



## **Education (Update) Amendment Act 2017**

Public Act    2017 No 20  
 Date of assent    15 May 2017  
 Commencement    see section 2

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**Schedule 3**  
**Consequential amendments to other enactments**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Education (Update) Amendment Act 2017.

**2 Commencement**

- (1) Sections 124, 126, 127, 128(1), 129(1), 136, 156(2), and 161(2) come into force on 1 July 2017.
- (2) Sections 9, 10, 30(1) and (3), and 156(3) come into force on 3 July 2017.
- (3) Sections 128(2) and 129(2) come into force on 1 January 2018.
- (4) Sections 5(4) to (6), 11, 20(2) and (3), 22, 25 to 29, 30(2), 32 to 34, 36(2), 38, 39(3), 52, 67, 70, 71, 72(1), (3), and (4), 98, 100(1), 107, 120, 122(2), 125, 131 to 135, 140, 131, 142, 156(4) and 161(3) come into force on the earlier of—
  - (a) a date appointed by the Governor-General by Order in Council; or
  - (b) 31 December 2019.
- (5) Sections 39(4), 41(2) and (5), 43, 60, 68, 95, and 158(2) come into force on the earlier of—
  - (a) a date appointed by the Governor-General by Order in Council; or
  - (b) 1 January 2019.
- (6) One or more orders may be made under subsections (4) and (5) bringing different provisions into force on different dates.
- (7) The rest of this Act comes into force on 19 May 2017.

**Part 1**

**Amendments to Education Act 1989**

**3 Principal Act**

This Part amends the Education Act 1989 (the **principal Act**).

**4 New Part 1AA inserted**

After section 1, insert:

## Part 1AA

### Early childhood and compulsory education: statement of National Education and Learning Priorities

#### 1A Minister may issue statement of National Education and Learning Priorities

- (1) The Minister may, by notice in the *Gazette*, issue a statement of National Education and Learning Priorities for the early childhood and compulsory education sectors.
- (2) A statement issued under this section—
  - (a) must be consistent with the objectives set out in subsection (3); and
  - (b) may include statements of the diversity of education provision; and
  - (c) must specify the date on which it comes into effect; and
  - (d) remains in effect for a period of 5 years unless earlier withdrawn or replaced by notice in the *Gazette*; and
  - (e) must be published on an Internet site maintained by the Ministry.
- (3) The objectives of the system for education and learning that is provided for in the specified Parts (that is, early childhood and compulsory education) are—
  - (a) to focus on helping each child and young person to attain educational achievement to the best of his or her potential; and
  - (b) to promote the development, in each child and young person, of the following abilities and attributes:
    - (i) resilience, determination, confidence, and creative and critical thinking;
    - (ii) good social skills and the ability to form good relationships;
    - (iii) participation in community life and fulfilment of civic and social responsibilities;
    - (iv) preparedness for work; and
  - (c) to instil in each child and young person an appreciation of the importance of the following:
    - (i) the inclusion within society of different groups and persons with different personal characteristics;
    - (ii) the diversity of society;
    - (iii) cultural knowledge, identity, and the different official languages;
    - (iv) the Treaty of Waitangi and te reo Māori.
- (4) Before issuing a statement under this section, the Minister must consult with those stakeholders in the early childhood and compulsory education sectors that he or she considers ought to be consulted.

- (5) Minor changes to a statement issued under this section—
  - (a) may be made without fulfilling the consultation requirements in subsection (4); and
  - (b) do not, for the purposes of subsection (2)(d), constitute a withdrawal or replacement of the statement being changed.
- (6) A statement issued under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.
- (7) Except as provided in subsection (2)(a), the objectives in subsection (3) do not affect or limit the way in which any person is required to exercise a power or perform a function under a specified Part.
- (8) In this section, **specified Parts** means this Part, Parts 2 to 3A, Parts 7 to 9, Parts 11 to 12A, Part 26, and Part 33.

## 5 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:
 

**integration** means the conditions and procedures on and by which a private school may become established as part of the State system of education, and remain part of that system, on a basis that preserves and safeguards the special character of the education that the school provides, and **integrated** has a corresponding meaning

**State integrated school** means a school that—

  - (a) provides education with a special character; and
  - (b) has been established as a State integrated school under section 421
- (2) In section 2(1), definition of **enrolment scheme**, after “under section 11H”, insert “or developed under section 11IA”.
- (3) In section 2(1), definition of **registered school**, after “State school,”, insert “a State integrated school,”.
- (4) In section 2(1), after “Parts 2, 3,”, insert “3A,”.
- (5) In section 2(1), repeal the definition of **correspondence school**.
- (6) In section 2(1), insert in their appropriate alphabetical order:
 

**community of online learning** means—

  - (a) an enrolling community of online learning; or
  - (b) a supplementary community of online learning

**enrolling community of online learning** means a registered school or other body corporate that has been accredited to enrol students in full-time online education

**online education** means primary or secondary education delivered wholly or substantially through the Internet

**supplementary community of online learning** means a registered school or other body corporate that has been accredited to provide online education to students enrolled at another school or an enrolling community of online learning

**tertiary education provider** has the same meaning as in section 159(1)

**6 New section 2A inserted (Transitional, savings, and related provisions)**

After section 2, insert:

**2A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

**7 Section 3 amended (Right to free primary and secondary education)**

In section 3, delete “or the Private Schools Conditional Integration Act 1975”.

**8 Section 4D amended (Boards to reimburse the Crown for expenditure in respect of international students)**

In section 4D(3A), replace “an integrated school” with “a State integrated school”.

**9 Section 5 replaced (Restrictions on enrolment at primary school)**

Replace section 5 with:

**5 Restrictions on enrolment at primary school**

- (1) The following persons must not be enrolled or continue to be enrolled at a primary school or in a class below form 3 at a composite school:
  - (a) a child under 5, unless subsection (2) applies:
  - (b) a child who turned 14 in a previous year:
  - (c) a child who, in the opinion of the Secretary,—
    - (i) has completed the work of form 2; or
    - (ii) has completed the work equivalent to form 2.
- (2) A child under 5 may be enrolled or continue to be enrolled at a primary school or in a class below form 3 at a composite school if—
  - (a) the school has adopted a cohort entry policy; and
  - (b) the child is enrolled or continues to be enrolled according to that policy.
- (3) A child under 5 who is enrolled under subsection (2) is entitled to free enrolment and free education in accordance with section 3.

**10 New sections 5A to 5C inserted**

After section 5, insert:

**5A Cohort entry policy**

- (1) A State school, State integrated school, or partnership school kura hourua may adopt or revoke a cohort entry policy if the school consults and gives notice in accordance with section 5C.
- (2) A cohort entry policy must—
  - (a) apply to all children aged 4 or 5 who have not previously enrolled in a registered school or an enrolling community of online learning; and
  - (b) provide that a child may only be enrolled on a term start date determined in accordance with section 5B.
- (3) Despite a school having a cohort entry policy in place, a child may be enrolled on a date that is later than the date determined under the policy if the later date—
  - (a) is a term start date; and
  - (b) otherwise complies with this Act.
- (4) In this section and section 5B, a **term start date** for a school means, in relation to a term, the first day in that term that the school is open for instruction.

**5B Determining term start dates under cohort entry policy**

- (1) If a school has a cohort entry policy in place, the term start date on which a child may be enrolled in the school must be determined in accordance with this section.
- (2) A child whose fifth birthday is on or after a mid-term and before the next mid-term, may not be enrolled until the term start date of that next term.
- (3) The Minister may, before 1 July in any year, prescribe the mid-term dates for the next year.
- (4) If the Minister has not prescribed mid-term dates for a year, the same mid-term dates as the year before will apply.

**5C Adoption or revocation of cohort entry policy**

- (1) When developing a proposed cohort entry policy for a school, a board must take all reasonable steps to discover and consider the views of the following persons about the policy and whether it is generally acceptable:
  - (a) parents of students at the school;
  - (b) employees of the board at the school;
  - (c) early childhood services in the local community;
  - (d) parents of prospective students of the school.



- (2) When considering whether to revoke a cohort entry policy, a board must take all reasonable steps to discover and consider the views of the persons described in subsection (1) as to whether the policy should be revoked.
- (3) A board must take all reasonable steps to give notice of at least 1 term to the Secretary and the persons described in subsection (1) before a cohort entry policy takes effect or ceases to have effect.

**11 Sections 7 and 7A repealed**

Repeal sections 7 and 7A.

**12 Section 11B amended (Interpretation)**

In section 11B, definition of **reasonably convenient school**, paragraph (b), replace “an integrated school” with “a State integrated school”.

**13 Section 11H amended (Process for developing and adopting enrolment scheme)**

In section 11H(4)(c), replace “an integrated school” with “a State integrated school”.

**14 New section 11IA inserted (Development of enrolment scheme by Secretary)**

After section 11I, insert:

**11IA Development of enrolment scheme by Secretary**

- (1) If a board receives a notice under section 11H(1) and if an enrolment scheme is not developed by it within a reasonable period, the Secretary may develop an enrolment scheme for the school.
- (2) In developing an enrolment scheme, the Secretary must—
  - (a) follow the process set out in section 11H(3) and (4) as if he or she was the board; and
  - (b) be satisfied of the matters listed in section 11I(1).
- (3) A board must implement an enrolment scheme developed under this section.
- (4) The Secretary must specify, in the enrolment scheme, the date on which the scheme commences.
- (5) Section 11K(1) and (2) does not apply to an enrolment scheme made under this section.

**15 Section 11J amended (Information about school’s enrolment scheme)**

In section 11J(1), after “adopts an enrolment scheme”, insert “or implements an enrolment scheme developed under section 11IA”.

**16 Section 11K amended (Commencement of enrolment scheme)**

After section 11K(2), insert:

- (2A) An enrolment scheme developed under section 11IA commences on the date specified in the scheme.

**17 Section 11M amended (Amendment of enrolment scheme)**

In section 11M(1), after “adopted an enrolment scheme”, insert “or implemented an enrolment scheme under section 11IA”.

**18 Section 11P amended (Secretary may direct board to enrol applicant)**

- (1) Replace section 11P(2) with:

- (2) The Secretary may direct the board of a State school to enrol an applicant whose application for enrolment it has declined if he or she is satisfied that—
- (a) the board has declined the application on the ground that the applicant is not living in the school’s home zone, but in fact he or she is living in the zone; or
  - (b) not giving a direction would be so disadvantageous to the applicant that overriding the enrolment scheme is justified.

- (2A) The power in subsection (2)(b) may only be exercised in exceptional circumstances.

- (2) In section 11P(4), replace “an integrated school” with “a State integrated school”.

**19 Section 11PB amended (Enrolment schemes of certain State schools)**

- (1) In section 11PB(1), replace “integrated schools,” with “State integrated schools, State schools that are accredited as enrolling communities of online learning,”.

- (2) After section 11PB(1)(c), insert:

- (ca) in the case of an enrolling community of online learning operated by a State school, the application of the sections must not result in inconsistency with conditions set by the Minister under section 35X; and

- (3) In section 11PB(1)(d), replace “section 155” with “section 156”.

- (4) In section 11PB(1)(f),—

- (a) replace “an integrated school” with “a State integrated school”; and
- (b) replace “the Private Schools Conditional Integration Act 1975” with “Part 33”.

**20 Section 16 amended (Secretary’s powers when excluded student younger than 16)**

- (1) In section 16(1)(b), replace “an integrated school” with “a State integrated school”.

- (2) In section 16(1)(ba), delete “; or”.
- (3) Repeal section 16(1)(c).

**21 Section 17 amended (Board’s powers when suspended student 16 or older)**

In section 17(3), replace “any of paragraphs (a) to (c) of subsection (1)” with “subsection (1)(a) to (c)”.

**22 Section 17B amended (Who may attend board meeting concerning suspensions)**

In section 17B, insert as subsections (2) and (3):

- (2) Instead of attending and speaking at a meeting of the board in person, the student, the student’s parents, and their representatives may attend and speak by way of telephone conference or video link.
- (3) A telephone conference or video link may be used only if the student and his or her parents have requested the use of a telephone conference or video link (as the case may be).

**23 Section 17D amended (Re-enrolment of excluded or expelled student)**

In section 17D(3), replace “an integrated school” with “a State integrated school”.

**24 Section 18AA amended (Secretary may make rules)**

In section 18AA(3), replace “clause 8” with “clause 40” in each place.

**25 Section 20 replaced (New Zealand citizens and residents between 6 and 16 to go to school)**

Replace section 20 with:

**20 New Zealand citizens and residents between 6 and 16 must be enrolled at registered school or enrolling community of online learning**

- (1) Every person who is a New Zealand citizen or resident must, during the period beginning on the person’s sixth birthday and ending on the person’s 16th birthday, be enrolled at—
  - (a) a registered school; or
  - (b) an enrolling community of online learning.
- (2) Before a child’s seventh birthday, the child is not required to be enrolled at any school more than 3 kilometres walking distance from the child’s residence.
- (3) Subsections (1) and (2) do not apply to international students.
- (4) This section is subject to anything else in this Act.

**26 Section 21 amended (Long term exemptions from enrolment)**

- (1) In section 21(1)(b)(i), after “registered school”, insert “or enrolling community of online learning”.
- (2) Replace section 21(8A) and (9) with:
  - (8A) A certificate in force under subsection (1) or (3) expires when whichever of the following happens first:
    - (a) the person to whom it applies turns 16;
    - (b) the person to whom it applies enrolls in a registered school;
    - (c) the person to whom it applies enrolls in an enrolling community of online learning.
  - (9) A certificate in force under subsection (1) or (3) does not expire when the person to whom it applies receives tuition from a supplementary community of online learning.

**27 Section 22 amended (Secretary may exempt from enrolment)**

In section 22(1)(b)(iii), after “schools”, insert “or enrolling communities of online learning”.

**28 Section 23 amended (Effect of exemption)**

- (1) In section 23(a), after “school”, insert “or enrolling community of online learning”.
- (2) In section 23(b), after “school”, insert “or enrolling community of online learning”.

**29 Section 24 amended (Penalty for failure to enrol)**

Replace section 24(1) with:

- (1) The parent of a person required by this Act to be enrolled at a registered school or enrolling community of online learning who fails or refuses to ensure that the person is enrolled at a registered school or enrolling community of online learning—
  - (a) commits an offence; and
  - (b) is liable on conviction to a fine not exceeding \$3,000.

**30 Section 25 amended (Students required to enrol must attend school)**

- (1) Replace section 25(1) with:
  - (1) Except as provided in this Act, every student of a registered school who fits into either or both of the following categories is required to attend the school whenever it is open:
    - (a) a student who is required by section 20 to be enrolled at a registered school;

- (b) a student who is aged 4 or 5 and is enrolled at a registered school.
- (2) Replace section 25(1) with:
  - (1) Except as provided in this Act, every student of a registered school (other than a student enrolled in an enrolling community of online learning) who fits into either or both of the following categories is required to attend the school whenever it is open:
    - (a) a student who is required by section 20 to be enrolled at a registered school:
    - (b) a student who is aged 4 or 5 and is enrolled at a registered school.
  - (1A) Every student enrolled in, or receiving tuition from, a community of online learning must meet the attendance requirements prescribed in regulations made under section 35ZN.
- (3) After section 25(3), insert:
  - (3A) Despite subsections (1) to (3), if a child is aged 4 or 5 and is enrolled at a registered school,—
    - (a) the child’s parents, the principal, and the Secretary may agree a plan to help the transition of the child to school, depending on the particular needs of the child; and
    - (b) the child is required to attend school in accordance with the plan.

**31 Section 25A amended (Release from tuition on religious or cultural grounds)**

In section 25A(1B), replace “an integrated school” with “a State integrated school”.

**32 Section 28 replaced (Secretary may require parents of certain children to enrol them at correspondence school)**

Replace section 28 with:

**28 Secretary may require parents of certain children to enrol them at enrolling community of online learning**

- (1) The Secretary, by notice in writing to the parent of a student who has a certificate of exemption under section 26(1)(b)(i) or (ii), may call on the parent to—
  - (a) have the student enrolled at an enrolling community of online learning specified in the notice; and
  - (b) ensure that the student meets the attendance requirements prescribed in regulations made under section 35ZN.
- (2) Enrolment under subsection (1) must be—
  - (a) for the period of exemption, in the case of a student exempted under section 26(1)(b); and

- (b) until the student turns 16, or for a shorter period specified in the notice, in every other case.
- (3) A parent who fails to comply with a notice under subsection (1) to have a student enrolled at an enrolling community of online learning—
  - (a) commits an offence; and
  - (b) is liable on conviction to a fine not exceeding \$3,000.

**33 Section 29 amended (Penalty for irregular attendance)**

Replace section 29(1)(b) with:

- (b) while enrolled at an enrolling community of online learning, does not meet the attendance requirements prescribed in regulations made under section 35ZN,—

**34 Section 30 amended (Employment of school-age children)**

- (1) In section 30(1)(b), replace “a correspondence school” with “an enrolling community of online learning”.
- (2) In section 30(1)(d)(ii), replace “a correspondence school” with “an enrolling community of online learning”.

**35 New section 35GA and cross-heading inserted**

After section 35G, insert:

*Statement of National Education and Learning Priorities*

**35GA Manager must have regard to statement of National Education and Learning Priorities**

The manager of a school registered under section 35A must,—

- (a) in operating the school, have regard to any statement of National Education and Learning Priorities; and
- (b) ensure that, in developing and delivering the curriculum, the school’s principal and staff have regard to any statement of National Education and Learning Priorities.

**36 Section 35Q amended (Suspensions and expulsions of students from private schools to be notified to Secretary)**

- (1) In section 35Q(2)(b), replace “an integrated school” with “a State integrated school”.
- (2) In section 35Q(2)(c), replace “a correspondence school” with “an enrolling community of online learning”.

**37 New section 35S and cross-heading inserted**

After section 35R, insert:

*Powers of entry and inspection*

**35S Entry where private school suspected of being unregistered**

- (1) A person who holds an authorisation under section 78A(2), and who has reasonable cause to believe that any premises are being used as a private school in contravention of section 35R, may apply for a warrant to enter the premises.
- (2) An application for a warrant must be in writing, on oath, and be made to a District Court Judge, Justice of the Peace, or Registrar or Deputy Registrar of any court.
- (3) A warrant may be issued on an application under subsection (1) if the person issuing it is satisfied that there is reasonable cause to believe that the premises are being used as a private school in contravention of section 35R.
- (4) A warrant issued under subsection (3) must contain—
  - (a) a reference to this section; and
  - (b) the full name of the person authorised; and
  - (c) a description of the premises concerned; and
  - (d) the date on which it was issued and the date on which it expires.
- (5) A warrant issued under subsection (3) must authorise the person named in it, at any reasonable time within 4 weeks of the date on which it is issued, to enter and inspect the premises described in the warrant to ascertain whether those premises are being used as a private school in contravention of section 35R.
- (6) A person acting under a warrant under subsection (3) must retain the warrant and must show it, along with evidence of identity, to the occupier of the premises concerned—
  - (a) on first entering the premises; and
  - (b) whenever subsequently reasonably required to do so by that occupier.

Compare: 1989 No 80 s 78B

**38 New Part 3A inserted**

After section 35S (as inserted by section 37 of this Act), insert:

**Part 3A**  
**Communities of online learning**

*Accreditation and review of communities of online learning*

**35T Provisional accreditation of communities of online learning**

- (1) Any of the following bodies may apply to the Minister for provisional accreditation as an enrolling community of online learning or a supplementary community of online learning:

- (a) a registered school;
  - (b) a body corporate;
  - (c) a tertiary education provider.
- (2) The Minister may, by written notice to the applicant, provisionally accredit the body as a community of online learning if the Minister is satisfied that it meets, or is likely to meet, the criteria in section 35W(2).
- (3) The Minister may set conditions on provisional accreditation under section 35X.
- (4) The Minister has absolute discretion to refuse to provisionally accredit any body.

**35U Duration of provisional accreditation of communities of online learning and renewal of accreditation**

- (1) Provisional accreditation of a community of online learning continues—
- (a) for 12 months (unless it is cancelled earlier under section 35ZB); or
  - (b) until the expiry of any period specified by the Minister under subsection (2).
- (2) The Minister may renew the provisional accreditation only once, for a period specified by the Minister, if he or she is satisfied that—
- (a) exceptional circumstances exist in relation to the community of online learning; and
  - (b) the community is likely to meet the criteria for full accreditation during that period.
- (3) Renewal of provisional accreditation may be made subject to conditions under section 35X.

**35V Review of provisionally accredited communities of online learning**

- (1) As soon as practicable after the Minister provisionally accredits a community of online learning, the Secretary must inform the Chief Review Officer of the provisional accreditation.
- (2) The Chief Review Officer must ensure that a review officer reviews any community of online learning that is provisionally accredited either—
- (a) between 6 and 12 months after the provisional accreditation; or
  - (b) earlier, by agreement with the community of online learning.
- (3) The Minister may request a further review of a community of online learning that has its provisional registration renewed under section 35U(2).
- (4) The Chief Review Officer must ensure that a review officer who conducts a review under this section prepares a written report in relation to the review and gives copies of it to the Secretary and the community of online learning.



- (5) A review officer's written report on a review under this section must include the following information:
- (a) whether the community meets the criteria for full accreditation as an enrolling or a supplementary community of online learning, as the case may be;
  - (b) if it does not meet the criteria, the areas in which improvement is required;
  - (c) whether the community is complying with conditions imposed on its provisional accreditation.
- (6) In addition to the requirements of this section, the Chief Review Officer must ensure that a provisionally accredited community of online learning is reviewed in accordance with Part 28.

### **35W Full accreditation of communities of online learning**

- (1) The Minister may, by written notice to a provisionally accredited community of online learning, fully accredit the community if he or she is satisfied, having considered any report under section 35V(4) and any other information, that the community meets the criteria for full accreditation as an enrolling or a supplementary community of online learning in subsection (2).
- (2) A community of online learning must have—
- (a) a learning environment and processes that are safe and secure for its students; and
  - (b) an appropriate curriculum for teaching, learning, and assessment, and a tuition standard, suitable to the age range and level of its students; and
  - (c) the capacity to meet its pastoral care and student well-being responsibilities; and
  - (d) a system and processes to safely and securely collect, manage, and store student information, including achievement and enrolment information; and
  - (e) equipment that is suitable for the curriculum being delivered, or to be delivered, and for the mode of online education delivery; and
  - (f) directors or managers who are fit and proper persons; and
  - (g) sound financial practices; and
  - (h) premises, whether owned or leased, that are suitable for a community of online learning of its type.

### **35X Conditions on accreditation of communities of online learning**

- (1) The Minister may set conditions on the provisional or full accreditation of a community of online learning, including conditions that—

- (a) specify who may be enrolled at the community and the enrolment process; and
  - (b) specify the outcomes for student achievement that must be met; and
  - (c) set a maximum roll; and
  - (d) specify the year levels that may be taught; and
  - (e) specify, for enrolling communities that are not registered schools, the number or percentage of teaching positions that must be filled by people holding a practising certificate or limited authority to teach.
- (2) Conditions may be set for any or all of the following:
- (a) all communities of online learning;
  - (b) a type of community of online learning;
  - (c) a particular community of online learning.
- (3) The Minister may amend or revoke conditions or impose new conditions, with the agreement of the community of online learning.
- (4) The Minister may amend or revoke conditions or impose new conditions, without the agreement of the community of online learning only if the Minister has first—
- (a) given written notice to the community of the Minister’s intention; and
  - (b) given the community a reasonable opportunity to respond to the notice; and
  - (c) considered any submissions made by the community in response to the notice.
- (5) The Minister must give written notice to the community of online learning of any changes to conditions made under subsection (4).

**35Y Review of accredited communities of online learning**

- (1) The Chief Review Officer must ensure that a review officer reviews any community of online learning that is accredited under section 35W, in accordance with this section.
- (2) The Chief Review Officer must ensure that a review officer who conducts a review under this section prepares a written report in relation to the review and gives copies of it to the Secretary and the community of online learning.
- (3) The report must include the following information:
- (a) whether the community meets the criteria for full accreditation;
  - (b) if it does not meet the criteria, the areas in which improvement is required;
  - (c) whether the community is complying with conditions imposed on its accreditation.

- (4) In addition to the requirements of this section, the Chief Review Officer must ensure that a community accredited under section 35W is reviewed in accordance with Part 28.

*Actions by Minister or Secretary in respect of communities of online learning*

**35Z Application of interventions in communities of online learning**

- (1) The following interventions are available in respect of a community of online learning:
- (a) the Minister may require information:
  - (b) the Minister may require that the community engage specialist help:
  - (c) the Minister may require that the community prepare and carry out an action plan:
  - (d) the Minister may require that the community comply with a performance notice issued by the Minister.
- (2) The Minister may apply any of the interventions described in subsection (1) if he or she has reasonable grounds to believe that there is a risk to the operation of the community of online learning, or to the welfare or educational performance of its students.
- (3) When applying an intervention, the Minister must apply whichever intervention he or she considers is reasonable to deal with the risk without intervening more than necessary.
- (4) The application of any intervention does not preclude the application of any other intervention, either simultaneously or at any other time.
- (5) The interventions in this section are in addition to any other interventions available under this Act.

**35ZA Minister's actions in regard to accredited communities of online learning**

- (1) The Minister may take action in regard to a provisionally or fully accredited community of online learning if—
- (a) the Minister considers that the community is not meeting all or any of the criteria for provisional or full accreditation, as the case may be; or
  - (b) a review conducted under section 35V or 35Y indicates that the community does not, or is likely not to, meet all or any of the criteria for its accreditation; or
  - (c) the community has breached or is breaching its statutory duties in relation to the community under this or any other enactment; or
  - (d) the Minister has reasonable grounds to believe that unlawful activity is occurring in the community of online learning.
- (2) If the Minister decides to take action, the Minister may do 1 or more of the following:

- (a) issue the community of online learning with a notice to comply;
  - (b) require the community to inform parents of the community's students that it is not meeting the criteria for accreditation as a community of online learning;
  - (c) impose conditions on the provisional or full accreditation of the community;
  - (d) cancel the provisional or full accreditation of the community.
- (3) Any action taken by the Minister under subsection (2) must be proportionate to the seriousness of the situation of the community of online learning.

### **35ZB Cancellation of accreditation in particular cases**

- (1) The Minister may cancel the provisional or full accreditation of a community of online learning if he or she has reasonable grounds to believe that it is necessary to do so because—
- (a) the community no longer meets 1 or more of the criteria for provisional or full accreditation, as the case may be; or
  - (b) the community is not complying with 1 or more of the conditions of its provisional or full accreditation, is not performing any relevant duties, or is not fulfilling its obligations under this Act; or
  - (c) there is a risk to the operation of the community or the educational performance or welfare of the students.
- (2) The Minister must, before cancelling accreditation under subsection (1), by written notice to the community, give 28 days' notice of the cancellation and set out the reasons for the cancellation.
- (3) Before cancelling the accreditation, the Minister must consider any responses received from the community within the 28-day notice period.

### **35ZC Suspension of accreditation if welfare of students may be at risk**

The Secretary may suspend the provisional or full accreditation of a community of online learning if he or she has reasonable grounds to believe that the welfare of the students of the community of online learning is at risk, and—

- (a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the accreditation; or
- (b) that, although the risk could be managed by means other than by suspension of the accreditation, the amount of time necessary to do so is likely, in the opinion of the Secretary, to be excessive.

*Operation of communities of online learning***35ZD Duties of communities of online learning**

- (1) A community of online learning must perform its functions and exercise its powers in such a way as to ensure that every student at the community is able to attain his or her highest possible standard in educational achievement.
- (2) An enrolling community of online learning must also take all reasonable steps to ensure that—
  - (a) students get good guidance and counselling; and
  - (b) students in form 1 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave secondary education; and
  - (c) a student's parents are told of matters that, in the opinion of the leader of the community of online learning,—
    - (i) are preventing or slowing the student's progress through the school; or
    - (ii) are harming the student's relationships within the community of online learning; and
  - (d) it provides a safe emotional learning environment for its students.
- (3) An enrolling community of online learning has overall responsibility for the programmes for its students and the students' progress.
- (4) A community of online learning operated by—
  - (a) a State school must, when complying with subsection (1), have particular regard to any statement of National Education and Learning Priorities issued under section 1A:
  - (b) a partnership school kura hourua, a school registered under section 35A, a body corporate, or a tertiary education provider must, when complying with subsection (1), have regard to any statement of National Education and Learning Priorities issued under section 1A.
- (5) In subsection (2), **leader** has the meaning given to **professional leader** in section 348 and, in respect of a community of online learning not covered by that definition, means the person appointed by the community of online learning to undertake the responsibilities in subsection (2)(c).

**35ZE Enrolment at enrolling communities of online learning**

- (1) A person must not be enrolled at an enrolling community of online learning unless the person's enrolment is in accordance with any conditions set by the Minister on accreditation of the community.

- (2) A person who is enrolled at an enrolling community of online learning that is operated by a tertiary education provider is not, by reason only of the person's enrolment in the community, also enrolled in the tertiary education provider.

**35ZF Fees for enrolment or tuition at communities of online learning**

A community of online learning may charge fees to the categories of students specified in regulations made under section 35ZN.

**35ZG Suspensions and expulsions of students from enrolling communities of online learning to be notified to Secretary**

- (1) As soon as practicable after a student has been suspended from attendance at, or expelled from, an enrolling community of online learning that is not a registered school, the community must give the Secretary—
- (a) written notice of—
    - (i) the student's name and last known address; and
    - (ii) the day on which the student was suspended or expelled or, if the student was first suspended and later expelled, the days on which the student was suspended and expelled, and the length of the suspension; and
  - (b) a written statement of the reasons for the student's suspension or expulsion.
- (2) Unless the student is within a reasonable time reinstated or enrolled at another community of online learning or a registered school, the Secretary must (if the student is younger than 16) and may (if the student is 16 or older)—
- (a) arrange for the student to be enrolled at some other reasonably convenient registered school that the student can attend; or
  - (b) direct the board of a State school that is not an integrated school to enrol the student at the school; and, in that case, the board must do so; or
  - (c) direct a parent of the student to have the student enrolled at another community of online learning.
- (3) The Secretary must not give a direction under subsection (2) unless he or she has made all reasonable attempts to consult the student, the student's parents, the board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- (4) A direction under subsection (2)(b) overrides section 11P and the provisions of any enrolment scheme the school may have in place.

**35ZH Provision by community of online learning for students enrolled at enrolling community of online learning or State school**

- (1) Subject to subsections (2) to (4) of this section,—

- (a) students may,—
    - (i) if enrolled at an enrolling community of online learning, receive tuition from another community of online learning or from, or at, a State school; or
    - (ii) if enrolled at a State school, receive tuition from a community of online learning; and
  - (b) the enrolling community of online learning or the board of the State school at which the students are enrolled may pay for the tuition.
- (2) The arrangements described in subsection (1)—
- (a) may be entered into only by agreement between the communities of online learning involved or the community of online learning and the school involved, as the case may be; and
  - (b) are subject to any conditions on the accreditation of the communities of online learning concerned.
- (3) A community of online learning that is delivering tuition to a student enrolled at another community of learning or a State school may terminate that delivery before the end of the programme only if the student—
- (a) commits a serious breach of behaviour standards specified in the community's conditions of accreditation; or
  - (b) significantly fails to meet the course requirements specified in the community's conditions of accreditation.
- (4) Before a community of online learning terminates the tuition it must—
- (a) provide the parents and student (if applicable) with the reasons for the proposed action and provide a reasonable opportunity for them to respond; and
  - (b) inform the enrolling school or enrolling community of online learning.

*Grants, record keeping, and provision of accounts*

**35ZI Grants for communities of online learning**

- (1) The Minister may make grants to fully and provisionally accredited communities of online learning out of money appropriated by Parliament for the purpose.
- (2) The Minister must determine the amount of each grant made.
- (3) A grant may be made unconditionally or subject to conditions determined by the Minister.
- (4) A community of online learning to which a grant is made subject to conditions must take all reasonable steps to ensure that the conditions are complied with.

**35ZJ Record keeping in relation to grants made to communities of online learning**

- (1) This section applies to a community of online learning that is not a State school or a tertiary education provider.
- (2) A community of online learning to which this section applies and to which a grant has been made under section 35ZI must ensure that records are kept—
  - (a) in respect of the year in which the grant was made and the year after; and
  - (b) in a manner approved by the Minister.
- (3) The records must—
  - (a) show fully and correctly all the financial transactions, assets, liabilities, and funds of the community of online learning; and
  - (b) show that the conditions of the grant (if any) have been complied with; and
  - (c) be available for inspection at all reasonable times by any employee of the Ministry approved by the Secretary for the purpose.
- (4) For the purposes of this section and section 35ZK, the financial year of a community of learning ends—
  - (a) at the close of the day specified by the Minister for the purpose; or
  - (b) at the close of 30 June, if the Minister has not specified a day for the purpose.

**35ZK Providing accounts for communities of online learning to Secretary**

As soon as practicable after the end of each financial year during which a community of online learning is required by section 35ZJ to keep records, it must—

- (a) prepare an income and expenditure account that shows all financial transactions of the community of online learning for that year; and
- (b) have the account audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013); and
- (c) give the Secretary copies of the account and the audit report on it.

*Register of communities of online learning, ceasing operation as community of online learning, and regulations*

**35ZL Secretary must publish register of accredited communities of online learning**

The Secretary must publish and maintain on the Ministry's website a register that shows, in relation to each community of online learning, the following information:

- (a) its name and address:



- (b) whether it—
  - (i) is an enrolling community of online learning or a supplementary community of online learning; and
  - (ii) has provisional or full accreditation; and
- (c) any conditions on accreditation.

### **35ZM Communities of online learning must advise Secretary if ceasing operation**

A community of online learning that intends to cease to operate as a community of online learning must inform the Secretary—

- (a) that it will cease to operate; and
- (b) of the date on which it will cease to operate.

### **35ZN Regulations relating to communities of online learning**

The Governor-General may, by Order in Council, make regulations for communities of online learning, and the regulations may prescribe any or all of the following matters:

- (a) details about the application of the accreditation criteria, and the process for the application of the criteria, for provisional and full accreditation, which may be different for different types of body that apply and for enrolling and supplementary communities of online learning;
- (b) criteria for enrolment at an enrolling community, and different criteria may be fixed for all or any of the following:
  - (i) different communities;
  - (ii) communities of different classes or descriptions;
  - (iii) early childhood, primary, and secondary classes at communities;
- (c) the categories of communities of online learning that may charge, and the categories of students that may be charged, fees for enrolment and tuition;
- (d) requirements for attendance in sections 20 and 25;
- (e) planning and reporting requirements;
- (f) any other matters contemplated by, or necessary for giving full effect to, the provisions of this Part.

### **39 Section 60 amended (Interpretation)**

- (1) In section 60, repeal the definitions of **board staff**, **Chief Review Officer**, **domestic student**, **international student**, **national education guidelines**, **review officer**, and **Teachers Council**.
- (2) In section 60, insert in its appropriate alphabetical order:

**community of learning** means a community of learning approved by the Minister in accordance with section 71C

(3) In section 60, insert in its appropriate alphabetical order:

**community of online learning** has the meaning given in section 2(1)

(4) In section 60, repeal the definition of **charter**.

#### **40 New cross-heading above section 60A inserted**

After section 60, insert:

### *Curriculum and performance*

#### **41 Section 60A amended (National education guidelines)**

(1) Replace the heading to section 60A with “**Curriculum statements and national performance measures**”.

(2) Repeal section 60A(1)(a).

(3) In section 60A(1)(b), replace “(that is to say” with “, which are”.

(4) In section 60A(1)(b), replace “schooling):” with “schooling:”.

(5) Replace section 60A(1)(c) with:

(c) **national performance measures**, which are targets against which the performance of boards can be measured.

(6) Repeal section 60A(2)(c).

#### **42 Section 60B amended (Consultation about treatment of health curriculum)**

In section 60B(2), definition of **school community**, paragraph (a), replace “an integrated school” with “a State integrated school”.

#### **43 Sections 61 to 63B replaced**

Replace sections 61 to 63B with:

#### **61 Teaching and learning programmes**

The board of a school must ensure that the school’s principal and staff develop and implement teaching and learning programmes that—

- (a) give effect to any foundation curriculum policy statements and national curriculum statements in force under section 60A; and
- (b) give effect to any national standards in force under section 60A; and
- (c) give the school’s students access to a nationally and internationally recognised qualifications system.

#### **62 Monitoring of and reporting on student performance**

(1) The board of a school must ensure that the school’s principal and staff monitor and evaluate the performance of the school’s students.

- (2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—
  - (a) any national standards in force under section 60A; and
  - (b) any qualification systems referred to in section 61(c) that are offered at the school.
- (3) The board must ensure that information about a student’s performance is given to the student’s parents in a timely manner and in a form that is readily understandable.
- (4) The board must report to the Secretary, to its school community, and to parents on the performance of the school’s students in accordance with any regulations made under section 118A.

*School year, terms, and holidays, etc*

**44 Section 65 repealed (Staff)**

Repeal section 65.

**45 Sections 65H to 70C repealed**

Repeal sections 65H to 70C.

**46 Section 71 amended (Courses and visits)**

Replace the heading to section 71 with “**Courses, work experience, and visits outside school premises**”.

**47 New section 71A inserted (Off-site locations for schools)**

After section 71, insert:

**71A Off-site locations for schools**

- (1) This section applies to the use of off-site locations by schools to provide education to 1 or more students on a long-term or full-time basis.
- (2) The Minister may, by written notice to the board of a school, approve the use of an off-site location by the school.
- (3) The Minister may issue a notice under subsection (2) only if he or she is satisfied that the board and the owner or occupier of the off-site location have both agreed to that use and the terms of that use.
- (4) Except as provided in subsection (2), a school must not—
  - (a) use an off-site location; or
  - (b) host an off-site location for another school.
- (5) In any case, following notice of approval being given and before any use is made of the off-site location, the board must enter into a written agreement with the Secretary that sets out—

- (a) who is responsible for the education provided at the off-site location:
  - (b) who is responsible for the welfare and safety of the students at that location:
  - (c) the terms agreed on any other matter the Secretary considers relevant in the particular case.
- (6) **Off-site location** means any premises outside the premises of the school that is to use the off-site location for the purpose described in subsection (1).

#### 48 Sections 72 to 75 replaced

Replace sections 72 to 75 with:

##### *Land no longer needed for educational purposes*

#### 71B Minister may declare land to be no longer needed for educational purposes

- (1) The Minister may, by notice in the *Gazette*, declare any land of the Crown to be no longer needed for educational purposes.
- (2) On publication of a notice under subsection (1), any land referred to in the notice that was, immediately before publication of the notice, held for a purpose set out in subsection (3), ceases to be held and may be disposed of as land no longer required for a public work.
- (3) Subsection (2) applies to land held—
  - (a) for education or educational purposes; or
  - (b) for, or for the purposes of, a school or other educational institution (whether or not any particular school or institution); or
  - (c) for any purpose related to or connected with a school or other educational institution (whether or not any particular school or institution); or
  - (d) for any similar purpose.

##### *Communities of learning*

#### 71C Community of learning approved by Minister

- (1) The Minister may approve a community of learning for the purpose of the community entering an agreement under section 72.
- (2) A community of learning must consist of a group of 2 or more State or State integrated schools but may also include 1 or more of the following:
  - (a) licensed early childhood services (as defined in section 309):
  - (b) certificated playgroups:
  - (c) tertiary education organisations (which has the same meaning as **organisation** in section 159B(1)).
- (3) The Minister may approve a community of learning only if the Minister is satisfied that—

- (a) the purpose of the group is to come together for the purpose of raising achievement for children and young people; and
- (b) the membership of the group that will form the community is appropriate having regard to that purpose.

## **72 Secretary may enter agreement with community of learning**

- (1) The Secretary and the members of a community of learning approved by the Minister may enter a community of learning agreement.
- (2) The matters that a community of learning agreement may provide for include (without limitation) any or all of the following:
  - (a) the activities that the community of learning will undertake;
  - (b) the commitments of individual members of the group in carrying out the activities;
  - (c) any resources that may be provided to carry out the activities;
  - (d) any data collection requirements related to the activities;
  - (e) the format and content of the plans and annual reports required under sections 73 and 74.
- (3) Each member is jointly and severally liable for the obligations and responsibilities of the community of learning set out in the agreement.
- (4) A member that proposes to withdraw from a community of learning agreement must give the Secretary notice in writing of the withdrawal.
- (5) The Secretary must, by notice in the *Gazette*, list the members of each community of learning that have entered into a community of learning agreement with the Secretary and update the list to record any changes to membership of the community.

## **73 Community of learning that has agreement with Secretary must also prepare plan**

- (1) A community of learning that has a community of learning agreement with the Secretary must—
  - (a) prepare and maintain a plan to cover a period agreed to by the Secretary; and
  - (b) provide the Secretary with a copy of the plan.
- (2) The plan must have particular regard to any statement of National Education and Learning Priorities issued under section 1A.
- (3) A community of learning that changes a plan provided to the Secretary must provide the Secretary with a copy of the changed plan as soon as practicable.

**74 Report to Secretary by community of learning**

A community of learning that has a community of learning agreement with the Secretary must report annually to the Secretary regarding—

- (a) its performance and progress in relation to the activities it has agreed to undertake; and
- (b) the use of any resources provided to or by the community of learning in accordance with the agreement to carry out the activities.

**75 Performance review of community of learning**

The Chief Review Officer may review the performance of a community of learning under Part 28.

*Powers and functions of principals*

**49 Section 77 amended (Guidance and counselling)**

After section 77(a), insert:

- (ab) students in form 1 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave school; and

**50 New cross-heading above section 78 inserted**

After section 77A, insert:

*Regulations*

**51 New cross-heading above section 78A inserted**

After section 78, insert:

*Powers of entry and inspection*

**52 Section 78A amended (Powers of entry and inspection)**

- (1) In section 78A(1)(a), after “school”, insert “or community of online learning”.
- (2) In section 78A(1)(b), after “school”, insert “or community”.
- (3) In section 78A(1A), after “school”, insert “or community” in each place.
- (4) In section 78A(5), after “school”, insert “or community of online learning”.

**53 Section 78B repealed (Entry where private school suspected of being unregistered)**

Repeal section 78B.

**54 New cross-heading above section 78C inserted**

After section 78B, insert:

*Police vetting of non-teaching staff*

**55 New cross-heading above section 78D inserted**

After section 78CD, insert:

*Risk management schemes*

**56 Section 78H amended (Purpose of Part)**

In section 78H, after “address”, insert “concerns about or”.

**57 Section 78I amended (Application of interventions)**

(1) After section 78I(1)(c), insert:

- (ca) a requirement by the Secretary that the board attend a case conference to enable a particular issue or issues to be discussed and actions to be agreed:
- (cb) a requirement by the Secretary that the board engage an appropriately qualified person to undertake a specialist audit of any aspect of the school’s affairs:
- (cc) the issuing by the Secretary to the board of a performance notice requiring the board to carry out a specified action by a specified date:
- (cd) the appointment by the Minister of a trustee (who may be the presiding trustee) to the board for a specified period of time:

(2) After section 78I(1), insert:

(1A) The Secretary may apply any of the interventions described in subsection (1)(a) to (cc) to a school if he or she has reasonable grounds for concern about the operation of the school, or the welfare, or educational performance of its students.

(3) In section 78I(2), replace “subsection (1)(b) to (e)” with “subsection (1)(cd) to (e)”.

(4) In section 78I(3)(b), replace “an integrated school” with “a State integrated school”.

**58 Section 78J amended (Requirement to provide information)**

(1) In section 78J(1)(a), after “time”, insert “or times”.

(2) After section 78J(1), insert:

(1A) The Secretary may also require, in the notice, that an analysis of the specified information be provided.

(3) Repeal section 78J(2).

(4) Replace section 78J(3) with:

- (3) A board that receives a notice under subsection (1) must provide the Secretary with the information required and an analysis of the information (if this has been sought)—
- (a) by the time or times, or at the intervals, or both, as specified in the notice; and
  - (b) in the form (if any) required by the Secretary.
- (5) Repeal section 78J(4).

**59 Section 78K amended (Specialist help)**

- (1) After section 78K(2), insert:
- (2A) The Secretary may also require, in the notice, that the board provide to him or her a report or reports (for example, a progress report and a final report) on the specialist help—
- (a) by the specified time or times; or
  - (b) at the specified intervals; or
  - (c) both.
- (2) Replace section 78K(3) with:
- (3) A board that receives a notice under subsection (1) must—
- (a) engage the specialist help as soon as practicable; and
  - (b) pay the fees and reasonable expenses of any person or organisation engaged to provide specialist help, unless the Secretary determines otherwise; and
  - (c) provide a report or reports to the Secretary at the time or times, or intervals, specified in the notice.
- (3) Repeal section 78K(4).

**60 Section 78L amended (Action plans)**

In section 78L(4)(b), replace “charter” with “strategic plan (as defined in clause 7 in Schedule 6)”.

**61 New sections 78LA to 78LE inserted**

After section 78L, insert:

**78LA Case conference**

- (1) The Secretary may, by written notice to the board of a school, require the board to attend a case conference on a specified date.
- (2) The notice must specify the issue or issues to be discussed.
- (3) A board that receives a notice under subsection (1) must attend the case conference.



- (4) The Secretary may invite any person to attend the case conference, if the Secretary considers that the person's presence at the conference is desirable.
- (5) If the case conference results in the parties reaching agreement on any action or actions to address any issue or issues, the agreement—
  - (a) must be recorded in writing; and
  - (b) is binding on the parties.
- (6) If the Secretary and the board are not able to agree on an action or actions to address any issue or issues, the Secretary may, by written notice to the board,—
  - (a) require it to take a particular action or actions; and
  - (b) require it to provide to him or her a report or reports (for example, a progress report and a final report) on the action or actions taken—
    - (i) as at a given time or times; or
    - (ii) at specified intervals; or
    - (iii) both.
- (7) A board that receives a notice under subsection (6) must,—
  - (a) in relation to a requirement to take a particular action or actions, take the action or actions as soon as practicable; and
  - (b) if the notice includes a requirement to report to the Secretary, provide a report or reports at the time or times, or intervals, specified in the notice.

#### **78LB Specialist audit**

- (1) The Secretary may, by written notice to the board of a school, require the board to engage an appropriately qualified person to undertake a specialist audit of any aspect of the school's affairs.
- (2) A notice given under subsection (1) must identify particular persons or organisations, or types of persons or organisations, whom the board must engage.
- (3) The Secretary may also require, in the notice, that the board provide to him or her a report or reports (for example, a progress report and a final report) on the audit—
  - (a) as at a given time or times; or
  - (b) at specified intervals; or
  - (c) both.
- (4) A board that receives a notice under subsection (1) must—
  - (a) undertake the audit as soon as practicable; and
  - (b) pay the fees and reasonable expenses of any person or organisation engaged to undertake the audit, unless the Secretary determines otherwise; and

- (c) provide a report or reports to the Secretary at the time or times, or intervals, specified in the notice.

**78LC Performance notice**

- (1) The Secretary may, by written notice to the board of a school, issue a performance notice requiring the board to carry out a specified action by a specified date.
- (2) The Secretary may also require, in the notice, that the board provide to him or her a report or reports (for example, a progress report and a final report) on the action taken—
  - (a) as at a given time or times; or
  - (b) at specified intervals; or
  - (c) both.
- (3) A board that receives a notice under subsection (1) must—
  - (a) take the action by the date specified in the notice; and
  - (b) provide a report or reports to the Secretary at the time or times, or intervals, specified in the notice.

**78LD Appointment of additional trustee by Minister**

- (1) The Minister may, by written notice to the board of a school, appoint an additional trustee of the board, and the Minister may also appoint that trustee as the presiding trustee.
- (2) The notice must specify a period of time for which the appointment is made.
- (3) A person who is ineligible to be a trustee under section 103 may not be appointed under this section.

**78LE Amendment and revocation of notices**

- (1) The Secretary may at any time, by giving written notice to a board, amend or revoke a notice given by him or her under this Part.
- (2) The amendment or revocation takes effect on the date specified in the notice.

**62 Section 78M amended (Limited statutory manager)**

In section 78M(5), after “it”, insert “, unless the Secretary determines otherwise”.

**63 Section 78O amended (Commissioners)**

In section 78O(3), after “the board”, insert “, unless the Secretary determines otherwise”.

**64 Section 78R amended (Annual review of interventions)**

In section 78R, replace “sections 78J(1), 78K(1), 78L(1), 78M(1), or 78N(1) or (3)” with “sections 78J(1), 78K(1), 78L(1), 78LA, 78LB, 78LC, 78LD, 78M(1), or 78N(1) or (3)”.

**65 Section 78S amended (Application of interventions to integrated schools)**

- (1) In the heading to section 78S, replace “**integrated schools**” with “**State integrated schools**”.
- (2) In section 78S(1), replace “an integrated school” with “a State integrated school”.

**66 Part 8 heading amended**

In the Part 8 heading, after “**Financial**”, insert “**matters, assets, and property**”.

**67 Section 81A repealed (Grants for correspondence schools)**

Repeal section 81A.

**68 Section 87 replaced (Annual reports)**

Replace section 87 with:

**87 Statements of variance and annual reports**

- (1) A board must give the Secretary—
  - (a) a statement of variance by a date fixed by the Secretary each year; and
  - (b) an annual report as soon as practicable after the end of each financial year, and no later than a date fixed by the Secretary.
- (2) The annual report must contain the following:
  - (a) the information required by the regulations made under section 118A;
  - (b) the board’s annual financial statements;
  - (c) the auditor’s report provided under section 87A;
  - (d) in respect of the board or, in the case of a Crown entity group, each Crown entity in the group,—
    - (i) the total value of the remuneration (other than compensation and other benefits referred to in subparagraph (v)) paid or payable to the trustees in their capacity as trustees by the board (or entities in the group, as the case may be) during the financial year; and
    - (ii) the total value of the remuneration (other than compensation and other benefits referred to in subparagraph (v)) paid or payable to the committee members in their capacity as committee members by the board (or entities in the group, as the case may be) during the financial year (except that this subparagraph does not apply to

- trustees whose remuneration is disclosed under subparagraph (i)); and
- (iii) the number of employees (other than principals of the school) to whom, during the financial year, remuneration (other than compensation and other benefits referred to in subparagraph (v)) was paid or payable in their capacity as employees, the total value of which is or exceeds \$100,000 per annum, and the number of those employees in brackets of \$10,000; and
  - (iv) a report, presented in the manner required by the Minister by notice in the *Gazette*, on the total remuneration (including benefits, any compensation, ex gratia payments, any other payments, and any other consideration paid or payable in the school principal's capacity as an employee) paid to a principal of the school; and
  - (v) the total value of any compensation or other benefits paid or payable to persons who ceased to be trustees, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was payable:
- (e) the statement of variance.
- (3) In this section, **statement of variance** means a statement that details—
- (a) any variance between the school's performance and the achievement of the school's objectives set out in its strategic plan and annual implementation plan; and
  - (b) any matters required by the regulations made under section 118A.

**69 New section 87AB inserted (Annual report to be made available)**

After section 87A, insert:

**87AB Annual report to be made available**

A board must ensure that its annual report is available to the public on an Internet site maintained by or on behalf of the board.

**70 Section 91A amended (Interpretation)**

In section 91A(1), insert in its appropriate alphabetical order:

**enrolling community of online learning** has the same meaning as in section 2(1)

**71 Section 91B replaced (Application)**

Replace section 91B with:

**91B Application**

Section 91C applies to every State school other than an enrolling community of online learning.

**72 Section 92 amended (Interpretation)**

- (1) In section 92(1), repeal the definition of **correspondence school**.
- (2) In section 92(1), repeal the definition of **integrated**.
- (3) In section 92(1), definition of **special institution**, repeal paragraph (b).
- (4) In section 92(1), insert in their appropriate alphabetical order:

**community of online learning** has the same meaning as in section 2(1)

**enrolling community of online learning** has the same meaning as in section 2(1)

**online education** has the same meaning as in section 2(1)

**supplementary community of online learning** has the same meaning as in section 2(1)

- (5) In section 92(1), insert in its appropriate alphabetical order:

**integrated** has the same meaning as in section 2(1)

**73 New cross-heading above section 93 inserted**

After section 92, insert:

*Requirement for board of trustees*

**74 Section 93 amended (Schools and special institutions to have boards of trustees)**

In the heading to section 93, replace “**Schools**” with “**State schools**”.

**75 New cross-heading above section 94 inserted**

Above section 94, insert:

*Constitution of boards*

**76 Section 94 amended (Constitution of boards of State schools)**

- (1) In section 94(1), replace “94C, and 95(1)” with “95(1), and 100”.
- (2) In section 94(1)(e), replace “any integrated school” with “any State integrated school”.

**77 Section 94A amended (Proprietors of integrated schools may vary number of trustees they appoint)**

- (1) In the heading to section 94A, replace “**integrated schools**” with “**State integrated schools**”.

- (2) In section 94A(1), replace “any integrated school shall” with “any State integrated school must”.
- (3) In section 94A(2), replace “an integrated school” with “a State integrated school”.
- (4) In section 94A(4), replace “an integrated school” with “a State integrated school”.

**78 Section 94C repealed (Limitations on co-option and appointment of trustees)**

Repeal section 94C.

**79 Section 95 amended (Boards of correspondence schools and certain other educational institutions)**

Replace the heading to section 95 with “**Composition of boards of special institutions**”.

**80 Section 98 amended (Boards of newly established schools)**

In section 98(3)(b), replace “section 105A” with “section 98A”.

**81 New sections 98A to 98C and cross-heading inserted**

After section 98, insert:

**98A Minister may approve alternative constitution in certain cases**

- (1) The Minister may from time to time, by notice in the *Gazette*, approve an alternative constitution under this section for the board of a State school, or a combined board of State schools.
- (2) The Minister may not approve an alternative constitution for a board unless the Minister has reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board.
- (3) Subject to subsections (2) and (4), the Minister may not approve an alternative constitution unless—
  - (a) 1 of the following applies:
    - (i) the Chief Review Officer (as defined in section 2(1)), in a written report, recommends that the Minister consider devising an alternative constitution; or
    - (ii) 20% or more of the parents of children enrolled at the school or schools have requested an alternative constitution; or
    - (iii) the board (or if a board has been replaced by a commissioner, that commissioner) has requested an alternative constitution; or
    - (iv) the Minister has required the board to have an alternative constitution under section 110(1D) or 110A(3); and

- (b) the Minister has consulted such persons or organisations as the Minister considers appropriate.
- (4) Subsection (3) does not apply if—
  - (a) the alternative constitution is the successor constitution for a board that was appointed or elected under section 98(1); or
  - (b) the alternative constitution is approved for a combined board before the date specified in a notice under section 110(1); or
  - (c) the alternative constitution is for the board of a continuing school and the Minister has given notice under section 156A(4)(b).
- (5) In the case of a State integrated school, the Minister must consult the proprietor of the school when conducting the consultation required under subsection (3)(b).
- (6) A constitution approved under this section applies instead of a constitution under section 94.

**98B Consequences of approval of alternative constitution**

- (1) If an alternative constitution is approved under section 98A(1), the notice made under that section must establish a board comprising 1 or more persons who are to be elected or appointed as trustees in the manner specified in the notice, and the notice may (without limitation)—
  - (a) set out a procedure for any election, appointment, or co-option of trustees;
  - (b) set out the manner in which vacancies are to be filled;
  - (c) provide for the appointment of returning officers and set out their functions;
  - (d) set out other formal and procedural provisions for the purposes of any election, appointment, or co-option of trustees.
- (2) While a notice under section 98A(1) that approves an alternative constitution is in force, sections 94, 94A, 94B, 95, 96, 97, 98, 99, 101, 102, 104, and 105 do not apply in respect of the board concerned and the schools governed by it.
- (3) In their application to a board that has an alternative constitution under section 98A, the other sections and any schedules of this Act relating to boards must be read subject to (and subject also to all modifications necessary to give effect to) section 98A and to this section.

**98C Actions of boards not to be questioned for informality in membership**

The powers of a board are not affected by—

- (a) any vacancy in its membership; or
- (b) the discovery of any error or defect in the election, appointment, or co-option of any trustee; or

- (c) the fact that any elected, appointed, or co-opted trustee acted as a trustee while he or she was a person who may not (under section 103(1)) become an elected, appointed, or co-opted trustee; or
- (d) the fact that a person continued acting as a trustee after the person's office as a trustee became vacant or (in the case of a person whose election as a trustee has been declared invalid under section 101D or by a court) before the person's election was declared invalid.

*Co-opted and appointed trustees*

**82 Section 100 replaced (Availability of annual report)**

Replace section 100 with:

**100 Limitations on co-option and appointment of trustees**

- (1) A board must not co-opt a trustee if the effect of the co-option would be that the total number of trustees co-opted by the board or appointed was equal to or greater than the total number of parent representatives.
- (2) A board must not exercise its powers under section 94B(1)(c) or (d) if doing so could result in the board having a number of parent representatives that was not greater than the total number of trustees co-opted by the board or appointed.
- (3) No more than 1 non-permanently appointed member of the board staff may be co-opted to the board at any one time.

*Elections of trustees*

**83 Section 101 amended (Elections of trustees)**

- (1) In section 101(5), replace "31 October" with "30 April".
- (2) In section 101(8A), replace "section 105A" with "section 98A" in each place.

**84 New sections 101C and 101D and cross-heading inserted**

After section 101B, insert:

**101C Provisions relating to board with staggered election cycle where commissioner appointed**

- (1) This section applies if a commissioner has been appointed in place of a board that has, or has decided to have, a staggered election cycle, and the commissioner has appointed a date under section 78P for the holding of elections of trustees for a new board.
- (2) Despite anything in section 102, the nomination forms and voting forms for the election must show which nominees are standing only until the next election, and which are standing until the election after the next election.



- (3) Despite anything in section 102, trustees who are elected only until the next election go out of office at the close of the day before the day on which the successor takes office following the election.
- (4) If the date that the commissioner has appointed under section 78P is a date that is within 6 months before the date on which an election is due to be held, the board does not have to hold an election on that date and this section applies as if that election were not due to be held.

#### **101D Validation and invalidation of elections of boards**

- (1) Subsection (2) applies if—
  - (a) anything required to be done in connection with an election under this Act—
    - (i) has been done after the time it is required to be done; or
    - (ii) has not been done at all; or
    - (iii) has been done irregularly; and
  - (b) the Minister thinks the lateness, omission, or irregularity could not materially have affected the result of the election.
- (2) If this subsection applies, the Minister may, by notice in the *Gazette*, validate the lateness, omission, or irregularity.
- (3) Where anything required to be done in connection with an election under this Act cannot be done at or by the time at or by which it is required to be done, the Minister may, at any time, by notice in the *Gazette*, extend the time for doing it.
- (4) Subsection (5) applies if there occurs in connection with an election under this Act—
  - (a) any lateness, omission, or irregularity that is capable of being validated under this section, but which the Minister thinks would be improper or undesirable to validate; or
  - (b) any other irregularity that the Minister thinks could materially have affected the result of the election.
- (5) If this subsection applies to an election, the Minister may at any time within 60 days of the election, by notice in the *Gazette*,—
  - (a) declare the election invalid; and
  - (b) require a new election to be held on a day specified in the notice; and
  - (c) declare that the trustees holding office on the date of the invalid election remain in office until the close of the day before the day on which the new trustees take office.

#### *Term of office of trustees*

**85 New cross-heading above section 103 inserted**

After section 102, insert:

*Eligibility to be trustee*

**86 Section 103B amended (Requirements before appointment)**

In section 103B, delete “governing”.

**87 New cross-heading above section 104 inserted**

After section 103B, insert:

*Casual vacancies on boards*

**88 Section 104 amended (When casual vacancies arise)**

In section 104(4), replace “an integrated school” with “a State integrated school”.

**89 Sections 105A and 109A repealed and new cross-heading inserted**

- (1) Repeal sections 105A and 109A.
- (2) Above section 110, insert:

*Combining and splitting boards*

**90 Section 110 amended (Boards may combine)**

Replace section 110(1) with:

- (1) The Minister may, by notice in the *Gazette*, establish a single board (a **combined board**) to administer a number of schools or institutions, with effect from a date specified in the notice.
- (1A) The Minister may establish a combined board if the restrictions in section 111 are met and the Minister—
  - (a) is satisfied of the matters in subsection (1B); or
  - (b) has reasonable cause to believe the circumstances in subsection (1C) exist and has consulted—
    - (i) the boards concerned; and
    - (ii) in the case of a State integrated school, the proprietor of that school.
- (1B) For the purposes of subsection (1A)(a), the matters are that—
  - (a) each of the boards concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at its schools or institutions about combining with the other boards; and
  - (b) the consultation that has taken place has been adequate in all the circumstances; and

- (c) the proposed combined board is appropriate in all the circumstances.
- (1C) For the purposes of subsection (1A)(b), the circumstances are that the Minister must have reasonable cause to believe that—
- (a) there are serious problems with the governance of 1 or more of the schools or institutions concerned; and
- (b) those problems could be addressed by the combined board.
- (1D) When establishing a combined board for 4 or more schools, the Minister may require the combined board to have an alternative constitution.

**91 Section 110A amended (Minister may combine boards at establishment)**

After section 110A(2), insert:

- (3) When establishing a combined board of 4 or more schools, the Minister may require the combined board to have an alternative constitution.

**92 Section 111 amended (Restrictions on combining)**

- (1) In section 111(3), replace “an integrated school” with “a State integrated school”.
- (2) In section 111(4), replace “an integrated school” with “a State integrated school”.
- (3) After section 111(4), insert:
- (5) A board of a designated character school may only combine with a board of another designated character school and only if both schools have substantially the same aims, purposes, and objectives (that are required to be specified under section 156).
- (6) A board of a Kura Kaupapa Māori may only combine with another board of a Kura Kaupapa Māori.

**93 New cross-heading above 117 inserted**

After section 116A, insert:

*Miscellaneous provisions*

**94 Section 118 amended (Regulations)**

Replace the heading to section 118 with “**Regulations about board elections**”.

**95 New section 118A inserted (Regulations about planning, implementation, monitoring, and reporting)**

After section 118, insert:

**118A Regulations about planning, implementation, monitoring, and reporting**

- (1) The Governor-General may, by Order in Council, make regulations that make provision for 1 or more of the following:

- (a) the development of school strategic plans and annual implementation plans under clauses 7 to 10 of Schedule 6; and
  - (b) the monitoring of and reporting of a board's performance under clause 11 of Schedule 6; and
  - (c) the monitoring of and reporting on the performance of a school's students under section 62; and
  - (d) the preparation and delivery of statements of variance and annual reports under section 87.
- (2) Without limiting subsection (1), the regulations may make provision in relation to 1 or more of the following:
- (a) the form of plans:
  - (b) matters that must be dealt with in plans:
  - (c) when plans must be prepared, submitted, or updated:
  - (d) requirements for consultation in the development and implementation of plans:
  - (e) the information that must be included in a statement of variance under section 87(1)(a):
  - (f) the form of statements of variance:
  - (g) the information that must be included in an annual report under section 87(2)(a):
  - (h) the form of annual reports:
  - (i) the form of reports on the performance of a school's students:
  - (j) the information that must be included in reports on the performance of a school's students:
  - (k) any other matters contemplated by, or necessary for giving full effect to, any of the following provisions:
    - (i) section 60A(1)(c):
    - (ii) section 62:
    - (iii) sections 87 to 87AB:
    - (iv) clauses 7 to 11 of Schedule 6.

**96 New sections 139AB to 139AE inserted**

After section 139A, insert:

**139AB No seclusion at or on behalf of registered school or early childhood service**

- (1) A person to whom this section applies must not seclude any student or child who is enrolled at or attending a registered school or an early childhood service.

- (2) This section applies to a teacher or any other person who is—
- (a) employed by a board; or
  - (b) employed by the managers of a school registered under section 35A; or
  - (c) employed by the sponsor of a partnership school kura hourua; or
  - (d) employed or engaged by the service provider of an early childhood service; or
  - (e) providing education or care to children attending an early childhood service; or
  - (f) supervising or controlling any student or child on behalf of—
    - (i) a board; or
    - (ii) the managers of a school registered under section 35A; or
    - (iii) the sponsor of a partnership school kura hourua; or
    - (iv) the service provider of an early childhood service.

- (3) In this section,—

**early childhood service** has the meaning given to it by section 309

**seclude**, in relation to a student or child, means to place the student or child involuntarily alone in a room from which he or she cannot freely exit or from which the student or child believes that he or she cannot freely exit

**service provider** has the meaning given to it by section 309.

### 139AC Limits on use of physical restraint in schools

- (1) A teacher or authorised staff member must not physically restrain a student unless—
- (a) the teacher or staff member reasonably believes that the safety of the student or of any other person is at serious and imminent risk; and
  - (b) the physical restraint is reasonable and proportionate in the circumstances.

- (2) In this section and in sections 139AD and 139AE,—

**authorised staff member** means an employee of a registered school who is authorised by the employer to use physical restraint in accordance with this section

**employer** means—

- (a) a board;
- (b) the managers of a school registered under section 35A;
- (c) the sponsor of a partnership school kura hourua

**physically restrain**, in relation to a student, means to use physical force to prevent, restrict, or subdue the movement of the student's body or part of the student's body

**teacher** means a person who holds a teaching position (as defined in section 348) at a registered school.

#### **139AD Rules on physical restraint**

- (1) The Secretary must make rules prescribing the practice and procedure to be followed by employers, principals, teachers, and authorised staff members in relation to physical restraint.
- (2) The rules must include—
  - (a) requirements to keep written records on the use of physical restraint, including requirements to notify, monitor, and report on the use of physical restraint; and
  - (b) a procedure for authorising staff members to use physical restraint in accordance with section 139AC.
- (3) Rules made under this section are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

#### **139AE Guidelines on physical restraint**

- (1) The Secretary must, by notice in the *Gazette*, issue guidelines on the use of physical restraint in registered schools.
- (2) The guidelines must include—
  - (a) best practice examples for the use of physical restraint; and
  - (b) other examples of best practice in behaviour management.
- (3) Employers, principals, teachers, and authorised staff members must have regard to the guidelines.

#### **97 Section 141 repealed (Consequential amendments to Private Schools Conditional Integration Act 1975)**

Repeal section 141.

#### **98 Section 144A amended (Secretary may require information for proper administration of Act)**

- (1) Replace section 144A(1) with—
  - (1AAA) The Secretary may, by written notice that complies with subsection (1AAB), require any of the following individuals or bodies to provide information:
    - (a) the board of any State school (within the meaning of section 2(1));
    - (b) the sponsor of any partnership school kura hourua;
    - (c) a community of online learning;
    - (d) the service provider who operates any licensed early childhood service (within the meaning of section 309) or any certificated playgroup;

(e) the managers of any school registered under section 35A.

(1AAB) The notice must specify the information required and the time period within which it must be provided.

(1) The individual or body concerned must, within the specified time period, provide all information required that is reasonably necessary or desirable for the Secretary to have for the proper administration of this Act.

(2) In section 144A(2), replace “subsection (1)” with “this section”.

### **99 New section 145AAA inserted (Purpose of Part)**

Before section 145, insert:

#### **145AAA Purpose of Part**

The purpose of this Part is to—

- (a) enable the provision of a schooling network that assists parents to meet their obligations to enrol their children at school; and
- (b) assist the efficient and effective use of the government’s investment in schooling; and
- (c) recognise the role of diversity in the provision of schooling, including the provision of Māori medium education.

### **100 Section 145 amended (Interpretation)**

(1) In section 145(1), repeal the definition of **correspondence school**.

(2) In section 145(1), repeal the definition of **integrated school**.

(3) In section 145(1), insert in its appropriate alphabetical order:

**State integrated school** has the same meaning as in section 2(1)

### **101 Section 146 amended (Minister may establish schools)**

After section 146(1), insert:

(1A) A decision to establish a school under subsection (1) is in the Minister’s absolute discretion.

### **102 Section 147 amended (Names of State schools)**

In section 147(4), replace “section 155(6)” with “section 156AA(3)(a)(i)”.

### **103 Section 148 amended (Normal schools, etc)**

In section 148(2), replace “an integrated school” with “a State integrated school”.

### **104 Section 149 amended (Intermediate departments)**

(1) In section 149(a)(i), replace “an integrated school” with “a State integrated school”.

- (2) In section 149(a)(ii), replace “an integrated school” with “a State integrated school”.

**105 Section 150 amended (Contributing schools)**

In section 150(1), replace “section 33 of the Private Schools Conditional Integration Act 1975” with “Part 33”.

**106 Section 151 amended (Provision of education at composite schools)**

In section 151, replace “section 33 of the Private Schools Conditional Integration Act 1975” with “Part 33”.

**107 Section 152 repealed (Correspondence schools)**

Repeal section 152.

**108 Section 153 amended (Minister may change class of school)**

- (1) After section 153(1A), insert:

(1B) A decision to change the class of a school under subsection (1) or to specify class levels (and, if relevant, to provide for the phasing in of these) under subsection (1A) is in the Minister’s absolute discretion.

- (2) In section 153(2), replace “an integrated school” with “a State integrated school”.

**109 Section 154 amended (Closure of schools)**

- (1) In section 154(1), replace “section 17 of the Private Schools Conditional Integration Act 1975” with “section 438”.

- (2) After section 154(2A), insert:

(2B) A decision to close a school under subsection (2) is in the Minister’s absolute discretion.

**110 Section 154A amended (Minister may redesignate, or remove designation from, schools)**

- (1) In section 154A(2)(a) and (c), replace “section 155” with “section 156”.

- (2) In section 154A(4), replace “section 155” with “section 156”.

**111 Section 155 replaced (Kura Kaupapa Maori)**

Replace section 155 with:

**155 Kura Kaupapa Māori**

When establishing a State school as a designated character school under sections 156 and 156AA, the Minister may also designate that designated character school as a Kura Kaupapa Māori.



**112 Section 155D amended (Provisions applying to Kura Kaupapa Maori established before commencement of Education (Te Aho Matua) Amendment Act 1999)**

In section 155D(3), replace “Subsections (6), (7)(a), and (9) of new section 155 apply” with “Section 156(6)(a)(i), (8), and (10) applies”.

**113 Section 155E amended (Acknowledgment of adoption of Te Aho Matua)**

- (1) In section 155E(1)(a), replace “new section 155(4)(b)” with “section 156AA(3)(a)(ii)”.
- (2) In section 155E(1)(b), replace “new section 155(4)(c)” with “section 156AA(3)(a)(iii)”.
- (3) In section 155E(2), replace “new section 155” with “section 156”.

**114 Section 155F amended (Protection of term Kura Kaupapa Maori)**

In section 155F(1), replace “section 155” with “section 156”.

**115 Section 156 replaced (Designated character schools)**

Replace section 156 with:

**156 Designated character schools**

- (1) When establishing a State school, the Minister may designate the school as a designated character school.
- (2) The Minister must do so in accordance with this section and section 156AA.
- (3) The Minister may in the Minister’s absolute discretion refuse to establish a designated character school.
- (4) The Minister may not establish a school as a designated character school unless satisfied that, if the school is established,—
  - (a) for a school that will also be designated a Kura Kaupapa Māori under section 155,—
    - (i) te reo Māori will be the principal language of instruction at the school; and
    - (ii) the school will operate in accordance with Te Aho Matua (as defined in section 155A):
  - (b) for any other type of designated character school, the school will have a character that is in some specific way or ways different from the character of ordinary State schools (its **different character**):
  - (c) for any designated character school, it is desirable for students whose parents want them to do so to get such an education:
  - (d) for any designated character school, students at the school will get an education of a kind that differs significantly from the education they would get at an ordinary State school.

- (5) The Minister may not also designate a designated character school as a Kura Kaupapa Māori unless he or she has first consulted te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua.
- (6) The board of a designated character school must ensure,—
  - (a) for a Kura Kaupapa Māori, that—
    - (i) te reo Māori is the principal language of instruction at the school; and
    - (ii) the school operates in accordance with Te Aho Matua:
  - (b) for any other type of designated character school, that—
    - (i) the aims, purposes, and objectives of the school's different character are set out in the school's strategic plan under Schedule 6; and
    - (ii) the school operates consistently with its different character.
- (7) A designated character school that is a Kura Kaupapa Māori may have other special characteristics that give it a particular character (its **special characteristics**).
- (8) The Secretary must from time to time, by written notice to a designated character school, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.
- (9) A board of a designated character school may refuse to enrol students whose parents do not accept,—
  - (a) for a Kura Kaupapa Māori, that the school operates in accordance with Te Aho Matua:
  - (b) for any other type of designated character school, that the school operates consistently with its different character.
- (10) Except as provided in this section and section 11PB, this Act and the Education Act 1964 apply to every designated character school as if it were not a designated character school.

#### **156AA Process for establishing designated character schools**

- (1) The Minister may, by notice in the *Gazette* when establishing a State school, designate the school as a designated character school (*see* section 156) and (if applicable) also designate a school as a Kura Kaupapa Māori (*see* section 155).
- (2) Before doing so, the Minister must be satisfied of the matters in section 156(4) and have undertaken consultation under section 156(5) (as relevant in each case).
- (3) The notice establishing a designated character school must,—
  - (a) for a Kura Kaupapa Māori,—
    - (i) specify the name of the school, which must at all times begin with the words “Te Kura Kaupapa Māori o”; and

- (ii) state that the school will operate in accordance with Te Aho Matua; and
  - (iii) summarise any other special characteristics of the school:
  - (b) for any other type of designated character school, describe the different character of the school (as defined in section 156(4)(b)):
  - (c) for any designated character school, state the constitution of the school's board.
- (4) The Minister may from time to time, after consultation with the board of a designated character school, by notice in the *Gazette*,—
- (a) for a Kura Kaupapa Māori,—
    - (i) amend the name of the school (but not so as to omit the words “Te Kura Kaupapa Māori o”):
    - (ii) amend the summary of special characteristics of the school:
  - (b) for any other type of designated character school, amend the description of the different character of the school:
  - (c) for any designated character school, amend the statement of the constitution of the board.

**116 Section 156A amended (Minister may merge schools)**

- (1) In section 156A(1),—
  - (a) replace “integrated schools” with “State integrated schools”; and
  - (b) replace “an integrated school” with “a State integrated school”.
- (2) After section 156A(1), insert:
- (1A) A decision to merge a school under subsection (1) is in the Minister's absolute discretion.
- (3) In section 156A(4)(b), replace “section 105A” with “section 98A”.

**117 Section 156AB amended (Election or appointment of boards of continuing schools)**

In section 156AB(1)(c), replace “section 94C” with “section 100”.

**118 Section 156AC amended (Alternative constitutions for continuing schools)**

In section 156AC(1) and (4), replace “section 105A” with “section 98A”.

**119 Section 157 amended (Consultations)**

- (1) In section 157(3), replace “without first consulting” with “unless subsection (3A) applies, without first consulting”.
- (2) After section 157(3), insert:

(3A) Subsection (3)(f) and (g) does not apply if the relevant boards have already been consulted on a closure or merger option as part of a review of the provision of schooling in a particular area.

**120 Section 158A amended (Interpretation)**

In section 158A, insert in its appropriate alphabetical order:

**enrolling community of online learning** has the same meaning as in section 2(1)

**121 Section 158G amended (Sponsor’s duties)**

After section 158G(b), insert:

(ba) ensure that in the development and delivery of the curriculum, the school has regard to any statement of National Education and Learning Priorities issued by the Minister under section 1A.

**122 Section 158R amended (Secretary’s powers when student younger than 16 is excluded from partnership school kura hourua)**

- (1) In section 158R(1)(b), replace “an integrated school” with “a State integrated school”.
- (2) In section 158R(1)(d), replace “a correspondence school” with “an enrolling community of online learning”.

**123 Section 158U amended (Application of this Act to partnership schools kura hourua)**

- (1) In section 158U(1), after “78CD,”, insert “139AC to 139AE,”.
- (2) In section 158U(2), after “78CD,”, insert “139AC to 139AE,”.
- (3) In section 158U(5), definition of teacher, paragraph (a), replace “section 120” with “section 348”.

**124 Section 159AAA amended (Object of provisions relating to tertiary education)**

In section 159AAA(2), replace “the Commission, the Qualifications Authority, and Careers New Zealand” with “the Commission, and the Qualifications Authority”.

**125 Section 159 amended (Interpretation)**

- (1) In section 159(1), insert in its appropriate alphabetical order:

**enrolling community of online learning** has the same meaning as in section 2(1)

- (2) In section 159(1), replace the definition of **private training establishment** with:

**private training establishment** means an establishment, other than an institution, that provides post-school education or vocational training and includes an establishment that is accredited as a community of online learning

**126 Section 159AB amended (Importance of tertiary education strategy)**

In section 159AB, replace “the Commission, the Qualifications Authority, and Careers New Zealand” with “the Commission, and the Qualifications Authority”.

**127 Section 159AE amended (Ministry may hold and disseminate information)**

In section 159AE, replace “the Commission, the Qualifications Authority, or Careers New Zealand” with “the Commission, or the Qualifications Authority”.

**128 Section 159E replaced (Charging)**

(1) Replace section 159E with:

**159E Charging**

- (1) The Commission may charge a commercial rate for any goods and services that it provides under section 159F(1)(bc) to (bg).
- (2) However, the Commission may not charge a commercial rate for any other goods and services that it provides unless the Minister approves.

(2) Replace section 159E(1) with:

- (1) The Commission may charge a commercial rate for any goods and services that it provides under section 159F(1)(bc) and (bd).

**129 Section 159F amended (Functions of Commission)**

(1) After section 159F(1)(bb), insert:

- (bc) to establish and maintain a database of information about occupations and about post-compulsory education and training:
- (bd) to make that information available to the public and to institutions, private training establishments, students, and other interested bodies and persons:
- (be) to provide—
  - (i) training and assistance to persons who advise about occupations; and
  - (ii) career advice and associated counselling relating to post-compulsory education and training:
- (bf) to liaise with, and monitor the needs of, institutions, private training establishments, students and other bodies and persons with respect to—
  - (i) information, training, and advice relating to occupations; and

- (ii) career advice and associated counselling relating to post-compulsory education and training;
  - (bg) to provide support services for the purpose of promoting transition education that prepares students for employment, or further education and training, or both:
- (2) Replace section 159F(1)(bc) to (bg) with:
- (bc) to provide a publicly available careers information service that includes a database of information about occupations and tertiary education and training;
  - (bd) to facilitate and strengthen the connections between schools, employers, and tertiary education organisations to ensure students are better prepared for employment and further education and training, or both:

### 130 New sections 159FA to 159FD inserted

After section 159F, insert:

#### **159FA Offers of employment in equivalent positions for Careers New Zealand employees**

- (1) During the period beginning on 1 June 2017 and ending with the close of 30 June 2017, the Commission must offer employment in an equivalent position to every person who is an employee of Careers New Zealand (other than the chief executive) immediately before the commencement of this section.
- (2) The terms and conditions of an offer must be equivalent to those applying to the relevant employee immediately before the offer.
- (3) In this section, **employment in an equivalent position** means employment that is—
  - (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and
  - (d) on terms that treat the period of service with Careers New Zealand (and every other period of service recognised by Careers New Zealand as continuous service) as if it were continuous service with the Commission.

Compare: 1988 No 20 s 61D(3), (5); 1989 No 80 ss 274A, 274B

#### **159FB Effect of offers on certain agreements and entitlements**

- (1) If a person accepts an offer,—
  - (a) nothing in this Act or any other enactment—
    - (i) binds the person to a collective agreement; or

- (ii) entitles the person to be bound by or enforce a collective agreement:
- (b) the change of employer does not constitute new employment for the purposes of—
  - (i) enrolling in a KiwiSaver scheme under the KiwiSaver Act 2006:
  - (ii) determining any entitlements under the Holidays Act 2003.
- (2) Subsection (1)(a) does not apply to a collective agreement to the extent that the parties agree otherwise.

**159FC No compensation for technical redundancy of employees of Careers New Zealand**

- (1) An employee of Careers New Zealand is not entitled to receive any payment or other benefit on the ground that—
  - (a) the employee’s position in Careers New Zealand has ceased to exist; or
  - (b) the employee declines to accept an offer of employment in an equivalent position.
- (2) This section overrides—
  - (a) Part 6A of the Employment Relations Act 2000; and
  - (b) any employee protection provision in any relevant employment agreement.

**159FD Repeal of sections 159FA to 159FD**

- (1) Sections 159FA to 159FC are repealed on 1 January 2018.
- (2) This section is repealed on 2 January 2018.

**131 Section 192 amended (Powers of institutions)**

After section 192(2)(ab), insert:

- (ac) in the case of an institution that is accredited to be a community of online learning, functions characteristic of a body that is a community of online learning; or

**132 Section 238D amended (Interpretation)**

In section 238D, definition of **provider**, after paragraph (a), insert:

- (aa) an enrolling community of online learning; or

**133 Section 238I amended (Purpose and administration of export education levy)**

In section 238I(1A) and (1B), after “establishment”, insert “or enrolling community of online learning” in each place.

**134 Section 246 amended (Interpretation)**

(1) In section 246, definition of **relevant school**, after paragraph (c), insert:

(ca) a community of online learning; or

(2) In section 246, insert in its appropriate alphabetical order:

**community of online learning** has the meaning given by section 2(1)

**135 Section 253 amended (Rules)**

After section 253(1)(gb), insert:

(gc) prescribing quality assurance requirements that must be met by communities of online learning;

**136 Part 22 repealed**

Repeal Part 22.

**137 Section 317 amended (Regulations relating to licensing)**

In section 317(2)(a), after “health and safety,” insert “practices in relation to behaviour management and limits on the use of physical restraint,”.

**138 Section 319 amended (Regulations relating to certification of playgroups)**

In section 319(1)(a), after “health and safety,” insert “practices in relation to behaviour management and limits on the use of physical restraint,”.

**139 Section 319J amended (Centres situated on property owned by, or leased to, the Crown)**

In section 319J(1)(b), replace “section 70B of the Education Act 1989” with “clause 36 of Schedule 6”.

**140 Section 342 amended (Interpretation)**

(1) In section 342, insert in its appropriate alphabetical order:

**community of online learning** has the same meaning as in section 2(1)

(2) In section 342, definition of **education provider**, after paragraph (b), insert:

(ba) a community of online learning; and

**141 New section 350A inserted (Special provision for chief executive of correspondence school)**

After section 350, insert:

**350A Special provision for chief executive of correspondence school**

(1) The chief executive of a correspondence school is not required to be registered.

(2) This section overrides sections 349 and 350.



**142 Section 350A replaced (Special provision for chief executive of correspondence school)**

Replace section 350A with:

**350A Special provision for chief executive of enrolling community of online learning that was correspondence school**

- (1) The chief executive of the enrolling community of online learning that was a correspondence school immediately before the commencement of this section is not required to be registered.
- (2) This section overrides sections 349 and 350.

**143 Section 357 amended (Cancellation of registration as a teacher)**

- (1) In section 357(1)(c), after “cancelled”, insert “; or”.
- (2) After section 357(1)(c), insert:
  - (d) the Competence Authority has ordered, under section 412(b), that the registration be cancelled.

**144 Section 359 amended (Education Council to keep register of people registered as teachers)**

Replace section 359(3)(b) with:

- (b) an action by a disciplinary body under section 401 or 404; or
- (c) an action by the Competence Authority under section 412.

**145 Section 362 amended (Cancellation of practising certificate)**

In section 362(1)(d), replace “Education Council has determined, under section 412” with “Competence Authority has ordered, under section 412(b)”.

**146 Section 367 amended (Cancellation of limited authority to teach)**

In section 367(1)(d), replace “Education Council has determined, under section 412” with “Competence Authority has ordered, under section 412(b)”.

**147 Section 371 amended (Education Council to keep list of persons who have limited authority to teach)**

Replace section 371(3)(b) with:

- (b) an action by a disciplinary body under section 401 or 404; or
- (c) an action by the Competence Authority under section 412.

**148 Section 378 amended (Interpretation)**

In section 378(1), insert in its appropriate alphabetical order:

**Competence Authority** means the Competence Authority established by rules made under section 388

**149 Section 388 amended (Education Council to make rules)**

- (1) In section 388(1), delete “after the commencement of this section”.
- (2) After section 388(1)(b), insert:
  - (ba) a Competence Authority to consider reports and complaints about teacher competence and to exercise the powers given under this Act; and
- (3) In section 388(1)(c), after “bodies”, insert “and the Competence Authority”.

**150 Section 409 amended (Appeals)**

- (1) In the heading to section 409, after “**Appeals**”, insert “**from decisions of disciplinary bodies**”.
- (2) In section 409(1), delete “, or a decision by the Education Council made under section 412,”.

**151 New section 410AA inserted (Competence Authority)**

Before section 410, insert:

**410AA Competence Authority**

- (1) The constitution of the Competence Authority must be set out in rules made under section 388, and those rules must be consistent with this section.
- (2) The Competence Authority may operate in panels, and more than 1 panel may operate at any one time.
- (3) The Competence Authority must include at least 1 person who is selected from a list, prepared by the Minister after consultation with the Education Council, of people who are not teachers, employers, or members of an employing body.
- (4) The majority of members on the Competence Authority, and on every panel of the Competence Authority, must hold practising certificates.
- (5) No member of the Competence Authority may be a member of the Complaints Assessment Committee or the Disciplinary Tribunal.
- (6) The rules must provide for the replacement of any member of the Competence Authority who, in relation to a particular complaint,—
  - (a) made the complaint; or
  - (b) is otherwise in a position of conflict of interest.
- (7) The rules must also provide for the Competence Authority to co-opt up to 2 members onto the Authority for their specialist knowledge and expertise in relation to a particular complaint.
- (8) Members co-opted onto the Competence Authority may be in addition to any limit on the number of members set in the rules.
- (9) When performing its functions and exercising its powers, the Competence Authority must act in accordance with the rules of natural justice.

**152 Section 410 amended (Complaints about competence)**

After section 410(3), insert:

- (3A) The Education Council may, after any investigation it decides to make, refer to the Competence Authority a complaint or other matter that relates to competence for a decision as to whether the required level of competence has been attained.

**153 Section 411 amended (Investigation of mandatory reports about competence)**

- (1) Replace the heading to section 411 with “**Investigation by Education Council of mandatory reports relating to competence and referral to Competence Authority for decision**”.
- (2) Before section 411(1), insert:
- (1AA) The Education Council may, after any investigation it decides to make, refer to the Competence Authority a report received by it under section 392, 393, or 395 that relates to competence.
- (3) In section 411(1), after “investigating a report”, insert “that relates to competence”.
- (4) In section 411(2), after “When a report”, insert “that relates to competence”.

**154 Section 412 replaced (Powers of Education Council after finding required level of competence not attained)**

Replace section 412 with:

**412 Powers of Competence Authority after finding required level of competence not attained**

Following any investigation of a complaint or other matter by the Education Council under section 410, or of a report by the Education Council under section 411, and referral to the Competence Authority, the Competence Authority may, if satisfied that a teacher has not attained the required level of competence,—

- (a) do any 1 or more of the following:
- (i) impose conditions on the teacher’s practising certificate or authority:
  - (ii) refer the teacher to an impairment process, which may involve either or both of the following:
    - (A) assessment of an impairment:
    - (B) assistance with an impairment:
  - (iii) annotate the register or the list of authorised persons in a specified manner, in relation to any action taken under subparagraph (i):

- (iv) direct the Education Council to impose conditions on any subsequent practising certificate or authority issued to the teacher; or
- (b) order the Education Council to cancel the teacher's registration, practising certificate, or authority.

#### 412A Appeals from decisions of Competence Authority

- (1) A teacher who is the subject of a decision by the Competence Authority made under section 412 may appeal against that decision to a District Court.
- (2) An appeal under this section must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows.
- (3) Section 356(3) to (6) applies to every appeal under this section as if it were an appeal under section 356(1).

#### 155 New Part 33 inserted

After Part 32, insert:

### Part 33 State integrated schools

#### 414 Interpretation

- (1) In this Part, unless the context otherwise requires,—
  - board**, in relation to a State integrated school, means its board of trustees established under Part 9
  - education with a special character** means education within the framework of a particular or general religious or philosophical belief, and associated with observances or traditions appropriate to that belief
  - effective date**, in relation to an integration agreement, means the date on which the integration of the school takes place
  - integration** has the same meaning as in section 2(1)
  - integration agreement** means an agreement entered into under section 421
  - land** has the same meaning as in the Land Transfer Act 1952
  - proprietor** means the body corporate that—
    - (a) has the primary responsibility for determining the special character of a school registered under section 35A and for supervising the maintenance of that special character; and
    - (b) owns, holds in trust, or leases the land and buildings that constitute the premises of the private school or a State integrated school
  - State integrated school** has the same meaning as in section 2(1).
- (2) Unless the context otherwise requires,—

- (a) every reference in this Part to a State school is to be treated as excluding a State integrated school:
- (b) every reference in the other Parts of this Act and in any other enactment or document to—
  - (i) a State primary school is to be treated as including a State integrated school that is a primary school:
  - (ii) a State secondary school is to be treated as including a State integrated school that is a secondary school:
  - (iii) a State school is to be treated as including a reference to a State integrated school.

Compare: 1975 No 129 s 2

#### **415 Part to bind the Crown**

This Part binds the Crown.

Compare: 1975 No 129 s 2A

#### *Conditional integration*

#### **416 Preservation of special character of State integrated schools**

- (1) A State integrated school must on integration continue to have the right to reflect, through its teaching and conduct, the education with a special character provided by it.
- (2) Integration must not jeopardise the special character of a State integrated school.
- (3) The proprietor of a State integrated school must, subject to the provisions of the integration agreement,—
  - (a) continue to have the responsibility to supervise the maintenance and preservation of the education with a special character provided by the school:
  - (b) continue to have the right to determine what is necessary to preserve and safeguard the special character of the education provided by the school and described in the integration agreement.
- (4) If, in the opinion of a proprietor, the special character of the school as defined and described in the integration agreement has been or is likely to be jeopardised, or the education with a special character provided by the school as defined and described in the integration agreement is no longer preserved and safeguarded, the proprietor may invoke the powers conferred on the proprietor by this Part.

Compare: 1975 No 129 s 3

#### **417 State integrated schools part of State system**

- (1) Subject to subsection (2),—

- (a) on integration, a State integrated school becomes part of the State system of education in New Zealand; and
  - (b) a State integrated school is subject to all the provisions of this Act and of all regulations made under this Act; and
  - (c) a State integrated school is subject to all the provisions of the State Sector Act 1988 as if service in the employment of the board of the school were education service within the meaning of that Act.
- (2) In their application to State integrated schools, the enactments applied to State integrated schools by subsection (1) are subject to sections 416 and 475, and to the other provisions of this Part that relate to State integrated schools.

Compare: 1975 No 129 s 4

*Procedure for establishing, disestablishing, merging, and closing State integrated schools*

**418 Application to negotiate integration**

- (1) The proprietor of a school that is registered under section 35A, and any person who proposes to establish a school with the intention that it become a State integrated school, may apply to the Minister to enter into negotiations for integration under this Part.
- (2) If the Minister accepts an application to negotiate, the applicant and the Minister may enter into negotiations for an integration agreement under section 421.
- (3) If the Minister declines the application, the applicant may make a fresh application at any time.
- (4) Without limiting the factors that the Minister may consider, the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools.
- (5) The Minister may, in the Minister's absolute discretion,—
  - (a) accept applications to enter into negotiations for integration under this Part; and
  - (b) after giving any public notice that the Minister considers appropriate, decide not to consider applications from particular areas.

Compare: 1975 No 129 s 5

**419 Applications relating to proposed schools**

If a person who proposes to establish a school with the intention that it become a State integrated school makes an application under section 418, this Part applies to the application and to any subsequent negotiations and agreements prior to integration as if—

- (a) the applicant were a proprietor; and

(b) the school were a school registered under section 35A.

Compare: 1975 No 129 s 6

#### **420 Negotiation of integration agreements**

- (1) The Minister and an applicant may commence negotiations for an integration agreement under section 421 at any time after the Minister has accepted an application under section 418.
- (2) During the course of negotiations, the Minister may consult any interested persons or groups that the Minister considers appropriate.

Compare: 1975 No 129 s 6A

#### **421 Integration agreements**

- (1) The Minister (and only the Minister) may approve the establishment of a private school as a State integrated school.
- (2) The Minister must signify his or her approval by entering into an integration agreement with the proprietor.
- (3) No proprietor is competent to execute an integration agreement unless the proprietor is constituted as a body corporate.
- (4) Every integration agreement must record the agreement of the proprietor that no persons employed at the school and paid for their services in whole or in part out of money appropriated by Parliament may be—
  - (a) paid by the proprietor or the proprietor's agents any remuneration additional to that provided for by this Act; or
  - (b) granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a State school.

Compare: 1975 No 129 s 7(1)–(5)

#### **422 Other matters that may be included in integration agreements**

- (1) Without restricting the provisions that may be included in an integration agreement, any integration agreement may include provisions for all or any of the following matters:
  - (a) specifying the land and buildings that constitute the school to which the integration agreement refers:
  - (b) specifying any part of the land or buildings owned or leased by the proprietor and used in conjunction with the school before integration that do not constitute part of the school:
  - (c) describing the education with a special character for which the school is or was originally established:
  - (d) prescribing the religious or philosophical instruction and observances that are to form part of the school programme after integration:

- (e) providing for the determination of the maximum number of students who may be enrolled in the school:
  - (f) permitting limitation of the number of children not given preference of enrolment under the provisions of section 442 who are required to be enrolled if places are available:
  - (g) any other particular matter that is relevant to the education with a special character for which the school was originally established:
  - (h) any other matter that is not contrary to the provisions of this Part.
- (2) Despite anything in subsection (1)(e), when determining the basis of the limitation under subsection (1)(f), regard must be had only to the necessity of preserving and safeguarding the education with a special character that the school provides.

Compare: 1975 No 129 s 7(6)

#### **423 Integration agreements: machinery matters**

- (1) Any proprietor may enter into integration agreements for the integration of more than 1 school.
- (2) There must be a separate integration agreement for each school that is to become a State integrated school.
- (3) If the Minister and the proprietor agree, the terms of an integration agreement may be varied by a supplementary agreement.
- (4) Despite section 421, the Minister's power to enter into a supplementary agreement may be delegated under section 28 of the State Sector Act 1988.
- (5) An integration agreement is, for all purposes, a binding agreement between the proprietor and the Crown.

Compare: 1975 No 129 s 7(7)–(10)

#### **424 Effective date of integration agreement**

- (1) Every integration agreement must specify an effective date.
- (2) A State integrated school's board must take office on the effective date.
- (3) In any case where the requirements of this section are not met, the Minister may give notice to the proprietor of a new effective date as the Minister thinks fit, and the integration agreement must be interpreted accordingly.

Compare: 1975 No 129 s 8

#### **425 Notification of integration agreement**

Every integration agreement must be notified in the *Gazette*, and a copy of every integration agreement must be retained by the Secretary and must be available for inspection without charge by any member of the public on an Internet site maintained by the Secretary.

Compare: 1975 No 129 s 10



**426 Minister may require information to be provided**

- (1) This section applies in any of the following situations:
  - (a) a proprietor or a potential proprietor has applied to integrate a school:
  - (b) the Minister holds reasonable concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part:
  - (c) a proprietor or potential proprietor has submitted a specific funding request to the Minister or the Secretary.
- (2) If this section applies, the Minister may require the relevant proprietor or potential proprietor to provide all or any of the following:
  - (a) all of the information needed to assess the financial and managerial capacity of the proprietor or potential proprietor:
  - (b) any other information that the Minister considers relevant to assessing—
    - (i) an application to integrate a school:
    - (ii) any concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part:
    - (iii) any funding request that a proprietor or potential proprietor has submitted.

**427 Cancellation of integration agreement**

- (1) An integration agreement may be cancelled—
  - (a) by the Minister, in which case section 428 applies; or
  - (b) by the proprietor, in which case section 429 applies; or
  - (c) by agreement between the Minister and the proprietor, in which case section 430 applies.
- (2) On the cancellation of an integration agreement,—
  - (a) the school ceases to be a State integrated school; and
  - (b) the respective rights and obligations of the parties that arise by virtue of the integration agreement cease to have effect; and
  - (c) in the absence of an agreement to the contrary, the school is to be treated as provisionally registered as a school under section 35A.

Compare: 1975 No 129 s 11

**428 Cancellation by Minister**

The Minister may cancel an integration agreement under section 427(1)(a) if—

- (a) it appears to the Minister on reasonable grounds that the proprietor or the board of the State integrated school is not sufficiently carrying out the

functions and obligations accepted by it under this Act or under the integration agreement; and

- (b) the Minister has consulted the proprietor, the board, and other interested persons or groups as the Minister considers appropriate.

Compare: 1975 No 129 s 11A

#### **429 Cancellation by proprietor**

- (1) A proprietor may give notice of an intention to cancel an integration agreement under section 427(1)(b) if—

- (a) it appears to the proprietor on reasonable grounds that—
  - (i) the special character of the State integrated school has been or is likely to be jeopardised; or
  - (ii) the Minister or any board is not carrying out the functions and obligations accepted by the Minister or the board under this Act or the integration agreement; and
- (b) the proprietor has consulted the Minister, the board, and any other interested persons or groups as the proprietor considers appropriate.

- (2) The notice of intention to cancel takes effect as a cancellation of the integration agreement under section 427(1)(b) on the date that is 4 months after the date of the notice.

Compare: 1975 No 129 s 11B

#### **430 Cancellation by agreement between parties**

The Minister and the proprietor may cancel an integration agreement under section 427(1)(c) by mutual agreement, after consultation with other interested persons or groups as they consider appropriate.

Compare: 1975 No 129 s 11C

#### **431 Mergers**

- (1) A State integrated school may merge with another State integrated school (the **merging schools**) if—

- (a) each school has the same proprietor; and
- (b) each school has the same or a similar special character; and
- (c) the proprietor has consulted the Minister; and
- (d) the Minister determines that the schools may merge.

- (2) Before determining whether the State integrated schools may merge, the Minister must—

- (a) be satisfied that—

- (i) the proprietor has made reasonable efforts to consult its adult students or the parents of its full-time students (other than adult students) about the proposed merger; and
    - (ii) the consultation that has taken place for each school is adequate in the circumstances; and
    - (iii) the creation of a single school by the proposed merger (the **continuing school**) is appropriate in the circumstances; and
  - (b) consult the boards of all the other schools whose rolls might, in the opinion of the Minister, be affected by the proposed merger.
- (3) If the Minister determines that the State integrated schools may merge, the proprietor must apply under section 418 to negotiate an integration agreement for the school that is to be created by the merger.
- (4) If an integration agreement is negotiated, the Minister must give notice of the merger in the *Gazette*.
- (5) The notice takes effect on a day specified in the notice, and has effect as follows:
- (a) the merging schools are part of the continuing school:
  - (b) if the continuing school and each merging school are not already administered by a single board,—
    - (i) the board of each merging school is dissolved; and
    - (ii) all rights, assets, liabilities, and debts of each merging school are vested in the board of the continuing school:
  - (c) the continuing school is a school of the class specified in the notice and provides education for the student class levels specified in the notice.
- (6) The notice does not affect the name of the continuing school.
- (7) Before a notice given under subsection (4) takes effect, the Minister must give notice in the *Gazette* of whether,—
- (a) during the period between a date specified in the notice and the date on which new trustees take office, the board of the continuing school is to be—
    - (i) the board of the continuing school plus at least 1 co-opted trustee representing each of the merging schools; or
    - (ii) a board appointed by the Minister; or
  - (b) the board of the continuing school is to have an alternative constitution approved under section 98A.
- (8) The board of the continuing school must have no more than 4 members appointed by the proprietor.

**432 Closure of State integrated school**

If it appears to the Minister that for the reason set out in section 428(a) a State integrated school should be closed, the Minister may, after the consultation referred to in section 428(b), disestablish and close the school.

Compare: 1975 No 129 s 12

**433 Notification of cancellation or of closing of State integrated school**

When an integration agreement is cancelled under section 427, or when a State integrated school is closed under section 432, the Minister must give notice of the cancellation or closure in the *Gazette*.

Compare: 1975 No 129 s 15

**434 Disposal of assets on cancellation of integration agreement or closing of State integrated school**

- (1) This section applies if expenses or capital expenditure appropriated by Parliament has been used to meet all or part of the cost of supplying a State integrated school with furniture, or equipment, or other chattels, and the integration agreement for that school is cancelled, or the school is closed.
- (2) If this section applies, the furniture, equipment, or chattels may be disposed of by the Secretary at his or her sole discretion, whether by sale or otherwise, and the disposition has effect as if the Secretary were the owner.
- (3) However, any sale must be by way of public auction or public tender.

Compare: 1975 No 129 s 16(1)

**435 Repayment of moneys advanced**

- (1) This section applies if—
  - (a) expenses or capital expenditure appropriated by Parliament has been advanced otherwise than by way of loan to be used to meet all or part of the cost of erecting any building or supplying or installing any fixture as part of a State integrated school; and
  - (b) the integration agreement for that school is cancelled, or the school is closed.
- (2) The current value of the contribution to the building or fixture from the money appropriated must be assessed by the Minister.
- (3) The amount assessed is to be treated as a debt due by the proprietor to the Crown, and is to be treated as a charge on the land of the State integrated school.
- (4) That charge may be registered without the payment of a fee against the land under the provisions of the Statutory Land Charges Registration Act 1928.
- (5) However, the Minister may, with the agreement of the Minister of Finance, approve the writing off of all or part of the debt.

- (6) For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under subsection (3), and any certificate releasing the charge, may be signed by the Secretary.

Compare: 1975 No 129 s 16(2), (3)

#### **436 Moneys to be paid into Crown Bank Account**

- (1) In the case of any sale made under section 434(2), the money received must be credited to a Crown Bank Account.
- (2) In the event of the cancellation of an integration agreement, or the closing of a State integrated school, any unspent money granted to the board of that school for that school under this Act or under regulations made under this Act or under any other Act must be credited to a Crown Bank Account.

Compare: 1975 No 129 s 16(4), (5)

#### **437 Certain assets remain vested in proprietors**

Subject to sections 434 to 436, if an integration agreement is cancelled, or a State integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the proprietor remain vested in the proprietor.

Compare: 1975 No 129 s 16(8)

#### **438 Restriction on cancellation of integration agreement or closure of State integrated schools**

No integration agreement may be cancelled in accordance with section 427, and (despite anything in section 154) no State integrated school may be closed under section 432, solely on the ground that adequate accommodation for the students exists in an adjacent State school.

Compare: 1975 No 129 s 17

#### **439 Compensation**

If an integration agreement is cancelled, or a State integrated school is closed, no compensation of any kind is due or payable to the proprietor.

Compare: 1975 No 129 s 18

### *Administration*

#### **440 Administration of State integrated schools**

- (1) Except as provided in this Part, all the provisions of this Act and of any other enactment relating to the education of the people of New Zealand in State schools apply to a State integrated school.
- (2) Subject to sections 416 and 417, when a private school is integrated it must be controlled and managed and operate in all respects as if it were a State school.

- (3) The powers of control and management of the board of a State integrated school must be exercised subject to the provisions of sections 416 and 417.
- (4) To give effect to subsection (3), the board of a State integrated school must make provision for adequate consultation between the board and the proprietor of that school.

Compare: 1975 No 129 ss 19, 25(6)

*Enrolment, conditions of attendance, and instruction of students at State integrated schools*

**441 Free education**

Every student enrolled at a State integrated school must be given free education on the same terms and in accordance with the same conditions as students enrolled at a State school.

Compare: 1975 No 129 s 35(1)

**442 Preference of enrolment**

The children of parents who have a particular or general philosophical or religious connection with a State integrated school must be preferred to other children for enrolment at the school.

Compare: 1975 No 129 s 29

**443 Participation in general school programmes**

By enrolling a student at a State integrated school, the parent is taken to have accepted as a condition of enrolment that the student is to participate in the general school programme that gives the school its special character.

Compare: 1975 No 129 s 30

**444 Instruction of students**

- (1) Each State integrated school must instruct its students in accordance with the curricula and syllabuses prescribed under this Act or any regulations made under this Act.
- (2) However, the general school programme must reflect the education with a special character provided by the State integrated school, and religious and other examples may be used to reinforce teaching throughout the school day.

Compare: 1975 No 129 s 31

**445 Religious observances and religious instruction**

- (1) Subject to the provisions of section 444, if religious observances and religious instruction form part of the education with a special character provided by a State integrated school, these must continue to form part of the general school programme in accordance with the terms and conditions prescribed in the integration agreement relating to that school.

- (2) If religious observances and religious instruction form part of the education with a special character provided by a State integrated school, that school—
- (a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and
  - (b) may not require a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction concerned with particular observances if the parents of the student state at any time that they do not wish that student to participate.

Compare: 1975 No 129 s 32

#### **446 School transport assistance**

In providing school transport assistance for students enrolled at a State integrated school, the Secretary must have reasonable regard to the preference of parents to enrol their children at a State integrated school or at a State school.

Compare: 1975 No 129 s 34

#### **447 Attendance dues**

- (1) The proprietor of a State integrated school may, if the integration agreement for the school so provides, enter into an agreement with the parents or other persons accepting responsibility for the education of a child providing that the parents or other persons must pay attendance dues as a condition of the child's enrolment at the school.
- (2) The dues must be established for the State integrated school or group of State integrated schools at the rates, and subject to the conditions, that are approved by the Minister by notice in the *Gazette*.
- (3) Revenue received by the proprietor from attendance dues must be used solely for the following:
  - (a) paying, in respect of the school or group of schools in respect of which it is received, for improvements to the State integrated school or schools' buildings and associated facilities that are required by any integration agreement or integration agreements under section 456(2)(c):
  - (b) any capital works that may be required by the Minister under section 456(2)(d):
  - (c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the State integrated school or schools.
- (4) No revenue received by the proprietor from attendance dues may be used to provide or improve the State integrated school buildings and associated facilities to a standard higher than that approved by the Secretary as appropriate for a comparable State school.

Compare: 1975 No 129 s 36(1)–(4)

**448 Withdrawal and reinstatement of right to charge attendance dues**

- (1) Should any proprietor use any revenue from attendance dues for any purpose other than one permitted by section 447, the Minister may, despite anything in the integration agreement, by notice in the *Gazette*, withdraw the right to charge attendance dues, and the board must, while the withdrawal continues, permit the attendance of children without the payment of attendance dues.
- (2) The Minister may, by notice in the *Gazette*, cancel any withdrawal at any time.  
Compare: 1975 No 129 s 36(5)

**449 Consequences of failure to pay attendance dues**

- (1) If a parent, or other person who has accepted the responsibility for the education of a child, has entered into an agreement to pay attendance dues and fails to make a payment, the payment not made may be recoverable from that parent or person in any court of competent jurisdiction as a debt due to the proprietor.
- (2) Any failure to make payment constitutes grounds for the principal of the State integrated school to suspend the child from attendance at that school and to remove the child's name from the school register.
- (3) However, no child may be suspended and have his or her name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the child to be enrolled at some other school.  
Compare: 1975 No 129 s 36(6), (7)

**450 Accounts for attendance dues**

- (1) Each proprietor who is permitted to charge attendance dues must keep accounts in a manner approved by the Secretary showing—
  - (a) the total amount of attendance dues received; and
  - (b) how the attendance dues have been spent.
- (2) The accounts must be—
  - (a) balanced at a date each year approved by the Secretary; and
  - (b) audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).
- (3) The proprietor must send a copy of the accounts, together with the auditor's report on them, to the Secretary by a date to be approved by the Secretary.  
Compare: 1975 No 129 s 36(8)

**451 Financial contributions**

- (1) In addition to the power to collect attendance dues under section 447, the proprietor of a State integrated school may—
  - (a) conduct fund-raising activities within the school; and
  - (b) inform the parents of the financial obligations of the proprietor in the prospectus and in other ways; and



- (c) request the parents of students attending the school to make regular financial contributions to the proprietor for the benefit of the proprietor in meeting any debt, mortgage, lien, and other charge associated with the land and buildings that constitute the school premises or are associated with the school.
- (2) Financial contributions other than attendance dues must be made on a voluntary basis and no student may be refused enrolment because of the unwillingness of the parents to contribute in this way.

Compare: 1975 No 129 s 37(1), (2)

#### **452 Restrictions on fund-raising**

No board of any State integrated school, nor the principal nor any member of the staff (whether employed or retained as a teacher or in any other capacity), nor any student of the school may take part during normal school hours in any school activity directed to raising funds for the benefit of the proprietor in meeting any debt, mortgage, lien, or other charge associated with the land and buildings that constitute the school premises or are associated with the school.

Compare: 1975 No 129 s 37(3)

#### **453 Accounts of money raised under section 451**

The proprietor must—

- (a) keep accounts of money raised by it and by a board, principal, staff member, or student under this section; and
- (b) have the accounts audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) at least once in every period of 12 months; and
- (c) make a copy of the accounts and of the auditor's report on them available on request to the parents of students attending the State integrated school and to other contributors.

Compare: 1975 No 129 s 37(4)

#### **454 Fund-raising**

Subject to the provisions of section 451, the board, the principal, staff members, and students of a State integrated school may take part in fund-raising activities in the same manner and for the same purposes for the benefit of the students of the school that are permitted in the case of State schools.

Compare: 1975 No 129 s 38

#### **455 Use of school office**

The school office of a State integrated school may be used for the purpose of communication between the proprietor of the school and the parents of students

enrolled at the school, and for other purposes related to the benefit of the school and the students.

Compare: 1975 No 129 s 39

### *Proprietors of State integrated schools*

#### **456 Powers and responsibilities of proprietors**

- (1) The proprietor of a State integrated school must exercise its powers under an integration agreement in a manner that is consistent with section 416.
- (2) Subject to subsection (1), the proprietor of a State integrated school—
  - (a) owns, holds upon trust, or leases the land and buildings that are specified in the integration agreement as constituting the school premises; and
  - (b) must accept and meet the liability for all mortgages, liens, and other charges upon the land and buildings; and
  - (c) must plan, pay for, and implement, over the period that may be specified in the integration agreement, the improvements to the school buildings and associated facilities that are required in accordance with the integration agreement to bring the buildings and associated facilities up to the minimum standard laid down by the Secretary for State schools; and
  - (d) must plan, implement, and pay for the capital works that are approved or required by the Minister, with a view to replacing, improving, or enlarging the school, its buildings, and its associated facilities to maintain the school, its buildings, and its associated facilities at the minimum standard laid down by the Secretary for comparable State schools; and
  - (e) may own, hold upon trust, or lease and control, and maintain any land, buildings, and associated facilities that, although not part of the school in terms of the integration agreement, are regarded by the proprietor as appropriate to maintain the special character of the school; and
  - (f) may, in conjunction with the board, make provision for the accommodation of students living away from home; and
  - (g) must insure all the buildings, chattels, and other assets owned, held upon trust, or leased by the proprietor for the purposes of the school against risks normally insured against with some reputable insurance company; and
  - (h) must arrange with its insurers that the policy of the insurance is endorsed to the effect that the benefit of the indemnity provided by the policy extends to the Minister for the buildings, chattels, and other assets paid for in whole or in part by a loan or grant made out of money appropriated by Parliament; and

- (i) must, together with the proprietor's agents and licensees, have at all reasonable times access to the school to ensure that the special character of the school is being maintained.

Compare: 1975 No 129 s 40

#### **457 Decision-making criteria for proprietors**

- (1) When making a decision under a provision of this Part, a proprietor must take into account—
  - (a) the ability of the proprietor's State integrated school or schools to continue to provide the level of education required; and
  - (b) the average per student cost of the continued operation of the proprietor's State integrated school or schools relative to the average per student cost for other State schools; and
  - (c) the extent to which the proprietor's State integrated school or schools provide for students whose needs are not met by other State schools; and
  - (d) the ability of the proprietor to meet any obligations regarding the proprietor's State integrated school or schools over the next 7 years.
- (2) A proprietor must assess the proprietor's compliance with subsection (1) at least once every 5 years.
- (3) However, the Secretary may direct a proprietor to carry out an assessment at any time if the Secretary considers it appropriate in the circumstances.
- (4) The proprietor must, as soon as practicable,—
  - (a) complete any assessment begun under subsection (2) or (3); and
  - (b) provide the Secretary with a copy of the assessment.

#### **458 Consequences of failure to arrange insurance**

Despite section 456(2)(h), in any case where the proprietor has not arranged with the proprietor's insurers for the benefit of any policy of insurance to extend to the Minister,—

- (a) no money appropriated by Parliament may be used to pay any part of the cost of repairing or replacing any buildings, chattels, or other assets that have been destroyed or damaged from any cause whatsoever; and
- (b) any additional charges by way of premium made by the insurer for the extension of the benefit of any policy of insurance to the Minister may not be met out of money appropriated by Parliament.

Compare: 1975 No 129 s 40(2)(h)

#### **459 Proprietors not to question curriculum or teaching methods**

The right of access specified in section 456(2)(i) does not give a proprietor the right to question the curriculum or the teaching methods adopted by the teach-

ers, both of which are, subject to the provisions of this Act, controlled by the principal of the State integrated school.

Compare: 1975 No 129 s 40(2)(i)

#### **460 Leases of land**

- (1) The proprietor of a State integrated school must obtain the prior consent of the Minister before entering into a lease relating to land that is used, or to be used, for the school.
- (2) If the proprietor fails to obtain the prior consent of the Minister to a lease, the lease is not affected but the Minister may cancel the integration agreement under section 427.

Compare: 1975 No 129 s 40A

#### **461 Assistance to proprietors**

- (1) The Minister may, with the concurrence of the Minister of Finance, approve the granting of loans from capital expenditure that may be appropriated by Parliament for the purpose to the proprietor of any State integrated school.
- (2) The loans are to be made for the purposes and subject to the terms and conditions, including the writing off of any amount repayable, that the Minister, with the concurrence of the Minister of Finance, determines.

Compare: 1975 No 129 s 42

#### **462 Proprietors unable to meet obligations**

- (1) In the event of the proprietor of a State integrated school becoming unable to meet the financial or other commitments accepted by them under the integration agreement, they must notify the Minister.
- (2) If the Minister is notified, the Minister may, after any consultation with the proprietor that the Minister thinks necessary,—
  - (a) cancel the integration agreement in accordance with section 427; or
  - (b) close the State integrated school under section 432; or
  - (c) arrange for the acquisition by the Crown, in accordance with the Public Works Act 1981, of any land, buildings, and chattels relating to the State integrated school that are owned or leased by the proprietor and that the Minister considers appropriate for the purpose of establishing a State school.
- (3) When the Minister acts in accordance with subsection (2)(a) or (b), the provisions of this Act relating to the cancellation of an integration agreement or to the closure of a State integrated school apply.

Compare: 1975 No 129 s 44

*Appointment and employment of teachers***463 Requirements in respect of appointments of teachers**

- (1) The board of a State integrated school must appoint teachers in that school in accordance with the provisions of the State Sector Act 1988.
- (2) When a board delegates to a committee the power to appoint a teacher or to recommend the appointment of a teacher, that committee must contain at least 1 of the persons appointed to the board by the proprietor.

Compare: 1975 No 129 s 63

**464 Religious instruction: appointments to special positions relating to character of State integrated school**

Subject to the provisions of this section, where religious instruction forms part of the special character of a State integrated school,—

- (a) if provided for by the integration agreement, an advertisement for the position of principal of that school must state that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment:
- (b) if provided for by the integration agreement, the board of that school must—
  - (i) designate a position at that school as director of religious studies; and
  - (ii) state in any advertisement for that position that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment (a director of religious studies must be a member of the normal staffing entitlement of the school, as established by regulations made under this Act; and
  - (iii) carry out the teaching duties, if any, that may be provided for in the integration agreement):
- (c) the board must—
  - (i) designate any other proportion of teaching positions in that school that may be provided for in the integration agreement as positions of importance carrying a responsibility for religious instruction; and
  - (ii) state in advertisements for the positions that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment:
- (d) the board must state in any advertisement for a position at that school that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment if—
  - (i) that school is a primary school; and

- (ii) the person holding the position of deputy principal of that school or a position of assistant principal at that school has responsibility for supervising the junior classes at that school; and
- (iii) it is provided for by the terms of the integration agreement of that school.

Compare: 1975 No 129 s 65(1)

#### **465 Effect of religious instruction requirements in advertisements**

If, in accordance with section 464, an advertisement for a position states a requirement that a willingness and an ability to take part in religious instruction is a condition of appointment, any person appointed to that position must accept that requirement as a condition of the person's appointment.

Compare: 1975 No 129 s 65(2)

#### **466 Restrictions on requirement for teacher to take part in religious instruction**

Except as provided in section 464, the appointment of a teacher to a position in a State integrated school may not be conditional on the willingness and ability of that teacher to take part in religious instruction, and no appointed teacher may be required to take part.

Compare: 1975 No 129 s 65(3)

#### **467 Other special positions**

- (1) If an integration agreement records that any teaching position in the State integrated school concerned is a special position that requires particular capabilities on the part of the teacher holding it, an advertisement for that position must require an appointee to possess those capabilities as a condition of appointment to that position.
- (2) Without limiting the generality of subsection (1), if any integration agreement relating to a State integrated primary school requires the person holding a position as assistant principal at that school (being a position the holder of which has responsibility for supervising senior classes at that school) to maintain programmes and activities that reflect the special character of that school, an advertisement for that position must require an appointee to maintain those programmes and activities as a condition of appointment to that position.
- (3) If, in accordance with subsection (1) or (2), an advertisement for a position makes any requirement a condition of appointment to that position, any person appointed to that position must accept that requirement as a condition of the person's appointment to it.

Compare: 1975 No 129 s 66

**468 Selection for appointment**

In the case of a State integrated primary school, the person to be appointed to any of the positions specified in section 464 or to any position specified in section 467 must be selected in accordance with the provisions of section 469.

Compare: 1975 No 129 s 67

**469 Requirements in respect of appointments**

- (1) Before appointing any person to a position in a State integrated primary school, being a position specified in section 464 or 467, the board must consult the proprietor, who must report to the board the names of those applicants (if any) who, in terms of the special character of the school or in terms of the advertisement calling for applicants with particular capabilities, are acceptable for appointment.
- (2) On receipt of the report required by subsection (1), the board may consider for appointment only those applicants who are stated in the report to be acceptable for appointment.

Compare: 1975 No 129 s 68

**470 Employment for special purposes**

- (1) With the consent of the board, any retired teacher may undertake, in any State integrated school, voluntary tasks relating to the beliefs and instruction that are the foundation of that school's special character.
- (2) If religious instruction forms part of the education with a special character provided by a State integrated school, the proprietor of that school may employ any person, whether as a chaplain or otherwise, for duties relating to that instruction.
- (3) The salary of a person employed under subsection (2) must not be paid by the board or be in any way a charge on money appropriated by Parliament.
- (4) The proprietor must notify the board of the name of any person employed under subsection (2).

Compare: 1975 No 129 s 69

**471 Appointment of teachers on integration**

- (1) If, in accordance with sections 421 and 424, an integration agreement is implemented in respect of any private school,—
  - (a) the contract of service of every teacher at that school is to be treated as being determined from the effective date of integration; and
  - (b) each of those teachers, if the teacher so wishes, is to be treated as being in the employment of the board of the State integrated school until the teacher is formally appointed to a teaching position under subsection (4), and the provisions of subsection (6) apply accordingly from the effective date of integration; and

- (c) each teaching position at that school must, within 60 days after the effective date of integration, be advertised as required by the State Sector Act 1988.
- (2) Every advertisement must state that the teacher appointed to the position as at the effective date of integration, if the teacher so wishes, has an absolute right of appointment to that position irrespective of the qualifications of any other applicant.
- (3) The teacher previously appointed to the position advertised under subsection (1) must, if the teacher wishes to continue in that appointment, apply in the manner prescribed by the State Sector Act 1988 for appointment to that position.
- (4) A teacher who applies must be appointed to the position.
- (5) A teacher who does not so apply is to be treated as having relinquished the position.
- (6) A teacher who is appointed to a teaching position must—
  - (a) be paid out of expenses appropriated by Parliament for the purpose the same salary that a teacher with comparable service and qualifications would be paid for a comparable teaching position in a State school; and
  - (b) continue to be paid no less than the same salary, and to be accorded the same status, as the teacher received or was accorded on the day before the effective date of integration.

Compare: 1975 No 129 s 71

#### **472 Other employees**

- (1) The contract of service of every person employed in a State integrated school in a capacity other than that as a teacher, is to be treated as being determined from the effective date of integration.
- (2) If the position in which that person was employed has a parallel or close parallel in a State school, that person may—
  - (a) be re-employed by the board in such parallel position; and
  - (b) be paid out of expenses appropriated by Parliament for the purpose the same salary as that person would be paid for comparable service in a State school.

Compare: 1975 No 129 s 72

#### **473 No compensation for determination of employment**

When a contract of employment of a teacher is treated as being determined under section 471(1)(a), or when the contract of employment of a person other than a teacher is treated as being determined under section 472, no compensa-



tion of any kind is payable to the teacher or to any person employed otherwise than as a teacher in respect of the determination of the contract of employment.

Compare: 1975 No 129 s 73

### *General provisions*

#### **474 Grants to private schools before integration**

Any obligation or other commitment entered into by the managers of a private school before the integration of that school as a condition of a grant under this Act binds the proprietor of that school, whether or not the obligation or commitment is specified in the integration agreement.

Compare: 1975 No 129 s 78

#### **475 Relationship between this Part and other Parts and other enactments**

- (1) If this Part deals with the same or a similar subject matter as other Parts of this Act, the State Sector Act 1988, or any regulations made under any of those Acts or under any enactment repealed by any of those Acts,—
  - (a) express provisions in this Part prevail in respect of State integrated schools; but
  - (b) this Part must be interpreted in a way that is consistent with the other Parts of this Act or any other enactments concerned whenever this construction is appropriate and reasonable.
- (2) Subject to sections 416 and 417, where any matter concerning State integrated schools is not dealt with by express provision in this Part, the appropriate provisions of other Parts of this Act, the State Sector Act 1988, and all regulations made under any of those Parts or Acts or under any enactment repealed by any of those Acts apply.

Compare: 1975 No 129 s 80

#### **476 Regulations relating to State integrated schools**

- (1) The Governor-General may, by Order in Council, make regulations for the following purposes:
  - (a) prescribing a form of integration agreement:
  - (b) providing for the control, management, organisation, finance, and conduct of State integrated schools.
- (2) Where there is a conflict between regulations made under this section and regulations made under another section of this Act or under the Education Act 1964 or any enactment repealed by this Act or the Education Act 1964, the regulations made under this section apply.

Compare: 1975 No 129 s 82

**156 New Schedule 1 inserted**

- (1) Insert the Schedule 1 set out in Schedule 1 of this Act as the first schedule to appear after the last section of the principal Act.
- (2) In Schedule 1, after Part 3, insert:

**Part 4****Provisions relating to Careers New Zealand****4 Interpretation**

In this schedule, unless the context otherwise requires,—

**assets** has the same meaning as in clause 2 of Schedule 20

**Careers New Zealand** means the Service that was continued under section 279 (as it read immediately before the commencement of this clause)

**Commission** means the Tertiary Education Commission established under section 159C

**liabilities** has the same meaning as in clause 2 of Schedule 20.

**5 Dissolution**

Careers New Zealand is dissolved.

**6 Assets and liabilities**

- (1) The assets and liabilities of Careers New Zealand vest in the Commission.
- (2) All money payable to or by Careers New Zealand becomes payable to or by the Commission.
- (3) Anything done, omitted to be done, or to be done by, or in relation to, Careers New Zealand is to be treated as having been done, having been omitted to be done, or having to be done by, or in relation to, the Commission.
- (4) However, any individual or collective employment agreement with Careers New Zealand ceases to apply.

**7 Transfer of information**

- (1) All information held by Careers New Zealand is transferred to the Commission.
- (2) The transfer does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993.

**8 Proceedings**

- (1) All proceedings or any other matters involving Careers New Zealand that are yet to be determined or completed on the commencement of this clause are to be determined or completed by the Commission in accordance with the provi-

sions of this Act as in force immediately before the commencement of this clause as if the Commission were Careers New Zealand.

- (2) No action may be taken in relation to any breach of contract, lease, or licence arrangement arising from—
  - (a) the vesting of assets or liabilities in the Commission:
  - (b) the cessation of any individual or collective employment agreement.

## **9 References to Careers New Zealand**

- (1) This clause applies to—
  - (a) things that are in force or existing immediately before the commencement of this clause; and
  - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents, and notices.
- (2) If this clause applies, every reference in any thing specified in subclause (1) to Careers New Zealand is, on or after the commencement of this clause, to be treated as a reference to the Commission unless the context otherwise requires.
- (3) This clause does not apply to any collective employment agreement with Careers New Zealand.

## **10 Repeal of clauses 6 to 9 and this clause**

- (1) Clauses 6 to 9 are repealed on 1 January 2018.
- (2) This clause is repealed on 2 January 2018.
- (3) In Schedule 1, after Part 4, insert:

## **Part 5**

### **Provision relating to cohort entry**

## **11 Determining mid-term dates under cohort entry policy for 2018**

- (1) This clause applies for the 2018 school year.
- (2) The Minister may, before 1 August 2017, prescribe the mid-term dates for 2018.
- (3) This clause overrides section 5B(3) and (4).
- (4) After Part 5 of Schedule 1, insert:

## Part 6

### Provisions relating to communities of online learning

#### 12 Transitional provisions relating to communities of online learning

- (1) A school that was, immediately before the commencement of this clause, a correspondence school is to be treated as fully accredited as an enrolling community of online learning.
- (2) A school that was, immediately before the commencement of this clause, a correspondence school offering early childhood education classes may continue to offer such classes.
- (3) Every person who is lawfully enrolled at a correspondence school immediately before the commencement of this clause and who is entitled under section 3 to a free education at a State school is to be treated as having been enrolled at that school.
- (4) In this clause, **enrolling community of online learning** has the same meaning as in section 2(1).

#### 157 Schedule 5A amended

In the heading to Schedule 5A, replace “s 65H” with “Schedule 6 cl 26”.

#### 158 Schedule 6 replaced

- (1) Replace Schedule 6 with the Schedule 6 set out in Schedule 2 of this Act.
- (2) In Schedule 6, after clause 6, insert:

#### *Strategic planning and reporting*

#### 7 School strategic plan and annual implementation plan

- (1) A board must have the following strategic planning documents for its school:
  - (a) a **strategic plan** for each 4-year period that sets out the board’s strategy for achieving (or making progress towards achieving) its objectives (as set out in clause 5) during that period; and
  - (b) an **annual implementation plan** for each year that sets out how the board intends to implement that strategy during the year.
- (2) A board must prepare its first strategic plan and annual implementation plan when required by regulations made under section 118A to do so.
- (3) A board that has been accredited as a community of online learning must fulfil any requirements specified in regulations made under section 35ZN.

#### 8 Preparing draft strategic plan

- (1) A board must prepare a draft strategic plan for every 4-year period and submit it to the Secretary in accordance with regulations made under section 118A.

- (2) The draft strategic plan must comply with any regulations made under section 118A relating to the form and content of strategic plans.
- (3) In preparing a draft strategic plan, the board must,—
  - (a) consult—
    - (i) the school community; and
    - (ii) the school's staff; and
    - (iii) where appropriate, the school's students; and
    - (iv) any other persons required by the regulations; and
  - (b) comply with any other regulations relating to the development of strategic plans; and
  - (c) in the case of a State integrated school, ensure that the draft reflects the school's special character; and
  - (d) in the case of a designated character school, ensure that the draft reflects the school's different character or, in the case of a Kura Kaupapa Māori, its special characteristics.
- (4) In preparing a draft strategic plan, the board may consult any person, group, or organisation that it considers ought to be consulted.

## **9 Secretary to review and approve draft strategic plan**

- (1) On receiving a draft strategic plan, the Secretary must review it in accordance with regulations made under section 118A (the **regulations**).
- (2) After reviewing the draft strategic plan, the Secretary must—
  - (a) confirm that it meets the requirements of this Act and the regulations by giving written notice to the board; or
  - (b) return it to the board with directions that the board—
    - (i) consider, or further consider, any matter and revise the plan in the light of that consideration; or
    - (ii) revise the plan as directed by the Secretary.
- (3) If the draft strategic plan is returned to the board, the board must comply with the Secretary's directions and then resubmit a revised plan.
- (4) The Secretary must confirm a draft strategic plan unless satisfied that it does not meet the requirements of the Act and the regulations.
- (5) If a board fails to comply with the Secretary's directions, or resubmits a revised draft strategic plan that still does not meet the requirements of the Act or the regulations, the Secretary may revise the plan and confirm it by giving written notice to the board.

## **10 Preparing annual implementation plan**

- (1) A board must prepare an annual implementation plan.

- (2) The plan must—
- (a) contain the information required by the regulations; and
  - (b) be prepared in accordance with regulations made under section 118A.

### **11 Board to monitor performance against strategic planning documents**

- (1) A board must monitor and evaluate its performance—
- (a) in achieving (or making progress towards achieving) its objectives in accordance with its strategic plan; and
  - (b) in implementing its strategy in accordance with its annual implementation plan.
- (2) The monitoring and evaluation must be carried out in accordance with regulations made under section 118A.
- (3) The board must report on its performance in the annual report, in accordance with regulations made under section 118A.

### **12 Strategic planning documents to be on Internet site**

A board must ensure that its strategic plan and annual implementation plan are available to the public on an Internet site maintained by or on behalf of the board.

## **Part 2**

### **Repeal of Private Schools Conditional Integration Act 1975 and amendments to other enactments**

#### **159 Repeal**

The Private Schools Conditional Integration Act 1975 (1975 No 129) is repealed.

#### **160 Education (Early Childhood Services) Regulations 2008 amended**

- (1) This section amends the Education (Early Childhood Services) Regulations 2008.
- (2) Before regulation 47(1)(a), insert:
- (aa) the service has regard to any statement of National Education and Learning Priorities; and

#### **161 Consequential amendments to other enactments**

- (1) Amend the enactments specified in Part 1 of Schedule 3 as set out in that Part.
- (2) Amend the enactments specified in Part 2 of Schedule 3 as set out in that Part.
- (3) Amend the enactments specified in Part 3 of Schedule 3 as set out in that Part.

**Schedule 1**  
**New Schedule 1 inserted**

s 156

**Schedule 1**  
**Transitional, savings, and related provisions**

s 2A

**Part 1**  
**Provision relating to use of off-site locations by schools**

**1 Off-site locations for schools**

Any existing use of an off-site location by a school to provide education to 1 or more students on a long-term or full-time basis before section 71A comes into force must cease at the latest by the day that is 1 year after the date on which the section comes into force, unless continued use has been approved under that section.

**Part 2**  
**Provisions relating to Competence Authority**

**2 Transitional provision relating to Competence Authority**

- (1) This clause applies on and after the date that the Competence Authority is established by rules under section 388(1)(ba) (in this clause called the **new Competence Authority**).
- (2) The Competence Authority operating immediately before the establishment of the new Competence Authority (in this clause called the **previous Competence Authority**) is dissolved.
- (3) The members of the previous Competence Authority are to be treated as members of the new Competence Authority.
- (4) The Education Council Rules 2016 (LI 2016/122) relating to the previous Competence Authority that are in force immediately before the establishment of the new Competence Authority—
  - (a) are to be treated as rules made under section 388(1)(ba) for the new Competence Authority, subject to any necessary modifications; and
  - (b) expire 12 months after the commencement of this clause, unless replaced earlier by rules made under section 388(1)(ba).
- (5) All proceedings and matters relating to competence that involve the Education Council or the previous Competence Authority and that are yet to be deter-

mined or completed on the commencement of this clause are to be determined or completed as if this clause had not come into force.

### **Part 3**

#### **Provisions relating to integration agreements**

##### **3 Treatment of certain integration agreements**

- (1) The integration agreement between Her Majesty the Queen and Te Aute Trust Board Incorporated and any integration agreement that was made under the Private Schools Conditional Integration Act 1975 and that is in force immediately before the commencement of this clause is to be treated as having been made under Part 33 of this Act.
- (2) However, all proceedings or any other matters that involve an integration agreement made under the Private Schools Conditional Integration Act 1975 and that are yet to be determined or completed on the commencement of this clause are to be determined or completed in accordance with the provisions of the Private Schools Conditional Integration Act 1975 that are in force immediately before the commencement of this clause.



**Schedule 2**  
**Schedule 6 of principal Act replaced**

s 158

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**1 Interpretation**

In this schedule, unless the context otherwise requires,—

**annual implementation plan** has the meaning given in clause 7

**school**, in relation to a board, means the school or institution for which the board is constituted

**school community**, in relation to a school, means—

- (a) the parents, families, and whānau of the school's students; and
- (b) the Māori community associated with the school; and
- (c) any other person, or group of persons, who the board considers is part of the school community for the purposes of the relevant provision

**strategic plan** has the meaning given in clause 7.

**Part 1**  
**Status and name of board**

**2 Status of board**

- (1) A board (and not the school) is a body corporate.

- (2) A board—
- (a) is accordingly a legal entity separate from its members, office holders, employees, and the Crown; and
  - (b) continues in existence until it is dissolved in accordance with this Act.

### **3 Names of boards**

The name of a board is “The [*name of school or institution*] Board of Trustees”.

## **Part 2**

### **Powers and functions of boards**

#### *Functions of board*

### **4 Board is governing body of school**

- (1) A board is the governing body of its school.
- (2) A board is responsible for the governance of the school, including setting the policies by which the school is to be controlled and managed.
- (3) Under section 76, the school’s principal is the board’s chief executive in relation to the school’s control and management.

### **5 Board’s objectives in governing school**

- (1) A board’s primary objective in governing the school is to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.
- (2) To meet the primary objective, the board must—
  - (a) ensure that the school—
    - (i) is a physically and emotionally safe place for all students and staff; and
    - (ii) is inclusive of and caters for students with differing needs; and
  - (b) have particular regard to any statement of National Education and Learning Priorities issued under section 1A; and
  - (c) comply with its obligations under sections 60A (in relation to curriculum statements and national performance measures), 61 (in relation to teaching and learning programmes), and 62 (in relation to monitoring of student performance); and
  - (d) if the school is a member of a community of learning that has a community of learning agreement under section 72, comply with its obligations under that agreement as a member of that community; and
  - (e) comply with all of its other obligations under this or any other Act.

**6 Staff**

Subject to Parts 8A and 31, a board may, in accordance with the State Sector Act 1988, appoint, suspend, or dismiss school staff.

*Functions and powers generally***13 Board has complete discretion**

A board has complete discretion to perform its functions and exercise its powers as it thinks fit, subject to this and any other enactment and the general law of New Zealand.

**14 Things board can do**

- (1) A board may do anything that it is authorised to do by this Act.
- (2) A board may do anything that a natural person of full age and capacity may do.
- (3) Subclause (2) applies except as provided in this Act or another enactment or rule of law.
- (4) A board may do an act under this clause only for the purpose of performing its functions.
- (5) References in this clause to **this Act** include the provisions of the Crown Entities Act 2004 that are applied by Schedule 5A of this Act.

**15 Work for other boards or educational or social services**

- (1) Two boards may agree in writing—
  - (a) for one of them (**board A**) to do either or both of the following:
    - (i) acquire materials for, and supply them to, the other;
    - (ii) do work for the other; and
  - (b) for the other board to pay board A for doing so.
- (2) An agreement under subclause (1) does not absolve a board from any responsibilities imposed by this Act.
- (3) A board may resolve to do work for other educational services and social services if—
  - (a) the board is a member of a community of learning; and
  - (b) the other members of the community of learning agree that the work will benefit—
    - (i) the members of the community of learning; or
    - (ii) the children or young people who are enrolled at a member of the community of learning.

**16 Cultural diversity, Treaty of Waitangi, tikanga Māori, and te reo Māori**

- (1) A board must take all reasonable steps to ensure that the policies and practices for its school reflect New Zealand's cultural diversity and the unique position of the Māori culture.
- (2) In performing its functions and exercising its powers, a board must take all reasonable steps to act in a manner that is consistent with the principles of the Treaty of Waitangi.
- (3) Without limiting subclauses (1) and (2), a board must take all reasonable steps to provide instruction in tikanga Māori (Māori culture) and te reo Māori (the Māori language) for full-time students whose parents ask for it.

**17 Delegations**

- (1) A board may delegate any of the functions or powers of the board or the trustees, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons:
  - (a) a trustee or trustees:
  - (b) the principal or any other employee or employees, or office holder or holders of the board:
  - (c) a committee consisting of at least 2 persons at least 1 of whom is a trustee:
  - (d) any other person or persons approved by the Minister:
  - (e) any class of persons that comprises any of the persons listed in paragraphs (a) to (d).
- (2) Subclause (1) does not apply to any functions or powers specified in this Act as not being capable of delegation.
- (3) The board must not delegate the general power of delegation.
- (4) A delegate to whom any function or power is delegated may,—
  - (a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the board or the trustees; and
  - (b) delegate the function or power only—
    - (i) with the prior written consent of the board; and
    - (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.
- (5) A delegate who purports to perform a function or exercise a power under a delegation—
  - (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and

- (b) must produce evidence of his or her authority to do so if reasonably requested to do so.
- (6) No delegation in accordance with this Act—
  - (a) affects or prevents the performance of any function or the exercise of any power by the board or the trustees; or
  - (b) affects the responsibility of the board for the actions of any delegate acting under the delegation; or
  - (c) is affected by any change in the membership of the board or of any committee or class of persons.
- (7) A delegation may be revoked at will by—
  - (a) resolution of the board and written notice to the delegate; or
  - (b) any other method provided for in the delegation.
- (8) A delegation under subclause (4)(b) may be revoked at will by written notice of the delegate to the subdelegate.
- (9) The board may, by resolution, appoint committees—
  - (a) to advise it on any matters relating to the board's functions and powers that are referred to the committee by the board; or
  - (b) to perform or exercise any of the board's functions and powers that are delegated to the committee.
- (10) A person must not be appointed as a member of a committee unless, before appointment, he or she discloses to the board the details of any financial interest that would disqualify the person from being a trustee under section 103A.
- (11) This clause applies to each member of a committee who is not a trustee with any necessary modifications.

## 18 Bylaws

A board may make bylaws that the board thinks necessary or desirable for the control and management of the school.

### *Validity of acts and liability*

## 19 Interpretation

In this clause and clauses 20 to 24, unless the context otherwise requires,—

**act** includes a transfer of property, rights, or interests to or by a board

**do** includes—

- (a) to do an act; and
- (b) to have a capacity; and
- (c) to have or exercise a power, right, or privilege

**person dealing**—

- (a) means the other party to the transaction, if the act of the board is a transaction; and
- (b) includes a person who has acquired property, rights, or interests from a board.

## **20 Acts in breach of statute are invalid**

- (1) An act of a board is invalid, unless clause 21 applies, if it is—
  - (a) an act that is contrary to, or outside the authority of, an Act; or
  - (b) an act that is done otherwise than for the purpose of performing its functions.
- (2) Subclause (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

## **21 Some natural person acts protected**

- (1) Clause 20, or any rule of law to similar effect, does not prevent a person dealing with a board from enforcing a transaction that is a natural person act unless the person dealing with the board knew, or ought reasonably to have known,—
  - (a) that an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or
  - (b) that the act was done otherwise than for the purpose of performing the board's functions.
- (2) In this clause, **natural person act**—
  - (a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and
  - (b) includes entry into a contract for, or relating to,—
    - (i) acquisition of financial products (within the meaning of section 7 of the Financial Markets Conduct Act 2013) or borrowing of money; or
    - (ii) the purchase, leasing, or sale of, or other dealings with, property; or
    - (iii) the employment, or engagement of the services, of a person.
- (3) A person who relies on subclause (1) has the onus of proving that that person did not have, and ought not reasonably to have had, the knowledge referred to in that subclause.
- (4) A board must report, in its annual report, each transaction that the board has performed in the year to which the report relates that was invalid under clause 20 but enforced in reliance on subclause (1).
- (5) To avoid doubt, this clause does not affect any person's remedies (for example, remedies in contract) under the general law.

**22 Acts that are not in best interests of board**

It is irrelevant to the validity of an act that the act is not, or may not be, in the best interests of a board.

**23 Dealings between boards and other persons**

- (1) A board may not assert against a person dealing with the board that—
- (a) a person held out by the board to be a member, office holder, chief executive, employee, or agent of the board (as the case may be)—
    - (i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or
    - (ii) does not have the authority to exercise a power that, given the nature of the board, a person appointed to that capacity customarily has authority to exercise; or
    - (iii) does not have the authority to exercise a power that the board holds him or her out as having; or
  - (b) a document issued on behalf of the board by a member, office holder, chief executive, employee, or agent of the board who has actual or usual authority to issue the document is not valid or genuine.
- (2) However, a board may assert any of those matters if the person dealing with the board has, or ought reasonably to have had, knowledge of the matter.
- (3) Nothing in this clause affects a person's right to apply, in accordance with the law, for judicial review.

**24 Trustees not personally liable**

- (1) A trustee is not personally liable for—
- (a) any act done or omitted by the board; or
  - (b) any loss to the board arising out of any act done or omitted by the trustee.
- (2) However, subclause (1) applies only if the act or omission was (so far as the trustee's involvement is concerned) in good faith in carrying out or intending to carry out the functions of the board.

**Part 3****Financial and property matters and application of Crown Entities Act 2004****25 Board to be financially responsible**

A board must perform its functions and exercise its powers in a way that is financially responsible.



**26 Application of Crown Entities Act 2004**

- (1) Every board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.
- (2) However, that Act applies to boards only to the extent that subclause (3) provides.
- (3) The provisions of the Crown Entities Act 2004 set out in Schedule 3 of that Act and Schedule 5A of this Act apply to boards and their Crown entity subsidiaries (within the meaning of the Crown Entities Act 2004).

**27 Directions under section 107 of Crown Entities Act 2004**

- (1) A board must comply with any direction given under section 107 of the Crown Entities Act 2004.
- (2) If the board does not comply with a direction, it may be dissolved under section 78I(1)(e).

**28 Restrictions on acquisition of securities**

- (1) Sections 160 and 161 of the Crown Entities Act 2004 apply.
- (2) Under section 161 of that Act, a board must not acquire securities—
  - (a) other than—
    - (i) a debt security denominated in New Zealand dollars that is issued by a registered bank, or by any other entity, that satisfies a credit-rating test that is specified in either regulations made under Part 4 of that Act or a notice in the *Gazette* published by the Minister of Finance; or
    - (ii) a public security; or
  - (b) otherwise than as provided in—
    - (i) any regulations made under Part 4 of that Act; or
    - (ii) any approval given jointly by the Minister of Education and the Minister of Finance; or
    - (iii) this Act.

**29 Restrictions on borrowing**

- (1) Sections 160 and 162 of the Crown Entities Act 2004 apply.
- (2) Under sections 160 and 162 of that Act, a board must not borrow from any person, or amend the terms of any borrowing, otherwise than as provided in—
  - (a) any regulations made under Part 4 of that Act; or
  - (b) any approval given jointly by the Minister of Education and the Minister of Finance; or
  - (c) this Act.

**30 No delegation of power to borrow**

A board must not delegate any power to borrow money that it may have under section 160 or 162 of the Crown Entities Act 2004.

**31 Restrictions on giving of guarantees and indemnities**

- (1) Sections 160 and 163 of the Crown Entities Act 2004 apply.
- (2) Under sections 160 and 163 of that Act, a board must not, with or without security, give a guarantee to, or indemnify, another person otherwise than as provided in—
  - (a) any regulations made under Part 4 of that Act; or
  - (b) any approval given jointly by the Minister of Education and the Minister of Finance; or
  - (c) this Act.

**32 Restrictions on use of derivatives**

- (1) Sections 160 and 164 of the Crown Entities Act 2004 apply.
- (2) Under sections 160 and 164 of that Act, a board must not enter into an agreement constituting a derivative, or amend the terms of that agreement, otherwise than as provided in—
  - (a) any regulations made under Part 4 of that Act; or
  - (b) any approval given jointly by the Minister of Education and the Minister of Finance; or
  - (c) this Act.

**33 Gifts**

- (1) Any money or property that is gifted to a school may be accepted or disclaimed by the board in accordance with section 167 of the Crown Entities Act 2004.
- (2) A limitation that is provided in this Act or that applies under the Crown Entities Act 2004 (such as a limitation on the form in which property may be held) does not apply during a period that is reasonable in the circumstances.
- (3) Subclauses (1) and (2) apply to any gift that is received by the board for funding scholarships or bursaries, or for other educational purposes in connection with a school.
- (4) A board must hold every such gift for the specific purpose declared by the giver.
- (5) Unless the giver has created a special trust, scholarships and bursaries from a gift must be open to every student at the school.
- (6) If the school for which a gift was given closes, the Minister must direct that the gift should apply to another school.

**34 Real property**

Except as provided in clause 33, a board must not acquire an interest in land, or any licence to occupy any land or premises, without the consent of the Minister.

**35 Occupancy of property and buildings**

- (1) The Secretary may from time to time, by notice in the *Gazette*, specify terms and conditions applying generally to land and buildings occupied by boards, and may from time to time, by written notice to a particular board, specify terms and conditions applying to land and buildings occupied by that board.
- (2) A notice under subclause (1)—
  - (a) may apply to any land and buildings occupied by a board (regardless of who owns the property); but
  - (b) to the extent that it applies to the board of a State integrated school, is subject to Part 33 and to the integration agreement for the time being in force between the Minister and the proprietor of the school.
- (3) Terms and conditions under subclause (1) may include such matters as standards of maintenance, standards of capital works, and minimum safety and health requirements.
- (4) Subclause (3) does not limit the generality of subclause (1).
- (5) Terms and conditions may be specified under subclause (1) in respect of—
  - (a) a particular school or institution or particular schools or institutions; or
  - (b) schools or institutions of particular classes or descriptions; or
  - (c) all schools and institutions.
- (6) A notice published in the *Gazette* under subclause (1) may contain the terms and conditions in their entirety or provide a general description of those terms and conditions and indicate where the full text can be obtained.
- (7) Terms and conditions specified under subclause (1) apply to boards or a board (as the case may be) as if—
  - (a) the land and buildings were owned by the Crown and the Crown has leased them to the board; and
  - (b) the terms and conditions were part of the lease; and
  - (c) the Crown had empowered the Secretary to exercise the Crown's powers concerning the lease.

**36 Leases and licences granted by boards**

- (1) A board may, with the written consent of the Secretary, grant a lease or a licence to occupy to any person in respect of any land, buildings, or facilities occupied by the board.

- (2) The Secretary may agree to the grant of a lease or a licence by the board only if satisfied that—
- (a) the land, building, or facilities are not needed or used for the purposes of the school during the time covered by the lease or licence; and
  - (b) the lease or licence is in the public interest; and
  - (c) the lease or licence—
    - (i) is for a purpose associated with educational outcomes and will bring educational benefit to the school or its community, or to any other school; or
    - (ii) is for a community purpose, and will bring no educational disadvantage to the school.
- (3) The Secretary must determine the terms and conditions of any lease or licence granted by a board by doing either or both of the following:
- (a) publishing a notice in the *Gazette* that specifies the general terms and conditions that apply to all, or specified classes of, leases or licences;
  - (b) giving written notice to the board.
- (4) Clause 35(6) applies to a *Gazette* notice under subclause (3)(a).
- (5) In relation to a State integrated school, this clause applies subject to Part 33 and to any integration agreement in force between the Minister and the proprietor of the school.

### **37 Other agreements to occupy school land or buildings**

- (1) In this clause, **agreement** means an agreement, other than a lease or a licence to occupy under clause 36, between a board and any other person for the use of land, buildings, or facilities occupied by the board.
- (2) A board may not enter into an agreement unless—
- (a) the agreement is of a type permitted by *Gazette* notice under subclause (5); and
  - (b) the agreement is consistent with this clause and any conditions specified by *Gazette* notice under subclause (5).
- (3) It is a condition of every agreement that the board has the right to enter, at any time, the land, buildings, or facilities that are the subject of the agreement.
- (4) No person has the right under an agreement to use or occupy any land, buildings, or facilities in such a way as to unduly interfere with the use, by the board for school purposes, of that land or those buildings or facilities, or any other land, buildings, or facilities of the school.
- (5) The Secretary may, by notice in the *Gazette*,—
- (a) identify the kinds of agreements (for example, agreements for the use of playing fields) that boards may enter into; and

- (b) specify conditions to which agreements, or specified types of agreements, are subject.
- (6) Clause 35(6) applies to a *Gazette* notice under subclause (5)(b).
- (7) In relation to a State integrated school, this clause applies subject to Part 33 and to any integration agreement in force between the Minister and the proprietor of the school.

### **38 Boards exempt from taxation**

- (1) Every board is taken to be the agent of the Crown in respect of its property and the exercise of its functions, and is accordingly entitled to all the privileges the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.
- (2) Nothing in subclause (1) exempts a board from—
  - (a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or
  - (b) any obligation imposed by that Act.

## **Part 4 Meetings and procedure**

### **39 Affixing of board's seal**

- (1) A board's common seal must not be affixed to a document except pursuant to a resolution of the board.
- (2) The affixing of a board's common seal to a document must be countersigned by at least 2 trustees.

### **40 Meetings**

- (1) A board must hold a meeting not later than 3 months after its previous meeting, at a time and place determined at the previous meeting.
- (2) If, at any meeting of the board, the board does not determine a time and place for its next meeting, the time and place of its next meeting must be determined—
  - (a) by the presiding trustee for the time being appointed under clause 41; or
  - (b) if no trustee is for the time being appointed to preside and a trustee who presided at the board's previous meeting is still a trustee, by that trustee; and
  - (c) in any other case, by the principal.
- (3) When a casual vacancy occurs, the person for the time being appointed under clause 41, or, where there is no such person, the principal, must fix a place for a meeting of the board to deal with the vacancy on a day 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.
- (4) No business may be transacted at any meeting of the board unless more than half the trustees then holding office are present.
- (5) At a meeting of the board,—
  - (a) the person for the time being appointed under clause 41 must preside if present; or
  - (b) if that person is not present, a trustee (not being the principal or a staff or student representative) appointed by the board at the meeting must preside.
- (6) Every question before a board must be decided by a majority of the votes cast on it by the trustees who are present.
- (7) At a meeting of the board, the person presiding has a deliberative vote on every question and, on any question where deliberative votes for and against are equal, also has a casting vote.
- (8) Subject to subclause (11), a trustee who has a pecuniary interest in any matter or any interest that may reasonably be regarded as likely to influence a trustee in carrying out his or her duties and responsibilities as a trustee must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides the matter.
- (9) Subject to subclause (11), a trustee who is a member of the board staff must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to the trustee's employment by the board, or to the course of action to be taken following the hearing of a complaint against the trustee (being a complaint against the trustee in the trustee's capacity as a member of the board staff).
- (10) Subject to subclause (11), a trustee who is a student enrolled at the school or institution must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to the trustee as an individual student.
- (11) A trustee may attend any meeting of the board to give evidence, make submissions, or answer questions.
- (12) A meeting of the board may be held—
  - (a) by more than half the trustees then holding office being assembled together at the time and place appointed for the meeting; or
  - (b) by means of audio, audiovisual, or electronic communication, but only if—
    - (i) all of the trustees who wish to participate in the meeting have access to the technology needed to participate in the meeting; and

- (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (13) A resolution signed or assented to in writing (whether sent by post, courier, or electronic communication) by all members is as valid and effectual as if it had been passed at a meeting of the board correctly called and constituted.
  - (14) The resolution may consist of several documents containing the same resolution, each signed or assented to in writing by 1 or more members.
  - (15) Except as provided in this Act, every board must determine its own procedures.
- 41 One trustee to preside at meetings**
- (1) Every board must appoint a trustee (not being the principal or a staff or student representative) to preside at meetings of the board.
  - (2) The appointment must be made—
    - (a) at the board's first meeting in any year, unless it is an election year, in which case it must be at the first meeting held after the election; and
    - (b) if the board has resolved that it has no confidence in the person for the time being appointed; and
    - (c) if the person for the time being appointed ceases to be a trustee, or resigns the task by notice in writing to the board.

## Schedule 3

### Consequential amendments to other enactments

s 161

#### Part 1

**Education Act 1964 (1964 No 135)**

In section 2(1), repeal the definition of **correspondence school** or **correspondence classes**.

Repeal section 96.

Repeal section 98(1)(c).

**Education Amendment Act 2010 (2010 No 25)**

Repeal section 77.

**Human Rights Act 1993 (1993 No 82)**

In section 28(2)(a) and (b), replace “section 65 of the Private Schools Conditional Integration Act 1975” with “section 464 of the Education Act 1989”.

**State Sector Act 1988 (1988 No 20)**

In section 2, definition of **education service**, paragraph (a)(ii), replace “the Private Schools Conditional Integration Act 1975” with “Part 33 of the Education Act 1989”.

#### Part 2

**Crown Entities Act 2004 (2004 No 115)**

In Schedule 1, Part 1, delete “Careers New Zealand”.

**Government Superannuation Fund Act 1956 (1956 No 47)**

In section 2, definition of **controlling authority**, repeal paragraph (cb).

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, delete “Careers New Zealand”.

#### Part 3

**Crown Entities Act 2004 (2004 No 115)**

In section 7(1)(d), delete “(including correspondence schools)”.



**Social Security Act 1964 (1964 No 136)**

In section 60RAB(1)(c), replace “a school that is currently designated under section 152(1) of the Education Act 1989 as a correspondence school” with “Te Aho o Te Kura Pounamu The Correspondence School”.

**Taranaki Scholarships Trust Board Act 1957 (1957 No 108)**

In section 2, insert in its appropriate alphabetical order:

**enrolling community of online learning** has the same meaning as in section 2(1) of the Education Act 1989

In section 12(4), replace “a correspondence school” with “an enrolling community of online learning”.

In section 12(5), replace “a correspondence school established by the Minister of Education” with “an enrolling community of online learning”.

**Vulnerable Children Act 2014 (2014 No 40)**

In Schedule 1, after item (27), insert:

(27A) education services provided by a community of online learning (as defined in section 2(1) of the Education Act 1989):

**Legislative history**

22 August 2016	Introduction (Bill 160–1)
13 September 2016	First reading and referral to Education and Science Committee
20 March 2017	Reported from Education and Science Committee (Bill 160–2)
11 April 2017	Second reading
12 April 2017	Committee of the whole House (Bill 160–3)
11 May 2017	Third reading
15 May 2017	Royal assent

This Act is administered by the Ministry of Education.