

DIVISION 3 – ACCOUNTABILITY

16. Notification of material changes

- (1) An NVR registered training organisation must notify the National VET Regulator of the occurrence of an event that would significantly affect the organisation's ability to comply with any of its obligations under the Act.
- (2) A notice under subsection (1) must be given within 10 business days after the event occurs.
- (3) An NVR registered training organisation must notify the National VET Regulator of:
 - (a) any prospective changes to the ownership of the organisation as soon as practicable before the change takes effect; or
 - (b) any prospective or actual change in relation to a governing person of the organisation:
 - i) if the change cannot be determined until it takes effect – within 10 business days of the change taking effect; or
 - ii) otherwise – as soon as practicable before the change takes effect.
- (4) A notice under subsection (1) and (3) must be provided to the National VET Regulator in writing or electronically.
- (5) After giving notice under subsection (1) and (3) an NVR registered training organisation must provide any further information relating to the notice as soon as practicable, if requested by the National VET Regulator.

Definitions

governing person means any person responsible for overseeing, directing, or exercising a degree of control or influence over the management or operation of an NVR registered training organisation, including executive officers and high managerial agents.

SCHEDULE 1 – FIT AND PROPER PERSON REQUIREMENTS

1. Application of Fit and Proper Person Requirements

The National VET Regulator must have regard to all matters it considers relevant that are specified in this Schedule when determining whether:

- (a) an NVR registered training organisation;
- (b) a governing person of an NVR registered training organisation;
- (c) a person applying to become an NVR registered training organisation; or
- (d) a governing person of a person applying to become an NVR registered training organisation,

is, or would be, a fit and proper person for the purposes of registration, renewing registration, or maintaining registration as an NVR registered training organisation under the Act.

2. Compliance with law

- (1) Regardless of whether a conviction has been recorded, the VET Regulator may have regard to whether the person has been found guilty of an offence against, or ordered to pay a pecuniary penalty under, a law of the Commonwealth or a State or Territory.

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- (2) The National VET Regulator may have regard to the seriousness of, and the time elapsed since the offence, conviction, or matter to which the pecuniary penalty relates occurred.
- (3) The National VET Regulator may have regard to whether the person is currently involved in proceedings before a court or tribunal.
- (4) The National VET Regulator may have regard to whether the person has been found guilty of a foreign offence (within the meaning of section 85ZL of the Crimes Act 1914).

3. Management history

- (1) The National VET Regulator may have regard to whether one or more of the following has been cancelled, revoked, suspended or rejected:
 - (a) the person's registration as an NVR registered training organisation;
 - (b) the person's application for registration or renewal of registration as an NVR registered training organisation;
 - (c) the person's approval as an approved course provider (within the meaning of the *VET Student Loans Act 2016*) or VET provider (within the meaning of the *Higher Education Support Act 2003*);
 - (d) subsidy funding arrangements with a State or Territory for the provision of education services by the person.
- (2) The National VET Regulator may have regard to whether the person has:
 - (a) breached a condition of registration as an NVR registered training organisation; or
 - (b) had a condition imposed by way of sanction on a registration, approval or arrangement mentioned in requirement 6 of this Schedule and has breached such a condition.
- (3) The National VET Regulator may have regard to whether the person has ever been a manager or director of a registered higher education provider (within the meaning of the *Tertiary Education Quality and Standards Agency Act 2011*) or registered provider (within the meaning of the *Education Services for Overseas Students Act 2000*) during a period in which the registered higher education provider or registered provider was determined to have breached a condition of its registration under the:
 - (a) *Education Services for Overseas Students Act 2000*; or
 - (b) *Tertiary Education Quality and Standards Agency Act 2011*.
- (4) The National VET Regulator may have regard to whether the person has ever been involved:
 - (a) in the business of delivering courses or other services on behalf of a person that was the subject of regulatory action described in subsections (1), (2) or (3) of this Schedule; or
 - (b) with an entity at the time that entity was found to have breached a government training contract.
- (5) The National VET Regulator may have regard to whether the person has been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*.

4. Financial record

The National VET Regulator may have regard to whether the person:

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- (a) been insolvent or bankrupt;
- (b) taken steps to take the benefit of any law for the relief of bankrupt or insolvent debtors;
- (c) compounded with one or more creditors;
- (d) assigned remuneration for the benefit of one or more creditors;
- (e) been under external administration (within the meaning of subsection 600H(2) of the *Corporations Act 2001*); or
- (f) outstanding debts to the Commonwealth.

5. Provision of information

The National VET Regulator may have regard to whether the person has provided false or misleading information to any of the following in circumstances where it is reasonable to assume the person knew the information was false or misleading:

- (a) a VET Regulator;
- (b) the Tertiary Education Quality and Standards Agency;
- (c) the TPS Director (within the meaning of the *Education Services for Overseas Students Act 2000*), including in the TPS Director's capacity as the VSL Tuition Protection Director under the *VET Student Loans Act 2016* and the Higher Education Tuition Protection Director under the *Higher Education Support Act 2003*;
- (d) the Minister, the Department or the Secretary; or
- (e) an authority of a State or Territory that deals with subsidy funding arrangements for education.

6. Previous conduct and involvements

(1) The VET Regulator may have regard to whether the person has previously been found not to be a fit and proper person for the purposes of one or more of the following:

- (a) the Act;
- (b) the *Australian Education Act 2013*;
- (c) the *Education Services for Overseas Students Act 2000*;
- (d) the *Higher Education Support Act 2003*;
- (e) the *Tertiary Education Quality and Standards Agency Act 2011*;
- (f) the *VET Student Loans Act 2016*;
- (g) subsidy funding arrangements with a State or Territory for the provision of education;
- (h) any other law of the Commonwealth or of a State or Territory.

(2) The National VET Regulator may have regard to whether the person has engaged in conduct that reasonably suggests a deliberate pattern of unethical behaviour.

(3) The National VET Regulator may have regard to any other matter it considers relevant.

7. Additional considerations

The VET Regulator may have regard to whether the public is unlikely to have confidence in the person's suitability to be involved in an organisation that provides, assesses or issues nationally recognised qualifications.