



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 Qualification Authority (NZQA) Rules**

Date:	5 July 2017	NZQA Priority:	e.g. High
Security Level:	In confidence	Report No.	CR16438

	Action sought	Deadline
Minister for Tertiary Education, Skills and Employment	<p>a. <b>note</b> that NZQA conducted a public consultation on proposed changes to 9 sets of NZQA Rules between 19 April and 31 May 2017</p> <p>b. <b>note</b> that the NZQA Board approved the amendments to the 9 sets of Rules attached in Appendix 3 of this report on 30 June 2017</p> <p>c. <b>approve</b> under section 253(5) of the <i>Education Act 1989</i>, the amendment to the 9 sets of Rules</p> <p>d. <b>note</b> that, should you approve the amendments to the 9 sets of Rules, they must be presented to the House of Representatives under section 41 of the <i>Legislation Act 2012</i>.</p>	

Enclosure/Appendix: Yes

Round Robin: No

**Contact for Telephone Discussion (if required)**

Name	Position	Telephone	1st Contact
Dr Grant Klinkum	Deputy Chief Executive	04 463 4364 027 527 0870	✓

Note: The Minister wants to see a brief summary of the concerns raised by submitters, then he will tick it off / SW 10 July

RECEIVED

Eve McMahon	Acting Manager, Quality Assurance Strategy	04 463 4358	027 471 4091	
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**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Withdrawn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*, of amendments to 9 sets of NZQA Rules attached in the Appendix 3 to this report.
- These amendments reflect the outcome of public consultation by NZQA following a periodic review of NZQA Rules. The changes are in three main areas: Te Hono o Te Kahurangi Quality Assurance; English language entry criteria; and other general changes.
- 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.

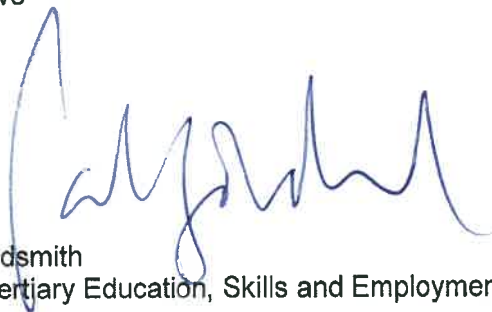
### Recommended Action

It is recommended that you:

- a. **note** that NZQA conducted a public consultation on proposed changes to 9 sets of NZQA Rules between 19 April and 31 May 2017
- b. **note** that the NZQA Board approved the amendments to the 9 sets of Rules on 30 June 2017
- c. **approve** under section 253(5) of the *Education Act 1989*, the 9 sets of amended NZQA Rules attached in Appendix 3 of this report
- d. **note** that, should you approve the amendments, they will be presented to the House of Representatives within 16 sitting days as required by section 41 of the Legislation Act 2012.



Karen Poutasi (Dr)  
Chief Executive



Hon Paul Goldsmith  
Minister for Tertiary Education, Skills and Employment

5.7.17  
...../...../.....

AGREE/DISAGREE

20.7.17  
...../...../.....

## 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 amendments to 9 sets of NZQA Rules which are attached in Appendix 3 to this report. These Rules amendments were approved by the NZQA Board on 30 June 2017. These are the:
  - a. Quality Assurance (including External Evaluation and Review (EER)) Rules Amendment Rules 2017
  - b. NZQF Qualification Listing and Operational Amendment Rules 2017
  - c. NZQF Programme Approval and Accreditation Amendment Rules 2017
  - d. Private Training Establishment Registration Amendment Rules 2017
  - e. Training Scheme Amendment Rules 2017
  - f. Directory of Assessment Standards Listing and Operational Amendment Rules 2017
  - g. NZQF Industry Training Programme Approval Amendment Rules 2017
  - h. Consent to Assess against Standards on the Directory of Assessment Standards Amendment Rules 2017
  - i. Student Fee Protection Amendment Rules 2017.

### Background

2. NZQA creates and administers 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 in three main areas:
  - a. Te Hono o Te Kahurangi Quality Assurance
  - b. English language entry criteria for international students
  - c. Other general changes.
4. A summary of proposed amendments under each Rule set is attached as Appendix 1. Appendix 3 contains each set of Amendment Rules. The amendments are done in the new tracked change style. The tracked change style of amendment is the new style provided by the Parliamentary Counsel Office as part of the Access to Subordinate Instruments Project, which is part of the recently introduced Legislation Bill that will replace the *Legislation Act 2012*.
5. NZQA consulted the non-university tertiary sector on the changes from 19 April and 31 May 2017. Forty-four submissions were received. A table outlining the stakeholders that made submissions is attached as Appendix 2. Of these, three were submitted by peak bodies, 10 by institutes of technology and polytechnics (ITPs), two by industry training organisations (ITOs), 27 by private training establishments (PTEs), one by a school and one by an individual.

## **Te Hono o Te Kahurangi Quality Assurance**

6. In 2016 NZQA made amendments to the Rules to introduce Te Hono o Te Kahurangi (THOTK) quality assurance for EER, qualification listing, and programme approval and accreditation at Levels 1 to 6 of the NZQF. This is an optimal pathway for those delivering programmes and qualifications which recognise and advance Mātauranga Māori.
7. The THOTK approach has since been embedded into these processes, and NZQA is now in a position to integrate it into other quality assurance settings with Rule changes in the following areas:
  - a. Training Scheme Rules 2012
  - b. Private Training Establishment Registration Rules 2013
  - c. Directory of Assessment Standards Listing and Operational Rules 2011
  - d. Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011.
8. The following two sets of Rules are amended to extend THOTK quality assurance for qualification listing, programme approval and accreditation to include Levels 7 to 10 on the NZQF:
  - a. NZQF Programme Approval and Accreditation Rules 2013
  - b. NZQF Qualification Listing and Operational Rules 2016.
9. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

## **English language entry criteria for international students**

10. Rule 18 of the NZQF Programme Approval and Accreditation Rules ("PAA Rules") was introduced in 2013 to set the minimum English language proficiency criteria for international students enrolling into programmes at Level 3 and higher on the NZQF.
11. Following a significant rise in cases of fraud and poor English language proficiency detected by Immigration New Zealand, NZQA amended Rule 18 in October 2015. The amendments applied to students from countries with student visa decline rates of over 20 per cent. From October 2015, those students were required to provide an internationally recognised English language proficiency test when applying for their first visa, as evidence of meeting the requirements of Rule 18. These changes to Rule 18 have contributed to reducing fraud related to English language evidence and ensuring that students enrolling into programmes in New Zealand have the required level of English proficiency.

### *Students from countries with high student visa decline rates*

12. It has come to NZQA's attention that inappropriate English language testing practices are still being used when students from countries with high student visa decline rates apply for their second visa in New Zealand (for example, when progressing from Level 5 to Level 6).
13. To address these concerns students from countries with high student visa decline rates will be required to provide an internationally recognised test with results at the required level for enrolment into each new programme of study. This requirement will apply in all cases, unless a student meets the criteria set out in the Rules below.

*Previous tertiary study in English & Cambridge Certificate in English Language Teaching to Adults (CELTA)*

14. Pre-amendment Rule 18 of the PAA Rules allowed NZQA to recognise on its website English proficiency for students who have completed CELTA, a Bachelor Degree, Graduate Certificate/Diploma or higher, with English as the medium of instruction at institutions from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States. This applied to students from low risk countries.
15. Amendments to Rule 18 transfer this English proficiency recognition from the website into Rule 18 and extend it to students from countries with high visa decline rates being able to use the completion of CELTA or a specified higher qualification with English as the medium of instruction at institutions from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States.
16. These amendments will remove a perceived barrier to the enrolment of highly qualified international students into higher programmes in New Zealand. Eligible students would not be required to provide an internationally recognised English language proficiency test, even if they are from a country with a high student visa decline rate.

*Internal testing by Category 1 institutions*

17. NZQA will introduce a Rule requiring Category 1 institutions to seek NZQA approval of their internal English language proficiency testing. Currently only Category 2 institutions are required to obtain this NZQA approval. Even though these are high-performing institutions, NZQA has found that the quality of applications for English language testing it receives can be unsatisfactory. This shows that the development of English language testing methodology is a complex and specialised field, and even high-performing organisations may not have this capability internally. It is important, therefore, for NZQA to quality assure the English proficiency assessment methodology employed by Category 1 institutions.

*Changes to the Table of recognised English Proficiency tests*

18. Rule 18 currently allows, by reference to the Table in the Appendix to the Rules, for the use of the New Zealand Certificate in English Language (NZCEL) and City and Guilds English language testing, as evidence of proficiency. The NZCEL qualifications have been recently updated and City and Guilds testing has been acquired and replaced by LanguageCert. NZQA has accordingly updated the Table to reflect these changes.
19. Provisions will be included in Rule 18 for the withdrawal and lapsing of internal test approval in situations where non-compliance is identified or when an institution's EER rating drops to Category 3 or 4.
20. In response to sector feedback about the complexity of Rule 18, NZQA is also simplifying the language and structure of the Rule.
21. Based on the results from the consultation on the proposed Rule changes, NZQA is satisfied that there is broad sector support for these amendments.

## General changes to NZQA Rules

22. NZQA proposed a number of smaller amendments to the following Rule sets:

- a. Quality Assurance (including External Evaluation and Review (EER)) Rules 2016
- b. NZQF Qualification Listing and Operational Rules 2016
- c. NZQF Programme Approval and Accreditation Rules 2013
- d. Private Training Establishment Registration Rules 2013
- e. Training Scheme Rules 2012
- f. Directory of Assessment Standards Listing and Operational Rules 2011
- g. NZQF Industry Training Programme Approval Rules 2012
- h. Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011
- i. Student Fee Protection Rules 2013.

23. 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.

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.

## Authority to approve the Rules

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25. 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 for Tertiary Education, Skills and Employment. 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.

26. Once you have approved the 9 sets of amendment Rules, they will be presented to the House of Representatives. The amendments will come into effect 28 days after you have approved them.

27. In a letter dated 30 January 2015, the Minister of Education consented to you, as Minister for Tertiary Education, Skills and Employment, exercising the power under section 253(5) to approve Rules made by NZQA which fall within your portfolio. NZQA, therefore, seeks your approval for the amended Rules attached in Appendix 3 to this report.

28. On 30 June 2017, the NZQA Board approved the 9 sets amendment Rules attached in Appendix 3 to this report.

## Risks

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29. The risk of opposition from the sector has been minimised by engagement with providers during the eight-week consultation process, as reflected in the number of submissions received.

## Communications plan/issues

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30. Section 253(6) of the Education Act 1989 requires NZQA to publish the amendment Rules on its website and make them available in printed form for purchase by the public at a reasonable price.

31. NZQA will also 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. discussion with providers (if they deem it necessary) at the PTE Peak Body Forum, the ITP Advisory Group meeting, and the Joint Consultative Group meeting.



### Summary of changes to NZQA Rules

#### **Quality Assurance (including External Evaluation and Review (EER)) Rules 2016**

- NZQA can change the scope of an EER before, during or after an EER visit, if necessary, where concerns are identified in an area not part of the original scope.
- The reconsideration fee will only be waived in cases where the process results in a change to one or both of the statements of confidence.
- The restrictions on applications for statutory permissions by Category 3 and 4 institutions have been extended to apply to Industry Training Organisations (ITOs) as well.
- All institutions and ITOs will have to submit an annual statutory declaration to attest to their compliance with the Education Act 1989 and NZQA Rules.
- Prohibit Category 4 institutions from enrolling new students.
- Other minor amendments.

#### **NZQF Programme Approval and Accreditation Rules 2013**

- Rules concerning Te Hono o Te Kahurangi quality assurance have been expanded to include programmes at Levels 7 to 10 on the NZQF.
- Applications for programme approval will need to include evidence of consultation with the qualification developer, as a key stakeholder.
- Level 7 Diploma programmes will be subject to the requirements to maintain accreditation set out in Rule 12.2.
- When notifying NZQA of a sub-contracting arrangement between two accredited parties, the information set out in Rule 17.1 must be provided.
- The holder of a sub-contracting approval has an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 17.4.
- Sub-contracting approval may be withdrawn.
- Other minor amendments.

#### **NZQF Programme Approval and Accreditation Rules 2013, Rule 18**

- Category 1 institutions wishing to offer internal English language proficiency testing must seek NZQA approval first.
- Institutions enrolling students from countries with high student visa decline rates must ensure that the students have a valid internationally recognised test, showing a result that meets the requirements for the level of the programme of study.
- A student from a high-risk country can also be enrolled on the basis of a completed Bachelor degree or higher qualification, at an institution from a specified list of countries.
- NZQA approval of internal English language proficiency test approval can lapse or be withdrawn.
- Institutions must retain evidence of English language proficiency, including internal testing materials, for each international student for a period of two years from the date of enrolment.

## **NZQF Qualification Listing and Operational Rules 2016**

- Rules concerning Te Hono o Te Kahurangi quality assurance have been expanded to include qualifications at Levels 7 to 10 on the NZQF.
- The contact details and legal status of the qualification developer no longer need to be included in the qualification listing.
- Clarification is added in Rule 5.3(c) to specify that "standards" in the given context refers to standards on the Directory of Assessment Standards.
- NZQA may release qualification developers from the requirement to apply for approval to develop a qualification, where there is good reason to do so.

## **Training Scheme Rules 2012**

- Enable Te Hono o Te Kahurangi quality assurance for the evaluation of training scheme approval applications.
- Holders of training scheme approval will need to have an adequate process for the ongoing review of training schemes and for monitoring the outcomes for trainees and stakeholders.
- When notifying NZQA of a sub-contracting arrangement between two parties that hold the same training scheme approval, the information set out in Rule 12.2 must be provided.
- The holder of a sub-contracting approval has an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 12.5.
- Minimum English language requirements for international students enrolling in training schemes at Levels 3 and higher have been introduced. These will not apply to training schemes organised or required by a trainee's employer.

## **Private Training Establishment Registration Rules 2013**

- Enable Te Hono o Te Kahurangi quality assurance for the evaluation of registration applications.
- Clarification provided regarding the expectations for self-assessment and improvement plans in Rule 5.1.9.

## **NZQF Industry Training Programme Approval Rules 2012**

- Application for industry training programme approval will need to specify the how the ITO will monitor and assure the consistency of qualification achievement by students.
- ITOs must participate and cooperate in the process of assuring consistency.
- ITOs must provide sufficient evidence to effectively demonstrate the consistency of graduate outcomes when required to, for areas in which they report graduate achievement.

## **Directory of Assessment Standards Listing and Operational Rules 2011**

- Enable Te Hono o Te Kahurangi quality assurance for the listing of standards on the Directory of Assessment Standards.

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**Consent to Assess against Standards on the Directory of Assessment Standards Rules 2011**

- Enable Te Hono o Te Kahurangi quality assurance for the evaluation of consent to assess applications.
- When notifying NZQA of a sub-contracting arrangement between two consent to assess holders, the information set out in Rule 8.1 must be provided.
- The holder of a sub-contracting approval has an ongoing responsibility to ensure that the sub-contracting is conducted in accordance with the requirements of Rule 8.3.

**Student Fee Protection Rules 2013**

- The removal of Code signatory status is considered a "Course closure event" for the purposes of Rule 3.1.

### Consultation Submissions Table

Submission by	Number of submissions
Peak Bodies: <ul style="list-style-type: none"> <li>• Industry Training Federation</li> <li>• ITP International</li> <li>• English New Zealand</li> </ul>	3
Institutes of Technology and Polytechnics: <ul style="list-style-type: none"> <li>• Ara Institute of Canterbury</li> <li>• Eastern Institute of Technology</li> <li>• Manukau Institute of Technology</li> <li>• Nelson Marlborough Institute of Technology</li> <li>• Toi Ohomai Institute of Technology</li> <li>• Unitec Institute of Technology</li> <li>• Universal College of Learning</li> <li>• Waikato Institute of Technology</li> <li>• WelTec</li> <li>• Whitireia</li> </ul>	10
Industry Training Organisations: <ul style="list-style-type: none"> <li>• The Skills Organisation</li> <li>• Service IQ</li> </ul>	2
Private Training Establishments: <ul style="list-style-type: none"> <li>• Anonymous x 6</li> <li>• ACG Norton College</li> <li>• Aspire2 International</li> <li>• Auckland Institute to Studies</li> <li>• C4 Group</li> <li>• Freedom Institute of Higher Education</li> <li>• Good Shephard College</li> <li>• Intueri Education Group</li> <li>• IPU New Zealand</li> <li>• Learn Plus</li> <li>• New Zealand Tertiary College</li> <li>• Porse Education and Training</li> <li>• Premier Hairdressing College</li> <li>• Rewi Alley Academy</li> <li>• Site Safe</li> <li>• South Pacific Bible College</li> </ul>	27

<ul style="list-style-type: none"> <li>• South Pacific College of Natural Medicine</li> <li>• The Catholic Institute of Aotearoa New Zealand</li> <li>• UC International College</li> <li>• Vertical Horizonz</li> <li>• Whitireia New Zealand</li> <li>• Workforce Development</li> </ul>	
School: <ul style="list-style-type: none"> <li>• Anonymous</li> </ul>	1
Individual: <ul style="list-style-type: none"> <li>• Anonymous</li> </ul>	1
Total:	44

## **Amendments to the following 9 sets of Rules – Attached**

- a. Quality Assurance (including External Evaluation and Review (EER)) Rules Amendment Rules 2017
- b. NZQF Qualification Listing and Operational Amendment Rules 2017
- c. NZQF Programme Approval and Accreditation Amendment Rules 2017
- d. Private Training Establishment Registration Amendment Rules 2017
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