

Education Amendment Bill 2013: Quality Assurance

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry of Education.

It provides an analysis of options to further enhance the tertiary education quality assurance system set out in legislation by:

- minimising compliance costs associated with student fee protection for private training establishments
- better protecting students
- strengthening NZQA's ability to quality assure the tertiary education system
- strengthening enforcement and offence provisions to protect the quality of tertiary education and provide disincentives for those who seek to avoid the consequences of poor performance.

This paper is based on the following assumptions:

- These small adjustments to the quality assurance system build on the changes made in 2011 when the Education Act 1989 (the Act) was amended to strengthen qualifications and quality assurance arrangements.
- While the majority of reforms are working well, New Zealand Qualifications Authority (NZQA) and the sector have identified opportunities to further enhance systems and functions.
- Without these changes, the problems of the current system would persist: private training establishments will have higher compliance costs, students will not be as well protected, NZQA will have a constrained ability to quality assure the tertiary education system, and people will be able to avoid the consequences of poor performance.
- It is expected that the changes will enable NZQA to more effectively administer the quality assurance system and will address the identified problems.

For each of these issues, the Regulatory Impact Statement considers options for no change, non-regulatory reform, and legislative change. However, because the Act sets out the requirements for the aspects of tertiary education considered within this report, it is considered that a non-regulatory solution is not possible. As such, the Regulatory Impact Statement does not fully articulate the range of non-regulatory solutions considered.

The proposed changes are dependent on Parliament giving effect to the change and NZQA effectively implementing the change, including the development of rules.

The Ministry considers this document to be a fair representation of the analysis of available options to further improve the regulatory framework for quality assurance. Apart from the issues identified above, there are no significant constraints, caveats or uncertainties concerning the analysis. There are no time constraints. The paper includes information about the implementation of the legislation and identifies when a transitional period is necessary for the tertiary education sector to give effect to the change.

The proposals will not impair private property rights, market competition, or the incentives on businesses to innovate and invest, or override fundamental common law principles (as referenced in Chapter 3 of the Legislation Advisory Committee Guidelines).

Signee's name, Signee's Position

Date

[Signature]

[Date]

Status quo

1. Since 2009, significant reforms have been made to the New Zealand qualifications system. Two former frameworks for awards (the National Qualifications Framework and Register of Quality Assured Qualifications) have been unified to create the New Zealand Qualifications Framework. The qualifications themselves have also been redesigned to clearly articulate the expected pathways and outcomes students can expect as a result of completing them.
2. The New Zealand Qualifications Framework has been significantly consolidated, with a smaller number of qualifications that enjoy better recognition and industry support. Work continues on a multi-year review of sub-degree qualifications to further reduce proliferation and duplication.
3. These structural changes have occurred alongside the introduction of new quality assurance processes for teaching and learning, assessment, and certification.
4. The former quality audit system has been replaced with an evaluative quality assurance framework, similar to that used by the Education Review Office to evaluate schools. The framework uses processes of self-assessment and external evaluation that shift the focus of quality assurance processes towards student outcomes, while ensuring that organisations offer high quality education and training, and behave legally and ethically.

Education Amendment Act 2011

5. In 2011, the Education Act (1989) (the Act) was amended to strengthen qualifications and quality assurance arrangements. The revised Act:
 - updated NZQA's functions and powers
 - introduced a rules regime for NZQA which replaced the current powers to create policies and criteria
 - removed NZQA's power to delegate its quality assurance functions under section 260 of the Act
 - established the New Zealand Qualifications Framework and the Directory of Assessments Standards
 - modernised and strengthened the regulatory management of private training establishments
 - updated and strengthened NZQA's enforcement regime, especially in relation to private training establishments.
6. We now have a clearer system of incentives and sanctions that acknowledge and reward high performing private training establishments, and, in most cases, deal with poor performance swiftly and effectively. This system has been in place for two years.

Tertiary Education Sector

7. Tertiary education in New Zealand includes all post-school education. It also includes tertiary learning and training delivered in secondary schools such as Youth Guarantee, trades academies, Gateway, and the Secondary-Tertiary Alignment Resource (STAR).
8. In 2012, 29 public tertiary education institutions and 323 private training establishments received government funding. About 85 percent of formal students were enrolled at public tertiary education institutions in 2012.
9. In order to access government funding, private training establishments have to be registered with the New Zealand Qualifications Authority. Registration is a first step for organisations to gain the necessary accreditation to provide quality-assured tertiary education and training. In 2012, there were 626 private training establishments registered with the New Zealand Qualifications Authority: 323 private training establishments received government funding and 317 private training establishments did not receive government funding. The legislative requirements for private training establishments are set out in Part 18 of the Act . Further information about private training establishments can be found in Profiles and Trends: New Zealand's tertiary education sector 2012 which is available through www.educationcounts.govt.nz.

Problem Definition

10. Since the 2011 legislative amendments, NZQA and the sector have had further experience with the New Zealand Qualifications Framework and quality assurance system. While our tertiary education system works well for the majority of students, there are further opportunities to improve protection for students, and enhance the reputation of the tertiary education system, here and overseas. In particular, the ongoing quality assurance of tertiary education organisations (TEOs) must be geared towards ensuring that programmes are high quality and lead to positive outcomes for adults.
11. The system in general is working well. However, NZQA, through its practice and interaction with the private sector, has identified the following specific individual issues as needing to be addressed:
 - high compliance costs associated with student fee protection requirements for private training establishments
 - gaps in student fee protection
 - NZQA's ability to quality assure the tertiary education system is constrained
 - gaps in enforcement and offence provisions.

High compliance costs associated with student fee protection requirements for private training establishments

12. A small number of private training establishments provided feedback to NZQA that they are facing high compliance costs for some parts of student fee protection. Student fee protection protects the interests of students, both domestic and international, for:

- the statutory withdrawal and refund period, that is the period of protection that gives students the right to withdraw from a course within a set period of time and receive a refund from the private training establishment of most of their fees¹
 - the course closure protection period, that is all circumstances that result in a private training establishment ceasing to offer a course in which a student is enrolled.
13. To minimise compliance costs, some private training establishments have asked for the ability to have some courses exempted from student fee protection and to use static trusts² during the statutory withdrawal and refund period. Introducing these changes would clarify this issue and help to reduce compliance costs within the private training establishment sector. It would also reduce administrative costs within NZQA. Currently, NZQA estimates that the equivalent of one full-time staff member is spent responding to complaints from private training establishments about these two issues.
14. NZQA can not, at present, exempt low value short courses that are low risk from fee protection requirements. Prior to 2011, NZQA policy allowed for low value, short courses to be exempted from student fee protection requirements. Between 2002 and 2011, 402 private training establishments were granted at least one exemption from protecting the fees of students. Following the 2011 legislative changes, existing exemptions continue but new exemptions cannot be granted.
15. In addition, private training establishments do not have the option of using static trusts to protect student fees during the statutory withdrawal and refund period. Prior to 2011, both protection periods could be guaranteed using a range of protection mechanisms including standard and static trusts. Following the 2011 legislative changes the statutory withdrawal and refund period can only be protected through the mechanism of a standard trust. This has increased complexity and cost for some private training establishments and NZQA. Some private training establishments continue to request the ability to use static trusts to protect fees for both periods.
16. During the statutory withdrawal and refund period, a small number of private training establishments can have higher costs associated with standard trusts when compared to the costs for static trusts. Standard trusts cost \$23-30 per student. In larger private training establishments, this can mean that the private training establishment incurs a cost of \$60,000. Static trusts cost less to maintain with a set-up fee ranging from \$4,500 to \$10,500 and ongoing fees of up to \$9,500.

Gaps in student fee protection

17. There is a lack of clarity around parts of the statutory withdrawal and refund period and what, if any, entitlements students have.
18. The Education Act 1989 does not specifically identify whether or not students can withdraw from a course and receive a refund within the period between the payment of their fees and the start date of their course. This has led to some private training establishments withholding a higher proportion of the students fee than they would be entitled to if a student withdrew in the statutory withdrawal and refund period. A large number of complaints to the International Education Appeal Authority relate to the

¹ For domestic students, the statutory withdrawal and refund period is eight days. For international students, the statutory withdrawal and refund period is ten days.

² Static trusts are a way to protect student fees. A static trust holds sufficient funds to cover the student fee-related liabilities of the provider. A standard trust holds the fees for each individual student.

amount a private training establishment withholds when a student withdraws, including issues relating to the period before the student starts the course.

19. In some cases, NZQA has identified private training establishments who have insisted that the students wait until the start date of the course. This has meant that the private training establishment has retained a greater proportion of the student's fees than they would have done if the refund had occurred earlier. This has resulted in complaints and has the potential to undermine New Zealand's international education reputation.
20. Additionally, there is a difference in how the end of the statutory withdrawal and refund period is calculated for international and domestic students. For international students, the end date of the period is calculated from the first day on which the student is required to attend the private training establishment. For domestic students, it is calculated from the day the course begins. This means that there is a lack of clarity for private training establishments and students, and can make the end date of the domestic student's refund period unclear.

NZQA's ability to quality assure the tertiary education system is constrained

21. Currently private training establishments are required to retain student records relating to programmes and training schemes. However, there is no explicit requirement for private training establishments to retain records relating to assessment against standards. Consequently, some courses offered by private training establishments that do not relate to an approved programme or training scheme are not covered by legislation. This gap creates a risk that students will not be able to retrieve information about their achievement and that information will not be available for external quality assurance.
22. NZQA can not be sure when a student is on a course because the achievement of a standard is only known to NZQA when it is reported to NZQA. This may lead to private training establishments not adequately documenting the results reported and subsequently impact on the validity of these results should cross-referencing need to occur. In some cases, the lack of requirements to retain student's assessment standard information could result in permanent loss of the information.
23. Crown entities (Institutes of Technology and Polytechnics, wānanga, government training establishments) are subject to the Public Records Act 2005. However, private training establishments are not. This is why it is necessary to legislate for them.
24. While difficult to quantify, it is estimated that around 500 courses in 250 private training establishments per annum provide courses for assessment standards that are not linked to programmes or training schemes.
25. In addition, it is not as clear in statute as it could be that NZQA can make rules for on-going quality assurance of tertiary education organisations. For the avoidance of doubt and for clarity, NZQA want the ability to make rules for ongoing quality assurance included in the Education Act 1989.

Gaps in enforcement and offence provisions

26. There are gaps in the enforcement and offence provisions. NZQA has had a small number of situations where private training establishments have appeared to try to avoid

the consequences of poor performance. This situation has the potential to grow and action is needed to effectively manage the risk. Specifically:

- Section 255A of the Education Act 1989 gives NZQA the powers of entry and inspection into a private training establishment to ensure that the establishment complies with the Act, rules and any consents, approvals, or authorisations. Where NZQA has particular risks concerns about a provider, there is the possibility that the provider could refuse or delay NZQA's entry while relevant evidence is being modified or hidden. NZQA considers that this has already occurred in one situation. To reduce the chance of this occurring, there should be an offence associated with failure to comply with section 255A. This would enable NZQA to request the assistance of the New Zealand Police who could then execute a warrant to gain entry and access information.
- False certificates often have errors on them but, otherwise, closely resemble valid certificates. There is a risk that, if the false qualification's wording does not exactly match the qualification's wording on the New Zealand Qualifications Framework, legal action can not be taken. This has already occurred in one situation.
- The Education Amendment Act 2011 introduced a range of offences associated with false qualifications, student records, cheating services, and student fees (set out under sections 292C to 292G). The body corporate liabilities set out in 292B of the Act are not linked to these offences (only linked to offences in section 292A). In cases where NZQA finds evidence of an offence within a private training establishment, all will have some degree of director or officer involvement and culpability. While NZQA can use the Crimes Act 1961 to hold the culpable individual officers or directors accountable, it would help with prosecutions if section 292B applied to the offences set out in section 292 and sections 292C-G.
- Part 18 and Part 20 of the Education Act 1989 require NZQA to handle cancelled private training establishment registration in different ways. In Part 18, if NZQA moves to cancel a private training establishment's registration (or it lapses), NZQA must issue a notice, under section 233E, which withdraws all approved programmes and training schemes, all accreditations and all consents to assess against standards. In Part 20, NZQA must use separate withdrawal processes to remove:
 - approvals,
 - accreditations, and
 - consents to assess.
- The current arrangements have introduced an unnecessary amount of bureaucracy and complexity for NZQA. If a private training establishment's registration is lapsed, or cancelled, this should automatically impact upon the private training establishment's approvals, accreditations, and consents.

Objectives

27. The policy objectives are to:

- minimise compliance costs associated with student fee protection requirements for private training establishments

- better protect students through promoting higher quality provision and better management of student fees within private training establishments
- strengthen NZQA's ability to quality assure private training establishments, as part of the tertiary education system
- strengthen enforcement and offence provisions to protect the quality of tertiary education and provide disincentives for those who seek to avoid the consequences of poor performance.

28. The proposed adjustments to the system will ensure that there is a high quality tertiary education system where high performance is recognised and rewarded, and where poor performance is swiftly and effectively dealt with.

Options and impact analysis

29. For each of the problem areas, three options have been considered:

- option 1: no change
- option 2: non-regulatory options to resolve the issue identified
- option 3: regulatory change to resolve the issue identified.

Minimising compliance costs associated with student fee protection requirements for private training establishments

30. **Option 1:** no change would mean that the existing identified issue would not be addressed. This option would mean that private training establishments continue to have higher compliance costs that do not take into account their risk. The status quo has generated dissatisfaction from private training establishments who have high compliance costs. NZQA has previously granted exemptions to courses that were low in cost (less than \$500), short (less than 50 hours) and/or paid for by a third party (for example a corporate sponsor). Existing exemptions continue but no new exemptions can be granted. A lack of new exemptions may mean that some courses may not be offered as compliance costs may outweigh financial benefits from offering a course. The lack of static trusts for the statutory withdrawal and refund period increases compliance costs for private training establishments who must operate two student fee protection arrangements and increases the monitoring and audit activity NZQA must undertake. The high compliance costs may also encourage avoidance behaviour.

31. **Option 2:** non-regulatory options to reduce compliance costs. As the student fee protection requirements are set out in section 234C-235D of the Education Act 1989, NZQA could not use non-regulatory options to minimise compliance costs in these areas. As such, Option 2 would not resolve the issue identified. In order to pursue a non – regulatory solution it would be necessary to repeal the sections of legislation covering these areas. The size and scope of these changes are not such that they would warrant this level of change.

32. **Option 3:** introduce new student fee protection choices to enable private training establishments to minimise compliance costs, covering exemptions and static trusts. This option would allow NZQA to offer exemptions from student fee protection requirements for low risk and short courses. Reintroducing exemptions would reduce compliance costs for private training establishments. Courses that are fully funded by third parties are also

subject to this requirement which adds an unnecessary surcharge to the cost of this work. This option could be used as an incentive for being a well run private training establishment as only low risk private training establishments³ would be eligible. By incentivising high performance, we are more likely to attain a high performing tertiary education system. An exemption regime also reduces NZQA activity in preventing, detecting and managing avoidance. It may also increase the range of course offerings.

33. There is a risk to students who participate in exempted courses if the private training establishment fails. However, private training establishments will still have the responsibility to meet its obligations to students if the private training establishment fails. The chance of a private training establishment failing is mitigated by only low risk private training establishments being eligible for exemptions. There are a range of mechanisms in place to monitor a private training establishment's financial viability.
34. This option would allow private training establishments to use static trusts to protect fees during the statutory withdrawal and refund period and would reduce costs for some private training establishments. It would be simpler for private training establishments and NZQA as they would be able to use static trusts for the statutory withdrawal and refund period, as well as for the course closure period.
35. NZQA considers that static trusts are low risk because private training establishments are required to hold a fixed sum in the static trust to repay all students should they withdraw from the course during the statutory withdrawal and refund period. Private training establishments who have chosen to use static trusts have tended to be well-functioning and effective. No private training establishment in New Zealand using a static trust has failed since the ability to use them was introduced.

Better protecting students through promoting higher quality provision and better management of student fees within private training establishments

36. **Option 1:** no change would mean that the existing identified issue would not be addressed. There would continue to be a lack of clarity about student entitlements relating to some aspects of student fee protection. This means that students will rely on a private training establishment's discretion to ensure that they have clear, fair policies around refund entitlements. While many private training establishments have operated in good faith, some private training establishments have taken advantage of the lack of clarity and applied policies that are unfair to students. These private training establishments have issued refunds to students withdrawing prior to the start date of the course that are less than what they would have been eligible for had they waited until the start of the course.
37. **Option 2:** non-regulatory change. Because the student fee protection requirements are set out in section 234C of the Education Act 1989, NZQA could not use non-regulatory options. As such, the identified issue would not be addressed through any form of non-regulatory change. In order to pursue a non-regulatory solution it would be necessary to repeal the sections of legislation covering these areas. The size and scope of these changes are not such that they would warrant this level of change.
38. **Option 3:** regulatory options to clarify the statutory withdrawal and refund period. This would mean that:

³ NZQA will develop rules about the criteria for exemptions, including how low-risk private training establishments will be defined.

- students can withdraw from the course prior to the start date of the course and get a refund
- the end for the refund period is linked to the date that the student is required to attend the course.

39. By clarifying the statutory withdrawal and refund period, students will have better information about the length of the statutory withdrawal and refund period and their entitlements. Private training establishments will be required to be consistent in their application of the requirements and NZQA will spend less time trying to resolve complaints. This will remove the possibility of unfair loss of fees. There are no risks associated with this option.

Strengthening NZQA's ability to quality assure the tertiary education system

40. **Option 1:** no change would mean the existing problem identified would not be addressed. There would continue to be no legislative requirement to retain records for assessment standards that are not part of programmes or training schemes. By not covering consents to assess, the Education Act 1989 implies that such records are not required to be kept. This leaves a gap that may leave students and their records, NZQA, and the education sector vulnerable. For students, there is a risk that their achievement is not adequately recognised. In addition, NZQA cannot hold the private training establishment to account when the private training establishment has kept insufficient enrolment and academic records for assessment standards.

41. This option also means that there would continue to be a lack of clarity about NZQA's ability to develop quality assurance-related rules.

42. **Option 2:** non-regulatory change. As NZQA's ability to quality assure the tertiary education system is set out in the Education Act 1989, NZQA could not use non-regulatory options. As such, this option would not resolve the issue identified. In order to pursue a non-regulatory solution it would be necessary to repeal the sections of legislation covering these areas. The size and scope of these changes are not such that they would warrant this level of change.

43. **Option 3:** regulatory options to strengthen NZQA's ability to quality assure the tertiary education system. This would mean that:

- private training establishments would be required to retain records about students assessed against assessment standards
- NZQA would be enabled to make rules for the on-going quality assurance of tertiary education organisations.

44. This option would ensure that all student records associated with programmes, training schemes and assessment standards would be required to be retained. This would better protect student interests and would ensure that up to date records could be accessed and validated. By including consents to assess in section 236A, the offence provision for failing to comply with section 236A will also apply to the failure to keep accurate and up to date consent to assess records, and ensure these are readily available on request by NZQA, Immigration New Zealand, Studylink and Public Trust.

45. This option would clarify that NZQA can make rules for ongoing quality assurance.

Strengthening enforcement and offence provisions to protect the quality of tertiary education and provide disincentives for those who seek to avoid the consequences of poor performance.

46. **Option 1:** no change would mean the existing identified issue would not be addressed. Private training establishments would be able to continue to avoid compliance with the Education Act 1989, NZQA would continue to be unable to effectively address private training establishment performance problems, and unduly cumbersome processes would continue to need to be followed.
47. **Option 2:** non-regulatory change. Because the enforcement and offence provisions are set out in the Education Act 1989 in sections 18 and 20 of the Act. NZQA could not use non-regulatory options. As such, the identified issue would not be addressed through non-regulatory options. In order to pursue a non-regulatory solution it would be necessary to repeal the sections of legislation covering these areas. The size and scope of these changes are not such that they would warrant this level of change.
48. **Option 3:** strengthen enforcement and offence provisions to protect the quality of tertiary education and provide disincentives for those who seek to avoid the consequences of poor performance by:
- introducing an offence for private training establishments who refuse NZQA entry
 - introducing an offence for qualifications that substantially mimics the wording of New Zealand Qualifications Framework qualifications
 - extending body corporate liability to a broader range of offences, that is, offences associated with false qualifications, student records, cheating services and student fees
 - clarifying that the effect of lapsing or cancelling a private training establishment's registration under Part 20 has the same effect on private training establishments as cancellation under Part 18.
49. This option would enable NZQA to protect the quality of tertiary education and effectively manage poor private training establishment performance. There would be less ability for private training establishments to avoid the consequences of poor performance.
50. This would also mean that NZQA could follow up with any person who purports to issue qualifications that substantially mimics the wording of New Zealand Qualifications Framework qualifications.
51. In addition, the current arrangements in relation to Sections 18 and 20 of the Act have introduced an unnecessary amount of bureaucracy and complexity for NZQA. If a private training establishment's registration is lapsed, or cancelled, this should automatically impact upon the private training establishment's approvals, accreditations, and consents because the private training establishment is no longer a properly constituted training provider.

Preferred options

52. It is proposed that regulatory changes be made to address the identified problems (Option 3 for each of the problems identified). As the problems are the result of the

operation of the existing legislative framework, regulatory change provides the only means of addressing the problems.

53. Progressing these options would introduce policy changes to:

- minimise compliance costs associated with student fee protection requirements for private training establishments by allowing for exemptions and static trusts
- better protect students by clarifying the statutory withdrawal and refund period
- strengthen NZQA’s ability to quality assure the tertiary education system by requiring private training establishments to retain records about students assessed against assessment standards and enabling NZQA to make rules for on-going quality assurance
- strengthen enforcement and offence provisions by:
 - introducing an offence for private training establishments who refuse NZQA entry.
 - introducing an offence for qualifications that mimic the wording of New Zealand Qualifications Framework qualifications.
 - extending body corporate liability to a broader range of offences, that is, offences associated with false qualifications, student records, cheating services and student fees.
 - clarifying that the effect of lapsing or cancelling a private training establishment’s registration under Part 20 has the same effect on private training establishments as cancellation under part 18.

54. The following table sets out a summary of the expected impact of each of the proposals. Appendix 1 sets out the costs of each of the proposals.

Proposal	Private training establishments costs	NZQA costs	Student costs
Minimise compliance costs associated with student fee protection requirements for private training establishments by allowing for exemptions and static trusts	↓	↓	-
Better protect students by clarifying the statutory withdrawal and refund period	-	-	-
Strengthen NZQA’s ability to quality assure the tertiary education system by requiring private training establishments to retain records about students assessed against assessment standards and	↑ for private training establishments who	↓	-

enabling NZQA to make rules for on-going quality assurance	don't retain assessment standard information		
<p>Strengthen enforcement and offence provisions by:</p> <ul style="list-style-type: none"> • introducing an offence for private training establishments who refuse NZQA entry. • introducing an offence for qualifications that mimic the wording of New Zealand Qualifications Framework qualifications. • extending body corporate liability to a broader range of offences, that is, offences associated with false qualifications, student records, cheating services and student fees. • clarifying that the effect of lapsing or cancelling a private training establishment's registration under Part 20 has the same effect on private training establishments as cancellation under part 18 	↑ for private training establishments who offend	↓	-

55. The proposed regulatory changes are relatively minor adjustments intended to further enhance the quality assurance system and the risks associated with the proposed changes are low. While there is a risk that private training establishments with an exemption or a static trust could fail, private training establishments would still be expected to meet their student fee protection obligations.

56. There is a risk that the new offences may not be used because there would be an increased incentive to comply with the existing legislation. To date, there have been only a few situations where such provisions would be useful. This risk needs to be balanced against the risk of private training establishments seeking to avoid the consequences of poor performance if the change is not made.

57. On balance, the mix of proposals is considered to be the optimal solution to the issues confronting the quality assurance system at this time. Agencies have carefully considered the issues, possible actions, including non-regulatory options, risks, and the need for a coherent package. They have taken into account the wider tertiary education and quality assurance systems.

Consultation

58. NZQA has been involved in the development of these proposals. The proposals have been developed following informal feedback from the sector. For example, some private training establishments have discussed with NZQA staff their desire to have exemptions for short and low cost courses and the option of static trusts for student fee protection during the statutory withdrawal and refund period. There has been no formal consultation with the sector as the changes are not significant enough to warrant this. There will be

ongoing consultation with the sector when the Select Committee calls for submissions to the Amendment Bill.

Implementation

59. NZQA will implement the changes as soon as legislation is passed. There are unlikely to be any risks associated with the implementation of the preferred options.

60. Some of the initiatives will take effect when the legislation is signed, that is:

- the ability for private training establishments to use static trusts during the statutory withdrawal and refund period
- the ability for NZQA to make rules for on-going quality assurance of tertiary education organisations
- the new offence provisions
- the effect of lapsing or cancelling a private training establishment's registration under Part 20 has the same effect on private training establishments as cancellation under Part 18.

61. Others will require a transition period of up to 12 months to allow for rule development, that is:

- allowing NZQA to exempt a private training establishment's course from student fee protection requirements where the risk is low and compliance costs are high
- the changes relating to the statutory withdrawal and refund period
- the requirement for private training establishments to retain records about students assessed against assessment standards.

62. For the changes that require rules to be developed, there will be further opportunities for consultation on the content of the rules during NZQA's normal rule developing processes.

Monitoring, evaluation and review

63. NZQA will continue to monitor all aspects of the quality assurance system and any issues with the changes would be reflected in their regular reporting. The Ministry of Education will continue to monitor the performance of NZQA through Crown monitoring processes, including the annual report.

Appendix 1: the expected impact of each of the preferred options

Proposal	Costs			
	Private training establishments	NZQA	Students	Other
Allow NZQA to exempt a private training establishment's course from student fee protection requirements where the risk is low and compliance costs are high.	<p>Reduced because:</p> <ul style="list-style-type: none"> • no fees for standard/static trusts; • will not have to undertake administration for student fee protection if exempted <p>Numbers depend on how many private training establishments want an exemption</p>	<p>2 hours for granting of exemption.</p> <p>NZQA ongoing administration costs likely to reduce</p>	<p>The same or less, dependent on whether private training establishments adjust fees to reflect lower costs</p>	
Allow private training establishments to use static trusts to protect student fees during the statutory withdrawal and refund period.	<p>Reduced because:</p> <ul style="list-style-type: none"> • student fee protection administration costs will be lower; • fees for static trusts may be lower than for standard trusts <p>Numbers depend on how many private training establishments choose to have a static trust for the statutory withdrawal and refund period. Currently 21 private training establishments operate a static trust for the course closure event. It is likely that most of these private training establishments will want to use the static trust for the statutory withdrawal and refund period.</p>	<p>Reduced because NZQA will reduce the number of separate student fee protection mechanisms that need to be monitored.</p>		
Clarify the statutory withdrawal and	No change to actual costs. May be			Reduce

refund period so that: <ul style="list-style-type: none"> • students can withdraw from the course prior to the start date of the course and get a refund • the end for the refund period is linked to the date that the student is required to attend the course 	change to timing of payments			d complaints to International Education Appeal Authority (hard to quantify)
Require private training establishments to retain records about students assessed against assessment standards	Increased cost for private training establishments who don't currently do this	Reduced costs for NZQA. In one case of failure to retain records, NZQA spent approximately \$200,000 to gather information about student achievement of assessment standards		
Enable NZQA to make rules for on-going quality assurance of tertiary education organisations	None	None		
Introduce an offence for private training establishments who refuse NZQA entry.	Increased cost to private training establishments who offend	Reduced cost to NZQA		Slightly higher cost to Police
Introduce an offence for qualifications that mimic the wording of New Zealand Qualifications Framework qualifications.	Increased cost to offenders			
Extend body corporate liability to a	Increased costs to offenders	Reduced costs for NZQA		

broader range of offences, that is, offences associated with false qualifications, student records, cheating services and student fees.				
Clarify that the effect of lapsing or cancelling a private training establishment's registration under Part 20 has the same effect on private training establishments as cancellation under part 18.		Reduced costs for NZQA because of increased efficiencies		