

Education Legislation Bill

Government Bill

Explanatory note

General policy statement

Introduction

The Education Legislation Bill (the **Bill**) is an omnibus Bill introduced in accordance with Standing Order 263(a). The amendments in the Bill deal with an interrelated topic that can be regarded as implementing a single broad policy.

Education-related statute law is not set out solely in the Education Act 1989. The diverse and extensive nature of the education sector means that it is subject to multiple legislative regimes. As the first omnibus education Bill within the past 26 years, the Bill has an overall theme of improving administrative and governance arrangements for educational entities and funding organisations.

The public policy objectives of the Bill are to—

- strengthen existing legal regimes to make them more effective and efficient:
- modernise out-of-date legislation to ensure that it remains relevant, effective, and fit-for-purpose:
- address specific situations where, over time, the law has become inconsistent with practice or has given rise to practical difficulties:
- address errors and omissions in the law.

Early childhood education and compulsory schooling

To achieve the public policy objectives in the early childhood education and compulsory schooling sectors, the Bill—

- enables a principal to be employed to manage more than 1 school — an option that, since 2000, has been available only where there is a combined board of trustees:

- retains the long-standing requirement for schools to be open for a minimum of 4 hours a day, while enabling school boards of trustees to vary when the 2 blocks of 2 hours that make up the 4 hours can be taken (subject to constraints) without seeking the Minister of Education's prior consent:
- enables the use of the national student number for the purpose of establishing and maintaining student identities to support student access to online learning — an option that provides for a persistent identity and logon that students can continue to use as they progress through the education system and/or change between schools:
- enables the State Services Commissioner to approve generic or specific terms and conditions of employment that are additional to, but not inconsistent with, those in the collective agreement and that have been agreed to by an employer and any of its employees. Since 1997, the Secretary for Education has exercised the State Services Commissioner's power under the State Sector Act 1988 to negotiate every collective employment agreement for employees of the education service (with the exception of employees of tertiary education institutions), including approving additional terms and conditions of employment. The Bill clarifies that such approval is a legitimate exercise of this power:
- retains the requirement for the Secretary for Education to provide for a payroll service for school boards of trustees, but removes redundant operational specifications relating to the establishment and maintenance of sufficient staff and facilities. This acknowledges the increasing trend to remove operational specifications from Acts to avoid unnecessarily constraining the ability of decision makers to adopt the most efficient and effective arrangements for delivering services:
- enables Tertiary Education Institutions (**TEIs**) to sponsor partnership schools kura hourua — an option that is not available under the legal regime established in the Education Act 1989. International evidence indicates that the existing partnership schools network would be strengthened if TEIs could act as sponsors or co-sponsors:
- enables licensed home-based education and care (ECE) services to simultaneously provide early childhood education and out-of-school care services (subject to constraints). The Bill addresses a discrepancy in treatment between licensed ECE services and provides another option for supporting workforce participation by parents, especially those in rural communities.

These changes require amendments to the Education Act 1964, the Education Act 1989, and the State Sector Act 1988.

Tertiary education

Over the past 10 years, TEIs have been increasingly investing in related entities for a variety of purposes, including the commercialisation of research and intellectual property. The expansion in the use and range of such entities and the scale of the investment, while of considerable benefit to TEIs, has the potential to expose the TEIs

and the Crown to financial risk. The Bill strengthens and modernises the regulatory framework governing TEI investment in related entities, which is established across 3 statutes: the Public Finance Act 1989, the Education Act 1989, and the Crown Entities Act 2004.

The main changes to the regulatory framework are—

- the alignment of the law with practice regarding the application of section 65I of the Public Finance Act 1989 to TEI investments in related entities:
- the reinstatement of a previous requirement under the Crown Entities Act 2004 for TEIs to report at parent level, as well as at group level:
- the creation of a power for the responsible Minister to require additional reporting by a related entity where there are reasonable grounds to believe that an institution may be at risk.

The Bill also amends the Education Act 1989 to streamline the process for setting conditions that place limits on the tuition fees that tertiary education organisations may charge domestic students. The Act requires that 2 months must elapse before conditions that would set limits on fees can be finalised in a funding determination. This can create considerable uncertainty for tertiary education organisations and their business planning process. The Bill retains the requirement for a consultation period but removes the 2 month constraint.

Modernisation of Acts

Two Acts are being modernised through the Bill to ensure both their continued relevance in the 21st century and that they remain fit-for purpose.

The Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945 commemorates the service of the 28th (Māori) Battalion and the awarding of the Victoria Cross to Second Lieutenant Te Moananui a Kiwa Ngārimu. The Act has not been substantially revised since 1945. The Bill updates and revises the Act in order that—

- the efforts of Second Lieutenant Te Moananui a Kiwa Ngārimu and those who served in the 28th (Maori) Battalion in the war against Germany continue to be remembered in an appropriate manner:
- the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund continues to support and celebrate Māori educational achievement:
- the ongoing function and administration of the Fund and the Ngārimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Board are not limited or hindered by out-of-date legislation.

The Pacific Islands Polynesian Education Foundation Act 1972 establishes a foundation that has the aim of supporting the education of students of Pacific Island descent who are New Zealand citizens or permanent residents. The Act has not been substantially revised since 1972. The Bill updates and revises the Act to ensure that—

- the Foundation continues to be representative of Pacific peoples in New Zealand:
- the Foundation's Board can operate more flexibly and efficiently.

Miscellaneous

The Bill includes a number of miscellaneous amendments to the Education Act 1989. These—

- address procedural matters relating to the establishment of partnership schools that were identified for inclusion in the Education Amendment Act 2013:
- make minor technical changes, such as removing from the Act references to Learning Media Limited, which was placed into liquidation in 2013.

The Bill also addresses the practical issues arising from the inability of the Minister of Education to delegate her or his power to vary the terms of an integration agreement by way of a supplementary agreement under section 7 of the Private Schools Conditional Integration Act 1975.

Departmental disclosure statement

The Ministry of Education is required to produce a disclosure statement to assist with the scrutiny of this Bill. It provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2015&no=100>

Regulatory impact statement

The Ministry of Education produced 6 regulatory impact statements to help inform the main policy decisions taken by the Government relating to the contents of this Bill—

- “Enabling a principal to manage more than one school”, 23 July 2015:
- “Minimum school opening hours”, 23 July 2015:
- “Establishing and managing verified student identities to support students’ access to online services”, 23 July 2015:
- “Options for strengthening Partnership Schools/Kura Hourua”, 23 July 2015:
- “Enabling licensed home-based early childhood education and care (ECE): services to simultaneously provide ECE and out-of-school care”, 23 July 2015:
- “Strengthening and modernising the framework for tertiary education institution investment in related entities”, 21 October 2015.

Copies of these regulatory impact statements can be found at—

- <http://www.education.govt.nz/ministry-of-education/regulatory-impact-statements>

- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Education Act 1989

Clause 3 provides that *Part 1* of the Bill amends the Education Act 1989 (the **principal Act**).

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

Clause 4 amends section 28 of the principal Act to correct a cross-reference.

Clause 5 replaces section 35 of the principal Act to clarify that, if a fine recovered under Part 3 relates to a partnership school kura hourua, the fine must be paid to the sponsor of the school.

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

Clause 6 amends section 60 of the principal Act to insert a definition of half-day. The definition is similar to the definition in section 65B(3) of the principal Act, which the Bill replaces (*see clause 7*). A half-day is defined as a period of 2 hours or more during which the school is open for instruction.

Clause 7 amends section 65B of the principal Act to provide that a board of trustees (**board**) must ensure that the schools it administers open on each day of term for 1 half-day finishing before noon and 1 half-day starting after noon. *New section 65B(3)* gives boards the option of varying the time at which the half-days take place, if consultation is carried out and the board is satisfied that the variation will not result in students spending less time in school than their counterparts in comparable and other local schools. The board's power to vary the time at which half-days take place is similar to the Minister's power under section 65D(3) of the Act, which the Bill repeals (*see clause 8*).

Clause 8 repeals section 65D(3) to (6) of the principal Act. Section 65D(3) and (4) is no longer necessary as the Bill will allow a similar power to be exercised by boards. A provision equivalent to section 65D(5) is inserted as *new section 65B(3A)*. Section 65D(6) is redundant due to an amendment made by the Bill to section 77 of the Education Act 1964 (*see clause 84 and Schedule 2*).

Clause 9 inserts *new section 75A* into the principal Act to allow 1 person to be the principal of 2 or more schools (even if those schools have different boards).

Clause 10 replaces the heading to section 76 of the principal Act.

Clause 11 amends section 78A(1)(b) of the principal Act to allow a person authorised by the Secretary to inspect, copy, or print documents that the person believes on reasonable grounds belong to a manager or a sponsor of a registered school. Section 78A(1)(b) currently refers only to the board of a registered school, but certain registered schools have managers or sponsors rather than boards.

Subpart 3—Amendments to Part 8 (financial)

Clause 12 amends section 79 to allow grants from public money to be paid to sponsors of partnership schools kura hourua.

Clause 13 replaces section 89, which relates to the payroll service for employees of boards, with a similar section that removes some operational detail.

Subpart 4—Amendments to Part 9 (school boards)

Clause 14 amends section 94 of the principal Act to reflect the fact that 1 person may be the principal of 2 or more schools administered by a combined board.

Clause 15 repeals section 116A of the principal Act. The Bill inserts an equivalent provision into the principal Act as *new section 75A(3)* (see *clause 9*).

Subpart 5—Amendments to Part 11 (miscellaneous)

Clause 16 amends section 139C of the principal Act to clarify that the offence of insulting, abusing, or intimidating staff applies in respect of all registered schools (as defined in section 2(1) of the principal Act).

Clause 17 amends section 144C(1)(f) of the principal Act to enable regulations establishing complaints procedures about hostels to cover complaints made by sponsors of partnerships schools kura hourua.

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

Clause 18 amends section 158 of the principal Act to enable students of specified schools, with the agreement of the boards or sponsors concerned, to receive tuition from another specified school. The specified schools are State schools and partnership schools kura hourua.

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

Clause 19(1) replaces the definition of body in section 158A to clarify that a tertiary education institution, or a related entity of an institution, that is a body corporate, corporation sole, or limited partnership is a body for the purposes of Part 12A of the principal Act. Only a body (as defined) is eligible for approval as a sponsor of a partnership school kura hourua. *Clause 19(2)* amends section 158A to provide that, in Part 12A of the principal Act, institution has the meaning given by section 159(1) of the principal Act.

Clause 20 amends section 158N of the principal Act to—

- correct an error in section 158N(1)(b); and
- clarify that a student enrolled in a partnership school kura hourua whose sponsor is a tertiary education institution is not, by reason of the student's enrolment in the school, also enrolled in the institution.

Clause 21 amends section 158Y of the principal Act to provide that the Official Information Act 1982 continues to apply to a tertiary education institution that is a sponsor of a partnership school kura hourua, except when the institution is performing its functions as a sponsor under the principal Act or a partnership school contract.

Clause 22 inserts *new sections 158Z and 158ZA*.

New section 158Z provides that the State Sector Act 1988 does not apply to a tertiary education institution that is a sponsor of a partnership school kura hourua if the institution is performing its functions as a sponsor under the principal Act or a partnership school contract.

New section 158ZA provides that, for the purposes of the Ombudsmen Act 1975, a tertiary education institution that is a sponsor, and that is performing its functions as a sponsor under the principal Act or a partnership school contract, is a sponsor (and not an institution). The Ombudsmen Act 1975 only applies to a sponsor when the sponsor is performing a standing-down, suspension, exclusion, or expulsion function (*see* Part 2 of Schedule 1 of the Ombudsmen Act 1975).

Subpart 8—Amendment to Part 13A (Tertiary Education Commission)

Clause 23 replaces section 159M(b) of the principal Act with a similar section that excludes the requirement that the Minister publish a *Gazette* notice 2 months before specifying conditions that set limits on the fees that organisations (as defined in section 159B of the principal Act) may charge domestic students.

Subpart 9—Amendments to Part 15 (administration of tertiary institutions)

Clause 24 inserts *new section 164A*, which defines Crown entity group, financial product, and related entity for the purposes of Part 15.

Clause 25 amends section 192 of the principal Act to provide that a tertiary education institution—

- (a) has the power to invest in the financial products of a related entity of the institution; and
- (b) may, if it is approved to be a sponsor of a partnership school kura hourua, exercise its rights, powers, and privileges in the performance of functions characteristic of a sponsor.

Clause 26 amends section 203 of the principal Act to provide that section 65I(1) and (2) of the Public Finance Act 1989 does not apply in respect of an investment made by a tertiary education institution in the financial products of a related entity of the institution.

Clause 27 amends section 220 of the principal Act, which prescribes annual reporting requirements for councils that govern tertiary education institutions, to—

- remove the requirement that councils comply with section 157 of the Crown Entities Act 2004;
- require that councils comply with section 157A of the Crown Entities Act 2004;
- require the council of a tertiary institution that is a parent Crown entity to comply with section 154 of the Crown Entities Act 2004.

Clause 28 inserts *new section 220A* into the principal Act. *New section 220A* enables the Minister to require a related entity of a tertiary education institution to prepare a statement or report if the Minister believes that the institution may be at risk due to its investment in the entity.

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

Clause 29 amends section 253 to replace references to the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989, which are repealed.

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

Clause 30 replaces the definition of home-based education and care service in section 309 with a similar definition that—

- excludes the provision of care to children who are 5 years of age and enrolled in school; and
- removes the requirement that the service must be provided to fewer than 5 children.

The Bill reinstates the requirement that the service be provided to fewer than 5 children in *new section 317A(1)* (*see clause 31*).

Clause 31 inserts *new section 317A*, which sets out requirements applying to the provision of a licensed home-based education and care service. *New section 317A* requires that—

- the number of children to whom a licensed home-based education and care service is provided must not exceed 4 per home; and
- while children are receiving the service, the total number of children (aged 13 or younger) in the home, other than the children of the educator providing the service, must not exceed 6.

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

Clause 32 repeals Part 29 of the principal Act, which is now redundant.

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

Clause 33 amends section 344 of the principal Act to allow the Secretary for Education to authorise the use of national student numbers to establish and maintain student identities to support students' participation in online learning.

Subpart 14—Amendment to Part 31 (teacher registration)

Clause 34 amends section 348 of the principal Act to provide that, for the purposes of Part 31 of the principal Act, half-day has the definition inserted by the Bill in section 60 of the principal Act (*see clause 6*).

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

Clause 35 amends Schedule 13A of the principal Act to reflect changes made by the Bill to section 220 of the principal Act (*see clause 27*).

Part 2

Amendments to other Acts

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

Clause 36 provides that *subpart 1 of Part 2* amends the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945 (the **principal Act**).

Clause 37 replaces outdated terminology in the Long Title of the principal Act.

Clause 38 amends the preamble of the principal Act to—

- replace outdated terminology; and
- allow funding to be provided under the Act to assist Māori education outside New Zealand.

Clause 39 amends section 2 of the principal Act to—

- insert a definition of fees framework; and
- redefine financial year as a year ending on 30 June, rather than 31 December; and
- modernise the definition of Māori.

Clause 40 amends section 3 of the principal Act to provide for the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Board (the **Board**) to—

- pay money belonging to the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund (the **Fund**) into a Fund account, rather than to the Māori trustee; and
- appoint a fund manager to administer the Fund.

Clause 41 replaces section 4 of the principal Act with *new sections 4 and 4A*.

New section 4—

- establishes a new Board membership; and
- allows the Board described in section 4(2) of the principal Act before the commencement of the Bill to continue until a Board reflecting the new membership is assembled.

New section 4A disqualifies certain people from Board membership.

Clause 42 amends section 5 of the principal Act to modernise the language used in the section and improve clarity.

Clause 43 amends section 6 of the principal Act to—

- allow a Board meeting to be held by audio, audio and visual, or electronic communications; and
- remove references to the deputy chairman; and
- require members to appoint a chairperson for any meeting of the Board from which the chairperson is absent; and
- provide that the quorum of 5 members must include 3 members appointed by the Governor-General.

Clause 44 amends section 6A of the principal Act to—

- remove references to the deputy chairman; and
- require members to appoint a chairperson for any meeting of the Standing Committee from which the chairperson is absent; and
- modernise the language used in the section and improve clarity.

Clause 45 amends section 7 of the principal Act to—

- remove the requirement that assistance for Māori education be provided by scholarship, subsidy, special grant, or bursary; and
- replace the list of specific purposes for which money from the Fund may be spent with a revised list that excludes the provision of textbooks and includes the granting of leadership awards. The list does not prevent the Board from applying money from the Fund towards other purposes that fit within the general function of the Board under section 7(1) of the principal Act.

Clause 46 amends section 9 of the principal Act to ensure language in the section is gender-neutral.

Clause 47 replaces section 12 of the principal Act with *new sections 12 to 12B*.

New section 12 provides for members of the Board to receive remuneration at a rate and of a kind determined by the Minister in accordance with the Government fees framework. A member who is a Judge, a member of Parliament, or an employee of the State services acting in the employee's official capacity is not entitled to receive remuneration.

New section 12A provides for members of the Board to be reimbursed, in accordance with the Government fees framework, for travelling and other expenses.

New section 12B sets out the procedure that applies if a member of the Board has a conflict of interest in relation to—

- the Board's, or the Standing Committee's, performance of its functions or exercise of its powers; or
- an arrangement, agreement, or contract of the Board or the Standing Committee.

Clause 48 replaces section 13 with a similar provision that aligns with an equivalent provision in Schedule 21 of the Education Act 1989.

Clause 49 inserts *new section 13A* into the principal Act to allow the Governor-General to remove those members of the Board that the Governor-General appointed. Members may only be removed for just cause and on the advice of the Minister of Education given after consultation with the Attorney-General.

Subpart 2—Amendments to Pacific Islands Polynesian Education Foundation Act 1972

Clause 50 provides that *subpart 2 of Part 2* amends the Pacific Islands Polynesian Education Foundation Act 1972 (the **principal Act**).

Clause 51 and 52 change the name of the principal Act to the Pacific Education Foundation Act 1972.

Clause 53 replaces section 2 with a new interpretation section. Significant changes include—

- redefining financial year as a year ending on 30 June, rather than 31 December; and
- removing the definition of trustee (the Bill replaces references in the principal Act to trustees with references to members, or members of the Board); and
- replacing the definition of Polynesian with a definition of Pacific person that includes a person native to the Cook Islands, Fiji, Niue, Samoa, Tokelau, or Tonga (and a descendant of such a person).

Clause 54 inserts *new section 2A* into the principal Act, which provides that transitional, savings, and related provisions set out in *new Schedule 1* have effect according to their terms.

Clause 55 repeals section 3 of the principal Act, as it is unnecessary to specify administrative details in the Act itself.

Clause 56 amends section 4 of the principal Act to change the name of the Pacific Islands Polynesian Education Foundation to the Pacific Education Foundation (the **Foundation**). This reflects the fact that Pacific people other than those of Polynesian descent will be eligible for financial assistance from the Foundation.

Clause 57 amends section 5 of the principal Act to replace a reference to Polynesians.

Clause 58 amends section 6 of the principal Act to increase the amount that a person must donate to the Foundation before the person may be regarded as a contributor of

the Foundation. Contributors may attend meetings called by the Board of the Foundation (the **Board**), and cast a vote on any matters put before them at those meetings.

Clause 59 amends section 7 of the principal Act to—

- remove the requirement for the Board to give notice of a general meeting of contributors; and
- ensure the language in the section is gender-neutral.

Clause 60 replaces section 8 of the principal Act, which relates to the constitution of the Board. *New section 8* continues the Board, but with a new membership that excludes—

- the Chairman appointed by the Governor-General; and
- the chief executive of the Ministry for Māori Development.

New section 8 is otherwise substantially the same as the section it replaces, but the language has been modernised and simplified.

Clause 61 inserts *new section 8A*, which requires members of the Board to elect a chairperson and a deputy chairperson.

Clause 62 amends section 9 of the principal Act to—

- ensure the language in the section is gender-neutral; and
- remove references to trustees.

Clause 63 amends section 10 of the principal Act to—

- ensure the language in the section is gender-neutral; and
- remove the requirements for the Board and every committee to keep minute books and to read and confirm minutes.

Clause 64 replaces section 11 of the principal Act with *new sections 11 and 11A*.

New section 11 provides for members of the Board to receive remuneration at a rate and of a kind determined by the Minister in accordance with the Government fees framework. A member who is a Judge, a member of Parliament, or an employee of the State services acting in the employee's official capacity is not entitled to receive remuneration.

New section 11A provides for members of the Board to be reimbursed, in accordance with the Government fees framework, for travelling and other expenses.

Clause 65 amends section 12 of the principal Act to—

- ensure the language in the section is gender-neutral; and
- remove the requirements for the Board and every committee to keep minute books and to read and confirm minutes; and
- modernise and simplify the language used in the section.

Clauses 66 to 69 amend sections 13, 14, 15, and 20 of the principal Act to—

- replace references to trustee; and
- ensure the language in each section is gender-neutral.

Clause 70 amends section 24 of the principal Act to—

- replace references to Polynesians; and
- repeal section 24(1)(b), which allows the Board to apply the income of the Foundation towards the establishment, conduct, equipment, management, or maintenance of schools at which the majority of students are Polynesian; and
- repeal section 24(1)(l), as the substance of this paragraph is effectively covered by section 24(1)(a).

Clause 71 replaces section 26 of the principal Act with a simplified section that removes most of the requirements imposed on the Board in its management of the Foundation's bank account.

Clause 72 amends section 27 of the principal Act to require estimates to be provided to the Minister in November, rather than May. This reflects the change made by the Bill to the definition of financial year (*see clause 53*).

Clause 73 repeals section 28(2) to (5) of the principal Act to remove certain requirements imposed on the Board in relation to the Foundation's accounting records.

Clause 74 amends section 30 of the principal Act to require the Board to provide an annual report to the Minister of Education and the Minister for Pacific Peoples by 31 December of each year, rather than 30 June. This reflects the change made by the Bill to the definition of financial year (*see clause 53*).

Clause 75 repeals section 32 of the principal Act to remove the requirement that the Foundation establish offices for the administration of its affairs, and notify the location and opening hours of those offices in the *Gazette*.

Clause 76 replaces section 33 of the principal Act with a similar provision that aligns with an equivalent provision in Schedule 21 of the Education Act 1989. *New section 33* also exempts members of the Executive Committee and Special Committees from personal liability for the actions or omissions of the committee, or of the member if the acts or omissions were made in good faith in pursuance of the committee's functions.

Clause 77 amends section 34 of the principal Act to ensure the language in the section is gender-neutral.

Clause 78 inserts new schedule 1 into the principal Act, which contains transitional provisions to—

- allow the Board (as established before the commencement of the Bill) to continue until a Board is assembled in accordance with *new section 8*; and
- allow the chairman and deputy chairman to continue in their respective offices until a chairperson and deputy chairperson are appointed under *new section 8A*.

Subpart 3—Amendment to Private Schools Conditional Integration Act 1975

Clause 79 provides that *subpart 3 of Part 2* amends the Private Schools Conditional Integration Act 1975 (the **principal Act**).

Clause 80 amends section 7 of the principal Act to allow the Minister to delegate the Minister's power to enter into a supplementary agreement. A supplementary agreement may vary an integration agreement made between the Minister and the proprietors of a private or integrated school.

Subpart 4—Amendments to State Sector Act 1988

Clause 81 provides that *subpart 4 of Part 2* amends the State Sector Act 1988 (the **principal Act**).

Clause 82 amends section 2 of the principal Act to provide that a person employed by a tertiary education institution is not employed in the education service if the employment relates to the institution's functions as the sponsor of a partnership school kura hourua.

Clause 83 amends section 75 of the principal Act to allow the State Service Commissioner to approve conditions of employment for 1 or more employees in the education service that are additional to the conditions of the employees' collective agreement. The conditions must be agreed by each employee and his or her employer and must not be inconsistent with the relevant collective agreement.

Subpart 5—Consequential amendments

Clause 84 and Schedule 2 make minor amendments to Acts and regulations to reflect the substantive changes to legislation made by this Bill.

Hon Hekia Parata

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51		Name of principal Act changed	20
52		Section 1 replaced (Short Title)	20
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54		New section 2A inserted (Transitional, savings, and related provisions)	21
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55		Section 3 repealed (Administration of Act)	21
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67		Section 14 amended (Contracts)	24
68		Section 15 amended (Appointment of officers and collectors)	24
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70		Section 24 amended (Authorised expenditure)	24
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73		Section 28 amended (Accounting records must be kept)	25
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77		Section 34 amended (Regulations)	25
78		New Schedule inserted	26
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79		Principal Act	26
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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)”. 15

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.

5

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

10

7 Section 65B amended (Terms)

Replace section 65B(2) and (3) with:

(2) Every board must ensure that each school it administers is open for instruction for 1 half-day that finishes before noon and 1 half-day that starts after noon on every day during the terms prescribed, ascertained, or determined under subsection (1).

15

(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—

(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

20

(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

25

(c) has taken all reasonable steps to notify students and parents in writing of the board's final decision on the proposed variation.

(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.

30

(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)

35

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. 5
- (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) 10

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) 15

- (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”. 20

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. 25
- (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
 - (b) provide those records to the Secretary on request. 30

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.

5

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”.

10

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)

15

(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.

20

(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)

25

19 Section 158A amended (Interpretation)

(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**)

30

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

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. 5

21 Section 158Y amended (Official Information Act 1982 not to apply to partnership schools kura hourua)

In section 158Y, insert as subsection (2):

- (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. 10

22 New sections 158Z and 158ZA inserted

After section 158Y, insert:

158Z Application of State Sector Act 1988 to institutions sponsoring partnership schools kura hourua 15

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.

158ZA Application of Ombudsmen Act 1975 to institutions sponsoring partnership schools kura hourua 20

- (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.
- (2) For the purposes of the Ombudsmen Act 1975, the institution— 25
- (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)**

Replace section 159M(b) with: 30

- (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 35

	(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 <i>Gazette</i> notice; and	5
	(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)	
	After the Part 15 heading, insert:	10
	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	
	financial product has the meaning given by section 7 of the Financial Markets Conduct Act 2013	15
	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 intermediaries).	20
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	
(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	25
26	Section 203 amended (Institutions are Crown entities)	
	Replace section 203(4) with:	30
(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	
	(b) does not apply in respect of any investment made by an institution in the financial products of a related entity.	35

27 Section 220 amended (Annual report)

- (1) Replace section 220(2) and (2AA) with:
- (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—
- (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:
- (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:
- (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.
- (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.
- (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.
- (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)

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. 5

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

30 Section 309 amended (Interpretation) 10

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

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— 15
- (i) the children’s own home; or
 - (ii) the home of the person providing the education or care; or
 - (iii) any other home nominated by the parents of the children; but
- (b) excludes the provision of education or care to any child of the person providing the service. 20

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 25

- (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.
- (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. 30
- (3) In this section,—
- children** means children aged 13 years or younger other than children of the educator
- educator** has the meaning given by regulation 3 of the Education (Early Childhood Services) Regulations 2008 35

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

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)

5

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

- (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)

10

In section 348, insert in its appropriate alphabetical order:

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

15

In Schedule 13A, replace the items relating to sections 155, 156, and 157 of the Crown Entities Act 2004 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 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 1—Amendments to Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945

- | | | |
|-----------|---|----|
| 36 | Principal Act | 5 |
| | 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 | 10 |
| | In the preamble,— | |
| | (a) replace “the Maoris” with “Māori”: | |
| | (b) delete “in New Zealand”. | |
| 39 | Section 2 amended (Interpretation) | |
| (1) | 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 | |
| (2) | In section 2, definition of financial year , replace “31 December” with “30 June”. | 20 |
| (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) | 25 |
| (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. | |
| (2) | After section 3(3), insert: | 30 |
| (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	
(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:	5
	(b) the Minister for Māori Development:	
	(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:	10
	(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.	15
(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.	20
(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.	25
4A	People disqualified from Board membership	
	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:	30
	(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—	35
	(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.

5

42 Section 5 amended (Term of office of members of Board)

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.
- (2B) A member may at any time resign from the Board by notice in writing to the Minister.

10

15

43 Section 6 amended (Meetings of Board)

20

- (1) Replace section 6(1) to (3) with:

- (1) A meeting of the Board may be held—
 - (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
 - (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.
- (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

30

35

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. 5
- (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”. 10
- (4) Repeal section 6A(5).
- (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. 15

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: 20
- (2) Without limiting subsection (1), the Board may apply money towards all or any of the following purposes:
- (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: 25
- (c) the provision of grants for the education of primary and secondary school students:
- (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. 30

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: 35

12 Remuneration of members of Board

(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: 5

(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

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. 15

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 20

(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.

(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. 25

(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 30

(b) the nature and extent of the interest (if the monetary value cannot be quantified).

(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 35

(b)	must not sign any document relating to the entry into a transaction or the initiation of the matter.	
(5)	In this section, matter means—	
(a)	the Board’s, or the Standing Committee’s, performance of its functions or exercise of its powers; or	5
(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)	
	Replace section 13 with:	
13	Members of Board not personally liable	10
	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.	15
49	New section 13A inserted (Removal of Board members)	
	After section 13, insert:	
13A	Removal of Board members	20
(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).	25
(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.	
(4)	The Minister must notify the removal in the <i>Gazette</i> as soon as practicable after the notice is given.	30

Subpart 2—Amendments to Pacific Islands Polynesian Education Foundation Act 1972

- 50 Principal Act**
This **subpart** amends the Pacific Islands Polynesian Education Foundation Act 1972 (the **principal Act**). 5
- 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
 - (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. 10
- 52 Section 1 replaced (Short Title)**
Replace section 1 with: 15
- 1 Title**
This Act is the Pacific Education Foundation Act 1972.
- 53 Section 2 replaced (Interpretation)**
Replace section 2 with:
- 2 Interpretation** 20
- 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 25
- education** includes pre-school education 25
- 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
- financial statements** has the same meaning as in section 6 of the Financial Reporting Act 2013 30
- 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)**
- generally accepted accounting practice** has the same meaning as in section 8 of the Financial Reporting Act 2013 35

Minister means the Minister of Education	
Pacific person means—	
(a) a person living in New Zealand who is both—	
(i) a native of the Cook Islands, Fiji, Niue, Samoa, Tokelau, or Tonga; and	5
(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	
(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.	10
54 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 (if any) set out in Schedule 1 have effect according to their terms.	15
55 Section 3 repealed (Administration of Act)	
Repeal section 3.	
56 Section 4 amended (Foundation established)	
Replace section 4(1) with:	20
(1) The Pacific Islands Polynesian Education Foundation is continued with the name Pacific Education Foundation.	
57 Section 5 amended (Purpose of Foundation)	
In section 5, replace “Polynesians” with “Pacific people”.	
58 Section 6 amended (Contributors)	25
(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)	
(1) Repeal section 7(2).	
(2) In section 7(3), replace “chairman” with “chairperson”.	30
(3) In section 7(4), replace “he” with “the person”.	
60 Section 8 replaced (Constitution of Board)	
Replace section 8 with:	

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: 5
 - (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. 10
- (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). 15
- (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) A member appointed under **subsection (2)(d)**— 20
- (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 25
 - (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,— 30
- (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.
- (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). 35
- (8) The powers of the Board are not affected by any vacancy in the Board's membership.

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—	5
	(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,—	10
	(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)	15
(1)	In section 10,—	
	(a) replace “chairman” with “chairperson” in each place; and	
	(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”.	20
(4)	Repeal section 10(6) and (7).	
64	Section 11 replaced (Fees and travelling allowances)	
	Replace section 11 with:	25
11	Remuneration of members of Board and Special Committees	
(1)	Board members and members of a Special Committee are entitled to receive 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:	30
	(a) a Judge:	
	(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 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.	5
65	Section 12 amended (Executive Committee, Special Committees, and delegation of powers)	
(1)	In section 12, replace “trustee” with “Board member” in each place.	10
(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:	
(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.	15
66	Section 13 amended (Common seal)	
	In section 13, replace “trustees” with “Board members”.	
67	Section 14 amended (Contracts)	
	In section 14(2), replace “trustee” with “Board member”.	20
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)	
	In section 20(3), delete “affecting it, them, or him”.	
70	Section 24 amended (Authorised expenditure)	25
(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”.	30
(5)	In section 24(1)(k), replace “Polynesian” with “Pacific person”.	
71	Section 26 replaced (Bank account)	
	Replace section 26 with:	

26	Bank account 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) In section 27(2), replace “May” with “November”.	5
73	Section 28 amended (Accounting records must be kept) Repeal section 28(2) to (5).	
74	Section 30 amended (Annual report) In section 30(1),— (a) replace “30 June” with “31 December”; and (b) replace “Minister of Pacific Island Affairs” with “Minister for Pacific Peoples”.	10
75	Section 32 repealed (Office of Foundation) Repeal section 32.	15
76	Section 33 replaced (Members of Board not personally liable) Replace section 33 with:	
33	Members of Board and Special Committees not personally liable	
(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	20
(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.	25
(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.	30
77	Section 34 amended (Regulations) In section 34, replace “he” with “the Governor-General”.	

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 5

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. 10

Subpart 4—Amendments to State Sector Act 1988

81 Principal Act

This **subpart** amends the State Sector Act 1988 (the **principal Act**). 15

82 Section 2 amended (Interpretation)

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

- (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 20

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: 25
 (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, employed in the education service under a collective agreement if the conditions are—
 (a) mutually agreed by each employee and his or her employer; and 30
 (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.

Subpart 5—Consequential amendments

84 Consequential amendments

Amend the enactments specified in **Schedule 2** as set out in that schedule. 5

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,—

10

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.