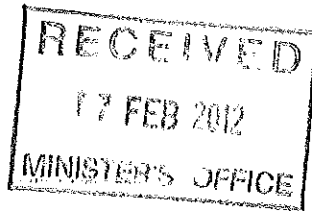


Rec 27/02/2012 at NZQA

TR12,2321



Tertiary Education Report: Approval of Rules for Private Training Establishment Enrolment and Academic Records

Date:	17 February 2012	NZQA Priority:	Medium
Security Level:	In confidence	Report No.	CR 9406

Action Sought:

	Action Sought	Deadline
Minister for Tertiary Education, Skills and Employment	approve Rules for Private Training Establishment Enrolment and Academic Records	At your earliest convenience

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1 st Contact	
Tim Fowler	Deputy Chief Executive Quality Assurance	(04) 463 4352	027 221 3266	✓
Michael Steer	Manager, DCE Quality Assurance Advisory Unit	(04) 463 4341	027 221 3278	

Enclosure: Appendices A and B

Minister's Office to Complete:

- ☐ Noted
 ☐ Seen
 ☐ Approved
☐ Needs change
 ☐ Withdrawn
 ☐ Overtaken by Events

Referred to:

Comments:

Tertiary Education Report: Approval of Rules for Private Training Establishment Enrolment and Academic Records

Recommended Action

It is recommended that you:

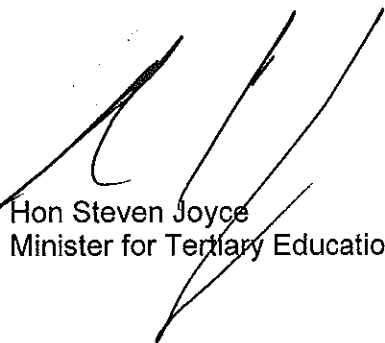
- a. **note** the *PTE Enrolment and Academic Records Rules 2012* presented in Appendix A
- b. **note** that consultation feedback from the private training establishment (PTE) sector informed the development of these rules
- c. **note** the proposed rules gained support from PTE sector groups
- d. **note** the rules bring PTEs into line with public institutions, which are required to keep records, and will assist NZQA's focus on compliance for the small group of PTEs that are 'below the quality bar'
- e. **approve**, under section 253(5) of the Education Act 1989 using section 7 of the Constitution Act 1986, the PTE Enrolment and Academic Records Rules 2012 (as set out in Appendix A)

 APPROVED / NOT APPROVED.



Karen Poutasi (Dr)
Chief Executive

17.2.12
.....



Hon Steven Joyce
Minister for Tertiary Education, Skills and Employment

20.2.12
.....

Tertiary Education Report: Approval of Rules for Private Training Establishment Enrolment and Academic Records

Purpose of Report

1. This paper seeks your approval for new rules relating to the retention of enrolment and academic records by private training establishments (PTEs). These were developed by NZQA under the new section 253 of the Education Act 1989 ("the Act").
2. The proposed rules, attached in Appendix A, were approved by the NZQA Board under section 253(5) of the Act, on 1 February 2012 subject to the insertion of a definition for the word "permanent" as it related to the term "permanent record". This has been completed, with the definition placed in rule 3.1.

Background

3. As part of the rules work programme, presented in Appendix B, NZQA consulted the non-university tertiary education sector and other interested parties, in September – December 2011, on proposed rules for the retention of enrolment and academic records by PTEs.
4. The proposed rules are not controversial for PTEs, attracting limited consultation feedback. The key feedback from PTEs related to the length of time to keep information and the types of documents to be kept.
5. NZQA carefully considered this feedback and has revised its initial proposal for permanent enrolment records to requiring that records be kept for a minimum of two years after a student completes their study. On the other hand, NZQA has retained its original proposal for permanent academic records as permanent student results are a key element of a workable qualifications framework. This brings PTEs into line with public institutions that already keep permanent academic records (the Public Records Act 2005 does not apply to PTE records).
6. Given that the consultation feedback was limited, NZQA discussed the final amended rules with the Executive Directors of the New Zealand Association of Private Education Providers (NZAPEP) and the Independent Tertiary Institutions; and with two PTE owners on the NZAPEP Executive. All supported the proposed rules as "professional", "sensible" and "practical".

Comment

7. Previously, PTEs were not legally required to keep records and the new requirement arises from amendments made to the Education Act in 2011 in relation to the regulation of PTEs.
8. The overall impact of the introduction of the new rules is that NZQA's expectations with regard to robust record-keeping will be transparent, clear and legally enforceable. The requirement for enrolment and academic records will assist NZQA's increased focus on compliance for the small group of PTEs that are 'below the bar' in terms of educational quality. For good quality PTEs, the new rules offer no substantial changes to sound educational and business practice.

9. The rules are simple and straightforward and add no undue compliance costs to PTE business. NZQA has integrated its incentives and sanctions framework by making some requirements lighter for good quality PTEs.

Risks

10. Thorough consultation has mitigated any risks that PTEs could be surprised by the new requirements. Following your approval NZQA intends publishing the rules on its website and notifying all PTEs by email.

Authority to approve the Rules

11. NZQA notes that the Prime Minister's delegation of legislative responsibilities to the role of Minister for Tertiary Education, Skills and Employment does not include Part 20 of the Education Act 1989. This means the Minister for Tertiary Education, Skills and Employment is not the legally defined Minister to approve rules made under section 253 (which is in Part 20), even though they may directly relate to the tertiary education portfolio. However, the exercise of the approval power can be achieved using section 7 of the Constitution Act 1986, despite not having the delegation from the Prime Minister. Section 7 provides that any function, duty, or power exercisable by or conferred on any Minister of the Crown (by whatever designation that Minister is known) may, unless the context otherwise requires, be exercised or performed by any member of the Executive Council. The Cabinet Manual suggests that use of section 7 is limited to Associate Ministers, Acting Ministers, and Duty Ministers. The Cabinet Manual, however, is not formal law, but rather relates to machinery of government. Section 7 is thus not subject to the Cabinet Manual, and so section 7 of the Constitution Act is available to use for your approval of the Rules.

Shall be fixed?

APPENDIX A

PTE Enrolment and Academic Records Rules 2012

1. Authority

1.1 These Rules are made under the following provisions of the Education Act 1989:

- (a) section 253(1)(n), for the purposes of section 236A of the Act, and relating to students enrolled in programmes and training schemes at PTEs; and
- (b) section 253(1)(o), as part of the reporting requirements for a student's record of achievement in relation to assessment against standards; and
- (c) section 253(1)(q) to ensure there are no gaps in the PTE's enrolment and academic record-keeping systems for students enrolled in standards-based education or training that does not involve a programme or training scheme.

2. Commencement

2.1 These Rules commence on the day after the date of approval by the Minister under section 253(5) of the Act.

3. Interpretation

3.1 In these Rules, unless the context otherwise requires:

"Act" means the Education Act 1989:

"Category 3 PTEs" means PTEs that have received a Not Yet Confident judgement either for educational performance or for organisational capability in self-assessment, or for both, in the most recent EER carried out in respect of that PTE:

"Category 4 PTEs" means PTEs that have received a Not Confident judgement either for educational performance or for organisational capability in self-assessment, or for both, in the most recent EER carried out in respect of that PTE:

"Education or training", in relation to a student, means education or training provided to the student through:

- (a) a programme, or part of a programme:
- (b) a training scheme, or part of a training scheme:
- (c) assessment against standards:

"EER" means the quality assurance system known as external evaluation and review, in which PTEs are required to participate by registration rules made under section 253 of the Act:

"NZQA" means the New Zealand Qualifications Authority:

"NZQF" means the New Zealand Qualifications Framework:

"Permanent", in the context of "permanent record", means the period of time until subsection (2) of 236A of the Act applies (being when the PTE closes and transfers those records in compliance with that subsection):

"Programme" has the meaning in section 159(1) of the Act:

"PTE" means a registered private training establishment:

"Standards" means assessment standards that are listed on the Directory of Assessment Standards maintained by NZQA pursuant to section 246A(1)(d) of the Act:

"Training scheme" has the meaning in section 159(1) of the Act.

Part 1 – PTE Enrolment records

4. Enrolment records that must be kept by PTEs and for how long

- 4.1 The accurate enrolment records for each student that must be kept, and kept up to date, by PTEs are:
- (a) Full name and address of the student:
 - (b) Contact details for the student:
 - (c) The student's national student number (where the student has a national student number):
 - (d) Nationality and whether a domestic or international student:
 - (e) The education or training in which the student is enrolled:
 - (f) The start and finish dates of the education or training:
 - (g) Details of the student meeting the entry requirements of the education or training including, where applicable, scores for English language entry requirements:
 - (h) Invoices and receipts for fees paid to the PTE and the dates of payment, with course fees, commissions, accommodation fees, living expenses, and other fees separately identified:
 - (i) For international students, their visa (if any) and other immigration details, the contact details of any agent through whom the student enrolled at the PTE, a copy of the student health and travel insurances, student fee protection trustee records, and passport numbers.
- 4.2. The records listed in rule 4.1 for each student must be kept until at least two years after the completion of the education or training in which the student is enrolled.

5. The manner in which enrolment records must be kept

- 5.1 The enrolment records must be kept in a manner that ensures they are easily recovered and printed from, and readily available on, the PTE's electronic data storage system.

Part 2 – Academic records

6. Student academic records that must be kept by PTEs and for how long

- 6.1 The accurate academic records that must be kept, and kept up to date, by PTEs for students enrolled in education or training at the PTE are:
- (a) Records of individual student assessment and examination results (*for example, for prescriptions, papers, assessment standards*) that include the name of the student, the date of achievement and the relevant grade, which are to be kept as a permanent record:
 - (b) Any cross credits, credit transfer, and recognition of prior learning arrangements for individual students, and the evidential basis for them, which are to be kept as a permanent record:
 - (c) Records of student attendance, which are to be kept for at least the duration of the student's enrolment:
 - (d) Records of the achievement of awards or qualifications by the students, which are to be kept as a permanent record.
- 6.2 Category 3 and Category 4 PTEs must keep all student assessment materials for the duration of the student's enrolment in education or training at the PTE (*whether or not the education or training is delivered by the PTE or an NZQA approved sub-contractor of the PTE*).
- 6.3 The keeping of academic records under rule 6.1 does not limit requirements to keep records of student work under other rules made under section 253 of the Act.

7. The manner in which the academic records must be kept

- 7.1 The following is the manner in which the academic records must be kept:
- (a) For all student records required to be kept under rule 6.1, the records must be kept in a manner that ensures they are easily recovered and printed from, and readily available on, the PTE's electronic data storage system:
 - (b) For all student records required to be kept under rule 6.2, they must be readily available upon request:
 - (c) A back-up copy for all records referred to in paragraph (a) of this rule 7.1 must also be kept in a manner that is accessible in the event of PTE closure, natural disaster, or emergency, and for at least the period of time the particular records themselves are required to be kept.

Appendix B: NZQA rules work programme 2011-2012

Overview

NZQA has begun work on developing rules under the new section 253 of the Education Act 1989 (the Act). This work is required to be completed by the end of 2012.

In some cases, the process of developing rules simply involves converting the current requirements, policies and criteria into rules. In other cases, NZQA is proposing new activities. In these situations, NZQA will consult with the education sector on proposed rules.

All rules need to be approved by the NZQA Board and the Minister for Tertiary Education, Skills and Employment.

NZQA has prioritised the work associated with developing the various sets of rules.

The rules work completed in 2011 related to:

- Listing standards on the Directory of Assessment Standards
- Consent to assess against standards on the Directory of Assessment Standards
- The PTE annual registration fee.

NZQA proposes to complete early in 2012 the rules associated with:

- PTE assessment and attendance records
- Student fee protection
- Training schemes
- Listing qualifications on the NZQF.

The table below provides an overview of the additional rules being developed during 2012 and the approximate time spans for developmental work, consultation periods and completion of each workstream.

Rules Groups / Workstreams	Development period 2012
Programmes of training (A) and Workplace training (B)	February - May (A) May - September (B)
Programme approval and accreditation (including relevant incentives and sanctions)	February - September
Cross-crediting / Recognition of Prior Learning	February - September
External Evaluation and Review (integrating consequences of non-compliance, and relevant incentives and sanctions)	March - July
Approval of standard-setting bodies	May - November
Degree approval accreditation and monitoring	June - December
PTE initial registration, ongoing registration and changes to registration (including relevant incentives and sanctions, and consequences of non-compliance)	August - December