. The estimated volumes were provided by VRQA and are based on current registrations and the calculation of average annual levels of actual regulatory activity. The costings associated with individual fees are based on bottom up estimates of the costs that can be directly attributed to those regulatory functions for which VRQA is able to charge a fee. These costs were developed through discussions with VRQA officers involved in the administration of these functions and include the various resourcing inputs, the time involved in performing certain tasks and an appropriate allocation of overheads.

Table 5.1: Indicative 2013 fees and estimated revenue

Fee type	Indicative 2013 fee	Estimated volumes	Estimated revenue for 2013	Proportion of cost recovery
School registration				
Application: • **lodgement** • **assessment**	 $430 $1,280	26	$44,460	19%
Amendment of registration	$856	47	$40,232	139%[21]
Senior Secondary Qualification Registration				
Registration to provide a Senior Secondary Qualification	$425	7	$2,975	8%
Registration to provide an additional Senior Secondary Qualification course	$425	2	$850	18%
Registration to award, confer or issue a Senior Secondary Qualification: • application • assessment	$1,075 $4,295	-	-	
Registration to award, confer or issue an additional Senior Secondary Qualification	$1,710	0	-	-
Approval to Provide Courses to Overseas Students by a registered school or registered Senior Secondary Qualifications provider				
Registration to provide courses to overseas students	$856	4	$3,424	15%
Amendment of registration	$856	4	$3,424	88%
Accreditation of a Senior Secondary Qualification				
Accredit a Senior Secondary Qualification	$2,700	3	$8,100	N/A
Application for extension of accreditation period	$102	0	0	-

[21] See section 5.2.3

Fee type	Indicative 2013 fee	Estimated volumes	Estimated revenue for 2013	Proportion of cost recovery
Overseas Secondary Student Exchange Organisations				
Registration: • application • assessment	 $420 $1,680	3 (forecast annual average)	$6,300	90%
Half term review	Up to $1,680	26	Up to $43,680	-
Annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: No of students: d) 1 – 15 e) 16– 50 **f)** (c) 51 +	 $215 $420 $840	26 (14,11,1)		 43% 42% 57%
Total school sector revenue				***$101,950***
Total OSSEO revenue				***Up to $58,450***

5.2.2. Expected benefits of the option

Table 5.1 shows that retention of the current fee structure with fees set at the same level in real terms (i.e. adjusted in line with DTF guidelines for 2013), would generate revenue of around $160,000. By contrast, the regulatory costs associated with the school and OSSEO sector were estimated above at $4.757 million. Thus, this option would achieve cost recovery levels of approximately 3.5%.

However, while the overall level of cost recovery achieved is low, Table 5.1 also shows that cost recovery levels are substantially higher when the fees are compared with the direct costs of the regulatory activities to which they relate. This latter comparison is arguably the most appropriate one, given the principles contained in the Cost Recovery Guidelines.

This option effectively maintains the status quo in terms of the level of fees and the degree of cost recovery. There may be some merit in this approach in an uncertain environment, particularly where there is a reasonable prospect of legislative amendment: that is, it is arguable that significant fee changes should be avoided in the short term if there is a strong prospect of more substantial changes being adopted in one to two years' time.

More generally, maintenance of the fees at their existing low levels can be considered to be appropriate with regard to the not-for-profit nature of the schools sector and the high level of government funding of the sector. In regard to the latter, it can be noted that there is a real prospect that substantial fees increases could, in turn, generate demands for additional funding to meet these additional expenses.

5.2.3. Expected costs of the option

This option is an inefficient approach when considered in the terms of the DTF Guidelines in that not only does VRQA continue to rely almost entirely on budgetary funding but also that individual fees differ substantially in terms of their respective contributions to cost recovery. These differentials in cost recovery levels for individual fees are unsurprising given that school sector and OSSEO fees have not previously been set with direct reference to the cost of regulatory administration.

A particular issue is that one fee appears to over-recover the relevant cost base by a significant proportionate amount, raising questions as to its appropriateness. In practice, however, this fee includes provision for the possible requirement to engage expert contractors to assist with assessment of applications or potential litigation.

5.3. Option 2: fees set to recover 100% of costs associated with specific regulatory functions

Description

Under this option, VRQA would maintain the current fee structure but set fees at a level that recovers all costs that can be *directly* attributed to the specific regulatory function. The fees that would be charged under this option are summarised in Table 5.2, below. The table includes a calculation of the percentage increase in the current fee necessary to achieve full cost recovery. This option would generate revenue of approximately $399,260, using the same estimated volumes employed above. This represents cost recovery at an aggregate level of 8.4%.

Table 5.2: Indicative 2013 fees and estimated costs

Fee type	Indicative 2013 fee	Fee for full cost recovery	Percentage increase required to achieve full cost recovery
School registration			
Application	$1,710	$9,129	434%
Amendment of registration	$856	$612	-
Senior Secondary Qualification Registration			
Registration to provide a Senior Secondary Qualification	$425	$5,183	1120%
Registration to provide an additional Senior Secondary Qualification course	$425	$2,295	440%

Fee type	Indicative 2013 fee	Fee for full cost recovery	Percentage increase required to achieve full cost recovery
Registration to award, confer or issue a Senior Secondary Qualification: • application • assessment	$1,075 $4,295	$18,611	246%
Approval to Provide Courses to Overseas Students by a registered school or registered Senior Secondary Qualifications provider			
Registration to provide courses to overseas students	$856	$5,610	555%
Amendment of registration	$856	$972	13%
Overseas Secondary Student Exchange Organisations			
Registration: • application • assessment	 $420 $1,680	$2,355	11%
Half term review	Up to $1,680	Up to $1,486	-
Annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: No of students: d) 1 – 15 e) 16– 50 **f)** (c) 51 +	 $215 $420 $840	 $494 $987 $1,481	-
Total school revenue			***$334,304***
Total OSSEO revenue			***Up to $64,955***

5.3.2. Expected benefits of the option

Total revenue under this option is more than twice that generated by Option 1, raising cost recovery to over 8% of the total costs associated with the administration of VRQA's school sector and OSSEO regulatory functions. Moreover, this option effectively maximises potential revenue within the school/OSSEO sector, given the constraints imposed by the current legislative head of power to set fees, while also ensuring that the level of cost recovery attained in respect of each individual fee is equalised.

Therefore, this represents the most efficient available solution and one that is also superior in terms of horizontal equity to the current arrangements.

5.3.3. Expected costs of the option

Those schools, other providers and organisations that undertake activities that trigger a fee - essentially any schools seeking initial registration, together with those seeking to alter some aspect of their registration, would face significantly higher fees than under current arrangements. This could raise affordability issues in some cases, while the size of the "one off" increase in fees implicit in this option, at more than 100% on average, could be seen as being excessive.

Moreover, while this fee structure arguably improves horizontal equity in one dimension - in that all fees generate the same level of cost recovery - it could be said to reduce horizontal equity by increasing the contribution to regulatory costs of that minority of schools that pays fees each year, while the majority of schools will continue to avoid paying any fees.

6. Higher education sector

6.1 Introduction

The higher education sector is very stable in that there are few new entrants and little variation of scope of registration and accreditations. As noted in section 1, regulatory responsibility for this sector passed to the Federal Government, via TEQSA, in January 2012. However, due to definitional issues arising in the context of the legislation authorising TEQSA's regulatory activities, there is a single Victorian non self-accrediting higher education provider that cannot currently be regulated Federally. Given VRQA's historical role in regulating this sector, responsibility for regulating this one provider continues to fall within VRQA's jurisdiction, albeit that this is likely to be a temporary situation.

This situation, in which VRQA's role is a "legacy" one which it exercises in relation to only one provider, is not expected to change substantively in coming years, as any new entrants to the sector are expected also to be regulated by TEQSA. This means that VRQA's regulatory role in relation to the higher education sector is extremely limited in scope.

Consequently, VRQA does not designate specific staff resources to this regulatory function. Neither is it possible to identify specific resources within VRQA's aggregate expenditure items that could reasonably be attributed to the regulation of the higher education sector. At the same time, the infrequent nature of the regulatory activities historically undertaken in relation to this sector means there is little historic basis on which to base cost estimates.

As a consequence of these factors, there is no reliable basis for identifying and quantifying the costs associated with regulatory functions. It is clear, however, that few resources are likely to be devoted to these activities. Indeed, regulatory input from VRQA will be required only if the one provider for which it is responsible chooses to apply to seek re-authorisation to conduct higher education courses, vary its authorisation or make changes to its set of accredited courses. Thus, it is entirely possible that there will be effectively zero regulatory input in some years.

With the establishment of TEQSA, the VRQA has disbanded its higher education unit and the VRQA Board has disbanded its higher education advisory committee. The VRQA no longer has any staff or processes in place to regulate higher education providers. In these circumstances the VRQA would need to engage higher education experts on a fee-for-service basis to undertake these tasks.

Despite the limited overall size of VRQA's regulatory role in this sector, the resources required to undertake specific regulatory functions in terms of changes in registration or course accreditation status are substantial. This fact is reflected in the fees provided for in the current Ministerial Order, which are significantly larger in relation to the higher education sector than in relation to the VET sector. Similarly, review of the fee structure recently established by TEQSA demonstrates that substantial regulatory inputs are required to complete these functions: While TEQSA states that it has set these fees at a level intended to partially recover the estimated costs of the activities involved in carrying out each regulatory function[22], the fees set out are comparable in size to the current Victorian fees.

Given the potential for substantial regulatory resources to be devoted to individual applications made in the higher education sector, it is necessary for the proposed Ministerial Fees Order to include fees that can be charged to higher education providers. These fees would be levied in the event that the single currently registered provider seeks to vary the scope of either its registration or accreditation, or that a new provider that falls outside TEQSA's jurisdiction commences operation.

However, as noted above, there is no sound data on regulatory costs available to form the basis of fee setting. In this context, two feasible options have been identified: to continue the current fees for higher education providers or to adopt the TEQSA fee structure. The impact of these options is discussed below.

6.2 Option 1 – Retention of current fees

6.2.1. Description of the option

Table 6.1 summarises the level at which the various fees would be set for 2013, if VRQA were to retain its current fees.

Table 6.1: 2013 VRQA fees for higher education

Activity	Proposed fee
Registration / approval	
Authorisation to conduct higher education courses:	
• Initial investigation of application	$1,540 (non refundable)
• Investigation of application from a higher education institute registered in another State applying under mutual recognition	$2,050 plus$2,050 per additional course (excluding nested courses)
• Investigation of applications from all other applicants	$6,660
• investigation of approval to conduct a non AQF course for each course	$2,050

[22] Note, however, that TEQSA also states that it recognises that these cost estimates were developed in advance of it assuming various regulatory functions and are therefore necessarily imprecise. Given this, it states that it also had regard to fees charged by other agencies, including the state and territory accrediting authorities and the former Australian Universities Quality Agency. Moreover, it has stated its intention to review its fees in 2013, having regard to the collected data on costs for performing its functions following commencement of its regulatory role, and to under formal consultation in this context. See: http://www.teqsa.gov.au/teqsa-fees.

Activity	Proposed fee
Investigation of application to conduct a higher education course involving the assessment of major changes, as defined by the National Protocols for Higher Education: • no site assessment by the Authority is undertaken • a site assessment by the Authority is undertaken	 $2,050 $3,080
Investigation of all other applications for authorisation to conduct a course of study in higher education	$2,050
Accreditation	
Accreditation of a higher education course application fee: • Plus investigation fee	 $2,050 Ranges from $4,000 to $6,400 (depending on type of course, e.g. diploma, bachelor degree, etc.)
Investigation of application to accredit a higher education course involving the assessment of proposed major changes, as defined in the national protocols, affecting course accreditation	$2,050
Fee to investigate an application to accredit a higher education course involving the assessment whether a suspension of accreditation of a higher education course should be lifted, or to investigate whether to revoke or vary accreditation conditions	$2,050 (VRQA has discretion to waive this fee)

Note: The current Ministerial Order includes fees for universities that are seeking to register to provide higher education. However, it is assumed that all universities will fall within TEQSA's jurisdiction from now on so these fees are excluded from this analysis.

6.2.2 Discussion of Option 1

This option would maintain the status quo from the perspective of the one higher education provider expected still to be regulated by the VRQA. Given the above-mentioned problems in estimating likely regulatory costs in this area, combined with the fact that these fees have not previously been made with direct reference to VRQA costs, it is not possible to determine what level of cost recovery would flow from the adoption of these fees. However, as noted above, it is expected that the aggregate cost of acquitting these regulatory functions will below, and is likely to be zero in some years.

The continuation of the existing fee structure is considered to be superior to the option of making no fees, since there is no evident reason that the sole provider that will remain under the VRQA umbrella should be treated substantially differently from the rest of the sector in this regard.

6.3 Option 2: Adopt TEQSA fees

6.3.1. Description of the option

Under this option, VRQA would adopt the TESQA fee structure where a head of power exists and then set fees at the same level. Fees under this option are summarised in Table 6.2.

Table 6.2: TEQSA fees for higher education

Activity	Proposed fee
Registration / approval	
Higher education provider:	
• preliminary assessment application	$5,500
• substantive assessment application	$16,500
Renewal of registration	$20,000
Accreditation	
Preliminary assessment	$2,000
Substantive assessment	$7,000
Renewal of accreditation	$8,000
Other activities	
Applications to vary or revoke a condition of registration or accreditation	$2,500
Application for approval for specific changes under the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007	$2,500

Note: The TEQSA fee structure includes fees for universities that are seeking to register to provide higher education. However, it is assumed that all universities will fall within TEQSA's jurisdiction from now on so these fees are excluded from this analysis.

It should be noted that, formally speaking, the proposed VRQA fees would relate to the *investigation* of applications, rather than their assessment, and for the *approval* of certain providers, rather than their registration. These changes to the TEQSA template reflect the specific fee-setting powers created in the Victorian legislation.

6.3.2 Discussion of Option 2

This option provides a simpler fee structure than option 1 and ensures consistency in the treatment of higher education providers, irrespective of whether they fall under TEQSA or VRQA's jurisdiction, i.e. it is equitable from a horizontal perspective.

In general, the TEQSA fees appear to be somewhat higher than those currently in place in Victoria, although the fee structures are different and a simple comparison of the fees is not possible.

In terms of the contribution to cost recovery, TEQSA notes that it is seeking to partially recover its costs through prescribed fees. It is reasonable to expect that the unit cost to VRQA of the same regulatory functions will exceed that of TEQSA, simply because it will not reap the scale economies from which TEQSA is likely to benefit, given the large number of providers which it will regulate[23]. This means that even were the TEQSA fees to be adopted, revenue received by VRQA would almost certainly fall well short of recovering the attributable regulatory costs.

[23] These scale economies are apparent in the VET sector where a simple comparisons of the ASQA and VRQA's respective average cost per regulated entity indicates that the latter exceeds that of the former

7. Comparative analysis of identified options

7.1. Introduction

While this impact assessment relates to a single subordinate instrument, the previous chapters have shown that the proposed fees are in three parts, relating to three different sectors:

- the VET sector
- the school and OSSEO sector
- the higher education sector.

Moreover, the respective fees are made under different heads of power and are administered by two different Victorian Government Ministers (the Minister for Higher Education and Skills and the Minister for Education).

To an extent, the choices among fees options under consideration in this RIS are linked, as views taken in relation to the appropriate degree of cost recovery in one sector will necessarily influence the approach taken in the others. Nonetheless, assessments of the options considered above must be undertaken separately in relation to the three sectors.

In each case, the assessment undertaken below considers the relative performance of the proposed options against the base case of an absence of a Ministerial Order, i.e., a situation in which VRQA is entirely dependent on budgetary appropriations to fund its regulatory functions. This reflects the fact that the existing Ministerial Order will cease to have effect at the end of 2012.

The options considered involve the achievement of different levels of cost recovery and the adoption of different fee structures. While benefit/cost analysis (BCA) is the default analytical tool to be adopted in the RIS context, there are two broad types of context in which a full BCA is either infeasible or inadequate as a means to guide decisions. These are where full quantification of all significant benefits and costs is not possible and where objectives other than efficiency constitute important to the decision criteria. In these cases, the *Victorian Guide to Regulation* requires Multi-Criteria Analysis (MCA) to be used.

The VCEC also notes, in respect of fees regulations:

> *An MCA is also often an appropriate decision tool for RISs that consider regulations imposing fees and/or charges, where the fee structure is in part intended to achieve objectives other than efficiency (such as equity). In this case, the objective may be to fund the costs of efficiently administering the particular regulations through cost reflective and equitable fees. An MCA allows the arguments for the proposed fee level (in particular, any divergence from full cost recovery) to be presented transparently.*[24]

Given the above, the following comparison of the various options is conducted in terms of an MCA.

[24] VCEC (2011). ***Multi-Criteria Analysis - Guidance Note.*** See: www.vcec.vic.gov.au

7.2. Assessment criteria

The assessment criteria employed in an MCA typically relate directly to the stated objectives of the legislative and subordinate instrument to which the analysis relates. However, the proposed Ministerial Order does not prescribe policy objectives so this section includes a discussion of an appropriate basis for the determination of fees, namely, to recover an appropriate proportion of VRQA's costs from the regulated sector.

In this case, the MCA differs slightly across the VET, school / OSSEO and higher education sectors. While similar policy considerations are believed to apply, there are some significant differences in the regulatory environment which mean that different judgements may be made as to the appropriate policy position to adopt. Thus, in the VET sector there is some potential for jurisdiction shopping, as RTOs may transfer across to ASQA with relative ease (potentially in response to a substantial increase in fees). By contrast, no such option exists in the school / OSSEO and higher education sectors. The more relevant issue in this case is VRQA's traditional reliance on budgetary funding and the historically low level of fees (in terms of cost recovery). However, any substantial increase in fees may potentially jeopardise the ongoing provision of some qualifications and courses, depending on the cost structures of service providers.

More generally, however, the basic policy considerations in terms of fees RIS – including those relating to regulatory fees – mean that efficiency and equity must be at the core of decision-making in each of the three sectors. This point is made clearly in the DTF Cost Recovery Guidelines. Moreover, the Victorian Auditor General recommended that VRQA set fees with greater reference to cost recovery than has historically been the case.

Therefore, the following are identified as appropriate assessment criteria:

- *Efficiency and equity* – relevant for the three sectors.
- *Equity as between different producers* – relevant for the three sectors.
- *Consumer protection* – included in the MCA for the VET sector due to the potential for forum shopping.
- *Affordability* – relevant for the three sectors.

1. Efficiency and equity

As noted above, efficiency is generally enhanced if regulatory costs are recovered from the regulated industry. This reflects a view that the cost of regulation can appropriately be considered a part of the cost of producing the industry's outputs. Thus, ensuring that prices and costs reflect the full costs of production will ensure that production and consumption decisions are not distorted by effective subsidies. This means that allocative efficiency is promoted.

Equity is generally favoured where industry participants meet the full costs of regulations since, if this is not the case, there is inevitably a subsidy from taxpayers generally to producers and consumers within the regulated industry. Since many taxpayers will not consume the industry's services, this subsidy has negative equity implications in most cases.

To the extent that broader public benefits are associated with the industry's outputs, some degree of public subsidy of regulatory costs may be consistent with an improved equity outcome and, indeed, may also improve efficiency. However, while education is a standard example of a good which confers positive externalities, two considerations imply that subsidised fees are, nonetheless, not likely to improve efficiency or equity. First, where vocational education and training are considered, the balance of private and public benefits is likely to favour the private side of the ledger, given that the training provided is directly oriented toward improving employment prospects and opening access to more highly skilled and highly paid position. Second, the VET sector is one to which government provides substantial direct subsidies. Conceptually, these subsidies - which are largely provided on a per student hour basis – constitute the preferred means of responding to the positive externalities associated with education in this context.

2. Equity as between different producers

The majority of the fees currently charged seek to retrieve part of the costs of conducting specific regulatory tasks. Regardless of the level of cost recovery to be achieved in the aggregate, equity among regulated parties is enhanced if each makes a similar contribution to regulatory costs, in percentage terms. By contrast, if some parties pay certain fees which have high levels of cost recovery, while others pay fees with lower cost recovery levels, distortions will arise.

Given this, options which equalise cost recovery percentages across different fee payments are weighted more highly, regardless of the overall level of cost recovery achieved under the option.

3. Consumer protection

This criterion weighs the potential for substantial changes in fee levels to cause disruption within the industry and, in the case of VET, the transfer of RTOs from VRQA to ASQA in order to avoid those higher fees.

As previously discussed, the more mobile RTOs can transfer with relative ease and the consequence of a substantial shift across to ASQA would be to reduce the number of Victorian VET students who have access to various consumer protection measures that are likely to be introduced in late 2012 or early 2013 and which are a key element of the Victorian Government's VET policy objectives.

4. Affordability

The historic reliance on budgetary funding for VRQA's VET school, OSSEO and higher education functions means that a move towards full cost recovery will involve a large increase in the level of most fees. This raises concerns that service providers may reconsider their business operations and withdraw services if they are faced with substantially higher fees; this relates to the provision of certain courses and qualifications or in an extreme situation, the ongoing viability of their operations.

7.3. Weighting and scoring

The criteria identified above are all considered to be significant to the assessment of the options and have, therefore, all been given an equal weighting. This approach can be considered to be the default option in relation to the weighting of MCA criteria: in the absence of any strong arguments in favour of one or more criteria having greater weight than others, the use of equal weighting avoids any suggestion that the results of the MCA are biased by, or dependent on, the particular weightings used.

Consistent with VCEC's guideline, scores on each of the criteria have been assessed on a scale of - 10 to + 10. Positive scores are allocated where an option would achieve a better outcome in relation to a criterion than would be achieved in the base case. In the current context, the base case is one in which no Ministerial Order is made and, as a result, no fees are charged.

7.4. MCA of VET sector fees options

Four options were considered in relation to VET sector fees. These were:

- Remaking the existing fees without change;
- Adopting the current ASQA fees without change but with retention of the 50% discount on the annual registration fee for some RTOs;
- Adaptation of the ASQA fee structure, with additional fees where a legislative head of power exists and with fees at full cost recovery levels;
- Adopting an adapted version of the ASQA fee structure in year 1, with fees set at ASQA levels, then moving progressively to full cost recovery based fees over four years, subject to the retention of the 50% discount on the annual registration fee for some RTOs, as for Option 2. .

Criterion 1: Efficiency

Both options 1 and 2 imply that the substantial majority of the regulatory costs of the VET sector would continue to be met from budget allocations. Estimated cost recovery for Option 1 is in the vicinity of 21%, compared with around 23% for Option 2. By contrast, Option 3 would involve immediately moving to achieve full cost recovery, while Option 4 involves moving progressively from a 30% cost recovery position in year 1 to a full cost recovery outcome in year 4 and thereafter. Both options introduce additional fees where a head of power exists.

Given the efficiency benefits of internalising regulatory costs in industry pricing, as set out above, Option 3 clearly scores most highly against this criterion and receives a score of +10. Option 4 scores next highest, receiving a score of +9. The fact that significant taxpayer subsidies would still need to be provided in years 1 to 3 under this option explains its lower score.

Option 2 performs substantially less well than Options 3 and 4 on this criterion, but clearly merits a significant positive score, given that it leads to a significant offset of regulatory costs by user contributions, in contrast to the base case. Thus, Option 2 scores +3 against this criterion.

Option 1 performs slightly less well than Option 2, but remains superior to the base case. Thus, it scores + 2 against this criterion.

Criterion 2: Equity between regulated parties

As discussed above, equity between regulated parties is served if different parties make the same proportionate contributions to the regulatory costs for which they are responsible. Options 3 and 4 both achieve this outcome. However, they differ slightly in that Option 3 would achieve this outcome immediately, while Option 4 would achieve the outcome from year 2 onward. Thus, Option 3 scores + 10, while Option 4 scores + 9.

Option 2 performs less well in this regard – the proportion of cost recovery across the different fee categories ranges from 16% to 44% - but still receives a positive score (+2)

However, Option 1 performs poorly in this regard as the percentage of cost recovery differs quite randomly across the different fee types. As such, it is allocated a negative score (-1).

Criterion 3: Consumer protection

As noted above, the Victorian Government has introduced a range of specific consumer protections for VET students. These protections will, however, be available only to students of VET providers who are regulated by VRQA. The national regulatory system has no equivalent regulatory protections and there is no intention, at present, to adopt them. The consequence of these observations is that fees options that would result in fee increases of substantial magnitude could compromise the achievement of the government's consumer protection objectives.

Given the ease with which RTOs can shift across to ASQA, it is likely that large fee increases in the short term in particular would be likely to act as a factor encouraging RTOs, particularly private RTOs, to reconsider the scope of their activities with a view to moving to the federal regulatory system[25]. For RTOs already considering such a move, significant fee differences could constitute an important decision variable. As noted above, any such movement would have the effect of reducing the number of Victorian VET students that would benefit from the proposed introduction of consumer protection measures.

In considering the performance of the four options against this criterion, the relevant base case must be the ASQA fees. That is, it is only if an option contains fees that are higher than the ASQA fee level that an RTO will face any fee-related incentives to move to the national regulatory system and potential negative impacts on consumer protection will result. Thus, Option 1, which involves aggregate cost recovery levels that are slightly below the level implied by adoption of the ASQA fees in Victoria would yield a slight positive incentive to stay in Victoria. Option 2 yields a still smaller positive incentive since, while the fees are based on the ASQA fees, a small number would not be charged in Victoria, due to inadequacies in the relevant head of power. Thus, both these options yield small positive scores.

Conversely, Options 3 and 4 both involve setting fees at levels substantially higher than the ASQA level. However, there are significant differences. Option 3, which involves an immediate move to full cost recovery, would more than quadruple the amount of fees paid by RTOs collectively and would implement this change from Year 1. By contrast, while Option 4 would also yield a full cost recovery outcome, it involves a more gradual path towards full cost recovery, with this objective being reached only in year 4. This suggests that the incentive for private RTOs to migrate across to ASQA would be lower to some extent, as the immediate fee increases would be much lower and

[25] In practical terms, this would imply offering courses outside Victoria and Western Australia - potentially by distance learning and/or offering courses to overseas students, since only if at least one of these conditions is fulfilled will an RTO fall within ASQA's jurisdiction.

there would be an opportunity for RTOs to adjust to the new, higher fee environment over a period., Given the above, Option 1 receives a score of + 2, while Option 2 receives a score of +1. Option 3 receives a score of - 10, while Option 4 receives a score of - 7.

Criterion 4: Affordability

Each option receives a negative score for this assessment criterion as they all involve the imposition of fees on VET service providers and are measured against a base case involving full subsidisation of regulatory costs through budgetary funding. Options 3 and 4 involve the most significant increase in fees, albeit at different rates and receive negative scores (-5 and -3 respectively, with the latter reflecting the phased introduction and the retention of 50% discount on the annual registration fee for some RTOs). Options 1 and 2 receive scores of -1 and - 1.5 respectively, reflecting the fact that they impose significantly lower costs on RTOs than options 3 and 4 and that there are only minor differences between overall the two options in terms of total revenue collected.

Summary

Table 7.1 summarises the result of the above scoring of the options against the four relevant assessment criteria. It shows that Options 3 and 4, which involve moving to full cost recovery, receive substantially higher scores than do Options 1 and 2, which would make little or no change to current cost recovery levels. Option 4, which would see full cost recovery achieved in year 4 and thereafter, receives the highest score, of 10 points, while Option 3, involving an immediate move to full cost recovery, scores a somewhat lower 7 points. The key determinant of this outcome is that Option 4 scores more highly than Option 3[26] on the consumer protection criterion. This reflects the fact that an immediate move to full cost recovery would lead to substantial fee increases, averaging over 300%, for RTOs. By contrast, Option 4 would phase in these increases over a three year period.

Both options 1 and 2 receive positive scores, in substantial part because they perform better on the equity and efficiency criteria than the base case in which no fees would be collected. Option 2 receives a higher score, of 4 points (vs 2 for Option 1) largely due to performing better on these two criteria. This, in turn, reflects the fact that its fee structure both yields slightly higher revenue overall than Option 1 and a better matching of individual fees and costs.

Table 7.1: Multi-criteria analysis of VET fee options

Assessment criterion	*Option 1: remake existing fees*	*Option 2: Adopt ASQA fees*	*Option 3: Immediate move to full cost recovery, using adapted ASQA fee structure*	*Option 4: Staged move to full cost recovery, using adapted ASQA fee structure*
Efficiency & equity between regulated entities and taxpayers	+2	+2.5	+10	+8
Equity between regulated entities	-1	+2	+10	+9

[26] In practice, receives a lower negative score.

Assessment criterion	*Option 1: remake existing fees*	*Option 2: Adopt ASQA fees*	*Option 3: Immediate move to full cost recovery, using adapted ASQA fee structure*	*Option 4: Staged move to full cost recovery, using adapted ASQA fee structure*
Consumer protection	+2	+1	-8	-6
Affordability	-1	-1.5	-5	-3
Total	***+2***	***+4***	***+7***	***+10***

7.5. MCA of School and OSSEO options

The following sets out the MCA for the options in relation to school sector and OSSEO fees. Only two feasible options have been identified in this respect: remaking fees at their existing levels - implicitly including a CPI based increase, as per the Treasurer's annual rate - and implementing a new set of fees which, while based on the current structure, would set individual fees at levels intended to recover fully the costs of the specific activities to which they relate. The two options are assessed in terms of the same three criteria used above in assessing the VET sector fees.

Criterion 1: Efficiency and equity as between regulated entities and taxpayers

Both options receive a positive score against this criterion, since both would ensure that regulated entities make some contribution to the costs of the regulatory functions for which a legislative head of power exists, whereas no fees would be charged in the base case and, consequently, no such contributions are made.

As discussed in the preceding sections, both options would achieve limited levels of cost recovery at an aggregate level. This reflects the fact that there is currently no legislative head of power to charge an annual fee to all registered schools to defray the substantial costs of the general supervision and auditing activity which constitutes the bulk of VRQA's regulatory activities in relation to this sector. Consequently, neither option scores particularly highly.

However, Option 2, involving fully recovering the costs of the activities to which individual fees relate, would achieve yield approximately twice the revenue of Option 1 and would see cost recovery levels for the school/OSSEO sector overall increase from around 3.5% at present to approximately 7%. Thus, Option 2 scores +10 points, while option 1 scores +4 points.

Criterion 2: Equity between regulated entities

Equity between regulated parties is served if different parties make the same proportionate contributions to the regulatory costs for which they are responsible. Option 1 performs poorly on this criterion: as indicated in Table 5.1, cost recovery in relation to individual fees varies from less than 20% to 100% under this option. Thus, some schools will make a far greater contribution to the regulatory costs they incur than will others. Option 1 receives a negative score on this criterion, since the base case is one in which all schools make the same (zero) contribution to regulatory costs and there is therefore no inequity between schools. Thus, Option 1 scores - 1 on this criterion.

Option 2, by contrast, ensures that there is full cost recovery in respect of the specific activities to which fees relate. Thus, a high level of horizontal equity is achieved among schools paying these specific fees. However, this option is more problematic still than Option 1 when the broader population of schools is considered. That is, the inequity between the majority of schools, that make no contribution to regulatory costs, and the minority that pay fees in respect of specific purpose applications is heightened by the fact that these specific purpose fees would double in size, on average, under Option 2. Thus, this option receives a positive score of + 2.

Criterion 3: Affordability

Option 1 involves no transitional costs, since the fees relating to schools would be remade without substantive change. Thus, it scores zero on this criterion. By contrast, the adoption of Option 2 would lead to significant fee increases for some schools, giving rise to issues regarding affordability. Thus, Option 2 scores - 6 on this criterion.

Summary

Table 7.2 summarises the results of the above scoring of the options against the three relevant assessment criteria. Table 7.2 shows that Option 1 receives an overall score of +3 points, while Option 2 receives a score of +2 points, i.e. both are superior to the base case. This result reflects the fact that, while Option 2 scores more highly on the first (efficiency and equity) criterion, it receives substantially lower scores in relation to both the horizontal equity and the affordability criteria (with the latter potentially impacting on the ongoing provision of educational services).

A key issue in relation to the assessment of these options is that of the absence of a legislative head of power to charge an annual registration fee to schools. This means that, even under Option 2, which seeks to recover fully the costs associated with particular applications for changes in status, overall cost recovery would be well under 10%. Given this, and the fact that most of VRQA's regulatory effort in this regard relates to general supervision and auditing of schools, consideration is currently being given to the case for amending the relevant legislation to enable such an annual fee to be charged. In this context, attempts to achieve full cost recovery in respect of a small range of specific regulatory activities can be seen as misconceived, when schools that do not make any of these specific applications do not make any contribution to regulatory costs.

By contrast, in a context in which an annual registration fee existed and ensured that all schools contributed to regulatory costs, an increase in specific-purpose fees could be considered to be a more appropriate option. This implies that a higher level of cost recovery in respect of these specific purposes fees could be sought in the future, were the relevant legislative amendments to be made. However, this issue is outside the scope of the current regulatory proposal.

Table 7.2: Multi-criteria analysis of school & OSSEO fees options

Assessment criterion	*Option 1: remake existing school / OSSEO fees*	*Option 2: Adopt full cost recovery based fees*
Efficiency & equity between regulated entities and taxpayers	+4	+10
Equity between regulated entities	-1	-2
Affordability	0	-6
Total	***+3***	***+2***

Option 1 generates some revenue, albeit a very small proportion of costs and VRQA remains highly dependent on budgetary appropriations. This a status quo option, which is considered appropriate in light of VRQA's intention to revisit current legislative parameters with respect to fees.

Option 2 recovers a higher proportion of costs but only as a result of a very substantial increase above current levels. More significantly, these fees are borne entirely by those regulated entities that undertaken the narrow range of activities for which VRQA is able to charge a fee. It is anticipated that such a change would encounter strong opposition from stakeholders and is problematic in a context where the fee revenue base is acknowledged to be narrow.

While there are significant obstacles to the specification of fees at levels to fully recover costs in the short term, it is anticipated that future legislative amendments will remove some of the constraints on VRQA's ability to levy fees for specific regulatory functions and thereby allow VRQA to seek to recover a higher proportion of regulatory costs through a more efficient, equitable and appropriate fee structure.

7.6. MCA of higher education options

The following sets out the MCA for the options in relation to higher education fees. Only two feasible options have been identified in this respect: remaking fees at their existing levels - implicitly including a CPI based increase, as per the Treasurer's annual rate - and implementing a new set of fees that mirror those implemented by TEQSA. The two options are assessed in terms of the same three criteria used above.

Criterion 1: Efficiency and equity as between regulated entities and taxpayers

Both options receive a positive score against this criterion, since both would ensure that regulated entities make some contribution to the costs of their regulation, whereas no fees would be charged in the base case and, consequently, no such contributions are made.

There is no reliable basis on which to assess the cost to VRQA of these regulatory functions. Therefore, it is not possible to calculate what proportion of cost recovery either option would achieve, as was done in relation to the VET and school / OSSEO fees. However, it was argued above that neither set of fees would be likely to achieve full cost recovery, given TEQSA's recent analysis of this issue. Moreover, despite the differences in fee structure between the two options, it is clear that the TEQSA fees are higher overall than the current VRQA fees. Consequently, they would necessarily make a larger contribution to cost recovery.

Given this, Option 2 has been scored at + 5 points, while Option 1 is scored at + 3 points.

Criterion 2: Equity between regulated entities

Equity between regulated parties is served if different parties make the same proportionate contributions to the regulatory costs for which they are responsible. In this context (and with only one entity falling under VRQA's regulatory jurisdiction), an equitable approach would ensure all higher education providers face the same fees, irrespective of whether they are regulated by VRQA or TEQSA. This is achieved under Option 2, but not under Option 1.

However, the differences between the two fee structures are limited in scope. Moreover, it is clear that continuing the current VRQA fees would constitute a more equitable outcome than the base case of not making fees in this sector. Thus, both options score positively on this criterion.

That said, the absence of cost information that would enable the level of cost recovery to be benchmarked against that achieved in the VET sector means that both options must receive lower scores than otherwise would be the case.

Given the above, Option 2 scores + 5 points and Option 1 scores + 3 points.

Criterion 3: Affordability

Option 1 involves no transitional costs, since the fees relating to schools would be remade without substantive change. Thus, it scores zero on this criterion. By contrast, the adoption of Option 2 would lead to some changes to the current fee structure, although they will have little impact in practice due to the low level of activity. Thus, Option 2 scores - 1 on this criterion.

Summary

Table 7.3 summarises the results of the above scoring of the options against the three identified assessment criteria. It shows that Option 1 receives an overall score of + 6 points, while Option 2 receives a score of + 9 points. The fact that both options receive positive scores implies that both options are superior to the base case, in which no higher education fees would be made. Option 2 is superior to Option 1 due to its higher scores with regard to both the equity and efficiency criterion and the horizontal equity criterion.

Table 7.3: Multi-criteria analysis of higher education fee options

Assessment criterion	*Option 1: remake existing higher education fees*	*Option 2: Adopt TEQSA fees*
Efficiency & equity between regulated entities and taxpayers	+3	+5
Equity between regulated entities	+3	+5
Affordability	0	-1
Total	***+6***	***+9***

7.7 Conclusions

The MCA conducted above in respect of the options in relation to VET sector fees shows that Options 3 and 4, which would both lead to a full cost recovery outcome, albeit over different time horizons, are ranked substantially more highly than Options 1 and 2, both of which involve far lower cost recovery levels. These results reflect the general presumption in favour of full cost recovery based regulatory fees set out in the DTF Cost Recovery Guidelines and the fact that, in the current context, no compelling basis for departing from this presumption has been identified. As noted above, while there are clear positive externalities associated with education, in broader policy terms, these are effectively addressed through the provision of substantial public subsidies to RTOs based on student services provided.

However, while full cost recovery based fees are considered to constitute the most desirable outcome, the significant gap between current cost recovery levels of little more than 20% and the full cost recovery goal suggests that a staged approach is needed in order to provide regulated parties with time to adjust to the new fees environment. For this reason, Option 4 provides for a four year transition, with cost recovery rising from 26% approximately to around 50% the following year, 75% in 2015 and 100% in 2016.

It must be acknowledged that this fee path will create a situation in which, starting in 2014, VRQA-regulated RTOs will pay higher fees than will their Federally regulated equivalents. Furthermore, VRQA will seek to introduce new fees where a head of power exists, although they relate to infrequent regulatory activities. This arguably raises equity issues and also gives rise to the possibility that some VRQA-regulated RTOs may seek to migrate to the national regulatory system in order to avoid the fee increases given the ease with which this can occur. However, this may be offset to some degree by the absence of some legislative heads of power in Victoria that prevent VRQA from adopting some fees that ASQA will impose.

Finally, the preferred option involves retention of a 50% discount on the annual registration fee for school and ACFE RTOs. This is more an issue of affordability – and the ongoing provision of courses – rather than consumer protection, as these RTOs will have little ability to switch jurisdictions.

In the school and OSSEO sector, it is clear that the great majority of VRQA's regulatory effort relates to general oversight, monitoring and informal interaction with the regulated sector, rather than to carrying out the specific tasks to which fees relate. The analysis shows that VRQA would only recover just over 8% of its total expenditure on the regulation of the school sector and OSSEOs even if fees were set to fully recover costs.

The principles for fee determination in the DTF Guidelines therefore support a strong argument for the collection of fees from all schools, through an annual registration fee, for example (and which VRQA is able to charge in the VET sector). Only in this way can equity as between regulated parties be achieved, since this is the only mechanism by which all schools will contribute, rather than only a minority. A hypothetical annual fee of $1,000 would generate more than $2.2m for VRQA and allows it to recover around 50% of its total expenditure on the school sector and OSSEOs (when combined with other fees set at full cost recovery).

At present, VRQA can only charge fees when it undertakes specific activities, some of which occur infrequently. As a consequence, VRQA has limited ability to recover the cost of many of its oversight and ongoing regulatory functions through fee revenue.

While fees for various regulatory functions have not historically been set at levels to recover their cost, even a substantial increase in those fees – e.g. to recover 100% of those costs – would still leave VRQA reliant on budgetary appropriations to fund its activities with respect to the school sector and OSSEOs. In short, the current legislation does not provide a basis for introducing a fee structure that is consistent with broader Victorian Government policies with respect to fees.

Any revised legislative framework would likely introduce additional heads of power that would enhance VRQA's ability to recover the cost of its regulatory functions through efficient and equitable fees. An example might be an annual fee that all registered schools are required to pay; even a relatively modest annual fee would substantially increase VRQA's fee revenue base.

In light of VRQA's ongoing analysis and a policy objective to recover a greater proportion of costs through fees, it is possible VRQA will seek to amend the current legislation. This means that the fees established through the forthcoming Ministerial Order for 2013 and beyond will be replaced by an alternative fee structure once that amendment has occurred.

Stakeholders should note that any such amendment will be subject to impact assessment, as will any subordinate instrument through which school sector and OSSEO fees are made. Interested parties will then have the opportunity to consider and respond to any proposed changes. Therefore, this impact assessment has been prepared on the basis that the fee structure will most likely undergo material change in the short to medium term.

At the very least, this impact assessment indicates there is merit in reassessing the appropriateness of the current legislation in terms of the constraints imposed on VRQA to raise revenue, particularly when the principles underpinning the Government's policy framework for fee determination, as described in the DTF Guidelines.

Finally, the MCA concludes that VRQA should mirror the TEQSA approach to fee determination, although the level of activity for VRQA is currently and likely to remain very small. Interested parties should also bear in mind the TEQSA has flagged an intention to review its fee structure during 2013. Any substantial changes that result from this review would likely encourage VRQA to revisit its own fee structure in order to maintain consistency across the jurisdictions.

Having established the preferred options, the present value of total fee revenue collected over the life of the Ministerial Order (assumed to be 10 years and using a discount rate of 3.5%) is summarised in Table 7.4.

Table 7.4: Estimated present value of total fee revenue

	VET sector	School / OSSEO sector
Annual fee revenue	Ranging from $1,371,400 to $3,775,476 in Years 1 to 3 $4,719,664 in Year 4 and onwards	$160,000
10 year present value	$36,569,039	$1,330,657

NB: Revenue calculations do not include revenue derived from higher education fees due to the absence of regulatory activity for VRQA in this sector.

8. Statement of compliance with National Competition Policy

The National Competition Policy Agreements ("NCPA") set out specific requirements with regard to all new legislation adopted by jurisdictions that are party to the agreements. Clause 5(1) of the Competition Principles Agreement sets out the basic principle that must be applied to both existing legislation, under the legislative review process, and to proposed legislation:

> *The guiding principle is that legislation (including Acts, enactments, Ordinances or Regulations) should not restrict competition unless it can be demonstrated that:*
>
> *(a) The benefits of the restriction to the community as a whole outweigh the costs; and*
> *(b) The objectives of the regulation can only be achieved by restricting competition.*

Clause 5(5) provides a specific obligation on parties to the agreement with regard to newly proposed legislation:

> *Each party will require proposals for new legislation that restricts competition to be accompanied by evidence that the restriction is consistent with the principle set out in sub-clause (1).*[27]

Accordingly, every regulatory impact statement must include a section providing evidence that the proposed regulatory instrument is consistent with these NCP obligations. The recently released OECD Competition Assessment Toolkit[28] provides a checklist for identifying potentially significant negative impact on competition in the RIA context. This is based on the following three questions:

- Does the proposed regulation limit the number or range of suppliers?
- Does the proposed regulation limit the ability of suppliers to compete?
- Does the proposed regulation limit the incentives for suppliers to compete vigorously?

According to the OECD, if all three of these questions can be answered in the negative, it is unlikely that the proposed regulations will have any significant negative impact on competition.
The proposed regulations do not act directly in any of the above ways. Therefore, it can be concluded that they are unlikely to have any significant negative impact on competition.

In sum, it has been concluded that the proposed regulations are fully compliant with the requirements of the National Competition Policy.

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[27] Clause 5, Competition Principles Agreement, 11 April 1995 accessed at www.ncc.gov.au/pdf/PIAg-001.pdf
[28] See *Integrating Competition Assessment into Regulatory Impact Analysis.* OECD, Paris, 2007. (DAF/COMP(2007)8).

9. Consultation, implementation and enforcement

The following table summarises the direction of VET fees under the preferred option over the period from 2013 to 2016 (the latter is the year in which fees are set at a level to fully recover costs). The table also indicates the percentage increase in fees from their current level in 2012 to the proposed level in 2013, although stakeholders should note the preferred option also involves a revised fee structure so a simple comparison is not possible.

For example, applications for amendment of registration would be $350 per additional qualification under the proposed fee structure, compared with a lodgement fee of $100 and an additional fee of either $570 or $765 under the current arrangement, depending on the nature of the application. Therefore, the relative fees cannot be easily compared and the difference between the fee paid by an applicant in 2012 and that paid by an applicant in 2013 will depend on the nature of their application.

Table 9.1: Impact of 4-year phased approach to full cost recovery

Fee type	2013	Change from 2012 fee	2014 (50%)	2015 (75%)	2016 (100%)
RTO Registration					
Application lodgement fee	$640	+58%	$863	$1,294	$1,726
Assessment fee	$3,400	+108%	$6,743	$10,115	$13,486
Assessment of Principal Purpose	$5,000	No equivalent fee	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)	$5,000 (CPI adjusted)
Annual registration fee for school and ACFE providers	$325	-40%	$1,045	$1,568	$2,091
Annual registration fee for all other RTOs	$650	-40%	$2,091	$3,137	$4,183
Change of scope of registration (per qualification)	$350	-48% or -59%, depending on nature of amendment	$398	$597	$796
Issue of apprenticeship certificates and / extract from Register	$66	No equivalent fee	$66 (CPI adjusted)	$66 (CPI adjusted)	$66 (CPI adjusted)
Accreditation					
Course accreditation / renewal	$2,700	+110%	$3,561	$5,341	$7,122
Amendment to an accredited course	$500	Fee applies where RTO seeks to extend accreditation period	$982	$1,473	$1,964

NB: Stakeholders should note that the proposed fees for 2014, 2015 and 2016 will be the stated amounts plus an adjustment for CPI given the expected increase in VRQA's cost base over the period.

Public consultation on this impact assessment provides interested parties with an opportunity to respond to its analysis and conclusions with respect to the optimal fees in the VET, school / OSSEO and higher education sectors. The Ministers and the VRQA are obliged to take all public submissions into account when determining how to proceed with the Ministerial Order.

VRQA also proposes to undertake a detailed process of consultation with stakeholders and their representatives, as follows:

- Notification of all stakeholders via the VRQA E-news that a copy of the Fees RIS, a summary of the key impacts of the changes and an opportunity to submit questions or comments, is available on the VRQA website
- Undertaking specific consultation sessions with major stakeholder groups such as ACPET, VECCI, ACFE, Enterprise Registered Training Organisation (ERTOA), Independent Schools Victoria, Catholic Education Office and DEECD – there will be separate consultation with Overseas Secondary Student Exchange Organisations (OSSEOs) and the Victorian Curriculum and Assessment Authority (VCAA)/International Baccalaureate Organisation (IBO) as bodies registered to issue senior secondary qualifications.

The proposed Ministerial Order will come into effect either on 1 January 2013 or on a date signed by both Ministers, whichever is later. VRQA will then issue invoices in line with the specific activities for which the various fees relate. For example, regulated RTOs will be invoiced for applications for registration at the time of lodgement and when the precise nature of the application is apparent (in terms of the number of qualifications, for example). VRQA has also advised that in some circumstances it will accept part payment of outstanding invoices.

VRQA will be able to identify any instances of non payment via regular review of its State Register records. Failure on the part of regulated entities to pay outstanding invoices within the prescribed timeframe may result in an application not being processed – applications are not considered complete until payment is made – or in the cancellation of registration, in which case the regulated entity would be obliged to cease operations or cease the provision of a specific qualification, course or unit of competency.

Ongoing indexation of fees

The draft Ministerial Order sets fees in respect of applications by education providers for 2013 and subsequent years. The fees can be broken down into the following two main groups:

(a) for education providers (except VET providers), the fees are set for 2013 and will increase in subsequent years in accordance with movements in the Consumer Price Index (CPI); and

(b) for VET providers, the major fees are set for 2013 to 2016, and will increase for 2014, 2015 and 2016 so as to move progressively to full cost recovery. The Order identifies fee levels for each year in dollar terms. However, the actual fee to be charged in 2014 and subsequently will be determined by the application of CPI increases to these "base" fee amounts.

A number of indexation options were considered. These included the rates announced by the Treasurer of Victoria each year in relation to:

i. the State budget for the purposes of section 8 of the *Subordinate Legislation Act 1994*, and
ii. section 5 of the *Monetary Units Act 2004*.

This option was not implemented as the *Education and Training Reform Act 2006* prohibits the delegation of the power to fix fees [section 5.2.9(e)], and the adoption of the Treasurer's rate could expose the Order to a challenge on the grounds that the Minister had *delegated* to the Treasurer the power, or part of the power, to fix fees.

Instead the CPI rate has been adopted. Use of this approach should not give rise to delegation issues, as the CPI is a summary measure of price movements in the economy generally, rather than being a consciously determined amount, as is the Treasurer's rate.

A large number of different CPI are published by the ABS. In addition to the "all groups" CPI, which reflects price movements in the economy as a whole, there are indices that track price movements in particular industries. One of these, which is of obvious relevance in the current context, is the 'Education Group CPI'. The issue arises as to whether the all groups or the education group CPI should be used in determining fee movements over time. It is currently proposed to use the education group CPI, for the following reasons:

- The majority of factors influencing movements in VRQA costs are comparable to those factors influencing the broader movements in the Education Group;
- The majority of VRQA costs are salary-related. These costs are expected to increase at an annual average rate of about 3.25% [plus on costs] over the next 3 years at least[29], which is greater than the 'All Groups CPI' trend rate. Conversely, the education group CPI has increased at a somewhat greater rate in recent years;
- There is a natural affinity with the 'Education Group' and there is no affinity, nor relationship to VRQA costs, with many of the other Groups, such as Food and non-alcoholic beverages, Alcohol and tobacco, Clothing and footwear, Housing, etc. Use of the all groups CPI would imply that price movements in these other sectors would influence movements in VRQA fees.

Stakeholder question: Interested parties are invited to comment on the appropriateness of the use of the 'Education Group CPI' for indexation of fee increases in relation to other possible options.

[29] As a result of the recent public sector wage agreement.

Appendix 1: Proposed Ministerial Fees Order

A copy of the proposed Ministerial Fees Order is attached as Annex 1. The following table summarises the fees proposed to be payable in 2013.

Fee type	2013 fee
VET Sector	
Registration	
Registration or re-registration to provide and or award, confer or issue a vocational education and training qualification, course or subject or unit of competency or module and or a further education course:	
• Application lodgement fee (non refundable)	$640
• Assessment fee for up to 10 qualifications and up to 20 units of competency/ modules and up to 2 delivery sites	$3,300
• For each additional qualification	$100 (capped at $10,000)
Annual registration fee for up to 10 qualifications and any number of units of competency/ modules	$600
• Plus, for each additional qualification	$50 (capped at $5,000)
Application to add a course or a qualification or a unit of competency to current scope Scope	
• 1 qualification	$350
• 2 qualifications	$700
• 3 qualifications	$1,050
• 4 qualifications	$1,400
• 5 qualifications	$1,600
• 6 qualifications	$1,800
• 7 qualifications	$2,000
• 8 qualifications	$2,200
• 9 qualifications	$2,400
• 10 or more qualifications	$2,400, plus $100 for each qualification after the first nine.
Accreditation	
Accreditation or renewal of accreditation of a course or part of a course excluding a higher education course	$2,700
Amendment to an accredited course	$500

Fee type	Indicative 2013 VRQA fee
School / OSSEO Sector –	
Registration	
Application for registration • Application fee (non-refundable) • Assessment fee	 $427.50 $1,282.50
Application for amendment of registration	$856
Senior Secondary Qualification Provider Registration	
Registration to provide an accredited Senior Secondary Qualification course (per course)	$425
Registration to provide an accredited Senior Secondary Qualification course (4 or more courses)	$1,700
Registration to provide an additional accredited Senior Secondary Qualification course	$425
Registration to provide an accredited Senior Secondary Qualification course at an additional site (per site) • Site audit fee, if required $150 per hour up to $5,000	$425 $600
Registration to award, confer or issue a registered Senior Secondary Qualification • Application fee (non-refundable) • Assessment fee	 $1,075 $4,295
Registration to award, confer or issue an additional registered Senior Secondary Qualification	$1,710
Accreditation of a Senior Secondary Qualification	
Accreditation of a Senior Secondary Qualification course or part of a course	$2,700
Application for extension of accreditation period	$102
Approval to Provide Courses to Overseas Students by a registered school or registered Senior Secondary Qualifications provider	
Approval to provide courses to overseas students	$856
Investigation of an application for approval to amend the registration in the case of a registered school or senior secondary qualification provider or senior secondary qualification course provider to increase capacity, amend, add or relocate a campus and or add a course	$856
Investigation of an application for approval to provide a course to students from overseas, or for an approval, not dealt with by the previous clauses in the case of a registered school	$130ph up to maximum of $856

Overseas Secondary Student Exchange Organisations	
Approval of an overseas secondary student exchange organisation and renewal of approval of an overseas secondary student exchange organisation • Application fee (non-refundable) • Assessment fee • Half term review fee	 $420 $1,680 $1,680
Annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: • 1–15 students per annum; or • 16–50 students per annum; or • 51 or more students per annum	 $215 $420 $840

Fee type	Indicative 2013 VRQA fee
Higher Education sector	
Preliminary investigation of application for authorisation to conduct a course of study in higher education	$5,500
Substantive investigation of application for authorisation to conduct a course of study in higher education	$16,500
Investigation for renewal of authorisation to conduct a course of study in higher education	$20,000
Investigation of an application for approval to provide a specified higher education course of study to students from overseas: • First application • Subsequent applications	 $5,000 $1,000
Preliminary investigation of application for accreditation of a higher education course of study	$2,000
Substantive investigation of application for accreditation of a higher education course of study – (s 4.4.1 of the Act)	$7,000
Application for renewal of accreditation for a higher education course of study: • Single course of study • Additional courses of study	 $8,000 $5,600

Appendix 2: Calculation of VRQA costs

VET Sector

The primary modelling assumptions for the calculation of VET costs are listed below:

- Costing data was based on VRQA estimated future costs and were supplied by VRQA staff. These costs were used to identify VET corporate overhead and direct costs.
- Business volumes were based on estimated annual volumes post July 1 2011 (i.e. after providers have moved to ASQA) and were supplied by VRQA staff.
- Outsourced audits/financial assessments were costed at a cost per unit i.e. (outsourced audit/ financial assessment type x volume of audits). The estimated cost per audit/financial assessment and volume data were supplied by the VRQA.
- Estimated effort spent on regulatory activity was determined through interviews with VET staff and their self-assessment of time per activity together with management review of these activity levels.
- An hourly staff labour rate was then applied to each activity. Staff labour rates were based on the mid-point of the staff member's VPS salary range of each position classification, rather than actual salaries. The hourly staff labour rate includes salary on costs, annual leave loading and the corporate overhead hourly allocation.
- Corporate costs were allocated across activities based on estimated effort hours per activity.
- Estimated efforts for new VET requirements were based on comparison to similar regulation tasks in operation today where possible. Activity estimations were determined through interviewing VET staff and their self-assessment of time per activity, together with management review of these activity levels.

As noted in Chapter 3, the costing process categorised VRQA's various activities into the following aggregated cost pools:

- *Registration and Audit Core activity* – comprised of tasks such as new registrations, renewals and variations of scope, information services, audit planning, payments to external advisers (such as financial auditors)
- *Accreditation activity* – comprised of tasks such as initial accreditation, renewals, variations and endorsement of Training Packages
- *VET Management* – comprised of management and governance, preparation of monitoring and enforcement activities, and statistical analysis
- *New Requirements* – comprised of new activities resulting from recent and forthcoming regulatory functions, such as administration of new consumer protection measures
- *Other cost items* – comprised of accommodation, information sessions and outsourced auditor costs.

The allocation of estimated costs for Registration and Accreditation to specific activities was relatively straightforward. However, a methodology was necessary to allocate an appropriate proportion of the estimated indirect costs to those activities. Total unit costs for the various activities for which a fee can be charged were then developed through the following process:

- the consultants worked closely with VRQA to allocate the various direct cost items within each of these cost pools to the different activities for which VRQA is able to charge a fee. In addition to contributing to the cost build up for each fee, it also became the basis for allocating an appropriate proportion of indirect costs to each activity.
- indirect costs or overheads were then allocated to the various activities on the following basis:
    - the total direct cost of VET functions was calculated
    - the respective contribution of direct registration and accreditation costs to total direct costs was calculated at 93% and 7% respectively
    - 93% of total estimated indirect costs were then added to total direct registration costs; 7% of total estimated indirect costs were added to total direct accreditation costs
    - Indirect costs were then allocated to the various registration and accreditation costs according to the respective contribution of each specific activity to direct costs. For example, the annual registration function is estimated to account for 45% of direct costs attributed to the broader registration function. Therefore, it was decided to allocate 45% of the allocated indirect costs to obtain the total cost of the annual registration function.
    - Unit costs were calculated by dividing the total estimated cost of each activity – the sum of direct costs and an appropriate proportion of indirect costs – by estimated volumes.

The following screenshot is drawn from the original cost calculations and provides an example of the methodology employed to generate cost estimates for some of the specific functions that constitute the broader regulatory functions for which VRQA is able to charge a fee.

Registration Effort Input:

New Registration (inc. FHA):	VET Staff Member:	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Receive application	[redacted]	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
Prepare and Process Application	[redacted]	VPS 5	$111.71	9.1	$1,016.59	50	$50,829.70	455.0	59.9
Conduct Financial Health Assessment	[redacted]	Outsourced	[redacted]	[redacted]	$8,500.00	50	$425,000.00	[redacted]	[redacted]
Quality review, issue resolution	[redacted]	VPS 6	$131.04	3.7	$484.86	50	$24,243.22	185.0	24.3
Recommend appropriate action on application	[redacted]	VPS 6	$131.04	1.0	$131.04	50	$6,552.22	50.0	6.6
Approve or reject application	[redacted]	EO2	$217.55	0.5	$108.78	50	$5,438.86	25.0	3.3
Implement decision	[redacted]	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
File and update records	[redacted]	VPS 3	$92.17	0.5	$46.08	50	$2,304.16	25.0	3.3
Total New Registration:			*Average per unit effort & cost*	**15.8**	**$10,379.53**	**50.0**	**$518,976.48**	**790.0**	**103.9**

Renewal of Registration:	VET Staff Member:	Staff Level:	Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Receive application for re-registration	[redacted]	VPS 3	$92.17	0.5	$46.08	100	$4,608.32	50.0	6.6
Prepare for Financial Viability Assessment (a)	[redacted]	VPS 5	$111.71	2.1	$236.94	100	$23,693.68	212.1	27.9
Undertake Financial Viability Assessment	[redacted]	Outsourced	[redacted]	[redacted]	$8,500.00	25	$212,500.00	[redacted]	[redacted]
Quality review and issue resolution	[redacted]	VPS 6	$131.04	2.7	$353.82	100	$35,381.99	270.0	35.5
Recommend appropriate action on application	[redacted]	VPS 6	$131.04	0.5	$65.52	100	$6,552.22	50.0	6.6
Approve or reject application	[redacted]	EO2	$217.55	0.3	$65.27	100	$6,526.63	30.0	3.9
Implement decision	[redacted]	VPS 3	$92.17	0.3	$24.43	100	$2,443.48	26.5	3.5
File and update records	[redacted]	VPS 3	$92.17	0.3	$24.43	100	$2,443.48	26.5	3.5
Total Renewal of Registration:			*Average per unit effort & cost*	**6.7**	**$2,941.50**	**100.0**	**$294,149.81**	**665.1**	**87.5**

Extend Scope of Registration	VET Staff Member:		Salary Per Hour ($):	Effort Per Unit (hrs):	Cost Per Unit ($):	Est. Volume P/A (n):	Total Cost P/A ($):	Total Effort P/A (hrs):	Total Effort P/A (days):
Evaluate application		VPS 5	$111.71	0.2	$20.21	354	$7,156.06	64.1	8.4
Perform risk assessment		VPS 5	$111.71	0.8	$89.37	354	$31,637.30	283.2	37.3
High and some medium risk apps for site audit		VPS 5	$111.71	0.5	$55.86	50	$2,792.84	25.0	3.3
Low and some medium risk apps for desk audit		VPS 5	$111.71	0.8	$89.37	304	$27,168.75	243.2	32.0
Recommend appropriate action on application		VPS 6	$131.04	0.2	$26.21	354	$9,277.95	70.8	9.3
Approve or refuse application		EO2	$217.55	0.1	$19.68	354	$6,967.96	32.0	4.2
Implement decision (a)		VPS 5	$111.71	0.1	$10.11	354	$3,578.03	32.0	4.2
Implement decision (b)		VPS 3	$92.17	0.1	$8.34	354	$2,951.96	32.0	4.2
Update CRM system (a)		VPS 5	$111.71	0.1	$10.11	354	$3,578.03	32.0	4.2
Update CRM system (b)		VPS 3	$92.17	0.1	$8.34	354	$2,951.96	32.0	4.2
File and update records		VPS 3	$92.17	0.2	$18.43	354	$6,525.38	70.8	9.3
Total Extend Scope of Registration:			*Average per unit effort & cost*	**2.6**	**$295.44**	**354.0**	**$104,586.21**	**917.2**	**120.7**

School and OSSEO sectors

School and OSSEO cost estimates were developed through an activity cost approach and on a similar basis to that employed for the VET sector.

The primary modelling assumptions for the calculation of school and OSSEO sector costs are listed below:

- Costing data were developed through discussions between the consultants and VRQA staff about the resourcing contribution necessary to undertake various regulatory functions. These discussions focussed solely on the direct costs associated with school and OSSEO functions for which VRQA is able to charge a fee under current legislation
- Business volumes for each activity were based on estimated annual volumes and were supplied by VRQA staff.
- Estimated effort spent on regulatory activity was determined through discussions with school and OSSEO staff and their self-assessment of time per activity together with management review of these activity levels. Estimates of the required effort for each function were based on a simple average across the population of regulated entities and did not seek to quantify any differences in effort that might be attributed to the nature of the entity (Government versus independent school, for example) or to any specific characteristic, such as number of enrolled students.
- An hourly staff labour rate was then applied to each activity. Staff labour rates were based on the mid-point of the staff member's VPS salary range of each position classification, rather than actual salaries, and are the same rates as those employed by GTA in its estimation of VET costs.
- Outsourced audits/financial assessments and legal advice were costed at a cost per unit i.e. (outsourced audit/ financial assessment type x volume of audits). The estimated cost per audit/financial assessment and volume data were supplied by the VRQA.
- The average cost of site visits as part of the school registration process was added to the estimated time taken to undertake the registration function. It was calculated by dividing the sum of all costs incurred as part of the registration process by the total number of site visits
- VRQA's overheads in the school and OSSEO sector were accounted for by applying a multiplier of 1.75 to the activity cost estimates. This is in contrast to the calculation of overheads for the VET sector, which were directly measured and then allocated across VET activities.

Appendix 3: Submission details

In accordance with the Victorian Guide to Regulation, the Victorian Government seeks to ensure that regulations and other legislative instruments are well targeted, effective and appropriate, and that they impose the lowest possible burden on Victorian businesses and the community.

The Regulatory Impact Statement (RIS) process involves an assessment of regulatory proposals and allows members of the community to comment on proposed legislative instruments before they are finalised.

Such public input provides valuable information and perspectives, and improves the overall quality of the instrument-making process.

This RIS has been prepared to facilitate public consultation on the proposed Ministerial Order made under the *Education and Training Reform Act 2006* regarding fees payable to Victorian Registration and Qualifications Authority from 2013. A copy of the proposed Ministerial Order is attached to this RIS.

Submissions are now invited on the proposed instrument. Unless requested by the author, all submissions will be treated as public documents and may be made available to other parties.

Written comments and submissions should be forwarded by no later than 5:00pm, 23 October 2012 to:

Don Hudgson
Victorian Registration and Qualifications Authority
GPO Box 2317
Melbourne
Victoria 3001
or email:
hudgson.don.j@edumail.vic.gov.au

Draft - v31/7/12

EDUCATION AND TRAINING REFORM ACT 2006

FIXING OF FEES ADMINISTERED BY THE VICTORIAN REGISTRATION AND QUALIFICATIONS AUTHORITY

MINISTERIAL ORDER XXX

The Minister for Education and the Minister for Higher Education and Skills make the following Order.

Title

1. This Order may be cited as Ministerial Order No. XXX

Purpose

2. This Order fixes fees in respect of applications that may be made to the Victorian Registration and Qualifications Authority and for certificates. The fees are set out in Schedules 1 to 7 of this Order.

Authorising provision

3. This Order is made under the following provisions of the *Education and Training Reform Act 2006:* Section 4.3.1(4), 4.3.10(3), 4.3.16(3)(bc), 4.3.19(2)(a), 4.3.30(8), 4.3.33(6), 4.4.1(6), 4.4.2(1)(d), 4.5.1(4), 4.5.2(2), 4.5A.3(3), 4.5A.5(3), 5.2.12, 5.2.13, 5.5.25, 5.10.4 and item 3 of Schedule 6.

Commencement

4. This Order takes effect;

   (a) from 1 January, 2013, if signed by both Ministers on or before that date;

   (b) from the date by which it is signed by both Ministers, if signed after 1 January, 2013.

Definitions and Interpretation

5. In this Order:

   Unless defined below, words used in the *Education and Training Reform Act 2006* have the same meaning in this Order.

   ACFE Board registered organisation means a registered training organisation receiving any form of funding from the Adult Community and Further Education Board continued in operation under section 3.3.2 of the Act.

   Act means the *Education and Training Reform Act* 2006

   Authority means the Victorian Registration and Qualifications Authority established under Chapter 4 of the Act.

   additional assessment means an assessment by the Authority to determine continuing compliance with requirements for registration, or rectification of non-compliances, or to assess lifting a suspension or other condition of registration.

   Australian Bureau of Statistics has the same meaning as it has in the Australian Bureau of Statistics Act 1975 of the Commonwealth.

   CPI means the Consumer Price Index number for the weighted average of the Education Group for the eight capital cities published by the Australian Bureau of Statistics.

   higher education course means a course leading to a higher education award.

   References to sections are references to sections in the Act.

   registered training organisation means a training organisation registered on the State Register and National Register.

   scope means the qualification/s and or course/s and or unit/s for which a registered training organisation is registered by the Authority to deliver and or award, confer or issue.

   Training Package means a set of nationally endorsed standards and qualifications used to recognise and assess people's skills in a specific industry, industry sector or enterprise.

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Schedule 1

Schools, Senior Secondary Courses, Senior Secondary Qualifications and Accredited Senior Secondary Courses

6. The fees in this Schedule 1 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

7. Clauses A to D below are part of this Schedule.

Schools		
Ref: S4.3.1(4) Application for registration of a school. Lodgement of application **Plus** assessment of application	 *$1,710* *$430* *$1280*	 *including an application for registration as a result of an amalgamation of 2 or more registered schools.* *(non refundable).* *The total fee of $1710 may be paid in the following 2 instalments in the order listed below, provided the second instalment is paid within 30 days of the first instalment.* Lodgement - *$430* Assessment - *$1,280*
Application for amendment of registration	*$856*	*including to relocate a school, campus or any site related to the school, add a campus, or add one or more year level/s.*
Senior Secondary Course		
Ref: S4.3.10(3) Application for registration to provide an accredited senior secondary course	 *$425*	 *per course up to 3 courses.*
Application for registration to provide an accredited senior secondary course	*$1,710*	*for 4 or more courses.*
Application for registration to provide an additional accredited senior secondary course	*$425*	*per course.*
Application for registration to provide an accredited senior secondary course at an additional site **plus** site audit fee	*$425* *$5,000*	*per site.* *Subject to the discretion of the Authority to waive this $5,000 fee if it considers a site audit is not required, or to reduce this fee on the basis that less than 33.3 hours will be or was required for the site audit, and to charge $150 per hour for each hour of the site audit to a maximum of $5,000.*

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Senior Secondary Qualification		
Ref: S4.3.10(3) Application for registration to award, confer or issue a registered senior secondary qualification Lodgement of application **plus** assessment of application	*$5,360* *$1,075* *$4,295*	 *(non refundable)* *The total fee of $5,360 may be paid in the following 2 instalments in the order listed below, provided the second instalment is paid within 30 days of the first instalment.* Lodgement - *$1,057* Assessment - *$4,295*
Application for registration to award, confer or issue an additional registered senior secondary qualification	*$1,710*	
Accredited Senior Secondary Course		
Ref: S4.4.1(6) and 4.4.2(1)(d) Application for accreditation of a senior secondary course or renewal of accreditation of such a course or part of such a course: Application for an amendment to an accredited senior secondary course	 *$2700* *$500*	 *Subject to the discretion of the authority to reduce or waive this fee if it considers it appropriate to do so.* *Per course*

A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 1 shall be increased to reflect rises in the CPI in accordance with the following formula.

(i) The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

(ii) The following is an example of how the percentage increase shall be calculated for 1/1/2014, and is for illustrative purposes only:

	Education Group CPI number
September quarter 2013	103.1
September quarter 2012	100.0
Change in index number	3.1
Percentage change :	3.1/100 x 100 = 3.1%

(iii) The following is an example of how the percentage increase shall be calculated for 1/1/2016, and is for illustrative purposes only:

	Education Group CPI number
September quarter 2016	109.4
September quarter 2012	100.0
Change in index number	9.4
Percentage change :	9.4/100 x 100 = 9.4%

(iv) The calculation of the percentage increase in fees in any year shall be based on the fees currently appearing in Schedule 1, and not on the fees in Schedule 1 as increased by the previous year's percentage increase.

(v) Any amount payable in respect of the percentage increase in the CPI shall be rounded upwards to the nearest dollar.

B. CPI increases shall also be made to any amount stated in this Schedule as an hourly rate.

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C. The Authority shall publish in the Victorian Government Gazette, as soon as practicable after the relevant CPI number is published for the September quarter in respect of any year, the adjusted fee payable for the following year.

D. If:

(i) the Education Group CPI number is not published for September in any relevant year before 1st December of that year, then the All Groups CPI weighted average number for the eight capital cities for September of that relevant year shall be used as a substitute in fixing the fee increase;

(iii) any amount payable in respect of the percentage increase in the CPI is not recoverable or assessable in respect of any year, then the fees in Schedule A shall still be payable together with any CPI increases that are recoverable or assessable.

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Schedule 2

Vocational Education & Training

8. Clauses A to D below are part of this Schedule.

Vocational Education **& Training** *Ref: S4.3.16(3)(bc)*	*from 1/1/2013*	*from 1/1/2014*	*from 1/1/2015*	*from 1/1/2016*	
Application for registration or re-registration to provide and or award, confer or issue a vocational education and training qualification, course or subject or unit of competency or module and or a further education course;					
Lodgement of application	*$640*	*$863*	*$1,291*	*$1,726*	*non refundable)*
plus assessment of application	*$3,300*	*$6,743*	*$10,115*	*$13,486*	*for up to 10 qualifications and up to 20 units of competency/ modules and up to 2 delivery sites*
plus for each additional qualification	*$100*	*$100*	*$100*	*$100*	*(capped at $10,000)*
plus for each additional unit of competency	*$40*	*$40*	*$40*	*$40*	*(capped at $4,000)*
plus for each additional delivery site	*$400*	*$400*	*$400*	*$400*	*(capped at $4,000)*
plus annual instalment in the case of:					
(a) a registered school or an ACFE Board registered organisation:	*$300*	*$1045.50*	*$1568.50*	*$2091.50*	*In respect of the annual instalment listed opposite paragraph (a) or (b) of the first column, the annual instalment applies for each year or part of each year of registration for up to 10 qualifications and any number of units of competency/ module*
(b) all other registered education and training organisations	*$600*	*$2091*	*$3137*	*$4183*	
plus annual instalment for each additional qualification	*$50*	*$50*	*$50*	*$50*	*(capped at $15,000)*
plus assessment of 'principal purpose"	*$5,000*	*$5,000*	*$5,000*	*$5,000*	*subject to the discretion of the Authority to waive this fee if it considers an assessment of 'principal purpose' is not required, or it otherwise considers it appropriate to waive or reduce this fee.*
plus site audit fee	*$5,000*	*$5,000*	*$5,000*	*$5,000*	*subject to the discretion of the Authority to waive this $5,000 fee if it considers a site audit is not required, or to reduce this fee on the basis that less than 33.3 hours will be or was required for the site audit, and to charge $150 per hour for each hour of the site audit to a maximum of $5,000*

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Ref: S4.3.19(2)(a) Application from a Registered Training Organisation to add a course or a qualification or a unit of competency to their scope: 1 to 4 qualifications 5 qualifications 6 qualifications 7 qualifications 8 qualifications 9 qualifications	$350 $1,600 $1,800 $2,000 $2,200 $2,400	$398 $1,600 $1,800 $2,000 $2,200 $2,400	$597 $1,600 $1,800 $2,000 $2,200 $2,400	$796 $1,600 $1,800 $2,000 $2,200 $2,400	*per qualification.*
plus for each additional qualification more than 9	$100	$100	$100	$100	
plus for each additional unit of competency	$75	$75	$75	$75	
Training package transition to equivalent qualification(s) or accredited course transition	*$140*	*$140*	*$140*	*$140*	*per training package (includes multiple qualifications) or accredited course.*
Course Accreditation					
Ref: S4.4.1(6) and 4.4.2(1)(d) Application for accreditation or renewal of accreditation of a course or part of a course excluding a higher education course.	*$2,700*	*$3,561*	*$5,341*	*$7,122*	*subject to the discretion of the authority to reduce or waive this fee if it considers it appropriate to do so.*
Application for an amendment to an accredited course	*$500*	*$982*	*$1,473*	*$1,964*	*per course.*

A. The fees listed in this Schedule 2 under the first column headed "from 1/1/2013" are payable from that date or the date referred to in clause 4 as the date from which this Order takes effect, whichever is the later date.

B. Subject to clause A, the fees listed in the columns of this Schedule 2 are payable in respect of applications received by the Authority from and inclusive of the dates stated in those columns.

C. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 2 under the headings 'from 1/1/2014', 'from 1/1/2015' and 'from 20160:

(i) shall be increased to reflect rises in the CPI;

(ii) the increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012; and

(iii) subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to the increases made under this clause C.

D. On 1/1/2017, and on 1 January of each subsequent year:

(i) the fees listed under the heading 'from 1/1/2016' shall be increased to reflect rises in the CPI in accordance with clauses A to D of Schedule 1; and

(ii) subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to the increases made under this clause D.

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Schedule 3

Accreditation of higher education courses

9. The fees in this Schedule 3 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

10. Clauses A and B below are part of this Schedule.

Ref: s 4.4.1 and 4.4.2(1)(d)		
Application for accreditation of a single higher education course **plus** $1,400 for each additional higher education course of study for which accreditation is being sought	*$2,000*	*Where an application is for accreditation of more than one course of study, or where more than one application to accredit a course of study is submitted at the same time, the fee is $2,000 for the first course of study and $1,400 for each additional course of study*
Investigation of the single higher education course which is the subject of an application for accreditation **plus** $4,900 for investigation of each additional higher education course of study for which accreditation is being sought	*$7,000*	*Where an application is for accreditation of more than one course of study, or where more than one application to accredit a course of study is submitted at the same time, the fee is $7,000 for the first course of study and $4,900 for each additional course of study*
Application for renewal of accreditation of a single higher education course of study **plus** $5,600 for each additional higher education course of study for which renewal of accreditation is being sought	*$8,000*	*Where an application is for renewal of accreditation of more than one course of study, or where more than one application to renew accreditation of a course of study is submitted at the same time, the fee is $8,000 for the first course of study and $5,600 for each additional course of study*
Application to register or renew the accreditation of a higher education course for the sole purpose of varying or or having revoked a Condition of registration or accreditation	*$2,500*	*For the first two conditions included in an application - $2,500 for each condition. For each condition in addition to the first two conditions which are included in an application - $5,000 plus $1,500 for each additional condition*

A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 3 shall be increased to reflect rises in the CPI. The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

B. Subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to this Schedule 3.

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Schedule 4

Overseas Secondary Student Exchange Organisations

11. The fees in this Schedule 4 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

12. Clauses A and B below are part of this Schedule.

Ref: 4.5A.3(3) 4.5A.5(3) Approval of an overseas secondary student exchange organisation and renewal of approval of an overseas secondary student exchange organisation.		
Initial application fee **plus** assessment fee	$420 $1,680	*(non refundable)*
plus half term review fee	*$1,680*	*subject to the discretion of the Authority to reduce or waive this fee if it considers it appropriate to do so*
plus annual fee for each year in respect of which approval is being sought for exchange student monitoring and issuing of Acceptance Advice of Secondary Exchange Student forms for: a) 1-15 students per annum; or b) 16-50 students per annum; or c) 51 or more students per annum	 *$215* *$420* *$840*	*These fees may be paid in periodic instalments provided that the minimum instalment is the total amount payable in respect of any year*

A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 4 shall be increased to reflect rises in the CPI. The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

B. Subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to this Schedule.

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Schedule 5

Overseas students

13. The fees in this Schedule 5 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

14. Clauses A and B below are part of this Schedule.

Ref: 4.5.1(4) & 4.5.2(2) Approval to provide courses for overseas students in the case of a: a) registered school;	*$856*	
b) registered education and training organisation for a course the curriculum of which relates only to the learning of the English language and which requires at least 25 hours face to face teacher contact each week for the duration of the course: - initial investigation fee - plus full investigation fee - plus annual approval fee	 *$405* *$1,635* *$540*	*(non refundable)* *or National ELT Accreditation Scheme (NEAS) approval for each year or part year of registration* *The annual approval fee may be paid in periodic instalments provided that the minimum instalment is the total amount payable in respect of any year*
c) registered education and training organisation for any other course or any other course and or course in category (b) above: - initial investigation - plus full investigation fee - plus annual approval fee	*$2,040* *$405* *$1,635* *$1,080*	*(non refundable)* *for each year or part of each year of registration. The annual approval fee may be paid in periodic instalments provided that the minimum instalment is the total amount payable in respect of any year*
Investigation of an application for approval to amend the registration in the case of: a) a registered school or senior secondary qualification provider or senior secondary qualification course provider to increase capacity, amend, add or relocate a campus and or add a course.	*$856*	
b) a registered education and training organisation to increase capacity and or to establish a new delivery site and or relocate a delivery site and or add to scope.	*$1,225*	
Investigation of an application for approval to provide a course to students from overseas, or for an approval, not dealt with by the previous clauses in the case of:		*subject to the discretion of the authority to reduce or waive these fees if it considers it appropriate to do so*
a) Higher education institute b) registered school c) education and training organisation Each subsequent application for registration to provide a course of study by a provider who is already registered on CRICOS to provide another course of study as a higher education provider	*$5,000* *$856* *$1,635* *$1,000*	*Subject to the discretion of the Authority to waive this $856 or $1,635 fee if it considers a lesser fee is appropriate on the basis that an hourly rate of $130 per hour in investigating the application will or has resulted in a lesser fee payable.*

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A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 5 shall be increased to reflect rises in the CPI. The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

B. Subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to this Schedule.

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Schedule 6

Higher education

15. The fees in this Schedule 6 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

16. Clauses A and B below are part of this Schedule.

Ref: S4.3.33(6)

Preliminary assessment of application for authorisation to conduct higher education courses	*$5,500*
Substantive assessment of application for authorisation to conduct higher education courses	*$16,500*
Application for renewal of authorisation to conduct higher education courses	*$20,000*

A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 6 shall be increased to reflect rises in the CPI. The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

B. Subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to this Schedule.

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Schedule 7

Certificates

17. The fees in this Schedule 7 are payable in respect of applications received by the Authority from and inclusive of the date referred to in clause 4 as the date from which this Order takes effect.

18. Clauses A and B below are part of this Schedule.

Ref: S5.5.25 Application fee for the issue of a certificate or duplicate certificate under Part 5.5 of the Act, including: - a certificate confirming completion of an apprenticeship; - the re-issue of a certificate confirming completion of an apprenticeship; or - an extract from the register kept under section 5.5.23 in respect of apprentices.	*$66*

A. On 1 January 2014, and on 1 January of each subsequent year, the fees in Schedule 7 shall be increased to reflect rises in the CPI. The increase shall be the percentage, if any, by which the CPI number for the September quarter prior to the year in which the fee increase is to occur, exceeds the CPI number for the September quarter in 2012.

B. Subject to the other provisions of this Schedule, clauses A to D of Schedule 1 also apply to this Schedule.

Martin Dixon MP
Minister For Education

Date

Peter Hall MLC
Minister for Higher Education and Skills

Date

:

Victorian
Competition & Efficiency
Commission

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21 September 2012

Mr Don Hudgson
Project Manager
Victorian Registration and Qualifications Authority
Level 7, 55 Collins Street
MELBOURNE VIC 3000

Dear Mr Hudgson

ADVICE ON THE ADEQUACY OF REGULATORY IMPACT STATEMENT

Thank you for seeking advice on the Regulatory Impact Statement (RIS) on the proposed *Education and Training Reform Act 2006: Ministerial Fees Order*.

The Victorian Competition and Efficiency Commission (VCEC) advises on the adequacy of RISs as required under section 12H(3) of the *Subordinate Legislation Act 1994* (the Act). I advise the final version of the RIS received by the VCEC on 18 September meets the requirements of section 12H of the Act.

The VCEC's advice is based on the adequacy of the evidence presented in the RIS and is focused on the quality of the analysis rather than the merits of the proposal itself. **Therefore, the VCEC's advice that the RIS is adequate does not represent an endorsement of the proposal.**

The RIS notes increases in the fees charged to vocational education and training providers may encourage some operators to seek to be regulated by the Australian Skills Quality Authority, although the extent to which this may occur is uncertain. Stakeholder feedback will assist Victorian Registration and Qualifications Authority (VRQA) to analyse the impacts of increased costs, both financial and substantive compliance costs, resulting from future increases in fees as well as the proposed consumer protection regulation.

The VRQA also proposes to maintain fees for secondary education providers, including overseas student service operators, at their current level due to concerns about the ability of this sector to accommodate increases in these fees and legislative restrictions on the range of fees VRQA could impose. Stakeholder feedback on these issues will assist the VRQA to develop the most appropriate fees for this sector in the long term.

In the interests of transparency, it is government policy VCEC's advice be published with the RIS when it is released for consultation.

If you have any questions, please contact RegulationReview@vcec.vic.gov.au.

Yours sincerely

Andrew Walker

Assistant Director

Victorian Competition and Efficiency Commission