



NEW ZEALAND QUALIFICATIONS AUTHORITY  
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## Consultation Part B: Proposed changes to Rule 18

April 2017

## Consultation on proposed changes to Rule 18

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## Introduction

### **Proposed changes to Rule 18 of the *NZQF Programme Approval and Accreditation Rules 2013***

NZQA is consulting you on proposed changes to the English language entry criteria in Rule 18 of the *NZQF Programme Approval and Accreditation Rules 2013*. The proposed changes respond to sector feedback and emerging risks identified by NZQA.

For a detailed description of the changes, please refer to page 5 and onwards.

### **Rule 18 background**

Rule 18 of the NZQF Programme Approval and Accreditation Rules was introduced in 2013 to set the minimum English language proficiency criteria for international students enrolling into programmes at Level 3 or above on the New Zealand Qualifications Framework (NZQF).

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 changes 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.

While the October 2015 changes to Rule 18 have been successful in achieving the intended outcome of reducing English evidence-related fraud and ensuring that students coming to study in New Zealand have a sufficient level of English proficiency, NZQA has identified further opportunities to strengthen Rule 18 in response to emerging risks and sector feedback.

### **Proposed changes**

#### ***Progression to further studies for students from countries with high student visa decline rates***

It has come to NZQA's attention that inappropriate English 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). This includes reliance on unverified high school documentation as evidence of English proficiency.

To address these concerns, NZQA is proposing to extend the evidential limitations that currently apply to students from countries with student visa decline rates of over 20 per cent, to their second and subsequent visas.

NZQA has also received feedback from TEOs that the different requirements based on how many student visas a student has held are causing confusion. In this context, the proposed change would simplify the Rule by removing references to student visas. The requirements would instead be consistent for each new enrolment.

#### ***Previous tertiary study in English & CELTA***

NZQA recognises that students who have completed the Cambridge Certificate in English Language Teaching to Adults (CELTA) or a Bachelor Degree, Graduate

Certificate/Diploma or higher, with English as a medium of instruction at institutions from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States, are likely to have advanced English language skills.

Rule 18 already allows students from low risk countries to use the completion of one of these qualifications as evidence of existing English language proficiency, without the need for further testing.

NZQA proposes to also allow eligible students from countries with high visa decline rates to use the completion of CELTA or a specified higher qualifications with English as a medium of instruction at institutions from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States, as evidence of meeting Rule 18.

### ***Internal testing by Category 1 institutions***

Rule 18 allows Category 1 and 2 institutions to carry out internal English proficiency assessment for eligible students.

Currently, however, only Category 2 institutions are required to obtain approval from NZQA for their internal test. Even though these are high-performing institutions, NZQA has found that the quality of applications for English language testing that it receives can be unsatisfactory. This confirms 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.

In light of this, NZQA considers it necessary to quality assure the English proficiency assessment methodology employed by Category 1 institutions. It is therefore proposed that Rule 18 be amended to also require Category 1 institutions to obtain NZQA approval for their internal English proficiency test.

### ***Withdrawal and lapsing of internal testing approval***

NZQA is proposing to include provisions for the lapsing of internal proficiency testing approval and for its withdrawal where non-compliance with the original approval is identified. The withdrawal process would follow the principles of fairness and natural justice.

### ***English language proficiency evidence***

An amendment to Rule 18 is also proposed to require institutions to keep evidence of English language proficiency for each student they enrol, for at least two years from the date of enrolment.

### ***The Table in Appendix 2***

A small amendment to the Table in Appendix 2 is also proposed.

### ***Rewording Rule 18***

In response to sector feedback about the complexity of Rule 18, NZQA is proposing to simplify the language and structure of the Rule. The re-drafted Rule is included on pages 11 to 13 of this document.

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

<http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/prog-app-accred-rules-2016.pdf>

### Rule 18.5 – International students from countries with high visa decline rates

#### Current Rule:

*From the date referred to in Rule 18.7, the English language proficiency options in paragraphs (b), (d), and (e) of Rule 18.1 must not be used for students who:*

- a. hold passports from a country with a student visa decline rate of the kind described in Rule 18.6; and*
- b. apply to Immigration New Zealand for their first New Zealand student visa.*

#### Proposed change:

Remove sub-Rule 18.5(b) so that the Rule is not limited to the first student visa. The requirements of Rule 18.5 would then apply to all students who hold passports from a country with a student visa decline rate of over 20 per cent, regardless of how many previous student visas they have held.

Students would be required to demonstrate that they meet the English language requirements for each enrolment by way of an internationally recognised English language test result (unless they have completed NCEA Level 3 or meet the criteria proposed on page 6 of this document).

This may mean that some students would have to sit an international English language assessment prior to each enrolment. For example, if a student enrolls in a Level 5 programme on the basis of IELTS 5.5 result, the student would then be required to provide a new IELTS test result of 6.0 (or another test equivalent from the Table in Appendix 2) before they can be admitted into a Level 6 programme.

However, if a student has an IELTS result of 6.0 to begin with, they will not need further IELTS testing during the two-year validity of the test, as that result is sufficient for entry into programmes at Levels 5, 6 and 7.

Students that complete a Bachelor degree or higher, and wish to progress to a further programme, will not require re-testing as they would be covered by the proposed changes on page 6.

#### Reason for change:

The Rule 18 English language criteria sets the level of proficiency required to successfully complete a programme of study. However, the completion of an undergraduate diploma programme in itself is not sufficient evidence that a student's English language ability has improved to the level required for admission into a higher level programme. This is especially the case where students only meet the minimum English language requirements to begin with.

The changes to Rule 18 that were introduced in October 2015 aimed to mitigate risks in the international education market where significant fraud was identified in terms of the evidence of acceptable English language proficiency. It has come to NZQA's

attention that inappropriate English testing practices are still being used when students apply for their second visa in New Zealand. This includes reliance on unverified high school documentation about English as medium of instruction or a previously completed undergraduate diploma.

**Impact for TEOs:**

This Rule change would have an impact predominantly on international students from countries with high student visa decline rates, who have previously achieved only IELTS 5.5 for admission into Level 5, and now wish to progress to a Level 6 programme or higher; those whose IELTS certificate has expired (two-year validity); and those who have never had to undertake external English language testing (i.e. those first enrolled prior to October 2015).

**Rule 18.1(b)(Criteria 2 and 3) and 18.5 – Previous tertiary study in English & CELTA**

**Current Criterion and Rule:**

*18.1(b)(Criterion 2) refers to the criteria for existing English proficiency:*

*2. Previous tertiary study in English – International students are eligible for enrolment at all levels of the NZQF when they can provide clear evidence of completion of a Bachelor Degree, Graduate Certificate, Graduate Diploma, Bachelor Honours Degree, Postgraduate Certificate, Postgraduate Diploma, Master’s Degree or Doctoral Degree with English as the language of instruction, from tertiary education providers from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States.*

*18.1(b)(Criterion 3) refers to the criteria for existing English proficiency:*

*3. Certificate in English Language Teaching to Adults (CELTA) – International students that can provide clear evidence of achievement of the certificate in English Language Teaching to Adults (CELTA) are eligible for enrolment at all levels of the NZQF.*

*18.5 From the date referred to in Rule 18.7, the English language proficiency options in paragraphs (b), (d), and (e) of Rule 18.1 must not be used for students who:*

- a. hold passports from a country with a student visa decline rate of the kind described in Rule 18.6; and*
- b. apply to Immigration New Zealand for their first New Zealand student visa.*

**Proposed change:**

Amend Rule 18 to allow students from countries with a visa decline rate of over 20 per cent to enrol into programmes on the basis of previous tertiary study in English as described in criterion 2, or the completion of CELTA, without the need to provide an internationally recognised English language proficiency test result as well.

All other students from countries with a visa decline rate of 20 per cent or more, would continue to be required to provide an internationally recognised English language proficiency test result with their first student visa application (and with

subsequent student visa applications if the change proposed on page 5 is implemented).

**Reason for change:**

The change is proposed to recognise the advanced English language skills of students from countries with a high visa decline rate who have already completed CELTA or a specified higher qualification with English as a medium of instruction at institutions from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States.

This change would facilitate the enrolment of these students into higher programmes of study in New Zealand.

**Impact for TEOs:**

This Rule would enable TEOs to enrol eligible students into programmes without having to require an internationally recognised English language proficiency assessment test result.

### **Rule 18.1(e) – Internal testing by Category 1 institutions**

**Current Rule:**

*Unless Rule 18.5 below applies, in respect of enrolment in a Category 1 institution, has achieved a score in that Category 1 institution's English proficiency assessment that is equivalent to or better than the English language proficiency outcomes listed in the relevant row of the Table for the programme level in which the student is being enrolled.*

**Proposed change:**

Require Category 1 institutions to apply to NZQA for approval of the institution's English proficiency assessment methodologies and testing process.

**Reason for change:**

Currently Category 2 institutions are required to obtain NZQA approval for their English proficiency assessments. Even though these are high performing institutions, NZQA has found that the quality of applications for English language testing that it receives can be unsatisfactory. This shows that the development of English language testing methodology is a complex and specialised field, and even highly performing organisations may not have this capability internally.

NZQA therefore considers it important to quality assure the English proficiency assessment methodology employed by Category 1 TEOs.

**Impact for TEOs:**

The impact is limited to Category 1 institutions that wish to carry out pre-enrolment English language proficiency assessments. The change would come with a transition period during which Category 1 providers would be required to apply for approval of their English language testing.

Please note that Category 1 institutions which already hold approval from NZQA for their internal proficiency test under current Rule 18.3, would not be required to re-apply.

If implemented, this change would remove the need for Rule 18.3, as Category 1 and 2 institutions with approved tests would no longer be required to apply for separate approval to test on behalf of other institutions.

## **New Rule – Withdrawal and lapse of approval for internal testing**

### **Proposed Rule:**

#### *Withdrawal*

Insert a Rule enabling NZQA to withdraw the approval of internal testing previously granted to a Category 1 or 2 institutions under Rule 18.4, where non-compliance with the original approval is identified. The Rule would specify the process that NZQA would follow in terms of notifying the institution and giving it the opportunity to respond, in accordance with the principles of fairness and natural justice.

#### *Lapse*

Also, insert a Rule clarifying that the internal testing approval that an institution holds will automatically lapse if the institution receives a Category 3 or 4 rating as a result of external evaluation and review (EER).

### **Reason for change:**

#### *Withdrawal*

As with all approval processes, there may be instances where non-compliance is identified after the approval is granted. For example, this may be due to inappropriate internal test administration practice.

There needs to be a transparent mechanism for the withdrawal of approval in cases of significant non-compliance with the original approval.

#### *Lapse*

Internal testing approval may only be granted to Category 1 and 2 institutions. Therefore, where an institution receives a lower rating at its latest EER, the approval automatically lapses. Adding this Rule would provide clarification for TEOs.

### **Impact for TEOs:**

No impact on TEOs that are complying with the internal testing requirements and are administering their internal tests in accordance with the information provided to NZQA at the time of seeking approval.

The lapsing provision provides clarity for holders of internal testing approval.

## **New Rule – Requirement to keep evidence of English language proficiency**

### **Proposed Rule:**

Insert a Rule requiring institutions to keep evidence that students they enrol have met the English language proficiency requirements. This evidence would need to be kept for at least two years from the date of enrolment, and would include any internal proficiency assessments.

### **Reason for change:**

Institutions must be able to provide evidence that they comply with Rule 18 and that students they enrol meet the English language requirements. Where internal English language proficiency assessments are used, those must be retained in full to enable external quality assurance when required.

### **Impact for TEOs:**

TEOs would be required to review their record keeping policies to ensure that the required evidence is kept for the specified duration.

## **Rule 18.1(b), criterion 4 – NZCEL**

### **Current criterion 4:**

*New Zealand Certificate in English Language (NZCEL)*

*International students that can provide clear evidence of completion of:*

*(a) NZCEL Level 3 with an endorsement of either General, Workplace or Academic are eligible for enrolment up to and including at NZQF Level 4.*

*(b) NZCEL Level 4 with the Academic endorsement are eligible for enrolment up to and including at NZQF Levels 6 and 7.*

*(c) NZCEL Level 5 with an endorsement of either Academic or Professional are eligible for enrolment at all levels of the NZQF.*

### **Proposed change:**

Remove criterion 4 as it is no longer required.

### **Reason for change:**

NZCEL is already included in the Table of Appendix 2 of the NZQF Programme Approval and Accreditation Rules 2013 and international students are able to use it as English language evidence under Rule 18.1(c).

NZCEL was added to the Criteria for existing English proficiency (as criterion 4), when an error was identified in the Table of Appendix 2 in 2013. Since then the Table has been corrected, but criterion 4 was not removed. This has created duplication and potential confusion for students and TEOs.

Criterion 4 can now be removed, as it is no longer required.

**Impact for TEOs:** No impact on TEOs.

## **Appendix 2, Table for internationally recognised English proficiency outcomes**

### **Current Rule:**

*For enrolment at Level 8 and higher, NZCEL Level 5 with the academic endorsement.*

### **Proposed change:**

Update the Table, to specify that NZCEL Level 5 with *professional* endorsement may also be accepted.

### **Reason for change:**

Professional endorsement was previously omitted from the Table.

**Impact for TEOs:** The addition of this endorsement may allow more NZCEL graduates to meet the English language requirements for enrolment in other programmes on the basis of the completion of NZCEL.

## Draft Rule 18, incorporating changes proposed in this consultation

### 18. English language requirements for international students

18.1 An institution (*other than a university*) must:

- a. ensure, prior to enrolling an international student in a programme (*other than an English language programme*) at level 3 or above, that the student has the necessary English language proficiency as demonstrated (*except as provided in Rule 18.2*) through the use of evidence of one of the kinds described in Rules 18.3 to 18.6; and
- b. retain a copy of that evidence for at least two years from the date of enrolment of the student.

18.2 Evidence of the kinds described in Rules 18.5 and 18.6 must not be used for a student who holds a passport from a country that has had, under Rule 18.7, its name and visa decline rate of more than 20% published for one month or more.

18.3 Evidence that the student has:

- a. achieved NCEA level 3 and has met New Zealand [university entrance requirements](#); or
- b. been awarded a Bachelor Degree, Graduate Certificate, Graduate Diploma, Bachelor Honours Degree, Postgraduate Certificate, Postgraduate Diploma, Master's Degree or Doctoral Degree with English as the language of instruction, from tertiary education providers from New Zealand, Australia, Canada, the Republic of Ireland, South Africa, the United Kingdom or the United States; or
- c. been awarded the Cambridge Certificate in English Language Teaching to Adults (CELTA).

18.4 Evidence that the student has achieved, within the two years preceding the proposed date of enrolment, one of the internationally recognised proficiency test outcomes specified in the Table of Appendix 2 for the level of the programme in which the student is being enrolled.

18.5 Evidence of either of the following kinds of previous primary and secondary study in English by the student:

- a. completion of all primary education (*being the equivalent of New Zealand primary school years 1 to 8*) and at least three years of secondary education (*being the equivalent of three years from New Zealand secondary school years 9 to 13*) at schools where the student was taught using English as the language of instruction; or
- b. completion of at least five years of secondary education (*being the equivalent of New Zealand secondary school years 9 to 13*) at schools where the student was taught using English as the language of instruction.

18.6 Evidence that the student has achieved an outcome in an institution's internal English proficiency assessment that is equivalent to or better than the outcomes listed in the Table of Appendix 2 for the programme level that the student is enrolling in, where:

- a. the institution is a Category 1 or 2 institution; and

- b. the internal English proficiency assessment is administered by the institution; and
  - c. the institution has been granted NZQA's approval for the internal English proficiency assessment in accordance with Rule 18A; and
  - d. the approval referred to in paragraph (c) has been listed on NZQA's website.
- 18.7 Immigration New Zealand will measure (*based on statistics generated over a period of time set by [Immigration New Zealand](#)*) the student visa application decline rate of countries, and where the measurement shows that a country's student visa application decline rate is more than 20%, Immigration New Zealand will publish on its website the name of that country and its student visa application decline rate.

## **18A. Approval of internal English proficiency assessments**

- 18A.1 For the purposes of Rule 18.6(c), a Category 1 or Category 2 institution may apply to NZQA for approval of the institution's internal English proficiency assessment methodologies and process.
- 18A.2 Following an application under Rule 18A.1 NZQA may approve the institution's internal English proficiency assessment methodologies and process where NZQA is satisfied:
- a. the assessment methodologies and process have been benchmarked to establish the equivalency or better to the outcomes for the appropriate levels of the NZQF; and
  - b. the institution possesses expertise in English language delivery and assessment, as evidenced through appropriate staff qualifications, relevant programme approvals, accreditations to provide approved programmes, or training scheme approvals; and
  - c. the institution's English proficiency assessment methodologies and process have been designed by a person with appropriate and relevant experience and expertise; and
  - d. the institution has appropriate safeguards in place to prevent cheating or bias during the conduct of internal English proficiency assessments; and
  - e. as to the level of confidence NZQA can have in the institution's enrolment and assessment practices; and
  - f. there are no current concerns over the quality of the institution's provision of education, or over non-compliance issues relating to the institution, that NZQA considers detrimentally affect the institution's ability to conduct English proficiency assessment and testing.
- 18A.3 If NZQA considers that there may be grounds for withdrawing approval of an institution's internal English proficiency assessment, NZQA must give written notice to the institution –
- a. setting out the grounds on which NZQA is considering withdrawing the approval; and
  - b. giving the institution a reasonable period to make submissions on the matter.

18A.4 After the period referred to in Rule 18.3(b), and having considered any submission made by the institution, NZQA:

- a. may, on reasonable grounds, withdraw the approval; and
- b. must give notice of the withdrawal, with reasons, to the institution concerned.

18A.5 NZQA may withdraw an approval of an institution's internal English proficiency assessment at the written request of the institution concerned.

18A.6 An approval of an institution's internal English proficiency assessment lapses on the date on which an institution becomes a Category 3 or Category 4 institution.

## **Appendix 2, The Table**

The Table would remain as it currently exists, with an amendment to the NZCEL criteria as per the proposal on page 8 to include "professional" endorsement for Level 8 and higher.

Footnote 2 would be amended with specific reference to IELTS removed. Combining of scores is not allowed across all testing systems, not only IELTS.

Rule 18.2 of the current Rules would be moved to footnote 1 of the Table:

*Where the requirements of a programme are for a higher English proficiency outcome than is listed in the relevant row of the Table for the programme level in which the student is being enrolled, the student must meet that higher level.*