

Education (Tertiary Reforms) Amendment Act 2007

Public Act 2007 No 106
Date of assent 14 December 2007

Contents

		Page
1	Title	5
2	Commencement	5
3	Purpose	5

Part 1

Amendments to Education Act 1989

4	Principal Act amended	6
5	Object of provisions relating to tertiary education	6
6	Interpretation	6
7	New section 159AA substituted	7
	159AA Tertiary education strategy	7
8	Importance of tertiary education strategy	7
9	New section 159AC substituted	7
	159AC Revocation and replacement or amendment of tertiary education strategy	8
10	Roles within tertiary education sector	8
11	Ministry may hold and disseminate information	8
12	New sections 159A and 159ABA substituted	8
	159A Purpose of Part	8
	159ABA Outline of framework for planning, funding, and monitoring in tertiary education sector	8
13	Composition of Commission	10
14	Functions of Commission	10

**Education (Tertiary Reforms)
Amendment Act 2007**

2007 No 106

15	Delegation of functions or powers of Minister	11
16	Minister may direct Commission	11
17	New section 159KBA inserted	11
	159KBA Monitoring and reporting function of chief executive in relation to institutions	11
18	Statement of intent	12
19	Annual report	12
20	New headings and sections 159L to 159YO substituted	12
	<i>Funding mechanisms</i>	
	159L Minister determines design of funding mechanisms	12
	159M Restrictions on design of funding mechanisms	13
	159N Funding mechanisms consistent with quality assurance principle	13
	159O Commission to implement funding mechanisms	13
	<i>Requirements for, and content of proposed plans</i>	
	159P Requirements for proposed plans	14
	159Q Exemption from certain requirements for proposed plans	15
	159R Content of, and processes for submitting, proposed plans prescribed by Commission	15
	159S Commission may exempt organisation from complying with certain matters	16
	<i>Submitting proposed plan</i>	
	159T Who must submit proposed plan	16
	159U Exemption from requirement to submit proposed plan	16
	159V Frequency of submitting proposed plans	16
	159W Submitting combined proposed plan	17
	<i>Preparing and consulting on proposed plans</i>	
	159X Preparing and consulting on proposed plans	17
	<i>Assessment of proposed plans and giving of funding approval</i>	
	159Y Criteria for assessing proposed plans	17
	159YA Commission's assessment of proposed plans, giving of funding approval, and payment of funding	18
	159YB Commission may decline to assess proposed plan	19

	159YC Conditions on receiving funding under section 159YA	19
	159YD Accountability for funding received under section 159YA	20
	<i>Expiry of funding approval</i>	
	159YE Expiry of funding approval	21
	159YF Effect of expiry of funding approval	22
	<i>Suspension or revocation of funding given under section 159YA</i>	
	159YG Commission may suspend or revoke funding given under section 159YA	22
	159YH Extending suspension of funding	23
	159YI Effect of suspending or revoking funding given under section 159YA	23
	159YJ Review of decision by delegate to suspend or revoke funding given under section 159YA	24
	<i>Amending or replacing plans</i>	
	159YK Organisation may seek approval for significant amendment, or replacement, of plan	24
	159YL Effect of significant amendment or replacement of plan under section 159YK	26
	159YM Commission may make significant amendment to plan	26
	159YN Effect of significant amendment made to plan under section 159YM	26
	<i>Plan summary</i>	
	159YO Summary of plans	27
21	New heading and sections 159ZC to 159ZH substituted	27
	<i>Funding under this Part other than via plans</i>	
	159ZC Funding other than via plans	27
	159ZD Conditions on funding received under section 159ZC	27
	159ZE Accountability for funding received under section 159ZC	28
	159ZF Commission may suspend or revoke funding given under section 159ZC	29
	159ZG Extending suspension of funding	30
	159ZH Review of decision made by delegate to suspend or revoke funding under section 159ZC	30

22	Functions of councils	31
23	Section 191A and heading above section 191A repealed	31
24	Powers of institutions	31
25	Institutions to provide information if required	31
26	New section 195DA inserted	32
	195DA Protection of commissioners	32
27	Powers and functions of commissioner	32
28	How institutions may use income and capital	32
29	Transfer of Crown assets and liabilities to institutions	32
30	Annual report	32
31	Fees for domestic students	33
32	Fees for foreign students	33
33	Fees for domestic students must not exceed maximums set in conditions of funding	33
34	Interpretation	33
35	Functions of Authority	33
36	Power to obtain information	34
37	Service continued for purposes of Part 22	34
38	Functions of Service	34
39	Duties of Board	34
40	Transitional provision: institutions and organisations with approved charters and approved profiles	34
41	Transitional provision: organisations with approved charters that are exempt from need to have profile	35
42	Transitional provision: organisations with approved profile and exempt from need to have charter	35
43	Transitional provision: organisations exempt from need to have profile and charter	36
44	Transitional provision: organisations funded under section 159ZC(3)	36
45	Transitional provision: tertiary education strategy and statement of tertiary education priorities	37
46	Transitional provision: funding mechanisms	37
47	Validation of determination of design of funding mechanism for student component fund	37

Part 2

Related amendments to other enactments

Amendments to Industry Training Act 1992

48	Principal Act amended	38
49	Interpretation	38

50	Industry training organisation's profile must identify activities for which it seeks funding	39
51	Power to fund if employer switches industry training organisation	40
52	Matters to which Commission must have regard in determining whether to approve profile for funding purposes	40

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education (Tertiary Reforms) Amendment Act 2007.

2 Commencement

This Act comes into force on 1 January 2008.

3 Purpose

The purpose of this Act is to—

- (a) simplify and streamline the processes supporting the operation of the tertiary education system in New Zealand, without affecting the academic freedom and autonomy of institutions preserved and enhanced by the principal Act, by creating a group of instruments that—
 - (i) recognise the differing roles of organisations within the tertiary education sector; and
 - (ii) require organisations to focus on outcomes; and
- (b) support the purpose described in paragraph (a) by—
 - (i) replacing the tertiary education strategy and the statement of tertiary education priorities with a single document called the tertiary education strategy; and
 - (ii) replacing charters and profiles with a single document called a plan; and
- (c) enable the Tertiary Education Commission to effectively—

- (i) guide the contribution made by organisations towards achieving the current and medium-term priorities set out in the Government's tertiary education strategy; and
- (ii) monitor the performance of organisations; and
- (d) enhance the accountability of organisations that receive public funds; and
- (e) safeguard the Crown's interest in organisations generally; and
- (f) clarify the role of the New Zealand Qualifications Authority in relation to quality assurance of providers of adult and community education; and
- (g) make other amendments to the Education Act 1989 that relate to the tertiary education sector.

Part 1

Amendments to Education Act 1989

4 Principal Act amended

This Part amends the Education Act 1989.

5 Object of provisions relating to tertiary education

Section 159AAA(2) is amended by omitting "the service continued by Part 22" and substituting "Career Services".

6 Interpretation

(1) The definitions of **charter**, **profile**, and **statement of tertiary education priorities** in section 159(1) are repealed.

(2) Section 159(1) is amended by inserting the following definitions in their appropriate alphabetical order:

"**funding approval** means a decision made by the Commission under section 159YA to fund (in whole or in part) some or all of the tertiary education programmes and activities described in an organisation's proposed plan under section 159P(d)(i) and (ii)

"**plan** means a plan in relation to which funding approval has been given

"**proposed plan** means a proposed plan in relation to which an organisation is seeking funding approval".

- (3) The definition of **tertiary education strategy** in section 159(1) is amended by omitting “approved” and substituting “issued”.

7 New section 159AA substituted

Section 159AA is repealed and the following section substituted:

“159AA Tertiary education strategy

- “(1) The Minister must, from time to time, issue a tertiary education strategy that sets out—
- “(a) the Government’s long-term strategic direction for tertiary education; and
 - “(b) the Government’s current and medium-term priorities for tertiary education.
- “(2) The part of the tertiary education strategy that sets out the Government’s long-term strategic direction for tertiary education must address the following:
- “(a) economic goals:
 - “(b) social goals:
 - “(c) environmental goals:
 - “(d) the development aspirations of Maori and other population groups.
- “(3) Before issuing a tertiary education strategy, the Minister must consult with—
- “(a) those stakeholders in the tertiary education sector that he or she considers ought to be consulted; and
 - “(b) the Commission.
- “(4) As soon as practicable after issuing a tertiary education strategy, the Minister must give public notice of it.”

8 Importance of tertiary education strategy

Section 159AB is amended by omitting “the service continued by Part 22” and substituting “Career Services”.

9 New section 159AC substituted

Section 159AC is repealed and the following section substituted:

“159AC Revocation and replacement or amendment of tertiary education strategy

- “(1) The Minister may, at any time, revoke and replace, or amend, a tertiary education strategy.
- “(2) Before revoking and replacing, or significantly amending, a tertiary education strategy, the Minister must consult with—
- “(a) those stakeholders in the tertiary education sector that he or she considers ought to be consulted; and
 - “(b) the Commission.
- “(3) As soon as practicable after revoking and replacing, or significantly amending, a tertiary education strategy, the Minister must give public notice of the revocation and replacement, or amendment.
- “(4) An amendment forms part of the tertiary education strategy it amends.”

10 Roles within tertiary education sector

Section 159AD(1) is repealed.

11 Ministry may hold and disseminate information

Section 159AE is amended by omitting “the service continued by Part 22” and substituting “Career Services”.

12 New sections 159A and 159ABA substituted

Section 159A is repealed and the following sections are substituted:

“159A Purpose of Part

The purpose of this Part is to establish—

- “(a) a Tertiary Education Commission (the **Commission**); and
- “(b) a framework for planning, funding, and monitoring in the tertiary education sector that primarily, but not exclusively, relates to funding organisations via plans.

“159ABA Outline of framework for planning, funding, and monitoring in tertiary education sector

- “(1) This section—

- “(a) sets out a general outline of the framework for planning, funding, and monitoring in the tertiary education sector; and
- “(b) is by way of explanation only.
- “(2) If any other section in this Act conflicts with this section, the other section prevails.
- “(3) The following steps describe, in general terms, how the framework for planning, funding, and monitoring in the tertiary education sector works:
 - “(a) the Minister determines the design of funding mechanisms and whether funding under those mechanisms is via plans:
 - “(b) the Commission develops the details of how to implement funding mechanisms:
 - “(c) the Commission issues guidance on what must be contained in proposed plans:
 - “(d) the Commission identifies criteria for assessing proposed plans:
 - “(e) an organisation prepares a proposed plan—
 - “(i) in consultation with the stakeholders the organisation considers ought to be consulted and any other persons specified by the Commission; and
 - “(ii) in a manner consistent with the Commission’s guidance:
 - “(f) the organisation submits its proposed plan to the Commission:
 - “(g) the Commission applies assessment criteria to the proposed plan and decides whether or not to give funding approval:
 - “(h) if the proposed plan is given funding approval, the Commission determines the amount of funding payable to the organisation by applying the appropriate funding mechanism:
 - “(i) if an organisation’s proposed plan receives funding approval, the Commission monitors the organisation’s performance to determine if it is achieving, or has achieved, the outcomes it has specified in its plan.”

13 Composition of Commission

Section 159D(2) is amended by omitting “(other than a replacement member appointed under clause 11(1) of Schedule 13A)”.

14 Functions of Commission

(1) Section 159F(1) is amended by repealing paragraph (a) and substituting the following paragraph:

- “(a) to give effect to the tertiary education strategy by—
- “(i) prescribing and publishing guidance on the content of, and processes associated with seeking funding approval for, proposed plans; and
 - “(ii) prescribing and publishing guidance on the criteria the Commission will use to assess proposed plans; and
 - “(iii) assessing proposed plans and deciding whether they will receive funding approval by applying the relevant assessment criteria; and
 - “(iv) determining the amount of funding payable to organisations by applying the appropriate funding mechanisms; and
 - “(v) allocating funding to organisations that have plans; and
 - “(vi) allocating funding to organisations that are not required to have plans in order to receive funding; and
 - “(vii) prescribing what plan summaries must contain for the purposes of public inspection; and
 - “(viii) building the capability of organisations; and”.

(2) Section 159F(1)(b) is amended by repealing subparagraphs (i) and (ii) and substituting the following subparagraphs:

- “(i) the tertiary education strategy; and
- “(ii) the activities and performance of the tertiary education sector generally; and”.

(3) Section 159F(1) is amended by inserting the following paragraphs after paragraph (b):

- “(ba) to develop details of how to implement funding mechanisms; and
- “(bb) to implement funding mechanisms; and”.

(4) Section 159F(1) is amended by repealing paragraph (d) and substituting the following paragraphs:

- “(d) to monitor the performance of organisations that receive funding from the Commission including by measuring performance against specified outcomes; and
- “(da) to undertake any functions that the Minister directs the Commission to undertake under section 159J; and”.
- (5) Section 159F(1)(e) is amended by omitting “section 159ZC” and substituting “section 159YA or 159ZC”.

15 Delegation of functions or powers of Minister

Section 159I is amended by repealing subsection (1) and substituting the following subsection:

- “(1) The Minister may, either generally or specifically, delegate to the Commission all or any of the Minister’s functions and powers under this Act (other than those referred to in section 159L) or any other Act, including functions or powers delegated to the Minister under this Act or any other Act.”

16 Minister may direct Commission

- (1) Section 159J is amended by inserting the following subsection after subsection (3):
- “(3A) The Minister may, in accordance with section 112 of the Crown Entities Act 2004, direct the Commission to undertake additional functions that are consistent with the Commission’s objectives.”
- (2) Section 159J(4) is amended by omitting “section 159ZC” and substituting “section 159YA or 159ZC”.

17 New section 159KBA inserted

The following section is inserted after section 159KB:

“159KBA Monitoring and reporting function of chief executive in relation to institutions

The chief executive of the Commission—

- “(a) must, on an ongoing basis, monitor institutions that receive funding under this Part in order to assess whether the operation or long-term viability of any of those institutions is at risk; and
- “(b) may report from time to time to the Minister on the outcome of that monitoring.”

18 Statement of intent

Section 159KE(1)(a)(i) is amended by omitting “statement of tertiary education priorities” and substituting “tertiary education strategy”.

19 Annual report

Section 159KF(1) is amended by omitting “implementing” and substituting “giving effect to”.

20 New headings and sections 159L to 159YO substituted

Sections 159L to 159Z and the headings above sections 159L and 159W are repealed and the following headings and sections substituted:

“Funding mechanisms

“159L Minister determines design of funding mechanisms

- “(1) The Minister must, from time to time, determine the design of the funding mechanisms that the Commission must use to fund organisations.
- “(2) Without limiting subsection (1), in making a determination under that subsection, the Minister must—
- “(a) identify the general form and essential components of each funding mechanism; and
 - “(b) indicate which of the funding mechanisms relates to—
 - “(i) funding to be paid by the Commission under section 159YA (relating to funding organisations via plans); and
 - “(ii) funding to be paid by the Commission under section 159ZC (relating to funding organisations under this Part other than via plans); and
 - “(iii) other types of funding (if any).
- “(3) Without limiting subsection (1), in making a determination under that subsection, the Minister may—
- “(a) specify the amount of money, or the proportion of an amount of money, available under any particular funding mechanism; and
 - “(b) provide for funding to different groups of organisations or types of organisation; and

- “(c) provide for different versions of, or modifications to, a funding mechanism when applying it to different groups of organisations or types of organisation; and
- “(d) specify conditions that the Commission must attach to funding that is provided under any funding mechanism including, without limitation, conditions setting limits on the fees that an organisation may charge domestic students; and
- “(e) provide for funding that targets particular groups of students.

“159M Restrictions on design of funding mechanisms

In determining a design for a funding mechanism under section 159L, the Minister may not—

- “(a) identify a specified organisation or organisations to which funding is to be provided or denied under any funding mechanism; or
- “(b) specify conditions under section 159L(3)(d) that set limits on the fees that organisations may charge domestic students until 2 months after the date on which the Minister has published a notice in the *Gazette* that—
 - “(i) states that the Minister proposes to specify conditions of that kind; and
 - “(ii) sets out the proposed conditions; and
 - “(iii) invites submissions on the proposed conditions; and
 - “(iv) specifies the date by which submissions must be received, which must be a date no later than 21 days after the date of the *Gazette* notice.

“159N Funding mechanisms consistent with quality assurance principle

Every funding mechanism must be consistent with the principle that receiving public funds is dependent on an organisation meeting the quality assurance requirements in this Act.

“159O Commission to implement funding mechanisms

The Commission must—

- “(a) develop the details of how to implement the Minister’s determination of the design of funding mechanisms under section 159L; and
- “(b) implement the funding mechanisms.

“Requirements for, and content of proposed plans

“159P Requirements for proposed plans

A proposed plan must—

- “(a) describe how an organisation will give effect to the Government’s current and medium-term priorities as described in the tertiary education strategy; and
- “(b) describe how an organisation will address the needs of its stakeholders (including, without limitation, students enrolled with the organisation); and
- “(c) describe an organisation’s mission and role for the term of the plan; and
- “(d) set out a description of all—
 - “(i) tertiary education programmes run by the organisation for which the organisation is seeking funding under section 159YA and specify the amount of funding sought in relation to those programmes; and
 - “(ii) activities (including, without limitation, programmes and initiatives that will be undertaken by the organisation in order to build its capability) for which the organisation is seeking funding under section 159YA and specify the amount of funding sought in relation to those activities; and
- “(e) describe an organisation’s proposed outcomes (including, without limitation, in relation to the tertiary education programmes and activities described in paragraph (d)(i) and (ii) in relation to which funding is sought) and the performance indicators that the organisation will use to measure whether those outcomes have been achieved; and
- “(f) set out a description of all tertiary education programmes run by the organisation other than those in relation to which funding is sought.

“159Q Exemption from certain requirements for proposed plans

- “(1) The Commission may, by notice in writing, exempt an organisation from having to comply with the requirements in section 159P(f).
- “(2) The Commission may not exercise the power in subsection (1) in relation to an institution.
- “(3) Before exempting an organisation under subsection (1), the Commission must consider—
- “(a) the amount of funding sought by the organisation; and
 - “(b) the amount of funding already received by the organisation; and
 - “(c) the type and size of the organisation; and
 - “(d) the effective operation of the tertiary education system; and
 - “(e) the Government’s current and medium-term priorities as described in the tertiary education strategy; and
 - “(f) any other matters the Commission considers relevant.

“159R Content of, and processes for submitting, proposed plans prescribed by Commission

- “(1) The Commission must prescribe and give public notice of—
- “(a) the content of organisations’ proposed plans (being the particular matters that proposed plans must address or include in order to meet the requirements in section 159P); and
 - “(b) the kinds of background or supplementary information that the Commission requires an organisation to provide in relation to a proposed plan; and
 - “(c) the timetable and process for the submission of proposed plans to the Commission.
- “(2) When prescribing matters under subsection (1), the Commission may include—
- “(a) standard content, as well as different content applying to different organisations, groups of organisations, or types of organisation; and
 - “(b) different information, timetables, and processes for different organisations, groups of organisations, or types of organisation.

- “(3) Notices given under subsection (1) may be—
- “(a) given at different times; and
 - “(b) amended by the Commission.
- “(4) The Commission must give public notice of a significant amendment made under subsection (3)(b).

“159S Commission may exempt organisation from complying with certain matters

The Commission may, by notice in writing, exempt an organisation from complying with any of the matters it has prescribed under section 159R(1).

“Submitting proposed plan

“159T Who must submit proposed plan

- “(1) An organisation that is seeking funding from the Commission under a funding mechanism that provides for funding via plans must submit a proposed plan.
- “(2) Subsection (1) does not apply to an organisation that is exempt under section 159U.

“159U Exemption from requirement to submit proposed plan

- “(1) The Commission may, by notice in writing, exempt an organisation, a group of organisations, or a type of organisation that is seeking funding under a funding mechanism that provides for funding via plans from the requirement, in section 159T(1), to submit a proposed plan.
- “(2) The Commission may not exercise the power in subsection (1) in relation to an institution.
- “(3) The Commission may exempt an organisation, a group of organisations, or a type of organisation under subsection (1) for a specified period that the Commission considers appropriate.

“159V Frequency of submitting proposed plans

An organisation that is required to submit a proposed plan must submit a proposed plan to the Commission—

- “(a) at least once every 3 years; or
- “(b) if the Commission directs, at more frequent intervals specified by the Commission.

“159W Submitting combined proposed plan

The Commission may permit more than 1 organisation to prepare and submit a combined proposed plan if the Commission considers it appropriate.

*“Preparing and consulting on proposed plans***“159X Preparing and consulting on proposed plans**

- “(1) An organisation that is required to submit a proposed plan must prepare the proposed plan in accordance with this Part (including, unless it is exempt under section 159S, complying with the matters prescribed by the Commission under section 159R).
- “(2) A proposed plan must be prepared in consultation with—
- “(a) the stakeholders that the organisation considers ought to be consulted; and
 - “(b) any other person or group of persons that the Commission stipulates.
- “(3) An organisation must develop the content of its proposed plan in collaboration with the Commission, including collaborating with the Commission about ways in which the organisation can implement the matters prescribed by the Commission under section 159R.
- “(4) After completing the requirements in subsections (1) to (3), an organisation must submit its proposed plan to the Commission.

*“Assessment of proposed plans and giving of funding approval***“159Y Criteria for assessing proposed plans**

- “(1) The Commission must prescribe and give public notice of the criteria that the Commission will use to assess proposed plans to determine if they will receive funding approval.
- “(2) The prescribed criteria must include, without limitation, criteria for assessing—
- “(a) how an organisation contributes to the Government’s current and medium-term priorities described in the tertiary education strategy; and
 - “(b) the tertiary education programmes and activities of an organisation in relation to which funding is sought under section 159YA; and

- “(c) the performance indicators used in measuring whether the specified outcomes relating to those tertiary education programmes and activities are being or have been achieved; and
 - “(d) the extent and nature of an organisation’s consultation over its proposed plan.
- “(3) When prescribing matters under subsection (1), the Commission may include standard criteria, as well as different criteria applying to different organisations, groups of organisations, or types of organisation.
- “(4) Notices given under subsection (1) may be—
- “(a) given at different times; and
 - “(b) amended by the Commission.
- “(5) The Commission must give public notice of a significant amendment made under subsection (4)(b).

“159YA Commission’s assessment of proposed plans, giving of funding approval, and payment of funding

- “(1) The Commission must assess whether a proposed plan will receive funding approval by applying the assessment criteria prescribed under section 159Y.
- “(2) After applying the assessment criteria, the Commission may decide to—
- “(a) fund (in whole or in part) all of the tertiary education programmes and activities described in the proposed plan under section 159P(d)(i) and (ii) in relation to which funding is sought; or
 - “(b) fund (in whole or in part) some of the tertiary education programmes and activities described in the proposed plan under section 159P(d)(i) and (ii) in relation to which funding is sought; or
 - “(c) not fund any of the tertiary education programmes or activities described in the proposed plan under section 159P(d)(i) and (ii) in relation to which funding is sought.
- “(3) Before deciding not to fund some or any, or part of some or any, of the tertiary education programmes or activities de-

scribed in the proposed plan under section 159P(d)(i) and (ii) in relation to which funding is sought, the Commission must—

- “(a) notify the organisation of its proposed decision; and
- “(b) give the organisation a reasonable opportunity to be heard.

“(4) The Commission must give its reasons to the affected organisation if it decides not to fund some or any, or part of some or any, of the tertiary education programmes or activities described in the proposed plan under section 159P(d)(i) and (ii) in relation to which funding is sought.

“(5) In deciding to give funding approval, the Commission must—

- “(a) specify the date from which that funding approval has effect; and
- “(b) determine the amount of funding payable to the organisation by applying the appropriate funding mechanism; and
- “(c) arrange for the payment to the organisation of the amount of funding determined under paragraph (b).

“159YB Commission may decline to assess proposed plan

“(1) The Commission may decline to assess a proposed plan under section 159YA if the Commission is satisfied on reasonable grounds that the proposed plan does not adequately satisfy the requirements of this Part (including, unless the organisation is exempt under section 159S, complying with the matters prescribed by the Commission under section 159R).

“(2) Before making a decision to decline to assess an organisation’s proposed plan, the Commission must discuss with the organisation why the proposed plan does not adequately satisfy the requirements of this Part.

“(3) The Commission must give its reasons to the affected organisation if it declines to assess the organisation’s proposed plan.

“159YC Conditions on receiving funding under section 159YA

“(1) It is a condition of an organisation receiving funding under section 159YA that the organisation will supply to the Commission or Ministry, from time to time as required by the Commission or Ministry, and in a form specified by the Commis-

sion or Ministry, any financial, statistical, or other information that the Commission or Ministry requires the organisation to supply.

- “(2) The Commission may give funding approval subject to conditions, but only if the conditions are—
- “(a) conditions the Minister has determined the Commission must attach to funding under section 159L(3)(d); or
 - “(b) conditions that the Commission considers necessary to ensure that the specified outcomes in a plan that relate to tertiary education programmes and activities in relation to which funding is being given are being achieved or will be achieved.
- “(3) The Commission may at any time (including during a funding period) amend any condition imposed under subsection (2).
- “(4) The amendment to the condition takes effect when the organisation has been given reasonable notice of it.

“159YD Accountability for funding received under section 159YA

- “(1) An organisation (other than an institution) that receives funding under section 159YA must ensure that—
- “(a) it keeps records, in a form consistent with that required by the Commission, for the period to which the funding relates, that fully and fairly show—
 - “(i) the transactions, assets, liabilities, and funds of the organisation that are or were affected by the funding; and
 - “(ii) whether any conditions on which the funding approval was given have been complied with; and
 - “(b) the records are available for inspection by the Commission at all reasonable times.
- “(2) As soon as practicable after the end of any year in which an organisation (other than an institution) receives funding under section 159YA, the organisation must provide the Commission with—
- “(a) a financial report of the organisation for that year, including a statement of financial performance, a statement of financial position, a statement of movements in equity, a statement of cash flows, and a statement of ser-

- vice performance that compares the performance of the organisation with the outcomes specified in the organisation's plan as measured by the performance indicators specified in the organisation's plan; and
- “(b) any financial reports, or statistical or other information, required by the Commission; and
 - “(c) any information necessary to demonstrate compliance with any condition attached to the funding.
- “(3) A report required under subsection (2)(a) must be prepared in accordance with generally accepted accounting practice and must be audited by an independent chartered accountant.
- “(4) The Commission may exempt any organisation, group of organisations, or types of organisation from complying with 1 or more of the requirements set out in subsections (2) and (3).
- “(5) In exercising the powers conferred on it by subsection (4), the Commission must have regard to—
- “(a) the amount of funding sought by the organisation; and
 - “(b) the amount of funding received by the organisation; and
 - “(c) the type and size of the organisation; and
 - “(d) any other matters that the Commission considers relevant.
- “(6) Section 203 sets out the accountability requirements for institutions.

“Expiry of funding approval

“159YE Expiry of funding approval

- “(1) Every plan that has funding approval must specify the date on which funding approval expires (the **expiry date**), which must be a date determined by the Commission that is no later than 3 years after the date on which the funding approval takes effect.
- “(2) Funding approval expires on the expiry date, unless funding approval is earlier revoked under this Part.
- “(3) Despite subsection (2), if, on the expiry date, an organisation is discussing a proposed plan with the Commission or the proposed plan is awaiting funding approval under this Part, the funding approval for the existing plan continues in effect until the earlier of the following dates:

- “(a) the date that is 6 months after the expiry date of the existing funding approval; or
- “(b) the date that funding approval for the proposed plan comes into effect.

“159YF Effect of expiry of funding approval

The effect of the expiry of funding approval is that—

- “(a) the plan to which funding approval relates expires; and
- “(b) the Commission must cease payment, or cease any or all further payments, of funding under section 159YA in respect of that plan.

*“Suspension or revocation of funding given
under section 159YA*

**“159YG Commission may suspend or revoke funding given
under section 159YA**

- “(1) The Commission may suspend or revoke some or all funding given under section 159YA if it is satisfied on reasonable grounds that—
 - “(a) an organisation has not complied, or is not complying, with a condition on which funding has been given under section 159YA; or
 - “(b) when measured against performance indicators, the organisation has not achieved, or is not achieving, an outcome anticipated in its plan for a tertiary education programme or activity in relation to which funding has been given under section 159YA; or
 - “(c) the organisation has not provided, or is not providing, adequate and timely information required by the Commission or Ministry under section 159YC.
- “(2) Before deciding whether to suspend or revoke some or all funding given under section 159YA, the Commission must—
 - “(a) notify the organisation of the specific matters of concern; and
 - “(b) give the organisation a reasonable opportunity to be heard.

- “(3) The Commission must give its reasons to an organisation if it decides to suspend or revoke some or all funding given under section 159YA.
- “(4) The Commission must advise an organisation of the following matters if it decides to suspend some or all funding given under section 159YA:
- “(a) the date on which the suspension will end and, as a consequence, some or all funding will be revoked; and
 - “(b) what action the organisation must take in order to have the suspension lifted and avoid some or all funding being revoked.
- “(5) A suspension must be for a period that the Commission considers reasonable, having considered—
- “(a) the specific matters referred to in subsection (2)(a); and
 - “(b) the action referred to in subsection (4)(b).

“159YH Extending suspension of funding

- “(1) The date on which a suspension ends under section 159YG(4)(a) may be extended by the Commission.
- “(2) The Commission must advise an organisation of the following matters if it decides to extend the date on which a suspension will end:
- “(a) the date on which the extended suspension will end and, as a consequence, some or all funding for all or part of the plan will be revoked; and
 - “(b) what action the organisation must take in order to have the extended suspension lifted and avoid some or all funding for all or part of the plan being revoked.
- “(3) An extension of a suspension must be for a period that the Commission considers reasonable, having considered—
- “(a) the specific matters referred to in section 159YG(2)(a); and
 - “(b) the action referred to in section 159YG(4)(b).

“159YI Effect of suspending or revoking funding given under section 159YA

- “(1) The effect of suspending funding given under section 159YA is that the Commission must cease payment, or cease any or

all further payments, of funding given under section 159YA in respect of the plan or part of the plan in relation to which funding has been suspended.

- “(2) The effect of revoking funding given under section 159YA is that—
- “(a) the plan or part of the plan to which the funding relates is revoked; and
 - “(b) the Commission must cease payment, or cease any or all further payments, of funding under section 159YA in respect of the plan or part of the plan in relation to which funding has been revoked.

“159YJ Review of decision by delegate to suspend or revoke funding given under section 159YA

- “(1) Subsection (2) applies to an organisation in relation to which a person has exercised any of the following powers under a delegation from the Commission under section 73 of the Crown Entities Act 2004:
- “(a) suspending funding under section 159YG; or
 - “(b) revoking funding under section 159YG; or
 - “(c) extending the suspension of funding under section 159YH.
- “(2) An organisation to which this subsection applies may ask the Commission to review the decision of the delegate.

“Amending or replacing plans

“159YK Organisation may seek approval for significant amendment, or replacement, of plan

- “(1) In this section and sections 159YL to 159YN, **significant amendment** means an amendment to a plan that relates to—
- “(a) a tertiary education programme or an activity in relation to which funding has been given under section 159YA; or
 - “(b) any of the performance indicators that an organisation uses to measure whether proposed outcomes for tertiary education programmes or activities in relation to which funding has been given under section 159YA are being or have been achieved.

- “(2) An organisation may, at any time, ask the Commission to approve a significant amendment to, or the replacement of, a plan.
- “(3) An organisation that proposes to make a significant amendment to, or to replace, a plan must consult with—
- “(a) the stakeholders that the organisation considers ought to be consulted; and
 - “(b) any other person or group that the Commission stipulates.
- “(4) An organisation that proposes a significant amendment to, or replacement of, a plan must prepare the significant amendment or replacement in collaboration with the Commission, including collaborating with the Commission about ways in which the organisation can implement the matters prescribed by the Commission under subsection (5).
- “(5) The Commission may prescribe the requirements for the following in relation to a significant amendment to, or a replacement of, a plan:
- “(a) the content of the significant amendment or replacement (which may be the same as the matters prescribed by the Commission under section 159R);
 - “(b) criteria for assessing the significant amendment or replacement (which may be the same as those prescribed by the Commission under section 159Y).
- “(6) In applying the requirements in subsection (5) in order to determine whether or not to approve a significant amendment to, or replacement of, a plan, the Commission must take into account—
- “(a) the extent of the significant amendment or replacement; and
 - “(b) the impact of the significant amendment or replacement on the needs of the stakeholders and any other persons consulted by the organisation under subsection (3).
- “(7) The Commission may, at any time, require an organisation to review a plan with a view to amending or replacing it.
- “(8) Nothing in this section prohibits an organisation from making an amendment to a plan that is not a significant amendment.

“159YL Effect of significant amendment or replacement of plan under section 159YK

- “(1) If the Commission approves a significant amendment to a plan, the significant amendment—
- “(a) forms part of the plan it amends; and
 - “(b) takes effect on the date specified by the Commission.
- “(2) If the Commission approves a replacement plan under section 159YK, the replacement plan—
- “(a) takes effect on the date specified by the Commission; and
 - “(b) is treated as revoking the plan it replaces.

“159YM Commission may make significant amendment to plan

- “(1) The Commission may, at any time, on its own initiative, propose a significant amendment to an organisation’s plan if it is satisfied that the significant amendment is reasonably necessary to ensure accountability for public funding.
- “(2) If the Commission proposes a significant amendment to an organisation’s plan under subsection (1), it must prepare it in collaboration with the organisation (including giving the organisation a reasonable period to consult the stakeholders it considers ought to be consulted).
- “(3) After collaborating with the organisation on the proposed significant amendment, the Commission must, if it decides to proceed with the significant amendment, determine the content of the significant amendment and give the organisation a reasonable opportunity to make submissions on it.
- “(4) After considering any submissions made by the organisation, the Commission may—
- “(a) approve the proposed significant amendment (with further amendment if necessary); or
 - “(b) abandon the proposed significant amendment.

“159YN Effect of significant amendment made to plan under section 159YM

A significant amendment made to a plan under section 159YM—

- “(a) forms part of the plan it amends; and

“(b) takes effect on the date specified by the Commission.

“Plan summary

“159YO Summary of plans

- “(1) The Commission must prescribe and give public notice of the matters that an organisation that has a plan must include in a plan summary.
- “(2) An organisation that has a plan must ensure that—
- “(a) a plan summary is available for inspection by the public; and
 - “(b) copies of that plan summary may be obtained either at no cost or no more than a reasonable cost; and
 - “(c) the plan summary contains the matters prescribed under subsection (1).”

21 New heading and sections 159ZC to 159ZH substituted

Sections 159ZA to 159ZF and the heading above section 159ZA are repealed and the following heading and sections substituted:

“Funding under this Part other than via plans

“159ZC Funding other than via plans

- “(1) If a funding mechanism provides for funding for an organisation other than via plans, the Commission may, under this section, fund that organisation in accordance with that funding mechanism.
- “(2) Nothing in subsection (1) limits the Commission’s powers to fund organisations in other ways under a delegated authority or another enactment.

“159ZD Conditions on funding received under section 159ZC

- “(1) It is a condition of receiving funding under section 159ZC that the recipient will supply to the Commission or Ministry, from time to time as required by the Commission or Ministry, and in a form specified by the Commission or Ministry, any financial, statistical, or other information that the Commission or Ministry requires the organisation to supply.
- “(2) The Commission may impose conditions on funding received by an organisation under section 159ZC, but only if the Min-

ister has provided that, under the funding mechanism under which that funding is provided,—

“(a) any or specified conditions may be imposed; or

“(b) specified conditions must be imposed.

“(3) The Commission may at any time (including during a funding period) amend any condition imposed under subsection (2).

“(4) An amendment to a condition takes effect when the organisation has been given reasonable notice of it.

“159ZE Accountability for funding received under section 159ZC

“(1) An organisation (other than an institution) that receives funding under section 159ZC must ensure that—

“(a) it keeps records, in a form consistent with that required by the Commission, for the period to which the funding relates, that fully and fairly show—

“(i) the transactions, assets, liabilities, and funds of the organisation that are or were affected by the funding; and

“(ii) whether any conditions on which the grant was made have been complied with; and

“(b) the records are available for inspection by the Commission at all reasonable times.

“(2) As soon as practicable after the end of any year in which an organisation (other than an institution) receives funding under section 159ZC, the organisation must provide the Commission with—

“(a) a financial report of the organisation for that year, including a statement of financial performance, a statement of financial position, a statement of movements in equity, a statement of cash flows, and a statement of service performance that compares the performance of the organisation with the outcomes agreed with the Commission as measured by any performance indicators agreed with the Commission; and

“(b) any financial reports, or statistical or other information, required by the Commission; and

“(c) any information necessary to demonstrate compliance with any condition attached to the funding.

- “(3) A report required under subsection (2)(a) must be prepared in accordance with generally accepted accounting practice and must be audited by an independent chartered accountant.
- “(4) The Commission may exempt any organisation, group of organisations, or type of organisation from complying with 1 or more of the requirements set out in subsections (2) and (3).
- “(5) In exercising the powers conferred on it by subsection (4), the Commission must have regard to—
- “(a) the amount of funding sought by the organisation; and
 - “(b) the amount of funding received by the organisation; and
 - “(c) the type and size of the organisation; and
 - “(d) any other matters that the Commission considers relevant.
- “(6) Section 203 sets out the accountability requirements for institutions.

“159ZF Commission may suspend or revoke funding given under section 159ZC

- “(1) The Commission may suspend or revoke payment, or any or all further payments, of any funding given to an organisation under section 159ZC if the Commission is satisfied on reasonable grounds that the organisation—
- “(a) has not complied, or is not complying, with a condition on which the funding was given; or
 - “(b) is not providing, or has not provided, adequate and timely information required by the Commission or Ministry under section 159ZD.
- “(2) Before deciding whether to suspend or revoke payment under subsection (1), the Commission must—
- “(a) notify the organisation of the specific matters of concern; and
 - “(b) give the organisation a reasonable opportunity to be heard.
- “(3) The Commission must give its reasons to an organisation if it decides to suspend or revoke the organisation’s funding.
- “(4) The Commission must specify the following matters if it decides to suspend funding under subsection (1):

- “(a) the date on which the suspension will end and, as a consequence, the funding will be revoked; and
- “(b) what action the organisation must take in order to have the suspension lifted and avoid funding being revoked.

“159ZG Extending suspension of funding

- “(1) The date on which a suspension ends under section 159ZF(4)(a) may be extended by the Commission.
- “(2) The Commission must advise an organisation of the following matters if it decides to extend the date on which a suspension will end:
 - “(a) the date on which the extended suspension will end and, as a consequence, funding will be revoked; and
 - “(b) what action the organisation must take in order to have the extended suspension lifted and avoid funding being revoked.
- “(3) An extension of a suspension must be for a period that the Commission considers reasonable having considered—
 - “(a) the specific matters referred to in section 159ZF(2)(a); and
 - “(b) the action referred to in section 159ZF(4)(b).

“159ZH Review of decision made by delegate to suspend or revoke funding under section 159ZC

- “(1) Subsection (2) applies to an organisation in relation to which a person has exercised any of the following powers under a delegation from the Commission under section 73 of the Crown Entities Act 2004:
 - “(a) suspending the organisation’s funding under section 159ZF; or
 - “(b) revoking the organisation’s funding under section 159ZF; or
 - “(c) extending the suspension of the organisation’s funding under section 159ZG.
- “(2) An organisation to which this subsection applies may ask the Commission to review the decision of the delegate.”

22 Functions of councils

- (1) Section 180(1) is amended by repealing paragraphs (b) to (e) and substituting the following paragraphs:
- “(b) to prepare and submit a proposed plan if the institution is seeking funding under a funding mechanism that provides for funding via plans:
- “(c) if the institution has a plan,—
- “(i) to ensure that the institution is managed in accordance with that plan; and
- “(ii) to determine policies to implement that plan:
- “(d) to determine, subject to the State Sector Act 1988, the policies of the institution in relation to the management of its affairs:
- “(e) to undertake planning relating to the institution’s long-term strategic direction.”
- (2) Section 180 is amended by repealing subsection (2).

23 Section 191A and heading above section 191A repealed

Section 191A and the heading above section 191A are repealed.

24 Powers of institutions

Section 192(5)(b) is amended by omitting “5 years” and substituting “15 years”.

25 Institutions to provide information if required

- (1) Section 195B(1) is amended by omitting “Secretary” and substituting “chief executive of the Commission”.
- (2) Section 195B(2) is amended by omitting “Secretary” in each place where it appears and substituting in each case “chief executive of the Commission”.
- (3) Section 195B(3) is amended by omitting “Secretary” and substituting “chief executive of the Commission”.
- (4) Section 195B(4) is amended by omitting “Secretary” and substituting “chief executive of the Commission”.
- (5) Section 195B is amended by adding the following subsection:
- “(5) In this section, **Commission** means the Tertiary Education Commission established under section 159C.”

26 New section 195DA inserted

The following section is inserted after section 195D:

“195DA Protection of commissioners

A commissioner appointed under section 195D(1) is not personally liable for an act he or she has done or omitted to do, or for any loss arising from that act or omission, if he or she was acting—

“(a) in good faith; and

“(b) in the course of carrying out his or her powers, functions, or duties.”

27 Powers and functions of commissioner

Section 195E(1) is amended by omitting “the institution’s charter” and substituting “, in the case of an institution that has a plan, that plan”.

28 How institutions may use income and capital

Section 201A(1) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) apply its income and capital in doing whatever the council thinks will—

“(i) enable the institution to carry out the functions characteristic of an institution of the class to which the institution belongs; and

“(ii) in the case of an institution that has a plan, enable the institution to achieve the outcomes set out in that plan; and”.

29 Transfer of Crown assets and liabilities to institutions

Section 206(2) is amended by omitting “subsection (1) of this section” and substituting “subsection (1)(a) and (b)”.

30 Annual report

Section 220(2A)(f) is repealed and the following paragraph substituted:

“(f) in the case of an institution that has a plan, a statement of service performance for that financial year reporting on the

performance of the institution as compared with the proposed outcomes described in that plan.”

31 Fees for domestic students

Section 227(1A) is amended by—

- (a) omitting “section 159ZC” and substituting “section 159YA or 159ZC”; and
- (b) omitting “section 159ZD(2)” and substituting “section 159YC or 159ZD(2) (whichever is applicable)”.

32 Fees for foreign students

Section 228(2A) is amended by omitting “section 159ZC” and substituting “section 159YA or 159ZC”.

33 Fees for domestic students must not exceed maximums set in conditions of funding

Section 236C is amended by—

- (a) omitting “section 159ZC” and substituting “section 159YA or 159ZC”; and
- (b) omitting “section 159ZD(2)” and substituting “section 159YC or 159ZD(2) (whichever is applicable)”.

34 Interpretation

The definition of **provider** in section 238D is amended by omitting “section 159ZC” and substituting “section 159YA or 159ZC”.

35 Functions of Authority

- (1) Section 253(1) is amended by inserting the following paragraph after paragraph (e):
“(ea) to establish policies and criteria relating to the quality assurance of providers of adult and community education.”
- (2) Section 253(2) is amended by omitting “or (e)” and substituting “(e), or (ea)”.
- (3) Section 253(2) is amended by inserting the following paragraph after paragraph (a):
“(ab) in the case of criteria or policies in respect of bodies that are providing adult and community education, consult—

- “(i) those bodies; or
- “(ii) a body that represents the interests of those bodies; and”.

- (4) Section 253(3) is amended by omitting “and (e)” and substituting “(e), and (ea)”.

36 Power to obtain information

Section 255 is amended by inserting the following subsection before subsection (1):

- “(1AA) In this section, **institution** includes institutions, government training establishments, registered establishments, secondary schools, and other bodies.”

37 Service continued for purposes of Part 22

- (1) Section 279 is amended by omitting the heading and substituting the following heading: “**Career Services is service for purposes of this Part**”.
- (2) Section 279(1) is amended by omitting “by the name for the time being specified under section 301A” and substituting “as Career Services”.
- (3) Section 279 is amended by repealing subsection (6) and substituting the following subsection:
- “(6) The Service is the same body as the Service that existed under this section immediately before the commencement of section 49 of the Education Amendment Act (No 2) 1998.”

38 Functions of Service

Section 280(1)(a) is amended by omitting “data base” and substituting “database”.

39 Duties of Board

Section 282(a) is amended by omitting “data base” and substituting “database”.

40 Transitional provision: institutions and organisations with approved charters and approved profiles

- (1) Subsection (2) applies to—

- (a) an institution that, immediately before this Act comes into force, has an approved charter and approved profile under the Education Act 1989; and
 - (b) an organisation (other than an institution) that, immediately before this Act comes into force, has an approved charter and approved profile under the Education Act 1989.
- (2) On the coming into force of this Act, an institution or organisation to which this subsection applies is to be treated as an institution or organisation that has a plan that has been given funding approval under the Education Act 1989 (as amended by this Act) that takes effect from the date on which this Act comes into force.

41 Transitional provision: organisations with approved charters that are exempt from need to have profile

- (1) Subsection (2) applies to an organisation that, immediately before this Act comes into force,—
- (a) has an approved charter under the Education Act 1989; but
 - (b) is exempt from the need to have a profile under the Education Act 1989.
- (2) On the coming into force of this Act, an organisation to which this subsection applies is to be treated as an organisation that the Commission has exempted, under section 159U (as substituted by section 20 of this Act), from being required to submit a proposed plan in order to receive funding under a funding mechanism that provides for funding via plans, until the Commission decides that the organisation is no longer exempt under section 159U.

42 Transitional provision: organisations with approved profile and exempt from need to have charter

- (1) Subsection (2) applies to an organisation that, immediately before this Act comes into force,—
- (a) has an approved profile under the Education Act 1989; but
 - (b) is exempt from the need to have a charter under the Education Act 1989.

- (2) On the coming into force of this Act, an organisation to which this subsection applies is to be treated as an organisation that the Commission has exempted, under section 159U (as substituted by section 20 of this Act), from being required to submit a proposed plan in order to receive funding under a funding mechanism that provides for funding via plans, until the Commission decides that the organisation is no longer exempt under section 159U.

43 Transitional provision: organisations exempt from need to have profile and charter

- (1) Subsection (2) applies to an organisation that, immediately before this Act comes into force,—
- (a) is exempt from the need to have a profile under the Education Act 1989; and
 - (b) is exempt from the need to have a charter under the Education Act 1989.
- (2) On the coming into force of this Act, an organisation to which this subsection applies is to be treated as an organisation that the Commission has exempted, under section 159U (as substituted by section 20 of this Act), from being required to submit a proposed plan in order to receive funding under a funding mechanism that provides for funding via plans, until the Commission decides that the organisation is no longer exempt under section 159U.

44 Transitional provision: organisations funded under section 159ZC(3)

- (1) Subsection (2) applies to an organisation that immediately before this Act comes into force is funded under section 159ZC(3) of the Education Act 1989.
- (2) On the coming into force of this Act, an organisation to which this subsection applies is to be treated as an organisation that the Commission has decided to fund under section 159ZC(1) of the Education Act 1989 (as amended by this Act) for the remainder of the funding period to which the section 159ZC(3) funding relates.

45 Transitional provision: tertiary education strategy and statement of tertiary education priorities

- (1) Subsection (2) applies to the tertiary education strategy and the statement of tertiary education priorities in existence immediately before this Act comes into force.
- (2) On the coming into force of this Act, the documents to which this subsection applies must, when read together, be treated as if they are a tertiary education strategy made under section 159AA of the Education Act 1989 (as substituted by section 7 of this Act).

46 Transitional provision: funding mechanisms

- (1) Subsection (2) applies to funding mechanisms that fund organisations that have approved profiles that are determined and implemented under the Education Act 1989 immediately before this Act comes into force.
- (2) On the coming into force of this Act, a funding mechanism to which this subsection applies is treated as a funding mechanism that provides for funding via plans determined and implemented under the Education Act 1989 (as amended by this Act).
- (3) Subsection (4) applies to funding mechanisms that, immediately before this Act comes into force, fund organisations that do not have profiles.
- (4) On the coming into force of this Act, a funding mechanism to which this subsection applies must be treated as if it is a funding mechanism to fund organisations other than via plans determined and implemented under the Education Act 1989 (as amended by this Act).

47 Validation of determination of design of funding mechanism for student component fund

- (1) In this section,—
consequences, in relation to any action, or any failure or refusal to act, includes the availability of any power (on the part of any person) to take action in respect of, or because of, the action, failure, or refusal

Minister means the Minister for Tertiary Education

SCF funding determination means the determination of the Minister, communicated to the chair of the Tertiary Education Commission by a letter dated 23 January 2007, specifying amendments to the design of the funding mechanism for the student component fund.

- (2) The SCF funding determination must be treated as being, and having always been, as valid and effectual as it would have been if the Minister had taken the actions described in subsection (4).
- (3) The validity or invalidity, and the consequences, of any action (and of any failure or refusal to act) of any person, whether occurring before or after the commencement of this section, must be determined as if the Minister had taken the actions described in subsection (4).
- (4) The actions referred to in subsections (2) and (3) are—
 - (a) more than 2 months before 23 January 2007, publishing in the *Gazette* a notice, complying in all respects with former section 159ZA of the principal Act, relating to all the new or amended conditions setting limits on the fees that organisations may charge domestic students that were in fact specified in the SCF determination (whether directly, or by the modification of the application of existing conditions); and
 - (b) before making the SCF determination, considering all submissions received before the specified date.

Part 2

Related amendments to other enactments

Amendments to Industry Training Act 1992

48 Principal Act amended

Sections 49 to 52 amend the Industry Training Act 1992.

49 Interpretation

- (1) The definitions of **profile** and **statement of tertiary education priorities** in section 2 are repealed.
- (2) Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:

“**funding approval** means a decision made by the Commission under section 159YA of the Education Act 1989 to fund (in whole or in part) some or all of the activities described in section 10(2) in relation to which funding is sought

“**plan** means a plan in relation to which funding approval has been given

“**proposed plan** means a proposed plan in relation to which an organisation is seeking funding for activities in section 10(2) under section 159YA of the Education Act 1989”.

50 Industry training organisation’s profile must identify activities for which it seeks funding

- (1) The heading to section 10 is amended by omitting “**profile**” and substituting “**proposed plan**”.
- (2) Section 10 is amended by repealing subsection (1) and substituting the following subsection:
 - “(1) An industry training organisation that seeks funding under a funding mechanism that provides for funding via plans (as indicated by the Minister under section 159L(2)(b) of the Education Act 1989) must—
 - “(a) prepare a proposed plan in accordance with section 159X of the Education Act 1989; and
 - “(b) specify in the proposed plan the activities set out in subsection (2) in relation to which funding is sought; and
 - “(c) submit the proposed plan for consideration of funding approval under section 159YA of that Act.”
- (3) Section 10(3) is amended by omitting “profile” in each place where it appears and substituting in each case “proposed plan”.
- (4) Section 10 is amended by repealing subsection (4) and substituting the following subsection:
 - “(4) Nothing in this section limits any other requirement as to the content of proposed plans that may be specified by the Commission under Part 13A of the Education Act 1989.”

51 Power to fund if employer switches industry training organisation

Section 10A is amended by omitting “approve, for funding purposes, the profile of” and substituting “give funding approval to a proposed plan of”.

52 Matters to which Commission must have regard in determining whether to approve profile for funding purposes

- (1) The heading to section 11 is amended by omitting “**approve profile for funding purposes**” and substituting “**give funding approval to proposed plan**”.
- (2) Section 11 is amended by omitting “approve an industry training organisation’s profile, or a part of its profile, for funding purposes” and substituting “give an industry training organisation’s proposed plan funding approval”.

Legislative history

2 May 2007	Introduction (Bill 114-1)
9 May 2007	First reading and referral to Education and Science Committee
13 November 2007	Second reading (Bill 114-2)
15, 20 November 2007	Committee of the whole House
11 December 2007	Third reading
