

**Reprint
as at 19 May 2017**



Education Amendment Act 2010

Public Act 2010 No 25
Date of assent 19 May 2010
Commencement see section 2

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education Amendment Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to principal Act

3 Principal Act amended

This Part amends the Education Act 1989.

4 Interpretation

- (1) The definition of **State school** in section 2(1) is amended by omitting “or a secondary school” and substituting “a secondary school, or a special school”.
- (2) Section 2 is amended by repealing subsection (2) and substituting the following subsection:

(2) In this Part, and Parts 2 and 3, unless the context otherwise requires, a **special school, special class, special clinic, or special service** means a school, class, clinic, or service established under section 98(1) of the Education Act 1964 as a special school, special class, special clinic, or special service respectively.

5 Enrolment of foreign students

Section 4(1)(b) is amended by omitting “concerned; but” and substituting “concerned.”

6 Special education

The compare note for section 9 is repealed.

7 Right of reconsideration

The compare note for section 10 is repealed.

8 How a school defines its home zone

Section 11E(2)(c) is amended by omitting “which” and substituting “that”.

9 Amendment of enrolment scheme

Section 11M(3) is amended by omitting “enrolment scheme, in order” and substituting “enrolment scheme in order”.

10 Obligation to report to Parliament on enrolment schemes

Section 11Q(1) is amended by omitting “sector which” and substituting “sector that”.

11 Long term exemptions from enrolment

The compare note for section 21 is repealed.

12 Effect of exemption

The compare note for section 23 is repealed.

13 Penalty for irregular attendance

Section 29(1) is amended by omitting “person who—” and substituting “person who,—”.

14 Fines to be paid to boards

Section 35 is amended by omitting “and shall then become part of the board fund”.

15 Registration and inspection of private schools

Section 35A is amended by repealing subsection (9) and substituting the following subsection:

(9) The Chief Review Officer must ensure that—

- (a) a school, while registered under this section, is reviewed in accordance with Part 28; and
- (b) the review officer who conducts a review—
 - (i) prepares a written report on the review; and
 - (ii) gives copies of it to the Secretary and the school’s principal (or other chief executive) and managers.

16 Interpretation

- (1) Section 60 is amended by omitting “and Part 8” and substituting “Part 7A, and Part 8”.
- (2) Paragraph (a) of the definition of **board** in section 60 is amended by omitting “school means” and substituting “school, means”.
- (3) Section 60 is amended by repealing the definition of **domestic student** and substituting the following definition:

domestic student has the same meaning as in section 2(1)

- (4) Section 60 is amended by repealing the definition of **foreign student** and substituting the following definition:

foreign student has the same meaning as in section 2(1)

- (5) Section 60 is amended by inserting the following definitions in their appropriate alphabetical order:

Teachers Council means the New Zealand Teachers Council established under Part 10A

unsupervised access to students, in relation to a school, means access to any student on the school’s premises that is not access by, or supervised by, or otherwise observed by, or able to be directed (if necessary) by, any 1 or more of the following:

- (a) a registered teacher or holder of a limited authority to teach;
- (b) an employee of the school on whom a satisfactory Police vet has been conducted within the last 3 years;
- (c) a parent of the student

17 Length of school year

Section 65A(2) is amended by omitting “half days” and substituting “half-days”.

18 Terms

Section 65B(1) is amended by omitting “half days” and substituting “half-days”.

19 Exceptions in particular cases

Section 65D(3) and (5) are amended by omitting “half day” and substituting in each case “half-day”.

20 Restrictions on acquisition of securities

Section 73(2)(c)(ii) is amended by omitting “Finance: or” and substituting “Finance; or”.

21 New sections 78C to 78CD substituted

Sections 78C to 78CB are repealed and the following sections substituted:

78C Police vetting of non-teaching and unregistered employees at schools

The board of a State school, or the management of a school registered under section 35A, must obtain a Police vet of every person—

- (a) whom the board or the management appoints, or intends to appoint, to a position at the school; and
- (b) who is to work at the school during normal school hours; and
- (c) who is not a registered teacher or holder of a limited authority to teach.

78CA Police vetting of contractors and their employees who work at schools

- (1) The board of a State school, or the management of a school registered under section 35A, must obtain a Police vet of every contractor, or the employee of a contractor, who has, or is likely to have, unsupervised access to students at the school during normal school hours.
- (2) In this section, **contractor** means a person who, under contract (other than an employment contract), works at a school.

78CB Police vet must be obtained before person has unsupervised access to students

- (1) A Police vet required under section 78C or 78CA must be obtained before the person has, or is likely to have, unsupervised access to students at the school during normal school hours.
- (2) The board of a State school, or the management of a school registered under section 35A, that is required under section 78C to obtain a Police vet of a person must apply for the vet no later than 2 weeks after the person begins work at the school.

78CC Further Police vets to be obtained under this Part every 3 years

- (1) The board of a State school, or the management of a school registered under section 35A, must obtain a further Police vet of every person on whom a Police vet has already been obtained under this Part by that board or management, as the case may be, and who still works at the school.

- (2) A further Police vet required under subsection (1) must be obtained on or about every third anniversary of any Police vet that has been previously conducted on the person.
- (3) The requirement for a further Police vet under this section does not apply to a person on whom a Police vet under section 78C or 78CA would not be required if he or she were about to be appointed to a position at the school or to work at the school at the time that the further Police vet would otherwise be required.

78CD Procedures relating to Police vets

The board of a State school, or the management of a school registered under section 35A, that applies for a Police vet of a person—

- (a) must ensure that strict confidentiality is observed for Police vets; and
- (b) must not take adverse action in relation to a person who is the subject of a Police vet until—
 - (i) the person has validated the information contained in the vet; or
 - (ii) the person has been given a reasonable opportunity to validate the information, but has failed to do so within a reasonable period.

22 Limited statutory manager

Section 78M is amended by inserting the following subsection after subsection (3):

- (3A) A notice under subsection (3) appointing a person to be the limited statutory manager for the board may refer to the person appointed—
 - (a) by his or her own name; and
 - (b) as being of a named body corporate.

23 Dissolution of board and appointment of commissioner

Section 78N is amended by adding the following subsection:

- (4) A notice under subsection (2) or (3) appointing a commissioner for a school may refer to the person appointed—
 - (a) by his or her own name; and
 - (b) as being of a named body corporate.

24 Interpretation

- (1) The definition of **board** in section 92(1) is amended by omitting “Part; and—” and substituting “Part; and,—”.
- (2) The definition of **principal** in section 92(1) is amended by omitting “94(c)” and substituting “94(1)(c)”.
- (3) Paragraph (c) of the definition of **special institution** in section 92(1) is amended by omitting “a hospital” and substituting “or a hospital”.

- (4) The definition of **State school** in section 92(1) is amended by omitting “secondary school; and—” and substituting “secondary school; and,—”.

25 Boards of newly established schools

Section 98(1) is amended by omitting “members shall be—” and substituting “members are,—”.

26 Elections of trustees

- (1) Section 101(4) is amended by repealing paragraph (a) and substituting the following paragraph:

- (a) in the case of a school that is not a correspondence school,—
- (i) on a date fixed by the board that is within the range of dates for those elections in that election year that is specified by the Minister by notice in the *Gazette*; or
 - (ii) if the Minister has not, by notice in the *Gazette* published on or by 31 October in any year, specified a range of dates for those elections in that election year, on a date fixed by the board that is within the range of dates for those elections in the previous election year; and

- (2) Section 101 is amended by inserting the following subsection after subsection (4):

(4A) The notice referred to in subsection (4)(a) may specify different ranges of dates, for elections under subsection (3), for boards that have, and for schools that have not, adopted staggered election cycles under section 101A.

- (3) Section 101(10) is amended by adding “, and to section 101AB (which provides that elections are not to be held when a school is under notice of closure)”.

27 New section 101AB inserted

The following section is inserted after section 101A:

101AB Election not to be held when school under notice of closure

Nothing in this Act requires or permits the board of any school or special institution to hold an election for a student representative or other elected trustee if the date for the election calculated in accordance with section 101 or 101A (as the case may be) is after the date of any notice in the *Gazette* that, in accordance with section 154(2), specifies a day for the school’s closure.

28 Term of office

Section 102(2) is amended by omitting “commissioner goes out of office” and substituting “commissioner’s appointment ends”.

29 New section 110A inserted

The following section is inserted after section 110:

110A Minister may combine boards at establishment

- (1) A Minister may, by notice in the *Gazette*, establish a combined board for 2 or more schools that are newly established under section 146.
- (2) The combined board is the board of a newly established school for the purposes of section 98.

30 Minister may split combined board

Section 112(3) is amended by omitting “subsection (4) of this section” and substituting “subsection (4) and section 112A”.

31 New section 112A inserted

The following section is inserted after section 112:

112A Splitting boards that were combined at establishment

- (1) A Minister who, under section 112(1), is splitting a board that was combined under section 110A at establishment for 2 or more schools may designate 1 of the boards established under section 112(1) as being identical to the board that was established under section 110A, except that it need not be a combined board.
- (2) A board that is designated under subsection (1) is to be treated, for the purposes of section 98, as if it were the board of a newly established school.
- (3) This section overrides section 112(3)(b) and (4)(a).

32 Applications for registration as teacher

The compare note for section 121 is repealed.

33 Full registration

The compare note for section 122 is repealed.

34 Teachers Council to keep register

The compare note for section 128 is repealed.

35 New section 128A inserted

The following section is inserted after section 128:

128A Matching of register information and information about payment of teacher salaries at payrolled schools

- (1) The purpose of this section is to facilitate the exchange of information between the Ministry and the Teachers Council for the purposes of enabling—

- (a) the Teachers Council, in regard to people employed in teaching positions, to identify—
 - (i) the person’s employer; and
 - (ii) the person’s registration status; and
 - (b) the Ministry, in regard to regular teachers in receipt of salaries at payrolled schools, to identify their salary entitlement or eligibility, if any, for an allowance on the basis of their registration, if any.
- (2) For the purpose set out in subsection (1)(a), the Teachers Council may from time to time, in accordance with arrangements under the Privacy Act 1993 previously agreed between the Secretary and the Teachers Council,—
- (a) require the Secretary to supply all or any of the following information in regard to all or any regular teachers in receipt of salaries at payrolled schools:
 - (i) surname:
 - (ii) first name:
 - (iii) date of birth:
 - (iv) gender:
 - (v) address:
 - (vi) the school at which the person is employed:
 - (vii) payroll number:
 - (viii) registration number; and
 - (b) compare the information supplied under paragraph (a) with the information contained in the register.
- (3) For the purpose set out in subsection (1)(b), the Secretary may from time to time, in accordance with arrangements under the Privacy Act 1993 previously agreed between the Secretary and the Teachers Council,—
- (a) require the Teachers Council to supply all or any of the following information in regard to all or any people registered as teachers:
 - (i) surname:
 - (ii) first name:
 - (iii) date of birth:
 - (iv) gender:
 - (v) address:
 - (vi) the school at which the person is employed:
 - (vii) registration number:
 - (viii) registration expiry date:
 - (ix) registration classification; and

- (b) compare the information supplied under paragraph (a) with the information held by the Ministry in regard to teachers.
- (4) In this section, **Ministry, payrolled school, regular teacher, school, and Secretary** have the same meanings as in section 91A.

36 Offences

The compare note for section 137 is repealed.

37 Functions of Teachers Council

Section 139AE(k) is amended by omitting “and other people employed in schools and early childhood services”.

38 Powers of Complaints Assessment Committee

Section 139AT(2) is amended by repealing paragraph (c) and substituting the following paragraph:

- (c) refer the teacher concerned to an impairment process which may involve either or both of the following:
 - (i) assessment of an impairment:
 - (ii) assistance with an impairment:

39 Interim suspension to enable investigation

- (1) The heading to section 139AU is amended by omitting “**to enable investigation**” and substituting “**until complaint of possible serious misconduct concluded**”.
- (2) Section 139AU(1) is amended by inserting “chairperson of the” before “Disciplinary Tribunal”.
- (3) Section 139AU is amended by inserting the following subsection after subsection (1):
 - (1A) The Complaints Assessment Committee may apply to the chairperson of the Disciplinary Tribunal for an interim suspension of a teacher’s practising certificate or authority, if—
 - (a) a complaint of possible serious misconduct about the teacher has been referred to the Complaints Assessment Committee under section 139AS; and
 - (b) the alleged misconduct is the subject of an investigation by—
 - (i) the New Zealand Police; or
 - (ii) the teacher’s employer.
- (4) Section 139AU is amended by repealing subsection (2) and substituting the following subsection:

- (2) On an application under subsection (1) or (1A) for an interim suspension, the chairperson of the Disciplinary Tribunal may, either with or without a hearing, suspend the teacher's practising certificate or authority.

40 New section 139AUA inserted

The following section is inserted after section 139AU:

139AUA Duration of interim suspension

- (1) The duration of an interim suspension under section 139AU is initially until the earliest of the following occurs:
- (a) the expiry of a period, specified by the chairperson of the Disciplinary Tribunal, that is less than 3 months;
 - (b) the expiry of a period of 3 months after the interim suspension commences;
 - (c) any conditions specified by the chairperson of the Disciplinary Tribunal are met;
 - (d) the interim suspension is otherwise lifted or revoked, for example, as the result of a review under subsection (2).
- (2) The chairperson of the Disciplinary Tribunal must review his or her initial interim suspension decision, if the teacher—
- (a) requests him or her to do so at any time during the initial interim period of suspension; and
 - (b) provides a written explanation or statement in support of the request.
- (3) The Disciplinary Tribunal may renew an interim suspension under section 139AU for further successive periods of no more than 3 months each, if, at the end of the relevant period of interim suspension,—
- (a) the matter has not been concluded; and
 - (b) the interim suspension has not been otherwise lifted or revoked, for example, as the result of an appeal against it under subsection (4).
- (4) A teacher whose practising certificate or authority is subject to an interim suspension under section 139AU that is renewed under subsection (3) may, at any time during a further period of interim suspension, make representations in respect of the interim suspension to the Disciplinary Tribunal at a hearing, if he or she believes that there is an unreasonable delay in concluding the matter.
- (5) A hearing under subsection (4) is a hearing before the Disciplinary Tribunal, and sections 139AX to 139AZB apply to it.
- (6) For the purposes of this section, a matter is concluded when the latest of the following occurs in relation to the complaint:
- (a) the Complaints Assessment Committee has carried out whatever action it decides to take under section 139AT(2)(a) to (d):

- (b) the Complaints Assessment Committee has carried out whatever action it decides to take under section 139AV(2)(a) to (d):
- (c) the Disciplinary Tribunal has carried out whatever action it decides to take under section 139AW(1)(a) to (i), if the Complaints Assessment Committee has referred the matter to the Disciplinary Tribunal under any of sections 139AT(3) or (4) or 139AV(3).

41 Investigation by Complaints Assessment Committee of reports of convictions

Section 139AV(2) is amended by repealing paragraph (c) and substituting the following paragraph:

- (c) refer the teacher concerned to an impairment process which may involve either or both of the following:
 - (i) assessment of an impairment:
 - (ii) assistance with an impairment:

42 Complaints about competence

- (1) Section 139AZC(8) is amended by omitting “may—” and substituting “may do any of the following:”.
- (2) Section 139AZC(8) is amended by repealing paragraph (b) and substituting the following paragraph:

- (b) refer the teacher to an impairment process which may involve either or both of the following:
 - (i) assessment of an impairment:
 - (ii) assistance with an impairment:

43 Teachers Council must co-ordinate Police vetting

- (1) Section 139AZD is amended by repealing subsection (1) and substituting the following subsection:
 - (1) The Teachers Council must establish a system for co-ordinating Police vetting, in relation to—
 - (a) teacher registration and the issue of practising certificates; and
 - (b) the granting of limited authorities to teach.
- (2) Section 139AZD(3) is repealed.
- (3) Section 139AZD(4) is amended by omitting “purposes and for those requested by boards and managements” and substituting “purposes,”.

44 Interpretation

Section 159 is amended by repealing the definition of **New Zealand apprenticeship committee**.

45 Minister may dissolve council and appoint commissioner

Section 195D(7) is amended by omitting “is it” and substituting “it is”.

46 Transfer of Crown assets and liabilities to institutions

Section 206(10) is amended by—

- (a) inserting “, or under section 168 of the Resource Management Act 1991,” after “the Town and Country Planning Act 1977” in the first place where it appears; and
- (b) inserting “, or in the Resource Management Act 1991, (as the case may be)” after “the Town and Country Planning Act 1977” in the second place where it appears.

47 Provisions relating to transfer of land

Section 207(5) is amended by adding the following paragraphs:

- (f) sections 10 and 11 of the Crown Minerals Act 1991;
- (g) section 354 of the Resource Management Act 1991.

48 Annual report

Section 220(2A)(e)(ii) is amended by omitting “institution:” and substituting “institution; and”.

49 Disclosure of enrolment information by institutions

Section 226A(9) is amended by omitting “section 226A of the Education Act 1989” and substituting “this section”.

50 Heading after section 229D repealed

The heading after section 229D is repealed.

51 Export education levy

Section 238H(2)(d) is amended by omitting “provider; and” and substituting “provider.”

52 Definitions

- (1) The definition of **secondary school** in section 246 is repealed.
- (2) Section 246 is amended by inserting the following definition in its appropriate alphabetical order:

relevant school means—

- (a) a secondary school (as that term is defined in section 2(1)); or
- (b) a composite school (as that term is defined in section 2(1)); or

- (c) a school that is registered under section 35A, but does not include any school registered under that section only as a primary school (as that term is defined in section 2(1)); or
- (d) a special school (as that term is defined in section 2(2), except that a special school is not deemed to be a primary school for the purposes of this Part, despite the proviso to section 98(1) of the Education Act 1964)

53 Functions of Authority

- (1) Section 253(1)(a) is amended by omitting “secondary” and substituting “relevant”.
- (2) Section 253(1)(b) is amended by—
 - (a) omitting “secondary” and substituting “relevant”; and
 - (b) omitting “or private training establishment”.
- (3) Section 253(1)(c) is amended by omitting “secondary” and substituting “relevant”.
- (4) Section 253(1)(d) is amended by omitting “and private training establishments”.
- (5) Section 253(1)(e) is amended by omitting “, secondary schools, and private training establishments”.
- (6) Section 253(1)(f) is amended by omitting “, secondary schools, or private training establishments”.
- (7) Section 253 is amended by inserting the following subsection after subsection (1):
 - (1A) In this section, **institution** means an institution, government training establishment, registered establishment, or relevant school.

54 Power to obtain information

Section 255(1AA) is amended by omitting “secondary” and substituting “relevant”.

55 Compliance notices

Section 255A(1) is amended by omitting “secondary” and substituting “relevant”.

56 Approval of courses

Section 258(1A) is amended by omitting “secondary” and substituting “relevant”.

57 Conditions on course approvals

Section 258A is amended by inserting the following subsection before subsection (1):

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

58 Accreditation to provide approved courses

Section 259(1A) is amended by omitting “secondary” and substituting “relevant”.

59 Conditions on accreditation to provide approved courses

Section 259A is amended by inserting the following subsection before subsection (1):

(1AA) In this section, **institution** means an institution, government training establishment, registered establishment, or relevant school.

60 Fees

Section 266(2) is amended by omitting “secondary” and substituting “relevant”.

61 Powers of Minister

Section 268(1) is amended by omitting “secondary” and substituting “relevant”.

62 Continuation of Board

Section 281(2)(b) is amended by omitting “members; and” and substituting “members.”

63 New section 283C substituted

Section 283C is repealed and the following section substituted:

283C Contents of statement of intent

In addition to the information required under section 141 of the Crown Entities Act 2004, every statement of intent must specify—

- (a) the services that the Board is to provide; and
- (b) the persons for whom or which the services are to be provided.

64 Recipients of allowances or student loans may be required to provide information

- (1) The heading to section 307 is amended by inserting “, **and other persons,**” after “**loans**”.
- (2) Section 307(1) is amended by inserting “and sections 307AAA and 307AA” after “this section”.
- (3) Section 307(1) is amended by inserting the following definitions in their appropriate alphabetical order:

change in the recipient's circumstances includes a change in another person's circumstances that—

- (a) the recipient knows about; and
- (b) the recipient knows materially affects his or her entitlement to a statutory allowance or student loan, or a particular rate of statutory allowance or a particular amount of a student loan

non-recipient means a person who is not a recipient, and—

- (a) includes a person who is acting in his or her official capacity as an officer or employee of a department of State or public body; but
- (b) does not include a person acting in his or her capacity as an officer of a court

- (4) Section 307(5) is amended by omitting “person (whether or not a recipient)” and substituting “recipient or non-recipient”.
- (5) Section 307 is amended by repealing subsections (6) to (7) and substituting the following subsection:
- (6) A recipient must notify the Secretary, as soon as practicable, of any change in the recipient's circumstances that materially affects his or her entitlement at any time—
 - (a) to a statutory allowance or student loan; or
 - (b) to be paid a statutory allowance at a particular rate or a particular amount of a student loan.

65 New section 307AAA inserted

The following section is inserted after section 307:

307AAA Suspension or refusal for not providing information

- (1) The Secretary may do whichever of the following the case requires, if he or she is satisfied that a recipient or non-recipient has, without reasonable cause, failed or refused to comply with a requirement under section 307(3) or to comply with section 307(5) and, in the case of a recipient, that the recipient has been warned of the consequence of the failure or refusal and given the opportunity to show reasonable cause or answer the question:
 - (a) suspend any statutory allowance held by the recipient, whether granted before or after the failure or refusal:
 - (b) refuse to grant any statutory allowance, or refuse to advance any student loan, to the recipient, whether or not the recipient may appear to be entitled to be granted the allowance or advanced the loan.
- (2) Despite subsection (1), the recipient must be given an opportunity to provide the information sought before any action is taken in respect of him or her under subsection (1), if the failure or refusal to comply is by a non-recipient.

- (3) Payments must not be made under a statutory allowance while it is suspended under subsection (1).

66 Offences concerning allowances

- (1) Section 307AA(1) is amended by omitting “(4)” and substituting “(5)”.
- (2) Section 307AA is amended by repealing subsections (2) and (2A) and substituting the following subsections:
- (2) A recipient or non-recipient commits an offence against this Act and is liable on summary conviction to a fine not exceeding \$2,000 who refuses to comply with section 307(5).
- (2A) A recipient commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000 if he or she, for the purpose of receiving or continuing to receive a statutory allowance or student loan, or a statutory allowance at a particular rate or any amount of a student loan, other than that to which he or she is entitled,—
- (a) knowingly makes a false or misleading statement in an application for a statutory allowance or student loan; or
- (b) knowingly makes a false or misleading statement in a notification of a change in the recipient’s circumstances that materially affects his or her entitlement at any time—
- (i) to a statutory allowance or student loan; or
- (ii) to be paid a statutory allowance at a particular rate or a particular amount of a student loan; or
- (c) wilfully fails to comply with section 307(6).

67 Use of student allowance information for purposes of Social Security Act 1964

Section 307A(2)(e) is amended by omitting “information, about” and substituting “information about”.

68 Interpretation

- (1) Section 309 is amended by repealing the definition of **hospital-based education and care service** and substituting the following definition:

hospital-based education and care service means the provision of education or care to 3 or more children under the age of 6 who are receiving hospital care within the meaning of section 4(1) of the Health and Disability Services (Safety) Act 2001

- (2) Section 309 is amended by repealing the definition of **playgroup** and substituting the following definition:

playgroup means a group that meets on a regular basis to facilitate children’s play and in respect of which—

- (a) no child attends for more than 4 hours on any day; and
 - (b) more than half the children attending on any occasion have a parent or caregiver present in the same play area at the same time; and
 - (c) the total number of children attending on any occasion is not greater than 4 times the number of parents and caregivers present in the same play area at the same time
- (3) Section 309 is amended by inserting the following definition in its appropriate alphabetical order:
- unsupervised access to children**, in relation to a licensed early childhood service, means access to any child that is not access by, or supervised by, or otherwise observed by, or able to be directed (if necessary) by, any 1 or more of the following:
- (a) a registered teacher or holder of a limited authority to teach;
 - (b) an employee of the service on whom a satisfactory Police vet has been conducted within the last 3 years;
 - (c) a parent of the child

69 New sections 319D to 319FE substituted

Sections 319D to 319F are repealed and the following sections substituted:

319D Police vetting of non-teaching and unregistered employees at licensed early childhood services

The service provider of a licensed early childhood service must obtain a Police vet of every person—

- (a) whom the service provider appoints, or intends to appoint, to a position at the early childhood service; and
- (b) who is to work at the service during normal opening hours; and
- (c) who is not a registered teacher or holder of a limited authority to teach.

319E Police vetting of contractors and their employees who work at licensed early childhood services

- (1) The service provider of a licensed early childhood service must obtain a Police vet of every contractor, or the employee of a contractor, who has, or is likely to have, unsupervised access to children at the service during normal opening hours.
- (2) In this section, **contractor** means a person who, under contract (other than an employment contract), works at a licensed early childhood service.

319F Police vet must be obtained before person has unsupervised access to children

- (1) A Police vet required under section 319D or 319E must be obtained before the person has, or is likely to have, unsupervised access to children at the service during normal opening hours.
- (2) The service provider of a licensed early childhood service that is required under section 319D to obtain a Police vet of a person must apply for the vet no later than 2 weeks after the person begins work at the service.

319FA Procedures relating to Police vets under section 319D or 319E

The service provider of a licensed early childhood service that applies for a Police vet of a person under section 319D or 319E—

- (a) must ensure that strict confidentiality is observed for Police vets; and
- (b) must not take adverse action in relation to a person who is the subject of a Police vet until—
 - (i) the person has validated the information contained in the vet; or
 - (ii) the person has been given a reasonable opportunity to validate the information, but has failed to do so within a reasonable period.

Police vetting of household members for home-based services

319FB Police vetting of adult members of household where licensed home-based education and care service provided

- (1) The service provider of a licensed home-based education and care service must obtain a Police vet of every adult who lives in a home—
 - (a) where the service is being provided; but
 - (b) that is not the home of every child to whom the service is being provided.
- (2) In this section, **adult** means a person who is of or over the age of 17 years.

319FC When Police vet under section 319FB must be obtained

A Police vet required under section 319FB must be obtained before the adult is, or is likely to be, present when the service is being provided.

319FD Procedures relating to Police vets under section 319FB

The service provider of a licensed home-based education and care service that applies for a Police vet of a person under section 319FB—

- (a) must ensure that strict confidentiality is observed for Police vets; and
- (b) must not take adverse action in relation to the person providing the education or care until the person who is the subject of the Police vet has—
 - (i) validated the information contained in the vet; or

- (ii) been given a reasonable opportunity to validate the information, but has failed to do so within a reasonable period.

Service provider to obtain further Police vets under this Part every 3 years

319FE Further Police vets to be obtained every 3 years

- (1) The service provider of a licensed early childhood service must obtain a further Police vet of every person—
 - (a) on whom a Police vet has already been obtained under this Part by that service provider; and
 - (b) who still works at the service, or lives in the home, as the case may be.
- (2) A further Police vet required under subsection (1) must be obtained on or about every third anniversary of any Police vet that has been previously conducted on the person.
- (3) The requirement for a further Police vet under this section does not apply to a person on whom a Police vet under section 319D or 319E would not be required if he or she were about to be appointed to a position at the licensed early childhood service or to work at the service at the time that the further Police vet would otherwise be required.

70 Powers of review officers for purposes of sections 328A to 328D

Section 328C(2) is amended by omitting “dwelling house” and substituting “dwellinghouse”.

71 Schedule 5A amended

- (1) The Schedule 5A heading is amended by omitting “s 5” and substituting “s 65H”.
- (2) The item relating to section 119 in Schedule 5A is amended by omitting “ss 84–84B” and substituting “sections 84 to 84B”.

72 Schedule 6 amended

Clause 8 of Schedule 6 is amended by repealing subclause (3) and substituting the following subclause:

- (3) When a casual vacancy occurs, the person for the time being appointed under clause 7 or, where there is no such person, the principal must fix a place for a meeting of the board to deal with the vacancy, and a time for the meeting that is—
 - (a) within 28 days of the vacancy occurring, if it occurs during any period of 6 months commencing on 1 October in a year before an election year; or
 - (b) within 8 weeks of the vacancy occurring, if it occurs at any other time.

73 Schedule 10 amended

- (1) The item relating to the Education Lands Act 1949 in Schedule 10 is amended by omitting “(RS Vol 6, p 237)” and substituting “(1949 No 24)”.
- (2) The item relating to the Local Government Official Information and Meetings Act 1987 in Schedule 10 is amended by inserting “(1987 No 174)” after “1987”.
- (3) The item relating to the Official Information Act 1982 in Schedule 10 is amended by inserting “(1982 No 156)” after “1982”.
- (4) The item relating to the Ombudsmen Act 1975 in Schedule 10 is amended by inserting “(1975 No 9)” after “1975”.
- (5) The item relating to the State Sector Act 1988 in Schedule 10 is amended by inserting “(1988 No 20)” after “1988”.

74 Schedule 13A amended

- (1) The Schedule 13A heading is amended by omitting “s 6” and substituting “s 203”.
- (2) The item relating to section 119 in Schedule 13A is amended by omitting “ss 84–84B” and substituting “sections 84 to 84B”.
- (3) The item relating to section 154 in Schedule 13A is amended by—
 - (a) omitting “s 220(2)–(2B)” and substituting “section 220(2) to (2B)”;
 - (b) omitting “Sch 6” and substituting “Schedule 6”.

Part 2

Transitional provision, validations, and consequential amendments

Transitional provision in relation to Police vetting

75 Transitional provision in relation to Police vetting

Despite sections 78C, 78CA, 319D, and 319E of the Education Act 1989 (as substituted by sections 21 and 69 of this Act), and section 319FB of the Education Act 1989 (as inserted by section 69 of this Act), the board of a State school, or the management of a school registered under section 35A, or a service provider of a licensed early childhood service (as the case may be) must, within 4 weeks after the date on which this Act comes into force, apply for a Police vet of any person in respect of whom—

- (a) a Police vet is required under section 78C, 78CA, 319D, or 319E of the Education Act 1989 (as substituted by this Act) or under section 319FB of the Education Act 1989 (as inserted by this Act); and
- (b) no Police vet has been obtained within a period of 3 years immediately before the commencement of this Act, by—
 - (i) that board, management, or service provider; or

- (ii) the New Zealand Teachers Council, at the request of that board, management, or service provider.

Validations

76 Validation in respect of Part 20

The validity of any action of the Authority must be determined as if at all material times—

- (a) section 246 of the Education Act 1989—
 - (i) contained the definition of **relevant school** inserted by section 52 of this Act; and
 - (ii) did not contain the definition of **secondary school**, as repealed by section 52 of this Act; and
- (b) every other reference in Part 20 of the Education Act 1989 to a **secondary school** were a reference to a **relevant school**, within the meaning of that term as inserted in section 246 of that Act by section 52 of this Act.

77 Validation in respect of change of proprietor of integrated school

[Repealed]

Section 77: repealed, on 19 May 2017, by section 161(1) of the Education (Update) Amendment Act 2017 (2017 No 20).

Consequential amendments to Privacy Act 1993

78 Consequential amendments to Privacy Act 1993

- (1) This section amends the Privacy Act 1993.
- (2) The definition of **specified agency** in section 97 is amended by adding the following paragraph:
 - (l) the New Zealand Teachers Council established under Part 10A of the Education Act 1989.
- (3) The item relating to the Education Act 1989 in Schedule 3 is amended by inserting “128A,” after “Sections”.

Reprints notes

1 *General*

This is a reprint of the Education Amendment Act 2010 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Education (Update) Amendment Act 2017 (2017 No 20): section 161(1)