

# Education Amendment Act 1989

Public Act 1989 No 156  
Date of assent 20 December 1989

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**An Act to reform further the administration of education**

**BE IT ENACTED** by the Parliament of New Zealand as follows:

**1 Short Title and commencement**

- (1) This Act may be cited as the Education Amendment Act 1989.
- (2) This Act shall come into force on the 1st day of January 1990.

**Part 1**

**Amendments to Education Act 1989**

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**9 Registration and inspection of private schools**

- (1) *Subsections (1) and (2) inserted section 35A, and substituted the definition of **Registered school** in section 2(1), of the principal Act.*
- (2) *Subsections (1) and (2) inserted section 35A, and substituted the definition of **Registered school** in section 2(1), of the principal Act.*
- (3) The following enactments are hereby consequentially repealed:
  - (a) Section 186 of the Education Act 1964.
  - (b) Section 28 of the Education Amendment Act (No 2) 1987.

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**15 Consequential amendments**

- (1)
- (2)
- (3)
- (4)
- (5) The following enactments are hereby consequentially repealed:
  - (a)
  - (b) Sections 12 and 13 of the Education Amendment Act 1968:
  - (c) Section 2 of the Education Amendment Act 1970:
  - (d) Sections 13 and 21 of the Education Amendment Act (No 2) 1974:
  - (e) Sections 2(2) and 12 of the Education Amendment Act 1976:
  - (f) Sections 6 and 7 of the Education Amendment Act (No 2) 1982:
  - (g)
- (6)
- (7)

**Part 2**  
**Amendments to Education Act 1964**

**16 Part to be read with Education Act 1964**

This Part of this Act shall be read together with and deemed part of the Education Act 1964 (in this Part of this Act referred to as the principal Act).

**17 Fees for domestic teachers college students**

- (1) *This subsection inserted s 67SA of the principal Act.*

- (2) *This subsection repealed s 67J(1)(e) of the principal Act.*
- (3) The following regulations are hereby revoked:
  - (a) The Teacher Bursaries Regulations 1986:
  - (b) Part 5 (except for regulation 42), regulations 56(1)(a) and 58(2), and the definition of the term **fees grant** in regulation 2(1), of the Student Allowances Regulations 1988.
- (4) The Student Allowances Regulations 1988 are hereby amended by—
  - (a) Omitting from the definition in regulation 2(1) of the term **grant** the words **fees grant**;
  - (b) Omitting from regulation 42(1)(a) the words **fees grant or**.
- (5) The Student Allowances Regulations 1988 may be amended or revoked as if the amendments effected by subsection (3)(b) or subsection (4) of this section had been effected by Order in Council.
- (6) Every bursary granted under the Teacher Bursaries Regulations 1986, and every fees grant awarded under the Student Allowances Regulations 1988, is hereby cancelled.

## **18 Fees for continuing education for domestic students**

- (1)
- (2) The following enactments are hereby consequentially repealed:
  - (a)
  - (b) Section 17 of the Education Amendment Act (No 2) 1974:
  - (c) Sections 5 and 6(1) of the Education Amendment Act 1975.

## **19 Consequential amendments, repeals, and saving**

- (1)
- (2) The following enactments are hereby repealed:
  - (a) Section 5 of the Education Amendment Act 1981:
  - (b) So much of the Schedule to the Local Elections and Polls Amendment Act 1982 as relates to the Education Act 1964:

- (c) Sections 9(1), and 10 to 12, of the Education Amendment Act (No 2) 1987:
- (d)
- (3) The repeal by section 142(3) of the Education Act 1989 of the Education Amendment Act (No 2) 1976 does not affect section 130F of the principal Act.

## 20 Foreign students at tertiary institutions

- (1) In this section, unless the context otherwise requires,—
  - Assisted student** means a foreign student who is in New Zealand to study under an assistance programme administered by the New Zealand Government
  - Council** means the governing body of a tertiary institution; and, in relation to an institution, means its council
  - Exempt student** means a foreign student who—
    - (a) Is in New Zealand under an exchange programme approved by the New Zealand Government; or
    - (b) Is for the time being exempted under subsection (3) of this section:
  - Tertiary institution or institution** means a body that is a community college, teachers college, or technical institute.
- (2) Every council shall take all reasonable steps to ensure that no person is enrolled at a tertiary institution it administers until it has established whether the person is a domestic student or a foreign student.
- (3) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by subsection (4) of this section.
- (4) Subject to subsection (3) of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at a tertiary institution unless there have been paid to the council—
  - (a) An amount fixed by the council (having regard to any guidelines the Secretary has given it) that is not less than the sum of—

- (i) The council's best estimate of the cost to the council (including the appropriate proportion of the council's administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and
    - (ii) An amount that is in the council's opinion an appropriate reflection of the use made by 1 student receiving tuition in the subject, course, or programme of the council's capital facilities; and
  - (b) All fees (if any) prescribed by the council.
- (5) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at a tertiary institution without paying the full amount required by subsection (4)(a) of this section in respect of the subject, course, or programme, the council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the council.
- (6) In any year, the amount of any grant for a tertiary institution may be reduced from what it would otherwise have been by any amount by which (in the Secretary's opinion), by virtue of the fact that the full amount required by subsection (4)(a) of this section in respect of a subject, course, or programme at the institution in which a foreign student was enrolled has not been paid to the council, the student's education has been subsidised by money appropriated by Parliament.
- (7) No grant shall be reduced under subsection (6) of this section unless the Secretary has given the council concerned written notice of the circumstances taken into account when the proposed reduction was decided on.
- (8) Where the council of a tertiary institution disputes that a grant should be reduced under subsection (6) of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:
- (a) The council may, within 28 days of getting notice from the Secretary under subsection (6) of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration:

- (b) If, within 14 days of getting the council's notice, the Secretary has agreed an arbitrator with the council, the agreed arbitrator shall settle the dispute:
  - (c) If, within 14 days of getting the council's notice, the Secretary has not agreed an arbitrator with the council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the council shall settle the dispute:
  - (d) The arbitrator's decision is final.
- (9) No foreign student who is not an exempt student shall be enrolled at a tertiary institution except with the consent of the council.
  - (10) Except as provided in subsection (12) or subsection (13) of this section, no foreign student who is not an exempt student shall be enrolled at a tertiary institution if the student's enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.
  - (11) Except as provided in subsection (12) or subsection (13) of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at a tertiary institution if the student's enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.
  - (12) Any assisted student may be enrolled at a tertiary institution, or in a subject, course, or programme at a tertiary institution, by agreement between the council and the chief executive of the Ministry of External Relations and Trade.
  - (13) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at a tertiary institution, or in any subject, course, or programme at a tertiary institution, if the enrolment is in a vacant place—
    - (a) That the council established for foreign students; and
    - (b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.
  - (14) In the absence of proof to the contrary,—

- (a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that on a specified day, or for a specified period, a specified person was or was not, or will or will not be in New Zealand to study under an assistance programme administered by the New Zealand Government; or
- (b) A certificate signed by the Secretary that on a specified day, or for a specified period, a specified person was or was not, or will or will not be in New Zealand to study under an exchange programme approved by the New Zealand Government,—

is, for the purposes of subsection (1) of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.

- (15) The council of a tertiary institution shall—
  - (a) When a foreign student enrolls, re-enrolls, or resumes attendance, at the institution, give the Secretary written notice (to the best of the council's knowledge) of the student's name, nationality, and course:
  - (b) When a foreign student ceases to be enrolled at, or ceases to attend the institution, notify the Secretary in writing:
  - (c) Comply with all accounting requirements relating to foreign students enrolled at the institution contained in any notice published by the Minister in the *Gazette* (being notice expressed to apply to the institution or an institution of a class or description to which the institution belongs) that is for the time being in force.

## **21 Bulk funding of tertiary institutions**

- (1) In each financial year the governing body of every teachers college, technical institute, and community college—
  - (a) Shall be paid a general grant; and
  - (b) May be paid one or more special grants,—out of money appropriated by Parliament for the purpose.
- (2) The amount of every general and special grant shall be determined by the Minister.

- (3) The Minister shall ensure that no special grant is paid to a governing body before the Minister has given it written notice of the purposes for which the grant is to be used.
- (4) A governing body shall ensure that a special grant is not used except for the purposes specified for it by the Minister.
- (5) Subject to subsection (4) of this section, the provisions of any other enactment, and the terms of any trust or endowment,—
  - (a) The income and capital of a teachers college, technical institute, or community college, (within the meaning of the principal Act) shall be applied in doing whatever its governing body thinks will best accomplish the purposes it was established for; and
  - (b) The governing body may from time to time, out of the income, create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied.
- (6) Paragraph (b) of subsection (5) of this section does not limit the generality of paragraph (a) of that subsection.
- (7) This subsection repealed sections 67P, 69AG, and 69AH of the principal Act.

## **22 Borrowing powers of governing bodies of tertiary institutions**

- (1) In this section, **tertiary authority** means the governing body of a teachers college, technical institute, or community college.
- (2) A tertiary authority may, with the written consent of the Minister of Education given with the concurrence of the Minister of Finance, borrow any money from any source on and subject to any terms and conditions.
- (3) The Minister of Education may, out of money appropriated by Parliament for the purpose, make to any tertiary authority any advance the Minister thinks fit, upon terms approved by the Minister of Finance.
- (4) Except for paragraphs (b) to (d) of section 122(1), sections 122 to 124 of the Local Authorities Loans Act 1956 shall (so far as they relate to illegal borrowing and with any necessary

modifications) apply to the borrowing of money by tertiary authorities as if—

- (a) The references to a local authority in those provisions were references to a tertiary authority; and
  - (b) The references to that Act in sections 122(1) and 124(1) were references to the principal Act.
- (5) For the avoidance of doubt, it is hereby declared that all actions of tertiary authorities are, and are deemed always to have been, as valid and effectual as if this section had come into force on the 20th day of July 1987.

### **23 Bulk funding of early childhood educational institutions**

- (1) The Minister may from time to time—
- (a) Recognise for the purposes of funding out of money appropriated by Parliament institutions providing educational and developmental facilities and services for the benefit of children who have not yet enrolled at a State primary school:
  - (b) Withdraw the recognition under paragraph (a) of this subsection of any institution.
- (2) The governing body of an institution for the time being recognised under subsection (1) of this section may be paid grants out of money appropriated by Parliament for the purpose.
- (3) The amount of every grant paid under subsection (2) of this section shall be determined by the Minister.
- (4) Before a grant is paid under subsection (2) of this section, the Minister may give the governing body concerned written notice that the grant, or a part or parts of the grant (specified as a particular sum or as a proportion of the total grant), is not to be used except for purposes specified in the notice.
- (5) A governing body that has been given notice under subsection (4) of this section shall ensure that no part of the grant to which the notice relates is used for purposes other than those specified for it in the notice.
- (6) Subject to subsection (5) of this section, a governing body to which a grant is paid under subsection (2) of this section shall apply the grant in doing whatever it thinks will best achieve

the purposes the institution or institutions concerned were established for.

- (7) Every institution that was, immediately before the commencement of this Part of this Act, recognised pursuant to regulations made under section 70(1)(b) of the principal Act shall be deemed on that commencement to have been recognised under paragraph (a) of subsection (1) of this section; and paragraph (b) of that subsection shall apply accordingly.
- (8) This subsection revoked regs 3 and 4 of the Kindergarten Regulations 1959, and reg 3 of the Kindergarten Regulations 1959, Amendment No 6.
- (9) This subsection added the definition of **kindergarten** to reg 2 of the Kindergarten Regulations 1959.
- (10) The regulations amended by subsections (8) and (9) of this section may be amended or revoked as if the amendments had been effected by Order in Council and not by those subsections.

### Part 3

#### Amendments to University Acts

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#### 26 Bulk funding

- (1) This subsection inserted section 24(10) to (14) of the principal Act.
- (2) Section 7 of the University of Auckland Amendment Act is hereby consequentially repealed.

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**38 Bulk funding**

(1)

(2) Section 4 of the Victoria University of Wellington Amendment Act 1966 is hereby consequentially repealed.

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**42 Bulk funding**

(1)

(2) Section 4 of the University of Canterbury Amendment Act 1966 is hereby consequentially repealed.

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**46 Bulk funding**

(1)

(2) Section 3 of the University of Otago Amendment Act 1966 is hereby consequentially repealed.

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**49 Constitution of University**

(1)

(2)

(3) The enactments to which subsection (4) of this section applies are hereby consequentially amended by—

(a) Omitting from the title the word “College”, and substituting the word “University” and

(b) Omitting from section 1, in both places where it appears, the word “College”, and substituting, in each case, the word “University”.

(4) This subsection applies to the enactments that, immediately before the commencement of this Act, were known, respectively, as—

(a) The Lincoln College Amendment Act 1966; and

(b) The Lincoln College Amendment Act 1970; and

(c) The Lincoln College Amendment Act 1977; and

(d) The Lincoln College Amendment Act 1987.

(5) Lincoln University is the same body as the body called Lincoln College immediately before the commencement of this Act.

(6) Every reference in any enactment other than this Act to Lincoln College shall be read as a reference to Lincoln University.

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**51 Bulk funding**

(1) *This subsection substituted section 38 of the principal Act.*

(2) Section 4 of the Lincoln College Amendment Act 1966 is hereby consequentially repealed.

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**54 Court of Convocation elections**

(1) Notwithstanding anything in any enactment to the contrary, but subject to subsection (2) of this section, where the term of appointment on the Council of the University of Waikato,

Lincoln University, or the University of Otago of any member elected by the Court of Convocation would otherwise expire after the commencement of this Act and before the 1st day of July 1990, that term shall expire on that day.

- (2) Nothing in subsection (1) of this section prevents the vacation of any person's office as a member of a University Council by reason other than the expiration of the member's term of office; but in that case the vacancy shall not be filled.