



National Vocational Education and Training Regulator (Financial Viability Risk Assessment Requirements) Instrument 2021

I, Saxon Rice, the National Vocational Education and Training Regulator (**the National VET Regulator**), make the following Financial Viability Risk Assessment Requirements under subsection 158(1) of the *National Vocational Education and Training Regulator Act 2011*.

Dated 26 July 2021

Saxon Rice
The National VET Regulator

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Part 1 Preliminary

1 Name

This instrument is the *National Vocational Education and Training Regulator (Financial Viability Risk Assessment Requirements) Instrument 2021*.

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	On the day after it is registered	

Note: This table relates only to the provisions of this instrument as originally made.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 subsection 158(1) of the *National Vocational Education and Training Regulator Act 2011*.

4 Definitions

In this instrument:

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

Financially viable means the ability of an organisation to generate sufficient income to meet operating payments, debt commitments and, where applicable, to allow growth while delivering quality training and assessment services and outcomes.

Financial viability risk means the assessed financial performance, operations, and capacity of an organisation as an ongoing concern to deliver quality training and assessment services and outcomes for the duration of its registration, and the potential of its losing this capacity.

- (2) The requirements of this legislative instrument apply to:
- (a) all organisations seeking registration under the Act and
 - (b) all training organisations registered under the Act.

NVR registered training organisation has the same meaning as in the Act.

National VET Regulator has the same meaning as in the Act.

An independent qualified auditor is:

- a) the Auditor-General of a State, of the Australian Capital Territory or of the Northern Territory; or
- b) a person registered as a company auditor or a public accountant under a law in force in a State, the Australian Capital Territory or the Northern Territory; or
- c) a member of the Institute of Chartered Accountants in Australia, or of the Australian Society of Certified Practising Accountants; or
- d) a person approved by the Minister in writing as a qualified auditor for the purposes of the *Higher Education Support Act 2003*; and
- e) a person independent from the entity it is auditing.

Note: For the purpose of this legislative instrument, a qualified auditor will be considered to be independent from the entity it is auditing if the qualified auditor meets the independence requirements specified in Part 2M.4, Division 3, of the *Corporations Act 2001* as though the qualified auditor is an individual qualified auditor or an audit company and the body corporate seeking approval as a VET provider is the audited body under that Act.

Part 2 Context and intent of these requirements

5 Context

- (1) The Act in Section 158 requires the National VET Regulator to make the requirements relating to the financial viability of NVR registered training organisations. The requirements are to be made by legislative instrument and are to be known as the “Financial Viability Risk Assessment Requirements”.
- (2) The legislative instrument applies to NVR registered training organisations. Section 24 makes it a condition of registration that an NVR registered training organisation must satisfy the Financial Viability Risk Assessment Requirements.

6 Intent

- (1) The National VET Regulator requires an NVR registered training organisation to demonstrate its financial viability at any point in time, upon request.
- (2) The assessment of an organisation’s financial viability risk is directed at evaluating the likelihood of its business continuity, and its capacity to achieve quality outcomes. In particular, the assessment informs a judgement about whether the organisation has the financial resources necessary to:
 - (a) acquire the requisite assets and physical resources to deliver all qualifications on its scope of registration
 - (b) employ sufficient appropriately qualified staff to cover the courses for which it takes enrolments
 - (c) provide appropriate levels of student services to students

11 Assessment to be against common indicators

- (1) The assessment of financial viability risk will be undertaken by assessing common indicators of financial performance and position. These may include but are not limited to the following indicators:
 - a) Liquidity– including current ratio and cash flow assessments
 - b) Solvency – including debt to assets assessment, debt to equity assessment
 - c) Economic Dependency – for example, reliance upon government funded training, or reliance on a particular cohort of students (e.g. overseas students)
 - d) Revenue, profit and cash flow
 - e) Commercial risk
 - f) Audit opinion
 - g) Contingencies
 - h) Compliance with all of its statutory obligations (for example: GST, taxation, superannuation, Companies Code)
 - i) Compliance with accounting standards
 - j) Accounting policies – impact of the organisation’s accounting policies on its financial risk.

12 Reviews to have regard to Standards

Independent reviews of financial projections will have regard to the Australian Audit and Assurance Standards, *AUS 804 The Audit of Prospective Financial Information* and *ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information*.

13 Information to be assessed

- (1) Information that could be used to assess the common indicators in section 11 and to make a determination about financial viability risk may include, but not be limited to:
 - (a) Independent reviews of financial projections including underlying assumptions
 - (b) Business planning including forecast income streams and forecast expenditure
 - (c) Assets and liabilities
 - (d) Financial statements audited by an independent qualified auditor
 - (e) Financial records for the previous 12 months, including profit and loss, balance sheets
 - (f) Cash flow and bank accounts
 - (g) Short term budgets and forecasts, including assumptions
 - (h) Information on current and projected student enrolments, including assumptions
 - (i) Tax records
 - (j) Information about current debts and debtors, credits and creditors, loans and repayment
 - (k) Plans, and information on any legal disputes
 - (l) Inter-company dealings, transfers, ownerships and loans

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- (m) Contingent liabilities
 - (n) Ultimate ownership details
 - (o) Post reporting activities (includes activities that relate to the period after accounts have been audited that would have a material impact on the organisation's operations, viability or ownership).

14 Assessment to consider size and scope of operations

In managing the financial viability risk of an organisation, the National VET Regulator may take into consideration the size and scope of its operations.

Schedule 1—Repeals

Financial Viability Risk Assessment Requirements 2011

1 The whole of the instrument

Repeal the instrument.