



NEW ZEALAND QUALIFICATIONS AUTHORITY
 MANA TOHU MĀTAURANGA O AOTEAROA

QUALIFY FOR THE FUTURE WORLD
 KIA NOHO TAKATŪ KI TŌ ĀMUA AOI

Tertiary Education Report: Changes to New Zealand Qualifications Authority (NZQA) Rules

Date:	9 July 2018	NZQA Priority:	High
Security Level:	In confidence	Report No.	CR17657

	Action sought	Deadline
Minister of Education	<p>a. note that NZQA conducted a public consultation on proposed changes to NZQA Rules between 12 March and 27 April 2018, and consulted separately on proposals for the recognition of micro-credentials, 5 March – 13 April 2018.</p> <p>b. note that the NZQA Board approved changes to 11 sets of NZQA Rules attached in Appendix 3 on 28 June 2018 (consisting of 2 sets of republished rules, incorporating the latest and all previous amendments, and 9 sets of amendment rules)</p> <p>c. approve each of the 11 sets of rules and amendments in Appendix 3 under section 253(5) of the <i>Education Act 1989</i>, by signing and dating in the signature box provided in each rule set</p> <p>d. note that, if approved by you the rule sets will be presented in the House of Representatives under section 253(7) of the Education Act</p>	

Enclosure/Appendix: Yes

Round Robin: No

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
Dr Grant Klinkum	Deputy Chief Executive	s9(2)(a)	s9(2)(a)	✓
s9(2)(a)	s9(2)(a)	s9(2)(a)	s9(2)(a)	

Minister's Office to Complete:

Noted

Seen

Approved

Needs change

Withdrawn

Overtaken by Events

Referred to:

Comments:

Changes to New Zealand Qualifications Authority (NZQA) Rules

Executive Summary

- NZQA seeks your approval under section 253(5) of the *Education Act 1989*, for proposed changes to several NZQA Rules set out in Appendix 3 of this report.
- These proposed changes reflect the outcome of public consultation following periodic review of NZQA Rules and cover: English language requirements for international students, monitoring of programmes at Levels 1-6 and Level 7 Diplomas, unfunded international providers (UIPs), and private training establishment (PTE) course closure accountability.
- Included in these proposed changes are amendments to the *Training Scheme Rules 2012* (Training Scheme Rules) and *Consent to Assess Against Standards on the Directory of Assessment Standards 2011* (Consent to Assess Rules) required to operationalise the micro-credentials system. These changes were approved by the NZQA Board on 23 May and 7 July respectively.
- The proposed micro-credentials system's parameters, including changes to the Training Scheme Rules, were signalled to you in Aide Memoire: proposed approach to implementing a micro-credentials system in New Zealand dated 25 May 2018. (CR17591).
- You considered the proposals and commented that the proposals, specifically the use of the Training Scheme Rules, is not optimally efficient for employer needs in an industry and workplace context. Therefore, NZQA proposes to amend the Consent to Assess Rules to allow explicitly for industry and workplace training micro-credentials by ITOs and other institutions. This will enable ITOs to not only partner with providers in the delivery of industry responsive micro credentials, but to lead the arranging of training for micro-credentials in the workplace.
- The Rule amendments aim to ensure that NZQA Rules are clear, reflect current practice and operational changes, and enable NZQA to effectively perform its quality assurance functions.

Recommended Action

It is recommended that you:

- a. **note** that NZQA conducted a public consultation on proposed changes to NZQA Rules 12 March - 27 April 2018 and consulted separately on proposals for the recognition of micro-credentials, 5 March – 13 April 2018.
- b. **note** that the NZQA Board approved the resulting changes to NZQA Rules on 28 June 2018 (consisting of two sets of republished rules, incorporating the latest and all previous amendments, and nine sets of amendment rules), and approved amendments to the Consent to Assess Rules on 7 July 2018.
- c. **approve** the 11 sets of rules in Appendix 3 under section 253(5) of the *Education Act 1989*, by signing and dating in the signature box in each set

APPROVE/NOT APPROVE

- d. **note** that, should you approve the proposed changes to NZQA Rules, they will be presented in the House of Representatives as required under section 253(7) of the Education Act 1989.



Russell Wood
Acting Chief Executive

9 July 2018

Chris Hipkins
Minister of Education

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Changes to New Zealand Qualifications Authority (NZQA) Rules

Purpose of Report

1. This report seeks your approval, under section 253(5) of the *Education Act 1989*, of proposed changes to NZQA Rules set out in Appendix 3 to this report. These Rules amendments were approved by the NZQA Board on 28 June 2018 and 7 July 2018.

Background

2. NZQA creates and administers multiple sets of Rules under section 253 of the *Education Act 1989*. These Rules are periodically reviewed to ensure that they remain current and relevant.
3. Following the latest review of the Rules, changes were proposed by NZQA and cover:
 - English language requirements for international students
 - monitoring of programmes at Levels 1-6 and Level 7 Diplomas
 - unfunded international providers (UIPs)
 - private training establishment (PTE) course closure accountability
 - credit reporting.
4. A summary of proposed amendments under each Rule set is attached as Appendix 1. Appendix 3 contains each amended Rule set. There are two sets of republished rules incorporating the latest and all previous amendments (the NZQF Programme Approval and Accreditation Rules 2018 and the Private Training Establishment Registration Rules 2018). There are two sets of amendments done in tracked changes (the Consent to Assess Rules and the Training Scheme Amendment Rules 2018, which contain the micro-credential changes). The remaining seven sets of amendments involved minor changes and so are in the normal regulatory amendment style.
5. NZQA consulted publicly on the proposed changes to NZQA Rules from 12 March to 27 April 2018. 88 submissions were received. A breakdown of submissions by stakeholder groups is attached as Appendix 2. Of the 88 submissions, 39 were submitted by private training establishments (PTEs), 25 by individuals, 11 by institutes of technology and polytechnics (ITPs), seven by other stakeholders, four by industry training organisations (ITOs), one by a wānanga, and one by a peak body.
6. NZQA also consulted publicly on proposals for the recognition of micro-credentials from 5 March to 13 April 2018. 76 submissions were received. CR17591 provides you a summary of the key themes from feedback.

Changes to English language requirements for international students

7. NZQA is proposing removing internal English language proficiency assessments altogether from Rule 18 of the *NZQF Programme Approval and Accreditation Rules 2013*, due to ongoing concerns with the quality of this type of assessment. This is a significant Rule change which affects 28 institutions that currently offer internal English language proficiency assessments. The feedback received in the consultation, summarised below, reflects the significance of the change.
8. Rule 18 was introduced in 2013 to set the minimum English language proficiency criteria for international students enrolling into non-university programmes at Level 3 to 10 on the

NZQF. At that time, Rule 18.6 allowed Category 1 and 2 tertiary education organisations (TEOs) to administer their own internal English language proficiency assessments. Category 1 TEOs were able to do this without NZQA approval, while Category 2 TEOs (and those Category 1 TEOs that wished to test on behalf of other TEOs) required NZQA approval of the proposed proficiency assessment.

9. Following a significant rise in cases of fraud and poor English proficiency detected by Immigration New Zealand, NZQA amended Rule 18 in 2015. As a result of this change, students from countries with student visa decline rates of over 20 per cent could no longer be tested using an internal English language proficiency assessment. In 2017, the Rule was further amended, requiring all Category 1 TEOs that offer an internal English language proficiency assessment, to apply for NZQA approval.
10. Following the 2017 Rule amendment, some Category 1 TEOs no longer offer this assessment, while others applied for NZQA approval. The vast majority of those applications were declined as the English language proficiency assessments failed to meet the required standard.
11. Since 2017, NZQA has also carried out a review of previously approved internal English language proficiency assessments at Category 1 and 2 TEOs. Once again, the vast majority of those English language proficiency assessments did not meet the requirements due to inappropriate testing practices or changes to the approved assessment.
12. Given the concerning extent of these findings, NZQA no longer has confidence that internal English language proficiency assessments offer sufficient assurance that a student has met the requirements of Rule 18. The quality of those assessments, even where they are offered by reputable organisation and were initially approved by NZQA, may change over time depending on staff capability and resourcing, making the results unreliable without constant monitoring or external verification.
13. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is sector support for this amendment.
14. Some of the submissions expressed concerns with this proposed amendment, including the potential commercial impact on providers, the impact on learners who will need to sit an NZQA approved international English language test, the perceived punitive nature of the change, and the effect on offers of place to learners, which are often made well in advance of a programme commencing.
15. Earlier in June you approved NZQA's recommended approach on the implementation of this Rule change: a transition period ending 31 December 2018, and the invitation to the non-university tertiary education sector to collaborate on the development of a standardised English language proficiency test (independent of any one TEO) for inclusion in Appendix 2 of the Rules (Briefing: Proposed changes to the English Language proficiency requirements for international students dated 13 June 2018. CR17658 refers).

Changes to Training Scheme Rules 2012 in relation to micro-credentials

16. NZQA consulted on the proposed changes as part of a wider consultation on recognising micro-credentials in New Zealand's education and training system between 5 March and 13 April 2018. The submissions received generally supported the proposed changes.
17. You received a briefing paper on the details of the proposal, the results of the consultation, and NZQA's proposed approach to implementing a micro-credentials

system on 25 May (Aide Memoire: Proposed approach to implementing a micro-credentials system in New Zealand. CR17591 refers).

18. The amended *Training Scheme Rules 2012*, which incorporate the changes approved by the NZQA Board on 23 May, are included in Appendix 3 for approval. These changes will ensure micro-credentials are recognised as a type of training scheme and set out the requirements for applications for micro-credential recognition.

Changes to Consent to Assess Rules 2011 in relation to micro-credentials

19. NZQA has proposed additional amendments to the Consent to Assess Rules to enable industry and workplace training micro-credentials to be delivered by Industry Training Organisations (ITOs) and other institutions, in response to your comment that the Training Scheme Rules were not optimal for workplace assessment.
20. The amended Consent to Assess Rules, which incorporate the changes approved by the NZQA Board on 7 July, are included in Appendix 3 for approval. These changes will:
 - ensure that industry training micro-credentials are recognised as a kind of consent to assess consisting of one or more assessment standards on the Directory of Assessment Standards
 - certify the achievement of a specific set of skills and knowledge in workplace training
21. The amendments to the Consent to Assess Rules allow for all standard setting bodies (including Industry Training Organisations) and institutions with consent to assess to seek approval of industry training micro-credentials.

Monitoring of programmes at Levels 1-6 and Level 7 Diplomas

21. Following several compliance investigations and a review of all Level 7 Diploma programmes in 2016 and 2017, NZQA identified significant concerns relating to TEO assessment practices, teaching capability and resourcing. Since then, NZQA has established a dedicated monitoring business unit, and has initiated a regular review of delivery and assessment practices.
22. The purpose of the proposed Rule change is to set out the expectation that TEOs holding accreditation to provide an approved programme at Levels 1-6 or a Level 7 Diploma must participate and cooperate in programme monitoring. NZQA is already able to undertake programme monitoring to verify compliance with the accreditation requirements. Adding an explicit Rule in this regard will provide TEOs with clarity.
23. NZQA will introduce similar monitoring requirements for training schemes and micro-credentials as a result of amendments to the Training Scheme Rules.
24. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

Unfunded international providers (UIPs)

25. NZQA is proposing to remove the list of required data from the Rules. UIPs would still be required to submit the data, but the specific list will be published on the Ministry of Education's website only to ensure a more efficient process for stakeholders.
26. NZQA introduced a Rule when the Ministry of Education made the data reporting by UIPs a requirement from 2015.

27. The Ministry of Education sets the UIP data requirements and engages with the sector when changes are made. Specifying the data required in the Rules means NZQA is required to undertake additional consultation when the Ministry of Education makes changes to the UIP data requirement. This has resulted in a duplication of processes.
28. Operational challenges to implement new data requirements have arisen because of the time it takes to make changes to the Rules. An example of this was the recently introduced smaller data set for English language-only Private Training Establishments (PTEs). NZQA had to issue exemption notices to over 30 PTEs exempting them from full compliance with the Rule because it was not simply possible to change the Rule in time to reflect the change in data requirements.
29. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

Private training establishment (PTE) course closure accountability

30. Due to ongoing concerns about significant claims made on the Export Education Levy (the Levy) over the last year, NZQA is proposing a change to the PTE Registration Rules. This amendment would require PTEs that have voluntarily or involuntarily ceased delivery of a programme, training scheme or standards to cover international student costs associated with the closure.
31. These costs include academic re-assessment, English language proficiency re-testing and full refunds for students found to be ineligible to continue their studies at the same level elsewhere due to insufficient academic ability or English language proficiency.
32. While some PTEs accept their responsibility and voluntarily meet these costs, NZQA is concerned about a lack of accountability in other cases which lead to claims on the Levy. These are situations where PTEs have profited from the enrolment of mostly international students but have failed to deliver to the required standard, leaving these students in a precarious position.
33. Where a PTE continues to operate after a course closure, NZQA considers it the PTE's responsibility to cover re-assessment and refund costs when needed, rather than the Levy's. NZQA is therefore proposing to make this a condition on registration. It would mean that failure to comply with the requirement, could result in the de-registration of the PTE.
34. While this Rule would not resolve situations involving full PTE closure, it would provide a disincentive for PTEs wishing to stay in business to refuse to cover course closure costs.
35. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

Other Rules changes

36. NZQA proposed a number of smaller amendments to the following Rule sets:
 - NZQF Programme Approval and Accreditation Rules 2013, including Rule 18
 - Directory of Assessment Standards Listing and Operational Rules 2011
 - NZQF Qualification Listing and Operational Rules 2016
 - Private Training Establishment Registration Rules 2013
 - NZQF Industry Training Programme Approval Rules 2012
 - Industry Training Organisation Prescribed Quality Assurance Requirements Rules 2015
 - Quality Assurance (including External Evaluation and Review (EER)) Rules 2016

- Student Fee Protection Rules 2013
- NZQA Offshore Programme Delivery Rules 2012.

37. These changes are needed for a variety of reasons. Some reflect a change in policy direction or respond to emerging risks, others clarify requirements and roles of stakeholders

38. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

Credit Reporting

39. NZQA has consulted on the proposed change to reduce the timeframe for credit reporting from three months to one month. While there was support for this change, NZQA has decided not to proceed with this change until it has had more time to work with the sector to arrive at a reasonable timeframe for reporting credits.

40. Under the current Consent to Assess against Standards on the Directory of Assessment Standards Rules, NZQA requires holders of consent to assess (other than schools) to report credits for students within three months of assessment.

41. Quarterly reporting of credit achievement is leading to delays in student access to accurate New Zealand Record of Achievement information and has the potential to lead to inappropriate fees-free and other funding allocation.

42. While there is broad sector support for the proposed change, very large and smaller TEOs may find the proposed timeframe difficult and expensive to operationalise.

43. NZQA will follow up on this issue as a priority and is committed to significantly reducing reporting timeframes but in a manner that is manageable for the sector.

Authority to approve the Rules

44. NZQA may make Rules under section 253 of the Education Act 1989. To be valid, the Rules require the approval of the NZQA Board and the Minister of Education. The Minister of Education holds the Prime Minister's delegation of legislative responsibilities for Part 20 of the Education Act 1989, which includes section 253(5) under which the Rules are made.

45. On 28 June 2018, the NZQA Board approved the proposed Rule amendments outlined in Appendix 3 to this report. The amendments to the Training Scheme Rules were approved by the NZQA Board on 23 May, and amendments to the Consent to Assess Rules were approved on 7 July. NZQA, therefore, seeks your approval for these amendments.

46. Once you have approved the amendments to NZQA Rules by signing and dating them in the signature box provided, they must be presented in the House of Representatives. The amendments will come into effect 28 days after you have approved them.

Risks

47. NZQA engaged with the sector on the proposed Rules changes during the seven-week consultation process and extensively discussed the most significant issues with sector peak bodies.

48. Risks related to the implementation of the revocation of Rule 18.6 of the Programme Approval and Accreditation Rules will be mitigated with an extended transition period for the affected providers, and the invitation to the sector to deliver a New Zealand English language standardised test (ENZ have offered to provide seed funding). NZQA will initiate communication with the affected providers regarding the Rule 18.6 transition period.

Communications plan/issues

49. NZQA will publicise the amendments to NZQA through the following channels:

- a. a news item and consultation summary on the NZQA website
- b. a follow up email to the non-university tertiary sector with a link to the news release
- c. an article in the NZQA newsletter eQuate
- d. communications to TEOs particularly affected, e.g. TEOs that provide internal English language proficiency assessment
- e. discussion with TEOs (if they deem it necessary) at the PTE Peak Body Forum, the ITP Advisory Group meeting, and the Joint Consultative Group meeting, all of which NZQA actively participates in.

Appendix 1

redacted s18 (d)

See our page on our website regarding Changes to NZQA Rules:
<https://www.nzqa.govt.nz/about-us/news/changes-to-nzqa-rules-2/>

QUESTION 1: [Faint text]

- 1. [Faint text]
- 2. [Faint text]

QUESTION 2: [Faint text]

- 1. [Faint text]
- 2. [Faint text]

QUESTION 3: [Faint text]

- 1. [Faint text]
- 2. [Faint text]

QUESTION 4: [Faint text]

- 1. [Faint text]
- 2. [Faint text]
- 3. [Faint text]

QUESTION 5: [Faint text]

- 1. [Faint text]
- 2. [Faint text]

QUESTION 6: [Faint text]

- 1. [Faint text]
- 2. [Faint text]

QUESTION 7: [Faint text]

- 1. [Faint text]
- 2. [Faint text]
- 3. [Faint text]

1. The following table shows the number of students who took part in the competition in each year.

- (a) Complete the table.
- (b) Draw a bar chart to represent the data.
- (c) How many more students took part in the competition in 2005 than in 2002?
- (d) How many fewer students took part in the competition in 2004 than in 2003?

Year	Number of students
2002	120
2003	150
2004	130
2005	180

Appendix 2

Consultation Submissions Table

Submission	Number of submissions
<p>redacted s9(2)(a)</p>	
<p>1. [Redacted]</p> <p>2. [Redacted]</p> <p>3. [Redacted]</p> <p>4. [Redacted]</p> <p>5. [Redacted]</p> <p>6. [Redacted]</p> <p>7. [Redacted]</p> <p>8. [Redacted]</p> <p>9. [Redacted]</p> <p>10. [Redacted]</p>	
<p>1. [Redacted]</p> <p>2. [Redacted]</p> <p>3. [Redacted]</p> <p>4. [Redacted]</p>	
<p>1. [Redacted]</p> <p>2. [Redacted]</p> <p>3. [Redacted]</p> <p>4. [Redacted]</p> <p>5. [Redacted]</p> <p>6. [Redacted]</p> <p>7. [Redacted]</p> <p>8. [Redacted]</p> <p>9. [Redacted]</p> <p>10. [Redacted]</p>	

<ul style="list-style-type: none">• Role of the State• Economic Reform in India• The Role of the State in the Development of India• Privatization• Globalization• Liberalization and Investment Promotion• WTO and India• International Trade and India• India's Foreign Policy• India's Relations with Neighboring Countries• India's Relations with the US• India's Relations with the EU• India's Relations with the UN• India's Relations with the BRICS• India's Relations with the G20• India's Relations with the APEC• India's Relations with the SAARC• India's Relations with the BIMSTEC• India's Relations with the ICGE• India's Relations with the SCO• India's Relations with the OIC• India's Relations with the EU	
<p>Religion</p> <ul style="list-style-type: none">• Role of Religion in India	
<p>Education</p> <ul style="list-style-type: none">• Role of Education in India• Higher Education in India• Vocational Education in India• Distance Education in India• Open Education in India• e-Learning in India	
<p>Science</p> <ul style="list-style-type: none">• Role of Science in India• Space Technology in India• Biotechnology in India• Nanotechnology in India• Information Technology in India	

redacted s18d-Appendix 3

NZQA Rule Sets for Ministerial Approval - Attached

See our page on our website regarding Changes to NZQA Rules:
<https://www.nzqa.govt.nz/about-us/news/changes-to-nzqa-rules-2/>