



National Vocational Education and Training Regulator (Data Provision Requirements) Instrument 2020

I, Senator the Hon Michaelia Cash, Minister for Employment, Skills, Small and Family Business, make the following Data Provision Requirements.

Dated 20 November 2020

Senator the Hon Michaelia Cash
Minister for Employment, Skills, Small and Family Business

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Part 1 Preliminary

1 Name

This instrument is the *National Vocational Education and Training Regulator (Data Provision Requirements) Instrument 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 March 2021	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 187 of the *National Vocational Education and Training Regulator Act 2011*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 3 of the Act, including the following:

- (a) *course*;
- (b) *executive officer*;
- (c) *Financial Viability Risk Assessment Requirements*;
- (d) *Fit and Proper Person Requirements*;
- (e) *high managerial agent*;
- (f) *Ministerial Council*;
- (g) *National Register*;
- (h) *National VET Regulator*;
- (i) *NVR registered training organisation*;
- (j) *registered training organisation*;
- (k) *Standards for NVR Registered Training Organisations*;
- (l) *VET course*;
- (m) *VET qualification*;
- (n) *VET Regulator*; and
- (o) *VET student records*.

In this instrument:

ABN means an Australian Business Number issued under the *A New Tax System (Australian Business Number) Act 1999*.

ACN means an Australian Company Number issued by the Australian Securities and Investments Commission under the *Corporations Act 2001*.

Act means the *National Vocational Education and Training Regulator Act 2011*.

AVETMISS data means the data elements described in the Australian Vocational Education and Training Management Information Statistical Standard, as available online at <http://www.ncver.edu.au> and as updated from time to time.

Note: Section 191A of the Act permits this instrument to make provision in relation to another instrument as in force or existing from time to time.

National VET Provider Collection Data Requirements Policy means the policy of that name at Part B of the National VET Data Policy, as endorsed by the Ministerial Council on 24 November 2017 and as updated from time to time.

Note: Section 191A of the Act permits this instrument to make provision in relation to another instrument as in force or existing from time to time.

Overseas student has the same meaning as in the *Education Services for Overseas Students Act 2000*.

5 Application

- (1) The data provision requirements in this instrument apply to NVR registered training organisations and decisions of the National VET Regulator from commencement of this instrument.
- (2) A reference in this instrument to an NVR registered training organisation is to be taken to include a reference to an applicant for registration under Part 2 of the Act where the instrument is being applied for the purposes of subsection 17(2) of the Act (about granting applications for registration).

Part 2 Data Provision Requirements

6 Outline of operation of Data Provision Requirements

Under sections 21 and 22 of the Act, NVR registered training organisations are required to comply with a number of conditions of registration, including requirements that apply under these Data Provision Requirements.

The term “VET Quality Framework” is defined in section 3 of the Act to include requirements set out in these Data Provision Requirements and, as a result, requirements in the Act to consider or comply with the VET Quality Framework include the requirements in this instrument.

For example, a decision to grant an application for registration under section 17 of the Act requires consideration of whether the applicant complies with the “VET Quality Framework”. This means that, where applicable, obligations stated in this instrument that apply to NVR registered training organisations also apply to applicants for registration under Part 2 of the Act.

7 Requirements in relation to AVETMISS

An NVR registered training organisation must provide AVETMISS data as required under the National VET Provider Collection Data Requirements Policy.

8 Data to be provided on request to the National VET Regulator

- (1) On request by the National VET Regulator and within any timeframe specified, an NVR registered training organisation must provide the following data:
 - (a) information about the kind of legal entity the NVR registered training organisation is (for example, corporation, sole trader, incorporated association, partnership or government entity);
 - (b) copy of the organisation’s certificate of incorporation (which displays all current and historical owners and directors), or a copy of the organisation’s constitution or articles of association;
 - (c) any information required to assess compliance with the Financial Viability Risk Assessment Requirements;
 - (d) business name registration certificate;
 - (e) ACN;
 - (f) ABN;
 - (g) information about the type of training organisation the NVR registered training organisation is (for example, school, university, community-based adult education, other training provider);

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- (h) the following address details for the NVR registered training organisation:
 - (i) the physical address and postal address for the head office;
 - (ii) the physical address of the organisation's principal place of business;
 - (iii) the physical address of the sites or campuses from which VET courses are delivered on a permanent basis (whether in Australia or offshore); and
 - (iv) website address;
 - (j) names of executive officers and high managerial agents;
 - (k) contact details for:
 - (i) public enquiries;
 - (ii) registration enquiries; and
 - (iii) the chief executive or other head manager;
 - (l) any previous identifier code as displayed on the National Register (including any such code that relates to registration with a VET Regulator in a non-referring State);
 - (m) whether or not the applicant, the NVR registered training organisation, an executive officer or high managerial agent hold a similar role with respect to any other application for registration currently lodged (including where it is still being considered or where it was granted) under the *Education Services for Overseas Students Act 2000*, the *Tertiary Education Quality and Standards Agency Act 2011*, the *Australian Education Act 2013* or for registration with a VET Regulator in a non-referring State;
 - (n) any information required to assess compliance with the Fit and Proper Person Requirements;
 - (o) a list of the national code and title of the Training Packages, VET qualifications, VET accredited courses, modules or units of competency that the applicant/NVR registered training organisation delivers, or intends to deliver, including:
 - (i) a training and assessment strategy for each VET qualification, VET accredited course, module and unit of competency;
 - (ii) evidence to demonstrate that each trainer and assessor has the necessary training and assessment credentials (as required under the Standards for NVR Registered Training Organisations), the relevant vocational competency and current industry skills for each VET qualification, VET accredited course, module and unit of competency that they deliver or assess;
 - (iii) evidence of the supervisory arrangements for trainers who do not possess the required training and assessment competencies (as required under the Standards for NVR Registered Training Organisations); and
 - (iv) evidence of ongoing access to staff, facilities, equipment and training and assessment materials, that are consistent with the requirements of the Training Package or VET accredited course and the RTO's own training and assessment strategy;
 - (p) where another licensing or authorising body is responsible for licensing or otherwise authorising in relation to a VET course offered by the NVR

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- registered training organisation, evidence of whether a licence or other relevant authorisation has been, or is to be, granted;
- (q) whether or not the NVR registered training organisation delivers, or intends to deliver, any training online or by distance;
 - (r) whether or not the NVR registered training organisation delivers, or intends to deliver, any training overseas;
 - (s) whether or not the NVR registered training organisation offers, or intends to offer, or has otherwise applied to offer any training to overseas students, and if so, details of approval held under the *Education Services for Overseas Students Act 2000* (in relation to applications that are pending, have been granted or rejected);
 - (t) whether or not the NVR registered training organisation intends to apply for, or already receives, Commonwealth, State or Territory government funding for training;
 - (u) whether or not the NVR registered training organisation delivers, or intends to deliver, training or assessment through a contract with another organisation (other than employment contracts, lease agreements or hire arrangements);
 - (v) where training is delivered through a contract as referred to in paragraph (u):
 - (i) details of the other organisation's ABN,
 - (ii) contact details of the other organisation;
 - (iii) details about the term of the contract and the services to be provided, including the VET courses it relates to;
 - (iv) details about where the training services will be provided; and
 - (v) details about which organisation is to retain VET records associated with the training services provided under the contract;
 - (w) whether or not the NVR registered training organisation collects, or intends to collect, \$1,500 or more in fees, including enrolment fees, tuition fees, administrative fees, fees for materials required for a course or any other amount that a learner is (or may be) required to pay to enrol, learn, train or undertake assessment with the NVR registered training organisation, and which are (or may be) paid before any relevant goods or services for which those fees have been paid are delivered by the NVR registered training organisation;
 - (x) whether or not the NVR registered training organisation delivers, or intends to deliver, training to students under the age of 18, and if so:
 - (i) details about working with children checks for any trainer, assessor or other staff member of the NVR registered training organisation who is required to hold one under a law of a state or territory; and
 - (ii) policies and procedures for managing these students;
 - (y) evidence of appropriate financial records management systems;
 - (z) evidence of systems that allow the NVR registered training organisation to comply with the requirement in section 7 of this instrument (to provide AVETMISS data as required under the National VET Provider Collection Data Requirements Policy);
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- (za) information about the ability of the NVR registered training organisation to meet requirements about information technology set out in any legislative instrument made under subsection 211(2B) of the Act; and
 - (zb) copy of documentation demonstrating public liability insurance coverage.
- (2) If the details of any information provided under paragraphs (1)(a), (d), (e), (f), (g), (h), (j), (k), (p), (q), (r), (s), (t), (u), (v), (w) or (x) (and for paragraph (x) only in respect of whether or not training is delivered to students under 18) change because of an event, the NVR registered training organisation is required to provide updated details of the change as soon as practicable following the event.
- (3) If an event occurs that results in an NVR registered training organisation no longer complying with the Financial Viability Risk Assessment Requirements or the Fit and Proper Person Requirements, the NVR registered training organisation is to provide details about its non-compliance as soon as practicable following the event.

9 Annual reporting in relation to quality indicators

An NVR registered training organisation must provide data to the National VET Regulator, by 30 June of each year, in the form of an annual summary report that details its performance during the previous calendar year against the quality indicators agreed by the Ministerial Council.

Schedule 1—Repeals

Data Provision Requirements 2012

1 The whole of the instrument

Repeal the instrument