Education and Training Reform Regulations 2017

Non-government schools fact sheet

The *Education and Training Reform Regulations 2017* have now replaced the *Education and Training Reform Regulations 2007*. The new regulations came into effect on **25 June 2017**.

This fact sheet provides an overview of the changes that affect non-government schools.

# Changes to the Regulations

All changes outlined in this fact sheet apply from 25 June 2017 unless otherwise stated.

## definition of a ‘not-for-profit school’

The new regulations strengthen the definition of a ‘not-for-profit school’ to ensure that money raised by a school is directed solely towards its educational purpose. This is important to safeguard and maximise the benefit of public and parental investment (for example, through fees) in the education of Victorian children.

The changes broaden the definition of a ‘not-for-profit school’ to require the school, as well as the proprietor, not to engage in a prohibited agreement or arrangement. *Regulation 7*

The definition of a ‘prohibited agreement and arrangement’ has been broadened to prohibit the transfer of school funds (‘profit or gain’) to organisations or individuals (including between the school and the proprietor) that operate on a not-for-profit basis as well as those operating for profit (see *Definitions* section of the Regulations).

This intent will be supported by the change to minimum standard 17 requiring schools to have ‘sufficient controls’ in place to ensure that such a transfer does not take place.

## definitions of ‘proprietor’ and ‘responsible person’

The new regulations introduce a broader definition of ‘proprietor’ which is intended to capture all relevant individuals and bodies who own or control a school. This may extend to a person who is not listed on the registration as the proprietor. The definition includes a person, body or institution who owns or controls one or more registered schools (see *Definitions* section of the Regulations).

The new regulations also introduce the concept of a ‘responsible person’ for school governance, which is intended to assist the Victorian Registration and Qualifications Authority (VRQA) to identify the people who (collectively or individually) significantly influence the school’s operations, even where those persons do not have an official office or title (see *Definitions* section of the Regulations).

## Registration of schools

Previously, the date for amending a school’s registration was either 31 March or any other date gazetted by the VRQA. Under the new regulations, applications to register a school or to amend a school’s registration are required by the VRQA by **30 June** in the year before the registration or amendment is intended to take effect in the school. *Regulations 64(1)* and *68(1)*

Applicants are required to notify the VRQA of any changes to any particulars provided in relation to the application for registration. *Regulation 66 (NB: for schools registered on or before 25 June 2017 this regulation applies from 1 July 2018)*.

## OPERATION OF NEW OR AMENDED prescribed Minimum Standards

The prescribed minimum standards (Schedule 4) will apply:

* for existing schools, from 1 July 2018
* for new schools, the new regulations apply from the time of registration.

## governance for non-government schools – minimum standard 15

The new regulations replace the ‘good character’ test with a ‘fit and proper person’ test to strengthen the requirements for every ‘responsible person’ involved in governing and managing a non‑government school. Individuals or bodies meeting the definition of ‘responsible person’ (including proprietors) must be a ‘fit and proper person’.

These changes are proportionate to the relatively broad scope for decision-making and the corresponding higher governance and financial risks in non-government schools.

The ‘fit and proper person’ requirements for non-government schools has been expanded to include a requirement that a responsible person is not the subject of, or associated with, specific kinds of adverse findings or other actions taken by a court, tribunal, commission of inquiry, professional discipline body or regulatory authority (in Victoria or elsewhere). The adverse findings or actions relate to:

* dishonest, misleading or deceptive conduct; or
* non-compliance with an obligation relating to the provision of education; or
* a breach of duty (including a duty of disclosure).

*Minimum standard 15(5)(f)*

The VRQA may exempt a responsible person from this requirement under *Regulation 63*.

The requirement to satisfy the ‘fit and proper person’ test is ongoing and requires the proprietor to notify the VRQA should a ‘notifiable disclosure event’ occur that affects a responsible person at the school. *Minimum standard 15(4)*

A ‘notifiable disclosure event’ is triggered by adverse findings or proceedings for conduct that would mean the ‘responsible person’ is not a ‘fit and proper person’. *See also the definition of ‘notifiable disclosure event’ in Regulation 5.*

## other changes to minimum standards

The other changes to the minimum standards for registration include:

* Minimum Standard 12 – insertion of a definition for ‘attending the school’ which provides that the standard for student care, safety and welfare is not limited to school premises (see *Definitions* section of the Regulations).

## other changes to minimum standards (CONT.)

* Minimum Standard 16 – addition of the words ‘and be able to demonstrate how the school’s philosophy is enacted’.
* Minimum Standard 17– additional requirement for schools to have ‘sufficient controls’ in place to ensure that school property and assets are not distributed or used for the profit or gain of another person or entity (see *Definitions* section of the Regulations). The existence of sufficient controls will help the school maintain its not-for-profit status.
* Minimum Standard 21 – additional requirement for schools to have suitable arrangements in place to comply with guidelines issued by the VRQA.
* Minimum Standard 22 – requires a school to be conducted within the scope of its registration. (*NB: this standard is a restatement of regulation 62 in the Education and Training Reform Regulations 2007*).

See Schedule 4 to the *Education and Training Reform Regulations 2017* for the full list of minimum standards for registered schools.

## further information

For further information about the *Education and Training Reform Regulations 2017,* see: [Education and Training Reform Regulations](http://www.education.vic.gov.au/about/department/legislation/Pages/act2006regs.aspx)