Consultation feedback on proposed changes to NZQA Rules

The New Zealand Qualifications Authority (NZQA) consulted on proposed changes to NZQA Rules from 12 March to 27 April 2018.

The following is a summary of submissions NZQA received.

1. Number of submissions

NZQA received 88 submissions detailed in the table below:

<table>
<thead>
<tr>
<th>Submission author type</th>
<th>Number of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peak body</td>
<td>1</td>
</tr>
<tr>
<td>Institutes of Technology and Polytechnics (ITPs)</td>
<td>11</td>
</tr>
<tr>
<td>Industry Training Organisations (ITOs)</td>
<td>4</td>
</tr>
<tr>
<td>Private Training Establishments (PTEs)</td>
<td>39</td>
</tr>
<tr>
<td>Individuals</td>
<td>25</td>
</tr>
<tr>
<td>Wānanga</td>
<td>1</td>
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<tr>
<td>Other stakeholders</td>
<td>7</td>
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<tr>
<td><strong>Total:</strong></td>
<td><strong>88</strong></td>
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2. Detailed summary of submissions

The following sections summarise submissions received for each question.

2.1 Do you agree with the proposed changes to the NZQF Programme Approval and Accreditation Rules 2013?

The proposed changes to this rule set were:

- Rule 12.1: Updating requirements to be met to maintain accreditation
- Rule 18.3: Inclusion of Trinity College London Certificate in Teaching English to Speakers of Other Languages (CertTESOL).
- Rule 18.3(c): Update certificate title
- Table and Appendix: Changes to reflect the above; error corrections to scores
- Rule 18.6: Removal of this Rule.

The majority of submissions supported the proposed changes to Rule 12, 18.3, 18.3(c), the Table and Appendix.
There was a rough split in support for Rule 18.6, with a slightly higher proportion disagreeing with its proposed removal, or having reservations regarding its potential implementation.

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Undecided</th>
<th>Not applicable¹</th>
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<tr>
<td>36</td>
<td>41</td>
<td>6</td>
<td>5</td>
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Of the submissions that disagreed with the proposed change to Rule 18.6, there were four identical submissions from organisations, and four identical submissions from international students.

Comments

The main concerns with the proposed change to Rule 18.6 were as follows:

- that it was unfair and punitive, particularly to those organisations who have had their assessment approved, some recently. It was argued that many TEOs had expended significant time and resources to comply with Rule 18 and to develop quality English language and pathway programmes.

- that it will cause economic and reputational harm, both to individual organisations and the wider New Zealand private education sector. It was argued that:
  - internal English language proficiency assessment is a useful marketing tool
  - removal of Rule 18.6 provides an unfair advantage to universities which could result in loss of students (and capital) for non-university TEOs.

- that it means fewer options for international students to demonstrate their English proficiency or to progress from a language programme into further study, both of which, in turn, would lessen New Zealand's attractiveness as a study destination.

- the likely inability of tests listed in Appendix 2 (many respondents focused on the International English Language Testing System (IELTS)) to cope with a significant increase of students given the number of testing centres and frequency of sittings.

- internal assessments with associated programmes can deliver better long-term outcomes for international students over those focused on passing an exam.

Alternative suggestions proposed include the management of internal English language proficiency assessment by a peak body or other such body, to which any organisation that wishes to provide internal English proficiency testing must be a member, and the development of a standardised New Zealand English language proficiency test to replace internal assessment.

NZQA response:

Since the 2017 amendments to Rule 18, NZQA has identified significant issues with internal English language proficiency assessment. Most internal English language proficiency assessment did not fulfil NZQA requirements.

NZQA no longer has confidence that internal English language proficiency assessments offer sufficient assurance that a student has met the requirements of Rule 18. There is significant reputational risk to New Zealand should it fail to ensure that all international students have the appropriate level of English language proficiency. These may include, but are not limited to:

¹ Respondents were able to select “not applicable” as an option. Counted towards this number are also instances where questions were skipped in the submissions.
a. breaches of the Code of Practice;
b. increased chance of future assessments that support original decisions;
c. increased risk to student well-being;
d. immigration/visa complications or fraud;
e. increased risk of exploitation;
f. programme or provider closures.

NZQA acknowledges the position raised by many respondents that direct entry pathways to higher education, when done well, provide confidence that the students are well-prepared for further study and can add significant value to New Zealand’s appeal as a study destination. International education is currently New Zealand’s fifth largest export earner and, given the increasing competition in the international student market, NZQA is conscious of the need to balance that appeal while ensuring the quality of New Zealand education.

NZQA is cognisant of the increased demand for international English language tests that will arise from the removal of Rule 18.6. While respondents primarily referred to IELTS, Appendix 2 of the Rules provides a range of tests, including TOEFL and Cambridge International English. It also notes that many international students who come to study in New Zealand may already have completed one of the internationally recognised English language proficiency tests.

English language tests are designed to provide a clear idea of a student’s English language ability at a certain point in their studies, and to ensure that those advancing to the next level of study have the level of English proficiency required to participate successfully. International tests accomplish this while also being globally recognised and understood.

NZQA appreciates the position of TEOs that have invested significant time and effort into the development of internal assessments and pathway programmes. However, it is not convinced that these programmes and pathways cannot be successfully adapted to incorporate one of the range of tests listed in Appendix 2. Pathway arrangements in themselves are not sufficient evidence of English language proficiency.

Following consideration of the consultation feedback, NZQA is extending the transition period for adjustment to this change to 31 December 2018. NZQA and Education New Zealand (ENZ) have also identified an opportunity for New Zealand to develop its own standardised English language proficiency test, as a result ENZ is exploring the feasibility of developing such a test.

2.2 Do you agree with the proposed changes to the Directory of Assessment Standards Listing and Operational Rules 2011?

The proposed changes to this Rule set were:

- Rule 8: Addition of Rule specifying the listing of Standards on the Directory.

The majority of submissions supported the proposed changes.

<table>
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<tr>
<th>Agree</th>
<th>Disagree</th>
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<th>Not applicable</th>
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Comments:

Some feedback submitted under this rule set were in fact related to the proposed changes to the Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011. These submissions have been incorporated into feedback for that rule set.
2.3 Do you agree with the proposed changes to the Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011?

The proposed changes to this Rule set were:

- Rules 10.1(b) and 12.1(b): Changes to the timeframe for reporting credits.

The majority of submissions supported the proposed changes.

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<th>Agree</th>
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<th>Not applicable</th>
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Comments:

Submissions that disagreed with the proposed changes noted that a reporting timeframe of one month would be overly burdensome, requiring increased manpower and finances to achieve and potentially creating potential risks involving organisations rushing to report credits or having to operate outside of acceptable timeframes.

A number of organisations have a large student population, and some programmes have standards embedded within them. Some organisations are also small, with a limited number of staff. The feedback in this regard noted the potential difficulty in reporting in shorter timeframes in these circumstances. Larger organisations could have trouble managing the number of credits to report on a monthly basis, and small organisations may require additional administrative support for monthly credit reporting.

A potential issue concerning when standards are achieved versus when they need to be reported was noted. It can sometimes take for assessment and marking to be carried out and finalised, which could cause issues if said assessment takes more than one month.

Clarity was sought around the definition of ‘assessment’ and the impact of internal moderation on completion and processing dates. The need for clarity around guidelines and a transition period were noted by some submissions.

Alternative timeframes have been suggested for Rules 10.1(b) and 12.1(b), ranging from 30 working days (approximately six weeks) to three months. A change to clarify when the standards would need to be reported from (i.e. one month after finalisation, one month after the day of assessment) was also suggested.

Submissions that disagreed with the proposed changes to this Rule set that were submitted as feedback for the proposed changes to the Directory of Assessment Standards Listing and Operational Rules 2011. These submissions have been incorporated above.

NZQA response:

As a result of sector feedback NZQA will not make changes to Rules 10.1(b) and 12.1(b) until it has had more time to work with the sector to arrive at a suitable timeframe for reporting credits.
2.4 Do you agree with the changes to the NZQF Qualification Listing and Operational Rules 2016?

The proposed changes to this Rule set were:

- Rule 4.1(b): Replace ‘learning outcomes’ with ‘graduate outcomes’
- Rule 5.3(c): Amendment specifying the Rule relates only to standards on the Directory of Assessment Standards which are critical to meeting legislative requirements in the graduate profile outcomes
- Rule 6.2: Removing requirement for English language descriptions to be ‘equivalent’
- Rule 10.3(b): Remove this Rule
- Rule 10.5: Correction of drafting error
- Rule 16: New Rule requiring the language of instruction (if other than English or te reo Māori) to be stated on the formal certification of qualification.

The majority of submissions supported the proposed changes.

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<th>Agree</th>
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Comments:

Potential confusion for, and negative impact on, students using a qualification gained in a language other than English in an English-speaking country was raised as a possible issue of the change to Rule 16.

There was also concern as to the potential impact on industry of the change to Rule 5.3(c), and how both legislative requirements and professional registration requirements factor in to the rule.

One concern regarding removal of ‘equivalent’ as a requirement for English language descriptions of qualifications listed in te reo Māori was that the English translation could therefore become unusable.

NZQA response:

NZQA qualifications may already be delivered offshore in languages other than English. As such, these qualifications should note the language of instruction as this will provide clarity and allay confusion.

Often the English translation cannot fully capture cultural context and is thus not equivalent at all. The English descriptions give an overview and idea of the purpose of the qualification, and therefore it is inaccurate to refer to these descriptions as ‘equivalent’ of the te reo Māori description.

2.5 Do you agree with the proposed changes to the Private Training Establishment Registration Rules 2013?

The proposed changes to this Rule set were:

- Rule 5.1.3: New Rule requiring PTEs to cover the international student costs associated with the closure and transfer of international students
- Rule 5.1.3(ac): Remove reference to Appendix I, amend Rule to specify that information required of Code signatory PTEs will be set out on the Ministry of Education’s website
The majority of submissions supported the proposed changes.

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Comments:

Most of the submissions that disagreed with these changes were concerned with the perceived penalisation of organisations involved in the change to Rule 5.1.3. Some argued the costs involved would be punitive and result in resourcing issues.

Some submissions questioned why the Export Education Levy applies to PTEs and not ITOs, ITPs, and Wānanga as well.

NZQA Response:

All institutions which have international students contribute to the Export Education Levy (EEL). This is on a per student basis. Universities, which have the largest international student populations, pay an amount to the EEL reflective of this but, unlike PTEs, do not use reimbursements. Universities, ITPs, and schools are not likely to close unexpectedly, and are also mostly publicly owned, unlike PTEs.

So far PTE closures have resulted in claims on the EEL. Recent claims have mostly resulted from the de-registration of PTEs who have refused or have been unable to pay the costs associated with English language proficiency and academic re-testing and re-teaching of students.

The recent claims on the EEL have been significant. Continued use of the EEL for student refunds as a result of course closures in these cases would essentially cripple the EEL in terms of funds and ability to address other parts of its remit.

2.6 Do you agree with the proposed changes to the NZQF Industry Training Programme Approval Rules 2012?

The proposed changes to this Rule set were:

- Rule 5.1(b): Replace ‘learning outcomes’ with ‘qualification outcomes’
- Rule 5.1(c): Clarify the assessment requirement relates to the programme's assessment policy and procedures.

The majority of submissions supported the proposed changes.

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2.7 Do you agree with the proposed changes to Industry Training Organisation Prescribed Quality Assurance Requirements Rules 2015?

The proposed changes to this Rule set were:
• Rule 4.1.1(iii): Remove ‘deliver industry training.’

The majority of submissions supported the proposed changes.

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<th>Agree</th>
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2.8 Do you agree with the changes to the Quality Assurance (including External Evaluation and Review (EER)) Rules 2016?

The proposed changes to this Rule set were:

• Rule 8.5: Remove reference to Rules 9.1-9.7
• Rule 13.4(a): Update Rule to apply only to Category 2 institutions
• New Rule: Require all institutions and ITOs to keep up to date academic records, including assessment materials.

The majority of submissions supported the proposed changes.

A small number agreed with most of the changes but had caveats related to, or did not agree with, one or two of the proposed amendments.

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<th>Agree</th>
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Comments:

Most of the concern was expressed regarding Rule 8.5. Ten working days is viewed as inadequate in relation to the work involved in an organisation reviewing and considering whether to seek reconsideration. The potential impacts noted include strains on time and resources, and the need to set up new processes and guidelines.

It was noted there is a need for appropriate recourse for reconsideration of an EER report and time for a provider to communicate with students, and stakeholders.

Those who disagreed with the new rule regarding record keeping noted a need for clear parameters around what constitutes ‘assessment materials’ and the timeframes for retention of this material.

Concerns were raised regarding the potential cost in time and manpower, particularly to large organisations, if this rule is introduced. The potential impact on the quality of records management was noted. The new rule was viewed by some as excessively onerous and logistically challenging, given the amount of record keeping organisations undertake already.

Guidance from NZQA regarding what is intended with the new rule, how it will operate, and the possibility of a transition period, were all suggested as ways to mitigate potential impacts if the new rule were to be introduced. It was also suggested that this rule be used to target specific qualifications and/or providers.
NZQA Response:

The change to Rule 8.5 will only affect institutions and ITOs that apply for reconsideration of their EER report and avoid unnecessary process delays. Reconsideration is the final available step in the EER process, and the availability of this to organisations who wish to seek it has not changed.

The 10-day period before publication applies only to a final EER report. The purpose of this period is to give the organisation the opportunity to apply for reconsideration. The 10-day period does not apply to the publication of an EER report following reconsideration (process outlined in Rule 9). Reconsideration of an EER is the final step in the process, so a 10 day wait period is not necessary since there is no further NZQA process for the institution to engage in.

NZQA will still provide the institution with the reconsideration decision and EER report before publishing it on the website. This would be in accordance with Rule 9.6.

The new rule will ensure that the record keeping requirements for institutions and ITOs will be on par with those of PTEs, as set out in Rule 6.2 of the PTE Enrolment and Academic Records Rules. Due to the need for the institutions and ITOs affected to review and adjust their storage facilities and practices as required, NZQA will allow a transition period of three months from the time the Rule changes come into effect, 28 days after the changes are approved by the Minister. This will allow organisations to adjust to the new record keeping rule, which will be communicated to the sector separately.

2.9 Do you agree with the changes to the Student Fee Protection Rules 2013?

The proposed changes to this Rule set were:

- Rule 13.10: Amend to refer to clause 14(b) of the new Education (Pastoral Care of International Students) Code of Practice 2016.

The majority of submissions supported the proposed changes.

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<th>Agree</th>
<th>Disagree</th>
<th>Undecided</th>
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<tbody>
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<td>62</td>
<td>1</td>
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</table>

2.10 Do you agree with the changes to the NZQA Offshore Programme Delivery Rules 2012?

The proposed changes to this Rule set were:

- Rule 3: Update the interpretation and subsequent references to ‘deemed programme rules’ to refer to the NZQF Programme Approval and Accreditation Rules 2013.

The majority of submissions supported the proposed changes.

<table>
<thead>
<tr>
<th>Agree</th>
<th>Disagree</th>
<th>Undecided</th>
<th>Not applicable</th>
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<tbody>
<tr>
<td>60</td>
<td>2</td>
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