



Education Report: Options for prohibiting the offshore awarding of NCEA

To:	Hon Chris Hipkins, Minister of Education		
Date:	15 March 2019	Priority:	High
Security Level:	In Confidence	METIS No:	1180454
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Messaging seen by Communications team:	No		

Purpose of report

This paper seeks confirmation of an approach for prohibiting the awarding of NCEA to students offshore, with the exception of:

- Correspondence school provision for NZ students who are based offshore under the circumstances set out in correspondence school enrolment policies (Te Aho o Te Kura Pounamu is currently the only correspondence school); and
- those countries, such as the Cook Islands and Niue, where the New Zealand government has agreed to support the availability of NCEA.

If you agree, we will include this proposal in the Cabinet Paper seeking approval to consult on the second tranche of legislative proposals to be progressed through the Education and Training Bill.

Timing

To enable inclusion of this proposal in the upcoming Education and Training Bill Cabinet paper, we will need your feedback on this report by Thursday 21 March.

Recommended Actions

The Ministry of Education recommends you:

- note** that you have previously agreed to prohibit the offshore awarding of NCEA

Noted

- note** that we previously advised you that this change could be achieved by changing the rule-making powers of NZQA, but that we now consider that the prohibition needs to be included in primary legislation

Noted

- c. **agree** to amend the Education Act 1989 to prohibit the awarding of NCEA outside New Zealand, with an exception to allow for continued awarding of NCEA to domestic students by correspondence schools (currently Te Kura) Agree / Disagree
- d. **agree** that any prohibition would not override s246A(1)(g) of the Act, which sets out functions of NZQA in assisting overseas governments and agencies Agree / Disagree
- e. **agree** that any prohibition would not prohibit tertiary providers from awarding standards leading to other qualifications, where those standards may also lead to NCEA Agree / Disagree
- f. **agree** that any consultation on prohibiting the awarding of NCEA outside New Zealand should also include consultation on the creation of an offence provision Agree / Disagree
- g. **agree** to progress a prohibition as part of the Education and Training Bill Agree / Disagree
- h. **agree** to seek Cabinet approval for public consultation on the prohibition, as part of the upcoming Cabinet paper on the tranche 2 proposals for the Bill Agree / Disagree

Proactive Release Recommendation

- i. **agree** that this Education Report will be proactively released once Cabinet decisions on consultation have been made. Agree / Disagree

Ben O'Meara
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Education System Policy

15/03/2019



Hon Chris Hipkins
Minister of Education

19/3/19

Background

Context

1. Last year we advised you on the legal ability of private schools and tertiary education providers (TEPs) to offer NCEA offshore, and on options for restricting or prohibiting this delivery (METIS 1115424 and 1139557).
2. You have agreed to changes to prohibit the offshore awarding of NCEA.
3. We have previously advised you that this prohibition could be achieved by amending the Education Act 1989 (the Act) to change the rule-making powers of NZQA (METIS 1139557).
4. Following further consideration, we now recommend that the prohibition should be done by including a prohibition in the Act, rather than amending NZQA's rule-making powers.
5. This paper seeks confirmation of an approach to prohibit the offshore awarding of NCEA, and your agreement to seek Cabinet approval for public consultation, along with other proposals being progressed through the Education and Training Bill.

Currently, only private schools and TEPs can provide NCEA offshore - with two exceptions

6. The Act prevents State schools apart from correspondence schools (Te Kura) from providing NCEA to students offshore.
 - a. Schooling by correspondence does not meet the attendance requirements of the Act, so no school (state schools or private schools) may offer education by correspondence unless they are a correspondence school. Te Aho o Te Kura Pounamu (Te Kura) is the only designated correspondence school.
 - b. State schools are not able to offer schooling at offshore sites because this would be outside their functions, as set out in the Act.
7. Currently, there are no legislative barriers to private schools and tertiary education providers (TEPs) assessing standards which could lead to the award of NCEA to students living offshore. Those private schools or TEPs that wish to assess standards leading to the award of NCEA to students based offshore must have consent to assess from NZQA.
8. There are two other situations where offshore awarding of NCEA is enabled by the Act:
 - a. *For correspondence schools* (Te Kura), which are able to offer NCEA to New Zealand nationals based offshore if the Government specified enrolment policy enables them to do so. Te Kura currently has an enrolment gateway that enables a small number of NZ nationals to enrol while overseas (around 40 each year). These students are mostly the children of diplomats and armed forces personnel, but may also be individuals on scholarships, exchanges, and other programmes. Te Kura's enrolment policy sets the circumstances in which students may access this provision.
 - b. *Where New Zealand has agreements with other governments.* For example, government to government arrangements with the Cook Islands and Niue enable secondary schools in those countries to award NCEA, with NZQA undertaking all

the associated quality assurance functions. These arrangements are enabled through s246A (1) (g) of the Act.

9. While there are no barriers to private schools or TEPs awarding NCEA to students based offshore, at present NZQA is not aware of any private schools or TEPs actually doing so.

Provision of NCEA overlaps with provision for other qualifications

10. Some TEPs provide unit standards offshore that lead to qualifications other than NCEA, and can also contribute to NCEA. There is no intention to stop this provision where it is not aimed at NCEA.

Concerns with the awarding of NCEA offshore

11. Over recent years, several schools (both State schools and private schools) and TEPs have expressed interest in awarding NCEA to students based offshore.
12. The Ministry's view is that NCEA should not be awarded offshore. This is because:
 - a. the widespread awarding of NCEA offshore would present difficulties in moderating and quality assuring the assessment of standards. This would create significant risks to the international reputation and credibility of the NCEA qualifications, and this could impact both on New Zealand students with NCEA wishing to study at international institutions, and on the desirability of New Zealand as a destination for international secondary students;
 - b. in addition to the practical difficulties with offshore moderation and quality assurance, the need to quality assure NCEA offshore would create significant costs for NZQA, for which it is not currently resourced;
 - c. NCEA was never developed to be an international qualification, and is linked with teaching and learning of the National Curriculum, which was developed for New Zealand students or those living in New Zealand.
13. A further concern is that enabling private schools to gain income through offshore provision of NCEA could be seen as unfairly advantaging private schools over State schools. In some instances, State schools may feel that they are competing with private schools through the quality of the learning environment and facilities, and their teaching resources. Awarding of NCEA offshore is a potentially valuable source of income.

Recommended approach for implementing the prohibition

14. Based on the analysis set out above, we recommend amending the Act to prohibit the awarding of NCEA offshore, with an exception to allow for the continued awarding of NCEA for domestic students through correspondence school enrolment gateways (currently limited to Te Kura), and to enable continued support for secondary education in some countries.
15. This will preserve the standard and reputation of NCEA. It also ensures that State schools are not disadvantaged in relation to private schools, in terms of their ability to gain income through awarding NCEA offshore.
16. Including the ban in legislation would mean that a change to legislation would be needed if a future Government wished to enable international awarding of NCEA. Given that the move towards digital assessment will provide greater opportunity for offshore use in

relation to NCEA, overcoming the concerns regarding the ability to quality assure and moderate assessment, it is possible that a future government could seek to enable international awarding of NCEA. However, on balance we consider that the benefits of a clear prohibition to manage the risks now outweigh the desirability of retaining flexibility for future policy changes.

17. It will be important to continue to award NCEA qualifications in countries, like the Cook Islands and Niue, where the Government has enabled this through government-to-government agreements. For this reason, we recommend that the prohibition should not override s246A(1)(g) of the Act, which sets out a function of NZQA as assisting overseas governments and agencies.
18. We also recommend continuing to allow TEPs to award standards leading to other qualifications, where those standards may also lead to NCEA.
19. We will seek advice on the best drafting approach to ensure that these exemptions are clear and workable in practice.
20. Any prohibition requires a sanction. We therefore recommend also consulting on an offence provision.

Consultation

21. As noted above, we are not aware of any private schools or TEPs that are currently awarding NCEA to students based offshore, however, we recommend public consultation to test this, or to determine whether any schools or TEPs are planning to offer NCEA offshore in the future. Consultation would also enable us to better understand and avoid any unintended impacts on provision by tertiary providers of other qualifications where there is some overlap with NCEA.
22. A draft of the discussion document relating to this proposal is attached for your information as Annex 1.

Next steps

23. We recommend that you seek Cabinet approval for public consultation on this proposal, and to progress it as part of the Education and Training bill.

Annexes

Annex 1: (Draft) Discussion document