

Education Legislation Bill

Government Bill

As reported from the Education and Science Committee

Commentary

Recommendation

The Education and Science Committee has examined the Education Legislation Bill and recommends, by majority, that it be passed with the amendments shown.

Introduction

The Education Legislation Bill is an omnibus bill that seeks to update the following eight Acts:

- Education Act 1989
- Education Act 1964
- State Sector Act 1988
- Crown Entities Act 2004
- Fees and Travelling Allowances Act 1951
- Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945
- Pacific Islands Polynesian Education Foundation Act 1972
- Private Schools Conditional Integration Act 1975.

The purpose of the bill is to improve the administrative and governance arrangements for educational entities and funding organisations. It also modernises wording relating to Māori and Pasifika in several Acts.

This commentary covers the main amendments we recommend to the bill. It does not cover minor or technical amendments.

Supplementary Order Paper 176

We received Supplementary Order Paper (SOP) 176 from the Minister of Education on 25 May 2016. The Minister invited us to consider the proposed amendments set out in the SOP during our consideration of the bill.

We support the amendments proposed in the SOP and recommend them as amendments to the bill. The amendments would implement policies to:

- enable school boards of trustees to appoint students to trainee teacher positions, through amendments to the Education Act 1989
- modernise the New Zealand Council for Educational Research Act 1972.

We are satisfied that the amendments proposed in the SOP are consistent with the policy intent of the bill.

Minimum school opening hours

Clause 7 would amend section 65B of the Education Act 1989, which is about schools' minimum opening hours. It would retain the requirement for schools to be open for instruction for at least four hours a day (comprising two blocks of at least two hours each, with one block in the morning and one block in the afternoon), but would allow school boards of trustees to vary when the two blocks of two hours are to be taken, subject to certain requirements including consultation and written notification.

We recommend amending this clause by inserting new paragraph (3AA) into section 65B to allow school boards of trustees to follow a more streamlined process in varying a school's open times without consultation or written notification, if the variation is for operational reasons and on an occasional and short-term basis. We believe that this would provide boards with useful flexibility in meeting the needs of their school and its community.

Creating a new teaching position

The amendments proposed in the SOP would create a new category of teaching position in the Education Act 1989. The amendments discussed below would enable a school board of trustees to appoint a student to a paid teaching position as part of a field-based initial teacher education (ITE) programme. Field-based ITE programmes differ from traditional ITE programmes run by tertiary education institutions in that students are employed by a school board of trustees for a period while they are undertaking their ITE programme.

Payment of teacher salaries

Because of the substantial amendments and insertions proposed to Part 8A of the Education Act 1989, we recommend that new clause 13A be inserted to change the heading of Part 8A from "payment of teacher salaries" to "salaries, limitations on staffing, and powers of Secretary to employ teachers and create positions". This head-

ing would better reflect the amendments and insertions the SOP would make to the Act.

Defining a trainee teacher

The SOP proposes the term “trainee teacher” to refer to a person who is undertaking their initial teacher education through a programme that includes a period of employment by a school board. We felt that this could cause confusion, given that the term “trainee teacher” is widely used within the sector, including in reference to student teachers on their practicum. We recommend amending clauses 13B and 13C, which amend Section 91A, to refer to the role as “employment-based trainee teacher”.

We also recommend adding the following definitions to clause 13B, section 91A(1):

- “employment-based trainee teaching position”
- “initial teacher education programme”.

Payment of employment-based trainee teacher salaries

As proposed in the SOP, we recommend adding information in the Education Act 1989 about how employment-based trainee teachers would be paid. The heading of section 91G, clause 13C, is currently “relieving teachers”. We recommend amending the heading to “Payment of salaries of relieving teachers and employment-based trainee teachers”.

We also recommend amending clause 13C to include employment-based trainee teachers in all references to “relieving teachers” in section 91G(1), (2), (3), and (4). This would clarify how employment-based trainee teachers would be paid if the amendments were incorporated into the Education Act 1989.

Establishment of employment-based trainee teacher positions

The SOP proposes a new power for the Secretary for Education to designate a position at a school for an employment-based teacher trainee by written notice to the board. It would also allow the board of a school for which an employment-based trainee teaching position has been established to appoint only an employment-based trainee teacher to the position. This would apply despite any provision to the contrary in the Education Act 1989 or the State Sector Act 1988.

Under the Education Act 1989 and the State Sector Act 1988, school boards only can make staffing appointments. To avoid any doubt, we recommend amending new clause 13E, which inserts new section 91O, to specify that the Secretary may establish an employment-based training position after receiving a request from the board of a school.

To reflect the insertion of section 91O, we also recommend inserting new clause 13D to insert the cross-heading “Powers of Secretary to employ teachers and create positions” after section 91M.

Administration of tertiary institutions

We recommend amending clause 24, new section 164A, to change the proposed definition of “related entity”. Our suggested definition would refer to an entity that is a “related party” for the purpose of any financial reporting standard that applies to the Crown under generally accepted accounting practice.

Home-based early childhood education and care

Clauses 30 and 31 of the bill would amend the Education Act 1989 to allow licensed home-based early childhood education and care services to simultaneously offer early childhood education and out-of-school care for children aged 13 years or younger. We recommend amending clause 30, section 309 of the Education Act 1989, to include any child of the educator who is under the age of five, or five years of age but not enrolled in school, in the number of children allowed to receive home-based education or care.

We accept that excluding such children from the total number of children allowed to receive home-based care and education services could mean that having a large number of children present in the home could decrease the standard of education and care given by the educator. However, we note that the Ministry of Education will continue to monitor home-based early childhood education services, and would intervene if the health and safety or quality of learning of any enrolled child was being compromised.

We also recommend amending clause 31, new section 317A(3), to exclude any child of the educator who is enrolled in school, from the total number of children allowed to be present in the home under new section 317A(2). These children would be at school during home-based education or care hours and so should not pose risks to the standard of education and care given by the educator.

We recommend that the consequential amendments in clause 84, Schedule 2, Part 2, not proceed as they are made redundant by the above amendments.

Modernising the New Zealand Council for Educational Research Act 1972

The SOP would insert a new subpart 1AA into Part 2 of the bill, amending the New Zealand Council for Educational Research Act 1972 (NZCERA). These amendments mainly relate to:

- the manner in which members of the Council are elected and appointed
- introducing criteria for appointing members to the Council
- introducing flexibility in the commencement and length of terms of appointment
- the Council’s rule-making powers and the status of the rules.

Membership of the Council

New clause 35D of the bill (as introduced by the SOP) would replace section 6 of the NZCERA with new sections 6 and 6A.

We agree with the SOP's suggestion that the requirement for one member of the Council to be appointed by the Governor-General be replaced with a requirement that one member be appointed by the Minister of Education. We also agree with replacing the requirement for the six elected members of the Council to be appointed by the Governor-General, with a requirement for five members to be appointed by the Council after elections carried out in accordance with the Council's rules. Finally, we agree with the proposal to require the Council to appoint three members (rather than two co-opted members). We recommend that section 6 be amended accordingly.

We also recommend inserting new section 6A, which would set out criteria that the Minister and the Council must consider when making appointments to the Council, including that the appointee must have the appropriate knowledge, skills, and experience to assist the Council to perform its functions. We agree that these are prudent measures that would ensure that the Council selects the best possible members.

Terms of office for Council members

Section 8 of the NZCERA currently has strict rules about the terms members can serve on the Council. The SOP proposes amendments to make the appointment process more flexible.

We support removing the requirement for four-year terms to start on 1 October and instead allowing members to be appointed for a term of up to four years on any date. We also support minor changes to simplify the wording about reappointments. We recommend amending clause 35F, inserting new section 8, to reflect these changes.

Personal liability of Council members

We recommend inserting clause 35J, new section 12A, as proposed in the SOP. This insertion would ensure that members of the Council are not personally liable for any act or omission of the Council, or for any loss to the Council arising out of any act or omission by a member if the act or omission was in good faith with the intention of performing the functions of the Council.

Council members' expenses

We recommend inserting new clause 35Q to replace section 30 of the NZCERA with new sections 30 and 30A. These would update relevant terminology and enable the expenses of members of the Council to be paid in accordance with the Government's fees framework.

To make this fees framework clear, we recommend inserting a definition in clause 35B, section 2. "Fees framework" would mean the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

The Council's power to make rules

We recommend inserting new clause 35R, as proposed in the SOP, to amend section 33 concerning the Council's power to make rules. The amendments would repeal detailed lists of administrative matters, such as providing for the custody and use of the common seal. We recommend these matters be repealed because they are now more commonly dealt with through operational guidelines and policies.

The amendments to section 33 would also make the Council's rules into disallowable instruments for the purposes of the Legislation Act 2012. This would make the NZCERA consistent with current policy and practice for tertiary legislation. This is because those rules have legislative effect and do not fall within any of the established exceptions to instruments being disallowable.

The SOP would remove the requirements relating to the current electoral college from the Act. New clause 35R would replace the requirements with a rule-making power for the Council to prescribe the method of election of Council members. This would give the Council greater flexibility around the arrangements for elections. Consequently, we recommend inserting new Part 3 to revoke the New Zealand Council for Educational Research (Electoral College) Order 2009.

Modernisation of the NZCERA

The terminology in several sections and clauses in the NZCERA has become outdated since it was enacted in 1972. The bill would replace all gender-specific references in the NZCERA with gender-neutral wording. It would also change several references to "officers and servants" in the NZCERA to "employees".

The SOP would also make further amendments to the NZCERA to remove spent, dated, or redundant provisions, and to update banking and accounting provisions. We agree with these replacements.

Definition of "Pacific person"

We recommend amending clause 53 (relating to the Pacific Islands Polynesian Education Foundation Act 1972) to include Kiribati and Tuvalu in the definition of the term "Pacific person". This would ensure consistency with the increasingly common interpretation of the term used in other sectors, such as health.

Approving additional terms and conditions of employment

We recommend amending clause 83(2), new section 75(1A) of the State Sector Act 1988, so that the power of the State Services Commissioner to approve additional terms and conditions of employment would relate only to an individual employee and not to "any class of employees". We accept that extending this power to a broad class of employees would be inconsistent with the new requirement for agreement to be reached between an individual employer, such as a school board of trustees, and an employee.

New Zealand Labour Party, Green Party of Aotearoa New Zealand, and New Zealand First minority view

Enabling a principal to manage more than one school

The case for allowing a principal to manage more than one school has not been made, nor have the details around how such an approach would work been established. A principal is a school's professional leader, and many comment that the workload involved in running one school is more than full-time. Principals are tasked with engaging with parents, whānau, and communities. They provide a clear focus to school teachers and staff through their role as educational leader, coach, and mentor, and set a school's culture that identifies with their school community. Managing several schools would be challenging for even the most talented principal.

Officials were unable to explain whether a principal managing more than one school would have multiple employment agreements with each board of trustees or a single agreement with one of the boards. They were also unable to explain what would happen where a principal's relationship with one of the boards in question was to break down but not the relationship with the other.

Existing provisions that allow a combined board of trustees to oversee more than one school, and employ a single principal, have barely been used. It is not, therefore, clear that there is any demand for these provisions, or any evidence that they will ever be used.

Changes to school opening hours

Giving schools greater flexibility around their opening hours could create significant issues for parents and caregivers. Families with children at more than one school could find themselves juggling different school hours, and this could have implications for their ability to undertake paid employment. Schools within the same community operating significantly different opening hours could also have major implications for the provision of school transport, such as bus services, and extra-curricular activities, such as school sport. We support retaining a requirement that significant changes to school opening hours must be approved by the Minister of Education, or the Secretary for Education acting under delegation.

Enabling tertiary education institutions to sponsor partnership schools

We strongly oppose the amendments that would enable tertiary education institutions (TEI) to sponsor partnership schools. This change is an admission by Government that the partnership schools policy has failed. An integral part of the original proposition for partnership schools was that they would attract external, non-taxpayer, capital and funding. That has not eventuated.

Many of New Zealand's TEIs are struggling to manage their own core business within the financial constraints that they have. There is no evidence to suggest they are in a position to take on the additional responsibility of running a partnership school.

We agree with the submissions of Universities New Zealand, and many others, who argued that the value of partnership schools has not yet been proven; the reasons for not integrating the small number of partnership schools into the State school system have not been well articulated; and much of the flexibility partnership schools have been given has been around reducing costs, rather than supporting student achievement.

As Universities New Zealand noted, there is nothing preventing current schools from accessing education research or establishing direct links with industry. The amendments proposed risk diverting TEI resources to a small sector of the education system for little demonstrable benefit.

We are concerned that the exemption partnership schools currently have from the Official Information Act 1982 will also apply to such schools operated by publicly owned tertiary education institutions. There is absolutely no justification for this. The taxpayer will hold all of the liability for a TEI-operated partnership school, so there is absolutely no justification for shielding their activities from public scrutiny and accountability.

Partnership schools dual provision

Proposed amendments to allow students enrolled at partnership schools to receive tuition from State schools, either for free or for payment, is a further admission that the partnership schools policy has failed. Partnership schools are funded to deliver the whole curriculum. The whole rationale for their existence is that they are supposed to be doing things differently from State schools. If a partnership school is not able to deliver the curriculum, it should not have been approved.

Enabling home-based ECE services to offer out-of-school care

Provisions to allow home-based early childhood education (ECE) services to offer out-of-school care to older children raise several quality and safety issues that have not been satisfactorily addressed. Existing quality requirements around home-based care are much more relaxed than those that govern centre-based ECE. Although they have to be supervised by a qualified teacher, home-based educators do not currently have to be qualified in any way.

Simultaneous care could reduce the ability of the educator to provide quality education and care, especially to younger children. There is already considerable concern within the early childhood education sector about the quality of some home-based early childhood education services, and there is little, if any, evidence on how the outcomes from this type of service compare with other forms of ECE.

While we welcome the amendments proposed to include the children of the educator in the total number of children allowed to receive home-based education and care services, we remain concerned that these proposed changes could result in the further expansion of a sector that has huge variation in the quality of education and care provided.

New category of teaching position

Amendments to establish a new job category of trainee teacher were introduced after public submissions had been completed. After calls by Opposition members the committee did have the opportunity to consider the implications of these changes and hear from a small number of targeted submitters in an exceptionally truncated subsequent submission period. We still hold grave concerns that these amendments fall well outside the original scope of the bill and create a concerning precedent whereby significant additional provisions are added to legislation after it has all but completed the select committee process.

We note that all but one of submitters shared our concerns regarding the creation of a new unqualified teaching position. During subsequent discussions we had as a committee, officials advised us that no school would be forced to take on a trainee teacher position, but the legislation as proposed allows the Secretary for Education to designate such a position that would require a school board of trustees to appoint only an “employment-based trainee teacher” to that position.

Appendix

Committee procedure

The Education Legislation Bill was referred to the committee on 8 December 2015. The closing date for submissions was 19 February 2016. We received and considered 28 submissions from interested groups and individuals. The SOP was referred to the committee on 25 May 2016. We heard oral evidence from four submitters. We received advice from the Ministry of Education.

Committee membership

Dr Jian Yang (Chairperson)

Catherine Delahunty

Sarah Dowie

Chris Hipkins

Melissa Lee

Tracey Martin

Todd Muller

Adrian Rurawhe

Jenny Salesa

Stuart Smith

Hon Maurice Williamson

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Hekia Parata

Education Legislation Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education Legislation Act **2015**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

Part 1

Amendments to Education Act 1989

3 Principal Act

This Part amends the Education Act 1989 (the **principal Act**). 10

Subpart 1—Amendments to Part 3 (enrolment and attendance of students)

- 4 Section 28 amended (Secretary may require parents of certain children to enrol them at correspondence school)**
In section 28(1)(b), replace “section 16(7)(c)” with “section 16(1)(c)”. 5
- 5 Section 35 replaced (Fines to be paid to boards)**
Replace section 35 with:
- 35 Fines to be paid to board or sponsor (as applicable)**
Every fine recovered under this Part must be paid to the board or sponsor (as applicable) on whose behalf the proceedings concerned were commenced. 10

Subpart 2—Amendments to Part 7 (control and management of State schools)

- 6 Section 60 amended (Interpretation)**
In section 60, insert in its appropriate alphabetical order:
half-day, in relation to a school, means a period of 2 hours or more during which the school is open for instruction 15
- 6A Section 65 amended (Staff)**
In section 65, replace “section 120A” with “section 349”.
- 7 Section 65B amended (Terms)**
Replace section 65B(2) and (3) with: 20
- (2) Every board must ensure that each school it administers is open for instruction for 1 half-day that finishes at or before noon and 1 half-day that starts at or after noon on every day during the terms prescribed, ascertained, or determined under subsection (1).
- (3) However, a board may vary the time at which any 1 or more half-days take place (for example, by starting a second half-day before noon) if the board— 25
- (a) has adequately consulted parents, staff, the local community, and any other person who the board considers may be affected, about the proposed variation and it is generally acceptable; and
- (b) is satisfied that the adoption of the proposal will not result in the students of the school spending less time in school than other students in comparable schools and other local schools; and 30
- (c) has taken all reasonable steps to notify students and parents in writing of the board’s final decision on the proposed variation.

- (3AA)** A board may also vary the time at which any 1 or more half-days take place without satisfying the requirements in **subsection (3)(a)** if—
- (a) the variation is made for operational reasons; and
 - (b) the variation applies for no more than 2 days; and
 - (c) the board has not made a variation under this subsection during the previous 6 weeks.
- (3A) A student enrolled at a State school must comply with section 25 even if the school's board varies the time of any 1 or more half-days.
- (3B) On any day, a school is not open for instruction at all if it is open for less than 1 half-day.
- (3C) To avoid doubt, if a school opens on any day for only 1 half-day, that half-day may be counted towards the number of half-days prescribed by the Minister under section 65A(1).
- 8 Section 65D amended (Exceptions in particular cases)** 15
Repeal section 65D(3) to (6).
- 9 New section 75A inserted (Appointment of principals)**
After section 75, insert:
- 75A Appointment of principals**
- (1) The powers conferred on a board by section 65 include the power to appoint a principal. 20
 - (2) Two or more boards may appoint 1 person to be the principal of 2 or more schools administered by the boards.
 - (3) A combined board (as defined in section 92) may appoint 1 person to be the principal of 2 or more schools administered by the board.
- 10 Section 76 amended (Principals)** 25
Replace the heading to section 76 with “**Role of principal**”.
- 11 Section 78A amended (Powers of entry and inspection)**
In section 78A(1)(b), after “board”, insert “, manager, or sponsor”.
- Subpart 3—Amendments to Part 8 (financial)
- 12 Section 79 amended (Grants for boards)** 30
- (1) In the heading to section 79, after “boards”, insert “or sponsors”.
 - (2) In section 79(1), replace “a board shall” with “boards and sponsors must”.
 - (3) In section 79(2), replace “the board concerned administers” with “administered by the board, or operated by the sponsor, concerned”.

- (4) In section 79(3), after “board”, insert “or sponsor”.

13 Section 89 replaced (Payroll service)

Replace section 89 with:

89 Payroll service

- (1) The Secretary must ensure that a payroll service is established and maintained to provide for the payment of employees of boards who are employed in the education service. 5
- (2) A board must use the payroll service unless the Secretary directs otherwise.
- (3) A board required by **subsection (2)** to use the payroll service must—
- (a) keep all records that are necessary to enable the board to use the service; and 10
- (b) provide those records to the Secretary on request.

Subpart 3A—Amendments to Part 8A (payment of teacher salaries)

13A Part 8A heading amended

In the Part 8A heading, replace “salaries” with “salaries, limitations on staffing, and powers of Secretary to employ teachers and create positions”. 15

13B Section 91A amended (Interpretation)

- (1) In section 91A(1), insert in their appropriate alphabetical order:
- employment-based trainee teacher** means a person who is undertaking an initial teacher education programme that includes a period of employment by a board 20
- employment-based trainee teaching position** means a position established by the Secretary under **section 91O(1)**
- initial teacher education programme** means a training programme recognised by the Education Council as suitable for people who want to teach 25
- (2) In section 91A(1), definition of **regular teacher**, after “relieving teacher”, insert “or an employment-based trainee teacher”.

13C Section 91G amended (Relieving teachers)

- (1) Replace the heading to section 91G with “**Payment of salaries of relieving teachers and employment-based trainee teachers**”. 30
- (2) In section 91G(1), after “relieving teachers”, insert “and employment-based trainee teachers”.
- (3) In section 91G(2), after “relieving teacher” insert “or an employment-based trainee teacher”.

- (4) In section 91G(3), replace “a relieving teacher’s salary” with “the salary of a relieving teacher or an employment-based trainee teacher”.

13D New cross-heading above section 91N inserted

After section 91M, insert:

Powers of Secretary to employ teachers and create positions

5

13E New section 91O inserted (Employment-based trainee teaching positions)

After section 91N, insert:

91O Employment-based trainee teaching positions

- (1) On receipt of a request from the board of a school, the Secretary may, by written notice to the board, establish an employment-based trainee teaching position for the school. 10
- (2) Despite any provision to the contrary in this Act or in the State Sector Act 1988, the board of a school for which an employment-based trainee teaching position has been established may appoint only an employment-based trainee teacher to the position. 15

Subpart 4—Amendments to Part 9 (school boards)

14 Section 94 amended (Constitution of boards of State schools)

In section 94(1)(b), replace “principals” with “principal or principals”.

15 Section 116A repealed (Appointment of principal of combined board)

Repeal section 116A.

20

Subpart 5—Amendments to Part 11 (miscellaneous)

16 Section 139C amended (Offence of insulting, abusing, or intimidating staff)

In section 139C(1), replace “staff of a school” with “staff of a registered school”.

25

17 Section 144C amended (Regulations about school hostels)

In section 144C(1)(f), replace “or boards,” with “boards, or sponsors”.

Subpart 6—Amendment to Part 12 (establishment of schools)

18 Section 158 amended (Provision by one board of tuition for students enrolled at school administered by another)

30

- (1) Replace section 158(1) with:

- (1) By agreement between the boards or sponsors concerned, students enrolled at a specified school may receive tuition at or from another specified school.
- (1A) Despite section 79, the board or sponsor of the specified school at which the students are enrolled may pay the board or sponsor of the specified school giving the tuition for that tuition. 5
- (2) After section 158(3), insert:
- (3A) In **subsections (1) and (1A)**, **specified school** means a State school or a partnership school kura hourua.

Subpart 7—Amendments to Part 12A (partnership schools kura hourua)

- 19 Section 158A amended (Interpretation)** 10
- (1) In section 158A, replace the definition of **body** with:
- body**—
- (a) means a body corporate, corporation sole, or limited partnership; and
- (b) includes an institution or a related entity (as defined in **section 164A**)
- (2) In section 158A, insert in its appropriate alphabetical order: 15
- institution** has the meaning given by section 159(1)
- 20 Section 158N amended (Enrolment in partnership schools kura hourua)**
- (1) In section 158N(1)(b), replace “any student” with “any applicant”.
- (2) After section 158N(3), insert:
- (3A) A student who is enrolled in a partnership school kura hourua whose sponsor is an institution is not, by reason only of the student’s enrolment in the partnership school kura hourua, also enrolled in the institution. 20
- 21 Section 158Y amended (Official Information Act 1982 not to apply to partnership schools kura hourua)**
- In section 158Y, insert as subsection (2): 25
- (2) However, if the sponsor is an institution, the Official Information Act 1982 applies unless the institution is performing its functions as a sponsor under this Act or a partnership school contract.
- 22 New sections 158Z and 158ZA inserted**
- After section 158Y, insert: 30
- 158Z Application of State Sector Act 1988 to institutions sponsoring partnership schools kura hourua**
- The State Sector Act 1988 does not apply to an institution that is a sponsor if the institution is performing its functions as a sponsor under this Act or a partnership school contract. 35

158ZA Application of Ombudsmen Act 1975 to institutions sponsoring partnership schools kura hourua

- (1) This section applies to an institution that is a sponsor if the institution is performing its functions as a sponsor under this Act or a partnership school contract. 5
- (2) For the purposes of the Ombudsmen Act 1975, the institution—
- (a) is a sponsor; and
 - (b) is not an institution (*see* Ombudsmen Act 1975, Schedule 1, Part 2).

Subpart 8—Amendment to Part 13A (Tertiary Education Commission)**23 Section 159M amended (Restrictions on design of funding mechanisms) 10**

Replace section 159M(b) with:

- (b) specify conditions under section 159L(3)(d) that set limits on the fees that organisations may charge domestic students until—
- (i) the Minister has published a notice in the *Gazette* that—
 - (A) states that the Minister proposes to specify conditions of that kind; and 15
 - (B) sets out the proposed conditions; and
 - (C) invites submissions on the proposed conditions; and
 - (D) specifies the date by which submissions must be received, which must be a date no later than 21 days after the date of the *Gazette* notice; and 20
 - (ii) the date by which submissions must be received has passed.

Subpart 9—Amendments to Part 15 (administration of tertiary institutions)**24 New section 164A inserted (Interpretation) 25**

After the Part 15 heading, insert:

164A Interpretation

In this Part, unless the context otherwise requires,—

Crown entity group has the meaning given by section 136 of the Crown Entities Act 2004 30

financial product has the meaning given by section 7 of the Financial Markets Conduct Act 2013

related entity, in relation to an institution, means a person or body ~~whose financial and operating decisions are able to be controlled, or are influenced significantly, by the institution (either directly or through 1 or more intermediar~~ 35

ies) that is a related party for the purpose of any financial reporting standard that applies to the institution under generally accepted accounting practice.

25 Section 192 amended (Powers of institutions)

- (1) After section 192(1)(c), insert:
- (ca) the power to invest in the financial products of a related entity; and 5
- (2) After section 192(2)(aa), insert:
- (ab) in the case of an institution that is approved to be a sponsor of a partnership school kura hourua, functions characteristic of a body that is a sponsor (including entering into, and performing functions in relation to, a partnership school contract); or 10

26 Section 203 amended (Institutions are Crown entities)

Replace section 203(4) with:

- (4) Section 65I(1) and (2) of the Public Finance Act 1989—
- (a) applies, with all necessary modifications, to tertiary education institutions and, accordingly, every institution must invest in the same manner as the Treasury invests money under that section; but 15
- (b) does not apply in respect of any investment made by an institution in the financial products of a related entity.

27 Section 220 amended (Annual report)

- (1) Replace section 220(2) and (2AA) with: 20
- (2) A council must comply with sections 154 to 156B and 157A of the Crown Entities Act 2004 in respect of the report.
- (2AA) Despite **subsection (2)**,—
- (a) the statement of responsibility referred to in section 155 of the Crown Entities Act 2004 is not required to be signed in accordance with that section, but must instead be signed by— 25
- (i) the chairperson of the council and the chief executive of the institution; or
- (ii) if there is no chairperson, the chief executive of the institution and the chief financial officer: 30
- (b) a council of an institution that is a parent Crown entity must comply with section 154 of the Crown Entities Act 2004 (even though the institution is a member of a Crown entity group to which section 156A(1) of that Act would otherwise apply).
- (2) After section 220(4), insert: 35
- (5) In this section, **parent Crown entity** has the meaning set out in section 8 of the Crown Entities Act 2004.

28 New section 220A inserted (Minister may require related entities to prepare statements or reports)

After section 220, insert:

220A Minister may require related entities to prepare statements or reports

- (1) If the Minister has reasonable grounds to believe that an institution may be at risk due to the institution's investment in a related entity, the Minister may, by notice in writing, require the entity to prepare 1 or more statements or reports. 5
- (2) In considering whether an institution may be at risk, the Minister must apply the criteria (determined by the Secretary under section 195A) for assessing the level of risk to the operation and long-term viability of institutions. 10
- (3) Before issuing a notice under **subsection (1)**, the Minister must consult the institution, or institutions, to which the entity is related.
- (4) The notice must specify—
- (a) which statements and reports are required; and
- (b) the financial years or other period (which may be until further notice) for which each statement or report is required. 15
- (5) In this section, **statement or report** has the meaning given by section 156A(4) of the Crown Entities Act 2004.

Subpart 10—Amendment to Part 20 (New Zealand Qualifications Authority) 20

29 Section 253 amended (Rules)

Replace section 253(7) with:

- (7) 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. 25

Subpart 11—Amendments to Part 26 (early childhood education and care)

30 Section 309 amended (Interpretation)

In section 309, replace the definition of **home-based education and care service** with: 30

home-based education and care service—

- (a) means the provision of education or care, for gain or reward, to children who are under the age of 5 years, or who are 5 years of age but not enrolled in school, in—
- (i) the children's own home; or 35
- (ii) the home of the person providing the education or care; or

- (iii) any other home nominated by the parents of the children; ~~but~~ and
 (b) ~~excludes~~ includes the provision of education or care to any child of the person providing the service who is—
 (i) under the age of 5 years; or
 (ii) 5 years of age but not enrolled in school

5

31 New section 317A inserted (Requirements for licensed home-based education and care service)

After section 317, insert:

317A Requirements for licensed home-based education and care service

- (1) A licensed home-based education and care service may be provided to 1 or more children, up to a total of 4 in any 1 home. 10
 (2) While children are participating in the service, the total number of children present in the home in which the service is provided (including those receiving the service) must not be more than 6.
 (3) In this section,— 15

children means children aged 13 years or younger ~~other than children of the educator~~ (other than children of the educator who are enrolled in school)

educator has the meaning given by regulation 3 of the Education (Early Childhood Services) Regulations 2008.

Subpart 12—Repeal of Part 29 (Learning Media Limited) 20

32 Part 29 repealed

Repeal Part 29.

Subpart 13—Amendment to Part 30 (national student numbers)

33 Section 344 amended (Use of national student numbers)

After section 344(2)(e), insert: 25

- (f) establishing and maintaining student identities to support students' participation in online learning.

Subpart 14—Amendment to Part 31 (teacher registration)

34 Section 348 amended (Interpretation)

In section 348, insert in its appropriate alphabetical order: 30

half-day has the meaning given by section 60

Subpart 15—Amendments to Schedule 13A (application of Crown Entities Act 2004 to tertiary education institutions)

35 Schedule 13A amended

In Schedule 13A, replace the items relating to sections 155, 156, and 157 of the Crown Entities Act 2004 with:

5

Section 155, as modified by the Education Act 1989, section 220(2AA)(a)	Statement of responsibility for financial statements
Section 156, as modified by the Education Act 1989, section 220(2B)	Audit report
Section 156A, as modified by the Education Act 1989, section 220(2AA)(b)	Application of subpart 2 of Part 4 of the Crown Entities Act 2004 to Crown entity groups
Section 156B	Minister of Finance may require additional reporting
Section 157A	Other multi-parent subsidiaries

Part 2

Amendments to other Acts

Subpart 1AA—Amendments to New Zealand Council for Educational Research Act 1972

35A Principal Act

10

This **subpart** amends the New Zealand Council for Educational Research Act 1972 (the **principal Act**).

35B Section 2 amended (Interpretation)

(1) In section 2, repeal the definition of **electoral college**.

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

15

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest

(3) In section 2, definition of **financial year**, replace “31 March” with “30 June”.

35C Section 5 amended (Disqualification from membership of Council)

20

(1) In section 5(b), replace “his” with “an”.

(2) Replace section 5(c) with:

(c) a person convicted of any offence punishable by imprisonment, unless the person has received a full pardon or has served the sentence or otherwise suffered the penalty imposed:

25

(3) In section 5(d), replace “officer or servant” with “employee”.

35D Section 6 replaced (Constitution of Council)

Replace section 6 with:

6 Constitution of Council

The Council consists of—

- (a) 1 member appointed by the Minister:
- (b) 5 elective members appointed by the Council on election in accordance with rules made under **section 33(1)**:
- (c) 3 members appointed by the Council.

6A Criteria for appointment to Council

(1) When appointing a member under **section 6(a)**, the Minister must—

- (a) appoint a person who, in the Minister’s opinion, has the appropriate knowledge, skills, and experience to assist the Council to perform its functions; and
- (b) take into account the collective knowledge, skills, and experience of all of the members that constitute the Council.

(2) When appointing a member under **section 6(c)**, the Council must—

- (a) appoint a person who, in the Council’s opinion, has the appropriate knowledge, skills, and experience to assist the Council to perform its functions; and
- (b) take into account the collective knowledge, skills, and experience of all of the members that constitute the Council; and
- (c) take into account the desirability of achieving diversity in the membership of the Council.

35E Section 7 amended (Extraordinary vacancies on Council)

Replace section 7(1)(b) with:

- (b) resigns by signed notice of resignation given to the chairperson of the Council; or

35F Section 8 replaced (Term of office of members of Council)

Replace section 8 with:

8 Term of office of members of Council

(1) Unless otherwise provided by this Act, each member of the Council is appointed for a term of up to 4 years and may be reappointed.

(2) Despite anything in this Act, each member of the Council continues to hold office (unless the member earlier vacates the office) until a successor comes into office.

35G Section 9 amended (Chairman, deputy chairman, and treasurer)

(1) In the heading to section 9, replace “Chairman, deputy chairman,” with “Chairperson, deputy chairperson,”. 5

(2) In section 9(1), replace “shall appoint a chairman, a deputy chairman” with “must appoint a chairperson, a deputy chairperson”.

(3) In section 9(2), replace “chairman, deputy chairman, or treasurer shall, while he continues to be a member of the Council, hold office until the appointment of his successor” with “chairperson, deputy chairperson, or treasurer, while the person continues to be a member of the Council, holds office until the appointment of a successor”. 10

35H Section 10 amended (Meetings of Council)

(1) In section 10(2), replace “chairman” with “chairperson”. 15

(2) Repeal section 10(4).

(3) Replace section 10(5), (6), and (7) with:

(5) The chairperson must preside at all meetings of the Council at which he or she is present.

(6) The deputy chairperson (if present) must preside at any meeting of the Council from which the chairperson is absent. 20

(7) At any meeting from which both the chairperson and the deputy chairperson are absent, the members present must appoint one of their number to chair the meeting.

(8) At any meeting of the Council, the chairperson has a deliberative vote and, in the case of an equality of votes, also has a casting vote. 25

35I Section 11 amended (Passing of resolutions by Council without a meeting)

(1) In section 11(1), replace “his duly appointed deputy, entitled to sign that resolution may by notice in writing to the chairman” with “the member’s duly appointed deputy, entitled to sign that resolution may by notice in writing to the chairperson”. 30

(2) In section 11(3), replace “chairman” with “chairperson” in each place.

35J New section 12A inserted (Members of Council not personally liable)

After section 12, insert:

12A Members of Council not personally liable 35

No member of the Council is personally liable for—

(a) any act or omission by the Council; or

(b) any loss to the Council arising out of any act or omission by the member if the act or omission was in good faith with the intention of performing the functions of the Council.

35K Section 14 amended (Powers of Council)

In section 14(b), replace “him or them” with “the person or persons”. 5

35L Section 15 amended (Power to appoint officers and servants)

(1) In the heading to section 15, replace “officers and servants” with “employees”.

(2) In section 15(1), replace “officers and servants” with “employees” in each place. 10

(3) In section 15(2), replace “officers and servants” with “employees”.

35M Section 16 amended (Power to insure members, officers, and servants)

(1) In the heading to section 16, replace “members, officers, and servants” with “members and employees”.

(2) In section 16(1), replace “members, officers, and servants” with “members and employees”. 15

(3) In section 16(1), replace “case of officers and servants” with “case of employees”.

(4) In section 16(2), replace “his” with “the person’s”.

35N Section 21 and cross-heading repealed 20

Repeal section 21 and the cross-heading above section 21.

35O Section 26 replaced (Money to be paid into bank)

Replace section 26 with:

26 Bank account

The Council must, as soon as practicable after it receives money belonging to the Council, pay the money into the account of the Council at a bank appointed by the Council. 25

35P Section 28 amended (Accounting records must be kept)

Repeal section 28(2) and (3).

35Q Section 30 replaced (Remuneration and travelling expenses of members of the Council and of committees) 30

Replace section 30 with:

30 Remuneration of members of Council

(1) Every Council member and member of a committee appointed under section 14(e) is entitled to receive from the Council remuneration for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework.

5

(2) A person holding any of the following offices is not entitled to any remuneration for services as a member of the Council or a member of a committee:

(a) a Judge:

(b) a member of Parliament:

(c) an employee of the State services who is acting in the employee's official capacity.

10

30A Expenses of Council members and committee members

In addition to any remuneration received under **section 30**, every Council member and member of a committee is entitled, in accordance with the fees framework, to be reimbursed by the Council for actual and reasonable travelling and other expenses incurred in carrying out his or her service as a member.

15

35R Section 33 amended (Rules)

(1) Replace section 33(1) with:

(1) The Council must, as soon as practicable, by resolution, make rules prescribing the method of election of members of the Council.

20

(1A) Rules made under **subsection (1)** must require the notification of elections.

(1B) The Council may from time to time, by resolution, make rules that are reasonably necessary to enable the Council to perform its functions.

(2) After section 33(2), insert:

(3) Rules made under this section are a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

25

Subpart 1—Amendments to Ngarimu VC and 28th (Maori) Battalion
Memorial Scholarship Fund Act 1945

36 Principal Act

30

This **subpart** amends the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945 (the **principal Act**).

37 Long Title amended

In the Long Title, replace “**the Maoris**” with “**Māori**”.

- 38 Preamble amended**
- In the preamble,—
- (a) replace “the Maoris” with “Māori”;
 - (b) delete “in New Zealand”.
- 39 Section 2 amended (Interpretation) 5**
- (1) In section 2, insert in its appropriate alphabetical order:
fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest
 - (2) In section 2, definition of **financial year**, replace “31 December” with “30 June”. 10
 - (3) In section 2, replace the definition of **Maori** with:
Māori means a person of the Māori race of New Zealand; and includes a descendant of any such person
- 40 Section 3 amended (Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund established) 15**
- (1) Replace section 3(2) with:
 - (2) The Board must, as soon as practicable after it receives money belonging to the Fund, pay the money into an account of the Board (the **Fund account**) at a bank appointed by the Board. 20
 - (2) After section 3(3), insert:
 - (4) The Board may appoint a fund manager to administer the Fund on its behalf.
- 41 Section 4 replaced (Establishment of Board to administer Fund)**
- Replace section 4 with:
- 4 Establishment of Board to administer Fund 25**
- (1) The Ngārimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board is established for the purpose of administering the Fund.
 - (2) The Board consists of—
 - (a) the Minister, who is the chairperson of the Board:
 - (b) the Minister for Māori Development: 30
 - (c) the Secretary for Education:
 - (d) the members of Parliament representing the Māori electoral districts:
 - (e) up to 4 people (preferably people who have served in the Armed Forces) to be appointed by the Governor-General to represent each of the companies that make up the 28th (Māori) Battalion: 35

(f)	1 Māori to be nominated by the descendants of Hamuera Ngārimu and Maraea Ngārimu and appointed by the Governor-General:	
(g)	1 Māori who has received assistance from the Fund to undertake tertiary education, and who has successfully completed that education, to be appointed by the Governor-General.	5
(3)	The Board—	
(a)	is a body corporate, with perpetual succession and a common seal; and	
(b)	is capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.	
(4)	Despite subsection (2) , the Board consisting of those people specified in subsection (2) before the commencement of subpart 1 of Part 2 of the Education Legislation Act 2015 may continue to perform the functions and exercise the powers of the Board under this Act until the Board described in subsection (2) is assembled.	10
4A	People disqualified from Board membership	15
	The following people are disqualified from being members of the Board:	
(a)	a person who is an undischarged bankrupt:	
(b)	a person who is prohibited under any enactment from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body:	20
(c)	a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:	
(d)	a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988 that reflects adversely on the person's—	25
(i)	competence to manage the person's own affairs in relation to the person's property; or	
(ii)	capacity to make or to communicate decisions relating to any particular aspect or aspects of the person's personal care and welfare:	
(e)	a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person.	30
42	Section 5 amended (Term of office of members of Board)	35
	Replace section 5(1) and (2) with:	
(1)	The members of the Board to be appointed by the Governor-General must be appointed for a term not exceeding 3 years, and any such member may from time to time be reappointed.	

- (2) Despite **subsection (1)**, a member continues in office until the member’s successor comes into office, even if this means that the member’s term exceeds 3 years.
- (2A) **Subsection (2)** applies unless the member vacates the office earlier due to the member’s resignation, removal from office, or disqualification. 5
- (2B) A member may at any time resign from the Board by notice in writing to the Minister.

43 Section 6 amended (Meetings of Board)

- (1) Replace section 6(1) to (3) with:
- (1) A meeting of the Board may be held— 10
- (a) by a quorum of members, being assembled together at the time and place appointed for the meeting; or
- (b) by means of audio, audio and visual, or electronic communications, provided that—
- (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and 15
- (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (2) The chairperson must preside over every meeting at which the chairperson is present. 20
- (2A) If the chairperson is absent from any meeting, the members present must appoint a present member to be the chairperson for that meeting.
- (3) The quorum necessary for any meeting is 5 members, of whom 3 must be members appointed by the Governor-General under **section 4(2)(e) to (g)**.
- (2) In section 6(5), replace “Chairman” with “chairperson”. 25

44 Section 6A amended (Standing Committee)

- (1) In section 6A, replace “Chairman” with “chairperson” in each place.
- (2) Replace section 6A(3) with:
- (3) The chairperson must preside over every meeting of the Standing Committee at which the chairperson is present. 30
- (3A) If the chairperson is absent from any meeting of the Standing Committee, the members present must appoint a present member to be the chairperson for that meeting.
- (3) In section 6A(4), delete “or the Deputy Chairman”.
- (4) Repeal section 6A(5). 35
- (5) Replace section 6A(6) with:

(6)	While a member of the Board acts in the place of the chairperson or any other member of the Standing Committee, the member of the Board is for all purposes a member of the Committee.	
(6A)	The fact that a member of the Board attends any meeting of the Standing Committee is sufficient evidence of the member's authority to do so.	5
45	Section 7 amended (Functions of Board)	
(1)	In section 7(1), delete "by way of scholarship, subsidy, special grant, or bursary".	
(2)	Replace section 7(2) with:	
(2)	Without limiting subsection (1), the Board may apply money towards all or any of the following purposes:	10
(a)	the provision of tertiary education scholarships for Māori:	
(b)	the provision of prizes for competitions relating to the overseas war service of Māori or to any other subject connected with Māori people:	
(c)	the provision of grants for the education of primary and secondary school students:	15
(d)	the granting of leadership awards:	
(e)	the promotion of Māori leaders who demonstrate the qualities of Second Lieutenant Te Moananui a Kiwa Ngārimu and the 28th (Māori) Battalion.	20
46	Section 9 amended (Annual grant to Board)	
	In section 9, replace "he" with "the Minister of Finance".	
47	Section 12 replaced (Travelling expenses of Board)	
	Replace section 12 with:	
12	Remuneration of members of Board	25
(1)	A member of the Board is entitled to receive from the Fund remuneration for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework.	
(2)	The following office-holders are not entitled to any remuneration for services as a member of the Board:	30
(a)	a Judge:	
(b)	a member of Parliament:	
(c)	an employee of the State services who is acting in the employee's official capacity.	

12A Expenses of members of Board

In addition to any remuneration received under **section 12**, a member of the Board is entitled, in accordance with the fees framework, to be reimbursed out of the Fund for actual and reasonable travelling and other expenses incurred in carrying out the member's service as a member.

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12B Conflicts of interest

(1) A person is **interested in a matter** if the person—

- (a) may derive a financial benefit from the matter; or
- (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
- (c) may have a financial interest in a person to whom the matter relates; or
- (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
- (e) is otherwise directly or indirectly interested in the matter.

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(2) A member who is interested in a matter relating to the Board must disclose to the Board details of the interest as soon as practicable after the member becomes aware that the member is interested.

15

(3) The details that must be disclosed are—

- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
- (b) the nature and extent of the interest (if the monetary value cannot be quantified).

20

(4) A member who is interested in a matter—

- (a) must not vote or take part in any discussion or decision of the Board or Standing Committee relating to the matter, or otherwise participate in any activity of the Board or Standing Committee that relates to the matter; and
- (b) must not sign any document relating to the entry into a transaction or the initiation of the matter.

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(5) In this section, **matter** means—

30

- (a) the Board's, or the Standing Committee's, performance of its functions or exercise of its powers; or
- (b) an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Board or the Standing Committee.

48 Section 13 replaced (Members of Board not personally liable)

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Replace section 13 with:

13	Members of Board not personally liable	
	No member of the Board is personally liable for—	
	(a) an act done or omitted to be done by the Board or the Standing Committee; or	
	(b) any loss to the Fund arising out of any act done or omitted to be done by the member, if the act or omission was (so far as the member's involvement is concerned) in good faith and in pursuance or intended pursuance of the functions of the Board or the Standing Committee.	5
49	New section 13A inserted (Removal of Board members)	
	After section 13, insert:	10
13A	Removal of Board members	
(1)	The Governor-General may, at any time for just cause, on the advice of the Minister given after consultation with the Attorney-General, remove a member of the Board appointed under section 4(2)(e), (f), or (g) .	
(2)	The removal must be made by written notice to the member (with a copy to the Board).	15
(3)	The notice must—	
	(a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and	
	(b) state the reasons for the removal.	20
(4)	The Minister must notify the removal in the <i>Gazette</i> as soon as practicable after the notice is given.	
Subpart 2—Amendments to Pacific Islands Polynesian Education Foundation Act 1972		
50	Principal Act	25
	This subpart amends the Pacific Islands Polynesian Education Foundation Act 1972 (the principal Act).	
51	Name of principal Act changed	
	From the commencement of this section,—	
	(a) the Pacific Islands Polynesian Education Foundation Act 1972 is called the Pacific Education Foundation Act 1972; and	30
	(b) every reference in any enactment and in any document to the Pacific Islands Polynesian Education Foundation Act 1972 must, unless the context otherwise provides, be read as a reference to the Pacific Education Foundation Act 1972.	35

52 Section 1 replaced (Short Title)

Replace section 1 with:

1 Title

This Act is the Pacific Education Foundation Act 1972.

53 Section 2 replaced (Interpretation)

5

Replace section 2 with:

2 Interpretation

In this Act, unless the context otherwise requires,—

Board means the Board of the Foundation

contributor means a contributor to the Foundation within the meaning of section 6 10

education includes pre-school education

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest 15

financial statements has the same meaning as in section 6 of the Financial Reporting Act 2013

financial year means a period of 12 months ending with the last day of June

Foundation means the Pacific Education Foundation continued under **section 4(1)** 20

generally accepted accounting practice has the same meaning as in section 8 of the Financial Reporting Act 2013

Minister means the Minister of Education

Pacific person means—

(a) a person living in New Zealand who is both— 25

(i) a native of the Cook Islands, Fiji, Kiribati, Niue, Samoa, Tokelau, ~~or Tonga~~ Tonga, or Tuvalu; and

(ii) a New Zealand citizen or a person who has been granted permanent residence or who has been permitted to enter New Zealand with the intention of permanent residence; and 30

(b) a descendant of a person described in **paragraph (a)**

Public Service has the same meaning as in section 2 of the State Sector Act 1988.

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

After section 2, insert:

35

2A	Transitional, savings, and related provisions	
	The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.	
55	Section 3 repealed (Administration of Act)	
	Repeal section 3.	5
56	Section 4 amended (Foundation established)	
	Replace section 4(1) with:	
(1)	The Pacific Islands Polynesian Education Foundation is continued with the name Pacific Education Foundation.	
57	Section 5 amended (Purpose of Foundation)	10
	In section 5, replace “Polynesians” with “Pacific people”.	
58	Section 6 amended (Contributors)	
(1)	In section 6(1)(a), replace “\$1” with “\$10” in each place.	
(2)	In section 6(2), replace “\$40” with “\$500” in each place.	
59	Section 7 amended (Meetings of contributors)	15
(1)	Repeal section 7(2).	
(2)	In section 7(3), replace “chairman” with “chairperson”.	
(3)	In section 7(4), replace “he” with “the person”.	
60	Section 8 replaced (Constitution of Board)	
	Replace section 8 with:	20
8	Constitution of Board	
(1)	The Board of the Pacific Islands Polynesian Education Foundation is continued as the Board of the Pacific Education Foundation.	
(2)	The Board consists of the following members:	
(a)	the Secretary for Education:	25
(b)	the chief executive of the Ministry for Pacific Peoples:	
(c)	the manager at the Ministry of Education who has responsibility for the education of Pacific peoples:	
(d)	5 other members, to be appointed jointly by the Minister and the Minister for Pacific Peoples after consultation with those Pacific communities that the Ministers consider it appropriate to consult.	30
(3)	If a member who is an employee of the Public Service is absent from any meeting, the member may authorise another employee to attend the meeting in the	

- member's place (and the employee is, for the purposes of the meeting, a member of the Board).
- (4) If a member appointed under **subsection (2)(d)** is absent from any meeting, the member may authorise any other person to attend the meeting in the member's place (and the person is, for the purposes of the meeting, a member of the Board). 5
- (5) A member appointed under **subsection (2)(d)**—
- (a) must be appointed for a 3-year term; and
 - (b) is eligible for reappointment at the expiry of the 3-year term; and
 - (c) may at any time be removed from the Board by the Minister for inability to perform the duties of a Board member, bankruptcy, neglect of duty, or misconduct proved to the satisfaction of the Minister; and 10
 - (d) may at any time resign from the Board by notice in writing to the Minister.
- (6) If a member appointed under **subsection (2)(d) (member A)** dies, is removed from office, or resigns,— 15
- (a) the vacancy created must be filled in the manner in which member A was appointed; and
 - (b) the member who fills the vacancy must be appointed for the remainder of the term for which member A was appointed. 20
- (7) Unless **subsection (6)** applies, a member appointed under **subsection (2)(d)** must continue in office until the member's successor comes into office (even if the member's term of appointment has expired).
- (8) The powers of the Board are not affected by any vacancy in the Board's membership. 25

61 New section 8A inserted (Board to elect chairperson and deputy chairperson)

After section 8, insert:

8A Board to elect chairperson and deputy chairperson

Every year, at a meeting of the Board, the members of the Board must elect— 30

- (a) 1 member to be chairperson of the Board; and
- (b) 1 member to be deputy chairperson of the Board.

62 Section 9 amended (Chairman at meetings of the Board and contributors)

- (1) In the heading to section 9, replace “**Chairman**” with “**Chairperson**”.
- (2) In section 9,— 35
- (a) replace “chairman” with “chairperson” in each place; and
 - (b) replace “trustee” with “member” in each place.

- (3) In section 9(1), replace “he” with “the chairperson”.
- (4) In section 9(4), replace “trustees” with “members”.
- 63 Section 10 amended (Meetings of Board)**
- (1) In section 10,—
- (a) replace “chairman” with “chairperson” in each place; and 5
- (b) replace “trustees” with “members” in each place.
- (2) In section 10(3), replace “at any time when he” with “if either person”.
- (3) In section 10(5), replace “chairman shall in addition to his deliberative vote also have a casting vote” with “chairperson has both a deliberative vote and a casting vote”. 10
- (4) Repeal section 10(6) and (7).
- 64 Section 11 replaced (Fees and travelling allowances)**
- Replace section 11 with:
- 11 Remuneration of members of Board and Special Committees**
- (1) Board members and members of a Special Committee are entitled to receive 15
from the Board remuneration for services as a member at a rate and of a kind
determined by the Minister in accordance with the fees framework.
- (2) The following office-holders are not entitled to any remuneration for services
as a Board member or a member of a Special Committee:
- (a) a Judge: 20
- (b) a member of Parliament:
- (c) any employee of the State services who is acting in the employee’s official capacity.
- 11A Expenses of members of Board and Special Committees**
- In addition to any remuneration received under **section 11**, Board members 25
and members of a Special Committee are entitled, in accordance with the fees
framework, to be reimbursed by the Board for actual and reasonable travelling
and other expenses incurred in carrying out their service as a member.
- 65 Section 12 amended (Executive Committee, Special Committees, and delegation of powers)** 30
- (1) In section 12, replace “trustee” with “Board member” in each place.
- (2) In section 12(1), delete “, by resolution,”.
- (3) In section 12(1)(a), replace “trustees” with “Board members”.
- (4) In section 12(2), replace “he” with “the person”.
- (5) Replace section 12(7) with: 35

- (7) A delegation under this section continues in force until it is revoked, regardless of any change in the membership of the Board or of any committee.
- 66 Section 13 amended (Common seal)**
In section 13, replace “trustees” with “Board members”.
- 67 Section 14 amended (Contracts)** 5
In section 14(2), replace “trustee” with “Board member”.
- 68 Section 15 amended (Appointment of officers and collectors)**
In section 15(2), replace “his” with “the person’s”.
- 69 Section 20 amended (Grants to Foundation)** 10
In section 20(3), delete “affecting it, them, or him”.
- 70 Section 24 amended (Authorised expenditure)**
- (1) In section 24, replace “Polynesians” with “Pacific people” in each place.
- (2) Repeal section 24(1)(b) and (l).
- (3) In section 24(1)(e), replace “the Polynesian” with “Pacific”.
- (4) In section 24(1)(h), replace “Polynesian to assist him” with “Pacific person to assist the person” 15
- (5) In section 24(1)(k), replace “Polynesian” with “Pacific person”.
- 71 Section 26 replaced (Bank account)**
Replace section 26 with:
- 26 Bank account** 20
The Board must, as soon as practicable after it receives money belonging to the Foundation, pay the money into the account of the Board at a bank appointed by the Board.
- 72 Section 27 amended (Estimates of receipts and expenditure)** 25
In section 27(2), replace “May” with “November”.
- 73 Section 28 amended (Accounting records must be kept)**
Repeal section 28(2) to (5).
- 74 Section 30 amended (Annual report)** 30
In section 30(1),—
- (a) replace “30 June” with “31 December”; and
- (b) replace “Minister of Pacific Island Affairs” with “Minister for Pacific Peoples”.

75	Section 32 repealed (Office of Foundation)	
	Repeal section 32.	
76	Section 33 replaced (Members of Board not personally liable)	
	Replace section 33 with:	
33	Members of Board and Special Committees not personally liable	5
(1)	No member of the Board is personally liable for—	
	(a) an act done or omitted to be done by the Board or the Executive Committee; or	
	(b) any loss to the Foundation arising out of any act done or omitted to be done by the member, if the act or omission was (so far as the member’s involvement is concerned) in good faith and in pursuance or intended pursuance of the functions of the Board or the Executive Committee.	10
(2)	No member of a Special Committee is personally liable for—	
	(a) an act done or omitted to be done by the Special Committee; or	
	(b) any loss to the Foundation arising out of any act done or omitted to be done by the member, if the act or omission was (so far as the member’s involvement is concerned) in good faith and in pursuance or intended pursuance of the functions of the Special Committee.	15
77	Section 34 amended (Regulations)	
	In section 34, replace “he” with “the Governor-General”.	20
78	New Schedule inserted	
	After section 34, insert the Schedule 1 set out in Schedule 1 of this Act.	
	Subpart 3—Amendment to Private Schools Conditional Integration Act 1975	
79	Principal Act	25
	This subpart amends the Private Schools Conditional Integration Act 1975 (the principal Act).	
80	Section 7 amended (Integration agreement)	
	After section 7(9), insert:	
(9A)	Despite subsection (1), the Minister’s power under subsection (9) to enter into a supplementary agreement may be delegated under section 28 of the State Sector Act 1988.	30

Subpart 4—Amendments to State Sector Act 1988

81 Principal Act

This **subpart** amends the State Sector Act 1988 (the **principal Act**).

82 Section 2 amended (Interpretation)

In section 2, definition of **education service**, replace paragraph (a)(iii) with: 5

- (iii) any tertiary institution (unless the institution is a sponsor within the meaning of section 2(1) of the Education Act 1989 and the employment relates to its functions as a sponsor under that Act or to a partnership school contract (as defined in Part 12A of that Act)); or 10

83 Section 75 amended (Actual conditions of employment)

- (1) In section 75(1), delete “(other than at any tertiary education institution)”.
- (2) After section 75(1), insert:
- (1A) The Commissioner may, in addition to the actual conditions declared under subsection (1), approve further conditions of employment for an individual employee, ~~or any class of employees,~~ who is employed in the education service under a collective agreement if the conditions are— 15
- (a) mutually agreed by ~~each~~ the employee and his or her employer; and
- (b) not inconsistent with the conditions of the collective agreement.
- (3) In section 75(2), delete “(other than employees at any tertiary education institution)”.
- (4) After section 75(3), insert:
- (4) In this section, **education service** excludes service in the employment of a tertiary education institution. 20

Subpart 5—Consequential amendments and revocation 25**84 ~~Consequential amendments~~**

~~Amend the enactments specified in **Schedule 2** as set out in that schedule.~~

84 Consequential amendments and revocation

- (1) Amend the enactments specified in **Parts 1 and 2 of Schedule 2** as set out in those Parts. 30
- (2) The order specified in **Part 3 of Schedule 2** is revoked.

Schedule 1
New Schedule of Pacific Education Foundation Act 1972

s 78

Schedule 1
Transitional, savings, and related provisions

5

s 2A

Part 1
Provisions relating to Education Legislation Act 2015

1 Interpretation

In this schedule,—

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amendment Act means the **Education Legislation Act 2015****commencement date** means the commencement date of the amendment Act.**2 Board of Pacific Islands Polynesian Education Foundation continued**

Despite **section 8(2)**, the Board consisting of those people specified in section 8(2) before the commencement date may continue to exercise the functions and powers of the Board under this Act until the Board described in **section 8(2)** is assembled.

15

3 Chairman and deputy chairman to continue in officeDespite **section 8A**,—

(a) the first election of a chairperson and a deputy chairperson is not required to take place until the year after the year in which the amendment Act commences; and

20

(b) the chairman and deputy chairman of the Board before the commencement date continue to hold office (as chairperson and deputy chairperson) until the first election is held.

25

Schedule 2 Consequential amendments

s 84

Part 1 Consequential amendments to other Acts

5

Crown Entities Act 2004 (2004 No 115)

In the heading to section 157, delete “or tertiary education institution”.

In section 157(1), delete “or tertiary education institution”.

In Schedule 4, replace the items relating to sections 155, 156, and 157 with:

Section 155, as modified by the Education Act 1989, section 220(2AA)(a)	Statement of responsibility for financial statements
Section 156, as modified by the Education Act 1989, section 220(2B)	Audit report
Section 156A, as modified by the Education Act 1989, section 220(2AA)(b)	Application of subpart 2 of Part 4 to Crown entity groups
Section 156B	Minister of Finance may require additional reporting
Section 157A	Other multi-parent subsidiaries

Education Act 1964 (1964 No 135)

10

Replace section 77 with:

77 Teaching in State primary schools must be secular

Teaching in every State primary school must, while the school is open, be entirely of a secular character.

In section 78, after “section 77”, insert “or in section 65B of the Education Act 1989”. 15

Fees and Travelling Allowances Act 1951 (1951 No 79)

In Schedule 1, repeal the item relating to the Ngarimu VC and 28th (Maori) Battalion Memorial Fund Board.

Official Information Act 1982 (1982 No 156)

In section 2(1), definition of **organisation**, paragraph (a), after “functions”, insert “as a sponsor”. 20

Part 2 Consequential amendments to legislative instrument

~~Education (Early Childhood Services) Regulations 2008 (SR 2008/204)~~

~~In Schedule 2, under the heading “Who counts as adult or child when applying ratios”, replace item 4 with:~~ 25

~~Education (Early Childhood Services) Regulations 2008 (SR 2008/204) continued~~

- ~~4 For a home based education and care service, a person present aged under 6 years counts as a child unless the person is enrolled at school or is the child of an educator who provides education and care at the home, or both.~~

~~In Schedule 3, under the heading “Who counts as child when applying schedule”, replace item 2 with:~~

- ~~2 For a home based education and care service, a person present aged under 6 years counts as a child unless the person is enrolled at school or is the child of an educator who provides education and care at the home, or both.~~

Part 3**Consequential revocation**

New Zealand Council for Educational Research (Electoral College) Order 2009 (SR 2009/92) 5

Legislation history

26 November 2015
8 December 2015

Introduction (Bill 100–1)
First reading and referral to Education and Science Committee