



NEW ZEALAND QUALIFICATIONS AUTHORITY  
MANA TOHU MĀTAURANGA O AOTEAROA



# Guidelines for private training establishment registration

# **Guidelines for private training establishment registration**

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**NZQA  
125 The Terrace  
PO Box 160  
Wellington 6140**

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# Introduction

This document provides guidance to entities applying for initial registration as a private training establishment (PTE), and to PTEs maintaining registration granted by NZQA. Its purpose is to provide PTEs with a single document that integrates guidance to:

- the requirements for registration outlined in Part 18 of the Education Act 1989 (the Act)
- the *Private Training Establishment Registration Rules 2018*
- further statutory requirements and NZQA rules applying to PTEs.

## Statutory requirements

A number of statutory requirements can prompt an entity to apply for registration by NZQA as a PTE:

### International students

An education provider must be registered as a PTE in order to enrol international students (under section 232A of the Act).

### Funding

Only registered PTEs can seek funding from the Tertiary Education Commission (under section 159Y of the Act), and other government agencies that fund education programmes may also require registration.

### Qualifications on the New Zealand Qualifications Framework (NZQF)

A registered PTE can apply to NZQA for approval and accreditation to deliver programmes of study leading towards qualifications listed on the NZQF (under sections 249 and 250 of the Act). It is not legally possible for a non-registered provider to deliver NZQA approved courses, programmes or qualifications.

NZQA may grant registration when it is satisfied that the PTE has met the requirements of Act and the *Private Training Establishment Registration Rules 2018* established under section 253 of the Act.

## Evaluative quality assurance

Registration as a PTE is the first stage of an evaluative quality assurance framework that has four components:

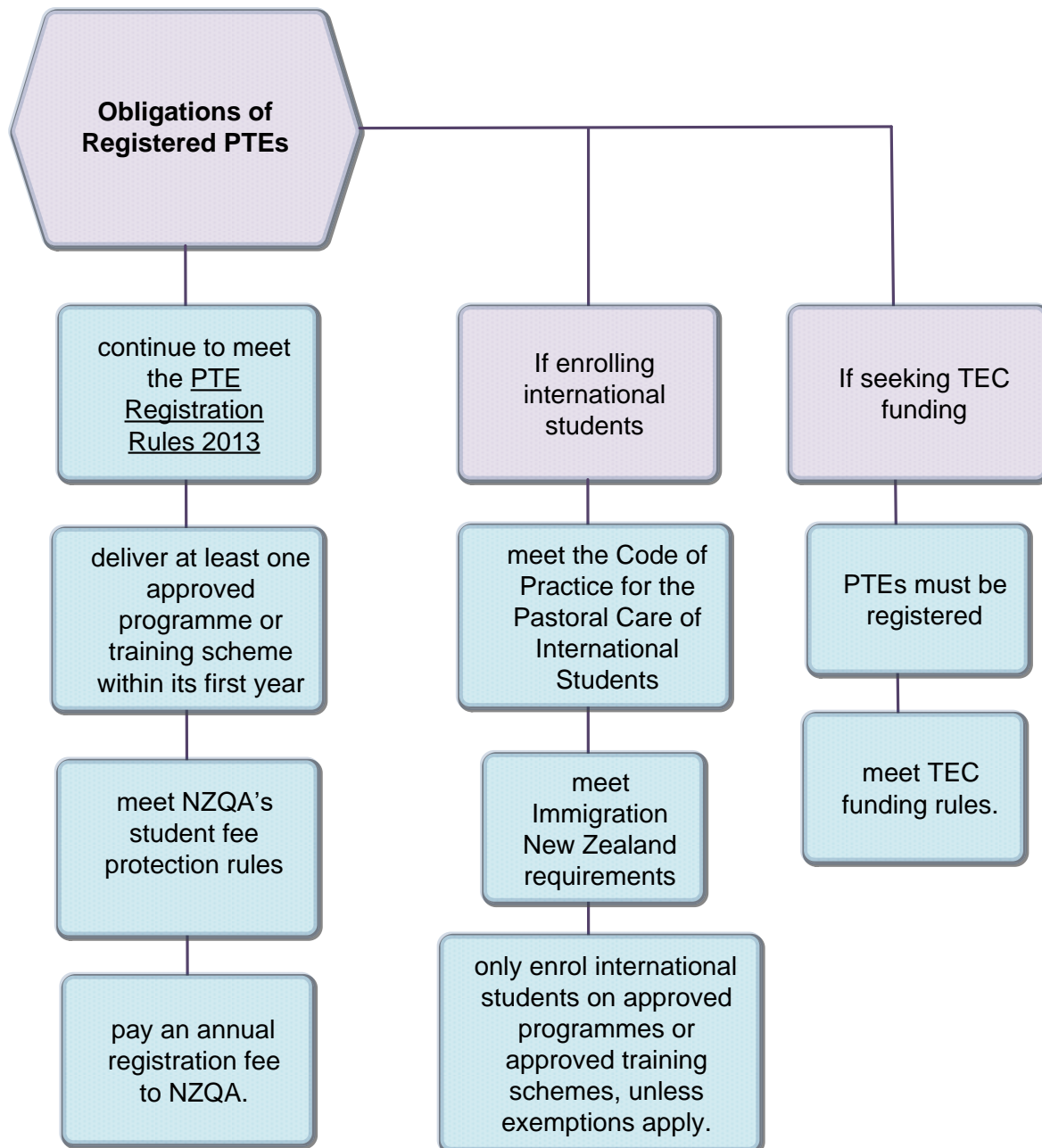
- 1 Initial entry processes: registration as a PTE; approval of programmes, training schemes and qualifications; accreditation to deliver approved programmes leading to qualifications on the NZQF; and consent to assess against standards on the Directory of Assessment Standards (DAS).
- 2 Self-assessment of organisational capability, undertaken by the PTE itself.
- 3 External evaluation and review of the PTE's educational performance and capability in self-assessment, carried out by NZQA.
- 4 NZQA's actions in response to any non-compliance with the Act or with NZQA rules.

For more information on the Evaluative Quality Assurance Framework see the policy document on the NZQA website at <http://www.nzqa.govt.nz/assets/Studying-in-NZ/Quality-assurance/ee-policy-framework.pdf>.

## Obligations

Along with the benefits of registration, such as being able to enrol international students, a registered PTE has obligations that are listed in figure 1 below.

**Fig. 1 – Obligations of PTEs**

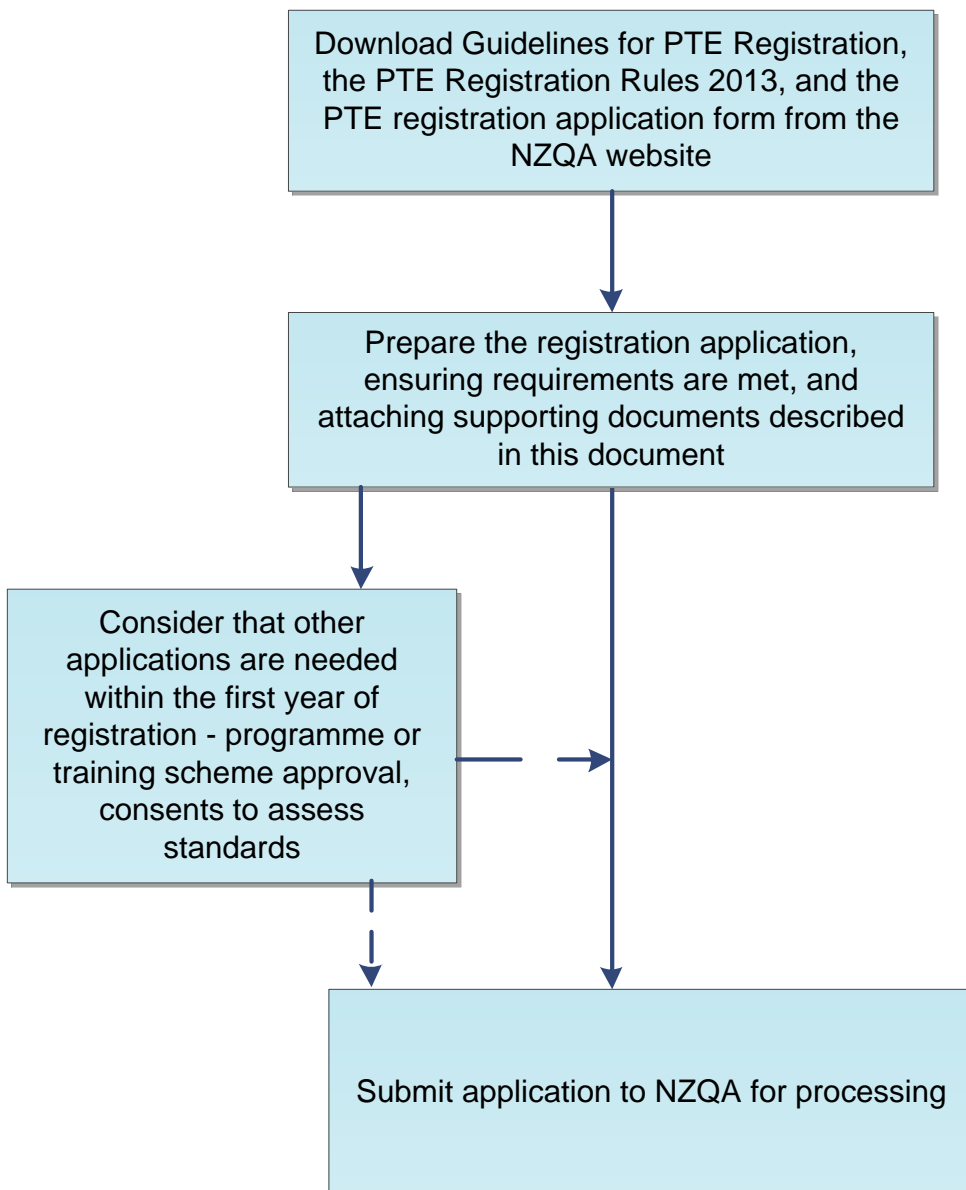


# Section 1: Applications for registration

Applicants for registration as a PTE must use the application form available on NZQA’s website, and may be asked to pay a deposit of \$750 (GST inclusive) to NZQA. The application process is outlined in figure 2 below.

The broken line in the chart below indicates that an applicant may decide to submit other applications together with the registration application. Further details about other applications are included below in this section and in [section 3](#) of these guidelines.

**Fig. 2 –Application process to be registered as a PTE**



## Information to include in an application for registration

The checklist below lists the information that NZQA requires in the application. Guidance to each requirement is in [section 2](#) of this document.

### ***Application checklist***

	<b><i>Requirements</i></b>	<b><i>Included</i></b>
1.	Name and contact details	
2.	Evidence the applicant is a body corporate	
3.	A statement of the education the applicant proposes to provide	
4.	Names of the governing members of the PTE	
5.	Evidence the governing members are fit and proper persons	
6.	A statutory declaration from each governing member about conflicts of interest	
7.	Information regarding staff, equipment and premises	
8.	Evidence of acceptable financial management practices and performance	
9.	Information intended for prospective students	
10.	Quality management system policies and procedures	
11.	Information relating to the Code of Practice for the Pastoral Care of International Students	
12.	Information about how the PTE will meet the Student Fee Protection Rules 2013	

## Other applications during the first year as a PTE

Within 12 months of being granted registration, a new PTE must, under section 234 of the Act, deliver an approved programme it is accredited to provide, or an approved training scheme.

In succeeding years, the PTE must continue to deliver an approved programme or training scheme with no gaps of more than one year, otherwise its registration will lapse. (See guidance on lapsing registration in [section 4](#) below.)

To meet this requirement, within its first year of existence a new PTE will need to apply for programme approval and/or accreditation, or training scheme approval. The PTE must begin providing that programme or training scheme within its first year of registration.

Applications for consent to assess against unit or achievement standards may also be required to deliver the programme or training scheme.

Some applicants for PTE registration will be ready to make these applications at the same time as they apply for registration. Simultaneous applications can reduce any potential duplication of information required by NZQA. NZQA will endeavour to process applications at the same time, but PTE registration must be approved before any other application approvals can be finalised.

Registration applications can be submitted with or without accompanying applications for programme approval and accreditation, training scheme approval or consent to assess against standards.

Section 3 provides limited guidance to applications for approval of programmes, training schemes and consents to assess. Applicants need to follow the links in [section 3](#) to access the detailed guidance on the NZQA website.

## Evaluation of applications

NZQA uses an evaluative approach in considering applications for registration as a PTE. Each application is assessed on a case-by-case basis against the requirements of the Act and the *Private Training Establishment Registration Rules 2018*.

When evaluating an application for registration, NZQA may request further information from the applicant.

Where key documents are missing or incomplete, the applicant will be advised and required to resubmit the information within an agreed timeframe. If the information is not received within the agreed timeframe, NZQA may close the application and all documents will be returned to the applicant.

In most cases, NZQA will make a site visit to verify the application details.

NZQA sets a timeframe of six months to complete the registration process.

Potential outcomes for an application for PTE registration are:

- registration approved, where evidence shows that all requirements have been met, or
- registration approved with conditions (see below), or
- registration declined, noting any requirements that have not been met.

## Conditions and other limitations on registration

Section 233B of the Act allows NZQA to impose conditions on registration that are specific to a PTE. Conditions are intended to ensure the PTE continues to satisfy all statutory requirements and provides quality education and training. A condition can be imposed for a set time, after which the PTE must resolve a quality issue.

### How conditions are used

Conditions can also be applied at the time of registration. For example, the condition may be that the PTE can only deliver a certain type of education. NZQA may use a condition to ensure a PTE that has been registered for a specific educational purpose continues to meet that purpose. Breach of one or more conditions may provide grounds for cancellation of registration.

### Time-bound registration

The Act also allows NZQA to make PTE registration time-bound. For example, registration can be granted only for the duration of a specific project an entity is planning. However, registration



for a specified period will not be used as a safeguard where there are doubts about the suitability of an organisation for registration as PTE. There is no 'provisional' registration status.

## Application costs

NZQA may ask the applicant to pay a deposit of \$750 GST inclusive to NZQA when applying.

Applicants are charged the full cost of NZQA evaluation at the rate of \$150 per hour plus GST. The total cost is, in part, dependent on the quality and comprehensiveness of information that is provided by the applicant. If NZQA has to request further information that is missing from the initial application, the overall cost is likely to increase.

NZQA will make site visits in most cases. These visits are charged at \$150 per hour plus GST. NZQA travel will be charged to the applicant separately.

## The validation visit

NZQA makes a validation visit to the PTE six months after registration. The purpose of the validation visit is to check that the PTE is meeting registration requirements by operating as it has 'promised' in the application, particularly because at the time of registration many organisations will not be fully operational.

The validation visit is charged at \$150 per hour plus GST.

If the PTE is not operating six months after registration, NZQA can agree to delay the validation visit.

## Lapsing PTE registration

The registration of a PTE will lapse for either of the following reasons:

- if the PTE has not delivered any approved programmes or training schemes for more than one year (under section 234 of the Act)
- if the PTE fails to pay its fees to NZQA (under section 234(3) of the Act).

Further guidance about the lapsing of PTE registration is available in [section 4](#) below.

## Section 2: Guidance for applicants

This section provides guidance on the information NZQA requires in the PTE registration application form. It should be read in conjunction with the application form, which can be accessed online from the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>. The guidance below is set out in the same order as in the application form.

The guidance addresses the requirements of both the Act and Rule 4.1 of the *PTE Registration Rules 2018* (see the [Appendix](#)). Each numbered requirement includes a reference to the relevant parts of the Act and/or the Rule that empowers NZQA to require the information.

### 1 Name and contact details

Applicants should ensure that the person named in the application is available to answer any requests for information or clarification from NZQA.

### 2 Applicants must be a body corporate

#### Section 232D(1) of the Act

An applicant that is a body corporate may apply to NZQA for registration as a PTE.

#### Guidance

A body corporate can be a limited liability company, an incorporated society or a charitable trust. It cannot be a family trust, nor can the ultimate shareholder of the corporate entity be a family trust.

Applicants must provide the full name and the corporate body number of the entity applying to become a PTE.

#### A separate entity with an educational focus

NZQA expects that the primary focus of a PTE is education, although a PTE may be a subsidiary of a wider organisation with business interests beyond education. To keep accountabilities clear, applicants should separate the educational activities of the wider organisation into a discrete body corporate that will become the PTE. It must be clear to NZQA where the responsibility lies for PTE activities.

If the PTE is not a separate entity, NZQA may look into the activities of and people involved in the wider organisation.

For example, if a flying school chooses to expand its scope in such a way that it needs to register as a PTE, the administrative distinction should be clearly documented. The PTE must identify any additional trading name(s) of the body corporate that differs from its legal name. NZQA would be concerned if multiple names were specified for the same PTE, without good reason.

#### The PTE's name

The PTE's name should not be misleading, such as using a name that is very similar to the name of another institution. The name should not contain any of the terms protected under

section 292 of the Act. It is an offence to use the terms ‘university’, ‘college of education’, ‘polytechnic’, or ‘institute of technology’ without Ministerial consent.

If a new application for registration is made after a change of ownership, the name of the PTE must be clearly distinguished from the original PTE. For example, ABC PTE can become ABC (2013) PTE at the very least.

### Information to include in the application

- A company registration certificate, certificate of incorporation or other document recognising the applicant’s legal status as a body corporate.
- If the body corporate has been incorporated for more than one year, the most recent Annual Return to the Registrar of Companies or the Registrar of Societies must accompany the application.
- If the body is a limited liability company, details must be supplied of any changes to the company’s capital structure, shareholding, directors or secretary that may have taken place since the most recent return was filed.

### 3 Statement of education the PTE proposes to provide

#### Section 232D (2)(a)(i) and (ii) of the Act

The application must include a written statement setting out:

- the kinds of education the establishment proposes to provide
- the outcomes it seeks to achieve through the provision of those kinds of education.

#### Rule 4.1(c)

The written statement must include a description of how the PTE will meet the needs of:

- its intended students
- its relevant communities (including whānau, hapū, iwi, or hāpori Māori)
- other key stakeholders (including any relevant academic, employer, industry, runānga, marae, professional and other bodies).

### Guidance

The written statement must meet the requirements of the Rule and the Act.

### Proposed kinds and outcomes of education

The kinds and outcomes of education that a PTE might provide are wide-ranging. Examples include vocational education and training, academic education, professional preparation, community volunteer training, corporate training and English language training. These examples are indicative, and PTEs are not limited to any specific type of education. Many PTEs have multiple educational focuses.

PTE education can be at any level of the NZQF and could range from foundation to degree-level education. PTEs may intend to enrol domestic or international students, or both.

PTEs must deliver at least one programme or training scheme that is approved by NZQA (as detailed in guidance on Requirement 1 in [section 3](#) below). PTEs may also deliver some education or training that is not approved by NZQA. The applicant must be clear about which parts of its education and training will be programmes or training schemes approved by NZQA. The applicant must also be clear about which qualifications it will award, and the requirements that must be met to award the qualifications.

The PTE will have obligations as an education provider to maintain its academic quality and to moderate its assessments to ensure they are valid and consistent. The outcomes of qualifications awarded by the PTE will need to be consistent with those delivered by other providers.

Public information about the PTE must be accurate, clear and not misleading (see Rule 5.1.4 in [section 4](#) below). PTEs should ensure that public information is consistent with the information provided to NZQA in response to Rule 4.1(c) above.

### **Meeting needs**

This is a very important part of the application. Once registered, the PTE will have to demonstrate it is meeting students' needs and taking a holistic approach to students' well-being (under Rules 5.1.3 and 5.1.5). It will also have to demonstrate that it is meeting the needs of relevant communities and key stakeholders.

After registration, NZQA's external evaluation and review (EER) will judge the extent to which the PTE is meeting needs. Concerns in these areas could be a ground for NZQA actions in response to possible non-compliance by the PTE.

Therefore, applications should explain the nature of the communities and stakeholders involved. There should be realistic evidence about the actual needs of students, and the relevant community and key stakeholders. The PTE might undertake market research to provide evidence about student and community needs, but other types of research and community consultation are equally valid.

NZQA expects to see that the applicant has undertaken significant engagement with Māori on Māori needs and aspirations, especially where a high proportion of the intended students are, or will be, Māori.

### **Objectives of tertiary education and the tertiary education strategy**

When considering the kinds of education the PTE intends to provide, NZQA must 'have regard to' the objectives of tertiary education set out in section 159AAA of the Act. NZQA also must have regard to the Tertiary Education Strategy, available from the Ministry of Education website at <http://www.minedu.govt.nz/>. Applicants should ensure that information provided addresses those objectives and strategies.

### **Information to include in the application**

- A written statement of the kinds of education the PTE proposes to provide and the outcomes it seeks to achieve. This needs to include:
  - a profile of the PTE's intended students, relevant communities and key stakeholders
  - a description of how the PTE will meet the needs of students, relevant communities and key stakeholders through the education and training it will provide
  - the process used to identify needs, including who the PTE has consulted with, and how they consulted them

- how the PTE will continue to seek advice and input from stakeholders over time (for example, through establishing programme advisory groups).
- A business plan for implementing the kinds of education the PTE proposes to provide This must include a list of the programmes and/or training schemes it intends to deliver and how it intends to:
  - develop the academic programmes or training schemes it will provide (with timeframes), including how it will meet the consistency requirements for programmes that lead to qualifications listed on the NZQF
  - meet Rule 5.1.8 Assessment and moderation, which requires the PTE to operate a coherent assessment and moderation system
  - resource the programmes/training schemes and commence delivery through adequate staff, equipment and premises, and acceptable financial management practices and performance.

## 4 Names of governing members

### Rule 4.1(a)

Applicants must provide a list of the names of the governing members of the PTE.

### Section 233A of the Act

The definition of a governing member is

- any director
- any member occupying a position equivalent to that of a director
- if the establishment is a trust, any trustee
- if the establishment is a partnership, any partner
- any senior manager, defined as either the chief executive officer or person occupying an equivalent position; or any member of staff in charge of academic issues, marketing, administration, finance, student fee trust funds or student services
- any shareholder with a controlling interest in the establishment.

### Section 232E of the Act

- (1) NZQA may require evidence of the identity of the governing member of a PTE.
- (2) NZQA may interview a governing member to verify his or her identity.

## Guidance

Each application must include documentation verifying the identity of all governing members.

With regard to section 233A (f), a shareholder with a controlling interest is defined as a governing member that owns, or otherwise controls (such as through another entity) fifty per cent or more of the issued capital of a PTE that is a company, and the member is able to control the exercise of fifty per cent or more of the total shareholder or trustee votes. This includes being able to appoint the composition of the governing body that exercises the voting power.

## Information to include in the application

A list with each governing member's name (including 'also known as' names), role and contact details.

- For each person listed as a governing member, a verified copy of their passport or birth certificate. If the documents are not in English or Te Reo Māori, the applicant must provide a verified translation.

## 5 Each governing member is a fit and proper person

### Section 232D(d) of the Act

The application must contain a statutory declaration from each governing member in respect of the matters described in section 233A(1) (a) to (g), which include a declaration the member is a fit and proper person for that position.

### Section 233(1)(a)-(g), and section 233A(1)(a)-(h) of the Act

NZQA must be satisfied that every governing member is a fit and proper person for that position, according to the criteria set out in section 233A, which are:

- (a) the person's experience in the provision of education services (for example, any previous involvement in a registered private training establishment)
- (b) whether the person was a governing member of a registered private training establishment that was closed, sold due to insolvency, or taken over
- (c) whether the person has been convicted of any offence involving fraud, violence, or dishonesty, or any offence under this Act or section 352 of the Immigration Act 2009
- (d) whether the person is a defendant in proceedings in respect of an offence described in paragraph (c)
- (e) whether the person was adjudicated bankrupt under the Insolvency Act 2006 or the Insolvency Act 1967
- (f) whether the person is prohibited from being a director or promoter of, or from being concerned or taking part in the management of, a company under any of sections 382, 383, 385, and 386A of the Companies Act 1993
- (g) whether the person has failed to disclose any material conflict of interest as required under section 232D(2)(c)(i); and
- (h) any other matter that NZQA considers relevant.

### 233A(2) of the Act

If the applicant has had direct involvement in the provision of education services that have failed, the Authority must give the applicant an opportunity to explain why the risk of this occurring again is unlikely.

## Information to include in the application

For each proposed governing member of a proposed PTE, the application must include:

- a complete statutory declaration that provides information NZQA can use to assess if a proposed governing member is a fit and proper person as well as a complete conflicts of

interest statutory declaration. Use the *Statutory declaration as a fit and proper person and of conflicts of interests* form available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>

- a position description, a curriculum vitae describing the person's experience in the provision of education services, and a statutory declaration regarding the matters in section 233(1)(b)-(g) (see above)
- where relevant, an explanation of why the risk of reoccurrence of PTE failure is unlikely.

## 6 Governing member conflicts of interest

### Section 232D(c) of the Act

For each governing member, the applicant must supply a statutory declaration of:

- any material conflicts of interest arising from the members' role as a governing member
- any interests the member has in organisations in the education or immigration sectors that provide goods or services to tertiary students.

### Section 232D(e) of the Act

The application must describe the arrangements that the PTE has in place to manage conflicts of interest that may arise; and be in a form and contain any other information that NZQA requires.

### Section 233(1)(b)-(d) of the Act

NZQA must be satisfied that

- the applicant must have in place effective arrangements for managing any conflicts of interest that exist or may arise
- no governing member has a material conflict of interest that NZQA considers is or is likely to be unmanageable
- no governing member has an interest of a kind described in 232D(c)(ii) (any interests the member has in organisations in the education or immigration sectors that provide goods or services to tertiary students) that NZQA considers is, or is likely to be, unmanageable.

### Rule 4.1(b)

The applicant must supply a list of any material conflicts of interest of the PTE, and of any interests of the PTE, or of its body corporate owner(s), in organisations in the education or immigration sector that provide goods or services to tertiary students.

## Guidance

With regard to conflicts of interest, the Rule and the section of the Act work together to require applicants to provide sufficient and accurate information to NZQA. If the applicant fails to disclose any conflicts of interest, or provides misleading information, this could be a ground for refusal of an application under 233(4) of the Act.

A 'material' conflict of interest is an interest which, in view of the circumstances, could reasonably be expected to affect independence or impartiality of a governing person. A material



conflict of interest is where the governing member, or a close relative, has an interest in a transaction that is not aligned with the PTE's interest. That is, the member or a relative has an involvement in a transaction that might disadvantage the PTE that they also have an interest in, or benefit them or their close relative.

Examples of situations where interests must be disclosed include, but are not limited to, the following:

- The governing member has loaned money to the PTE.
- A close relative of the governing member has entered into a significant contract with the PTE.
- A company owned by the governing member is the PTE's landlord.
- The governing member is a shareholder or director in an immigration consultancy that offers immigration services to prospective students of the PTE.

NZQA will evaluate each declaration on a case-by-case basis taking into account the magnitude of the conflict of interest and the arrangements that the applicant intends to put in place to manage it. NZQA must be satisfied of the effectiveness of the PTE's arrangements to manage conflicts of interest.

If governing members are uncertain if their position could be considered a conflict of interest, NZQA advises them to take a conservative approach and make a disclosure.

Governing members must also disclose any interest they have in organisations in the education or immigration sector that provide goods or services to tertiary students. For example, a governing member might own accommodation that is rented by students, or a business that sells specialist equipment to students. The reason for disclosure in such situations is the higher likelihood of a conflict of interest between the governing member or the PTE, and the interests of students.

### **Information to include in the application**

For each proposed governing member of a proposed PTE, the application must include:

- A completed statutory declaration from each governing member that provides information NZQA can use to assess if a proposed governing member is a fit and proper person, and discloses any material conflicts of interest and any interests in organisations in the education or immigration sector that provide goods or services to tertiary students, as well as arrangements to manage any conflicts of interest. This information is combined with the conflicts of interest statutory declaration.

The *Statutory declaration as a fit and proper person and of conflicts of interests* form is available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>.



## 7 Adequate staff, equipment, and premises

### Section 233(1)(e) of the Act

NZQA must be satisfied that the PTE has, or will have at the relevant time, adequate staff, equipment and premises to provide its programmes or training schemes.

### Rule 4.1(d),(e)

In addition to the requirements under section 233 of the Act, the following further information is required:

- An organisation chart of the staff positions (whether employees or contracted staff) and the names of the staff currently in, or appointed to, those positions:
- Copies of the curriculum vitae and position descriptions of senior managers, who are defined, in section 232(1) of the Act, as the chief executive officer or person occupying an equivalent position; and members of staff in charge of academic issues, marketing, administration, finance, student fee trust funds, or student services.

### Guidance

NZQA recognises that an applicant for registration may not yet have secured all of its staff, equipment and premises. Nonetheless, NZQA must be satisfied that the PTE will have, at the time delivery commences:

- adequate staff with the necessary knowledge, skills and experience covering relevant education and training expertise, academic subjects, educational delivery, assessment and moderation, student support, educational administration including financial expertise, and educational management and governance
- adequate equipment, including any necessary information technology resources, educational resources and workshop tools to safely deliver its programmes or training schemes
- adequate premises, including off-site locations, to provide its programmes or training schemes.

Health and safety practices should provide NZQA with assurance that equipment used by students and teachers at all teaching sites will be safe to use and used safely. As a minimum, PTEs will need to meet obligations under the Health and Safety in Employment Act 1992.

The Ministry of Business, Innovation and Employment has responsibility for occupational health and safety. For further information see the health and safety website at <http://www.osh.govt.nz>.

NZQA differentiates between permanent and temporary sites/premises, which are defined as follows:

#### Permanent site

A delivery site is considered to be permanent when a provider has a regular and on-going presence at the site, such as for five days per week all year or one day per week for half a year. The provider is likely to either own the premises or have a lease or rental agreement that provides security of tenure.

## Temporary site

A temporary site would be used only occasionally and would not warrant the provider entering into long-term arrangements for tenure. Typically, the provider will rent a venue for a few days throughout the year to offer either short or block courses.

### Information to include in the application

- The organisation chart of staff positions as above.
- The curriculum vitae and position descriptions of senior managers as above.
- Lists of resources and equipment needed to adequately and appropriately provide the PTE's training schemes or programmes.
- Where the resources are not already in place, an acquisition plan with a budget.
- Details of all permanent sites/premises which will be used for delivery, including:
  - location
  - a site or building map, or a description, that indicates the size of each classroom/workshop learning venue and numbers of students each would accommodate
  - a description of the facilities, including staff and student facilities, such as the number and gender of toilets, student common room and kitchen, offices and staff space available, and including facilities for secure storage of student records
  - evidence that the new site will comply with the statutory requirements relating to its use. This evidence must include relevant policies and procedures, a health and safety check of the site, confirmation from the relevant authority that the zoning is appropriate for an educational organisation, and, if applicable, the Building Warrant of Fitness
  - evidence that the PTE has or will have a right to occupy or use the premises or other teaching and administration sites before instruction commences i.e. a copy of the lease or tenure agreement OR a copy of the ownership papers
- The location of any temporary sites/premises that will be used for delivery.

## 8 Acceptable financial management practices and performance

### Section 233(1)(f)(i)-(ii) of the Act

NZQA must be satisfied that the PTE:

- in the case of an establishment that is already operational, has acceptable financial management practices and performance (for example, is able to pay its staff, taxes, and creditors); and
- in the case of an establishment that is not yet operational, is likely to have acceptable financial management practices and performance (for example, is likely to be able to pay its staff, taxes, and creditors).

## Guidance

NZQA needs to be satisfied the applicant has a sound financial basis and is likely to be financially stable. The evidence of its financial basis must reflect the business plan required in the application.

NZQA will analyse the applicant's financial structure and resources to determine its on-going financial viability.

In particular, NZQA will look to see whether the applicant:

- has the capacity to meet on-going business development and quality assurance costs
- has any arrangements, including shareholder arrangements, which may adversely affect its on-going viability.

The applicant's debt/equity ratio must provide an adequate level of confidence in its on-going financial sustainability. Its annual budget should be in alignment with its available resources, including staff input, and support the proposed education provision and administration.

There should be evidence that either the PTE will generate sufficient income through its education activities to meet its financial commitments and ensure its financial viability, or it will be able to call on other sources of funding that are in line with its proposed type of education and outcomes.

## Information to include in the application

- A three-year financial forecast, with clear explanations of the basis for the figures in the forecast. Forecasts should be forwarded in electronic format (spread-sheet).
- If already operational, the applicant must also supply its most recent Annual Report and a full set of financial statements including, as appropriate, its
  - annual operating budget
  - statement of financial position
  - financial performance and cash-flows
  - forecasts for both the existing organisation and the new organisation that incorporates the PTE.
- Where applicable, a statement from a funding body.

## 9 Information for prospective students

### Section 233(1)(h)(i)-(iii) of the Act

NZQA must be satisfied that before accepting the enrolment of any prospective student, the PTE provides or will provide that student with a written statement of:

- the total costs and other financial commitments associated with the programme or training scheme for which the student seeks enrolment
- any material conflicts of interest of any of the governing members of the establishment
- any interests a governing member has in organisations in the education or immigration sector that provide goods and services to tertiary students.

### Section 234B(a)-(c) of the Act

Every PTE must ensure that all printed and other information made available to prospective students has full details of:

- the total fees for each programme or training scheme, including fees for class or lecture materials, any NZQA external examination fees, books, special clothing, safety equipment, tools, and any other items that are or may be provided to students enrolled for that programme or training scheme, and including any students association membership fees
- the class or lecture materials, books, any external examination timetables, special clothing, safety equipment, tools, and other items that are or may be required by the PTE to be bought or provided by students enrolled for each programme or training scheme.

Every PTE must, before accepting the enrolment of any prospective student, give the student a written statement of:

- the total costs and other financial commitments associated with the programme or training scheme
- the cost of fees for student services provided by the PTE
- any material conflicts of interest of any of the governing members of the PTE and any interests the member has in organisations in the education or immigration sector that provide goods or services to tertiary students

Every PTE must give prospective students a written statement of his or her entitlements under sections 235 (domestic students) and 235A of the Act (international students), in the event that the student withdraws from a programme or training scheme.

### Guidance

Prospective students need to have access to clear information on the costs of study and the PTE's governing members to enable them to make an informed choice. The Act (section 234B) lists items of information that must be made available to prospective students. It is the PTE's responsibility to ensure that all prospective students have easy and ready access to information that is complete and clearly written. It is not sufficient, for example, for the information to be available only on request.

Entitlements to fee refunds are different for domestic and international students. For further information about fee refund entitlements see [requirement 12](#) below.

The applicant should note that once they commence operation, Rule 5.1.4 under [Maintaining registration](#) will require the PTE to have available, on student request, copies of:

- its enrolment information, including entry and selection criteria
- any NZQA compliance notices, conditions, accreditation or withdrawals.

### Information to include in the application

- The PTE's written statement to prospective students, such as an offer of enrolment or an enrolment contract, that shows:
  - detailed costs and financial commitments for prospective students, as specified in sections 233(1)(h) and 234B of the Act (as above)

- entry and selection criteria for relevant programmes
- where applicable, material conflicts of interest of governing members and the PTE's interests in other organisations providing goods and services to tertiary students (see guidance on [requirement 6](#) above)
- fee refund entitlements if students withdraw from the programme or training scheme.

## 10 Quality management system

### Rule 4.1(f)(i)-(viii)

The applicant must supply a copy of the PTE's quality management system that applies across all aspects of its business and as a minimum must include policies and procedures for:

- organisational self-assessment, in accordance with the key features of self-assessment set out in the Appendix to the External Evaluation and Review Rules 2013
- decision-making, financial delegations, and financial controls
- personnel recruitment and management
- information management, including systems for the collection, recording and transfer of student records, and financial, statistical and other information that the PTE must supply to, or keep available for, government agencies
- enrolment procedures
- management of risks
- student complaints, student discipline and appeals, ensuring the policies and procedures are fair and equitable
- compliance with the Student Fee Protection Rules 2013 (see Guidance on requirement 12 below).

### Guidance

NZQA needs to be satisfied that the applicant has a comprehensive and appropriate quality management system that applies across the important aspects of its business.

A quality management system shows how the PTE will operate. Its design should be appropriate to the size, nature and complexity of the PTE.

The quality management system should also set out how the policies and procedures are developed, documented, approved, implemented and reviewed to ensure they remain current.

Policies and procedures can be supported by attachments, such as forms, templates, flowcharts and training manuals.

### Information to include in the application

The applicant must supply documents as follows:

**Organisational self-assessment** - policies and procedures for:

- self-assessment and participation in external evaluation and review by NZQA, in accordance with the *External Evaluation and Review (EER) Rules 2013*, available at

<http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/external-evaluation-rules/1/>.

- developing education programmes/training schemes, including consultation with stakeholders and meeting NZQA's programme approval and accreditation requirements.

**Decision-making, financial delegations, and financial controls** - policies and procedures for:

- key business decisions
- financial delegations, including which staff positions in the PTE can make which types of financial decisions
- financial controls, such as internal financial audit and audit by a chartered accountant to meet the requirements of the Companies Office.

**Personnel recruitment and management** - policies and procedures for:

- personnel recruitment and on-going personnel management. These must ensure the PTE will have and maintain adequate staff with the necessary knowledge, skills and experience covering:
  - relevant education and training expertise
  - academic subjects
  - educational delivery
  - assessment and moderation
  - student support
  - educational administration including financial expertise
  - education management and governance.

**Information management** - policies and procedures for:

- enrolment and academic records, in accordance with the *PTE Enrolment and Academic Records Rules 2012*, which are available at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/pte-enrolment-and-academic-records/>. The policies and procedures must include, where relevant, how it will record assessment standard results and transfer these to NZQA
- for PTEs funded by the Tertiary Education Commission, its electronic student management system, which must be compatible with the Single Data Return (see <http://www.tec.govt.nz/> for further details).

**Enrolment** - policies and procedures for managing student admission and all possible types of enrolment that cover the following steps (as applicable):

- 1 The PTE provides prospective students with the information detailed in section 234B of the Act above.
- 2 The student applies to the PTE for admission and enrolment (separately or together), or arranges to apply through another party (e.g. an employer).
- 3 The PTE verifies the student's identity, and, where relevant, citizenship.
- 4 Where relevant, the PTE confirms the student's eligibility to study, including that they meet the relevant programme entry criteria (admission).

- 5 The PTE offers to enrol the student.
- 6 The student accepts the offer (enrolment contract).
- 7 The PTE records the enrolment.
- 8 The PTE invoices the student, or the appropriate party, for tuition fees.
- 9 The student or appropriate party pays tuition fees or arranges for them to be paid, preferably directly into the PTE's student fee protection trust account.
- 10 The PTE records and issues a receipt for payment of fees and any changes to enrolment, including withdrawal and refunds.
- 11 The PTE ensures that any subsequent changes to enrolment, including date changes, withdrawal and refunds, are recorded and signed by both parties.

**Management of risk** - policies and procedures to identify and manage risks to the PTE's educational and business activities.

Options for mitigating the likelihood and consequences of risks must be identified and should cover quality, location, compliance with relevant legislation, and the health and safety of people at its premise, including its students.

**Student complaints, student discipline and appeals** - policies and procedures that identify the steps that staff must take when a student makes a complaint, and how the PTE will manage student discipline and appeals.

This should cover possible responses to a complaint, such as an investigation, reasonable timeframes, a process to inform the student of the outcome of the complaint, and the NZQA's *Complaints about tertiary education providers* information at <http://www.nzqa.govt.nz/about-us/make-a-complaint/>.

The PTE must also have policies and procedures that cover student discipline, including student conduct, checking the authenticity of student work, investigating and dealing with plagiarism, and the processes students can follow when they appeal disciplinary decisions.

**Student fee protection** - policies and procedures that meet the requirements of sections 235A(1)(c) and 235B of the Act, and the *Student Fee Protection Rules 2013*.

The PTE's student fee protection policies and procedures must cover, as a minimum, student withdrawal before, during, and after the relevant refund period, closure of the PTE or its programmes or training schemes, the fee protection mechanisms used by the PTE and any exemptions from fee protection that apply to the PTE.

Further information about student fee protection is in guidance on [requirement 12](#) below.



## 11 The Code of Practice for the Pastoral Care of International Students

Sections 232A and 238D-G of the Act

If the PTE intends to enrol international students, it must become a signatory to the Code of Practice for the Pastoral Care of International Students (the Code).

All providers that enrol international students, including PTEs, must pay the Export Education Levy.

Information about the Levy is on the Ministry of Education website at <http://www.minedu.govt.nz/NZEducation/EducationPolicies/InternationalEducation/ForProvidersOfInternationalEducation.aspx>.

### Guidance

The Code, which is established under section 238F of the Act, provides a framework for all education providers to ensure a high standard of care and well-being is maintained for international students while they live and study in New Zealand.

From 1 August 2013 NZQA became the officially designated Code administrator. Before that date the Ministry of Education was the Code administrator.

More information about the Code is available on the NZQA website at <http://www.nzqa.govt.nz/studying-in-new-zealand/code-of-practice-for-the-pastoral-care-of-international-students/>, and will be progressively added to from 1 August 2013.

Further information about the Code and international education is available from the Ministry of Education website at <http://www.minedu.govt.nz/NZEducation/EducationPolicies/InternationalEducation/ForProvidersOfInternationalEducation/CodeofPracticeforInternationalStudents.aspx>.

### Information to include in the application

If the PTE intends to enrol international students, it must supply NZQA with:

- documentation to show it has made an application to the Code administrator to become a signatory to the Code, or that it has been accepted as a signatory to the Code. The Code signatory application form is available on the NZQA website
- information about how the PTE will meet the requirements of the Code, including policies and procedures for international student welfare and pastoral care.

## 12 Student fee protection

Sections 234 and 235 of the Act

To be registered, a PTE must meet NZQA's Student Fee Protection Rules 2013.

### Guidance

The applicant needs to be familiar with NZQA's *Student Fee Protection Rules 2013*. The Rules are on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/student-fee-protection-rules-2013/1/>.



These Rules and the Act protect the interests of domestic and international students, especially if a PTE closes or stops offering a programme or training scheme in which students have enrolled.

### **Student fee protection coverage**

Student fee protection covers all payments made to a PTE by, or on behalf of, a student, including fees that a student has paid to an agent of the PTE. This includes payments made for:

- tuition fees (including commissions and course-related costs)
- accommodation
- travel and health insurance
- living expenses.

### **Refund of fees**

The Student Fee Protection Rules and the Act stipulate a statutory refund period, during which a student can withdraw from a programme or training scheme and be refunded a proportion of their fees. The statutory refund period varies depending on the length of the programme or training scheme, and whether the student is international or domestic.

Even after the statutory refund period, a pro-rata portion of student fees is protected in the event of a 'course closure'. A 'course closure' occurs if the PTE closes or a programme ceases to be delivered.

### **Fee protection arrangements**

The initial refund period must be covered by a standard trust account. After this period, a number of options can be used. These options are detailed in Appendix B of the Student Fee Protection Rules and include:

- trust accounts (standard or static)
- bank bonds
- insurance (student-based insurance)
- deferred payment
- company or parent body guarantees.

PTEs may use the option most suitable for their circumstances, provided NZQA gives prior approval.

PTEs may use only an approved student fee protection supplier. The Student Fee Protection Rules define who may be appointed as a trustee of the Student Fee Protection account.

### **Information provided to students**

There are minimum requirements for information about fee protection to be provided to students. These are outlined in section 13.6 of the Student Fee Protection Rules.

### **Approval by NZQA**

The fee protection arrangements must be accepted in writing by NZQA. NZQA will review the proposed arrangement, and confirm whether or not it has been approved.

The approved arrangements must be in place before the PTE accepts any fees from students.

**Information to include in the application**

- Details of the student fee protection mechanisms that the applicant has selected.
- Confirmation from any student fee protection trustee that they will accept the appointment as a trustee, in the event that PTE registration is granted by NZQA.

## Section 3: Guidance to other applications

A new PTE may choose to submit applications for consent to assess against standards in the programme or training scheme at the same time as applying for registration.

This section contains guidance on applying for a programme or training scheme and consent to assess against assessment standards on the Directory of Assessment Standards (DAS).

### 1 Application(s) for at least one approved programme or training scheme

#### Section 234 of the Act

A registered PTE must deliver at least one approved programme that it is accredited to provide, or one approved training scheme. It must continue to do so with no gap of more than a year, or its registration will lapse.

#### Section 232A(1)-(2) of the Act

A PTE must not enrol an international student in a programme, or a training scheme (unless the training scheme is exempt), unless it is approved by NZQA.

The exemptions to training scheme approval are for:

- recreational training schemes
- corporate training, but not including corporate training schemes designed for the purpose of meeting regulatory requirements for occupational registration, occupational licensing, or health and safety in the workplace
- training schemes of less than a credit value of 10 credits, but not including training schemes designed for the purpose of meeting regulatory requirements for occupational registration, occupational licensing, or health and safety in the workplace.

The criteria for the training scheme exemptions are outlined in the NZQA Gazette Notice No. 7255, and are available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/approval-accreditation-and-registration/training-scheme-approval/training-scheme-exemptions/>.

#### Section 292 of the Act

All tertiary education providers must hold the appropriate accreditation to deliver an approved programme and award qualifications listed on the NZQF.

#### **Please note:**

As a transitional arrangement in 2013, only programmes leading to 'New Zealand' qualifications need to meet the requirement of Section 292 of the Act. New Zealand qualifications are gradually replacing National qualifications as part of the Targeted Review of Qualifications (TRoQ).

#### Section 159N of the Act

Every tertiary education funding mechanism must meet the quality assurance requirements

under the Act. Therefore, programme approval and accreditation or training scheme approval, depending on what is appropriate, are a condition of funding by the Tertiary Education Commission.

Information and links about PTE funding and performance are on the TEC website at <http://www.tec.govt.nz/Learners-Organisations/Private-Training-Establishments-PTEs/>.

## Guidance

When viewed together, the statutory requirements mean that a registered PTE must deliver at least one approved programme or training scheme.

The difference between an approved programme and an approved training scheme is that a programme leads to a qualification listed on the NZQF, while a training scheme does not, in itself, lead to a qualification listed on the NZQF.

## Applying for approval online

PTEs that need to apply for programme approval and/or accreditation or training scheme approval can submit applications online. The process to make an online application via TEO Self Services is explained on the NZQA website at <http://www.nzqa.govt.nz/login/online-teo-applications/>.

There is also a step-by-step guide to the application process on the NZQA website at <http://www.nzqa.govt.nz/assets/Providers-and-partners/Registration-and-accreditation/Programme-approval-and-provider-accreditation/app-guide-prog-approval.pdf>.

## Information to include in an application

Detailed information about programme approval and accreditation and training scheme approval is available on the NZQA website:

- programme approval and accreditation <http://www.nzqa.govt.nz/providers-partners/registration-and-accreditation/programme-approval-and-provider-accreditation/>
- training scheme approval <http://www.nzqa.govt.nz/providers-partners/approval-accreditation-and-registration/training-scheme-approval/>.

## 2 Application(s) for consent to assess

### Section 252 of the Act

Where a PTE proposes to assess its students against unit or achievement standards listed on the Directory of Assessment Standards, it must apply for NZQA consent to assess the relevant standards.

## Guidance

Applying for consent to assess requires education providers to demonstrate that they are able to:

- design study or training, particularly related to the standards in the application
- develop or access assessment resources

- meet the consent and moderation requirements for the particular standards, which include undertaking internal moderation and engaging in the national external moderation system of the relevant standard setting body
- carry out self-assessment and participate in external evaluation and review
- report assessment results to NZQA
- pay the credit reporting fees due, by the end of the month following the month of the invoice from NZQA.

PTEs must accurately report credits for students within three months of assessment, unless NZQA has approved a different reporting timeframe for the holder of the consent.

For externally assessed achievement standards, PTEs must meet the requirements of the *Assessment Rules and Procedures for Tertiary Education Organisations* in relation to assessment against externally assessed achievement standards (see the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/teo-rules-for-achievement-stds/>).

### **Information to include in the application**

Detailed information about applying for consent to assess is available on the consent to assess pages on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/registration-and-accreditation/consent-to-assess/>.

### **Requirements in the associated Consent and Moderation Requirements (CMR)**

The PTE should also check the CMR document covering the standards it is applying for. This document sets out specific requirements for involvement of industry training organisations and/or NZQA, and details of external moderation.

For more information about CMRs see the NZQA website at <http://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/cmrs/>.

## Section 4: Maintaining registration

To maintain its registration, a PTE must continue to comply with the parts of the Act that cover registration, the conditions of registration under section 233B of the Act, and NZQA's *Private Training Establishment Registration Rules 2018*. Rule 5 contains requirements for maintaining registration (see the [Appendix](#)).

The primary responsibility for managing compliance lies with the PTE itself, as part of its on-going self-assessment (Rule 5.1.9). The self-assessment process is discussed later in section 4.

In addition to self-assessment, the following external quality assurance processes help ensure the PTE continues to provide a sound and stable learning environment:

### Initial validation visit

As described in [section 2](#), six months after registration is granted NZQA makes a site visit to validate initial registration. NZQA charges for this site visit at its standard hourly rate of \$150 per hour, plus GST.

If the PTE is not delivering six months after registration, the initial validation visit may be postponed, but must be completed within the PTE's first year of registration.

### External evaluation and review

Participation in periodic external evaluation and review (EER) is another requirement of Rule 5.1.9. For new PTEs, an EER is scheduled within the first one or two years. Guidance on EER is provided below, under Rule 5.1.9.

Full details about EER rules are on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/external-evaluation-rules/1/>.

### Annual Return

NZQA monitors on-going compliance with the *Private Training Establishment Registration Rules 2018*, and related requirements of the Act, through the Annual Return (see Rule 5.1.3(a)).

Each PTE must submit its Annual Return to NZQA within five months of its financial year end. NZQA checks Annual Return information by making validation visits to 10 per cent of all PTEs, selected at random.

Guidance on Annual Returns is provided below, under Rule 5.1.3(a). Annual Return documentation and forms are available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>.

### Detailed requirements to maintain registration

The remainder of section 4 outlines the:

- conditions of registration as set down in the Act
- situations where a PTE's registration will lapse
- statutory declarations as a fit and proper person and conflicts of interest
- rules for maintaining registration (5.1.1 to 5.1.9 of the *Private Training Establishment Registration Rules 2018*).

Most of the information a PTE needs to provide to maintain registration can be supplied through the Annual Return Statutory Declaration. Please ensure that all relevant parts of this document are completed and reflect any changes in the PTE.

If NZQA needs any further information, the section below will indicate what else the PTE needs to provide.

## Conditions of registration

### Section 233B(1) and (2) of the Act

It is a condition of registration that the PTE will:

- at all times comply with the NZQA rules made under section 253 of the Act (see below)
- ensure it keeps its written statement of types and outcomes of education up to date
  - (a) ensure it keeps its statutory declarations as a fit and proper person and conflicts of interest up to date
  - (b) ensure any new governing member submits the statutory declarations as a fit and proper person and conflicts of interest, before commencing as a governing member.

## Guidance

The NZQA rules that apply to PTEs include:

- *Private Training Establishment Registration Rules 2018*
- *PTE Enrolment and Academic Records Rules 2012*
- *Student Fee Protection Rules 2013*
- *NZQF Programme Approval and Accreditation Rules 2018*
- *NZQF Qualification Listing and Operational Rules 2012*
- *Training Scheme Rules 2012*
- *Consent to Assess Against Standards on the Directory of Assessment Standards Rules 2011*
- *External Evaluation and Review (EER) Rules 2013.*

NZQA rules are available on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/>.

Guidance on the PTE's written statement of types and outcomes of education is provided above, in [section 2](#) of this document.

Guidance on statutory declarations is also provided in [section 2](#).

NZQA Rules for maintaining registration provide further detail about how PTEs must comply with the conditions of registration. These are outlined below.

## Information to supply to NZQA

Where there are changes to the types and outcomes of education, the PTE must have its amended written statement available if needed by NZQA.

## Lapse of registration as a PTE

### Section 234 (1) of the Act

The registration of a registered PTE lapses if it does not provide any (i.e. at least one) approved programme or approved training scheme to enrolled students within one year of registration, and thereafter with no gaps of more than one year.

### Section 250B of the Act

A PTE's accreditation to provide an approved programme will lapse if 12 months have passed since it has provided all or part of the approved programme.

### Section 251C of the Act

A PTE's training scheme approval will lapse if 12 months have passed since it has provided all or part of the approved training scheme.

### Section 234 (2) of the Act

If the time for the lapse of accreditation to provide an approved programme or the lapse of training scheme approval is extended by NZQA, then the lapse of registration is when the accreditation or training scheme approval lapses.

### Guidance

NZQA monitoring or EER may indicate that a PTE is no longer providing at least one approved training scheme or approved programme that it is accredited to provide. If NZQA becomes aware of such situations it will always write to the PTE.

In response to a request from a PTE, NZQA would consider extending the relevant accreditation or approval. If NZQA does not grant an extension of accreditation or approval, then registration as a PTE lapses.

### Section 234 (4) of the Act

NZQA must give written notice of the lapse of an accreditation to the PTE.

### Guidance

NZQA will always notify a PTE that its accreditation, and therefore its registration, is about to lapse.

### Section 234 (3) of the Act

If a registered private training establishment is required under this Act to pay any fees to NZQA, and fails to pay those fees after receiving two reminder notices within three months, the registration of the PTE lapses on the date that is one calendar month after the date of the second reminder notice from NZQA.

### Guidance

The types of fees that a PTE is required to pay to NZQA include:



- the Annual Fee required under section 233C of the Act
- fees to consider the PTE's applications for programme approval and accreditation training scheme approval or consent to assess
- fees associated with EER.

## Statutory declarations as a fit and proper person and conflicts of interest

### Section 46 (b) and (c) of the Education Amendment Act 2011

To maintain its registration an existing PTE must:

- within six months of 30 August 2011, give NZQA a statutory declaration from each governing member of the PTE that it satisfies the requirements of section 232D(2)(i) and (ii) of the Education Act 1989
- within three years of 30 August 2011, satisfy NZQA that each governing member of the PTE is a fit and proper person.

### Guidance

Changes to the Education Act in 2011 introduced requirements for new and existing PTEs to satisfy NZQA that each governing member of the PTE is a fit and proper person for the role, and to provide NZQA a statutory declaration about its governing members' conflicts of interest.

The transitional arrangements in section 46 of the Education Amendment Act 2011 allow existing PTEs time to submit this information to NZQA.

#### *NZQA requirements*

- NZQA requires existing PTEs to submit a statutory declaration of conflicts of interest for each governing member. Information on page 34 outlines further details about updating this information.
- Until August 2014, existing PTEs only need to supply the Conflict of Interest Statutory Declaration (using the NZQA form with the same name).
- By August 2014, all existing PTEs must have satisfied NZQA that each governing member is a fit and proper person, and that it has effective arrangements in place to manage any conflict of interest: i.e. PTEs must have provided relevant supporting information by supplying a new full *Statutory declaration as a fit and proper person and of conflicts of interests* for each governing member (see the Forms section below). NZQA will contact all PTEs in early 2014 with details of how to meet this requirement.

Details about how new PTEs meet these requirements are in [section 2](#).

### Forms

- *Statutory declaration as a fit and proper person and of conflicts of interests* form (required from August 2014)
- *Conflict of interest statutory declaration* form

Both statutory declaration forms are available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>.

## Guidance on meeting rules to maintain registration

To maintain registration, a PTE must comply with the requirements set out in Rule 5.1 of *Private Training Establishment Registration Rules 2018*. Rule 5.1 is monitored through the Annual Return Statutory Declaration outlined in Rule 5.1.3(a).

### Guidance is provided below on each of the requirements of Rule 5.1 (5.1.1–5.1.9).

*The box contains the applicable rule, and the guidance and information below the box explains and clarifies each part of the rule.*

## Rule 5.1.1 – Status, ownership, interests, sites, and environment

This rule covers:

- change of status of body corporate
- change of ownership
- new conflicts of interest
- change of delivery site
- health and safety compliance.

The PTE must:

- (a) continue to be a body corporate

### Guidance for change of status of body corporate

If the PTE is no longer a limited liability company, an incorporated society or a charitable trust registered with the Companies Office, the PTE has a responsibility to inform NZQA and to request cancellation as a PTE. NZQA will then initiate a statutory cancellation process. Examples include where a PTE voluntarily de-registers from the Companies Office or is declared insolvent.

### Information to supply to NZQA

Notify NZQA immediately in writing if the PTE's body corporate status has changed.

- (b) seek NZQA approval where the ownership of the PTE changes, prior to the ownership change taking place

### Guidance for change of ownership

Under section 235 of the Act, registration of a PTE attaches to a body corporate. If the body corporate is changed, NZQA regards the resulting entity as a new organisation.

There are different types of ownership change:

#### 1 Sale of assets

Any change of ownership that occurs through the sale and purchase of a PTE's assets or operating activities. If the purchaser is not already a registered PTE, it must apply for new registration as a PTE, and new programme accreditations, training scheme approvals, and consents to assess that were approved to the previous owner. If the purchaser is already a

registered PTE, and it does not hold accreditations for programmes it intends to deliver, training scheme approvals or consents to assess it must apply to NZQA for the appropriate accreditation, training scheme approvals or consents to assess.

## 2 Sale of shares

Any change of ownership in which the registered entity remains the same but different persons are shareholders. If this happens, the purchaser must apply to NZQA to have the PTE's current registration and programme accreditations, training scheme approvals, and consents to assess confirmed under the new ownership, under Rules 4.1 (a) and (b).

It is important to note that any new PTE must meet its obligations under the *Student Fee Protection Rules 2013*.

### **NZQA evaluation process and possible outcomes**

NZQA will analyse the application and assess the impact of the change in terms of the PTE registration requirements. Changes to registration, accreditations, approvals, and consents to assess are processed simultaneously, to facilitate a smooth changeover.

NZQA will, as needed:

- cancel existing registration, and, where applicable, existing programme accreditations, training scheme approvals, and consents to assess
- grant new registration and, where applicable, programme accreditations, training scheme approvals, and consents to assess
- confirm, if applicable, 'course changes' and/or 'course closures' for the purposes of the *Student Fee Protection Rules 2013*
- confirm site changes, if applicable.

### **Cost**

NZQA charges \$150 per hour (GST exclusive) to analyse Change of Ownership applications.

### **Information to supply to NZQA**

The application for a proposed change of ownership must be made by a representative of the PTE's governing body using the TEO Self Services on the NZQA website. The information provided with the application must include:

- precise details of when and how the change of ownership will occur
- an attestation that the organisation has considered, and is managing, the impact of the change of ownership on its students. NZQA requires evidence that enrolled students were given a choice whether they wish to enrol with the new PTE or receive a fee refund under the *Student Fee Protection Rules 2013*
- the sale and purchase agreement, and a joint statement by the organisation and prospective purchaser
- supporting evidence to prove that, despite the proposed change, the organisation continues to meet all registration, and all relevant programme accreditation and approval, consent to assess, and training scheme approval requirements.

- (c) notify NZQA of any new material conflicts of interest of the PTE, and of any new interests of the PTE, or of its body corporate owner(s), in organisations in the education or immigration sector that provide goods or services to tertiary students

### Information to include for new conflicts of interest

The PTE must submit a new Conflict of Interest Statutory Declaration where there is a new material conflict of interest or a new interest that a governing member has in organisations in the education or immigration sector that provide goods or services to tertiary students. A material conflict of interest is defined in requirement 6 in [section 2](#) above.

- (d) seek NZQA approval for any new site (whether temporary or permanent) to be used by the PTE for provision of study or training, prior to the site being used

### Guidance for change of delivery site

A PTE must seek NZQA approval for changes to permanent and temporary sites used for the delivery of education and training. NZQA has different information requirements for the approval of new permanent and temporary delivery sites.

NZQA approval is not required for changes to administration site(s): for example, the PTE's head office.

### Information to supply to NZQA

#### Permanent site

A delivery site is considered to be permanent when a PTE has a regular and on-going presence at the site, such as for five days per week all year or one day per week for half a year. The PTE is likely to either own the premises or have a lease or rental agreement that provides security of tenure.

The PTE must seek approval for a new permanent delivery site(s) by making an online application using TEO Self-Services on the NZQA website.

The application for a new permanent site approval must include:

- the location of the new site
- evidence that the PTE has or will have a right to occupy or use premises or other teaching and administration sites before instruction commences: i.e. a copy of the lease or tenure agreement OR a copy of the ownership papers
- a site or building map, or a description, that indicates the size of each classroom, workshop, or learning venue and numbers of students each would accommodate
- a description of the facilities, including staff and student facilities, such as the number and gender of toilets, student common room and kitchen, offices and staff space available, and including facilities for secure storage of student records
- evidence that the new site will comply with the statutory requirements relating to its use. This evidence must include relevant policies and procedures, a health and safety check of the site, confirmation from the relevant authority that the zoning is appropriate for an educational organisation, and, if applicable, the Building Warrant of Fitness

NZQA will analyse the application to ensure the new site will be appropriate for the delivery of education or training. NZQA will make additional inquiries, or requests for information, if required. In some instances NZQA may wish to visit the new site.

PTEs planning to have international students based at the new delivery site must also notify NZQA as the Code Administrator. NZQA will process this notification together with the PTE's site approval. The notification of change form is available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/caring-for-international-students-the-code-of-practice-for-pastoral-care/guidelines-applications-and-information-for-signatories/code-of-practice-application-forms/>.

### **Cost**

There is a charge of \$150 per hour (GST exclusive) for analysis of online applications for permanent site approval. If NZQA needs to visit the site, the PTE will be charged only for the time involved, and not any additional expenses.

### **Temporary site**

A temporary site would be used only occasionally and would not warrant the PTE entering into long-term arrangements for tenure. Typically, a PTE will rent a temporary site on an infrequent basis or for a specified short term and will be able to advise NZQA of an end date for the use of *the site*.

The PTE must notify NZQA of the location of new temporary sites it intends to use, and the anticipated end date of use, by emailing [gadmin@nzqa.govt.nz](mailto:gadmin@nzqa.govt.nz).

The PTE can commence delivery at the new temporary site after it has notified NZQA. If NZQA requires further information, it will contact the PTE.

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| (e) ensure the premises and sites it uses (including for any off-site learning) remain safe and adequate for the study or training provided, for its staff, for the number of students enrolled, for meeting students' specific needs |
| (f) in other respects operate a safe (and legally compliant) environment, including (without limitation) the equipment it uses  |

### **Guidance for health and safety compliance**

Health and safety practices should provide NZQA with assurance that equipment used by students and teachers at all teaching sites will be safe to use and used safely.

As a minimum, PTEs will need to meet obligations under the Health and Safety in Employment Act 1992. Further information is available on the Ministry of Business, Innovation and Employment website at <http://www.osh.govt.nz/>.

## **Rule 5.1.2 – Public information**

This rule covers:

- information on the provider’s online profile
- providing accurate information.

The PTE must:

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|--|
| (a) keep the information in its NZQA online profile up to date |
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### **Information to include for the online profile**

The PTE is responsible for logging into its online profile on the NZQA website to keep information in its online profile up to date, including its contact details.

The online profile is part of TEO online services for registered providers where the PTE can make applications online and upload documents such as its Annual Return. Information about how to access the Education Sector Authentication and Access (ESAA) Request for User Setup and Access is available on the NZQA website at <http://www.nzqa.govt.nz/login/teo-online-services-for-registered-providers/>.

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| (b) ensure the public information it provides is accurate, clear and not misleading  |
| (c) when providing information on education or training linked to its status as a registered PTE, where that education or training is not approved by NZQA (through programme accreditations, training scheme approvals, or consents to assess against standards), ensure that the information makes it clear that the education or training is not approved by NZQA |

### **Guidance for providing accurate information**

An example of information that is misleading is use of terms protected under section 292 of the Act without Ministerial permission. These terms are ‘university’, ‘polytechnic’, ‘institute of technology’, and ‘college of education’.

Another example would be the use of qualification terms protected under section 292 of the Act, where NZQA has not granted approval. These terms are ‘New Zealand’, ‘national’, ‘diploma’, ‘degree’, ‘bachelor’, ‘master’, ‘doctor’, ‘under-graduate’ or ‘post-graduate’.

Although a PTE must not link its registration with NZQA with unapproved programmes or training schemes, a PTE is legally entitled to enrol domestic students on courses that do not lead to a qualification, without programme or training scheme approval.

‘Short course’ or ‘short award’ is an appropriate way for a PTE to describe education and training not approved by NZQA.

### **Rule 5.1.3 – Business management**

This rule covers:

- annual returns
- sub-contracting
- proving adequate financial performance and practices
- meeting community and stakeholder needs.

The PTE must:

- (a) complete and supply to NZQA the annual return documentation within five months of the end of the financial year of the PTE

#### **Information to include in annual returns**

‘Annual return documentation’ means the:

- Annual Return Statutory Declaration
- Chartered Accountant Professional Attestation.

The forms are available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>.

If the PTE intends to change its financial year end, it must inform NZQA.

- (b) not associate itself with provision of NZQA approved study or training under sub-contracted arrangements unless the arrangements comply with the sub-contracting requirements in the rules relating to programme accreditation, training scheme approval, or consent to assess against standards (as applicable)

#### **Guidance for sub-contracting**

Where the PTE proposes to be part of a new sub-contracting relationship as a contractor or a supplier, that was not previously approved, it must meet the applicable NZQA Rules.

The applicable Rules are for programme accreditation (Rule 17), training scheme approval (Rule 12) and consent to assess (Rule 8). These Rules are available on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/>.

All the applicable Rules require notification to NZQA as to whether the other provider is registered and accredited to deliver an approved programme, or has training scheme approval, and has the appropriate consents to assess.

NZQA approval of the sub-contracting relationship is required if the other provider is not registered or does not have accreditation to deliver an approved programme, or does not have the appropriate consents to assess.

#### **Information to supply to NZQA**

The PTE must apply to NZQA to use a sub-contractor or notify NZQA, as above.

The relevant Rules outline the information that must be included in such an application, and the matters that NZQA must be satisfied about before granting approval.

(c) keep its financial records up to date, ensure the financial records follow Generally Accepted Accounting Principles and financial reporting standards, and maintain an adequate system of internal financial controls

(d) ensure it remains financially sustainable and able to meet its financial commitments

### **Guidance for proving adequate financial performance and practices**

As noted in section 2, NZQA must be satisfied that the PTE has a sound financial basis and is financially stable on an on-going basis. NZQA requires an annual attestation from an independent Chartered Accountant who has reviewed or audited the PTE's financial statements.

NZQA undertakes random checks of the attestations to ensure that the information is a robust indication of whether the PTE continues to provide a financially sound and stable learning environment or not. NZQA can ask the PTE to provide a copy of its latest financial accounts, if this is deemed necessary.

### **Information to supply to NZQA**

The annual NZQA Chartered Accountant Professional Attestation form must be submitted within five months of the PTE's financial year end. The form is available from the NZQA website at <http://www.nzqa.govt.nz/providers-partners/guidelines-and-forms/>.

If there is a debt to be settled with the Inland Revenue Department, NZQA requires a copy of the PTE's agreement with the Inland Revenue Department.

(e) meet the needs of its relevant communities (including whānau, hapū, iwi, or hāpori Māori) and other key stakeholders (including any relevant academic, employer, industry, runānga, mārae, professional and other bodies) consistent with the description required of the PTE under Rule 4.1(c)

### **Guidance for meeting community and stakeholder needs**

This Rule relates to a core feature of the PTE's own self-assessment. EER also addresses, amongst other things, key evaluation question 2: *What is the value of the outcomes for key stakeholders, including learners?*

For further information about meeting the needs of relevant communities and other key stakeholders, go to the self-assessment resources on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/self-assessment/>.



## **Rule 5.1.4 – Information to students**

This rule covers:

- providing information before enrolment
- providing students with quality assurance information
- providing information about student complaints and discipline
- supplying programme regulation information
- supplying students with copies of information
- providing student access to own enrolment and academic information.

The PTE must:

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| (a) provide all relevant information to students prior to enrolment, including (without limitation) any entry and selection criteria, so that the student is able to make an informed choice |
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### **Guidance for providing information before enrolment**

The PTE's information and promotional material, including its website, must have comprehensive information about entry and selection criteria, such as pre-requisites and co-requisites, for each programme/training scheme.

Students and prospective students must receive clear information about other educational services to enable them to make informed choices about their course of study.

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|---|
| (b) inform students, including newly enrolling students, of its EER category and its statements of confidence   |
| (c) inform students, including newly enrolling students, of any conditions NZQA has placed on the PTE's registration, of any compliance notice that has been issued by NZQA to the PTE that has not been complied with, and any notice of intention to cancel registration of the PTE that has been issued by NZQA to the PTE   |
| (d) inform students enrolled or being enrolled at the PTE in an approved programme (for which the PTE has accreditation) or training scheme, or in standards for which the PTE has a consent to assess, of: <ul style="list-style-type: none"><li>(i) any conditions placed on that accreditation or training scheme or consent to assess by NZQA</li><li>(ii) any notice of intention issued by NZQA to withdraw the accreditation or training scheme or consent to assess</li><li>(iii) any compliance notice issued by NZQA to the PTE in respect of the accreditation or training scheme or consent to assess</li></ul> |

### Guidance for providing students with quality assurance information

'Newly enrolled students' means a student at any stage of the enrolment process, including before the student actually accepts the enrolment contract. This means that the student can make an informed choice about enrolment.

The information about compliance notices, conditions, and NZQA intentions to withdraw should be available to students in a reasonably understandable form.

The PTE must have evidence, available on-site, that students have been informed of the above requirements (for example student enrolment information) if NZQA requests this evidence.

(e) inform students of the PTE's processes for receiving and responding to student complaints, and of NZQA's complaint processes for students regarding PTEs

(f) inform students of the student discipline and appeals processes and procedures

### Guidance for providing information about student complaints and discipline

The NZQA complaints process is available on the NZQA website at <http://www.nzqa.govt.nz/about-us/make-a-complaint/>. NZQA advises complainants to follow the provider's complaints procedure in the first instance (and the procedure of its 'peak body' where relevant).

PTEs with international students must follow the complaints process required under the *Code of Practice for the Pastoral Care of International Students* (see information in [section 2](#) above).

The PTE could make its complaints, student discipline and appeals policies and procedures available to students. The PTE should ensure all policies and procedures are understandable for its students.

(g) inform students of regulations applying to programmes in which the students are enrolled

### Guidance for supplying programme regulation information

This rule refers to the programme regulations approved by NZQA under the *NZQF Programme Approval and Accreditation Rules 2018* (available at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/nzqf-related-rules/programme-approval-and-accreditation/1/>).

Criterion 5 of the programme approval rules requires clear, relevant, and appropriate programme regulations that specify requirements for:

- admission
- credit recognition and transfer
- recognition of prior learning
- programme length and structure
- integration of practical and work-based components
- assessment procedures, including authenticity of student work
- normal progression within the programme.

- (h) ensure any student receives in a timely manner a copy any of the information set out in paragraphs (a) and (c) to (f) of this Rule 5.1.4, where the student requests that information

### Guidance for supplying students with copies of information

The PTE must have information available on student request (ensuring private information about students and staff is withheld), that covers:

- enrolment, including entry and selection criteria
- any NZQA compliance notices, conditions, accreditation or withdrawals.

- (i) ensure students have ready access to their enrolment and academic information

### Guidance for providing student access to own enrolment and academic information

Under the *PTE Enrolment and Academic Records Rules 2012* PTEs are required to keep enrolment and academic records that record details such as the student's date of birth, study visa and academic results. These rules are available from the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/pte-enrolment-and-academic-records/>.

Academic records are commonly made available to students at cost, in the form of an academic transcript showing titles of qualifications, papers, modules or achievement standards along with their credit value and date of achievement.

If relevant, the PTE should provide information to its students about how to access their online NZQA Record of Achievement that contains details of assessment standards and National and New Zealand qualifications they have achieved.

### Rule 5.1.5 – Student interests

This rule covers:

- dealing with student complaints, discipline and appeals
- supporting student well-being and meeting student needs
- providing student support and guidance services
- providing adequate resources and equipment.

The PTE must:

- (a) ensure the PTE's complaints processes are easily accessible for students

- (b) be fair and equitable in conducting its interactions with students and in implementing its student complaints, discipline, and appeals policies and procedures

## Guidance for dealing with student complaints, discipline and appeals

The PTE should inform its enrolled students of the steps they can take to make a complaint. This process should cover possible responses to a complaint, such as an investigation, reasonable timeframes, and a process to inform the student of the outcome of the complaint.

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| (c) implement an approach to student well-being that encompasses, where relevant, taha whānau (social/cultural), taha wairua (spiritual), taha hinengaro (emotional/mental) and taha tinana (physical) dimensions to encourage and enable student progress |
| (d) meet the needs of students consistent with the description required of the PTE under Rule 4.1(c)   |

## Guidance for supporting student well-being and meeting student needs

For many students, particularly Māori students, their academic progress is interdependent with their holistic well-being, which includes social, cultural, spiritual, emotional, mental and physical dimensions.

To support the PTE's self-assessment, more detailed research-based indicators relating to student well-being are in the Tertiary Evaluation Indicators, available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/tertiary-evaluation-indicators/>. The indicators also inform NZQA's EER statements of confidence.

This Rule also relates to a key feature of the PTE's own self-assessment.

Rule 4.1 (discussed in [section 2](#) above) deals with meeting the needs of students, communities and stakeholders.

NZQA's EER will also address, amongst other things, the key evaluation questions:

- How well do learners achieve?
- How well do programmes and activities match the needs of learners and other stakeholders?

For further information about self-assessment tools and resources and meeting student needs, see the NZQA website at <http://www.nzqa.govt.nz/providers-partners/self-assessment/>.

- |  |
|--|
| (e) provide its students with access to educational and non-educational support and guidance services to meet their individual needs and helping them towards achievement of educational success |
|--|

## Guidance for providing student support and guidance services

Examples of educational support and guidance services are individual academic support from specialist student advisors and student peer mentoring systems arranged by the PTE.

Examples of non-educational support and guidance services might include student counselling services.

This Rule also relates to a key feature of the PTE's own self-assessment.

NZQA's EER will also address, amongst other things, the key evaluation question:

- How well are learners guided and supported?

- (f) ensure the educational resources and equipment provided for students are of a sufficient standard to adequately meet student needs

### **Guidance for providing adequate resources and equipment**

The PTE should check the standard of its educational resources and equipment on a regular basis, to ensure they continue to meet student needs in terms of currency, quality and safety.

### **Rule 5.1.6 – Staff**

This rule covers:

- demonstrating the engagement of sufficient competent staff
- ensuring sufficient staff experience and qualifications
- ensuring appropriate teaching staff skills and subject knowledge
- ensuring the competence of management and administration staff
- ensuring an up to date staff organisation chart.

The PTE must:

- (a) engage sufficient competent staff to meet its responsibilities to students

### **Guidance for demonstrating the engagement of sufficient competent staff**

The PTE should be able to demonstrate to NZQA's satisfaction that its number and type of staff meets its responsibilities to students.

NZQA defines 'engaging sufficient competent staff' as meaning that the PTE uses appropriate recruitment and selection practices to make sure it has enough personnel with:

- subject knowledge and teaching expertise
- assessment and moderation expertise
- educational management expertise
- quality management expertise
- student support skills
- financial and administration expertise.

The student-teacher ratio will vary according to the kinds of education the PTE provides and its student profile.

- (b) ensure its teaching staff are sufficiently experienced and qualified to at least one Level above the students being taught, or have demonstrated equivalent experience, for the tuition they are providing

### **Guidance for ensuring sufficient staff experience and qualifications**

This rule refers to levels on the New Zealand Qualifications Framework (NZQF). Detailed descriptors of skills and knowledge outcomes at each NZQF level are on the NZQA website at <http://www.nzqa.govt.nz/studying-in-new-zealand/nzqf/understand-nz-quals/>.

NZQA acknowledges that in some cases, qualified teaching staff may not always be available. However where the PTE has judged the experience of its teaching staff to be equivalent to a qualification, it should carefully consider the level of the education or training they are delivering.

- (c) ensure that the skills and subject knowledge of teaching staff are current and relevant to the needs of learners and relevant stakeholders

### **Guidance for ensuring appropriate teaching staff skills and subject knowledge**

The PTE's recruitment, performance development, and management system should ensure that the skills and subject knowledge of its teaching staff remain current and relevant, including curriculum and assessment practices and requirements.

In the case of approved programmes leading to NZQF qualifications, approved training schemes and consents to assess, the skills and subject knowledge of the relevant teaching staff should not be less than that included in the initial application approved by NZQA.

This Rule also relates to a key feature of the PTE's own self-assessment. NZQA's EER will address, amongst other things, the key evaluation question:

- How effective is the teaching?

- (d) ensure that management and administration staff competently fulfil their roles

### **Guidance for ensuring the competence of management and administration staff**

The PTE's recruitment, and performance development and management system should also help to ensure the competence of management and administration staff.

- (e) keep its organisation chart up to date

### **Guidance for ensuring an up to date staff organisation chart**

The PTE's staff organisation chart specified in Rule 4.1(d) (discussed in Section 2 above) should be up to date and available if NZQA requests it.

The chart should contain the staff positions (whether employees or contracted staff) and the names of the staff currently in, or appointed to, those positions.

### **Rule 5.1.7 - Quality management system**

The PTE must:

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| (a) keep its quality management system (as required under Rule 4.1(f)) up to date, and notify NZQA of any changes |
| (b) follow and implement the content of its quality management system   |

### **Information to supply to NZQA**

When the PTE submits its Annual Return, it must provide a summary of any changes to its quality management system throughout that year. NZQA may request further details of the changes.

### **Rule 5.1.8 - Assessment and moderation**

The PTE must:

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|---|
| (a) operate a coherent system to ensure assessment and moderation requirements are met across all programmes for which it has accreditation, across all its approved training schemes, and across all of its consents to assess |
|---|

### **Guidance**

The PTE's system for the moderation of assessment should include:

- pre-assessment moderation (to ensure the validity of its assessment tools and activities)
- post-assessment moderation (to ensure its assessment decisions are accurate and consistent).

### **Complying with the associated Consent and Moderation Requirements**

Where they hold consent to assess for standards developed by the Ministry of Education or NZQA, PTEs must comply with the requirements set out in the Consent and Moderation Requirements document for the relevant standards. These requirements may include participating in and meeting the requirements of the national external moderation system managed by NZQA.

NZQA resources include the *National external moderation manual for Tertiary Education Organisations*, which is available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/tertiary-moderation/manual-for-teo/introduction/>.

Where a PTE is assessing standards developed by an industry training organisation, it must comply with the ITO requirements set out in the Consent and Moderation Requirements document for the standards.

### **Finding documents on the NZQA website**

These documents are on the NZQA website. Search for documents by ID number at <http://www.nzqa.govt.nz/framework/search/index.do>. Follow links in the search results to each document listed on the Directory of Assessment Standards.

## Using externally assessed achievement standards

Where a PTE is entering students for externally assessed achievement standards, it must comply with the *Assessment and Examination Rules for TEOs*, available on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/teo-rules-for-achievement-stds/>.

## Information to supply to NZQA

A PTE with consent to assess against standards developed and moderated by NZQA must submit assessment materials and samples of assessed student work to NZQA on an annual basis. The NZQA moderation forms for the NZQA-managed moderation systems are available on the NZQA website at <http://www.nzqa.govt.nz/providers-partners/assessment-and-moderation/tertiary-moderation/manual-for-teo/section-ten/>.

A PTE with consent to assess against standards developed by an ITO must supply the ITO with information to meet the moderation requirements in the relevant Consent and Moderation Requirements document(s) for the standards.

A PTE entering learners for externally assessed achievement standards must show how it will comply with the *Assessment and Examination Rules for TEOs*.

## **Rule 5.1.9 – Participation in self-assessment and EER**

This rule covers:

- meeting quality assurance obligations
- PTE obligations following EER results below Confident.

The PTE must:

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|---|
| (a) undertake on-going self-assessment and participate in EER in accordance with EER requirements |
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## Guidance for meeting quality assurance obligations

Self-assessment and external evaluation and review (EER) are an integral part of NZQA's evaluative quality assurance framework.

The key features of self-assessment and NZQA's requirements for EER are set out in the *External Evaluation and Review (EER) Rules 2013* available on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/external-evaluation-rules/1/>.

Additional guidance and resources for self-assessment and EER resources is available from the NZQA website at <http://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/>.

## Incentives and sanctions

As part of its evaluative quality assurance framework, NZQA applies incentives and sanctions to all non-university tertiary education providers on the basis of the results of EER.

Incentives and sanctions are designed to support providers to make improvements to their educational quality and performance. The system assumes a higher level of NZQA trust in the information supplied by tertiary education providers with EER judgements above Confident.



Where EER demonstrates high levels of confidence in educational quality, providers will have greater freedom, lower compliance costs and performance-responsive quality assurance processes.

Where EER indicates a provider has not demonstrated educational quality, NZQA sanctions increase the level of external scrutiny and limit the provider's activities until there is evidence of improvement.

### **Provider Categories**

EER results in two NZQA statements of confidence in a PTE, one for its educational performance and the other for its organisational self-assessment.

Under Rule 11 of the EER rules, all non-university education providers are placed into one of four Categories as a result of their EER:

**Category 1:** two Highly Confident judgements, or a Highly Confident judgement for educational performance and at least a Confident judgement for self-assessment.

**Category 2:** two Confident judgements, or a Highly Confident judgement in self-assessment and a Confident judgment in educational performance.

**Category 3:** any Not Yet Confident judgements.

**Category 4:** any Not Confident judgement.

### **Information to supply to NZQA**

NZQA's information requirements for EER are set out in the *External Evaluation and Review Rules 2013* available on the NZQA website at <http://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/pte-related-rules/external-evaluation-rules/1/>.

- (b) where, as a result of an EER undertaken by NZQA, the PTE receives statements of confidence below Confident, the PTE must immediately undertake improvement actions, has a clear plan for compliance with any applicable sanctions, and implements that plan

### **Guidance for PTE obligations following EER results below Confident**

#### **Planned improvement actions**

If a PTE receives EER statements below Confident, NZQA will write to the PTE requiring them to undertake improvement actions.

It is up to the PTE to develop a comprehensive 'Quality Improvement Plan' as part of its on-going self-assessment. The PTE will need to submit the plan to NZQA.

The aim of the improvement plan is to allow the PTE to achieve levels of at least Confident in their next EER. The next EER, scheduled according to Rule 12 of the EER rules outlined below, will determine whether the improvement actions taken have resulted in satisfactory outcomes.

#### **Applicable sanctions**

As part of the improvement plan, the PTE must have a clear plan to comply with, and implement, any applicable sanctions as outlined below. NZQA will write to the PTE setting out the applicable sanctions.

## **Frequency of EER**

Under Rule 12 of the EER rules, the frequency of EER relates to NZQA's level of confidence in the provider.

Following a PTE's first EER, further EERs will be scheduled as follows:

- Category 1 and Category 2 - within four years following publication of the report for their previous EER.
- Category 3 institutions - within 12 to 24 months following publication of the report for their previous EER.
- Category 4 institutions - within 6 to 12 months following publication of the report for their previous EER.

## **Assessment and moderation sanction**

Under Rule 13 of the EER rules, there is an assessment and moderation sanction on PTEs in Category 4, and those PTEs in Category 3, as notified by NZQA.

The PTE must appoint a Category 1 or 2 institution to:

- carry out pre-assessment moderation of all the assessment materials that it uses
- either carry out the assessment and moderation of all student work, or verify the PTE's assessment and moderation of student work.

Rule 13 of the EER rules includes the specific criteria for appointing the Category 1 or 2 institution and NZQA's role in the arrangements.

## **Applications for programme approval and accreditation**

Under Rule 14 of the EER Rules, a Category 4 PTE will not be granted new programme approvals, accreditations, training scheme approvals or consents to assess.

NZQA can apply this sanction to a Category 3 PTE where there are long-standing quality concerns, although NZQA may consider granting new applications to the PTE if it is satisfied the PTE is competent to deliver that type of education and training.

## **Outcome of the next EER**

If the outcomes of the following EER are satisfactory, statements of Highly Confident or Confident will result in the provider being placed in Category 1 or 2 as appropriate.

If the outcomes are unsatisfactory, NZQA may take further regulatory action that is described in the next section.

## **Information to supply to NZQA**

The PTE must submit its improvement plan to NZQA within the timeframe specified in the post-EER letter to the PTE. The improvement plan must cover timeframes and plans to implement improvements and any applicable sanctions.

## Section 5: Responses to non-compliance

This section outlines what happens when NZQA has reason to think that a PTE may not be complying with the Act and/or NZQA rules.

### Compliance concerns

NZQA compliance concerns may be prompted by:

- information in an EER report
- failure to develop and implement a post-EER Quality Improvement Plan
- a complaint about a PTE from a student or another person
- information from other government agencies
- information in the PTE's Annual Return
- adverse national external moderation results
- a validation or monitoring visit.

### Compliance investigation

If NZQA has compliance concerns, it will initiate an investigation of the PTE to determine whether the concerns are warranted.

If the investigation is triggered by a complaint, NZQA follows a formal complaints process. This process is outlined on the NZQA website at <http://www.nzqa.govt.nz/about-us/make-a-complaint/>.

NZQA will always contact a PTE that is being investigated, and is open to a PTE's explanation of any apparent non-compliance.

NZQA has certain enforcement powers that enable it, where appropriate, to undertake a more thorough investigation. These enforcement powers are not solely aimed at PTEs, and NZQA may apply these to other non-university tertiary education organisations.

### NZQA powers under the Act

Under section 236A of the Act, a PTE must ensure that enrolment records are readily available, upon request, to NZQA staff.

Under section 254A of the Act, NZQA has the power to obtain information from a PTE through a written notice to the PTE's Chief Executive. NZQA can also obtain information about a PTE from the Secretary of Education (the head of the Ministry of Education).

Under section 255A of the Act, NZQA has powers of entry and inspection for the purpose of ensuring that the PTE is complying with the Act, NZQA rules, approvals, consents or other authorisations granted by NZQA.

- An authorised NZQA person is able to enter and inspect the premises of the PTE and require any person to produce documents or information.
- NZQA can inspect, photocopy, print out or copy, or remove documents under these statutory powers.

- The entry and inspection of a PTE's premises can only be authorised by the Chief Executive of NZQA.

## Compliance actions

NZQA can undertake a range of actions in response to confirmation that a PTE is not complying with the Act or NZQA rules. Action is only taken where there is evidence of non-compliance.

The actions that are undertaken in response to confirmed non-compliance will depend on the scope and seriousness of the investigation findings. Wherever possible, NZQA will work informally with the PTE in the first instance to identify what action that can be taken to address the non-compliance.

## Statutory actions

If an informal approach to proven non-compliance is unsuccessful, or the non-compliance is more serious or poses an immediate risk to students or the public, NZQA can address the situation with statutory actions.

Statutory actions include:

- Compliance notices that are issued under section 254A of the Act, where NZQA directs the PTE to take action, or refrain from doing something in particular.
- Conditions that are placed on the PTE's:
  - o registration, under section 233B of the Act
  - o programme approval(s), under section 249A of the Act
  - o programme accreditation(s), under section 250A of the Act
  - o training scheme approval(s), under section 251A of the Act
  - o consent(s) to assess against standards, under section 252A of the Act.
- Withdrawal of:
  - o programme accreditation(s), under section 250C of the Act
  - o training scheme approval(s), under section 251B of the Act
  - o consent to assess, under section 252B of the Act. Note that consent to assess expires if the training scheme approval or accreditation to which the consent relates is withdrawn.
- Cancellation of registration as a PTE, under section 233D of the Act.