

Approved version

External Evaluation and Review (EER) Rules 2013

1. Authority

- 1.1 These Rules are made under section 253 of the Education Act 1989.

2. Commencement

- 2.1 These Rules commence on 1 January 2013.

3. Application of these Rules

- 3.1 These rules apply to:

- (a) Registered establishments in respect of their registration;
- (b) Institutions in respect of their provision of study or training to students through any:
 - (i) accreditation to provide an approved programme;
 - (ii) training scheme approval;
 - (iii) consent to assess against standards; and
- (c) ITOs in respect of their standard-setting role and any training programme or training scheme approval or consent to assess against standards.

4. Interpretation

- 4.1 In these Rules, unless the context otherwise requires:

“Act” means the Education Act 1989:

“Category 1 institution” is an institution of the kind described in Rule 11(1)(a):

“Category 2 institution” is an institution of the kind described in Rule 11(1)(b):

“Category 3 institution” is an institution of the kind described in Rule 11(1)(c):

“Category 4 institution” is an institution of the kind described in Rule 11(1)(d):

“EER” means external evaluation and review as described in Rules 5.1 to 5.6:

“Institution” includes any polytechnic, wānanga, government training establishment, or registered establishment:

“ITO” means an Industry Training Organisation within the meaning of section 159(1) of the Act:

“Mātauranga Māori evaluative quality assurance criteria” or “MM EQA criteria” means the criteria to be used for Mātauranga Māori evaluative quality assurance that are published by NZQA on its website for the purposes of EER:

“Mātauranga Māori quality assurance mark” means the mark awarded to an institution by NZQA under the NZQF Programme Approval and Accreditation Rules 2013:

“NZQA” means the New Zealand Qualifications Authority:

“NZQF” means the New Zealand Qualifications Framework:

“Registered establishment” has the same meaning as in section 159(1) of the Act:

“Statement of confidence” means one of the following levels of confidence in educational performance and in organisational capability in self-assessment (*with its MM EQA criteria equivalent in parenthesis*):

- (a) Highly Confident (*He pounamu kahurangi*):
- (b) Confident (*He pounamu whakairo*):
- (c) Not Yet Confident (*He pounamu hukihuki*):
- (d) Not Confident (*He pounamu kua kitea*):

“Student” includes learners and trainees.

5. Description of EER

5.1 EER is a four stage (*as set out in Rule 5.5*) periodic evaluation of:

- (a) an institution that leads to a statement of confidence by NZQA in the institution’s educational performance (*as described in Rule 5.2*) and organisational capability in self-assessment (*as described in Rule 5.3*):
- (b) an ITO that leads to a statement of confidence by NZQA about the ITO’s performance and organisational capability in self-assessment (*as described in Rule 5.4*).

5.2 For the purposes of paragraph (a) of Rule 5.1:

- (a) educational performance relates to the extent to which the educational outcomes achieved by the institution represent quality and value for students and others:
- (b) for EER involving MM EQA criteria under Rules 6.1 or 6.2, educational performance relates to the extent to which the educational outcomes achieved by the institution represent quality and value for students, whānau, hapū, iwi, hāpori Māori, and mātauranga Māori as a body of knowledge.

5.3 For the purposes of paragraph (a) of Rule 5.1, capability in self-assessment relates to the extent to which the institution uses self-assessment information (*based on the key features of self-assessment set out in the **Appendix** to these Rules, and any other features notified by NZQA to the institution*) to understand its educational performance and bring about improvements.

- 5.4 For the purposes of paragraph (b) of Rule 5.1:
- (a) the performance of an ITO relates to the extent to which the training outcomes influenced by the ITO represent quality and value for employers, industry, trainees, and government;
 - (b) capability in self-assessment of an ITO relates to the extent to which the ITO systematically uses self-assessment information to understand its performance and bring about improvement.
- 5.5 The four stages of an EER referred to in Rule 5.1 are: scoping (*including selection of focus areas*); enquiry (*including on-site at the institution*); reaching conclusions (*including analysis*); and issuing a report.
- 5.6 In carrying out an EER NZQA will use the evaluation methods, tools, and processes that are published on its website to inform the conduct of each stage of an EER.
- 6. Mātauranga Māori evaluative quality assurance and EER**
- 6.1 Where an institution has been granted the Mātauranga Māori quality assurance mark in respect of a programme it is accredited to provide:
- (a) any EER of the institution will include the provision of that programme as a mandatory focus area unless NZQA advises otherwise; and
 - (b) the provision of that programme will be assessed under the MM EQA criteria.
- 6.2 Without limiting Rule 6.1, a Category 1 institution or a Category 2 institution scheduled for an EER, or an institution which is scheduled for its first EER, may opt into EER using MM EQA criteria:
- (a) to assess any focus area within the scope of an EER; and
 - (b) for the full scope of the EER.
- 7. Process for and participation in EER**
- 7.1 NZQA will notify the institution or ITO of a scheduled EER by giving the institution or ITO at least four months' notice, unless:
- (a) a shorter timeframe is agreed between NZQA and an institution or ITO; or
 - (b) Rule 12.2 applies, and NZQA gives notice of at least one month.
- 7.2 The frequency of an EER, for a category of institution that has previously been subject to an EER, is as set out in Rule 12.1.
- 7.3 NZQA will reschedule a scheduled EER on request by an institution or ITO where NZQA is satisfied the institution or ITO has supplied convincing reasons to do so.
- 7.4 Following the scheduling of the EER, NZQA will consult the institution or ITO about the scope of the EER and, after taking into account any submissions from the institution or ITO and any other relevant information, NZQA will set the scope for the review.
- 7.5 NZQA will conduct the enquiry (*including on-site at the institution*) to gather sufficient evidence for reaching conclusions.
- 7.6 On reasonable notice from NZQA and for the purposes of the scheduled EER, an institution or ITO must:
- (a) provide to NZQA access to the premises, equipment, and relevant records, data, and other information:

- (b) facilitate access to staff, contractors, and students:
- (c) provide evidence of its self-assessment, based on the key features set out in the **Appendix** to these Rules.

8. EER report

- 8.1 After NZQA carries out the enquiry and analysis, and reaches conclusions, for a scheduled EER, NZQA will generate a draft EER report with interim findings, conclusions, and statements of confidence.
- 8.2 NZQA will provide a copy of the draft report to the institution or ITO and interested parties for comment.
- 8.3 The institution or ITO and NZQA will discuss and attempt to reach agreement on the processes and timing towards finalising the report.
- 8.4 Where reasonable attempts have been made and agreement is unable to be reached under Rule 8.3, NZQA will itself set the processes and timing towards finalisation of the EER report and notify the institution or ITO.
- 8.5 Subject to Rule 8.6 and Rules 9.1 – 9.6, once a finalised report is sent to the institution or ITO to conclude the agreed or set processes and timing, the finalised report will be published as the final report on NZQA's website 10 working days after providing the finalised report to the institution or ITO.
- 8.6 Where NZQA accepts for good reason that the processes and timing should be varied, NZQA may set new processes and timing for the finalisation of the report.

9. Reconsideration of an EER report

- 9.1 An institution or ITO may request a reconsideration of the statements of confidence reached by NZQA in a finalised report where the institution or ITO:
 - (a) sends the request in writing on the official letterhead of the institution or ITO and signed by its Chief Executive (*or equivalent*) and the request is received by NZQA no later than 10 working days after the finalised report has been sent to the institution or ITO;
 - (b) alleges there have been process failures in finalising the report, or errors of fact or judgement made in the finalised report;
 - (c) provides sufficient information and evidence to support the allegation, being information that the institution or ITO considers necessary to give a full understanding of the reasoning and circumstances leading to the request; and
 - (d) provides information which shows that during the process leading to the finalised report the institution or ITO had raised the allegation with NZQA.
- 9.2 Where any request for reconsideration involves educational performance data, the reconsideration will only involve the data that were available to NZQA at the date the EER report was finalised.
- 9.3 Where a request is received that meets the requirements of Rule 9.1, NZQA will appoint an appropriately experienced reviewer who has not been involved in that EER of the institution or ITO to conduct the reconsideration and produce a reconsideration report.
- 9.4 NZQA will attempt to reach agreement with the institution or ITO on the processes and timing towards finalising the reconsideration report.

- 9.5 Where reasonable attempts have been made and agreement is unable to be reached under Rule 9.4, NZQA will itself set the processes and timing towards finalisation of the reconsideration report and notify the institution or ITO.
- 9.6 Subject to Rule 9.7, once the reconsideration report is finalised and if it requires changes to be made to the EER report, the changed EER report will be provided to the institution or ITO prior to publication on the NZQA website.
- 9.7 Where NZQA accepts for good reason that the processes and timing should be varied for the reconsideration report, NZQA may set new processes and timing for that report.

10. Fees

- 10.1 The fees payable for EERs and requests for reconsideration are the fees from time to time charged under section 254(2) of the Act, and published on NZQA's website.
- 10.2 Where there is a finding in a reconsideration that there was a process failure in finalising the report or there were errors of fact or judgement, and the finalised report is amended as a result, no fee will be payable for the reconsideration.

Statements of confidence, categorisation, and incentives and sanctions

11. Categorisation of institutions based on statements of confidence

- 11.1 For the purposes of these Rules:

- (a) a Category 1 institution is an institution that has received, in the most recent EER carried out by NZQA in respect of that institution, either of the following statements of confidence:
- (i) Highly Confident in educational performance and Highly Confident in organisational capability in self-assessment; or
 - (ii) Highly Confident in educational performance and Confident in organisational capability in self-assessment:
- (b) a Category 2 institution is an institution that has received, in the most recent EER carried out by NZQA in respect of that institution, either of the following statements of confidence:
- (i) Highly Confident in organisational capability in self-assessment and Confident in educational performance; or
 - (ii) Confident in educational performance and Confident in organisational capability in self-assessment:
- (c) a Category 3 institution is an institution that has received, in the most recent EER carried out by NZQA in respect of that institution, Not Yet Confident in educational performance or in organisational capability in self-assessment, or Not Yet Confident for both (*provided it has not also received Not Confident in either educational performance or organisational capability in self-assessment*):
- (d) a Category 4 institution is an institution that has received, in the most recent EER carried out by NZQA in respect of that institution, Not Confident in educational performance or in organisational capability in self-assessment, or in both.

12. Frequency of EERs following first EER

- 12.1 Following an institution's first EER, further EERs will be scheduled for:
- (a) Category 1 and Category 2 institutions within four years following publication of the report for their previous EER:
 - (b) Category 3 institutions within 12 to 24 months following publication of the report for their previous EER:
 - (c) Category 4 institutions within 6 to 12 months following publication of the report for their previous EER.
- 12.2 NZQA may schedule an EER earlier than the frequency set out in Rule 12.1 where there are outstanding concerns over the quality of its provision of education or over non-compliance issues relating to the Act or Rules.

13. Restrictions on the assessment and moderation of student work by Category 3 and 4 institutions

- 13.1 This Rule applies to institutions of the following kind:
- (a) Category 4 institutions; and
 - (b) Category 3 institutions in respect of any programmes, training schemes, standards, or prescriptions of a kind notified by NZQA to the institution.
- 13.2 From the date that is six weeks (*or such longer period as NZQA may allow*) after the date of publication of an EER report that results in an institution to which Rule 13.1 applies becoming a Category 3 or 4 institution, the institution must appoint one or more institutions (*of the kind described in Rule 13.3*) to:
- (a) carry out pre-assessment moderation of all assessment materials being used to assess students, prior to those materials being used for assessment of the students; and
 - (b) either carry out the assessment and moderation of all student work, or verify the assessment and moderation of all student work that is carried out by the institution to which Rule 13.1 applies.
- 13.3 For the purposes of Rule 13.2, the kind of institution that must be appointed is an institution that -
- (a) is a Category 1 or 2 institution; and
 - (b) has proven performance in, and provides, similar programmes or training schemes to those in respect of which the students being assessed are enrolled, or has proven expertise in the standards or prescriptions that the students are being assessed against; and
 - (c) has a sufficient degree of independence from the Category 3 or 4 institution.
- 13.4 An institution to which Rule 13.1 applies may not:
- (a) use any materials for assessment of students until the pre-assessment referred to in Rule 13.2(a) confirms that the materials appropriately assess the relevant learning outcomes; or
 - (b) release assessment results to students or report results to NZQA until the assessment and moderation referred to in Rule 13.2(b) has occurred and any necessary changes to assessment decisions have been made.

- 13.5 The appointment of a Category 1 or 2 institution under Rule 13.2 must be set out in a written agreement that meets the purposes of Rule 13.2, and -
- (a) a copy must be supplied to NZQA by the institution to which Rule 13.1 applies prior to the agreement being implemented; and
 - (b) the institution must address any concerns with the content of the agreement that are notified to the institution by NZQA.
- 13.6 Where an institution has not appointed any necessary Category 1 or 2 institution in accordance with Rules 13.2 and 13.5, and NZQA has not approved a longer period for the appointment under Rule 13.2,-
- (a) NZQA may appoint a suitable Category 1 or 2 institution, or where NZQA is unable to find a suitable Category 1 or 2 institution, NZQA may appoint one or more suitably qualified persons, so that students can continue to be assessed in their study or training without unnecessary disruption; and
 - (b) the Category 3 or 4 institution is responsible for paying the reasonable cost of the assessment and moderation work carried out by the Category 1 or 2 institutions, or the suitably qualified person or persons.
- 13.7 Where NZQA is satisfied that an institution to which Rule 13.1 applies is fully competent at any particular kinds of assessment and moderation of student work that must be assessed and moderated by an independent institution under Rule 13.2, NZQA may release the institution to which Rule 13.1 applies from the requirements of Rule 13.2.
- 14 Applications by Category 3 and 4 institutions for programme approval, accreditation to provide approved programmes, training scheme approval, and consent to assess against standards**
- 14.1 A Category 4 institution will not be granted new programme approvals, accreditations to provide approved programmes, training scheme approvals, or consents to assess against standards until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.
- 14.2 Where there are outstanding concerns over the quality of the provision of particular kinds of study or training of a Category 3 institution, or over non-compliance issues relating to the Act or Rules, NZQA will not grant programme approvals, accreditations to provide approved programmes, training scheme approvals, or consents to assess against standards in those particular kinds of study or training until the institution improves its statements of confidence to at least Confident both in educational performance and in organisational capability in self-assessment at its next EER.
- 14.3 Despite the lack of confidence in the institution as a result of its EER report, where NZQA is satisfied that a Category 3 or 4 institution is fully competent to provide particular kinds of study or training or where extenuating circumstances apply, NZQA may consider granting applications of the kind referred to in Rules 14.1 and 14.2.

15. No prejudice to use of other sanctions under the Act

15.1 These Rules do not affect the ability of NZQA to take any of the following actions under the Act:

- (a) cancellation of the registration of a private training establishment, or imposition of conditions on its registration:
- (b) withdrawal of a programme approval, an accreditation to provide an approved programme, a training scheme approval, or a consent to assess against standards:
- (c) imposition of conditions on a programme approval, an accreditation to provide an approved programme, a training scheme approval, or a consent to assess against standards:
- (d) the exercise of any other regulatory, enforcement, or compliance powers.

EXPIRED

APPENDIX

Key features of self-assessment

The key features of self-assessment for the purposes of Rule 5.3 are as follows.

1. The institution or ITO uses ongoing processes to gain evidence of its own effectiveness in providing quality education.
2. The processes it uses are comprehensive, authentic, transparent, and robust.
3. The processes are focussed on:
 - (a) needs assessments, being the extent to which the institution or ITO systematically determines and addresses the needs of students, employers and the wider community (*including, where EER involves MM EQA criteria, whānau, hapū, iwi, hāpori Māori, and mātauranga Māori as a body of knowledge*):
 - (b) processes and practices that help achieve outcomes:
 - (c) student achievement, being the impact of educational provision on student progress and achievement:
 - (d) outcomes, which are what is being achieved and the value of those achievements for students, employers and the wider community (*including, where EER involves MM EQA criteria, whānau, hapū, iwi, hāpori Māori, and mātauranga Māori as a body of knowledge*):
 - (e) using what is learned from self-assessment for evidence-based conclusions and for decision-making on strategic and business planning so as to lead to improvements:
 - (f) actual improvements that have occurred, and the extent to which those improvements are relevant and worthwhile.