Introduction to this PDF

We are very proud of our commitment to serving our participants and we want people who might apply to our programmes to be aware of relevant policies and related information.

If you become serious about applying to our programmes, this material is important to you. However, if you are just becoming acquainted with Real World Education (t/a New Zealand Laboratory Education Programmes) this would likely be a confusing place to start. We suggest starting by understanding our programmes and come back here if you are seriously considering applying to one of our programmes.

To read this first would be something like reading the lease for looking at the flat or house. Eventually, reading the lease is important, but only if you are considering renting.

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*Please note that much information in this report is no longer current.

For current information about external complaints, please see
https://www2.nzqa.govt.nz/tertiary/the-code/the-code-for-learners/learner-complaints/

Policies and Documented Practice

Real World Education Limited

Trading as: New Zealand Laboratory Education Programmes

Approved 08 October 2025

Effective 10 October 2025

Notes for this document

A special effort was made to make the material plain English and user friendly. Although there is a risk that plain English can loose some of the precision that more legalistic formal wording can have, we have tried hard to make the meaning clear without resorting to overly complex wording.

Sections in this document include:

- Participant Use Section
- Internal Use Section

Introduction to Participant Use Section

This section includes policies, and the way Real World Education Limited does things, that anyone seriously considering one of our programmes, anyone in our programmes, and anyone who recently completed one of our programmes should be aware of. For ease of reading:

- Real World Education Limited (which also trades as "New Zealand Laboratory Education") is referred to using forms like "we", "us" and "our";
- A person considering our programmes, in our programmes, or having recently completed our programmes is referred to using forms like "you" or "your".

The Director and other employees are responsible to assure that we do what we promise to do.

This Section has the following chapters:

- Assessment
- Your conduct
- Pastoral care
- Recognition of Current Competence
- Placements
- Withdrawal and refunds
- Your feedback to us (including formal grievance)
- Attendance
- Remaining in contact
- Your privacy

In this section, written communications include communications by email and other electronic communications.

Assessment

Types of assessments:

For the purpose of this policy, we consider there to be three types of assessment. Each type has a different purpose, and therefore are handled different ways. Those are explained in this policy.

"Summative" assessments are used to determine whether you have met programme requirements, and (when there is grading) how well you have done.

"Gate-keeping" assessments are ones that you are required to perform adequately on before you move on with certain aspects of the programme, but are not, in themselves, the main way we determine whether you have met programme requirements, and (when there is grading) how well you have done. They are an attempt to keep you from progressing in ways you are not adequately prepared for.

"Formative" assessments are ones in which no particular performance is required, but are to let you (and us) know how you are doing with the material, and to assist you in learning what you need to. These include informal questions asked in lessons, so you might not even think of them as assessments. Although we try to make formative assessments useful, they are not reviewed or moderated like the summative and gate-keeping assessments. If you do not understand the feedback you get on a formative assessment, you are encouraged to discuss in with an educator.

Purposes of moderation and reviews: Moderation and reviews (as discussed below) are intended to make sure that our assessments assess what they are supposed to, and are fair and consistent.

Internal review and moderation of assessment materials prior to use: Before they are used, all summative and gate-keeping assessment materials undergo internal reviews, and then moderation as specified in our documented practice. The review is done by educators with expertise in the subject matter. The internal moderation is done by one of our educators with expertise in the subject matter who also has the experience and credentials to perform formal moderation. Depending on the nature of the assessment, the assessor has more or less flexibility during the assessment. Therefore, the materials reviewed sometimes are general in nature since the specifics are determined during the assessment.

Two assessor assessments:

For certain assessments, two assessors independently judge how well you did. You will be told in advance if that is the case. In those cases, if the two results are close enough (by our set standard), then the results are averaged. Otherwise, the assessors discuss the matter, and may choose to agree on a result. Otherwise, a third assessor independently judges how well you did, and the median result is recorded.

Internal review and moderation of assessments you have taken:

A sample of assessments taken are reviewed internally, and then moderated as specified in our documented practice. This may or may not be done for "two assessor assessments" (described above). The review is done by educators with expertise in the subject matter. The internal moderation is done by one of our educators with expertise in the subject matter who also has the experience and credentials to perform formal moderation. The review and moderation is done to improve our ways of assessing in the future, but will not cause a change in your result on an assessment.

External review of assessments:

We arrange for outside subject experts to review assessment materials, and a sampling of assessments taken to get feedback about the assessments. The review and moderation is done to improve our ways of assessing in the future, but will not cause a change in your result on an assessment.

External moderation of NZQA assessment standards:

When we assess using NZQA assessment standards (e.g. unit standards), we participate in external moderation as specified by NZQA. Although the results of that external moderation help us improve what we do, the results of those external moderations do no change the results for you, even if your assessments were included in what we send for moderation.

Appeal of assessment decisions: You are encouraged to try to resolve any assessment result issues directly with the assessor. If you ever feel that an assessment decision was incorrect, you may appeal the assessment decision by sending an email to info@real.ac.nz with the subject line "Assessment Appeal". The

appeal email may not be sent before 5 calendar days after you are informed of the result, or more than 20 calender days after you are informed of the result. You are considered to have been informed of the result when you are sent an email about the result, the result is posted for you on LabBench, or you are verbally told the result. The Director may choose to extend that deadline in extraordinary circumstances. The Director will ask an educator to investigate and consider the matter. They may choose to request relevant information from the assessor, participant and others, and review records and recordings. The person conducting the review may choose to ask for information to be given in writing or by discussing the matter with people. The investigation and consideration will proceed without undue delay. The result of the investigation and the consideration will be communicated to you in writing, and will typically be one of the following: (1) a change in the result of the assessment, (2) giving you a chance at re-assessment, or (3) that the result stands. If the outcome is that the results stands, you will be informed of external appeal options.

Suggestions about assessments: We welcome suggestions for improving assessments. If you have such a suggestion, you can mention it to any of our educators, or you can email your suggestion to staff@real.ac.nz.

Assessment in te reo Māori: If you would like a portion of your assessment to be in te reo Māori, you may choose to request that at any time. However, discussing this with us early may improve the options we can offer you. Due to the nature of the sorts of assessments in our programmes, it is unlikely that we can offer you all assessments in te reo Māori, but we will make a genuine effort to accommodate you as much as practical. This will typically involve discussion with you to seek ways to serve you as well as possible. If you only want to do our programme if some assessment in te reo Māori is available, please discuss that with us before you commit to the programme.

Your conduct

Conduct: Misconduct or improper behaviour is unacceptable. It takes many forms. Here are examples, but it takes other forms as well:

- falsification of any record at a placement host,
- giving dishonest or misleading information to us or a placement host,
- supplying false, incomplete or misleading information during the application process,
- possession of illegal drugs at our Centre or at the site of a placement host,
- serious breach of rules of a placement host,
- possession or use of property from us or a placement host without permission,
- deliberate damaging of our property,
- deliberate damaging property of a placement host,
- failure to promptly return, when requested, items we lent to you,
- violence, intimidation or harassment against another person, regardless of the location ,
- making accusations known to be false or with a disregard for the truth,
- violence, intimidation or harassment anywhere against one of our staff,
- violence, intimidation or harassment anywhere against a staff member of a placement host,
- violence, intimidation or harassment anywhere against one of our participants,
- taking another person's property, without permission, regardless of the location,
- inappropriately accessing confidential information,
- inappropriately disclosing confidential information,
- allowing another to use our computer systems using your username and password,
- dishonest financial dealings with us,
- being convicted of any crime,
- conduct in a manner which could reasonably be thought to bring us into disrepute,
- failure to comply with any of our policies,
- failure to maintain appropriate professional boundaries,
- failure to disclose a conflict of interest or an apparent conflict of interest,
- making frivolous or malicious statements against a staff member or participant,
- behaving dishonestly regarding assessments,
- helping another person to behave dishonestly on an assessment,
- behaviour which unduly interferes with the learning of another, and
- behaviour which interferes with the operation of a placement host.

When this policy applies: The actions described below can occur any time, if the conduct considered happened between when you apply for entry into any of our programmes until the first of these occurs: (1) you withdraw your application, (2) your application is declined, (3) you inform us you will not do that programme, (4) you fail to start that programme within the allowed time from acceptance, (5) your enrolment in that programme ends.

Suspicion reports: Anyone may choose to report to the Director misconduct that they suspect or know of. Our employees are required to report any serious misconduct. Once suspected misconduct is reported, the following will happen without undue delay.

Initial Investigation: If the Director receives a report about suspected misconduct by you, the Director will do, or have one or more other people do, an initial investigation of available information. Those other people may be our staff members or other people. If others do the initial investigation, they will report the findings to the Director. The Director will then decide whether the matter is serious enough that a formal meeting is appropriate. The Director will also decide whether, due to possible risk, you should be excluded from some or all of our activities (possibly including placement) until the matter is resolved.

Formality Decision: If the Director decides that the alleged misconduct is not serious enough to warrant continuing to a formal meeting, but believes it is likely that misconduct did occur, the Director may ask you to speak with the Director or someone else about the conduct.

Meeting If the Director decides that the misconduct is serious enough to warrant continuing with a formal proceeding, then the Director will arrange the proceeding or have another person conduct the proceeding. That other person might be one of our employees or someone else. You would be notified of the misconduct that is suspected, and given a reasonable opportunity to select suitable scheduling of meetings. If practical, a single meeting will be held. However, if conflicting schedules of invitees make a single meeting impractical,

multiple meetings may be scheduled. Any meetings will be by recorded video session. The person arranging the meetings may choose to invite any witness to all or some of the meeting. You would be given the opportunity to request that specific witnesses be invited. Those people will be invited if doing so seems reasonably likely to make the outcome more fair or improve relevant fact finding. You may choose to also invite a support person to be with you. That can be a legal advisor or anyone else you want. You may request the opportunity to speak to the support person privately during the meeting, and that will be allowed as long as it is not significantly disruptive. Others may choose to not speak on your behalf at the meeting. We cannot generally require invited witnesses to be part of the meeting or answer questions. However, our employees are required to participate if invited. You are not required to participate in the meeting, but the person conducting the meeting may choose to consider your failure to participate in making decisions.

We may request that answers be given by a person under oath or affirmation (by the Oaths and Declarations Act 1957). In the case of such a request, we will accept answers without the oath or affirmation requested, but can take the lack of an oath or affirmation into account in weighing the strength of the evidence, and can take inference from the unwillingness to take an oath or affirmation.

Reporting: If someone other that the Director conducts the proceedings, that person will summarise the findings to the Director including whether there is clear and convincing evidence that misconduct did occur, and what they believe the consequences should be. The Director will make a final decision about those findings, and will notify you in writing. The Director will also decide what information, if any, should be given to others including whoever reported the suspected misconduct, and anyone impacted by the misconduct. In deciding what information others should be given, the reasonable interests of each person, including you, would be considered.

Consequences: If there is found to be clear and convincing evidence that misconduct occurred, possible consequences include, but are not limited to:

- Removal from the programme
- Removal from a placement host
- Failure to be put on placement
- Making specified amends to a wronged party which could include monetary compensation
- Failure of assessments
- Reassessment at your expense

You may choose to be offered more than one set of consequences to choose from, in which case you would be given a reasonable time to select from the options given.

Appeal: You may choose to appeal the decision or outcome by submitting a grievance [see Your feedback to us (including formal grievance) chapter]. Examples of grounds for an appeal would include RWE not following its own procedure, lack of impartiality, or the outcome not matching the level of the misconduct.

You may choose to also appeal elsewhere, including to NZQA, the Human Rights Commission, and the civil courts.

Civil or criminal actions: Nothing in this policy prevents civil or criminal actions against you if the circumstances make that appropriate.

Addressing exclusion: If you are excluded from all or some of our activities due to concern about risk, and it is found that there is no clear and convincing evidence that misconduct occurred, we will attempt to remedy any disadvantage caused.

Pastoral Care

We will meet our obligations to you under the The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (as amended). In this policy, we will call that "The Code".

All of our employees will be responsible for this policy.

Any of our employees who are anticipated to interact with you personally more than one hour, will have received a copy of The Code and will have familiarised themselves with it. All employees will read a summary of The Code.

Although we consider you important as a learner, we consider you even more important as a human.

While our employees are not required to have specialised training in things like counselling, psychology, or medicine, they are all required to take what they judge as appropriate action if they have concerns about your over-all well being. That may include discussions with others in our organisation or even getting advice of outside experts.

You should also let us know if you have concerns about your well-being, and we will do what we practically can to assist you, either ourselves, or by helping you to get other help.

Because of your age, we will balance our obligation and desire to assist with your right to make choices. We will report concerns about you to others only:

- with your permission
- as specified in the "Your privacy" policy, or
- as required in The Code

Although we try to respect requests for confidentiality, if you disclose something to one of our employees with an understanding of confidentiality, that confidentiality would be over-ridden by a Policy or legal obligation to notify others in RWE or outside of RWE.

We care about you as long our relationship with you continues. That includes before study begins and after study is completed. Although our obligations under The Code may end, our care about and for you does not.

Recognition of Current Competence

For this policy "know" and "known" are used broadly and includes things like to know facts, to know how to do something, and to understand something.

If you already know significant parts of what is taught in a programme you apply for, you should consider evaluation for Recognition of Current Competencies ("RCC"). We will assess what you can do, and determine if there are parts of the programme you can skip. The current competencies may have been developed through formal study, but can also be developed through employment, reading or any other manner. If you wish to consider assessment for RCC, you should first speak with one of us about that. There is no cost for that conversation. The fees for the RCC evaluation are agreed on a case by case basis, and are paid before the assessment occurs. Qualifications are only awarded if both of the following are true (based on the credit value of portions of the programme leading to that qualification):

- less than 70% of programme credits leading to that qualification is awarded by RCC, and
- less than 40% of the programme credits at or above the level of the programme are awarded by RCC.

RCC based on other course work taken with RWE that is judged essentially equivalent are not counted against the numerical limited bullet-pointed above.

RCC assessment can include a variety of ways to determine your competence including these and more:

- Letters from credible people about competence you have
- Interviews with credible people about competence you have
- Formal education transcripts
- Skills assessments
- Written assessments
- Interviews with you
- Your CV

Once the evaluation is completed, you may not refuse RCC.

If you are not satisfied with the RCC evaluation results, you can follow the "Appeal of assessment decisions" instructions in the "Assessment" chapter.

Programmes may be designated as "Broad RCC". Any programme not explicitly designated as "Broad RCC" is not. For any Broad RCC programme, RCC as indicated above is allowed. In Broad RCC programmes, RCC is also allowed in cases in which the material known is not essentially the material in a component of the programme, but does similarly support the outcomes for the programme.

Placements

Some of our programmes involve placement with a placement host. Those placement hosts include our Partnering Laboratories. In some cases we arrange the placement. In some cases, you arrange the placement.

Placements you arrange:

For placements arranged by you or by someone other than us for you, you are responsible for safety, and assume the risk of lost educational opportunity if the arrangement proves unsatisfactory. You should make arrangements that properly limit risks including safety and educational outcome risks.

In deciding whether placements arranged by participants should be included in any programme, we consider these things:

- flexibility of those placements,
- our ability to assess such placements,
- risks that such placements may not reliably provide practical learning opportunities,
- comparative costs between placements we arrange and placements you arrange,
- safety risks,
- likelihood that participants would be able to utilise existing relationships to arrange placements, and
- how participant-arranged placements are likely to influence stakeholder relationships with us.

In any case where you would need to arrange your own placement, the need and requirements of that placement will be made clear before you enrol.

Any assistance you need in arranging a placement does not change the fact that it is a placement arranged by you, and that the responsibility for that placement remains with you.

We review the appropriateness of participant-arranged placements. If experience with those placements indicates that those placements are not working well, corrective changes will be made in the programme or the programme will be terminated.

Placements we arrange:

For placements that we arrange, we are responsible for the quality and appropriateness of the placement. However, the following apply:

- your misconduct can lead to removal from a placement,
- you will not be given a refund if you are removed from placement,
- if you are removed from placement, you forfeit learning and assessment opportunities associated with the placement,
- the nature of placements creates a greater degree of unpredictability than in a traditional educational setting,
- you will be required to follow the reasonable policies and instructions of the placement host, and may be required to complete (and sign) reasonable paperwork at the direction of the placement host, and
- absence from any or all of a placement (regardless of the reason) will be a forfeiture of learning and assessment opportunities missed.

It is important that a placement host not have their primary functions compromised by your placement. It is vital to the success of our programmes that placement hosts be willing to accept placements. If a placement host that you are placed with finds your presence to be adverse to its functioning, to present an unacceptable risk, or is overly burdensome on staff, they can end your placement. In that case, you would not be able to meet programme requirements for which the placement was required.

We may choose to refuse to arrange a placement for you if we have well founded grounds to be concerned about any of the following, even in cases in which there is no misconduct, and even if programme requirements are met:

- safety risks

- reliability
- getting on with others
- reputational risk to us
- integrity

We may inform you that we will only attempt to arrange a placement for you if you give us permission to share specific concerns with potential placement hosts.

If after a placement is arranged we develop concerns of the types listed above, we may choose to share our concerns with the placement host.

If we refuse to arrange a placement, we will give you the option of withdrawing from any modules for which that placement would be required. In such cases, we will give full refund for those modules regardless of whether you have passed the normal refund period. We may choose to give you the option of withdrawing from other modules with a full refund.

Option to arrange a placement instead of us:

In a programme in which we would usually arrange a placement, you might prefer to make your own arrangements. This is especially true if you already have a relationship (for example, they are your employer) with a suitable placement host. We may give you permission to make such arrangements. In those cases, it is treated as indicated earlier in this chapter about placements you arrange. If your making those arrangements avoids us having to pay the placement host a fee, we may accordingly discount fees you would pay.

Withdrawal and refunds

You may voluntarily withdraw from a programme or part of a programme by completing the webform at https://www.real.ac.nz/withdraw .

We strongly recommend that before you withdraw from any or all modules that you are confident that you have relevant understanding, and seek clarification about anything that is unclear. Specifically, please be confident that you understand:

- whether you will receive a refund,
- any implications for current and future financial assistance for study,
- any immigrations implications, and
- any implications for future study.

In special circumstances, we may choose to give permission to reverse a withdrawal you requested.

We may also withdraw you from a programme if the progress requirements in the offer of place are not met, or as specified in the Conduct chapter.

If you are a domestic participant and withdraw from a programme, or we withdraw you from the programme, we will refund fee payments according to the following table:

Length of programme	Deadline for withdrawal with refund	Amount of refund
3 months or longer	Up to the end of eight calendar days of the course commencing	The larger of: • 90% of the amount paid • the amount paid minus $500
At least 5 weeks and less than 3 months	Up to the end of five calendar days of the course commencing	75% of the amount paid
At least two days and less than 5 weeks	Up to the end of two calendar days of the course commencing	50% of the amount paid
Less than two days	Not applicable	None

If the payments were made by a StudyLink loan, the refund will be to the Ministry of Social Development.

If you are an international participant, and your withdrawal occurs up to the end of the tenth working day after the start date of the programme listed in the Offer of Place, we will refund the amount paid minus costs that we incurred up to 25% of the amount paid. This includes the situation in which you need to withdraw because of a visa application being declined.

We will only terminate a programme you are in under extraordinary circumstances. However, in case of a programme being terminated, we would make a pro-rata refund of the amount paid.

The above indicates the minimum refund you would receive in the situations listed. We may choose to give refunds in addition to that. Also, we may agree in writing to refund conditions (times or amounts) that are better than those given above.

Your feedback to us (including formal grievance)

General feedback:

You are always welcome to share suggestions, concerns or complaints with us verbally or in writing. One option for written feedback is to use the webform at https://www.real.ac.nz/feedback . We make many improvements in our programmes based on feedback from participants and past participants. Your feedback might not make a difference for you, but might improve the experience for others in the future. In some cases, we might be able to address your concerns in a way that will improve the experience for you.

Feedback we request:

There are times that we may specifically seek your feedback. That request might be about something specific or more general. Although your supplying the feedback is not required, it is appreciated and we hope you are willing to assist in this way. Again, that sort of feedback allows us to make improvements.

Grievance:

If you ever believe you have been or are being wrongly or unfairly treated, and would like specific things done to correct the problem, you may use the webform at https://www.real.ac.nz/feedback . Please select "yes" for the question "Is this feedback a complaint or grievance for which you are requesting a specific remedy?" If you do that, it will start a more formal way of handling the matter. It is recommended, but not required, that you try less formal ways of dealing with the concern first.

If you ask us to end the formal handling, we will. However, we will not pressure you to do so.

In addition to the formal handling, any grievance is also handled as feedback, and may help us do better in the future.

Unless we give you permission to have a grievance considered outside of this time range, we will only consider a grievance submitted during any of these periods:

- between when you apply to a programme and 60 days after we give you a decision about your application,
- between your start of a programme and 60 days after the completion of the programme,
- between acceptance to a programme and your start in the programme.

Grievance procedures will be performed without undue delay. You will receive a written update about the progress of the procedure every 10 days, or more frequently.

We may receive advice from outside of RWE from people not significantly connected with RWE when it is believed that they are likely to give a useful and unbiased judgement about fairness and reasonableness.

Your grievance may be given less attention than it otherwise would if you have a history of submitting grievances that were found not to have merit.

Nothing in this chapter means that you cannot take complaints to relevant authorities including the police.

After you submit a grievance, the following will be done:

- We will acknowledge your grievance in writing within 2 business days.
- We may ask for clarification about your grievance, if what you are requesting or the facts you allege do not seem clear to us.
- If there is a remedy you requested that we would be willing to do if it was a mere request, regardless of the facts you allege, we will inform you of that and make that remedy.
- If there is something we think might be an acceptable alternative remedy that we would be willing to do, regardless of the facts you allege, we may offer that alternative remedy. In that case, you will have a choice about whether to accept that alternative remedy.
- If there is a remedy you request that we would not do even if the facts you allege are true, we will notify you of that.

- If, after the above, there are remedies you requested that we might make, depending on the validity of the facts you allege and related information, we will investigate. The specifics of that investigation will depend on the specific situation, but might include reviewing records and recordings, asking people questions and getting their answers, asking people for evidence other than their answers (for example, documents). That questioning might be in writing, in person, by telephone or by video session. You are welcome to provide evidence or suggest people we should ask for evidence (for example, witnesses). We will take your suggestions if we judge them to be relevant and there is not a strong reason not to ask them about the situation. We cannot make most people supply information regarding the investigation. Our employees must supply relevant information if asked. We may request that answers be given by a person under oath or affirmation (by the Oaths and Declarations Act 1957) or by written statutory declaration (by the Oaths and Declarations Act 1957). In the case of such a request, we will accept answers without the oath or affirmation requested, but can take the lack of an oath or affirmation into account in weighing the strength of the evidence, and can take inference from the unwillingness to take an oath or affirmation.
- Following the investigation, we will let you know in writing what remedy, if any, will be given.

We will only consider a grievance based on essentially the same fact once unless the Director allows consideration again.

You should only submit a grievance if you are fine with us investigating both the facts you allege, and related information. If you do not fully cooperate with the formal process, we may end the formal process. That cooperation might include answering questions, and supplying evidence you have reasonable access to. In cases where we suspect others have relevant evidence that they will not supply unless you request they do so, we may ask you to make that request.

Please refer to the "Your conduct" chapter regarding misconduct that could relate to a grievance.

If you are not satisfied with the outcome of the formal handling of your grievance, you may appeal outside of the organisation. That appeal includes to NZQA, to iStudent Complaints (https://www.istudent.org.nz/) (for international participants), civil courts and any other relevant body.

Attendance and progress

You will be informed of any face-to-face attendance requirements or times you are required to participate remotely (that is, online) prior to enrolment.

If you are an international participant and your visa has specific attendance requirements, we consider attendance to include time you are at our Centre, and time you are on placement. When appropriate, based on the nature of the work, attendance may include approved work not under our direct supervision in places outside of our Centre in situations where being elsewhere is necessary or more practical for the work being done. For example, a participant needing to use library resources would count as attending our programme, if we approved them working at the library at those times.

If you have fees related to one of our programmes held on your behalf with Public Trust's Fee Protect, we will confirm that you are "still attending" only after you have engaged with the programme on at least three calendar days after the fifth day of the programme. Engagement can be taking part in a video session, using LabBench, sending us an email, attending in person, among other things.

We monitor your progress through the programme in relation to the time you have been in the programme. If we judge your progress pace to be slower than is needed to successfully complete the programme, we will inform you of our concerns about that. If the pace is not satisfactorily and promptly improved, we may report related information to StudyLink and/or Immigration New Zealand. There are conditions in which we are required to notify StudyLink and/or Immigration New Zealand of a lack of progress or engagement.

Remaining in contact

It is important that you check your email at least every 24 hours after applying to any of our programmes and respond to our emails promptly. That continues until 10 days after one of the following occurs:

- You notify us in writing (e.g. email) that you will not enrol.
- Your application is declined.
- Your enrolment ends.

It is also important that you keep us informed about changes in your phone numbers, residential addresses or email addresses.

It is also important you keep us informed about changing any contact details you have given us for others (e.g. your emergency contact people).

If you do not reply to at least three email message at the most recent email address you have ask us to use for you and at least one attempt to ring or text at the most recent phone number you provided, we have no obligation to make further attempts to contact you.

Your privacy

You have legal rights to privacy. Even without those laws, we would want to respect any reasonable privacy wishes you have. By applying to one of our programmes, unless you tell us otherwise, you will have waived some legal privacy rights, and we will assume you are fine with some sharing of information. Any time you want to change the sort of information we will share, please send an email to "info@real.ac.nz" with the subject line "Privacy Request". We will reply to your email, and might ask for clarification about your request.

This policy applies to people who have applied to any of our programmes and continues to apply thereafter.

Type of sharing	Examples (not every possibility)
With government bodies as required by law, by regulation, because we are accredited, or because we receive government funding	We report your completion of a qualification to NZQA. We report your enrolment and completions to the Tertiary Education Commission. Information about you may be subpoenaed. We report your lack of progress or engagement to StudyLink.
With financial reviewers	We give our financial reviewer information about you and your payments.
With External assessment reviewers	We give your assignment work to an external reviewer. We remove your name from the copy provided, but what you wrote might allow someone to figure out who wrote it.
Between our educators	We discuss problems you are having with certain materials. Records about assessments are available to various educators. We discuss a family concern you mentioned to one of us.
With placement hosts and possible placement hosts	We give them your name, contact details, information about things you are especially good at. We openly discuss with them your performance on the placement, including sharing related experience we have.
With public	Social media posts welcoming you to the programme or achievements. Press releases about special achievements.
With your family, friends, acquaintances	A person who recommends one of our programmes to you asks about the state of your application; we confirm that you applied, have supplied required documents and we are waiting for you to schedule a conversation. A flatmate is concerned that you did not return home; we confirm that we know you were at placement today. A family member mentions you are in one of our programmes; we say how much we are enjoying having you in the programme.
With other participants (current or past)	Giving your email address to another participant. Another participant asks why you were not on placement today; we tell them you were not feeling well. Someone who was in the programme when you were asks if we know where you are working now; we tell them which lab.
With people contacting us to confirm information or for a reference check	A potential landlord asks us to confirm the dates you are enrolled. A company asks one of us various questions as a referee for a job.

The types of sharing shaded pink above are types of sharing that you have very limited control over. However, if you have special privacy concerns, please discuss them with us, and we will try to address those concerns.

The types of sharing shaded in yellow are very important, but we will try to address privacy concerns you have. For example, if you share personal information with one of our educators, you may choose to request that they not share it with other educators. However, each staff member retains the discretion to share the information within the team if they judge that the importance to do so outweighs your privacy concerns.

For the types of sharing shaded in grey, prior to the arrangement of a placement, we will honour your request that certain information not be share. However, limiting our ability to share information might impact our ability to arrange a placement for you. Once a placement is arranged, certain sharing is essential. However, if you have special privacy concerns, please discuss them with us, and we will try to address those concerns.

For the types of sharing shaded in blue, we will typically honour your request that certain information not be shared, unless there is a legal obligation to do so.

We will only do the type of sharing shaded in green if you specifically ask us (or one of us) to act as a referee. Please be sure to ask us prior to listing us as a referee, and to ask us again each six months if you want us to continue. You may choose to ask us (or one of us) to stop acting as a referee any time you want.

Real World Education

Self-review Related to the

Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 (as amended)(The Code)

Finalised 25 September 2025

At the heart of our caring for our participants is that we truly care about our participants. Their inherent value as humans is not based on how well they do in our programmes. Although their over-all safety and well-being may contribute to their success in our programme, but that is not the only reason their over-all safety and well-being matter. Participants have commented that even the distance portion of our programmes is more personal than many in-person programmes. Although we has specific ways we attempt to assist, the real key is actually caring. The three main areas of our caring for our participants is reactive care when we are asked, proactive care when we sense a need, and supporting self-care. Although they are interlinked, we have organised them here based on a main area plan is within without repeating the same item in each possible place.

We identified two areas where adjustments needing to be made.

- Clarify how we handle the situation that a participant falls out of contact.
- Updating complaint information we made available to participants to match new NZQA arrangements.

Our self-review identified the following:

- Significant injuries on site in past five years: nil
- Significant injuries on placement in the past five years: nil
- Significant injuries during home placement in the past five years: nil
- Critical incidents in the past five years: nil
- Complaints : We have never had an internal or external complaint about any breach of The Code (or its successor). We never had a current participant submit a complaint. One former (at the time) participant submitted a complaint about a matter unrelated to The Code, in 2021. NZQA found that complaint to be without merit.

We have update our policies to cover the situation in which a participant falls out of contact. It is worth noting that we tried getting guidance about this from NZQA as Code Administrator, but they gave no real assistance. We discussed the matter with others and came to our own decision about how to appropriately handle this.

We updated the complaint information to match new NZQA arrangements.

The Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Te Oranga me Te Haumaru Ākonga

Learner Wellbeing and Safety

NZQA

NEW ZEALAND QUALIFICATIONS AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

QUALIFY FOR THE FUTURE WORLD
KIA NOHO TAKATŪ KI TŌ ĀMUA AO!

This supplementary edition of the Code was published by NZQA in December 2021 to support the sector to implement the Code.

The official text of this Code can be found here:
https://www.education.govt.nz/further-education/information-for-tertiary-students/code-of-practice-pastoral-care-domestic-tertiary/

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01 | Introduction

1. Title

This code is the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.

2. Commencement

This code comes into force on 1 January 2022.

3. Application of Code

(1) This code specifies the role of providers in ensuring the organised and formal provision of practices to support the wellbeing and safety of –

(a) all tertiary learners generally; and

(b) tertiary learners residing in student accommodation; and

(c) international tertiary learners; and

(d) international school learners.

(2) Providers must implement all processes in this code in a way that appropriately responds to the needs of learners within particular learning, communal and residential contexts and is consistent with code administrator expectations.

(3) For tertiary providers this code applies to –

(a) the activities provided or organised by, or on behalf of, a provider for domestic and international tertiary learners enrolled with an education provider, whether learners are in New Zealand or offshore; and

(b) student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986 (RTA), including where there is a written agreement between the tertiary provider and the accommodation provider under section 5B(1)(b)(ii) of the RTA.

(4) For school signatories, this code applies to the activities provided or organised by, or on behalf of, a signatory for international school learners, whether learners are in New Zealand or offshore.

(5) The code administrator may exempt the following learners from the application of specific processes of this code –

(a) a school learner who changes status from domestic learner to international learner; or

(b) domestic tertiary learners or school or tertiary international learners where appropriate, with due consideration for wellbeing and safety, and on approval of the Minister of Education.

(6) This code does not override the responsibilities of education and accommodation providers under the Privacy Act 2020 or the Health Information Privacy Code made under that Act.

(7) This code contributes to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships in accordance with section 4(d) of the Education and Training Act 2020.

4. Approval and removal of signatory status

(1) Providers (that is, tertiary education providers and schools) may make an application to the code administrator to become signatories under Parts 6 and 7 of this code.

(2) The criteria for an applicant to become a signatory to this code are the following –

(a) the applicant is a provider; and

(b) the applicant provides, or is intending to provide, educational instruction; and

(c) the applicant has acceptable financial management practices and performance; and

(d) the applicant has policies and procedures in place that will enable it to achieve the outcomes sought and processes required by this code; and

(e) the code administrator does not otherwise consider the applicant to be unsuitable for approval as a signatory to this code.

(3) At the request of a signatory, or as a result of sanctions set out in Section 535 of the Education and Training Act 2020, the code administrator may remove a provider as a signatory to this code.

02 | How to read this code

5. Definitions

(1) In this code, unless the context otherwise requires, –

accommodation staff means any worker as defined by section 19 of the Health and Safety at Work Act 2015 who carries out work for an accommodation provider in student accommodation

Act means the Education and Training Act 2020

code administrator process relates to Part 8 of this code and has the same meaning as 238H of the Education Act 1989 which is saved by Schedule 1, clause 7(3) of the Education and Training Act 2020

contract of enrolment between international learners and signatories –

(a) in relation to a signatory that is a State school, has the same meaning as contract of enrolment in section 10(1) of the Act; or

(b) in relation to other signatories, means a written contract that is entered into between an international learner (or the learner's parent or legal guardian, if the learner is under 18 years) and the signatory that entitles the learner to receive educational instruction provided by that signatory

designated caregiver means a relative or close family friend designated in writing by a parent or legal guardian of an international learner under 18 years as the caregiver and accommodation provider for that learner

disabled or disability includes those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others (UN Convention on the Rights of Persons with Disabilities)

Dispute Resolution Scheme means the student contract Dispute Resolution Scheme established under section 536 of the Act

diverse means various backgrounds, experiences, and beliefs and a variety of needs across a range of learning contexts. Diversity in the learner population includes, but is not limited to, learners of varying ages, cultures, religions, sexual orientation, gender identities, international learners, refugee background learners, disabled learners, distance learners, and learners with care-experience

education agent means a person, body, or organisation acting on behalf of a signatory in relation to any aspect of their international learners' enrolment and study, including accommodation, and includes a subcontracted agent

educational instruction includes any –

(a) class, course or programme approved under section 524;

(b) approved programme that a provider is accredited to provide under section 441;

(c) training scheme approved under section 445;

(d) consent to assess against standards granted under section 449

education quality assurance agency means an agency or agencies authorised by the Act to exercise quality assurance functions in respect of providers

expatriation in relation to international learners means the process of moving a person from one country or locality to another

fee protection mechanism means a mechanism approved in rules made under section 452(1)(e) of the Act

homestay means accommodation provided to an international learner in the residence of a family or household in which no more than 4 international learners are accommodated

house rules mean the house rules put in place by an accommodation provider of exempt student accommodation under section 5B of the Residential Tenancies Act 1986

learner means a domestic tertiary student, an international student (either a tertiary or school student), or an industry trainee or apprentice enrolled with a tertiary provider

learner 'at risk' means that a tertiary provider or school has reasonable grounds to believe that there is a serious issue relating to the learner's health, safety, or wellbeing, including for example, the learner is unable to –

(a) adequately protect themselves against serious harm; or

(b) adequately safeguard their personal welfare

learning environment refers to the diverse physical and digital locations (e.g. teaching and learning, communal, and student accommodation), contexts, and cultures in which students learn

legal guardian means a person who, by court or testamentary appointment, is responsible for the learner's wellbeing and safety and financial support, and provides for the care of the learner or international learner in their home country

licensed hostel means a school hostel that is licensed under the Education (Hostels) Regulations 2005

mana means a person's intrinsic value and inherent dignity, whether derived from a person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the person's culture

practices mean the policies and processes implemented by the institution to realise the outcomes set out in this code

resident means a learner who resides in student accommodation

residential caregiver, of an international learner aged under 18, means –

(a) a homestay carer; or

(b) a licensed school hostel manager or other person responsible for the care of international learners in a licensed school hostel; or

(c) a designated caregiver; or

(d) a manager of tertiary student accommodation that is exempt from the Residential Tenancies Act 1986 and covered by Part 5 of this code; or

(e) in the case of temporary accommodation, a supervisor who is responsible for the care of international learners

routine check means a room visit and entry by a staff member of the provider where the provider has no cause for concern about the wellbeing or safety of the resident or another individual

signatory means a provider that has been approved by this code administrator to enrol international learners as a signatory to this code

stakeholders mean learners, staff, whānau, local communities, employers, iwi, and others who share a meaningful interest in the wellbeing and safety of learners enrolled with the provider

student accommodation means student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986

tikanga means Māori customary systems of values and practices

wellbeing and safety means having a positive frame of mind, resilience, satisfaction with self, relationships, and experiences and progressing towards learning outcomes sought. It also means being healthy and feeling secure

welfare check means a room visit and entry by a staff member of the provider where the provider, having attempted to obtain the consent of the resident for the entry, has serious concerns about the wellbeing or safety of the resident or another individual

welfare management plan means a plan put in place by the provider that sets out the steps to be taken to ensure the wellbeing and safety of a resident who is assessed to be at risk

(2) In this code, a reference to the age of a person is a reference to the age of the person on their last birthday.

03 Organisational structures to support a whole-of-provider approach to learner wellbeing and safety

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)

6. OUTCOME 1: A LEARNER WELLBEING AND SAFETY SYSTEM

Providers must take a whole-of-provider approach to maintain a strategic and transparent learner wellbeing and safety system that responds to the diverse needs of their learners.

7. Process 1: Strategic goals and strategic plans

(1) Providers must have strategic goals and strategic plans for supporting the wellbeing and safety of their learners across their organisation, including student accommodation, describing how they will –

(a) give effect to the outcomes sought and processes required by this code; and

(b) contribute to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relations.

(2) Providers must –

(a) regularly review their learner wellbeing and safety strategic goals and strategic plans as described in subclause (1); and

(b) make amendments to their learner wellbeing and safety strategic goals and strategic plans within a reasonable timeframe following the review.

(3) Providers must work proactively with learners and stakeholders (and document this work) when –

(a) developing their learner wellbeing and safety strategic goals and strategic plans described in subclause (1); and

(b) reviewing their learner wellbeing and safety strategic goals and strategic plans described in subclause (2).

8. Process 2: Self-review of learner wellbeing and safety practices

(1) Providers must use strategic goals and strategic plans described in clause 7(1) to regularly review the quality of their learner wellbeing and safety practices to achieve the outcomes and practices of this code, at a frequency or by a date determined by the code administrator.

(2) Providers must review their learner wellbeing and safety practices using –

(a) input from diverse learners and other stakeholders; and

(b) relevant quantitative and qualitative data (including from learner complaints) that is, as far as practicable, and consistent with the provider's obligations under current privacy legislation, disaggregated by diverse learner groups.

(3) Providers must, in a timely manner, following a review described in subclauses (1) and (2) take appropriate action to address any deficiencies in learner wellbeing and safety practices.

9. Process 3: Publication requirements

Providers must make the following information readily available, in accessible formats, to learners, staff and the general public, including on their websites (where available) –

(a) strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(1); and

(b) revisions to strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(2); and

(c) self-review reports on the quality of their learner wellbeing and safety practices described in clause 8.

10. Process 4: Responsive wellbeing and safety systems

(1) Providers must gather and communicate relevant information across their organisation (including student accommodation) and from relevant stakeholders to accurately identify emerging concerns about learners' wellbeing and safety or behaviour and take all reasonable steps to connect learners quickly to culturally appropriate social, medical, and mental health services.

(2) Providers must provide staff with ongoing training and resources tailored to their roles in the organisation, in relation to –

(a) Te Tiriti o Waitangi; and

(b) the provider's obligations under this code; and

(c) understanding the welfare issues of diverse learner groups and appropriate cultural competencies; and

(d) identifying and timely reporting of incidents of racism, discrimination, and bullying; and

(e) physical and sexual violence prevention and response, including how to support a culture of disclosure and reporting; and

(f) privacy and safe handling of personal information; and

(g) referral pathways (including to local service providers) and escalation procedures; and

(h) identifying and timely reporting of incidents and concerning behaviours; and

(i) wellbeing and safety awareness and promotion topics, including –

(i) safe health and mental health literacy and support; and

(ii) suicide and self-harm awareness; and

(iii) promoting drug and alcohol awareness; and

(iv) promoting healthy lifestyles for learners.

(3) Providers must have plans for assisting learners, and responding effectively, in emergency situations in the learning or residential community (whether localised or more widespread), including –

(a) making these plans readily available to learners when they begin their study; and

(b) ensuring that there are suitably prepared staff members available to be contacted by a learner, or learners, in the event of an emergency; and

(c) co-ordinating decision-making across the provider when responding to emergencies; and

(d) disseminating timely, accurate, consistent, and accessible information to learners and staff during emergencies; and

(e) ensuring all relevant staff are aware of the indicators of imminent danger to a learner or others and what action they can reasonably provide to help make them safe; and

(f) keeping a regularly updated critical incident and emergencies procedures manual which guides staff involved in emergency situations which contains the immediate and ongoing actions required including –

(i) engaging with relevant government agencies (e.g. the New Zealand Police, Ministry of Health, New Zealand Qualifications Authority, Tertiary Education Commission); and

(ii) the follow-up de-briefing processes to support all learners and relevant staff; and

(g) recording critical incidents and emergencies and reporting these back annually (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups) to provider management, learners, other stakeholders, and the code administrator.

11. OUTCOME 2: LEARNER VOICE

Providers understand and respond to diverse learner voices and wellbeing and safety needs in a way that upholds their mana and autonomy.

12. Process 1: Learner voice

Providers must have practices for –

(a) proactively building and maintaining effective relationships with diverse learner groups within their organisation; and

(b) working with diverse learners and their communities to develop, review, and improve learner wellbeing and safety strategic goals, strategic plans and practices; and

(c) providing formal and informal processes for actively hearing, engaging with, and developing the diverse range of learner voices and those of their communities; and

(d) providing timely and accessible resources to learners to support them and their learner communities to develop the necessary skills to enable them to participate fully in decision-making processes; and

(e) providing timely and accessible information to learners to increase transparency of providers' decision-making processes.

13. Process 2: Learner complaints

Providers must –

(a) work with learners to effectively respond to, and process complaints (including appropriate engagement with support people); and

(b) inform learners on how the complaint will be handled and how it is progressing; and

(c) handle complaints in a timely and efficient way, including having practices that –

(i) are appropriate to the level of complexity or sensitivity of the complaint; and

(ii) consider the issues from a cultural perspective; and

(iii) include the provision of culturally responsive approaches that consider traditional processes for raising and resolving issues (for example, restorative justice); and

(iv) comply with the principles of natural justice; and

(d) ensure that the complaints process is easily accessible to learners (and those supporting them), including having practices for –

(i) providing learners with clear information on how to use the internal complaints processes (including the relevant people to contact), and the scope and possible outcomes of the processes; and

(ii) addressing barriers to accessing this information (for example, due to language, lack of internet access, fear of reprisal, desire for anonymity), such as providing alternative ways of raising a complaint; and

(iii) providing an opportunity for a support person or people (who can be chosen by the learner) to guide and support the learner through the complaints process; and

(iv) providing the opportunity for groups of learners to make joint complaints; and

(e) record complaints; and

(f) report annually to provider management, learners, other stakeholders, and the code administrator (including on provider websites where available) on –

(i) the number and nature of complaints made and their outcomes (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups); and

(ii) learner experience with the complaints process and the outcome of their complaint; and

(g) promote and publicise complaint and dispute resolution processes available to learners including, but not limited to, the provider's internal complaints process, the education quality assurance agency complaints process, the code administrator's complaints process, and the Dispute Resolution Schemes; and

(h) advise learners, on the next steps available to them if the provider does not accept the complaint (or the learner or provider perceives that the provider does not have the cultural competency to deal with it), or the learner is not satisfied that the provider has made adequate progress towards resolving the complaint, or the learner is not satisfied with the provider's internal complaints process or outcome, including –

(i) how to seek resolution of a contractual or financial dispute by way of a complaint or referral to an appropriate body or agency depending on the subject matter of the dispute, for example, the code administrator, the Dispute Resolution Scheme, the Disputes Tribunal, the Human Rights Commission or the Ombudsman; and

(ii) how to make a complaint to the code administrator if a learner believes that the provider is failing to meet the outcomes or requirements of this code.

14. Process 3: Compliance with the Dispute Resolution Scheme

(1) Providers must ensure they are familiar with the relevant Dispute Resolution Scheme rules for domestic and international learners and ensure compliance with those rules in a dispute to which it is party.

(2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

04 Wellbeing and safety practices for all tertiary providers

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)

Physical and digital learning environments

15. OUTCOME 3: SAFE, INCLUSIVE, SUPPORTIVE, AND ACCESSIBLE PHYSICAL AND DIGITAL LEARNING ENVIRONMENTS

Providers must foster learning environments that are safe and designed to support positive learning experiences of diverse learner groups.

16. Process 1: Safe and inclusive communities

(1) Providers must have practices for –

(a) reducing harm to learners resulting from discrimination, racism (including systemic racism), bullying, harassment and abuse; and

(b) working with learners and staff to recognise and respond effectively to discrimination racism (including systemic racism), bullying, harassment and abuse; and

(c) promoting an inclusive culture across the learning environment; and

(d) upholding the cultural needs and aspirations of all groups throughout the learning environment; and

(e) providing all learners with information –

(i) that supports understanding, acceptance, and connection with all learners, and collective responsibility for an inclusive learning environment; and

(ii) about the cultural, spiritual, and community supports available to them; and

(f) providing learners with accessible learning environments where they can connect with others, build relationships, support each other, and welcome their friends, families, and whānau.

17. Process 2: Supporting learner participation and engagement

(1) Providers must provide learners with opportunities to –

(a) actively participate and share their views safely in their learning environment; and

(b) connect, build relationships and develop social, spiritual and cultural networks; and

(c) use te reo and tikanga Māori to support Māori learners' connection to identity and culture.

(2) Providers must have practices for supporting learners through their studies, including –

(a) enabling learners to prepare and adjust for tertiary study, and

(b) maintaining appropriate oversight of learner achievement and engagement; and

(c) providing the opportunity for learners to discuss, in confidence, any issues that are affecting their ability to study and providing learners with a response to their issues; and

(d) providing learners with advice on pathways for further study and career development, where appropriate.

18. Process 3: Physical and digital spaces and facilities

Providers must have practices for–

(a) providing healthy and safe learning environments; and

(b) identifying and, where possible, removing access barriers to provider facilities and services; and

(c) involving learners in the design of physical and digital environments when making improvements; and

(d) engaging with Māori and involving Māori in the design of physical and digital environments where appropriate.

19. OUTCOME 4: LEARNERS ARE SAFE AND WELL

Providers must support learners to manage their physical and mental health through information and advice, and identify and respond to learners who need additional support.

20. Process 1: Information for learners about assistance to meet their basic needs

(1) Providers must have practices for enabling all learners and prospective learners to identify and manage their basic needs (the essential material requirements to support wellbeing and safety including housing, food and clothing), including providing accurate, timely and tailored information on how they can –

(a) access services through the provider or through community and public services that will help them maintain reasonable standards of material wellbeing and safety; and

(b) access suitable accommodation and understand their rights and obligations as a tenant in New Zealand; and

(c) maintain a healthy lifestyle.

(2) If food is made available by the provider on campus or in student accommodation, the provider must ensure that the food available includes a range of healthy food options that is obtainable at a reasonable cost.

21. Process 2: Promoting physical and mental health awareness

Providers must have practices for –

(a) providing opportunities and experiences for learners that improve their physical and mental health and wellbeing and safety; and

(b) promoting awareness of practices that support good physical and mental health that are credible and relevant to learners; and

(c) supporting learners' connection to their language, identity, and culture; and

(d) providing accurate, timely information and advice to learners about –

(i) how they can access medical and mental health services through the provider or through community and public services, including culturally responsive services; and

(ii) how they can report health and safety concerns they have for their peers; and

(iii) how to respond to an emergency and engage with relevant government agencies; and

(iv) how they can make positive choices that enhance their wellbeing.

22. Process 3: Proactive monitoring and responsive wellbeing and safety practices

(1) Providers must have practices for –

(a) requesting that domestic learners 18 years and over provide a name and up-to-date contact details of a nominated person; and

(b) describing the circumstances in which the nominated person referred to in paragraph (a) should be contacted in relation to their wellbeing and safety; and

(c) contacting the person nominated by domestic learners 18 years and over, in the circumstances described in accordance with paragraph (b), or where the provider has reasonable grounds for believing that the disclosure is necessary to prevent or lessen a serious threat to the student's life or health; and

(d) enabling learners to communicate health and mental health needs with staff in confidence, including accommodation staff, so that the provider can proactively offer them support; and

(e) providing opportunities for learners to raise concerns about themselves or others in confidence; and

(f) identifying learners at risk and having clear and appropriate pathways for assisting them to access services when they need it; and

(g) identifying learners who are at risk of harming others, and –

(i) having clear and appropriate pathways for assisting them to access services when they need it; and

(ii) protecting learners and staff who experience harm from other learners and/or staff, including sexual assault; and

(h) making arrangements with disabled learners or those affected by health and wellbeing difficulties to accommodate learning needs, including for study off-campus; and

(i) responding to disruptive and threatening behaviour in a way that is sensitive to a learner's situation; and

(j) supporting learners whose study is interrupted due to circumstances outside their control, and providing inclusive, accessible re-entry processes for their transition back into tertiary study.

(2) Providers must have up-to-date contact details and next of kin for domestic tertiary learners under 18 and international tertiary learners.

(3) Providers must contact the next of kin for domestic tertiary learners under 18 years and international tertiary learners if there is concern regarding the wellbeing or safety of a learner.

(4) Providers must maintain a record of reported risks, including any concerns raised in relation to the effective administration of this code.

05 Additional wellbeing and safety practices in tertiary student accommodation (in relation to domestic and international tertiary learners)

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners. Tertiary providers are responsible for ensuring requirements are met in student accommodation)

23. OUTCOME 5: A POSITIVE, SUPPORTIVE AND INCLUSIVE ENVIRONMENT IN STUDENT ACCOMMODATION

Providers must ensure that student accommodation promotes and fosters a supportive and inclusive community which support the wellbeing and safety of residents.

24. Process 1: Information and promotional activities

(1) Providers must ensure student accommodation has practices for –

(a) ensuring residents receive clear, sufficient, accurate and transparent information and advice about the type and nature of student accommodation and services provided; and

(b) using information provided by prospective residents at the time of application, to help plan their transition into student accommodation; and

(c) working with residents to develop and provide information and tools that help residents understand their responsibilities within a communal living environment, including those relating to diversity; and

(d) providing residents with learning and peer support, and information on –

(i) self-care and positive wellbeing and safety; and

(ii) how to access wellbeing services on campus and in the community; and

(iii) how to provide peer support to other residents; and

(e) providing residents with information and advice on what action to take in an emergency and the mechanisms for reporting incidents and raising health and safety concerns.

(2) The information required by this clause must be readily available, accessible, and promoted to residents.

25. Process 2: Accommodation staff

Providers must ensure that –

(a) accommodation staff are provided with ongoing training and resources that are appropriate for their role as set out in clause 10(2); and

(b) the experience and training of accommodation staff is appropriate for the type and nature of accommodation that is being provided; and

(c) there is managerial oversight of accommodation staff at all times (24 hours a day, 7 days a week) so that issues can be escalated when they occur; and

(d) the level of live-in accommodation staffing provides appropriate oversight and support for residents based on the type and nature of accommodation (for example, a higher level of staffing for halls of residence primarily intended for first-year learners); and

(e) there is ongoing wellbeing support for accommodation staff.

26. Process 3: Accommodation staff must be fit and proper persons

Providers must take all reasonable steps to ensure that each member of the accommodation staff –

(a) is suitable for employment in student accommodation; and

(b) are the subject of a Police vet where required under the Children's Act 2014 if the accommodation includes learners who are under 18.

27. Process 4: Proactive monitoring of residents' wellbeing and safety and responsive wellbeing and safety practices

(1) Providers must ensure student accommodation has practices for –

(a) working with residents to evaluate their needs and planning how these can be reasonably and practicably met and monitored; and

(b) having clearly defined processes within the student accommodation for –

(i) residents, staff, or visitors to be able to report a cause for concern about a resident's behaviour; and

(ii) referring and responding to instances of resident behaviours that are a risk to self or others; and

(c) having appropriate welfare safeguards, including –

(i) developing and implementing a welfare management plan for residents assessed as being at risk, that includes welfare checks and which could include referral to external services; and

(ii) systems to regularly check that residents continue to be active within their student accommodation and, if a resident is identified as being at risk, developing and implementing a welfare management plan; and

(iii) appropriate arrangements for residents under 18, including for effective communication with a parent or legal guardian regarding wellbeing and safety; and

(iv) welfare checks, which may be undertaken where reasonable in the circumstances (this information must be clearly set out in the house rules for residents); and

(v) routine checks providing 24 hours' notice to a resident if staff members will be entering a resident's room.

(2) Providers must have a link between student accommodation and its organisation's wider information gathering and communication system described in clause 10(1), to report any emerging concerns about a resident's wellbeing or their behaviour, so residents can be connected quickly to the appropriate services.

(3) Providers must ensure that there is a critical incident and emergency procedures manual in student accommodation which –

(a) is consistent with the provider's wider organisational manual described in clause 10(3)(e); and

(b) includes plans for residents when it becomes unsuitable or unsafe for them to remain in student accommodation in an emergency.

28. Process 5: A safe and inclusive residential community

In addition to the requirements described in outcome 3, providers must ensure student accommodation has practices for –

(a) ensuring that house rules are clear, reasonable, and accessible to residents, and that they promote and encourage –

(i) resident safety; and

(ii) a sense of community and association with fellow residents; and

(iii) learning and personal growth; and

(iv) residents and staff working together to ensure a positive and respectful community; and

(b) working with residents to –

(i) develop and improve house rules; and

(ii) develop and maintain appropriate initiatives to build a sense of community within student accommodation; and

(iii) promote responsible social behaviour and academic success.

29. OUTCOME 6: ACCOMMODATION ADMINISTRATIVE PRACTICES AND CONTRACTS

Providers must ensure that student accommodation contracts and practices are transparent, reasonable, and responsive to the wellbeing and safety needs of residents.

30. Process 1: General principles

Providers must ensure that student accommodation providers have practices that include –

(a) disclosing on its website –

(i) the ownership structure and operator details of its student accommodation arrangements; and

(ii) the details of the wellbeing and safety practices offered at each student accommodation facility; and

(b) a human resource strategy which –

(i) requires the job descriptions for all accommodation staff to clearly describe –

a. the duties and responsibilities of the role in relation to the learner wellbeing and safety; and

b. the relevant competencies and attributes that a person must demonstrate to be able to fulfil that role, and the ongoing training that will be available to develop these competencies; and

(ii) sets out the support services that are available to ensure the wellbeing and safety of accommodation staff in carrying out their duties and responsibilities.

31. Process 2: Student accommodation contracts

(1) Providers must ensure that a student accommodation contract with a resident –

(a) is clear, accessible and concise; and

(b) sets out the responsibilities of the provider and the resident; and

(c) advises residents of the requirements for –

(i) information sharing across the provider; and

(ii) the regular processes for checking on residents; and

(d) sets out the deposit, bond components, fees, refund policy and penalties; and

(e) sets out the complaints, conflict resolution, and disciplinary processes in relation to residents.

(2) Providers must ensure that the student accommodation contract used with residents is reviewed and updated regularly to ensure it remains fit for purpose in relation to wellbeing and safety matters, taking into account the views of learners and their representative bodies.

(3) Providers must ensure student accommodation refund policies –

(a) are reasonable; and

(b) provide residents (or a parent or legal guardian of residents under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(4) Providers must ensure student accommodation providers give prospective residents a copy of the house rules, and information about the complaints process and the Dispute Resolution Scheme before they sign the accommodation contract.

(5) Providers must ensure that accommodation providers keep a log of complaints received from residents concerning a breach or breaches of this code in relation to student accommodation and make this log available to the residents.

32. OUTCOME 7: STUDENT ACCOMMODATION FACILITIES AND SERVICES

Providers must ensure that student accommodation facilities and services are maintained to a standard sufficient to support residents' wellbeing and safety and educational success.

33. Process:

(1) Providers must ensure that student accommodation facilities and services –

(a) respond effectively to the diverse needs of residents and make necessary adjustments where practicable; and

(b) provide accessible spaces for a range of interests, activities and needs; and

(c) are secure, clean, dry, warm, comfortable, accessible, and is conducive to study and a variety of learning styles; and

(d) provide utilities, services and other facilities that are adequate and appropriate for the character and size of the residential community; and

(e) have appropriate insurance cover; and

(f) are funded adequately to carry out strategic goals and strategic plans for student accommodation, including repairs, replacement, and improvements; and

(g) have adequate and appropriate controls in place to ensure accountability for financial processes including –

(i) providing receipts for all financial transactions with the resident; and

(ii) providing residents with up-to-date information on what they owe to the accommodation provider.

(2) Providers must ensure that any alterations, maintenance and repairs to student accommodation are undertaken in a timely manner that minimises interference with the quiet enjoyment of the residents.

06 Additional wellbeing and safety practices for tertiary providers (signatories) enrolling international learners

(These requirements for providers enrolling international tertiary learners are in addition to the requirements for Part 3, Part 4, and Part 5)

34. OUTCOME 8: RESPONDING TO THE DISTINCT WELLBEING AND SAFETY NEEDS OF INTERNATIONAL TERTIARY LEARNERS

Signatories must ensure that practices under this code respond effectively to the distinct wellbeing and safety needs of their diverse international tertiary learners.

35. Process:

Signatories must engage with diverse international tertiary learners to understand their wellbeing and safety needs under the outcomes of Parts 3, 4 and 5 of this code.

36. OUTCOME 9: PROSPECTIVE INTERNATIONAL TERTIARY LEARNERS ARE WELL INFORMED

Signatories ensure that prospective international tertiary learners receive clear, accessible, accurate and sufficient information, and make informed choices about the study and services a signatory provides before they begin their study.

37. Process 1: Marketing and promotion

Each signatory must have marketing and promotion practices, that include –

(a) proactively seeking to understand the information needs of prospective international tertiary learners; and

(b) developing and providing information to prospective international tertiary learners and reviewing the information to ensure it is kept up to date; and

(c) ensuring that prospective international tertiary learners receive, as a minimum, up-to-date accessible and timely information about the following –

(i) the signatory's quality assurance evaluations; and

(ii) the educational instruction, staffing, facilities, and equipment available to international tertiary learners; and

(iii) the Dispute Resolution Scheme; and

(iv) potential learning outcomes for international tertiary learners, including pathways for further study, employment, and residency where applicable; and

(v) estimated study and living costs for international tertiary learners, including any additional fees or levies that are on top of the basic tuition fee; and

(vi) accommodation and transport, or ways to obtain such information.

38. Process 2: Managing and monitoring education agents

Signatories must have practices for effectively managing and monitoring the performance and conduct of education agents in relation to learner safety and wellbeing under this code, including –

(a) carrying out and recording reference checks on potential education agents to ensure as far as possible that they are not involved in any conduct that is false, misleading, deceptive, or in breach of the law; and

(b) entering into written contracts with each of its education agents; and

(c) during the term of a contract, monitoring the activities and performance of its education agents in relation to –

(i) their obligations as specified in the contract; and

(ii) whether they provide prospective and enrolled international tertiary learners with reliable information and advice about studying, working, and living in New Zealand; and

(iii) whether they act with integrity and professionalism in their dealings with prospective and enrolled international tertiary learners; and

(iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and

(d) managing the education agents by –

(i) terminating contracts with an agent if there is evidence which, on balance of probabilities, shows that the education agent –

a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or

b. has jeopardised the signatory's compliance with this code; or

(ii) taking appropriate action to address misconduct by act or an omission by an education agent in relation to the other matters described in subclause (c); and

(e) ensuring that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

39. OUTCOME 10: OFFER, ENROLMENT, CONTRACTS, INSURANCE AND VISA

Signatories must have practices for enabling learners to make well-informed enrolment decisions in relation to the educational outcomes being sought by the learner and ensuring that all relevant parties are clear about their interests and obligations prior to entering into the enrolment contract.

40. Process 1: Offer of educational instruction

Signatories must ensure that the educational instruction offered to international tertiary learners is in accordance with the Act and is appropriate for international tertiary learners' expectations, English language proficiency, academic ability, and the educational outcomes being sought.

41. Process 2: Information to be provided before entering contract

(1) Signatories must have practices that ensure prospective international tertiary learners (or the parents or legal guardian of international students under 18 years) receive, as a minimum, accurate, timely and tailored information about the following before entering into a contract with the learner –

(a) the most recent results of their evaluations by education quality assurance agencies; and

(b) quality improvement or compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international tertiary learners; and

(c) the education provided and its outcome, for example, whether a qualification is granted; and

(d) refund conditions that comply with the process in clause 46; and

(e) staffing, facilities, and equipment; and

(f) available services and supports; and

(g) insurance and visa requirements for receiving educational instruction from the signatory; and

(h) this code and the relevant Dispute Resolution Scheme Rules; and

(i) full costs related to an offer of educational instruction.

(2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international tertiary learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

42. Process 3: Contract of enrolment

(1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international tertiary learner (or the parents or legal guardian of international students under 18 years) that includes the following information and terms –

(a) clear information about the beginning and end dates of enrolment; and

(b) the grounds for terminating the contract of enrolment; and

(c) the circumstances under which the learner's conduct may be in breach of the contract of enrolment; and

(d) the type of disciplinary action short of termination of the contract of enrolment, that may be taken by the signatory against the student (for example suspension or exclusion); and

(e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).

(2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

43. Process 4: Disciplinary action

Any process undertaken under clause 42(1)(e) for terminating the contract of enrolment under clause 42(1)(b) or for taking disciplinary action under clause 42(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

44. Process 5: Insurance

(1) Each signatory must have practices that ensure, as far as practicable, each international tertiary learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –

(a) the international tertiary learner's travel –

(i) to and from New Zealand; and

(ii) within New Zealand; and

(iii) if the travel is part of the educational instruction, outside New Zealand; and

(b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and

(c) repatriation or expatriation of the international tertiary learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and

(d) death of the international tertiary learner, including cover of –

(i) travel costs of family members to and from New Zealand; and

(ii) costs of repatriation or expatriation of the body; and

(iii) funeral expenses.

(2) Subclause (1)(a)(i) and (ii) includes the international tertiary learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).

(3) Subclause (1)(a)(i) does not include the international tertiary learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

45. Process 6: Immigration matters

Signatories must have practices that as far as possible will ensure that international tertiary learners are entitled to study in New Zealand under the Immigration Act 2009, including –

(a) ensuring that each international tertiary learner who enrols with the signatory has the necessary immigration status for study in New Zealand; and

(b) reporting to Immigration New Zealand known or suspected breaches of visa conditions by international tertiary learners; and

(c) notifying Immigration New Zealand of terminations of enrolment.

46. Process 7: Student fee protection and managing withdrawal and closure

(1) Signatories must ensure that –

(a) fees paid by international tertiary learners are secure and protected in the event of student withdrawal or the ending of educational instruction or the closure of a signatory; and

(b) its refund policies are fair and reasonable; and

(c) it provides its international tertiary learners (or the parents or legal guardian of international tertiary learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(2) A refund policy must include refund conditions for the following situations –

(a) failure by an international tertiary learner to obtain a study visa; and

(b) voluntary withdrawal by an international tertiary learner; and

(c) the signatory ceasing to provide a course of educational instruction as contracted with an international tertiary learner, whether as the result of a decision by the signatory or as required by an education quality assurance agency; and

(d) the signatory ceasing to be a signatory; and

(e) the signatory ceasing to be a provider.

(3) In the situation in subclause (2)(c) or (d), the tertiary signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –

(a) refund the amount in question to the international tertiary learner (or the learner's parent or legal guardian); or

(b) if directed by the international tertiary learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount agreed with the student (or the student's parent or legal guardian if the student is under 18 years) to another signatory.

47. OUTCOME 11: INTERNATIONAL LEARNERS RECEIVE APPROPRIATE ORIENTATIONS, INFORMATION AND ADVICE

Signatories must ensure that international tertiary learners have the opportunity to participate in well-designed and age-appropriate orientation programmes and continue to receive relevant information and advice to support achievement, wellbeing and safety.

48. Process: Provision of information

Signatories must –

(a) ensure that information and advice provided by the signatory to international tertiary learners is accurate, age-appropriate, up to date and presented in a way that meets the ongoing needs of diverse learners; and

(b) ensure that ongoing provision of information and advice is appropriate to the needs of the learner (or the parents or legal guardian of international learners under 18 years) within the particular learning, communal and residential context; and

(c) provide the names and contact details of designated staff members responsible for international tertiary learner support; and

(d) provide appropriate information relating to health and safety of international tertiary learners (including in relation to any disabilities or impairments a learner may have); and

(e) provide information about the termination of enrolment; and

(f) provide information to international tertiary learners (or the parents or legal guardian of international learners under 18 years) about their legal rights and obligations and, where possible, the risks when learners receive or accept advice or services; and

(g) provide information about the international tertiary learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction; and

(h) provide each international tertiary learner with full information and advice on –

(i) all relevant policies of the signatory; and

(ii) the services, support, and facilities that the signatory offers; and

(iii) where applicable, how to adjust to a different cultural environment; and

(iv) where applicable –

a. minimum wages and labour conditions in New Zealand

b. maximum hours of work permitted under visa conditions; and

c. how to access information and support regarding employment; and

d. how to report misconduct by employers; and

(i) for an international tertiary learner under 18 years ensure where applicable, that any parent, legal guardian, or residential caregiver of the learner has access to the information, advice or programme that has been provided to the learner.

49. OUTCOME 12: SAFETY AND APPROPRIATE SUPERVISION OF INTERNATIONAL TERTIARY LEARNERS

Signatories ensure that international tertiary learners are safe and appropriately supervised in their accommodation and effectively communicate with the parents or legal guardian of learners under 18 years.

50. Process 1: International tertiary learners under 18 years

(1) In relation to international tertiary learners under 18 years, each signatory must have additional practices including –

(a) not enrolling an international tertiary learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –

(i) the learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or

(ii) the learner is in the care of the manager of tertiary student accommodation covered in Part 5 of this code; or

(iii) the learner is in the care of a residential caregiver; and

(b) maintaining effective communications with the parents, legal guardian, or residential caregivers of international tertiary learners concerning their wellbeing and progress in study; and

(c) ensuring that at least 1 staff member is designated to proactively monitor and address any concerns about international tertiary learners under 18 years; and

(d) if the international tertiary learner is in the care of a residential caregiver, –

(i) ensuring that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –

a. each transfer that occurs during the period of enrolment; and

b. the transfer that occurs at the end of enrolment; and

(ii) ensuring that the parent or legal guardian is notified of each transfer plan.

51. Process 2: International tertiary learners under 10 years

(1) Each signatory must ensure that its international tertiary learners under 10 years live with a parent or legal guardian.

(2) The requirements in clauses 49 and 50 apply, in addition to this clause, to international tertiary learners who are under 10 years.

52. Process 3: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international tertiary learner under 18 years with respect to decisions affecting the learner.

53. Process 4: Accommodation for international tertiary learners under 18 years

(1) In relation to an international tertiary learner under 18 years who is in the care of a residential caregiver while living in accommodation that is **not subject to Part 5** of this code, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and

(b) ensure that the safety check referred to in clause 54 is completed and is up to date; and

(c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver's accommodation, for the purpose of ensuring the safety of the learner; and

(d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and

(e) maintain effective communication with the learner and the learner's parent or legal guardian when accommodation issues arise, and take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and

(f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and

(g) if the learner's residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory's approval and that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of the designated caregiver; and

(h) if the learner's residential caregiver is a supervisor described in clause 54(3), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of that supervisor; and

(i) ensure that there is appropriate separation of international tertiary learners from others of different ages in the accommodation; and

(j) ensure that the learner is appropriately supervised in the accommodation.

(2) For the purposes of clause 53(1)(c), a person who is 18 years or over and who resides at the residential caregiver's accommodation includes a person of that age who –

(a) temporarily resides at that accommodation; or

(b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.

(3) To avoid doubt, if the residential caregiver is a supervisor described in clause 54(3) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the international tertiary learner.

54. Process 5: Safety checks and appropriate checks for learners under 18 years

(1) The safety check for the residential caregiver referred to in clause 53(1)(b) must include –

(a) a confirmation of identity; and

(b) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –

(i) the residential caregiver's current or previous employer, professional body, or registration authority; and

(ii) the licensing authority that is relevant to the residential caregiver's business or professional activities; and

(iii) a person who is not related to the residential caregiver; and

(c) a police vet, to obtain information that is relevant to a risk assessment; and

(d) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and

(e) a risk assessment that takes into account all of the information that was obtained under paragraphs (a) to (d), to determine whether the residential caregiver poses a risk to the safety of the international tertiary learner; and

(2) The safety check for the residential caregiver referred to in clause 53(1)(b) is **up to date** if it is completed within 3 years after the date of the latest safety check.

(3) Subclause (1)(b) to (e) does not apply to a residential caregiver who –

(a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and

(b) is not a resident of New Zealand; and

(c) is travelling with, and accompanying, the international tertiary learner for the purpose of supervising them during the learner's educational instruction.

(4) An appropriate check referred to in clause 53(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

55. Process 6: Accommodation for international tertiary learners 18 or over

(1) In relation to an international tertiary learner 18 years or over who lives in accommodation provided or arranged by a signatory and **not subject to Part 5**, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and

(b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.

(2) In this clause, accommodation issues include issues of health and wellbeing arising from a learner's accommodation or connected with it.

07 Wellbeing and safety practices for schools enrolling international learners

What signatories must do

56. OUTCOME 13: MARKETING AND PROMOTION

Signatories must ensure that the marketing and promotion to prospective international school learners of services provided by signatories includes clear, sufficient, and accurate information enabling those learners to make informed choices about the services provided.

57. Process:

Each signatory must –

(a) proactively seek to understand the information needs of prospective international school learners; and

(b) develop and provide information to prospective international school learners and review the information to ensure it is kept up to date; and

(c) ensure that prospective international school learners receive, as a minimum, up-to-date and timely information about the following –

(i) the signatory's quality assurance evaluations; and

(ii) the educational instruction, staffing, facilities, and equipment available to international learners; and

(iii) the relevant Dispute Resolution Scheme Rules; and

(iv) potential learning outcomes for international learners, including pathways for further study, employment, and residency where applicable; and

(v) estimated study and living costs for international learners; and

(vi) accommodation and transport, or ways to obtain such information.

58. OUTCOME 14: MANAGING AND MONITORING EDUCATION AGENTS

Signatories must effectively manage and monitor their education agents to ensure that those education agents –

(a) provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and

(b) act with integrity and professionalism towards prospective international school learners; and

(c) do not breach the law or jeopardise the signatory's compliance with this code.

59. Process:

Each signatory must –

(a) carry out and record reference checks on potential education agents to ensure as far as possible that they have not been involved in any conduct that is false, misleading, deceptive, or in breach of the law; and

(b) enter into written contracts with each of its education agents; and

(c) during the term of a contract, monitor the activities and performance of its education agents in relation to –

(i) their obligations as specified in the contract; and

(ii) whether they provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and

(iii) whether they act with integrity and professionalism in their dealings with prospective international school learners; and

(iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and

(d) manage the education agents by –

(i) terminating contracts with an education agent if there is evidence which, on balance of probabilities, shows that the agent –

a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or

b. has jeopardised the signatory's compliance with this code; or

(ii) taking appropriate action to address conduct or an omission by an education agent in relation to the other matters described in subclause (c); and

(e) ensure that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

60. OUTCOME 15: OFFER, ENROLMENT, CONTRACTS, AND INSURANCE

Signatories must –

(a) support international school learners (or the parents or legal guardian of international school learners under 18 years) to make well-informed enrolment decisions that are appropriate to the educational outcomes sought; and

(b) ensure that international school learners (or the parents or legal guardian of international school learners under 18 years) have the information required to understand their interests and obligations before entering into a legally binding contract with a signatory; and

(c) ensure that each contract of enrolment is fair and reasonable; and

(d) ensure that any disciplinary action is taken in accordance with the principles of natural justice; and

(e) ensure that international school learners have the appropriate insurance coverage, including insurance covering travel costs, medical care, and costs associated with repatriation, expatriation, and funeral expenses; and

(f) ensure that proper documentation is kept and, where appropriate, provided to international school learners (or the parents or legal guardian of international school learners under 18 years).

61. Process 1: Offer of educational instruction

Each signatory must ensure that the educational instruction on offer is in accordance with the Act and is appropriate for international school learners' expectations, English language proficiency, and academic capability.

62. Process 2: Information to be provided before entering contract

(1) Each signatory must ensure international school learners receive, as a minimum, information about the following before entering into a contract with the learner –

(a) the most recent results of their evaluations by education quality assurance agencies; and

(b) compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international school learners; and

(c) the education provided and its outcome, for example, whether a qualification is granted; and

(d) refund conditions that comply with the outcome and process in clauses 80 and 81; and

(e) staffing, facilities, and equipment; and

(f) available services and supports; and

(g) insurance and visa requirements for receiving educational instruction from the signatory; and

(h) this code and the relevant Dispute Resolution Scheme Rules; and

(i) full costs related to an offer of educational instruction.

(2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international school learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

63. Process 3: Contract of enrolment

(1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international school learner that includes the following information and terms –

(a) clear information about the beginning and end dates of enrolment; and

(b) the grounds for terminating the contract of enrolment; and

(c) the circumstances under which the school learner's conduct may be in breach of the contract of enrolment (including conduct that occurs while the learner is not under the immediate supervision or control of the signatory); and

(d) the type of disciplinary action short of termination of the contract of enrolment that may be taken by the signatory against the student (for example suspension or exclusion); and

(e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).

(2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

64. Process 4: Disciplinary action

Any process undertaken under clause 63(1)(e) for terminating the contract of enrolment under clause 63(1)(b) or for taking disciplinary action under clause 63(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

65. Process 5: Insurance

(1) Each signatory must ensure that, as far as practicable, each international school learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –

(a) the school learner's travel –

(i) to and from New Zealand; and

(ii) within New Zealand; and

(iii) if the travel is part of the educational instruction, outside New Zealand; and

(b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and

(c) repatriation or expatriation of the school learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and

(d) death of the school learner, including cover of –

(i) travel costs of family members to and from New Zealand; and

(ii) costs of repatriation or expatriation of the body; and

(iii) funeral expenses.

(2) Subclause (1)(a)(i) and (ii) includes the school learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).

(3) Subclause (1)(a)(i) does not include the school learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

66. Process 6: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international school learner under 18 years with respect to decisions affecting the learner.

67. OUTCOME 16: IMMIGRATION MATTERS

Signatories must –

(a) ensure that they do not allow or continue to allow a person to undertake educational instruction if that person is not entitled under the Immigration Act 2009 to undertake the educational instruction; and

(b) take reasonable precautions and exercise due diligence in ascertaining whether international school learners are entitled under the Immigration Act 2009 to undertake the educational instruction for which they enrol.

68. Process:

Each signatory must –

(a) ensure that each international school learner who enrols with the signatory has the necessary immigration status for study in New Zealand; and

(b) report to Immigration New Zealand known or suspected breaches of visa conditions by international school learners; and

(c) notify Immigration New Zealand of terminations of enrolment.

69. OUTCOME 17: ORIENTATION

Signatories must ensure that international school learners have the opportunity to participate in a well-designed and age-appropriate programme that provides the information and advice necessary for a learner at the outset of their educational instruction.

70. Process:

(1) Each signatory must ensure its orientation programme –

(a) provides each international school learner with full information and advice on all relevant institutional policies; and

(b) provides each international school learner with full information and advice on the services, support, and facilities that the signatory offers; and

(c) provides the names and contact details of designated staff members responsible for international school learner support; and

(d) provides appropriate information relating to health and safety of international school learners; and

(e) provides information about complaints procedures for international school learners, both internal and external; and

(f) provides information about the termination of enrolment; and

(g) provides information about the school learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction.

(2) For an international school learner under 18 years, a signatory must ensure, where applicable, that any parent, legal guardian, or residential caregiver of the learner who is in New Zealand and accompanying the learner has access to the orientation information or programme that has been provided to the learner.

71. OUTCOME 18: SAFETY AND WELLBEING

Signatories must –

(a) provide a safe study environment for international school learners; and

(b) provide adequate support for the wellbeing of international school learners; and

(c) as far as practicable, ensure that international school learners live in a safe environment.

72. Process 1: General

Each signatory must –

(a) respond fairly and effectively to instances of inappropriate behaviour by, or impacting on, an international school learner; and

(b) develop and maintain policies for managing inappropriate behaviour that are communicated to staff and learners and effectively implemented; and

(c) advise international school learners on how to –

(i) report and address health and safety issues (for both on campus and off campus activities); and

(ii) respond to an emergency (for both on campus and off campus activities); and

(iii) access health and counselling services; and

(iv) engage with relevant government agencies such as the New Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989; and

(d) have up-to-date contact details for each international school learner and their next of kin; and

(e) ensure that at all times there is at least 1 staff member available to be contacted by an international school learner in an emergency.

73. Process 2: International school learners under 18 years

(1) In relation to international school learners under 18 years, each signatory must –

(a) not enrol an international school learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –

(i) the school learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or

(ii) the school learner is in the care of a residential caregiver; and

(b) have up-to-date contact details for the learners' parents, legal guardian, and residential caregivers; and

(c) maintain effective communications with the parents or legal guardian, and residential caregivers (if any) of learners concerning their wellbeing and progress in study; and

(d) [deleted]

(e) ensure at least 1 staff member is designated to proactively monitor and address any concerns about international school learners under 18 years; and

(f) if the school learner is in the care of a residential caregiver, –

(i) ensure that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –

a. each transfer that occurs during the period of enrolment; and

b. the transfer that occurs at the end of enrolment; and

(ii) ensure that the parent or legal guardian is notified of each transfer plan.

(2) The requirements in clause 72 apply, in addition to this clause, to international school learners who are 10 years or older but under 18 years.

74. Process 3: International school learners under 10 years

(1) Each signatory must ensure that its international school learners under 10 years live with a parent or legal guardian, unless they are accommodated in a school hostel.

(2) The requirements in clauses 72 and 73 apply, in addition to this clause, to international school learners who are under 10 years.

75. Process 4: International school learners at risk or with additional learning needs

(1) Each signatory must ensure that –

(a) appropriate measures are put in place to address the needs and issues of international school learners at risk or with additional learning needs; and

(b) the parent or legal guardian of a school learner under 18 years or the next of kin of a learner 18 years or over is aware of any situation where the learner is at risk or has additional learning needs; and

(c) where appropriate and in compliance and subject to the principles of the Privacy Act 2020, issues relating to the learners are reported to relevant agencies such as the New Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989, and to the code administrator.

(2) A learner is at risk if the signatory has reasonable grounds to believe that there is a serious issue relating to the learner's health, safety, or wellbeing, including, for example, –

(a) the learner is unable to adequately protect themselves against significant harm or exploitation; and

(b) the learner is unable to adequately safeguard their personal welfare.

(3) A learner with additional learning needs includes a learner who –

(a) is a disabled learner; or

(b) experiences other difficulties which affect the learner's ability to participate, learn, and achieve; and

(c) requires the provision of adapted programmes or learning environments, or specialised equipment or materials to support the learner to access the curriculum, participate, learn, and achieve.

(4) This clause applies in addition to the requirements set out in clauses 72, 73 and 74.

76. Process 5: Accommodation

(1) In relation to an international school learner under 18 years who is in the care of a residential caregiver, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and

(b) ensure that the safety check referred to in clause 77(1) is completed and is up to date; and

(c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver's accommodation, for the purpose of ensuring the safety of the learner; and

(d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and

(e) maintain effective communication with the learner and the learner's parent or legal guardian when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and

(f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and

(g) if the learner's residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory's approval and that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of the designated caregiver; and

(h) if the learner's residential caregiver is a supervisor described in clause 77(2), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of that supervisor; and

(i) ensure that there is appropriate separation of international learners from others of different ages in the accommodation; and

(j) ensure that the learner is appropriately supervised in the accommodation.

(2) For the purposes of clause 76(1)(c), a person who is 18 years or over and who resides at the residential caregiver's accommodation includes a person of that age who –

(a) temporarily resides at that accommodation; or

(b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.

(3) In relation to an international school learner 18 years or over who lives in accommodation provided or arranged by a signatory, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and

(b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.

(4) In relation to an international school learner 18 years or over who arranges accommodation for themselves, the signatory must ensure that the learner is directed to relevant advice and information that will enable the learner to understand their rights and obligations as a tenant in New Zealand.

(5) To avoid doubt, if the residential caregiver is a supervisor described in clause 77(2) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the learner.

(6) In this clause, **accommodation issues** include issues of health and wellbeing arising from a learner's accommodation or connected with it.

77. Process 6: Safety checks and appropriate checks

(1) The safety check for the residential caregiver referred to in clause 76(1)(b) –

(a) must include –

(i) a confirmation of identity; and

(ii) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –

a. the residential caregiver's current or previous employer, professional body, or registration authority:

b. the licensing authority that is relevant to the residential caregiver's business or professional activities:

c. a person who is not related to the residential caregiver; and

(iii) a police vet, to obtain information that is relevant to a risk assessment; and

(iv) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and

(v) a risk assessment that takes into account all of the information that was obtained under paragraph (a)(i) to (iv), to determine whether the residential caregiver poses a risk to the safety of the learner; and

(b) is **up to date** if it is completed within 3 years after the date of the latest safety check.

(2) Subclause (1)(a)(ii) to (v) does not apply to a residential caregiver who –

(a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and

(b) is not a resident of New Zealand; and

(c) is travelling with, and accompanying, the international school learner for the purpose of supervising them during the learner's educational instruction.

(3) An appropriate check referred to in clause 76(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

78. OUTCOME 19: LEARNER SUPPORT, ADVICE AND SERVICES

International school learners are fully informed by, and receive relevant advice from, their signatories on services to support their educational outcomes.

79. Process:

Each signatory must have practices for –

(a) ensuring that information and advice provided by the signatory to international school learners is accurate, age-appropriate, and up to date; and

(b) providing its international learners with information about their legal rights and obligations and, where possible, the possible risks when learners receive or accept advice or services; and

(c) providing its international school learners with information and advice on –

(i) how to effectively interact with persons from different cultural backgrounds; and

(ii) the cultural and community support available to them; and

(iii) how to adjust to a different cultural environment in New Zealand; and

(d) ensuring that its international school learners are provided with information on education and residency pathways and advice on pathways for further study or career development, where appropriate; and

(e) ensuring that, where applicable, its international school learners have access to information and advice on –

(i) minimum wages and labour conditions in New Zealand; and

(ii) maximum hours of work permitted under visa conditions; and

(iii) how to access information and support regarding employment; and

(iv) how to report misconduct by employers.

80. OUTCOME 20: MANAGING WITHDRAWAL AND CLOSURE

Signatories must ensure that the fees paid by international learners for educational instruction in New Zealand are secure and protected in the event of learner withdrawal or the ending of educational instruction or the closure of a signatory.

81. Process:

(1) Each signatory must ensure that –

(a) its refund policies are reasonable and in accordance with legal requirements; and

(b) it provides its international learners (or the parents or legal guardian of international learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(2) A refund policy must include refund conditions for the following situations –

(a) failure by a learner to obtain a study visa; and

(b) voluntary withdrawal by a learner; and

(c) the signatory ceasing to provide a course of educational instruction as contracted with a learner, whether it stops of its own accord or as required by an education quality assurance agency; and

(d) the signatory ceasing to be a signatory; and

(e) the signatory ceasing to be a provider.

(3) In the situation in subclause (2)(c) or (d), the signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –

(a) refund the amount in question to the learner (or the learner's parent or legal guardian); or

(b) if directed by the learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount to another signatory as agreed with the learner (or the learner's parent or legal guardian).

82. OUTCOME 21: DEALING WITH COMPLAINTS

Signatories must ensure that all international school learners have access to proper and fair procedures for dealing with complaints.

83. Process:

(1) Each signatory must ensure that –

(a) it has an effective internal process for addressing complaints by its international learners; and

(b) its international learners are informed about that process.

(2) Each signatory must advise its international learners –

(a) of the availability of recourse to the code administrator or relevant Dispute Resolution Scheme or any other relevant authority if a learner cannot access the internal complaints process or is dissatisfied with the outcome or experience of using that process; and

(b) how to make a complaint to the code administrator or to seek resolution of a financial dispute under the relevant Dispute Resolution Scheme.

84. OUTCOME 22: COMPLIANCE WITH INTERNATIONAL LEARNER CONTRACT DISPUTE RESOLUTION SCHEME

Signatories must comply with the relevant Dispute Resolution Scheme rules.

85. Process:

(1) Each signatory must ensure that it is familiar with the relevant Dispute Resolution Scheme rules and ensure compliance with those rules in a dispute to which it is a party.

(2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

08 | Code administrator

86. Reporting and publishing obligations

(1) The code administrator must include in its annual report a report on its activities in administering this code.

(2) If the code administrator, in the course of investigation, finds any systemic issue related to the wellbeing, educational achievement or rights of learners, or a serious breach of this code, the code administrator must report that issue or breach to education quality assurance agencies and any relevant government agency.

(3) The code administrator may, for the limited purposes set out in subclause (4), disseminate or otherwise publish a summary of the investigation and outcome of a breach of this code, subject to appropriate safeguards and redactions for protection of privacy.

(4) The purposes referred to in subclause (3) are –

(a) keeping providers, learners, and other educational interest groups informed; and

(b) demonstrating the process of investigation and decision-making under this code.

(5) The code administrator must take reasonable steps to publicise this code to providers and to learners, including publishing guidelines for providers.

87. Reporting breach of code

(1) The code administrator –

(a) can receive complaints or referral that the code has been breached from any person; and

(b) must decide whether the complaint or referral appears to involve an outcome, process or other code requirement not being met, warranting further action.

(2) The code administrator –

(a) must publish its processes for receiving and dealing with a complaint or referral; and

(b) may prescribe forms for use in making a complaint or referral.

88. Responding to a complaint

(1) If the code administrator decides that further investigation is warranted, it must –

(a) make a record of, and investigate any alleged outcome, process or other code requirement not being met; and

(b) notify the person who made the complaint or referral of the decision to investigate.

(2) If the code administrator decides that further investigation is not warranted, it must consider the following options and act accordingly within a reasonable timeframe –

(a) refer the complaint or referral to another agency; or

(b) deal with the complaint or referral informally; or

(c) terminate the complaint or referral.

(3) In investigating a complaint or referral, the code administrator may assist the person making the complaint or refer that person to someone who is able to provide assistance, if such assistance is reasonably necessary to adequately respond to, or investigate the complaint in a fair and impartial manner (for example, by overcoming a language barrier, or supporting that person's wellbeing and safety during the complaints process).

89. Monitoring, investigating, and receiving and sharing information

(1) The code administrator is responsible for monitoring and investigating tertiary education providers and school signatories in relation to –

(a) their giving effect to the code; and

(b) the steps they are taking to improve their giving effect to the code (including improvements arising out of self-reviews of their own performance) and addressing issues raised with them by the code administrator.

(2) The code administrator may consider any information it considers appropriate to fulfil its monitoring and investigating roles including, but not limited to –

(a) strategic goals and strategic plans; and

(b) self-review reports, attestations, policies and procedures and evidence of their implementation; and

(c) complaints and referrals; and

(d) information from its other quality assurance activities; and

(e) information from other education quality assurance agencies and other relevant government agencies; and

(f) the Disputes Resolution Scheme reports.

(3) The code administrator's monitoring and investigation roles may be undertaken either on the code administrator's own initiative or as a result of information provided to it, including a complaint or referral of a code outcome, process or other code requirement not being met.

(4) The code administrator, for the purpose of monitoring and investigating compliance with the code, may –

(a) request a tertiary education provider or school signatory to provide to the code administrator, by a date specified in the notice (which must be within a reasonable time), an attestation of their giving effect to all or any part of this code and/or of ongoing self-review, using the attestation form published on the code administrator's website; and

(b) request access to any of the provider's facilities or premises; and

(c) request access to relevant documents held by the tertiary education provider (or the accommodation provider) or school signatory; and

(d) request access to interview staff and students as appropriate.

(5) A tertiary education provider or school signatory must –

(a) provide all reasonable assistance to a code administrator in the course of monitoring or investigating compliance with the code; and

(b) respond in a timely manner to requests by the code administrator under subclause (4) of this clause; and

(c) provide reasonable access to any site, staff and students the code administrator considers necessary in relation to monitoring and investigating compliance with the code.

(6) The code administrator must –

(a) consult and share appropriate information with education quality assurance agencies and relevant government agencies for the purpose of agreeing interventions for the improvement of the code or compliance with it; and

(b) receive and consider information provided to the code administrator by education quality assurance agencies and relevant government agencies for the same purpose.

90. Working with Dispute Resolution Scheme operator(s)

The code administrator must work in collaboration with the Dispute Resolution Scheme operator –

(a) when the Dispute Resolution Scheme operator seeks information relevant to a dispute from a tertiary provider or school signatory; and

(b) when obtaining information from the Dispute Resolution Scheme to consider the action needed by a tertiary provider or school signatory to support the wellbeing and safety of the learner.

91. Requirements for entry to inspect student accommodation

(1) The following provisions apply to a code administrator's powers of entry into student accommodation in addition to section 633 of the Act.

(2) The code administrator needs to provide evidence of identity at arrival and when requested at any later time. They should also provide evidence of authorisation, including reference to –

(a) the full name of the person or people who are authorised; and

(b) a statement of the powers conferred on that person; and

(c) section 633 of the Act; and

(d) this code; and

(e) the scope of the visit, for example monitoring performance or investigating a complaint.

(3) If any documents are removed from premises, the person who removes them must –

(a) leave at the premises a list of the documents removed; and

(b) return the documents, or a copy of them, to the premises as soon as practicable, unless to do so would prejudice any investigation being or to be carried out by the code administrator.

92. Indemnification for code administrator costs

Providers may be required by the code administrator to reimburse the code administrator for –

(a) the actual costs, disbursements and expenses reasonably incurred by the code administrator in undertaking compliance visits and investigations for the purposes of monitoring and enforcing this code;

(b) the legal and other expenses arising from any further action undertaken by the code administrator as the consequence of a breach of this code;

(c) any costs arising from the enforcement of this indemnity.

93. Revocation of 2016 Code

(1) The Education (Pastoral Care of International Students) Code of Practice 2016 (2016 Code) is revoked.

(2) A compliant, investigation or other action commenced under the 2016 Code may be completed under the provisions of that Code.

NZQA
NEW ZEALAND QUALIFICATIONS AUTHORITY
MANA TOHU MĀTAURANGA O AOTEAROA

QUALIFY FOR THE FUTURE WORLD
KIA NOHO TAKATŪ KI TŌ ĀMUA AO!

Te Kāwanatanga o Aotearoa
New Zealand Government

Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021

Pursuant to section 534 of the Education and Training Act 2020, the Minister of Education makes the following code of practice.

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Part 1
Introduction

1. Title

This code is the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021.

2. Commencement

This code comes into force on 1 January 2022.

3. Application of Code

(1) This code specifies the role of providers in ensuring the organised and formal provision of practices to support the wellbeing and safety of –

(a) all tertiary learners generally; and
(b) tertiary learners residing in student accommodation; and
(c) international tertiary learners; and
(d) international school learners.

(2) Providers must implement all processes in this code in a way that appropriately responds to the needs of learners within particular learning, communal and residential contexts and is consistent with code administrator expectations.

(3) For tertiary providers this code applies to –

(a) the activities provided or organised by, or on behalf of, a provider for domestic and international tertiary learners enrolled with an education provider, whether learners are in New Zealand or offshore; and
(b) student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986 (RTA), including where there is a written agreement between the tertiary provider and the accommodation provider under section 5B(1)(b)(ii) of the RTA.

(4) For school signatories, this code applies to the activities provided or organised by, or on behalf of, a signatory for international school learners, whether learners are in New Zealand or offshore.

(5) The code administrator may exempt the following learners from the application of specific processes of this code –

(a) a school learner who changes status from domestic learner to international learner; or
(b) domestic tertiary learners or school or tertiary international learners where appropriate, with due consideration for wellbeing and safety, and on approval of the Minister of Education.

(6) This code does not override the responsibilities of education and accommodation providers under the Privacy Act 2020 or the Health Information Privacy Code made under that Act.

(7) This code contributes to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships in accordance with section 4(d) of the Education and Training Act 2020.

4. Approval and removal of signatory status

(1) Providers (that is, tertiary education providers and schools) may make an application to the code administrator to become signatories under Parts 6 and 7 of this code.
(2) The criteria for an applicant to become a signatory to this code are the following –

(a) the applicant is a provider; and
(b) the applicant provides, or is intending to provide, educational instruction; and
(c) the applicant has acceptable financial management practices and performance; and
(d) the applicant has policies and procedures in place that will enable it to achieve the outcomes sought and processes required by this code; and
(e) the code administrator does not otherwise consider the applicant to be unsuitable for approval as a signatory to this code.

(3) At the request of a signatory, or as a result of sanctions set out in Section 535 of the Education and Training Act 2020, the code administrator may remove a provider as a signatory to this code.

Part 2
How to read this code

5. Definitions

(1) In this code, unless the context otherwise requires, –

accommodation staff means any worker as defined by section 19 of the Health and Safety at Work Act 2015 who carries out work for an accommodation provider in student accommodation

Act means the Education and Training Act 2020

code administrator process relates to Part 8 of this code and has the same meaning as 238H of the Education Act 1989 which is saved by Schedule 1, clause 7(3) of the Education and Training Act 2020

contract of enrolment between international learners and signatories –

(a) in relation to a signatory that is a State school, has the same meaning as contract of enrolment in section 10(1) of the Act; or
(b) in relation to other signatories, means a written contract that is entered into between an international learner (or the learner's parent or legal guardian, if the learner is under 18 years) and the signatory that entitles the learner to receive educational instruction provided by that signatory

designated caregiver means a relative or close family friend designated in writing by a parent or legal guardian of an international learner under 18 years as the caregiver and accommodation provider for that learner

disabled or disability includes those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others (UN Convention on the Rights of Persons with Disabilities)

Dispute Resolution Scheme means the student contract Dispute Resolution Scheme established under section 536 of the Act

diverse means various backgrounds, experiences, and beliefs and a variety of needs across a range of learning contexts. Diversity in the learner population includes, but is not limited to, learners of varying ages, cultures, religions, sexual orientation, gender identities, international learners, refugee background learners, disabled learners, distance learners, and learners with care-experience

education agent means a person, body, or organisation acting on behalf of a signatory in relation to any aspect of their international learners' enrolment and study, including accommodation, and includes a subcontracted agent

educational instruction includes any –

(a) class, course or programme approved under section 524;
(b) approved programme that a provider is accredited to provide under section 441;
(c) training scheme approved under section 445;
(d) consent to assess against standards granted under section 449.

education quality assurance agency means an agency or agencies authorised by the Act to exercise quality assurance functions in respect of providers

expatriation in relation to international learners means the process of moving a person from one country or locality to another

fee protection mechanism means a mechanism approved in rules made under section 452(1)(e) of the Act

homestay means accommodation provided to an international learner in the residence of a family or household in which no more than 4 international learners are accommodated

house rules mean the house rules put in place by an accommodation provider of exempt student accommodation under section 5B of the Residential Tenancies Act 1986

learner means a domestic tertiary student, an international student (either a tertiary or school student), or an industry trainee or apprentice enrolled with a tertiary provider

learner 'at risk' means that a tertiary provider or school has reasonable grounds to believe that there is a serious issue relating to the learner's health, safety, or wellbeing, including for example, the learner is unable to –

(a) adequately protect themselves against serious harm; or
(b) adequately safeguard their personal welfare

learning environment refers to the diverse physical and digital locations (e.g. teaching and learning, communal, and student accommodation), contexts, and cultures in which students learn

legal guardian means a person who, by court or testamentary appointment, is responsible for the learner's wellbeing and safety and financial support, and provides for the care of the learner or international learner in their home country

licensed hostel means a school hostel that is licensed under the Education (Hostels) Regulations 2005

mana means a person's intrinsic value and inherent dignity, whether derived from a person's whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the person's culture

practices mean the policies and processes implemented by the institution to realise the outcomes set out in this code

resident means a learner who resides in student accommodation

residential caregiver, of an international learner aged under 18, means –

(a) a homestay carer; or
(b) a licensed school hostel manager or other person responsible for the care of international learners in a licensed school hostel; or
(c) a designated caregiver; or
(d) a manager of tertiary student accommodation that is exempt from the Residential Tenancies Act 1986 and covered by Part 5 of this code; or
(e) in the case of temporary accommodation, a supervisor who is responsible for the care of international learners

routine check means a room visit and entry by a staff member of the provider where the provider has no cause for concern about the wellbeing or safety of the resident or another individual

signatory means a provider that has been approved by this code administrator to enrol international learners as a signatory to this code

stakeholders mean learners, staff, whānau, local communities, employers, iwi, and others who share a meaningful interest in the wellbeing and safety of learners enrolled with the provider

student accommodation means student accommodation which is exempt under section 5B of the Residential Tenancies Act 1986

tikanga means Māori customary systems of values and practices

wellbeing and safety means having a positive frame of mind, resilience, satisfaction with self, relationships, and experiences and progressing towards learning outcomes sought. It also means being healthy and feeling secure

welfare check means a room visit and entry by a staff member of the provider where the provider, having attempted to obtain the consent of the resident for the entry, has serious concerns about the wellbeing or safety of the resident or another individual

welfare management plan mean**s** a plan put in place by the provider that sets out the steps to be taken to ensure the wellbeing and safety of a resident who is assessed to be at risk

(2) In this code, a reference to the age of a person is a reference to the age of the person on their last birthday.

Part 3
Organisational structures to support a whole-of-provider approach to learner wellbeing and safety

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)

6. Outcome 1: A learner wellbeing and safety system

Providers must take a whole-of-provider approach to maintain a strategic and transparent learner wellbeing and safety system that responds to the diverse needs of their learners.

7. Process 1: Strategic goals and strategic plans

(1) Providers must have strategic goals and strategic plans for supporting the wellbeing and safety of their learners across their organisation, including student accommodation, describing how they will –

(a) give effect to the outcomes sought and processes required by this code; and
(b) contribute to an education system that honours Te Tiriti o Waitangi and supports Māori–Crown relations.

(2) Providers must –

(a) regularly review their learner wellbeing and safety strategic goals and strategic plans as described in subclause (1); and
(b) make amendments to their learner wellbeing and safety strategic goals and strategic plans within a reasonable timeframe following the review.

(3) Providers must work proactively with learners and stakeholders (and document this work) when –

(a) developing their learner wellbeing and safety strategic goals and strategic plans described in subclause (1); and
(b) reviewing their learner wellbeing and safety strategic goals and strategic plans described in subclause (2).

8. Process 2: Self-review of learner wellbeing and safety practices

(1) Providers must use strategic goals and strategic plans described in clause 7(1) to regularly review the quality of their learner wellbeing and safety practices to achieve the outcomes and practices of this code, at a frequency or by a date determined by the code administrator.

(2) Providers must review their learner wellbeing and safety practices using –

(a) input from diverse learners and other stakeholders; and
(b) relevant quantitative and qualitative data (including from learner complaints) that is, as far as practicable, and consistent with the provider's obligations under current privacy legislation, disaggregated by diverse learner groups.

(3) Providers must, in a timely manner, following a review described in subclauses (1) and (2) take appropriate action to address any deficiencies in learner wellbeing and safety practices.

9. Process 3: Publication requirements

Providers must make the following information readily available, in accessible formats, to learners, staff and the general public, including on their websites (where available) –

(a) strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(1); and
(b) revisions to strategic goals and strategic plans for supporting the wellbeing and safety of learners described in clause 7(2); and
(c) self-review reports on the quality of their learner wellbeing and safety practices described in clause 8.

10. Process 4: Responsive wellbeing and safety systems

(1) Providers must gather and communicate relevant information across their organisation (including student accommodation) and from relevant stakeholders to accurately identify emerging concerns about learners' wellbeing and safety or behaviour and take all reasonable steps to connect learners quickly to culturally appropriate social, medical, and mental health services.

(2) Providers must provide staff with ongoing training and resources tailored to their roles in the organisation, in relation to –

(a) Te Tiriti o Waitangi; and
(b) the provider's obligations under this code; and
(c) understanding the welfare issues of diverse learner groups and appropriate cultural competencies; and

(d) identifying and timely reporting of incidents of racism, discrimination, and bullying; and
(e) physical and sexual violence prevention and response, including how to support a culture of disclosure and reporting; and
(f) privacy and safe handling of personal information; and
(g) referral pathways (including to local service providers) and escalation procedures; and
(h) identifying and timely reporting of incidents and concerning behaviours; and
(i) wellbeing and safety awareness and promotion topics, including –

(i) safe health and mental health literacy and support; and
(ii) suicide and self-harm awareness; and
(iii) promoting drug and alcohol awareness; and
(iv) promoting healthy lifestyles for learners.

(3) Providers must have plans for assisting learners, and responding effectively, in emergency situations in the learning or residential community (whether localised or more widespread), including –

(a) making these plans readily available to learners when they begin their study; and
(b) ensuring that there are suitably prepared staff members available to be contacted by a learner, or learners, in the event of an emergency; and
(c) co-ordinating decision-making across the provider when responding to emergencies; and
(d) disseminating timely, accurate, consistent, and accessible information to learners and staff during emergencies; and
(e) ensuring all relevant staff are aware of the indicators of imminent danger to a learner or others and what action they can reasonably provide to help make them safe; and
(f) keeping a regularly updated critical incident and emergencies procedures manual which guides staff involved in emergency situations which contains the immediate and ongoing actions required including –

(i) engaging with relevant government agencies (e.g. the New Zealand Police, Ministry of Health, New Zealand Qualifications Authority, Tertiary Education Commission); and
(ii) the follow-up de-briefing processes to support all learners and relevant staff; and

(g) recording critical incidents and emergencies and reporting these back annually (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups) to provider management, learners, other stakeholders, and the code administrator.

11. Outcome 2: Learner voice

Providers understand and respond to diverse learner voices and wellbeing and safety needs in a way that upholds their mana and autonomy.

12. Process 1: Learner voice

Providers must have practices for –

(a) proactively building and maintaining effective relationships with diverse learner groups within their organisation; and
(b) working with diverse learners and their communities to develop, review, and improve learner wellbeing and safety strategic goals, strategic plans and practices; and
(c) providing formal and informal processes for actively hearing, engaging with, and developing the diverse range of learner voices and those of their communities; and
(d) providing timely and accessible resources to learners to support them and their learner communities to develop the necessary skills to enable them to participate fully in decision-making processes; and
(e) providing timely and accessible information to learners to increase transparency of providers' decision-making processes.

13. Process 2: Learner complaints

Providers must –

(a) work with learners to effectively respond to, and process complaints (including appropriate engagement with support people); and
(b) inform learners on how the complaint will be handled and how it is progressing; and
(c) handle complaints in a timely and efficient way, including having practices that –

    (i) are appropriate to the level of complexity or sensitivity of the complaint; and
    (ii) consider the issues from a cultural perspective; and
    (iii) include the provision of culturally responsive approaches that consider traditional processes for raising and resolving issues (for example, restorative justice); and
    (iv) comply with the principles of natural justice; and

(d) ensure that the complaints process is easily accessible to learners (and those supporting them), including having practices for –

    (i) providing learners with clear information on how to use the internal complaints processes (including the relevant people to contact), and the scope and possible outcomes of the processes; and
    (ii) addressing barriers to accessing this information (for example, due to language, lack of internet access, fear of reprisal, desire for anonymity), such as providing alternative ways of raising a complaint; and
    (iii) providing an opportunity for a support person or people (who can be chosen by the learner) to guide and support the learner through the complaints process; and
    (iv) providing the opportunity for groups of learners to make joint complaints; and

(e) record complaints; and
(f) report annually to provider management, learners, other stakeholders, and the code administrator (including on provider websites where available) on –

    (i) the number and nature of complaints made and their outcomes (at an aggregate level and, as far as practicable, disaggregated by diverse learner groups); and
    (ii) learner experience with the complaints process and the outcome of their complaint; and

(g) promote and publicise complaint and dispute resolution processes available to learners including, but not limited to, the provider's internal complaints process, the education

quality assurance agency complaints process, the code administrator's complaints process, and the Dispute Resolution Schemes; and

(h) advise learners, on the next steps available to them if the provider does not accept the complaint (or the learner or provider perceives that the provider does not have the cultural competency to deal with it), or the learner is not satisfied that the provider has made adequate progress towards resolving the complaint, or the learner is not satisfied with the provider's internal complaints process or outcome, including –

(i) how to seek resolution of a contractual or financial dispute by way of a complaint or referral to an appropriate body or agency depending on the subject matter of the dispute, for example, the code administrator, the Dispute Resolution Scheme, the Disputes Tribunal, the Human Rights Commission or the Ombudsman; and

(ii) how to make a complaint to the code administrator if a learner believes that the provider is failing to meet the outcomes or requirements of this code.

14. Process 3: Compliance with the Dispute Resolution Scheme

(1) Providers must ensure they are familiar with the relevant Dispute Resolution Scheme rules for domestic and international learners and ensure compliance with those rules in a dispute to which it is party.

(2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

Part 4
Wellbeing and safety practices for all tertiary providers

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners)

Physical and digital learning environments

15. Outcome 3: Safe, inclusive, supportive, and accessible physical and digital learning environments

Providers must foster learning environments that are safe and designed to support positive learning experiences of diverse learner groups.

16. Process 1: Safe and inclusive communities

(1) Providers must have practices for –

(a) reducing harm to learners resulting from discrimination, racism (including systemic racism), bullying, harassment and abuse; and

(b) working with learners and staff to recognise and respond effectively to discrimination racism (including systemic racism), bullying, harassment and abuse; and

(c) promoting an inclusive culture across the learning environment; and

(d) upholding the cultural needs and aspirations of all groups throughout the learning environment; and
(e) providing all learners with information –

(i) that supports understanding, acceptance, and connection with all learners, and collective responsibility for an inclusive learning environment; and
(ii) about the cultural, spiritual, and community supports available to them; and

(f) providing learners with accessible learning environments where they can connect with others, build relationships, support each other, and welcome their friends, families, and whānau.

17. Process 2: Supporting learner participation and engagement

(1) Providers must provide learners with opportunities to –

(a) actively participate and share their views safely in their learning environment; and
(b) connect, build relationships and develop social, spiritual and cultural networks; and
(c) use te reo and tikanga Māori to support Māori learners' connection to identity and culture.

(2) Providers must have practices for supporting learners through their studies, including –

(a) enabling learners to prepare and adjust for tertiary study, and
(b) maintaining appropriate oversight of learner achievement and engagement; and
(c) providing the opportunity for learners to discuss, in confidence, any issues that are affecting their ability to study and providing learners with a response to their issues; and
(d) providing learners with advice on pathways for further study and career development, where appropriate.

18. Process 3: Physical and digital spaces and facilities

Providers must have practices for–

(a) providing healthy and safe learning environments; and
(b) identifying and, where possible, removing access barriers to provider facilities and services; and
(c) involving learners in the design of physical and digital environments when making improvements; and
(d) engaging with Māori and involving Māori in the design of physical and digital environments where appropriate.

19. Outcome 4: Learners are safe and well

Providers must support learners to manage their physical and mental health through information and advice, and identify and respond to learners who need additional support.

20. Process 1: Information for learners about assistance to meet their basic needs

(1) Providers must have practices for enabling all learners and prospective learners to identify and manage their basic needs (the essential material requirements to support wellbeing and safety including housing, food and clothing), including providing accurate, timely and tailored information on how they can –

(a) access services through the provider or through community and public services that will help them maintain reasonable standards of material wellbeing and safety; and
(b) access suitable accommodation and understand their rights and obligations as a tenant in New Zealand; and
(c) maintain a healthy lifestyle.

(2) If food is made available by the provider on campus or in student accommodation, the provider must ensure that the food available includes a range of healthy food options that is obtainable at a reasonable cost.

21. Process 2: Promoting physical and mental health awareness

Providers must have practices for –

(a) providing opportunities and experiences for learners that improve their physical and mental health and wellbeing and safety; and
(b) promoting awareness of practices that support good physical and mental health that are credible and relevant to learners; and
(c) supporting learners' connection to their language, identity, and culture; and
(d) providing accurate, timely information and advice to learners about –

(i) how they can access medical and mental health services through the provider or through community and public services, including culturally responsive services; and
(ii) how they can report health and safety concerns they have for their peers; and
(iii) how to respond to an emergency and engage with relevant government agencies; and
(iv) how they can make positive choices that enhance their wellbeing.

22. Process 3: Proactive monitoring and responsive wellbeing and safety practices

(1) Providers must have practices for –

(a) requesting that domestic learners 18 years and over provide a name and up-to-date contact details of a nominated person; and
(b) describing the circumstances in which the nominated person referred to in paragraph (a) should be contacted in relation to their wellbeing and safety; and
(c) contacting the person nominated by domestic learners 18 years and over, in the circumstances described in accordance with paragraph (b), or where the provider has reasonable grounds for believing that the disclosure is necessary to prevent or lessen a serious threat to the student's life or health; and

(d) enabling learners to communicate health and mental health needs with staff in confidence, including accommodation staff, so that the provider can proactively offer them support; and
(e) providing opportunities for learners to raise concerns about themselves or others in confidence; and
(f) identifying learners at risk and having clear and appropriate pathways for assisting them to access services when they need it; and
(g) identifying learners who are at risk of harming others, and –

(i) having clear and appropriate pathways for assisting them to access services when they need it; and
(ii) protecting learners and staff who experience harm from other learners and/or staff, including sexual assault; and

(h) making arrangements with disabled learners or those affected by health and wellbeing difficulties to accommodate learning needs, including for study off-campus; and
(i) responding to disruptive and threatening behaviour in a way that is sensitive to a learner's situation; and
(j) supporting learners whose study is interrupted due to circumstances outside their control, and providing inclusive, accessible re-entry processes for their transition back into tertiary study.

(2) Providers must have up-to-date contact details and next of kin for domestic tertiary learners under 18 and international tertiary learners.
(3) Providers must contact the next of kin for domestic tertiary learners under 18 years and international tertiary learners if there is concern regarding the wellbeing or safety of a learner.

(4) Providers must maintain a record of reported risks, including any concerns raised in relation to the effective administration of this code.

Part 5

Additional wellbeing and safety practices in tertiary student accommodation (in relation to domestic and international tertiary learners)

(All requirements relate to domestic and international tertiary learners and are signatory requirements where they relate to international tertiary learners. Tertiary providers are responsible for ensuring requirements are met in student accommodation)

23. Outcome 5: A positive, supportive and inclusive environment in student accommodation

Providers must ensure that student accommodation promotes and fosters a supportive and inclusive community which support the wellbeing and safety of residents.

24. Process 1: Information and promotional activities

(1) Providers must ensure student accommodation has practices for –

(a) ensuring residents receive clear, sufficient, accurate and transparent information and advice about the type and nature of student accommodation and services provided; and
(b) using information provided by prospective residents at the time of application, to help plan their transition into student accommodation; and
(c) working with residents to develop and provide information and tools that help residents understand their responsibilities within a communal living environment, including those relating to diversity; and
(d) providing residents with learning and peer support, and information on –

(i) self-care and positive wellbeing and safety; and
(ii) how to access wellbeing services on campus and in the community; and
(iii) how to provide peer support to other residents; and

(e) providing residents with information and advice on what action to take in an emergency and the mechanisms for reporting incidents and raising health and safety concerns.

(2) The information required by this clause must be readily available, accessible, and promoted to residents.

25. Process 2: Accommodation staff

Providers must ensure that –

(a) accommodation staff are provided with ongoing training and resources that are appropriate for their role as set out in clause 10(2); and -
(b) the experience and training of accommodation staff is appropriate for the type and nature of accommodation that is being provided; and
(c) there is managerial oversight of accommodation staff at all times (24 hours a day, 7 days a week) so that issues can be escalated when they occur; and
(d) the level of live-in accommodation staffing provides appropriate oversight and support for residents based on the type and nature of accommodation (for example, a higher level of staffing for halls of residence primarily intended for first-year learners); and
(e) there is ongoing wellbeing support for accommodation staff.

26. Process 3: Accommodation staff must be fit and proper persons

Providers must take all reasonable steps to ensure that each member of the accommodation staff –

(a) is suitable for employment in student accommodation; and
(b) are the subject of a Police vet where required under the Children's Act 2014 if the accommodation includes learners who are under 18.

27. Process 4: Proactive monitoring of residents' wellbeing and safety and responsive wellbeing and safety practices

(1) Providers must ensure student accommodation has practices for –

(a) working with residents to evaluate their needs and planning how these can be reasonably and practicably met and monitored; and
(b) having clearly defined processes within the student accommodation for –

(i) residents, staff, or visitors to be able to report a cause for concern about a resident's behaviour; and
(ii) referring and responding to instances of resident behaviours that are a risk to self or others; and

(c) having appropriate welfare safeguards, including –

(i) developing and implementing a welfare management plan for residents assessed as being at risk, that includes welfare checks and which could include referral to external services; and
(ii) systems to regularly check that residents continue to be active within their student accommodation and, if a resident is identified as being at risk, developing and implementing a welfare management plan; and
(iii) appropriate arrangements for residents under 18, including for effective communication with a parent or legal guardian regarding wellbeing and safety; and
(iv) welfare checks, which may be undertaken where reasonable in the circumstances (this information must be clearly set out in the house rules for residents); and
(v) routine checks providing 24 hours' notice to a resident if staff members will be entering a resident's room.

(2) Providers must have a link between student accommodation and its organisation's wider information gathering and communication system described in clause 10(1), to report any emerging concerns about a resident's wellbeing or their behaviour, so residents can be connected quickly to the appropriate services.
(3) Providers must ensure that there is a critical incident and emergency procedures manual in student accommodation which –

(a) is consistent with the provider's wider organisational manual described in clause 10(3)(e); and
(b) includes plans for residents when it becomes unsuitable or unsafe for them to remain in student accommodation in an emergency.

28. Process 5: A safe and inclusive residential community

In addition to the requirements described in outcome 3, providers must ensure student accommodation has practices for –

(a) ensuring that house rules are clear, reasonable, and accessible to residents, and that they promote and encourage –

(i) resident safety; and
(ii) a sense of community and association with fellow residents; and
(iii) learning and personal growth; and
(iv) residents and staff working together to ensure a positive and respectful community; and

(b) working with residents to –

(i) develop and improve house rules; and
(ii) develop and maintain appropriate initiatives to build a sense of community within student accommodation; and
(iii) promote responsible social behaviour and academic success.

29. Outcome 6: Accommodation administrative practices and contracts

Providers must ensure that student accommodation contracts and practices are transparent, reasonable, and responsive to the wellbeing and safety needs of residents.

30. Process 1: General principles

Providers must ensure that student accommodation providers have practices that include –

(a) disclosing on its website –

(i) the ownership structure and operator details of its student accommodation arrangements; and
(ii) the details of the wellbeing and safety practices offered at each student accommodation facility; and

(b) a human resource strategy which –

(i) requires the job descriptions for all accommodation staff to clearly describe –

a. the duties and responsibilities of the role in relation to the learner wellbeing and safety; and
b. the relevant competencies and attributes that a person must demonstrate to be able to fulfil that role, and the ongoing training that will be available to develop these competencies; and

(ii) sets out the support services that are available to ensure the wellbeing and safety of accommodation staff in carrying out their duties and responsibilities.

31. Process 2: Student accommodation contracts

(1) Providers must ensure that a student accommodation contract with a resident –

(a) is clear, accessible and concise; and
(b) sets out the responsibilities of the provider and the resident; and
(c) advises residents of the requirements for –

(i) information sharing across the provider; and
(ii) the regular processes for checking on residents; and

(d) sets out the deposit, bond components, fees, refund policy and penalties; and
(e) sets out the complaints, conflict resolution, and disciplinary processes in relation to residents.

(2) Providers must ensure that the student accommodation contract used with residents is reviewed and updated regularly to ensure it remains fit for purpose in relation to wellbeing and safety matters, taking into account the views of learners and their representative bodies.

(3) Providers must ensure student accommodation refund policies –

(a) are reasonable; and
(b) provide residents (or a parent or legal guardian of residents under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(4) Providers must ensure student accommodation providers give prospective residents a copy of the house rules, and information about the complaints process and the Dispute Resolution Scheme before they sign the accommodation contract.

(5) Providers must ensure that accommodation providers keep a log of complaints received from residents concerning a breach or breaches of this code in relation to student accommodation and make this log available to the residents.

32. Outcome 7: Student accommodation facilities and services

Providers must ensure that student accommodation facilities and services are maintained to a standard sufficient to support residents' wellbeing and safety and educational success.

33. Process:

(1) Providers must ensure that student accommodation facilities and services –

(a) respond effectively to the diverse needs of residents and make necessary adjustments where practicable; and
(b) provide accessible spaces for a range of interests, activities and needs; and
(c) are secure, clean, dry, warm, comfortable, accessible, and is conducive to study and a variety of learning styles; and
(d) provide utilities, services and other facilities that are adequate and appropriate for the character and size of the residential community; and
(e) have appropriate insurance cover; and
(f) are funded adequately to carry out strategic goals and strategic plans for student accommodation, including repairs, replacement, and improvements; and
(g) have adequate and appropriate controls in place to ensure accountability for financial processes including –

(i) providing receipts for all financial transactions with the resident; and
(ii) providing residents with up-to-date information on what they owe to the accommodation provider.

(2) Providers must ensure that any alterations, maintenance and repairs to student accommodation are undertaken in a timely manner that minimises interference with the quiet enjoyment of the residents.

Part 6

Additional wellbeing and safety practices for tertiary providers (signatories) enrolling international learners

(These requirements for providers enrolling international tertiary learners are in addition to the requirements for Part 3, Part 4, and Part 5)

34. Outcome 8: Responding to the distinct wellbeing and safety needs of international tertiary learners

Signatories must ensure that practices under this code respond effectively to the distinct wellbeing and safety needs of their diverse international tertiary learners.

35. Process:

Signatories must engage with diverse international tertiary learners to understand their wellbeing and safety needs under the outcomes of Parts 3, 4 and 5 of this code.

36. Outcome 9: Prospective international tertiary learners are well informed

Signatories ensure that prospective international tertiary learners receive clear, accessible, accurate and sufficient information, and make informed choices about the study and services a signatory provides before they begin their study.

37. Process 1: Marketing and promotion

Each signatory must have marketing and promotion practices, that include –

(a) proactively seeking to understand the information needs of prospective international tertiary learners; and
(b) developing and providing information to prospective international tertiary learners and reviewing the information to ensure it is kept up to date; and
(c) ensuring that prospective international tertiary learners receive, as a minimum, up-to-date accessible and timely information about the following –

    (i) the signatory's quality assurance evaluations; and
    (ii) the educational instruction, staffing, facilities, and equipment available to international tertiary learners; and
    (iii) the Dispute Resolution Scheme; and
    (iv) potential learning outcomes for international tertiary learners, including pathways for further study, employment, and residency where applicable; and
    (v) estimated study and living costs for international tertiary learners, including any additional fees or levies that are on top of the basic tuition fee; and
    (vi) accommodation and transport, or ways to obtain such information.

38. Process 2: Managing and monitoring education agents

Signatories must have practices for effectively managing and monitoring the performance and conduct of education agents in relation to learner safety and wellbeing under this code, including –

(a) carrying out and recording reference checks on potential education agents to ensure as far as possible that they are not involved in any conduct that is false, misleading, deceptive, or in breach of the law; and
(b) entering into written contracts with each of its education agents; and
(c) during the term of a contract, monitoring the activities and performance of its education agents in relation to –

(i) their obligations as specified in the contract; and
(ii) whether they provide prospective and enrolled international tertiary learners with reliable information and advice about studying, working, and living in New Zealand; and
(iii) whether they act with integrity and professionalism in their dealings with prospective and enrolled international tertiary learners; and
(iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and

(d) managing the education agents by –

(i) terminating contracts with an agent if there is evidence which, on balance of probabilities, shows that the education agent –

a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or
b. has jeopardised the signatory's compliance with this code; or

(ii) taking appropriate action to address misconduct by act or an omission by an education agent in relation to the other matters described in subclause (c); and

(e) ensuring that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

39. Outcome 10: Offer, enrolment, contracts, insurance and visa

Signatories must have practices for enabling learners to make well-informed enrolment decisions in relation to the educational outcomes being sought by the learner and ensuring that all relevant parties are clear about their interests and obligations prior to entering into the enrolment contract.

40. Process 1: Offer of educational instruction

Signatories must ensure that the educational instruction offered to international tertiary learners is in accordance with the Act and is appropriate for international tertiary learners' expectations, English language proficiency, academic ability, and the educational outcomes being sought.

41. Process 2: Information to be provided before entering contract

(1) Signatories must have practices that ensure prospective international tertiary learners (or the parents or legal guardian of international students under 18 years) receive, as a minimum, accurate, timely and tailored information about the following before entering into a contract with the learner –

(a) the most recent results of their evaluations by education quality assurance agencies; and
(b) quality improvement or compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international tertiary learners; and
(c) the education provided and its outcome, for example, whether a qualification is granted; and
(d) refund conditions that comply with the process in clause 46; and
(e) staffing, facilities, and equipment; and
(f) available services and supports; and
(g) insurance and visa requirements for receiving educational instruction from the signatory; and
(h) this code and the relevant Dispute Resolution Scheme Rules; and
(i) full costs related to an offer of educational instruction.

(2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international tertiary learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

42. Process 3: Contract of enrolment

(1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international tertiary learner (or the parents or legal guardian of international students under 18 years) that includes the following information and terms –

(a) clear information about the beginning and end dates of enrolment; and
(b) the grounds for terminating the contract of enrolment; and
(c) the circumstances under which the learner's conduct may be in breach of the contract of enrolment; and
(d) the type of disciplinary action short of termination of the contract of enrolment, that may be taken by the signatory against the student (for example suspension or exclusion); and
(e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).

(2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

43. Process 4: Disciplinary action

Any process undertaken under clause 42(1)(e) for terminating the contract of enrolment under clause 42(1)(b) or for taking disciplinary action under clause 42(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

44. Process 5: Insurance

(1) Each signatory must have practices that ensure, as far as practicable, each international tertiary learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –

(a) the international tertiary learner's travel –

(i) to and from New Zealand; and
(ii) within New Zealand; and
(iii) if the travel is part of the educational instruction, outside New Zealand; and

(b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and
(c) repatriation or expatriation of the international tertiary learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and
(d) death of the international tertiary learner, including cover of –

(i) travel costs of family members to and from New Zealand; and
(ii) costs of repatriation or expatriation of the body; and
(iii) funeral expenses.

(2) Subclause (1)(a)(i) and (ii) includes the international tertiary learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).

(3) Subclause (1)(a)(i) does not include the international tertiary learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

45. Process 6: Immigration matters

Signatories must have practices that as far as possible will ensure that international tertiary learners are entitled to study in New Zealand under the Immigration Act 2009, including –

(a) ensuring that each international tertiary learner who enrols with the signatory has the necessary immigration status for study in New Zealand; and
(b) reporting to Immigration New Zealand known or suspected breaches of visa conditions by international tertiary learners; and
(c) notifying Immigration New Zealand of terminations of enrolment.

46. Process 7: Student fee protection and managing withdrawal and closure

(1) Signatories must ensure that –

(a) fees paid by international tertiary learners are secure and protected in the event of student withdrawal or the ending of educational instruction or the closure of a signatory; and
(b) its refund policies are fair and reasonable; and
(c) it provides its international tertiary learners (or the parents or legal guardian of international tertiary learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(2) A refund policy must include refund conditions for the following situations –

(a) failure by an international tertiary learner to obtain a study visa; and
(b) voluntary withdrawal by an international tertiary learner; and
(c) the signatory ceasing to provide a course of educational instruction as contracted with an international tertiary learner, whether as the result of a decision by the signatory or as required by an education quality assurance agency; and
(d) the signatory ceasing to be a signatory; and
(e) the signatory ceasing to be a provider.

(3) In the situation in subclause (2)(c) or (d), the tertiary signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –

(a) refund the amount in question to the international tertiary learner (or the learner's parent or legal guardian); or
(b) if directed by the international tertiary learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount agreed with the student (or the student's parent or legal guardian if the student is under 18 years) to another signatory.

47. Outcome 11: International learners receive appropriate orientations, information and advice

Signatories must ensure that international tertiary learners have the opportunity to participate in well-designed and age-appropriate orientation programmes and continue to receive relevant information and advice to support achievement, wellbeing and safety.

48. Process: Provision of information

Signatories must –

(a) ensure that information and advice provided by the signatory to international tertiary learners is accurate, age-appropriate, up to date and presented in a way that meets the ongoing needs of diverse learners; and
(b) ensure that ongoing provision of information and advice is appropriate to the needs of the learner (or the parents or legal guardian of international learners under 18 years) within the particular learning, communal and residential context; and
(c) provide the names and contact details of designated staff members responsible for international tertiary learner support; and
(d) provide appropriate information relating to health and safety of international tertiary learners (including in relation to any disabilities or impairments a learner may have); and
(e) provide information about the termination of enrolment; and
(f) provide information to international tertiary learners (or the parents or legal guardian of international learners under 18 years) about their legal rights and obligations and, where possible, the risks when learners receive or accept advice or services; and
(g) provide information about the international tertiary learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction; and
(h) provide each international tertiary learner with full information and advice on –

(i) all relevant policies of the signatory; and
(ii) the services, support, and facilities that the signatory offers; and
(iii) where applicable, how to adjust to a different cultural environment; and

(iv) where applicable –

a. minimum wages and labour conditions in New Zealand
b. maximum hours of work permitted under visa conditions; and
c. how to access information and support regarding employment; and
d. how to report misconduct by employers; and

(i) for an international tertiary learner under 18 years ensure where applicable, that any parent, legal guardian, or residential caregiver of the learner has access to the information, advice or programme that has been provided to the learner.

49. Outcome 12: Safety and appropriate supervision of international tertiary learners

Signatories ensure that international tertiary learners are safe and appropriately supervised in their accommodation and effectively communicate with the parents or legal guardian of learners under 18 years.

50. Process 1: International tertiary learners under 18 years

(1) In relation to international tertiary learners under 18 years, each signatory must have additional practices including –

(a) not enrolling an international tertiary learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –

(i) the learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or
(ii) the learner is in the care of the manager of tertiary student accommodation covered in Part 5 of this code; or
(iii) the learner is in the care of a residential caregiver; and

(b) maintaining effective communications with the parents, legal guardian, or residential caregivers of international tertiary learners concerning their wellbeing and progress in study; and
(c) ensuring that at least 1 staff member is designated to proactively monitor and address any concerns about international tertiary learners under 18 years; and
(d) if the international tertiary learner is in the care of a residential caregiver, –

(i) ensuring that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –

a. each transfer that occurs during the period of enrolment; and
b. the transfer that occurs at the end of enrolment; and

(ii) ensuring that the parent or legal guardian is notified of each transfer plan.

51. Process 2: International tertiary learners under 10 years

(1) Each signatory must ensure that its international tertiary learners under 10 years live with a parent or legal guardian.

(2) The requirements in clauses 49 and 50 apply, in addition to this clause, to international tertiary learners who are under 10 years.

52. Process 3: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international tertiary learner under 18 years with respect to decisions affecting the learner.

53. Process 4: Accommodation for international tertiary learners under 18 years

(1) In relation to an international tertiary learner under 18 years who is in the care of a residential caregiver while living in accommodation that is **not subject to Part 5** of this code, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
(b) ensure that the safety check referred to in clause 54 is completed and is up to date; and
(c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver's accommodation, for the purpose of ensuring the safety of the learner; and
(d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and
(e) maintain effective communication with the learner and the learner's parent or legal guardian when accommodation issues arise, and take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and
(f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and
(g) if the learner's residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory's approval and that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of the designated caregiver; and
(h) if the learner's residential caregiver is a supervisor described in clause 54(3), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of that supervisor; and
(i) ensure that there is appropriate separation of international tertiary learners from others of different ages in the accommodation; and
(j) ensure that the learner is appropriately supervised in the accommodation.

(2) For the purposes of clause 53(1)(c), a person who is 18 years or over and who resides at the residential caregiver's accommodation includes a person of that age who –

(a) temporarily resides at that accommodation; or

(b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.

(3) To avoid doubt, if the residential caregiver is a supervisor described in clause 54(3) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the international tertiary learner.

54. Process 5: Safety checks and appropriate checks for learners under 18 years

(1) The safety check for the residential caregiver referred to in clause 53(1)(b) must include –

(a) a confirmation of identity; and
(b) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –

(i) the residential caregiver's current or previous employer, professional body, or registration authority; and
(ii) the licensing authority that is relevant to the residential caregiver's business or professional activities; and
(iii) a person who is not related to the residential caregiver; and

(c) a police vet, to obtain information that is relevant to a risk assessment; and
(d) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and
(e) a risk assessment that takes into account all of the information that was obtained under paragraphs (a) to (d), to determine whether the residential caregiver poses a risk to the safety of the international tertiary learner; and

(2) The safety check for the residential caregiver referred to in clause 53(1)(b) is **up to date** if it is completed within 3 years after the date of the latest safety check.

(3) Subclause (1)(b) to (e) does not apply to a residential caregiver who –

(a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and
(b) is not a resident of New Zealand; and
(c) is travelling with, and accompanying, the international tertiary learner for the purpose of supervising them during the learner's educational instruction.

(4) An appropriate check referred to in clause 53(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

55. Process 6: Accommodation for international tertiary learners 18 or over

(1) In relation to an international tertiary learner 18 years or over who lives in accommodation provided or arranged by a signatory and **not subject to Part 5**, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
(b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.

(2) In this clause, accommodation issues include issues of health and wellbeing arising from a learner's accommodation or connected with it.

Part 7
Wellbeing and safety practices for schools enrolling international learners

What signatories must do

56. Outcome 13: Marketing and promotion

Signatories must ensure that the marketing and promotion to prospective international school learners of services provided by signatories includes clear, sufficient, and accurate information enabling those learners to make informed choices about the services provided.

57. Process:

Each signatory must –

(a) proactively seek to understand the information needs of prospective international school learners; and
(b) develop and provide information to prospective international school learners and review the information to ensure it is kept up to date; and
(c) ensure that prospective international school learners receive, as a minimum, up-to-date and timely information about the following –

(i) the signatory's quality assurance evaluations; and
(ii) the educational instruction, staffing, facilities, and equipment available to international learners; and
(iii) the relevant Dispute Resolution Scheme Rules; and
(iv) potential learning outcomes for international learners, including pathways for further study, employment, and residency where applicable; and
(v) estimated study and living costs for international learners; and
(vi) accommodation and transport, or ways to obtain such information.

58. Outcome 14: Managing and monitoring education agents

Signatories must effectively manage and monitor their education agents to ensure that those education agents –

(a) provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and
(b) act with integrity and professionalism towards prospective international school learners; and
(c) do not breach the law or jeopardise the signatory's compliance with this code.

59. Process:

Each signatory must –

(a) carry out and record reference checks on potential education agents to ensure as far as possible that they have not been involved in any conduct that is false, misleading, deceptive, or in breach of the law; and
(b) enter into written contracts with each of its education agents; and
(c) during the term of a contract, monitor the activities and performance of its education agents in relation to –

    (i) their obligations as specified in the contract; and
    (ii) whether they provide international school learners with reliable information and advice about studying, working, and living in New Zealand; and
    (iii) whether they act with integrity and professionalism in their dealings with prospective international school learners; and
    (iv) whether they have engaged in any activity or conduct that, in the opinion of the signatory, is or may be in breach of the law or that jeopardises the signatory's compliance with this code; and

(d) manage the education agents by –

    (i) terminating contracts with an education agent if there is evidence which, on balance of probabilities, shows that the agent –

        a. has been involved in any serious, deliberate, or ongoing conduct that is false, misleading, deceptive, or in breach of the law; or
        b. has jeopardised the signatory's compliance with this code; or

    (ii) taking appropriate action to address conduct or an omission by an education agent in relation to the other matters described in subclause (c); and

(e) ensure that its education agents have access to, and maintain, up-to-date information relevant to their duties as specified in the contracts with the signatory.

60. Outcome 15: Offer, enrolment, contracts, and insurance

Signatories must –

(a) support international school learners (or the parents or legal guardian of international school learners under 18 years) to make well-informed enrolment decisions that are appropriate to the educational outcomes sought; and
(b) ensure that international school learners (or the parents or legal guardian of international school learners under 18 years) have the information required to understand their interests and obligations before entering into a legally binding contract with a signatory; and
(c) ensure that each contract of enrolment is fair and reasonable; and
(d) ensure that any disciplinary action is taken in accordance with the principles of natural justice; and
(e) ensure that international school learners have the appropriate insurance coverage, including insurance covering travel costs, medical care, and costs associated with repatriation, expatriation, and funeral expenses; and
(f) ensure that proper documentation is kept and, where appropriate, provided to international school learners (or the parents or legal guardian of international school learners under 18 years).

61. Process 1: Offer of educational instruction

Each signatory must ensure that the educational instruction on offer is in accordance with the Act and is appropriate for international school learners' expectations, English language proficiency, and academic capability.

62. Process 2: Information to be provided before entering contract

(1) Each signatory must ensure international school learners receive, as a minimum, information about the following before entering into a contract with the learner –

(a) the most recent results of their evaluations by education quality assurance agencies; and
(b) compliance notices and conditions imposed under the Act that the code administrator directs must be disclosed to prospective international school learners; and
(c) the education provided and its outcome, for example, whether a qualification is granted; and
(d) refund conditions that comply with the outcome and process in clauses 80 and 81; and
(e) staffing, facilities, and equipment; and
(f) available services and supports; and
(g) insurance and visa requirements for receiving educational instruction from the signatory; and
(h) this code and the relevant Dispute Resolution Scheme Rules; and
(i) full costs related to an offer of educational instruction.

(2) Each signatory must ensure that, before entering into a contract of enrolment or enrolling with the signatory, each international school learner (or the parents or legal guardian of international students under 18 years) is informed of the learner's rights and obligations in relation to receiving educational instruction from the signatory, including the rights under this code.

63. Process 3: Contract of enrolment

(1) Each signatory must ensure that a contract of enrolment is entered into between the signatory and each international school learner that includes the following information and terms –

(a) clear information about the beginning and end dates of enrolment; and
(b) the grounds for terminating the contract of enrolment; and
(c) the circumstances under which the school learner's conduct may be in breach of the contract of enrolment (including conduct that occurs while the learner is not under the immediate supervision or control of the signatory); and
(d) the type of disciplinary action short of termination of the contract of enrolment that may be taken by the signatory against the student (for example suspension or exclusion); and
(e) the process that the signatory must follow when seeking to terminate the contract of enrolment under paragraph (b) or to take disciplinary action under paragraph (d).

(2) Each signatory must ensure that the contract of enrolment is fair and reasonable.

64. Process 4: Disciplinary action

Any process undertaken under clause 63(1)(e) for terminating the contract of enrolment under clause 63(1)(b) or for taking disciplinary action under clause 63(1)(d) must be in accordance with the principles of natural justice (which includes those necessary to ensure the prompt, considered, and fair resolution of the matter that is the subject of the action).

65. Process 5: Insurance

(1) Each signatory must ensure that, as far as practicable, each international school learner who is enrolled with the signatory for educational instruction of 2 weeks' duration or longer has appropriate insurance covering –

(a) the school learner's travel –

(i) to and from New Zealand; and
(ii) within New Zealand; and
(iii) if the travel is part of the educational instruction, outside New Zealand; and

(b) medical care in New Zealand, including diagnosis, prescription, surgery, and hospitalisation; and
(c) repatriation or expatriation of the school learner as a result of serious illness or injury, including cover of travel costs incurred by family members assisting repatriation or expatriation; and
(d) death of the school learner, including cover of –

(i) travel costs of family members to and from New Zealand; and
(ii) costs of repatriation or expatriation of the body; and
(iii) funeral expenses.

(2) Subclause (1)(a)(i) and (ii) includes the school learner's travel to and from their country of origin or citizenship before their educational instruction begins and after it ends (which may be outside of the enrolment period).

(3) Subclause (1)(a)(i) does not include the school learner's travel to other countries unless that travel is primarily for the purpose of embarking on connecting flights to and from New Zealand.

66. Process 6: Decisions requiring written agreement of parent or legal guardian

Each signatory must ensure that, where appropriate, it obtains the written agreement of the parent or legal guardian of an international school learner under 18 years with respect to decisions affecting the learner.

67. Outcome 16: Immigration matters

Signatories must –

(a) ensure that they do not allow or continue to allow a person to undertake educational instruction if that person is not entitled under the Immigration Act 2009 to undertake the educational instruction; and
(b) take reasonable precautions and exercise due diligence in ascertaining whether international school learners are entitled under the Immigration Act 2009 to undertake the educational instruction for which they enrol.

68. Process:

Each signatory must –

(a) ensure that each international school learner who enrols with the signatory has the necessary immigration status for study in New Zealand; and
(b) report to Immigration New Zealand known or suspected breaches of visa conditions by international school learners; and
(c) notify Immigration New Zealand of terminations of enrolment.

69. Outcome 17: Orientation

Signatories must ensure that international school learners have the opportunity to participate in a well-designed and age-appropriate programme that provides the information and advice necessary for a learner at the outset of their educational instruction.

70. Process:

(1) Each signatory must ensure its orientation programme –

(a) provides each international school learner with full information and advice on all relevant institutional policies; and
(b) provides each international school learner with full information and advice on the services, support, and facilities that the signatory offers; and

(c) provides the names and contact details of designated staff members responsible for international school learner support; and
(d) provides appropriate information relating to health and safety of international school learners; and
(e) provides information about complaints procedures for international school learners, both internal and external; and
(f) provides information about the termination of enrolment; and
(g) provides information about the school learner's rights and entitlements, including any entitlement to a fee refund, if the learner voluntarily withdraws from the educational instruction.

(2) For an international school learner under 18 years, a signatory must ensure, where applicable, that any parent, legal guardian, or residential caregiver of the learner who is in New Zealand and accompanying the learner has access to the orientation information or programme that has been provided to the learner.

71. Outcome 18: Safety and wellbeing

Signatories must –

(a) provide a safe study environment for international school learners; and
(b) provide adequate support for the wellbeing of international school learners; and
(c) as far as practicable, ensure that international school learners live in a safe environment.

72. Process 1: General

Each signatory must –

(a) respond fairly and effectively to instances of inappropriate behaviour by, or impacting on, an international school learner; and
(b) develop and maintain policies for managing inappropriate behaviour that are communicated to staff and learners and effectively implemented; and
(c) advise international school learners on how to –

(i) report and address health and safety issues (for both on campus and off campus activities); and
(ii) respond to an emergency (for both on campus and off campus activities); and
(iii) access health and counselling services; and
(iv) engage with relevant government agencies such as the New Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989; and

(d) have up-to-date contact details for each international school learner and their next of kin; and
(e) ensure that at all times there is at least 1 staff member available to be contacted by an international school learner in an emergency.

73. Process 2: International school learners under 18 years

(1) In relation to international school learners under 18 years, each signatory must –

(a) not enrol an international school learner 10 years or older but under 18 years who does not live with a parent or legal guardian unless –

(i) the school learner is in a properly supervised group of learners whose educational instruction is not for more than 3 months; or
(ii) the school learner is in the care of a residential caregiver; and

(b) have up-to-date contact details for the learners' parents, legal guardian, and residential caregivers; and
(c) maintain effective communications with the parents or legal guardian, and residential caregivers (if any) of learners concerning their wellbeing and progress in study; and
(d) [deleted]
(e) ensure at least 1 staff member is designated to proactively monitor and address any concerns about international school learners under 18 years; and
(f) if the school learner is in the care of a residential caregiver, –

(i) ensure that a plan is in place for the transfer of care of the learner from the residential caregiver to the learner's parent or legal guardian, or another person approved by the parent or legal guardian, for –

a. each transfer that occurs during the period of enrolment; and
b. the transfer that occurs at the end of enrolment; and

(ii) ensure that the parent or legal guardian is notified of each transfer plan.

(2) The requirements in clause 72 apply, in addition to this clause, to international school learners who are 10 years or older but under 18 years.

74. Process 3: International school learners under 10 years

(1) Each signatory must ensure that its international school learners under 10 years live with a parent or legal guardian, unless they are accommodated in a school hostel.

(2) The requirements in clauses 72 and 73 apply, in addition to this clause, to international school learners who are under 10 years.

75. Process 4: International school learners at risk or with additional learning needs

(1) Each signatory must ensure that –

(a) appropriate measures are put in place to address the needs and issues of international school learners at risk or with additional learning needs; and
(b) the parent or legal guardian of a school learner under 18 years or the next of kin of a learner 18 years or over is aware of any situation where the learner is at risk or has additional learning needs; and
(c) where appropriate and in compliance and subject to the principles of the Privacy Act 2020, issues relating to the learners are reported to relevant agencies such as the New

Zealand Police and the department responsible for administering the Oranga Tamariki Act 1989, and to the code administrator.

(2) A learner is at risk if the signatory has reasonable grounds to believe that there is a serious issue relating to the learner's health, safety, or wellbeing, including, for example, –

(a) the learner is unable to adequately protect themselves against significant harm or exploitation; and
(b) the learner is unable to adequately safeguard their personal welfare.

(3) A learner with additional learning needs includes a learner who –

(a) is a disabled learner; or
(b) experiences other difficulties which affect the learner's ability to participate, learn, and achieve; and
(c) requires the provision of adapted programmes or learning environments, or specialised equipment or materials to support the learner to access the curriculum, participate, learn, and achieve.

(4) This clause applies in addition to the requirements set out in clauses 72, 73 and 74.

76. Process 5: Accommodation

(1) In relation to an international school learner under 18 years who is in the care of a residential caregiver, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
(b) ensure that the safety check referred to in clause 77(1) is completed and is up to date; and
(c) ensure that an appropriate check is completed and is up to date for each person who is 18 years or over and who resides at the residential caregiver's accommodation, for the purpose of ensuring the safety of the learner; and
(d) have a written agreement with the residential caregiver that specifies the role and responsibilities of each party in relation to the care of the learner; and
(e) maintain effective communication with the learner and the learner's parent or legal guardian when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities and moving learners to appropriate accommodation; and
(f) conduct sufficient learner interviews and home visits to monitor and review the quality of residential care, taking into consideration the age of the learner, the length of the stay, and other relevant factors; and
(g) if the learner's residential caregiver is a designated caregiver ensure that the parent or legal guardian of the learner has provided written agreement that the designated caregiver will be subject to the signatory's approval and that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of the designated caregiver; and

(h) if the learner's residential caregiver is a supervisor described in clause 77(2), ensure that the parent or legal guardian of the learner has provided written agreement that the signatory is not responsible for the learner's day-to-day care when the learner is in the custody of that supervisor; and
(i) ensure that there is appropriate separation of international learners from others of different ages in the accommodation; and
(j) ensure that the learner is appropriately supervised in the accommodation.

(2) For the purposes of clause 76(1)(c), a person who is 18 years or over and who resides at the residential caregiver's accommodation includes a person of that age who –

(a) temporarily resides at that accommodation; or
(b) is or will be residing at that accommodation for 1 or more periods in any month (whether or not for valuable consideration), each period of which is 5 or more consecutive nights.

(3) In relation to an international school learner 18 years or over who lives in accommodation provided or arranged by a signatory, the signatory must –

(a) ensure that the learner's accommodation is safe, is in acceptable condition, and meets all regulatory and legislative requirements; and
(b) maintain effective communication with the learner when accommodation issues arise, and must take responsibility for addressing those issues, including reporting them to relevant authorities.

(4) In relation to an international school learner 18 years or over who arranges accommodation for themselves, the signatory must ensure that the learner is directed to relevant advice and information that will enable the learner to understand their rights and obligations as a tenant in New Zealand.

(5) To avoid doubt, if the residential caregiver is a supervisor described in clause 77(2) or a designated caregiver, the signatory must meet the requirements of this clause and ensure the safety, health, and wellbeing of the learner.

(6) In this clause, **accommodation issues** include issues of health and wellbeing arising from a learner's accommodation or connected with it.

77. Process 6: Safety checks and appropriate checks

(1) The safety check for the residential caregiver referred to in clause 76(1)(b) –

(a) must include –

(i) a confirmation of identity; and
(ii) a reference check that includes contacting at least 1 of the following persons or bodies for the purpose of obtaining information that the signatory considers relevant to a risk assessment –

a. the residential caregiver's current or previous employer, professional body, or registration authority:
b. the licensing authority that is relevant to the residential caregiver's business or professional activities:
c. a person who is not related to the residential caregiver; and

(iii) a police vet, to obtain information that is relevant to a risk assessment; and
(iv) an interview with the residential caregiver, to obtain information that the signatory considers relevant to a risk assessment; and
(v) a risk assessment that takes into account all of the information that was obtained under paragraph (a)(i) to (iv), to determine whether the residential caregiver poses a risk to the safety of the learner; and

(b) is **up to date** if it is completed within 3 years after the date of the latest safety check.

(2) Subclause (1)(a)(ii) to (v) does not apply to a residential caregiver who –

(a) is a supervisor referred to in paragraph (e) of the definition of residential caregiver in clause 5(1); and
(b) is not a resident of New Zealand; and
(c) is travelling with, and accompanying, the international school learner for the purpose of supervising them during the learner's educational instruction.

(3) An appropriate check referred to in clause 76(1)(c) is **up to date** if it is completed within 3 years after the date of the latest check.

78. Outcome 19: Learner support, advice and services

International school learners are fully informed by, and receive relevant advice from, their signatories on services to support their educational outcomes.

79. Process:

Each signatory must have practices for –

(a) ensuring that information and advice provided by the signatory to international school learners is accurate, age-appropriate, and up to date; and
(b) providing its international learners with information about their legal rights and obligations and, where possible, the possible risks when learners receive or accept advice or services; and
(c) providing its international school learners with information and advice on –

(i) how to effectively interact with persons from different cultural backgrounds; and
(ii) the cultural and community support available to them; and
(iii) how to adjust to a different cultural environment in New Zealand; and

(d) ensuring that its international school learners are provided with information on education and residency pathways and advice on pathways for further study or career development, where appropriate; and

(e) ensuring that, where applicable, its international school learners have access to information and advice on –

(i) minimum wages and labour conditions in New Zealand; and
(ii) maximum hours of work permitted under visa conditions; and
(iii) how to access information and support regarding employment; and
(iv) how to report misconduct by employers.

80. Outcome 20: Managing withdrawal and closure

Signatories must ensure that the fees paid by international learners for educational instruction in New Zealand are secure and protected in the event of learner withdrawal or the ending of educational instruction or the closure of a signatory.

81. Process:

(1) Each signatory must ensure that –

(a) its refund policies are reasonable and in accordance with legal requirements; and
(b) it provides its international learners (or the parents or legal guardian of international learners under 18 years) with sufficient information to understand their rights and obligations under those refund policies.

(2) A refund policy must include refund conditions for the following situations –

(a) failure by a learner to obtain a study visa; and
(b) voluntary withdrawal by a learner; and
(c) the signatory ceasing to provide a course of educational instruction as contracted with a learner, whether it stops of its own accord or as required by an education quality assurance agency; and
(d) the signatory ceasing to be a signatory; and
(e) the signatory ceasing to be a provider.

(3) In the situation in subclause (2)(c) or (d), the signatory must deal with fees paid for services not delivered or the unused portion of fees paid as follows –

(a) refund the amount in question to the learner (or the learner's parent or legal guardian); or
(b) if directed by the learner or the code administrator or the agency responsible for fee protection mechanisms, transfer the amount to another signatory as agreed with the learner (or the learner's parent or legal guardian).

82. Outcome 21: Dealing with complaints

Signatories must ensure that all international school learners have access to proper and fair procedures for dealing with complaints.

83. Process:

(1) Each signatory must ensure that –

(a) it has an effective internal process for addressing complaints by its international learners; and
(b) its international learners are informed about that process.

(2) Each signatory must advise its international learners –

(a) of the availability of recourse to the code administrator or relevant Dispute Resolution Scheme or any other relevant authority if a learner cannot access the internal complaints process or is dissatisfied with the outcome or experience of using that process; and
(b) how to make a complaint to the code administrator or to seek resolution of a financial dispute under the relevant Dispute Resolution Scheme.

84. Outcome 22: Compliance with international learner contract Dispute Resolution Scheme

Signatories must comply with the relevant Dispute Resolution Scheme rules.

85. Process:

(1) Each signatory must ensure that it is familiar with the relevant Dispute Resolution Scheme rules and ensure compliance with those rules in a dispute to which it is a party.

(2) Failure to comply with the relevant Dispute Resolution Scheme rules is a breach of this code and may trigger sanctions by the code administrator.

Part 8
Code administrator

86. Reporting and publishing obligations

(1) The code administrator must include in its annual report a report on its activities in administering this code.

(2) If the code administrator, in the course of investigation, finds any systemic issue related to the wellbeing, educational achievement or rights of learners, or a serious breach of this code, the code administrator must report that issue or breach to education quality assurance agencies and any relevant government agency.

(3) The code administrator may, for the limited purposes set out in subclause (4), disseminate or otherwise publish a summary of the investigation and outcome of a breach of this code, subject to appropriate safeguards and redactions for protection of privacy.

(4) The purposes referred to in subclause (3) are –

(a) keeping providers, learners, and other educational interest groups informed; and
(b) demonstrating the process of investigation and decision-making under this code.

(5) The code administrator must take reasonable steps to publicise this code to providers and to learners, including publishing guidelines for providers.

87. Reporting breach of code

(1) The code administrator –

(a) can receive complaints or referral that the code has been breached from any person; and
(b) must decide whether the complaint or referral appears to involve an outcome, process or other code requirement not being met, warranting further action.

(2) The code administrator –

(a) must publish its processes for receiving and dealing with a complaint or referral; and
(b) may prescribe forms for use in making a complaint or referral.

88. Responding to a complaint

(1) If the code administrator decides that further investigation is warranted, it must –

(a) make a record of, and investigate any alleged outcome, process or other code requirement not being met; and
(b) notify the person who made the complaint or referral of the decision to investigate.

(2) If the code administrator decides that further investigation is not warranted, it must consider the following options and act accordingly within a reasonable timeframe –

(a) refer the complaint or referral to another agency; or
(b) deal with the complaint or referral informally; or
(c) terminate the complaint or referral.

(3) In investigating a complaint or referral, the code administrator may assist the person making the complaint or refer that person to someone who is able to provide assistance, if such assistance is reasonably necessary to adequately respond to, or investigate the complaint in a fair and impartial manner (for example, by overcoming a language barrier, or supporting that person's wellbeing and safety during the complaints process).

89. Monitoring, investigating, and receiving and sharing information

(1) The code administrator is responsible for monitoring and investigating tertiary education providers and school signatories in relation to –

(a) their giving effect to the code; and
(b) the steps they are taking to improve their giving effect to the code (including improvements arising out of self-reviews of their own performance) and addressing issues raised with them by the code administrator.

(2) The code administrator may consider any information it considers appropriate to fulfil its monitoring and investigating roles including, but not limited to –

(a) strategic goals and strategic plans; and
(b) self-review reports, attestations, policies and procedures and evidence of their implementation; and
(c) complaints and referrals; and
(d) information from its other quality assurance activities; and
(e) information from other education quality assurance agencies and other relevant government agencies; and
(f) the Disputes Resolution Scheme reports.

(3) The code administrator's monitoring and investigation roles may be undertaken either on the code administrator's own initiative or as a result of information provided to it, including a complaint or referral of a code outcome, process or other code requirement not being met.

(4) The code administrator, for the purpose of monitoring and investigating compliance with the code, may –

(a) request a tertiary education provider or school signatory to provide to the code administrator, by a date specified in the notice (which must be within a reasonable time), an attestation of their giving effect to all or any part of this code and/or of ongoing self-review, using the attestation form published on the code administrator's website; and
(b) request access to any of the provider's facilities or premises; and
(c) request access to relevant documents held by the tertiary education provider (or the accommodation provider) or school signatory; and
(d) request access to interview staff and students as appropriate.

(5) A tertiary education provider or school signatory must –

(a) provide all reasonable assistance to a code administrator in the course of monitoring or investigating compliance with the code; and
(b) respond in a timely manner to requests by the code administrator under subclause (4) of this clause; and
(c) provide reasonable access to any site, staff and students the code administrator considers necessary in relation to monitoring and investigating compliance with the code.

(6) The code administrator must –

(a) consult and share appropriate information with education quality assurance agencies and relevant government agencies for the purpose of agreeing interventions for the improvement of the code or compliance with it; and
(b) receive and consider information provided to the code administrator by education quality assurance agencies and relevant government agencies for the same purpose.

90. Working with Dispute Resolution Scheme operator(s)

The code administrator must work in collaboration with the Dispute Resolution Scheme operator –

(a) when the Dispute Resolution Scheme operator seeks information relevant to a dispute from a tertiary provider or school signatory; and
(b) when obtaining information from the Dispute Resolution Scheme to consider the action needed by a tertiary provider or school signatory to support the wellbeing and safety of the learner.

91. Requirements for entry to inspect student accommodation

(1) The following provisions apply to a code administrator's powers of entry into student accommodation in addition to section 633 of the Act.

(2) The code administrator needs to provide evidence of identity at arrival and when requested at any later time. They should also provide evidence of authorisation, including reference to –

(a) the full name of the person or people who are authorised; and
(b) a statement of the powers conferred on that person; and
(c) section 633 of the Act; and
(d) this code; and
(e) the scope of the visit, for example monitoring performance or investigating a complaint.

(3) If any documents are removed from premises, the person who removes them must –

(a) leave at the premises a list of the documents removed; and
(b) return the documents, or a copy of them, to the premises as soon as practicable, unless to do so would prejudice any investigation being or to be carried out by the code administrator.

92. Indemnification for code administrator costs

Providers may be required by the code administrator to reimburse the code administrator for –

(a) the actual costs, disbursements and expenses reasonably incurred by the code administrator in undertaking compliance visits and investigations for the purposes of monitoring and enforcing this code;
(b) the legal and other expenses arising from any further action undertaken by the code administrator as the consequence of a breach of this code;

(c) any costs arising from the enforcement of this indemnity.

93. Revocation of 2016 Code

(1) The Education (Pastoral Care of International Students) Code of Practice 2016 (2016 Code) is revoked.

(2) A complaint, investigation or other action commenced under the 2016 Code may be completed under the provisions of that Code.

Complaints guide for learners

Most learners in Aotearoa New Zealand have a great experience throughout their studies, however sometimes issues can arise. If they do, learners have a right to speak up. Raising issues early with your education provider gives you the best chance of working them out together. If you can't resolve them together, you can get help from a range of organisations. This short guide has all you need to know about how and where to raise complaints.

1. Let your education provider know

Start by letting your provider know if you experience an issue. An open conversation can often solve the problem without you needing to take it further.

If the person you speak with can't help, you can use your provider's formal complaint process instead. New Zealand education providers must have a complaint process that you can use. You will often be able to find information about their complaints process on their website, in your handbook, or by asking staff.

It can be useful to make your complaint in writing to ensure your education provider has all the details and to help them understand it.

Give them a chance to work through your complaint and to try to resolve your concerns. You can always request updates on the status of your complaint.

If you can't reach an agreed solution, you can take the complaint further by raising it with an outside agency.

Tips

- **Prepare -** Take some time to think about the issue, how to explain it and what you would like to happen.
- **Gather details -** Share any useful information that you can.
- **Keep notes -** It can be helpful to make a note about who you spoke with, when and what was said.
- **Save copies -** Keep a record of any emails or letters about your complaint in case you might need them later.
- **Still unresolved?** - Get some help! Find out how below.

2. Get some independent help

There are two main agencies who can help if you have an unresolved complaint:

NZQA | Mana Tohu Mātauranga o Aotearoa
New Zealand Qualifications Authority

Ngā amuamu tauira
Study complaints

New Zealand Qualifications Authority

NZQA is a government agency with oversight of:

- the quality of education, management, and pastoral care of learners in Private Training Establishments
- the quality of education and pastoral care of learners at Te Pūkenga or Wānanga
- the pastoral care of learners at universities
- the pastoral care of international students at schools.
- fee refund concerns.

To find out more about NZQA's functions and process you can visit **www.nzqa.govt.nz** or call **0800 697 296**.

Study Complaints | Ngā Amuamu Tauira

Study Complaints | Ngā Amuamu Tauira is a free and independent service to help domestic tertiary learners and international students resolve disputes with their New Zealand education providers.

They can assist with:

- Financial matters
- Contractual matters
- Redress claims.

It's easy to get started, simply get in touch by:

- **Phone:** 0800 00 66 75
- **Email:** help@studycomplaints.org.nz
- **Visit:** www.studycomplaints.org.nz

3. Something else?

Here are some other agencies who may be able to help you.
In most cases you need to have complained directly to your education provider first and worked through their complaint process before you can escalate it to one of these agencies.

Fees & loans

Tertiary Education Commission

For questions about Fees Free or government funding for your course, contact the Tertiary Education Commission.

www.tec.govt.nz

Study Link

Study Link can help with queries about your student loan, student allowance, and other payments available.

www.studylink.govt.nz

Acts & decisions

Ombudsman

Have you been treated unfairly by a public education provider or school board of trustees? Contact the Ombudsman for help.

www.ombudsman.parliament.nz

Safety

New Zealand Police

For emergencies, call 111 immediately. For non-urgent matters, call 105 to report an incident to the Police.

www.police.govt.nz

Worksafe

If you have health and safety concerns about your campus or work placement, contact Worksafe.

www.worksafe.govt.nz

Discrimination

Human Rights Commission

The Human Rights Commission provide free, confidential services to deal with racism, discrimination and harassment.

www.tikatangata.org.nz

Privacy

Privacy Commissioner

You can report complaints about how your information has been stored or used to the Privacy Commissioner.

www.privacy.org.nz

Quality of education

Universities New Zealand

For concerns about the quality of a university programme or a university qualification, contact UNZ.

www.universitiesnz.ac.nz

NZQA

For concerns about the delivery or quality of education at non-university tertiary education providers, contact NZQA.

www.nzqa.govt.nz

Other support

Advocacy and student support

Your local student services office and student associations may be able to provide you with support and advocacy services.

Legal advice

If you would like legal advice, you can contact your local Community Law office or Citizens Advice Bureau.

Not sure?

Talk to Study Complaints | Ngā Amuamu Tauira if you have any questions or aren't sure where to get started. We're here to help!

P: 0800 00 66 75 **E:** help@studycomplaints.org.nz **W:** www.studycomplaints.org.nz

Mana Tohu Mātauranga o Aotearoa
New Zealand Qualifications Authority

External Evaluation and Review Report

Real World Education Limited

Date of report: 12 September 2023

About Real World Education Limited

Real World Education delivers online laboratory training programmes and micro-credentials for the laboratory industry. The organisation also provides training for secondary school science laboratory technicians.

Type of organisation:	Private training establishment (PTE)
Location:	8th Floor, TSB Tower, 1-19 Fitzherbert Avenue, Palmerston North
Eligible to enrol intl students:	Yes
Number of students:	Domestic: 60 (22 equivalent full-time students); Māori 10; Pasifika three; students with a lived experience of disability, seven International: one full-time student
Number of staff:	4.2 full-time equivalents
TEO profile:	Real World Education Limited provider page on the NZQA website Real World Education has partnering agreements with a range of laboratories across New Zealand for students to complete their practical internships.
Last EER outcome:	At the previous external evaluation and review (EER), conducted in May 2019, NZQA was Highly Confident in both Real World Education's educational performance and capability in self-assessment.
Scope of evaluation:	• Postgraduate Diploma in Analytical Science (Level 8) (ID:122358) (Ref: 3743-3) • Laboratory Skills Programme (Level 4) (ID:117615-3) (Ref: 2551-1) • New Zealand Laboratory Education Water Sampling Certification (Micro-credential) (ID:127308) (Ref: 4545) • General Laboratory Safety (Micro-credential)

(ID:127691) (Ref: 4677)

MoE number:	7170
NZQA reference:	C52972
Dates of blended EER visit:	24-26 May 2023

Summary of results

Real World Education is meeting the important needs of its students and stakeholders, supported by an individualised teaching approach and relevant work-based learning tailored to learner contexts. Self-assessment processes are ongoing and identify areas for improvement.

	• Overall course completion rates have remained consistently strong, and results show students are gaining qualifications. There is parity of achievement for Māori and Pasifika students.
Highly Confident in educational performance	• Students gain valuable skills and knowledge which they apply in their workplaces, and project outputs are used to enhance their employing organisations. Extensive consultation and stakeholder feedback processes ensure the programmes align with the needs of relevant professions.
Highly Confident in capability in self-assessment	• Real World Education has significant capability in online delivery. Regular online meetings with students provide important opportunities for students to gain academic and wellbeing support. • The PTE conducts regular, comprehensive programme reviews, leading to identification of areas for improvement and further programme development. • NZQA's 2021 monitoring of the Certificate in Laboratory Skills found that some areas in assessment and moderation needed improvement. Real World Education has strengthened its moderation policies and procedures and closely monitors external moderation activities to inform improvements. External moderation outcomes have been positive and inform programme review. • Self-assessment is ongoing and fit for purpose. Real World Education uses good quality information to monitor educational performance and student outcomes. The information gained is continually used to inform organisational decisions and improvements.

Key evaluation question findings[1]

1.1 How well do students achieve?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	Real World Education has rolling intakes. The PTE interviews enrolling students to establish their preparedness and capability to undertake the mostly online courses. Overall course completions have been consistently strong across programmes.[2] Completions for the Postgraduate Diploma in Analytical Science have been variable, with a decline in 2022. This is attributed to students' work and life challenges, programme extensions and career changes. Māori and Pasifika student enrolment numbers are small for each year. Māori and Pasifika achievement is the same as other groups across most programmes.[3] Students with a lived experience of disability self-identify at the enrolment stage. In 2022, Real World Education reported that seven students reported a disability at enrolment. Each student's needs are established, and support is provided where the student requires it. In some instances, Real World Education works closely with the partnering laboratory to ensure the student is well supported to succeed. Student achievement is well understood, and data is analysed to make improvements. Student progress is monitored through several processes and discussed regularly to enable effective management and maintenance of strong achievement performance. Increased oversight could be gained by formalising overall monitoring processes to identify any trends. This would support already effective self-assessment.
Conclusion:	Achievement is consistently strong across programmes.

[1] The findings in this report are derived using a standard process and are based on a targeted sample of the organisation's activities.

[2] Refer to Appendix 1.

[3] This is based on the percentage of attempted modules successfully completed. See Appendix 1.

	Regular monitoring and understanding of individual outcomes support ongoing improvements to educational performance. More formalised overview processes would benefit self-assessment.

1.2 What is the value of the outcomes for key stakeholders, including students?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	Students are gaining useful practical skills and knowledge which they can apply immediately in the workplace and are directly related to work done in the laboratory industry. Some of the programmes require students to be placed in a laboratory for a period of their learning. Laboratory partners provide the practical skills training alongside the online theory training provided by Real World Education. The PTE's longstanding reputation for quality training and high standards affords students opportunities to gain placements which can lead to employment in the placement laboratory or other laboratories on successful programme completion. Real World Education demonstrated through their student destination data that, between 2021 and 2022, 90-100 per cent of graduates gained relevant employment or undertook further study within three months of successful completion. Some students are already employed in a laboratory and develop their skills in a particular area of specialised need which leads to career advancement. Regular practical training enables students to build their confidence to manage technically challenging and critical work in laboratory settings. The postgraduate diploma student project work is directly related to the work being done in their laboratory. This allows students to contribute to working solutions and see a project as a valued outcome for their organisation. In some instances, the project work may lead to research outputs that are published. Stakeholders value the skills, work-readiness and professionalism of the graduates. Employers attest to graduates being adaptable and professional, and are preferred employees because they are well prepared, understand the industry's safety culture and are familiar with organisational practices. The PTE tracks graduate destinations each year and uses

	ongoing stakeholder engagement to understand employment outcomes and the needs of industry.
Conclusion:	Real World Education can show strong outcomes through its review processes. Most graduates are gaining employment or accessing higher-level programmes. Ongoing, regular stakeholder engagement contributes to programme design and delivery improvements.

1.3 How well do programme design and delivery, including learning and assessment activities, match the needs of students and other relevant stakeholders?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	Real World Education uses industry consultation, input from NZQA and programme review to develop and change programmes to meet the needs of industry and students. This led to the development of 13 new micro-credentials that address necessary industry skills required in niche areas, where training was not available. Programme updates are ongoing to match the industry and technological changes. Distance learning offers students flexibility and industry-related material via pre-recorded videos. In the case of the level 4 programme, students are sent laboratory supplies because laboratory internships are difficult to secure for this level of study. Using innovative technology, tutors can observe and record live activities and assess students' knowledge in real time, ensuring online practical assessment tasks are authentic and valid. At the higher-level programmes, students are placed in internships where project work and assignments can be carried out under the supervision of laboratory staff. The practical training is related to work in the laboratories. Teaching staff are well experienced and knowledgeable in laboratory work. Educators have progress meetings with the students when required, and students access academic support and feedback via an appointment booking system. When students are ready, they can book to complete assessments online. Real World Education is leading developments in online live assessment systems. In certain programmes, the PTE conducts internal moderation through a two-step marking process where two markers

	independently mark assessments to ensure consistency of marking. Where there is significant difference, a third marker is engaged to arrive at a fair consensus. Other programmes are internally moderated using a sample of assessments. Discussions about assessment outcomes inform improvements to assessment practice. Self-assessment is being completed, but formalising capture of these activities could further inform overall trends. Industry experts conduct external moderation and provide detailed feedback and recommendations which Real World Education use to inform assessment practice and improvements.
Conclusion:	Programmes are relevant and well matched to student and stakeholder needs. Programme and assessment outcomes are reviewed to inform improvements. A documented overview of outcomes and improvements would be beneficial.

1.4 How effectively are students supported and involved in their learning?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	Pre-enrolment interviews allow Real World Education to gain an understanding of student learning goals and career aspirations. This information is used for appropriate internship placements, and support is well matched to students' learning requirements. Barriers to learning are identified early and addressed with individual students. Real World Education works closely with laboratory partners to ensure continuous support for students with a lived experience of disability. The learning environment is appropriately set up to guide students through a step-by-step process, and students find it easy to work with the online resources in their own time. The laboratory placements provide scheduled work to support the students when they are learning laboratory tasks under the supervision and guidance of experienced laboratory supervisors. This provides authentic learning experiences for the students. An educator is allocated to students for the period of study to monitor progress and have check-ins as needed. In addition, students are encouraged to book appointments through the automated booking system to gain individual academic or wellbeing support when needed. The booking system does not

	facilitate a real-time response. However, Real World Education is developing technology to have a quicker response rate. Students on placement are visited at least once during their placement. This allows Real World Education staff to maintain good relations with laboratories and get feedback on student progress. Students work individually, although an opportunity to collaborate with other students may support further learning and a more social learning experience. Real World Education gathers placement trainee evaluation and student feedback from the students and supervisors at the end of placement. Real World Education also uses exit interviews to be informed and guide improvements. Feedback information is considered on an individual basis and feeds into organisational decisions for programme improvement and better support of the students. Collating feedback (with small student numbers) would allow another layer to current fit-for-purpose self-assessment.
Conclusion:	Students are highly engaged in their learning and are well supported by Real World Education's support systems and partnering laboratories. Feedback informs changes where needed.

1.5 How effective are governance and management in supporting educational achievement?

Performance:	**Excellent**
Self-assessment:	**Good**
Findings and supporting evidence:	Real World Education's strategic purpose is to help students start or advance laboratory careers. The PTE provides specialist training in a niche industry and constantly innovates to meet the needs of laboratory professionals. They achieve this through effectively maintaining close working relationships with industry stakeholders. Real World Education uses industry input for direction and guidance in programme review and developing specialist training in response to the laboratory industry's needs. Real World Education management and staff are reflective and responsive to industry needs. Management uses an open-minded management style and focuses on empowering staff by listening and responding to their ideas, issues, ways of thinking and approaches to their work. Staff are involved in developing programme solutions and collaborate effectively as a small team. It may be beneficial to include contract staff in some of this

	collaboration. Teaching staff are well supported in their professional development. Staff are engaging in research projects to enrich their own professional development and inform programme review and development. Staff are also encouraged and supported to pursue adult teaching qualifications. All staff are employed for their experience and working knowledge of laboratories. Research-active staff and students have their research papers published in notable journals or presented at conferences. Staff succession planning and development is well considered by management. Real World Education is gathering and reviewing information from students and stakeholders as it is collected. There is a good level of information-sharing and reflection and a clear focus on improving outcomes at an individual student level. Overall review, collation of outcomes and streamlining processes to analyse data would further inform overall understanding of educational performance.
Conclusion:	An innovative management team supports the highly experienced and knowledgeable teaching team to ensure educational goals are being met. An overview of collated and analysed data would benefit self-assessment.

1.6 How effectively are important compliance accountabilities managed?

Performance:	**Good**
Self-assessment:	**Good**
Findings and supporting evidence:	Compliance matters are managed appropriately and in a timely manner by management staff. NZQA requirements are up to date, including attestations and self-review against the Code of Practice 2021. Staff are well informed of the Code and support each other's roles, providing another check on process. The 2021 NZQA monitoring of the level 4 programme raised some academic and delivery concerns which required Real World Education to review and strengthen its assessment and moderation policies and procedures. Real World Education is working with NZQA and the relevant workforce development council to ensure programme changes to levels 4, 5 and 6 are

	meeting standards and requirements. Real World Education has one international student enrolled. The PTE plans to grow the international cohort in 2024, but only for the postgraduate programme. Real World Education continues to work with trusted international agents who understand their responsibilities in meeting the Code of Practice. A research plan and evidence of overall research outcomes and relevance to programme improvements and development would be beneficial.
Conclusion:	Important compliance accountabilities are generally well understood and managed.

Focus areas

This section reports significant findings in each focus area, not already covered in Part 1

2.1 Postgraduate Diploma in Analytical Science (Level 8)

Performance:	**Excellent**
Self-assessment:	**Excellent**

2.2 Laboratory Skills Programme (Level 4); New Zealand Laboratory Education Water Sampling Micro-credential; General Laboratory Safety Micro-credential

Performance:	**Excellent**
Self-assessment:	**Excellent**

Recommendations

Recommendations are not compulsory but their implementation may improve the quality and effectiveness of the training and education provided by the tertiary education organisation (TEO). They may be referred to in subsequent external evaluation and reviews (EERs) to gauge the effectiveness of the TEO's quality improvements over time.

NZQA recommends that Real World Education Limited:

- Collate and analyse student and stakeholder feedback data to further inform overall understanding of educational performance.
- Document programme review, evaluation and actions resulting from all moderation for ongoing monitoring of educational performance.
- Use research plans to monitor research outcomes and evidence of subsequent influence on programme review or development.

Requirements

Requirements relate to the TEO's statutory obligations under legislation that governs their operation. This include NZQA Rules and relevant regulations promulgated by other agencies.

There are no requirements arising from the external evaluation and review.

Appendix 1

Percent of Attempted Modules Successfully Completed (Completion Year)									
					2019-2022				
	2019	2020	2021	2022	Māori	Pasifika	Female	With impairments	International
School Science Laboratory Technician Programme	100	100	100	93	100	NA	98	100	NA
School Laboratory Manager Programme	NA	100	50	100	100	100	100	100	NA
Laboratory Skills Programme	100	100	91	71	90	100	92	55	100
Laboratory Technician Comprehensive Programme	100	100	98	100	100	100	100	100	100
Postgraduate Diploma in Analytical Science Programme	100	100	87	68	100	NA	82	NA	100

Qualification Completion									
					2019-2022				
	2019	2020	2021	2022	Māori	Pasifika	Female	With impairments	International
New Zealand Certificate in Applied Science (Level 4)	12	20	8	14	6	2	41	2	8
New Zealand Diploma in Applied Science (Level 5)	0	2	1	12	0	1	0	0	12
New Zealand Diploma in Applied Science (Level 6)	8	2	15	4	4	3	21	1	9
Postgraduate Diploma in Analytical Science	1	3	3	3	2	0	0	0	3

Appendix 2

Conduct of external evaluation and review

All external evaluation and reviews are conducted in accordance with NZQA's published rules. The methodology used is described in the web document https://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/. The TEO has an opportunity to comment on the accuracy of this report, and any submissions received are fully considered by NZQA before finalising the report.

Disclaimer

The findings in this report have been reached by means of a standard evaluative process. They are based on a representative selection of focus areas, and a sample of supporting information provided by the TEO under review or independently accessed by NZQA. As such, the report's findings offer a guide to the relative quality of the TEO at the time of the EER, in the light of the known evidence, and the likelihood that this level of quality will continue.

For the same reason, these findings are always limited in scope. They are derived from selections and samples evaluated at a point in time. The supporting methodology is not designed to:

- *Identify organisational fraud*[4]
- *Provide comprehensive coverage of all programmes within a TEO, or of all relevant evidence sources*
- *Predict the outcome of other reviews of the same TEO which, by posing different questions or examining different information, could reasonably arrive at different conclusions.*

[4] NZQA and the Tertiary Education Commission (TEC) comprehensively monitor risk in the tertiary education sector through a range of other mechanisms. When fraud, or any other serious risk factor, has been confirmed, corrective action is taken as a matter of urgency.

Regulatory basis for external evaluation and review

External evaluation and review is conducted under the Quality Assurance (including External Evaluation and Review (EER)) Rules 2021, which are made by NZQA under section 452(1)(t) of the Education and Training Act 2020 and approved by the NZQA Board and the Minister of Education.

Self-assessment and participation and cooperation in external evaluation and review are requirements for:

- *maintaining accreditation to provide an approved programme for all TEOs other than universities, and*
- *maintaining consent to assess against standards on the Directory of Assessment Standards for all TEOs including ITOs but excluding universities, and*
- *maintaining training scheme approval for all TEOs other than universities.*

The requirements for participation and cooperation are set through the Programme Approval and Accreditation Rules 2021, the Consent to Assess Against Standards Rules 2021 and the Training Scheme Rules 2021 respectively.

In addition, the Private Training Establishment Registration Rules 2021 require registered private training establishments to undertake self-assessment and participate in external evaluation and review as a condition of maintaining registration.

NZQA is responsible for ensuring non-university TEOs continue to comply with the rules after the initial granting of approval and accreditation of programmes, training schemes and consents to assess and registration. The New Zealand Vice-Chancellors' Committee (NZVCC) has statutory responsibility for compliance by universities

This report reflects the findings and conclusions of the external evaluation and review process, conducted according to the Quality Assurance (including External Evaluation and Review (EER)) Rules 2021. The report identifies strengths and areas for improvement in terms of the organisation's educational performance and capability in self-assessment.

External evaluation and review reports are one contributing piece of information in determining future funding decisions where the organisation is a funded TEO subject to an investment plan agreed with the Tertiary Education Commission.

External evaluation and review reports are public information and are available from the NZQA website (www.nzqa.govt.nz). All rules cited above are available at https://www.nzqa.govt.nz/about-us/our-role/legislation/nzqa-rules/, while information about the conduct and methodology for external evaluation and review can be found at https://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/.

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External Evaluation and Review Report

Real World Education

Date of report: 18 July 2019

About Real World Education

Real World Education (RWE) provides education and qualifications for domestic and international students that lead to employment in testing and research laboratories in New Zealand. RWE also provides training and a manager certificate for laboratory staff employed in New Zealand high schools.

Type of organisation:	Private training establishment (PTE)
Location:	Real World Education Centre, TSB Tower, 8th Floor, 1-19 Fitzherbert Avenue Palmerston North
Code of Practice signatory:	Yes, 2016 (first EER as Code of Practice signatory)
Number of students:	Domestic: 25, no Māori or Pasifika; 66 per cent female, 33 per cent male; majority of students are over 30 years of age; 40 per cent born overseas International: 10 (all on student visas) Indian 70 per cent, Nepalese 10 per cent, Indonesian 10 per cent, Filipino 10 per cent
Number of staff:	Three full-time equivalents, one part-time, and contractors
TEO profile:	See: NZQA - Real World Education
Last EER outcome:	2015 – Highly Confident in both educational performance and capability in self-assessment
Scope of evaluation:	The following NZQA approved programmes: • Programmes that lead to the New Zealand Certificate in Applied Science (Level 4)[1] • Programmes that lead to the New Zealand Diploma in Applied Science (Level 5)[2] • Programmes that lead to the New Zealand

[1] Laboratory Skills Programme, Laboratory Technician Comprehensive Programme, School Science Laboratory Technician Programme, School Laboratory Manager Programme

[2] School Laboratory Manager Programme, Laboratory Technician Programme (no longer being offered)

	Diploma in Applied Science (Level 6)[3] • The programme that leads to the Postgraduate Diploma in Analytical Science[4] and the programme that leads to the School Laboratory Manager Certificate.[5]
MoE number:	7170
NZQA reference:	C34508
Dates of EER visit:	23 and 24 May 2019

[3] Laboratory Technician Comprehensive Programme, Advanced Laboratory Technician Programme (no longer being offered)

[4] Postgraduate Diploma in Analytical Science Programme

[5] School Laboratory Manager Certificate Programme

Summary of Results

Distance learning and practical application of skills at laboratory placements ensures RWE graduates successfully complete qualifications and are work-ready. Self-assessment is comprehensive and meets student and industry needs well. RWE is a niche provider with the capacity and capability to grow both the domestic and international student markets.

- Learning environments are planned and structured for the benefit of learners. The interactive distance learning is self-paced, closely monitored by RWE staff and aligned to industry processes.

Highly Confident in educational performance

- Students apply skills learnt from study on placements in partnering laboratories. These placements often lead to job offers.
- All students studying from 2016-2019 successfully graduated and gained relevant employment.

Highly Confident in capability in self-assessment

- Organisational purpose and direction are clear. Academic leadership is strong and effective. Increased student numbers and Tertiary Education Commission (TEC) funding (first received in 2019) has led to more staff and resources. These changes have been well managed to maximise the student experience.
- RWE is a highly reflective organisation which regularly reviews and updates programme content to meet the existing and emerging needs of students and stakeholders.
- A proactive approach to compliance is shown through regular review and active engagement with government agencies. Compliance and Code of Practice obligations are understood and well managed.

Key evaluation question findings[6]

1.1 How well do students achieve?

Performance:	**Excellent**
Self-assessment:	**Good**
Findings and supporting evidence:	Student achievement is high. For example, of 14 enrolments in programmes that lead to the New Zealand Certificate in Applied Science (Lab skills) (Level 4) in 2014, there were two non-completions for identified reasons. Four students progressed to level 5. For level 6 enrolments since 2017, two of four did not complete. To address this issue, RWE increased the pastoral support for domestic students to a similar level as international students. RWE knows why students do not complete and makes comprehensive attempts to help them do so. Consistency of assessment outcomes is regulated by a second tutor looking over the online assessments. However, the most effective moderation occurs in practical sessions. If a student is not meeting the required skill level, this is quickly identified either during training or on laboratory placements. The moderation of undergraduate student assessments, while understandable given the way the programmes are arranged, is largely informal. More formalised systems of external moderation of undergraduate assessments would be an improvement.
Conclusion:	All programmes are delivered online by distance, therefore completion rates of around 80 per cent across all programmes are very good. RWE tracks student progress closely and makes comprehensive efforts to assist students to complete programmes. However, systems for external moderation require further discussion and development.

[6] The findings in this report are derived using a standard process and are based on a targeted sample of the organisation's activities.

1.2 What is the value of the outcomes for key stakeholders, including students?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	All stakeholders benefit from RWE programmes. Students gain real laboratory industry experience while laboratory employers gain committed unpaid labour and the opportunity to gauge a student's skill set. Employer feedback indicates that RWE programmes have a role in career advancement. Laboratories are audited by International Accreditation New Zealand and other agencies against rigorous standards. Near the end of a placement in a partnering laboratory, RWE assesses the students but relies mostly on the ongoing student records kept by the laboratory supervisor. The high standards required for laboratories to maintain compliance, and the daily contact with participants on partnering laboratory placement by RWE staff, provide assurance that students are competently meeting industry standards. In the years 2016-2019, 100 per cent of graduates (domestic and international) had a laboratory job on programme completion or within a week of receiving a post-study work visa. Of those already in laboratory jobs at secondary schools, many had increased responsibilities after completing the School Laboratory Manager Programme or School Laboratory Manager Certificate Programme. The laboratory manager role comes with added legal and regulatory responsibilities. RWE is the only provider of this schools-based programme. Demand for trained laboratory staff is high. Often laboratories where students have had placements employ these graduates once qualified. RWE has limited competition from other educational organisations and all graduates get jobs.
Conclusion:	RWE's programmes lead to valued outcomes for both domestic and international students. Both students and employers benefit from industry placements that realistically gauge student skills, build competence and foster work-readiness. RWE is informed by industry feedback and adjusts programmes as needed. Graduates gain qualifications, relevant employment and promotions from completing RWE programmes.

1.3 How well do programme design and delivery, including learning and assessment activities, match the needs of students and other relevant stakeholders?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	Provision is driven by industry needs and matching of needs is very strong. RWE's programmes closely align theory and practice. RWE built the video interface for the distance learning because no off-shelf e-learning product was suitable. Interactive online theoretical knowledge is flexible, engaging and accessible by personal computer and will soon be available on students' mobile phones. Students progress at their own pace and can revisit topics for revision. Practical competency is measured by the ability to repeat a task three times continuously. Partner laboratories provide practical experience for the students. Placements also provide exposure to New Zealand working conditions and work expectations. RWE provides guidance pre-placement on suitable topics for conversation at work and the interpersonal skills that employers value. Placements are proxy job interviews where punctuality, timeliness and teamwork are all being assessed. Laboratories benefit from the unpaid work of students. They also enjoy the kudos of supporting the wider industry through involvement in training students. RWE is responsive to industry needs. When a partner laboratory identified a need for students to understand how to use microscopes, RWE responded by purchasing a microscope and incorporating its use into training. Based on concerns expressed by some laboratories about the spoken English abilities of some participants, RWE did a review and increased speaking and listening sub-score requirements for all programmes.
Conclusion:	RWE programmes are regularly reviewed and updated. Programme design and delivery is engaging to students and is industry-relevant. Students understand the importance of successful laboratory placements for their future options, particularly the ability to live and work in New Zealand.

1.4 How effectively are students supported and involved in their learning?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	RWE became a Code of Practice signatory in 2016 and gained TEC funding for the 2019 academic year. These changes have led to a steady growth in student numbers (domestic and international) and enabled targeted investment in extra staff and improved facilities. These factors have contributed significantly to RWE's capacity to support domestic and international students, academically and pastorally. Students describe RWE as 'like a second family'. Staff are helpful, positive and responsive. Pre-selection of students is rigorous. It includes interviews to assess capability in English language skills, both spoken and comprehension. Rolling enrolments often mean induction is undertaken with individual students or in small groups. Students and tutors know each other well. Students are mostly mature, well motivated and familiar with study and its requirements. Each student has their own individual learning plan which is worked out with a tutor and regularly reviewed to ensure it supports appropriate progress goals. RWE monitors the time students take to complete parts of the online programme modules. A contact person at each laboratory sets up and follows the student on placement. RWE visits a month after the placement has started and at the end of the placement. Students provide daily email feedback to RWE detailing their progress and tasks undertaken each day. RWE calls each laboratory weekly to check on the students and gain feedback. This information is collated in the student's file, is available to all staff and leads to change if required.
Conclusion:	Mature, self-motivated students manage their distance learning goals effectively. RWE monitors online and laboratory placement student activities. Regular contact between students, RWE staff and contact people at laboratories ensures that academic and other issues are proactively managed.

1.5 How effective are governance and management in supporting educational achievement?

Performance:	**Excellent**
Self-assessment:	**Excellent**
Findings and supporting evidence:	RWE is meeting the New Zealand government and industry need for highly skilled immigrants. Entry to the postgraduate qualification is rigorous. It includes higher English language proficiency, a related tertiary qualification and relevant work experience. RWE has let agents know that RWE also wants to gradually raise the bar for entry to undergraduate programmes because higher-skilled workers add greater value to the New Zealand economy. Before TEC funding, all domestic students had to be self-funded which put the programmes out of reach for most domestic students, including Māori and Pasifika. The STEM[7] focus and practical nature of laboratory jobs provide opportunities for these groups, including pathways to work. RWE's TEC investment plan includes engaging with Māori and Pasifika students. Advantages of this engagement include laboratory placements near high concentrations of Māori and Pasifika; these groups can participate with a computer and get tutor help without leaving home. TEC funding will allow RWE to take learning activities (block courses, tutorials, travelling laboratory) to these communities and allow the students to celebrate their achievements with family and friends. RWE has contacted Māori leaders in Palmerston North and career counsellors in Auckland high schools to discuss these ideas. RWE supports educational achievement through student scholarships which are well utilised. TEC funding has enabled better resourcing, increased staffing, IT upgrades and purchases of laboratory gear and books.
Conclusion:	RWE management is student-centred. Academic leadership is strong and staff are highly valued. RWE balances innovation and continuity of business. TEC funding has enabled managed growth, increased resourcing and provision of programmes to domestic and international students.

[7] Science, technology, engineering, mathematics

1.6 How effectively are important compliance accountabilities managed?

Performance:	**Good**
Self-assessment:	**Good**
Findings and supporting evidence:	Compliance management accountabilities have increased considerably since RWE became a Code of Practice signatory in 2016 and in receipt of TEC funding in 2019. To manage these added accountabilities, RWE has introduced a calendar system to meet deadlines. Other measures include an encrypted file server and hourly back-up of data. RWE reviews its compliance with the Code of Practice annually, as required. In 2017, RWE's self-assessment was randomly selected by the NZQA Code Team and the feedback used to inform the next year's self-assessment. RWE quickly responded to the 2019 Code of Practice amendments to enable the changes to be incorporated. RWE's programmes do not fit easily into TEC systems. To address this, RWE contacted the TEC to discuss reporting requirements. The TEC has said it will be tolerant of any reporting problems. RWE has one postgraduate student currently and is due for an NZQA degree monitoring visit in 2019. RWE needs to consider how it will meet degree monitoring requirements for moderation and a more formal advisory board. RWE wants to develop useful systems and structures that meet the needs of NZQA monitoring, RWE and students. Contracts with partnering laboratories are clear. International students are vetted by immigration as well as RWE processes. RWE submits a Criminal Conviction check request with the Ministry of Justice before they arrange any placement in any partnering laboratory.
Conclusion:	RWE manages compliance accountabilities well. Some systems are not yet fully developed due to recent TEC funding and degree-level monitoring requirements. RWE is fully committed to meeting these requirements effectively.

Focus Areas

This section reports significant findings in each focus area, not already covered in Part 1.

2.1 Focus area: New Zealand Certificates and Diplomas in Applied Science (Levels 4-6)

Performance:	**Excellent**
Self-assessment:	**Excellent**

2.2 Focus area: Schools Programmes

Performance:	**Excellent**
Self-assessment:	**Excellent**

2.3 Focus area: International Students: Support and Wellbeing

Performance:	**Excellent**
Self-assessment:	**Excellent**

Recommendations

Recommendations are not compulsory but their implementation may improve the quality and effectiveness of the training and education provided by the tertiary education organisation (TEO). They may be referred to in subsequent external evaluation and reviews (EERs) to gauge the effectiveness of the TEO's quality improvements over time.

NZQA recommends that Real World Education:

- Consider reviewing external moderation processes for undergraduate programmes to ensure they provide sufficiently strong validation of the practical assessment outcomes of the students at partnering laboratories.
- Consider formation of an advisory board to further formalise input from varied stakeholders.

Requirements

Requirements relate to the TEO's statutory obligations under legislation that governs their operation. This include NZQA Rules and relevant regulations promulgated by other agencies.

There are no requirements arising from the external evaluation and review.

Appendix

Conduct of external evaluation and review

All external evaluation and reviews are conducted in accordance with NZQA's published rules. The methodology used is described in the web document https://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/. The TEO has an opportunity to comment on the accuracy of this report, and any submissions received are fully considered by NZQA before finalising the report.

Disclaimer

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For the same reason, these findings are always limited in scope. They are derived from selections and samples evaluated at a point in time. The supporting methodology is not designed to:

- *Identify organisational fraud*[8]
- *Provide comprehensive coverage of all programmes within a TEO, or of all relevant evidence sources*
- *Predict the outcome of other reviews of the same TEO which, by posing different questions or examining different information, could reasonably arrive at different conclusions.*

[8] NZQA and the TEC comprehensively monitor risk in the tertiary education sector through a range of other mechanisms. When fraud, or any other serious risk factor, has been confirmed, corrective action is taken as a matter of urgency.

Regulatory basis for external evaluation and review

External evaluation and review is conducted under the Quality Assurance (including External Evaluation and Review (EER)) Rules 2016, which are made by NZQA under section 253(1)(pa) of the Education Act 1989 and approved by the NZQA Board and the Minister authorised as responsible for Part 20 of the Education Act.

Self-assessment and participation and cooperation in external evaluation and review are requirements for:

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- *maintaining training scheme approval for all TEOs other than universities.*

The requirements for participation and cooperation are set through the Programme Approval and Accreditation Rules 2018, the Consent to Assess Against Standards Rules 2011 and the Training Scheme Rules 2012 respectively. These rules were also made by NZQA under section 253 of the Education Act 1989 and approved by the NZQA Board and the Minister.

In addition, the Private Training Establishment Rules 2018 require registered private training establishments to undertake self-assessment and participate in external evaluation and review as a condition of maintaining registration. The Private Training Establishment Registration Rules 2018 are also made by NZQA under section 253 of the Education Act 1989 and approved by the NZQA Board and the Minister for Tertiary Education, Skills and Employment.

NZQA is responsible for ensuring non-university TEOs continue to comply with the rules after the initial granting of approval and accreditation of programmes, training schemes and consents to assess and registration. The New Zealand Vice-Chancellors' Committee (NZVCC) has statutory responsibility for compliance by universities.

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Report of External Evaluation and Review

Real World Education

Highly Confident in educational performance

Highly Confident in capability in self-assessment

Date of report: 1 September 2015

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MoE Number: 7170

NZQA Reference: C18593

Date of EER visit: 19 and 20 May 2015

Purpose of this Report

The purpose of this external evaluation and review report is to provide a public statement about the Tertiary Education Organisation's (TEO) educational performance and capability in self-assessment. It forms part of the accountability process required by Government to inform investors, the public, students, prospective students, communities, employers, and other interested parties. It is also intended to be used by the TEO itself for quality improvement purposes.

Introduction

1. TEO in context

Name of TEO:	Real World Education
Type:	Private Training Establishment (PTE)
Location:	22 Manuka Street, Hokowhitu, Palmerston North
Delivery sites:	Three permanent delivery sites: Fonterra Cooperative Group Ltd (Temuka); Citilab Holdings Ltd (Dunedin); Cawthron Institute (Nelson)
Courses currently delivered:	Laboratory Technical Assistant Programme (LTAP) (Level 4, 60 credits) leads to the New Zealand Certificate in Applied Science (Level 4, 60 credits); Laboratory Technician Programme (LTP) (Level 5, 120 credits) leads to the New Zealand Diploma in Applied Science (Level 5,120 credits). These make use of the newly approved qualifications.
First registered:	27 August 2013
Code of Practice signatory:	No
Number of students:	Domestic: 13 (eight students in the laboratory skills programme; and five students in the Laboratory Technician Programme).
Number of staff:	One full-time equivalent
Distinctive characteristics:	A combination of online distance learning and workplace-based learning at laboratories.
Recent significant changes:	Applications are currently with NZQA for the 'School Science Laboratory Technician Programme' (leading to the New Zealand

	Certificate in Applied Science (Level 4)) and the 'School Laboratory Manager Programme' (leading to the New Zealand Diploma in Applied Science (Level 5)). If these programmes are approved, Real World Education will apply for Tertiary Education Commission (TEC) funding to deliver them. Real World Education does not currently receive any TEC funding.
Previous quality assurance history:	This is the first external evaluation and review (EER) for Real World Education. Real World Education was exempted from NZQA moderation in 2015 due to good results in 2014.
Other:	The blended learning model is primarily delivered through video-rich, interactive lessons. Learner progress is intensively monitored and tutorial support is available.

2. Scope of external evaluation and review

The focus areas selected were the mandatory focus area of governance, management and strategy and the Laboratory Technical Assistant Programme (LTAP) (Level 4) (60 credits).

3. Conduct of external evaluation and review

All external evaluation and reviews are conducted in accordance with NZQA's published policies and procedures. The methodology used is described fully in the web document Policy and Guidelines for the Conduct of External Evaluation and Review available at: http://www.nzqa.govt.nz/providers-partners/registration-and-accreditation/external-evaluation-and-review/policy-and-guidelines-eer/introduction. The TEO has an opportunity to comment on the accuracy of this report, and any submissions received are fully considered by NZQA before finalising the report.

A lead evaluator visited the Real World Education director at the Fonterra Temuka site for one day. The evaluator spoke with the Real World Education director, two Fonterra laboratory managers who have responsibility for coordinating learner training and the two learners on site.

The evaluator also reviewed a range of documentation, including the comprehensive self-assessment documentation, the organisation's website and online learning materials.

After the review, the evaluator spoke with the manager of the Cawthron Institute in Nelson, who has responsibility for coordinating learner training, and a Real World Education learner at Cawthron Institute.

Summary of Results

Statement of confidence on educational performance

NZQA is **Highly Confident** in the educational performance of **Real World Education.**

- The current learners and partner laboratories are highly satisfied with all the programmes offered. There has been a 100 per cent completion rate. One learner has successfully completed the Laboratory Technical Assistant Programme, eight learners have successfully completed the Laboratory Skills Programme and four learners have successfully completed the Laboratory Technician Programme. A number of learners have also completed short taster courses.
- Learners complete a pre-enrolment online short course that includes an assessment, and receive information about where the qualifications lead, before they are accepted into the Laboratory Technical Assistant Programme. This pre-enrolment system increases the likelihood of a good match between the learner, the programme and industry requirements.
- Learners are provided with high quality online materials and timely ongoing one-to-one academic assistance from the experienced and knowledgeable director.
- Learners consistently reported that any academic inquiries were responded to promptly and appropriately and that they were encouraged to seek support. This positively enhanced the learner/tutor relationship.
- Learners are assessed both online and on-job, by the director and/or experienced workplace assessors. This provides a good balance between knowledge and practical skills, both important requirements for the workplace.
- Learners are provided with appropriate pastoral support to help them complete their training. This includes regular contact from the director when a learner is on a placement in a laboratory.
- The mix of 'on-the-job' and online learning meets both learner and stakeholder needs well. Learners consolidate their learning through hands-on practice in the laboratory and through working alongside experienced practitioners who guide and mentor them. Learners also inject enthusiasm and new ideas into the workplace.
- Industry requirements at partnering laboratories reinforce and extend learner performance and good practice. Learners are expected to meet industry standards, after appropriate training and practice, in the same way permanent employees are.

Statement of confidence on capability in self-assessment

NZQA is **Highly Confident** in the capability in self-assessment of **Real World Education.**

- Real World Education has developed online resources that demonstrate deep knowledge of the relevant academic information. They are informed by the director's extensive teaching and work experience both in New Zealand and overseas, and by ongoing consultation with external stakeholders and advisers.
- The learning resources are also informed by extensive research around distance/blended teaching and learning principles. This has led to the development of interactive learning modules that are learner-centred, varied and sequential.
- Learner and employer feedback is sought regularly and improvements to materials and resources are ongoing. This ensures that the materials remain relevant and are industry-informed.
- Real World Education has been actively involved in the targeted review of qualifications. This indicates strong commitment to the industry and that the director is well regarded in the industry.
- The director anticipates and responds to change. Real World Education continues to work with new stakeholders, such as secondary schools, to respond to identified needs. This has led to the development of two programmes, currently awaiting approval by NZQA.
- Real World Education is assisted by four advisers who are drawn from various relevant industry sectors and have a range of skills. These include skills in information technology, secondary school science programmes, laboratory specialist skills and a colleague from outside New Zealand who offers a different perspective. This input is highly valued by the director, who consults them individually, as required.
- The purpose and direction of Real World Education is clear. It has developed policies and procedures to cover all aspects of its business and to accommodate future growth in learner numbers. The director's approach is systematic, focused and responsive. Self-assessment is ongoing, thoughtful and robust. These factors allow NZQA to be highly confident in Real World Education's capability in self-assessment.

Findings[1]

1.1 How well do learners achieve?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

Learner achievement is currently 100 per cent. One learner has successfully completed the Laboratory Technical Assistant Programme, eight learners have successfully completed the Laboratory Skills Programme and four learners have successfully completed the Laboratory Technician Programme. A number of learners have also completed short taster courses. All learners consistently reported that the online programme was easy to log onto, easy to navigate, increased in difficulty as the modules progressed, and that assistance was only a phone call or email away.

The organisation has given considerable thought to the learner experience, including reviewing research on distance learning, consulting others experienced in this form of learning and trialling a few options. Patterns of learner use show that learners are making very good choices about when to deviate from the module pattern, indicating that the navigation part of the learner interface design is working effectively. It also indicates that learners are taking responsibility for their learning experience and achieving one of the acknowledged advantages of online learning, self-paced learning.

Learners have the opportunity to provide formal feedback as part of the online programme. They can also give feedback informally when they seek assistance or the director visits them on site. Learners can give feedback easily through the 'submit feedback' button in the learning interface. This function can also be used to ask a question or submit a suggestion. Learners are introduced to this feature in the first lesson and have to use it. The organisation responds to all learner questions appropriately and usually within four hours.

[1] The findings in this report are derived using a standard process and are based on a targeted sample of the organisation's activities.

1.2 What is the value of the outcomes for key stakeholders, including learners?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

Learners acquire useful and meaningful skills and develop their cognitive abilities (including learning to learn and self-management). They also improve their well-being and enhance their abilities and attributes. Learners discussed how the learning and work experience had led to increased confidence that was reflected in both their work and daily lives. One learner commented that she had always wanted to be a laboratory assistant and that this qualification was a great mix of theory and practice, which suited her learning style. Another learner commented that it enhanced her university studies, as she was able to use her high-level study to understand and inform the reasons behind practical tasks and vice versa.

The partnering laboratory staff and managers have the opportunity to observe the learner, over several placements. If the learner possesses the requisite skills, knowledge, work ethic and personal attributes they may be offered permanent employment. Real World Education acts as an informal employment broker for the laboratories by linking learners and employers. This is an important role, as laboratories are always looking for good staff.

1.3 How well do programmes and activities match the needs of learners and other stakeholders?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

The director's experience and insight, in consultation with others in the field, informed all aspects of the programme. His teaching experiences, over many years, indicated that several years of study at tertiary organisations offering laboratory training did not necessarily produce work-ready graduates. This view was shared by many inside the industry. The decision to establish Real World Education was a result of these collective viewpoints.

The blended learning environment of the Laboratory Technical Assistant Programme engages learners, as it is planned and structured for the benefit and needs of learners. The learning activities and resources support learner achievement through the sequential online modules, timely access to tutorial support, and regular on site visits by the director. No learner has ever asked to use the lessons offline; therefore there has been no need to modify the online only programme.

Learners have opportunities to apply knowledge and skills at partnering laboratories, where permanent staff assist and observe them. Learners are exposed to a variety of contexts within the laboratories and, after appropriate training and practice, are expected to meet the 'industry standard' of the laboratory.

Feedback systems are well developed and useful to all stakeholders. The director regularly seeks informal and formal feedback from learners, partnering laboratories and advisers. For example, feedback from one partnering laboratory led to a specialised dilution scenario being added to the lessons and a learner request for support for use on iPhones is due to be implemented by the end of the year.

1.4 How effective is the teaching?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

Teaching is highly effective and related to the workplace. Learners are provided with high quality online materials and ongoing one-to-one academic assistance from the director, who is knowledgeable and experienced.

The director is the online presenter. He provides continuity by linking different video types, styles and formats. There are also varied ways of presenting content to maintain learner interest.

Assessments are designed to allow the learner to demonstrate competence as a workplace would view it. For example, an assessment on communication focuses on the communication skills valued in a laboratory context. Theoretical knowledge is also contextualised. Learners are assessed on their ability to communicate knowledge to a co-worker, not their ability to write in an academic style.

While the director undertakes the majority of workplace assessments, there are some part-time assessors who also do this. The director accompanies these assessors on site to ensure the assessment is appropriate and at the correct level for competence (competence is the expectation that the skill could be performed to workplace standards, a year after assessment).

Understanding of theoretical concepts is assessed through practical demonstrations at work placements, a reliable indicator that the assessment is fit for purpose. Both on and off line assessment provides learners with useful feedback on their progress. As a result of good national external moderation results in 2014, Real World Education was exempted from NZQA moderation in 2015.

1.5 How well are learners guided and supported?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

Guidance and support of learners is comprehensive and timely. It is based on the director's observation that the 'typical learner' attracted to the programme requires some guidance.

This guidance begins with the pre-application contact, prior to enrolment. This is with the director, by email and phone, and includes a discussion of the blended learning format, where the qualification leads to and the commitment required to successfully complete the programme.

All applicants must complete a short online course prior to enrolling. About two thirds of those who complete the short course apply to the programme, indicating that the short online course aids learners' decision-making.

About 10 days into the programme, a learner will receive a toolkit containing a: pipette, pipette bulb, micropipette and digital balance. This is very useful, as most learners are 'hands-on' learners. The access to the equipment enables them to practice at home. It also keeps them interested and motivated and allows them to begin to develop a set of core skills prior to the placement.

The director rings the learner on the first night of the placement to discuss the first day and to anticipate any issues. Any issues are discussed and dealt with appropriately.

Pastoral care is also offered by the laboratory staff and management. This includes inducting learners around the laboratory rules and regulations, providing them with a buddy to work with, issuing any equipment required, and discussing the work ethic of the organisation. This guidance also includes direction around health and safety considerations, such as safety glasses, which must be worn at all times in the laboratory.

Effective guidance and support is provided both during and after completing the programme. The after-programme contact may be by email or when the director meets a learner face-to-face at a workplace.

1.6 How effective are governance and management in supporting educational achievement?

The rating for performance in relation to this key evaluation question is **Excellent.**

The rating for capability in self-assessment for this key evaluation question is **Excellent.**

Real World Education is highly responsive to learner needs and intends to grow learner numbers responsibly. It is realistic about the sector and the number of partnering laboratories that are available to accommodate growth in the Laboratory Technical Assistant Programme. It has good systems in place for when learner numbers grow.

The director is highly committed to learner achievement and providing learners with good theoretical and practical skills and knowledge to meet industry requirements. The industry is small and well connected, and the small number of learners makes maintaining contact with graduates easy. Thirteen learners have graduated, indicating that the programme is meeting the most important needs of all its stakeholders.

Real World Education has been actively involved in the targeted review of qualifications. The director believes that the recently developed New Zealand qualifications will serve the sector better, as changes to the Graduate Profile Outcomes have allowed Real World Education to make changes to the Laboratory Technician Programme. This means that learners can accept employment and continue upskilling through Real World Education. The study-while-working option and a clearer differentiation between the two qualifications (based on level) may increase interest in continuing onto the level 5 programme. The current programmes are similar to each other, with the level 5 option going further, but with no major difference in focus. Few people take up the current level 5 option.

The new qualifications open up other possibilities, for example, medical laboratory technology. However, Real World Education's self-assessment indicates that there is not a significant unmet need in this area.

It has, however, been working with the Science Technicians' Association of New Zealand (STANZ) and the New Zealand Association of Science Educators (NZASE) on an identified training need for secondary school science technicians. Real World Education has two applications currently with NZQA for the 'School Science Laboratory Technician Programme' (leading to the New Zealand Certificate in Applied Science, Level 4) and the 'School Laboratory Manager Programme' (leading to the New Zealand Diploma in Applied Science, Level 5).

These programmes would be similar to current programmes, with the level 4 being the first semester of the level 5. They would also use blended learning and be workplace-based (in school laboratories). However, unlike current full-time programmes, they would be part-time.

If these programmes are approved by NZQA, Real World Education will consider applying for TEC funding to deliver them (Real World Education does not currently receive any TEC funding).

Other areas of development include short courses and attendance at Career Fairs, to gain greater visibility for Real World Education, and offering workplace assessments against NZQA unit standards.

Real World Education has identified gaps through its robust self-assessment. These include:

- The need to collect ethnic data
- Clearer procedures between Real World Education and placement employers regarding drug testing
- Police reporting
- Succession planning, particularly for the director and the IT developer roles.

The director continues to upskill and was recently accepted into a doctorate level distance education programme at an American university. This indicates that he is committed to ensuring his skills and knowledge continue to grow and inform teaching and learning.

Focus Areas

This section reports significant findings in each focus area, not already covered in Part 1.

2.1 Focus area: Governance, management and strategy

The rating in this focus area for educational performance is **Excellent.**

The rating for capability in self-assessment for this focus area is **Excellent.**

2.2 Focus area: Laboratory Technical Assistant Programme (LTAP)

The rating in this focus area for educational performance is **Excellent.**

The rating for capability in self-assessment for this focus area is **Excellent.**

Recommendations

There are no recommendations arising from the external evaluation and review.

Appendix

Regulatory basis for external evaluation and review

External evaluation and review is conducted according to the External Evaluation and Review (EER) Rules 2013, which are made by NZQA under section 253 of the Education Act 1989 and approved by the NZQA Board and the Minister for Tertiary Education, Skills and Employment.

Self-assessment and participation in external evaluation and review are requirements for maintaining accreditation to provide an approved programme for all TEOs other than universities. The requirements are set through the NZQF Programme Approval and Accreditation Rules 2013, which are also made by NZQA under section 253 of the Education Act 1989 and approved by the NZQA Board and the Minister for Tertiary Education, Skills and Employment.

In addition, the Private Training Establishment Registration Rules 2013 require registered private training establishments to undertake self-assessment and participate in external evaluation and review, in accordance with the External Evaluation and Review Rules (EER) 2013, as a condition of maintaining registration. The Private Training Establishment Registration Rules 2013 are also made by NZQA under section 253 of the Education Act 1989 and approved by the NZQA Board and the Minister for Tertiary Education, Skills and Employment.

NZQA is responsible for ensuring non-university TEOs continue to comply with the rules after the initial granting of approval and accreditation of programmes and/or registration. The New Zealand Vice-Chancellors' Committee (NZVCC) has statutory responsibility for compliance by universities.

This report reflects the findings and conclusions of the external evaluation and review process, conducted according to the External Evaluation and Review (EER) Rules 2013.

The report identifies strengths and areas for improvement in terms of the organisation's educational performance and capability in self-assessment.

External evaluation and review reports are one contributing piece of information in determining future funding decisions where the organisation is a funded TEO subject to an investment plan agreed with the Tertiary Education Commission.

External evaluation and review reports are public information and are available from the NZQA website (www.nzqa.govt.nz).

The External Evaluation and Review (EER) Rules 2013 are available at http://www.nzqa.govt.nz/assets/About-us/Our-role/Rules/EER-Rules.pdf, while information about the conduct and methodology for external evaluation and review can be found at http://www.nzqa.govt.nz/providers-partners/external-evaluation-and-review/policy-and-guidelines-eer/introduction/.

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Education and Training Act 2020

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Education.

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Schedule 24 753
National student numbers

Schedule 25 756
Directions relating to COVID-19

[Repealed]

Schedule 26 757
Consequential amendments and revocations

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education and Training Act 2020.

2 Commencement

(1) Sections 17 to 18C come into force on 1 February 2023.

(2) Sections 90, 134, 138 to 146, 164, 165, 174 and Part 2 of Schedule 26 come into force on 1 January 2023.

(3) Sections 71 to 75 and 127(1)(d) and Schedule 20 come into force on 1 January 2021.

(4) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): replaced, on 1 August 2022, by section 4 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 2(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

3 Outline of Act

(1) This Act, which sets out New Zealand's education and training system (the **system**), is divided into 6 Parts.

(2) This Part (Part 1) covers the following preliminary matters:

- (a) the purposes of this Act:
- (b) the statement of national education and learning priorities:
- (c) the statement of expectations for agencies serving the system:
- (d) the strategies for tertiary education and international education:
- (e) Te Tiriti o Waitangi:
- (f) the defined terms used in this Act:
- (g) the transitional and savings provisions needed for this Act:
- (h) the extent to which this Act binds the Crown.

(3) Part 2 sets out provisions regarding early childhood education, which is the initial stage of the system.

(4) Part 3 sets out provisions regarding primary and secondary education, which are the stages of the system that follow early childhood education.

(5) Part 4 sets out provisions regarding tertiary education and vocational education and training, which are the stages of the system that follow secondary education.

(6) Part 5 sets out provisions relating to performance, funding, and support of the system.

(7) Part 6 sets out provisions relating to the administration of the system.

Compare: 2018 No 4 s 4

4 Purpose of Act

The purpose of this Act is to establish and regulate an education system that—

- (a) provides New Zealanders and those studying in New Zealand with the skills, knowledge, and capabilities that they need to fully participate in the labour market, society, and their communities; and
- (b) supports their health, safety, and well-being; and
- (c) assures the quality of the education provided and the institutions and educators that provide and support it; and
- (d) honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

Compare: 1989 No 80 ss 145AAA, 160, 376, 377; 1992 No 55 s 1A

5 Minister may issue statement of national education and learning priorities

(1) The Minister may, by notice in the *Gazette*, issue a statement of national education and learning priorities for early childhood education, primary education, and secondary education.

(2) The notice may contain the statement in full or describe the statement in general terms and indicate where the full text can be obtained.

(3) A statement issued under subsection (1)—

(a) must be consistent with the objectives set out in subsection (4); and

(b) must specify the date on which it takes effect; and

(c) remains in effect for a period of 5 years unless earlier withdrawn or replaced by notice in the *Gazette*; and

(d) must be published on an Internet site maintained by or on behalf of the Ministry.

(4) The education and learning objectives for early childhood education, primary education, and secondary education are—

(a) to help each child and young person attain their educational potential; and

(b) to promote the development, in each child and young person, of the following abilities and attributes:

(i) resilience, determination, confidence, and creative and critical thinking:

(ii) good social skills and the ability to form good relationships:

(iii) participation in community life and fulfilment of civic and social responsibilities:

(iv) preparedness for work; and

(c) to instil, in each child and young person, an appreciation of the importance of—

(i) the inclusion of different groups and persons with different personal characteristics:

(ii) diversity, cultural knowledge, identity, and the different official languages:

(iii) Te Tiriti o Waitangi and te reo Māori.

(5) Before issuing a statement, the Minister must comply with subsection (6) and consult those involved in early childhood education, primary education, and secondary education that the Minister thinks fit to consult.

(6) The Minister must make reasonable efforts to consult—

(a) children and young people; and

(b) national bodies representing the interests of—

(i) teachers:

(ii) principals:

(iii) governing bodies of schools:

(iv) early childhood services:

(v) parents:

(vi) the disability community:

(vii) support staff in schools and early childhood services:

(viii) Māori education organisations:

(ix) Pacific education organisations:

(x) proprietors of State integrated schools; and

(c) national bodies that have a particular role in respect of the character of designated character schools and Kura Kaupapa Māori.

(7) Minor changes to a statement issued under this section—

(a) may be made without undertaking the consultation required by subsections (5) and (6); and

(b) do not, for the purposes of subsection (3)(c), constitute a withdrawal or replacement of the statement being changed.

(8) A minor change under subsection (7) is limited to a technical, short, or uncontroversial amendment that does not change or extend the policy of the statement.

(9) *[Repealed]*

(10) Except as provided in subsection (3)(a), the objectives set out in subsection (4) do not limit or affect the way in which any person is required to exercise a power or perform a function under Part 2 or 3.

Compare: 1989 No 80 s 1A

Section 5(6)(c): amended, on 23 August 2023, by section 18 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 5(9): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

6 Statement of expectations

(1) The Minister and the Minister for Māori Crown Relations: Te Arawhiti may, for the purposes of providing equitable outcomes for all students, jointly issue a statement that sets out expectations for the following agencies:

(a) the Ministry:

(b) TEC:

(c) NZQA:

(d) the Education Review Office:

(e) Education New Zealand.

(2) The statement must specify what those agencies must do to give effect to public service objectives (set out in any enactment) that relate to Te Tiriti o Waitangi.

(3) Before issuing the statement, the Ministers must consult Māori.

(4) The statement must be issued to each agency specified in the statement and published in the *Gazette*.

(5) *[Repealed]*

Section 6(1): replaced, on 16 December 2021, by section 4 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 6(5): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

7 Tertiary education strategy

(1) The Minister must, by notice in the *Gazette*, issue a tertiary education strategy that sets out the Government's—

(a) long-term strategic direction for tertiary education, which must include—

(i) economic goals:

(ii) social goals:

(iii) environmental goals:

(iv) the development aspirations of Māori and other population groups; and

(b) current and medium-term priorities for tertiary education.

(2) The Minister may, by notice in the *Gazette*, withdraw and replace, or amend, a tertiary education strategy.

(3) Before issuing, withdrawing and replacing, or significantly amending the strategy, the Minister must consult—

(a) the persons or bodies that the Minister thinks fit to consult in the circumstances; and

(b) TEC.

(4) An amendment forms part of the tertiary education strategy it amends.

(5) A tertiary education strategy remains in place until it is withdrawn or replaced.

Compare: 1989 No 80 ss 159AA, 159AC

8 International education strategy

(1) The Minister may issue an international education strategy that sets out—

(a) the Government's long-term strategic direction for international education; and

(b) the Government's current and medium-term priorities for international education.

(2) Before issuing the Government's international education strategy, the Minister must consult the organisations or people that, in the Minister's opinion, have a substantial interest in international education and ought to be consulted.

Compare: 1989 No 80 s 271

9 Te Tiriti o Waitangi

(1) The main provisions of this Act that recognise and respect the Crown's responsibility to give effect to Te Tiriti o Waitangi are—

(a) section 4, which states that the purpose of this Act includes establishing and regulating an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships; and

(b) section 5(4)(c)(iii), which provides that any statement of national education and learning priorities issued by the Minister must be consistent with objectives for early childhood, primary, and secondary education and learning that include instilling in each child and young person an appreciation of the importance of Te Tiriti o Waitangi and te reo Māori; and

(c) section 6, which provides that the Minister and the Minister for Māori Crown Relations: Te Arawhiti may, for the purpose of providing equitable outcomes for all students, and after consulting with Māori, jointly issue and publish a statement that specifies what the Ministry, TEC, NZQA, the Education Review Office, and Education New Zealand must do to give effect to public service objectives (set out in any enactment) that relate to Te Tiriti o Waitangi; and

(d) section 127(1)(d), which provides that one of a board's primary objectives in governing a school is to ensure that the school gives effect to Te Tiriti o Waitangi, including by—

(i) working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and

(ii) taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and

(iii) achieving equitable outcomes for Māori students; and

(e) subpart 6 of Part 3, which provides for the establishment and operation of Kura Kaupapa Māori, Te Aho Matua, and te kaitiaki o Te Aho Matua; and

(f) subpart 3 of Part 4 and Part 4A, which provide for the establishment and operation of wānanga; and

(g) clause 4(b) and (d) of Schedule 13, which provides that Te Pūkenga—New Zealand Institute of Skills and Technology must operate in a way that allows it to develop meaningful partnerships with Māori employers

and communities and to reflect Māori-Crown partnerships to ensure that its governance, management, and operations give effect to Te Tiriti o Waitangi and to respond to the needs of, and improve outcomes for, Māori learners, whānau, hapū, and iwi.

(2) Other provisions related to Te Tiriti o Waitangi in the context of the regulation of the education system include—

(a) the definition of **school community** in section 10(1), which includes a Māori community associated with a school; and

(b) section 17(2)(a), which provides that before the Minister may grant approval to apply for an early childhood service, the Minister must take into account the availability of services in the area with different offerings, for example, the provision of te reo Māori; and

(c) sections 278(2)(a), 320(1)(c), 325(1) and (3), 326(2), and 363(3)(b), which provide for Māori contribution to decision making in tertiary education and vocational education and training; and

(d) section 281(1)(b), which provides that councils of institutions have a duty, in the performance of their functions and the exercise of their powers, to acknowledge the principles of Te Tiriti o Waitangi; and

(e) section 315(f), which provides that one of the functions of Te Pūkenga—New Zealand Institute of Skills and Technology is to improve outcomes for Māori learners and Māori communities in collaboration with Māori and iwi partners and interested persons or bodies; and

(f) section 402, which provides that TEC comprises members appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004 after consultation with the Minister for Māori Development; and

(g) section 476(4)(b)(v), which provides that when considering whether to appoint a person as a member of the Teaching Council, the Minister must have regard to the collective skills, experience, and knowledge making up the overall composition of the Teaching Council, including understanding of the partnership principles of Te Tiriti o Waitangi; and

(ga) section 535B, which provides for how a code administrator must exercise and perform its functions, powers, and duties in relation to Te Tiriti o Waitangi; and

(gb) section 536A(1), which provides for how a DRS operator must exercise and perform its functions, powers, and duties in relation to Te Tiriti o Waitangi; and

(h) section 597(2)(d), which provides that a good employer in the education service is an employer who operates an employment policy containing provisions requiring recognition of the aims and aspirations of Māori, the employment requirements of Māori, and the need for greater involvement of Māori in the education service.

Section 9(1)(c): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 9(1)(f): amended, on 23 August 2023, by section 4 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 9(1)(g): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 9(2)(b): amended, on 1 August 2022, by section 5(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 9(2)(e): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 9(2)(ga): inserted, on 1 August 2022, by section 5(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 9(2)(gb): inserted, on 1 August 2022, by section 5(2) of the Education and Training Amendment Act 2022 (2022 No 38).

10 Interpretation

(1) In this Act, unless the context otherwise requires,—

academic year means a period of 12 months commencing on 1 January

accreditation means the following:

(a) an accreditation to provide an approved programme or part of a programme under section 441:

(b) an accreditation to provide an approved micro-credential under section 446A

adult student means a student who is aged 20 years or over

affected student means a student who is required to attend school in accordance with a multiple timetable arrangement

allowance includes a bursary, a grant, and a scholarship

applicable organisation means an organisation that provides an applicable service

applicable person, in relation to an applicable organisation, means any body or person who administers, controls, governs, manages, operates, or owns the organisation

applicable service means an education service to which any of sections 462(1), 463, 464, 465, 622, and 624 apply

apprentice means a person receiving apprenticeship training

apprenticeship training means a type of vocational education and training that—

(a) is provided for a person who is working in an industry while undertaking training in that industry; and

(b) is provided wholly or partly at the person's workplace, mainly by or on behalf of the person's employer; and

(c) consists of a programme of study or training, or both, leading to a qualification in the skills of an industry that provides entry into an occupation in that industry; and

(d) is facilitated by a person that receives funding from TEC

apprenticeship training agreement means an agreement between an employee and their employer that relates to the employee's receipt of, or that provides for the employee to receive, apprenticeship training

apprenticeship training code means the training code (if any) issued under section 378

approved micro-credential means a micro-credential approved under section 445

approved programme means a programme approved under section 439

award means—

(a) a certificate, diploma, degree, or other qualification listed on the Qualifications and Credentials Framework:

(b) a certificate or other document granted in recognition of a student's achievement in and completion of a micro-credential:

(c) a certificate granted in recognition of a student's achievement in scholarship examinations as part of the student's secondary education

board member means a member of a board constituted under subpart 5 of Part 3

board of trustees or **board** means a board constituted under subpart 5 of Part 3 and,—

(a) in relation to a State school, means the school's board:

(b) in relation to a principal, means the board of the relevant State school:

(c) if a commissioner has been appointed to act in place of a board, means the commissioner

board staff, in relation to a board on any day, means the people who, on the day, are not students enrolled full-time at a school administered by the board and who,—

(a) on the day, have taken up a permanent appointment to a position in the employment of the board, or a position (at a school administered by the board) in the employment of a body established under this Act or of the Secretary; or

(b) during the period of 2 months ending with that day, have been continuously employed in that position

capstone assessment, in relation to a student or trainee enrolled in a programme that leads to a qualification, means a final assessment that requires

the student or trainee to demonstrate their overall achievement of knowledge, skills, and attributes set out in the graduate profile for the qualification

category A wānanga means a wānanga that—

(a) is established under section 398E(1) or reconstituted under clause 90(1) of Schedule 1; and

(b) is a Crown entity

category B wānanga means a wānanga that—

(a) is established under section 398I(1) or converted under clause 94(2) of Schedule 1; and

(b) is not a Crown entity

category C wānanga means a wānanga that—

(a) was established under section 268; and

(b) has not been reconstituted under clause 90(1) of Schedule 1 or converted under clause 94(2) of Schedule 1; and

(c) is a Crown entity

Charter School Agency or **Agency** means the Charter School Agency established under section 23 of the Public Service Act 2020

charter school contract means,—

(a) in relation to the operation of a charter school, a contract entered into under section 212L:

(b) in relation to a sponsor, a contract to which the sponsor and the Agency are parties

charter school/kura hourua or **charter school** means a school in respect of which—

(a) the Authorisation Board has approved a sponsor under section 212I; and

(b) a charter school contract with the Crown is in force

Charter Schools Authorisation Board or **Authorisation Board** means the board established under section 212A

chief executive of Oranga Tamariki means the chief executive of the department for the time being responsible for the administration of the Oranga Tamariki Act 1989

Chief Referee means the person appointed as Chief Referee under section 219(1)

Chief Review Officer means the chief executive of the Education Review Office

closing date, in relation to a levy, means the date, specified in the ballot paper under clause 10(b) of Schedule 16, by which ballot papers must be returned

code, in relation to well-being and safety, means a code of practice issued under section 534

code administrator means a person or agency appointed under section 535A

cohort entry policy means a policy that provides for a child who proposes to enrol at a State school to be assigned to a group of children and for all of the children in that group to be enrolled in the school on the same date, being a date that is determined in accordance with section 64

combined board means a board that governs more than 1 school

community of learning means a community of learning approved by the Minister in accordance with section 116

Competence Authority means the Competence Authority established by rules made under section 486

Complaints Assessment Committee means the Complaints Assessment Committee established by rules made under section 486

composite school means a school that offers education to students in any of years 1 to 8 and in any of years 9 to 13

consensual methods means dispute resolution processes in which the parties reach mutual agreement on the outcome of the dispute (for example, facilitation or mediation)

contract of enrolment, in relation to an international student, means a written contract entered into between the student (or a parent of the student if the student is under the age of 18 years) and the board of a State school or a sponsor that entitles the student to receive tuition at the school

contributing school means a school that offers education to students in years 1 to 6

converting school means a State school that proposes to convert to a charter school

council,—

(a) in relation to an institution other than Te Pūkenga—New Zealand Institute of Skills and Technology, means the body that governs the institution in accordance with section 271:

(b) in relation to Te Pūkenga—New Zealand Institute of Skills and Technology, means Te Pūkenga—New Zealand Institute of Skills and Technology's council members appointed under section 320

Crown agent has the same meaning as in section 10(1) of the Crown Entities Act 2004

Crown entity group has the meaning given by section 136(1) of the Crown Entities Act 2004

deputy chief referee means a person appointed as a deputy chief referee under section 219(3)

designated character school means a school designated in accordance with sections 204 and 205

Directory of Assessment and Skill Standards means the Directory of Assessment and Skill Standards described in section 437

disciplinary body means either or both of the Complaints Assessment Committee and the Disciplinary Tribunal

Disciplinary Tribunal means the Disciplinary Tribunal established by rules made under section 486

distance school means a school for the time being designated under section 196 as a distance school

domestic student means an individual who is—

(a) a New Zealand citizen; or

(b) the holder of a residence class visa granted under the Immigration Act 2009 who satisfies the criteria (if any) prescribed by regulations made under subsection (2); or

(c) a person of a class or description of persons required by the Minister, by notice, to be treated as if they are not international students (*see* subsection (11))

domestic tertiary student means an individual—

(a) who is—

(i) a New Zealand citizen; or

(ii) the holder of a residence class visa granted under the Immigration Act 2009 who satisfies the criteria (if any) prescribed by regulations made under subsection (2); or

(iii) a person of a class or description of persons required by the Minister, by notice, to be treated as if they are not international students (*see* subsection (11)); and

(b) who is a tertiary student enrolled at an institution or a registered establishment

DRS means the student contract dispute resolution scheme established under section 536

DRS operator means a person or an organisation appointed under section 536(4)

early childhood education and care centre—

(a) means premises that are used regularly for the education or care of 3 or more children (not being children of the persons providing the education or care or children enrolled at a school who are being provided with education or care before or after school) under the age of 6 years by day

(or part of a day) but not for any continuous period of more than 7 days; and

(b) despite paragraph (c), includes premises that—

(i) are situated within premises of the kinds described in paragraph (c)(i) to (x); and

(ii) are used regularly or principally for the education or care of 3 or more children under the age of 6 years who are children of—

(A) staff who work within premises of the kinds described in paragraph (c)(i) to (x); or

(B) persons attending those premises as residents or students; but

(c) excludes premises of the following kinds:

(i) registered schools:

(ii) hostels:

(iii) residences (within the meaning of section 2(1) of the Oranga Tamariki Act 1989):

(iv) institutions under the control of the Ministry of Health or Health New Zealand:

(v) hospital care institutions (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001):

(vi) children's health camps operated by an organisation funded by a State service to provide an education service to children attending health camps:

(vii) premises where all the children present are members of the same family in the care of a member of the family, or members of the same family in the care of a caregiver who is not acting for gain or reward:

(viii) any premises, during any period of use for the education or care of 3 or more children under the age of 6 years, none of whom attends for any period exceeding 2 hours per day, in circumstances where the children's parents or caregivers are—

(A) in close proximity to the children and are able to be contacted; and

(B) able to resume responsibility for the children at short notice:

(ix) any premises, during any period of use for the operation of a playgroup, licensed home-based education and care service, or licensed hospital-based education and care service:

(x) any premises, during any period of use for the education or care of children for any period not exceeding 4 hours a week in circumstances where the children's parents or caregivers are—

(A) in close proximity to the children and are able to be contacted; and

(B) able to resume responsibility for the children at short notice

early childhood education and care service means—

(a) a free kindergarten that is an early childhood service whose licence permits no child to attend for a period of more than 4 hours on any day; and

(b) any other early childhood service that is declared to be an early childhood education and care service by regulations made under this Act

early childhood service means an early childhood education and care centre, a home-based education and care service, or a hospital-based education and care service

education with a special character means education within the framework of a particular or general religious or philosophical belief, and associated with observances or traditions relating to that belief

educational outcome means a credit, grade, mark, or other measure of student achievement that contributes towards the student gaining—

(a) a qualification listed on the Qualifications and Credentials Framework; or

(b) an award that recognises the successful completion of a micro-credential; or

(c) recognition for successfully meeting the learning outcomes of a standard listed on the Directory of Assessment and Skill Standards

effective date, in relation to an integration agreement, means the date on which the integration of the school takes place

election year means a year divisible by 3

employer, in relation to a teacher or authorised person in a teaching position, means any one of the following who employs, or intends to employ, 1 or more teachers or authorised persons in a teaching position:

(a) the board of a State school:

(aa) a sponsor:

(b) the managers of a private school:

(c) the person or body that appoints staff at an early childhood education and care service:

(d) the Secretary, in the Secretary's capacity as an employer under section 614

employment agreement has the same meaning as in the Employment Relations Act 2000

employment-based trainee teacher means a person who is undertaking an initial teacher education programme that includes a period of employment by a board

employment-based trainee teaching position means a position established by the Secretary under section 615(1)

enrol includes admit, and **enrolment** and **enrolled** have corresponding meanings

enrolment scheme means a scheme developed and implemented (and not since abandoned) under this Act or regulations made under this Act

equal employment opportunities programme means a programme that is aimed at the identification and elimination of all aspects of policies, procedures, and other institutional barriers that cause or perpetuate, or tend to cause or perpetuate, inequality with respect to the employment of any persons or group of persons

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

financial year,—

(a) in relation to a school, means a year ending with 31 December:

(b) in relation to any body, means a year ending,—

  (i) if the Minister has specified a day for the purpose, with that day; and

  (ii) with 30 June in every other case

free kindergarten means an early childhood education and care centre controlled by a free kindergarten association founded for the purpose of establishing and maintaining a kindergarten or kindergartens

free kindergarten association means an organisation that is for the time being specified in Schedule 2A

full primary school means a school that offers education to students in years 1 to 8

funding approval means a decision made by TEC under section 425 to fund (in whole or in part) some or all of the tertiary education programmes and activities described in an organisation's proposed plan under clause 4(d) of Schedule 18

governing member, in relation to a private training establishment, means—

(a) any director:

(b) any member occupying a position equivalent to that of a director:

(c) if the establishment is a trust, any trustee:

(d) if the establishment is a partnership, any partner:

(e) any senior manager:

(f) any shareholder with a controlling interest in the establishment

government training establishment means—

(a) a Crown entity (within the meaning of section 10(1) of the Crown Entities Act 2004) for the time being approved by the Minister for the purposes of this definition; or

(b) a department (within the meaning of the Public Finance Act 1989) for the time being approved by the Minister for the purposes of this definition; or

(c) the New Zealand Defence Force; or

(d) the New Zealand Police

half-day, in relation to a school, means a period of 2 hours or more during which the school is open for instruction

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 aged 5 years but not enrolled at school, in—

(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 a parent of the children; and

(b) 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) aged 5 years but not enrolled at school

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

hostel means a boarding establishment used mainly or solely for the accommodation of students enrolled at a registered school

household does not include hostel

immediate caregiver,—

(a) in relation to a student who usually lives in a household that includes the student's father or mother but not both, but also includes the spouse or partner of the father or mother, means the spouse or partner; and

(b) in relation to a student who usually lives in a household that includes the student's father or mother and no spouse or partner of the father or

mother, but also includes a person who has turned 20 years and has a day-to-day responsibility for the student clearly greater than that of any other person, means that person; and

(c) in relation to a student who usually lives in a household that does not include the student's father or mother, means any member of the household who has turned 20 years and has a day-to-day responsibility for the student clearly greater than that of any other person

independent trustee, in relation to a private training establishment, means a trustee that does not provide any other service to the establishment other than that referred to in section 356

industry means 2 or more enterprises that use—

(a) the same or similar inputs and methods of production to produce the same or similar products; or

(b) the same or similar methods to provide the same or similar services

initial teacher education programme means a training programme recognised by the Teaching Council as suitable for people who want to teach

institution means—

(a) Te Pūkenga—New Zealand Institute of Skills and Technology (including, as the case requires, its subsidiaries that provide education or training, or both):

(b) a university:

(c) a wānanga

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

integration agreement means an agreement entered into under clause 5 of Schedule 6

intermediate school means a school that offers education to students in years 7 and 8 only

international student means an individual who is not a domestic student

Kura Kaupapa Māori means a school designated in accordance with section 201

land has the same meaning as in the Land Transfer Act 2017

lead provider means a provider of secondary–tertiary programmes that is recognised by the Minister by notice in the *Gazette* under clause 5 of Schedule 8 as a lead provider of those programmes

levy group means the members of an industry described in a levy order, or proposed to be described in a levy order, who have to, or are to, pay a levy or proposed levy

licensed early childhood education and care centre means an early childhood education and care centre in respect of which the service provider holds a current licence issued under regulations made under section 636

licensed early childhood service means an early childhood service in respect of which the service provider holds a current licence issued under regulations made under section 636

licensed home-based education and care service means a home-based education and care service in respect of which the service provider holds a current licence issued under regulations made under section 636

licensed hospital-based education and care service means a hospital-based education and care service in respect of which the service provider holds a current licence issued under regulations made under section 636

listed skill standard means a skill standard that is listed on the Directory of Assessment and Skill Standards

lone board means a board that administers 1 school only

managers of a private school means all the people who control and manage the school, whether or not they have a proprietary interest in it

medical practitioner means a health practitioner who—

(a) is, or is treated as being, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine; and

(b) holds a current practising certificate

member of an industry means a person who employs persons who work in that industry or a self-employed person in that industry

micro-credential means study or training that—

(a) leads to an award; but

(b) does not, of itself, lead to an award of a qualification listed on the Qualifications and Credentials Framework

Minister means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or part of this Act

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act or part of this Act

MSD has the same meaning as in Schedule 2 of the Social Security Act 2018

multiple timetable arrangement means an arrangement under which more than 1 timetable is run on the same day (whether consecutively or concurrently)

NCEA means national certificate of educational achievement

NZQA means the New Zealand Qualifications Authority continued by section 430

overcrowding, in relation to a school, means the attendance at the school of more students than its site or facilities can reasonably be expected to take

parent, in relation to an individual, means,—

(a) for the purposes of serving on a board of a State school (whether elected, appointed, or co-opted), the mother, father, guardian, or immediate caregiver of the individual:

(b) for all other purposes, the mother, father, or guardian of the individual

participating board—

(a) means the board of a State school; and

(b) includes a commissioner appointed in place of a board; but

(c) excludes a board of a State school or a commissioner if that party has been a participant but, with the Minister's approval, has withdrawn from, and is not for the time being a participant in, a school risk management scheme

participating student means a student undertaking a secondary–tertiary programme who is enrolled at any of the following:

(a) a secondary school:

(b) a composite school:

(c) a private school, other than a school registered only as a primary school:

(d) a specialist school that is a relevant school

partner, in the phrase "spouse or partner" and in related contexts, means civil union partner or de facto partner

payrolled school means a school to which section 579 applies

permanent member, in relation to the teaching or general staff of an institution, means a member of the staff who—

(a) is employed, on a full-time or part-time basis, for a period ending, unless sooner terminated, on the member's resignation or retirement; or

(b) has been employed, on a full-time or part-time basis, whether under an employment agreement for a fixed term or otherwise, for at least 3 months; or

(c) has been employed, on a full-time or part-time basis, whether under an employment agreement for a fixed term or otherwise, for less than 3

months and whose employment is, in the opinion of the chief executive of the institution, likely to continue for at least 3 months from the date of commencement of that employment

person dealing—

(a) means the other party to a transaction, if an act of a board is a transaction; and

(b) includes a person who has acquired property, rights, or interests from a board

person responsible for teaching and learning means the person appointed under section 212O(d)(ii)

personal property includes money

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

(a) no child attends for more than 4 hours on any day; and

(b) more than half of the children attending on any occasion have a parent or caregiver present in the same play area at the same time; and

(c) the total number of children attending on any occasion is not greater than 4 times the number of parents and caregivers present in the same play area at the same time

practising certificate means a certificate issued under clause 10(2) or (6) of Schedule 3

prescribed means prescribed by this Act or by regulations made under this Act

prescribed quality assurance requirements means the quality assurance requirements prescribed by NZQA under section 452(1)(i)

primary education means education for students in a primary, an intermediate, a specialist, or a composite school at the relevant year levels

primary school means a contributing school or a full primary school

principal means the chief executive of a State school and, in relation to a school, a person enrolled at a school, or the enrolment of a person at a school, means the principal of the school, and except in section 119(1)(c) includes an acting principal

private school means a school registered under section 214

private training establishment means an establishment, other than an institution, that provides post-school education or training, including vocational education and training

proceeding means any legal or administrative proceeding, and includes an arbitration

professional leader means—

(a) the principal:

(b) in the case of an early childhood service, the professional leader of the service:

(c) in the case of any other educational institution, the chief executive or person occupying an equivalent position

programme, in relation to an institution within the meaning of section 10(5)(a), means a programme of study or training that leads to a qualification listed on the Qualifications and Credentials Framework

property means real and personal property of every description

proprietor means the body corporate that—

(a) has the primary responsibility for determining the special character of a private school or State integrated school and for supervising the maintenance of that special character; and

(b) owns, holds in trust, or leases the land and buildings that constitute the premises of the private school or a State integrated school

proposed sponsor has the meaning given in section 212F(1)(a)

provider—

(a) means a person or body that is—

(i) a registered school; or

(ii) an institution; or

(iii) a registered establishment; or

(iv) an organisation that provides adult and community education that receives funding under section 425 or 428:

(b) has, for the purposes of Part 4, the meaning specified in paragraph (a) and includes—

(i) a government training establishment, a registered establishment, and a wānanga:

(ii) a relevant school:

(c) means, in relation to well-being and safety in subpart 7 of Part 5, a person or body that is,—

(i) in respect of international students, a registered school, an institution, or a registered establishment; or

(ii) in respect of domestic tertiary students, an institution or a registered establishment

provider group means a group of providers of secondary–tertiary programmes that is recognised by the Minister by notice in the *Gazette* under clause 1 of Schedule 8 as a provider group

psychologist means a health practitioner who—

(a) is, or is treated as being, registered with the Psychologists Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of psychology; and

(b) holds a current practising certificate

qualification means a qualification listed on the Qualifications and Credentials Framework, which may include qualifications offered by universities

Qualifications and Credentials Framework means the framework described in section 436

qualifying member, in relation to a levy group, means a member who does not have a certificate of exemption under clause 14 of Schedule 16

reasonably convenient school means a State school that a reasonable person living in the area in which the school is situated would judge to be reasonably convenient for a particular student, taking into account the age of the student, the distance to be travelled, the time likely to be spent in travel, the reasonably available modes of travel, common public transport routes, and relevant traffic hazards; and the meaning may vary as between different schools depending on—

(a) whether the school is a single-sex or co-educational school:

(b) whether the school is an ordinary State school, a Kura Kaupapa Māori, a designated character school, a State integrated school, or a specialist school:

(c) whether the school is a primary, an intermediate, a secondary, or a composite school

record of achievement means a record of a student's educational outcomes maintained by NZQA or a tertiary education provider

refund period means,—

(a) in relation to a domestic student who, before 1 January 2015, is enrolled in a programme or part of a programme, or enrolled in a micro-credential, the 7 days after the first day of the programme or micro-credential for which the attendance of the student at the establishment is required:

(b) in relation to a domestic student who, on or after 1 January 2015, is enrolled in a programme or part of a programme, or enrolled in a micro-credential, the period of time that begins when the student's fees are paid to the private training establishment (or paid directly to the independent trustee) and ends on the later of 7 days after—

(i) the first day of the programme or micro-credential for which the attendance of the student at the establishment is required; or

(ii) any other day that the establishment permits the student to begin attendance

registered establishment means a private training establishment that has been granted registration by NZQA under subpart 5 of Part 4 and whose registration has not been cancelled

registered school means a State school, a State integrated school, a private school, or a charter school

registration or **registered**, in relation to any person, means the entry of the person's name on the register kept under clause 8 of Schedule 3

regular teacher means a teacher who is not a relieving teacher or an employment-based trainee teacher

related entity, in relation to an institution, means a person or body that is a related party for the purpose of any financial reporting standard that applies to the institution under generally accepted accounting practice

relevant industry means the industry described in the levy order or proposed levy order

relevant school means—

(a) a secondary school; or

(b) a composite school; or

(c) a private school, except a school registered as a primary school only; or

(d) a specialist school; or

(e) a charter school

relieving teacher means a teacher employed by a board to undertake some or all of the duties of a regular teacher who, at that time, is absent from work but remains employed (on salary) by the board

review officer means a person designated under section 465, and includes the Chief Review Officer

school community, in relation to a school, means—

(a) the parents, families, and whānau of the school's students; and

(b) the Māori community associated with the school; and

(c) any other person, or group of persons, who the board or a sponsor considers is part of the school community for the purposes of the relevant provision

school risk management scheme means the school risk management scheme established under section 576

seclude, in relation to a student or child, means placing the student or child involuntarily alone in a room from which they cannot, or believe they cannot, freely exit

secondary component, in relation to a secondary–tertiary programme, means the portion of the programme that consists of participation in secondary education, whether or not provided by the school at which the participating student is enrolled

secondary education means education for students in a secondary, specialist, or composite school at the relevant year levels

secondary school means a school that offers education to students in any of years 9 to 13

secondary–tertiary programme means a full-time programme for a participating student that—

(a) consists of a secondary component and a tertiary component; and

(b) is co-ordinated by a provider group or a lead provider in accordance with the provisions in Schedule 8

Secretary means the chief executive of the Ministry

senior manager, in relation to a private training establishment, means—

(a) the chief executive officer or person occupying an equivalent position; or

(b) any member of staff in charge of academic issues, marketing, administration, finance, student fee trust funds, or student services

serious criminal activity means any offence involving fraud, violence, or harm to children, any sexual offence, or any crime involving dishonesty

serious harm, in relation to a domestic tertiary student or an international student, means an event or circumstances that seriously and detrimentally affect the ongoing welfare of the student, including (without limitation) physical injury, physical illness, or mental illness

serious misconduct means conduct by a teacher—

(a) that—

(i) adversely affects, or is likely to adversely affect, the well-being or learning of 1 or more students; or

(ii) reflects adversely on the teacher's fitness to be a teacher; or

(iii) may bring the teaching profession into disrepute; and

(b) that is of a character or severity that meets the Teaching Council's criteria for reporting serious misconduct

service provider means each of the following:

(a) in relation to an early childhood education and care centre, the body, agency, or person who operates the centre:

(b) in relation to a home-based education and care service, the body, agency, or person who provides, or offers to provide, that education or care:

(c) in relation to a hospital-based education and care service, the body, agency, or person who provides that education or care:

(d) in relation to a playgroup, the person or persons who operate the playgroup

signatory provider means a provider that has been approved by a code administrator under section 531A(1) as a signatory provider and that is a signatory to a code issued under section 534(1)(b) or (c)

skill standard—

(a) means a specification of skills, the levels of performance in those skills, and the learning outcomes associated with those skills; and

(b) in relation to any vocational education and training (or proposed vocational education and training), means a specification of some or all of the skills in which training is (or is proposed to be) received, the levels of performance in those skills intended to be attained by people receiving the training, and the learning outcomes associated with those skills

solicited voluntary payment from parents, in relation to a board, means a payment that is—

(a) to be made or made by or on behalf of a parent, or parents, of any student, or students, likely to be enrolled or enrolled at a school administered by the board; and

(b) a payment that the parent has, or that those parents have, no legal obligation to make; and

(c) sought in any way (whether directly or indirectly) from the parent or those parents, by or on behalf of the board

special education means education for children who require educational services beyond that normally obtained in an ordinary class in a State school

special institution means a State school that is—

(a) for the time being specified in Schedule 2; or

(b) a distance school

special programme means a programme, or a programme of a type, that the Secretary has, by notice in the *Gazette*, approved as a special programme and—

(a) that provides—

(i) special education; or

(ii) Māori language immersion classes; or

(iii) any other type of specialised education to overcome educational disadvantage; or

(b) that is a programme—

(i) that takes a significantly different approach in order to address particular student needs; and

(ii) that would not be viable unless it could draw from a catchment area beyond the school's home zone; and

(iii) to which entry is determined by an organisation or process that is independent of the school

special service means a service established under section 197 as a special service

specialist school means a school that offers special education to students in any of years 1 to 13

specified industries, in relation to a workforce development council, means the 1 or more specified industries covered by the workforce development council

specified user means—

(a) an education provider (as defined in clause 1 of Schedule 24); and

(b) the Ministry; and

(c) NZQA; and

(d) TEC; and

(e) any other agency or body declared by regulations made under section 649 to be a specified user

sponsor means the governing body of a charter school that the Authorisation Board has approved under section 212I to operate the school

State integrated school means a State school that—

(a) offers education with a special character; and

(b) has been established as a State integrated school under clause 5 of Schedule 6

State school means a school that is a primary school, an intermediate school, a composite school, a secondary school, or a specialist school

student accommodation means premises that are exempt under section 5B of the Residential Tenancies Act 1986

student claimant, in relation to a provider or signatory provider, means a person who—

(a) is a domestic tertiary student or an international student enrolled by the provider or signatory provider; or

(b) is a former domestic tertiary student or a former international student enrolled by the provider or signatory provider; or

(c) intends to be, or is in the process of being, enrolled by the provider or signatory provider as a domestic tertiary student or an international student

Te Aho Matua means a statement that sets out an approach to teaching and learning that applies to schools designated under section 201

te kaitiaki o Te Aho Matua means the body commonly known as Te Rūnanga Nui o Nga Kura Kaupapa Māori o Aotearoa, being the most suitable to be responsible for determining the content of Te Aho Matua and for ensuring that it is not changed to the detriment of Māori

Te Pūkenga—New Zealand Institute of Skills and Technology means the institute continued by section 314

Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary means a Crown entity subsidiary of Te Pūkenga—New Zealand Institute of Skills and Technology

Te Tauihu o Ngā Wānanga means the body incorporated as Te Tauihu o Ngā Wānanga Incorporated, or its successor, to represent the collective interests of wānanga established under this Act

teacher includes—

(a) a registered teacher; and

(b) a former registered teacher; and

(c) a person who holds a limited authority to teach; and

(d) a person who formerly held a limited authority to teach

Teaching Council means the Teaching Council of Aotearoa New Zealand continued by section 474(1)

teaching position means a position in a registered school or licensed early childhood service that—

(a) requires its holder to instruct students; or

(b) is the professional leader, deputy professional leader (however described), or assistant principal of a school; or

(c) is the professional leader of an early childhood service

TEC means the Tertiary Education Commission continued by section 401(1)

tertiary component, in relation to a secondary–tertiary programme, means the portion of the programme that consists of the participating student's apprenticeship training or participation in tertiary education that—

(a) is provided by any 1 or more of the following:

(i) a board of a secondary school, a composite school, or a specialist school that is a relevant school:

(ia) a sponsor of a secondary school or composite school:

(ii) the managers of a private school, other than a school registered only as a primary school:

(iii) a government training establishment:

(iv) an institution:

(v) a registered establishment; and

(b) may include work experience (other than work experience obtained by a student under section 53) as part of the programme that is approved by the provider of the secondary or tertiary component of the programme

tertiary education organisation means—

(a) a tertiary education provider:

(b) a workforce development council:

(c) an individual or body that—

(i) provides tertiary education-related services; and

(ii) is identified as a tertiary education organisation by the Minister by notice (*see* subsections (11) and (12))

tertiary education provider means any of the following:

(a) an institution:

(b) a registered establishment:

(c) a government training establishment:

(d) any other person or body that provides, or proposes to provide, tertiary education and that is funded through non-departmental output classes from Vote Education

trainee—

(a) means an employee who has a training agreement; and

(b) includes an apprentice

training agreement means an agreement between an employer and an employee that relates to the employee's receipt of, or provides for the employee to receive, vocational education and training (whether provided by the employer or some other person)

university means an institution established as a university under section 268(1)

unsupervised access, in relation to children at a licensed early childhood service or students at a school, means access to any child that is not access by, or supervised by, or otherwise observed by, or able to be directed (if necessary) by, any 1 or more of the following:

(a) a registered teacher or holder of a limited authority to teach:

(b) an employee of the school or service on whom a satisfactory Police vet has been conducted within the last 3 years:

(c) a parent of the student

Vice-Chancellor, in relation to a university, means the chief executive of the university, by whatever name called

Vice-Chancellors Committee means the New Zealand Vice-Chancellors Committee continued by section 311

vocational education and training—

(a) means education and training that lead to the achievement of industry-developed skill standards, qualifications, or other awards; and

(b) includes work-based training

walking distance, in relation to travel between a person's residence and a school,—

(a) where there is no public transport that the person can conveniently use, means the distance (measured along the most direct route by public road, public footpath, or a combination of both) between the residence and the school; and

(b) where in both directions there is public transport that the person can conveniently use, means the sum of the following distances (each measured along the most direct route by public road, public footpath, or a combination of both) or, where the distance is greater in one direction than the other, the greater distance:

(i) the distance between the residence and the place where public transport must first be taken (or finally be left); and

(ii) the distance between the school and the place where public transport must finally be left (or first be taken); and

(iii) every intermediate distance between one element of public transport and another

wānanga means an institution established as a wānanga,—

(a) before the commencement of Part 4A, under section 268:

(b) after the commencement of Part 4A, under that Part

work-based training means systematic training and assessment (including apprenticeship training) in the skills characteristic of, or likely to be valuable to, persons engaged in an industry (or 2 or more industries) that is provided to persons engaged in that industry (or those industries)—

(a) by or on behalf of employers in that industry (or those industries); or

(b) for the benefit of employers and employees in that industry (or those industries)

workforce development council means a workforce development council established under section 363.

(2) The Governor-General may, by Order in Council, make regulations prescribing criteria that the holder of a residence class visa granted under the Immigration

Act 2009 must satisfy in order to fulfil the requirements of paragraph (b) of the definition of domestic student or paragraph (a)(ii) of the definition of domestic tertiary student in subsection (1).

(3) Regulations under subsection (2) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

(3A) *[Repealed]*

(4) Despite the definition of immediate caregiver in subsection (1), a student does not have an immediate caregiver if the student—

(a) usually lives in a household that includes the student's father and mother; or

(b) usually spends approximately equal time in 2 or more households; or

(c) does not usually live in a household.

(4A) For the purposes of Part 4A and Part 5 of Schedule 1, **iwi or Māori** includes an organisation, an entity, or a body authorised to act on behalf of the iwi or Māori constituency concerned.

(5) For the purposes of subpart 2 of Part 5 (apart from section 456), the definition of institution in subsection (1) includes any government training establishment, registered establishment, relevant school, workforce development council, or other body, except that—

(a) a workforce development council is not an institution for the purposes of the following sections:

(i) sections 439 to 444:

(ii) sections 446A and 446B:

(iii) sections 449 to 451:

(b) an other body is not an institution for the purposes of sections 441 to 444.

(6) For the purposes of sections 563 to 572, unless the context otherwise requires,—

agreement includes a deed, a contract, an agreement, an arrangement, and an understanding, whether oral or written, express or implied, and whether or not enforceable at law

assets means any real or personal property of any kind, whether or not subject to rights, and includes (but is not limited to)—

(a) any estate or interest in any land, including all rights of occupation of land or buildings:

(b) all buildings, vehicles, plant, equipment, and machinery, and any rights in them:

(c) all livestock, products from livestock, and crops:

(d) all financial products within the meaning of the Financial Markets Conduct Act 2013:

(e) all rights of any kind, including rights under Acts, deeds, agreements, or licences, planning rights, water rights, and clean air licences, and all applications for and objections against applications for those rights:

(f) all patents, trade marks, designs, copyright, and other intellectual property rights whether enforceable by Act or rule of law:

(g) goodwill, and any business undertaking:

(h) all natural gas, petroleum, and other hydrocarbons

institution includes a subsidiary of an institution

liabilities includes—

(a) liabilities and obligations under any Act or agreement; and

(b) deposits and other debt securities within the meaning of the Financial Markets Conduct Act 2013; and

(c) contingent liabilities

rights includes powers, privileges, interests, licences, approvals, consents, benefits, and equities of any kind, whether actual, contingent, or prospective

transfer includes—

(a) to assign and convey; and

(b) to vest by Order in Council; and

(c) to confer estates in fee simple of land held by the Crown; and

(d) to grant leases, rights, and interests in any real or personal property; and

(e) in the case of liabilities, the assumption of the liabilities by an institution.

(7) For the purposes of subparts 3 and 4 of Part 6, unless the context otherwise requires,—

education service means—

(a) service in the employment of—

(i) a State school; or

(ii) an institution; or

(iii) any other place of education for which a separate employer for the purposes of this Act is designated by any enactment or by the Minister:

(b) service as a registered teacher in the employment of any free kindergarten association that controls a free kindergarten:

(c) service as a teacher in the employment of the Secretary under section 614

employer,—

(a) in relation to a State school, means the board:

(b) in relation to a free kindergarten, means the free kindergarten association by which that free kindergarten is controlled:

(c) in relation to an institution, means the chief executive of the institution:

(d) in relation to any other place of education in the education service, means—

(i) the person or body designated by an enactment as the employer for the purposes of this Act in respect of the place of education; and

(ii) in the absence of a person or body designated by an enactment, means a person or body designated for that purpose by the Minister:

(e) in relation to a person employed as a teacher under section 614, means the Secretary.

(8) For the purposes of sections 653 to 659, unless the context otherwise requires,—

education entity means—

(a) a registered school:

(b) a service provider:

(c) a hostel:

(d) a private training establishment:

(e) an institution:

(f) an educational body

educational body—

(a) means a body corporate that is recognised by the Minister as a body that provides any educational or developmental service or facility; and

(b) includes a tertiary education organisation

governing body, in relation to an education entity, means the body that is primarily responsible for the governance of the education entity

instruction includes the provision of education services through online or distance learning, or through any other means.

(9) Unless the context otherwise requires,—

(a) every reference in Schedule 6 to a State school is to be treated as excluding a State integrated school:

(b) every reference elsewhere in this Act and in any other enactment or document to—

(i) a State primary school is to be treated as including a State integrated school that is a primary school:

(ii) a State secondary school is to be treated as including a State integrated school that is a secondary school:

(iii) a State school is to be treated as including a reference to a State integrated school.

(10) The Governor-General may, by Order in Council, amend Schedule 2 by—

(a) adding the name of a State school to it; or

(b) omitting the name of a State school from it; or

(c) substituting for the name of a State school any different name if that school has changed its name.

(10A) The Governor-General may, by Order in Council, amend Schedule 2A by—

(a) adding the name of an organisation if the organisation has been formed from the restructuring of an organisation that is specified in Schedule 2A or from the merger of 2 or more organisations that are specified in Schedule 2A; or

(b) omitting the name of an organisation if the organisation has ceased to exist or ceased to operate a free kindergarten; or

(c) substituting for the name of an organisation any different name if that organisation has changed its name.

(11) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a notice under paragraph (c) of the definition of domestic student in subsection (1):

(b) a notice under paragraph (a)(iii) of the definition of domestic tertiary student in subsection (1):

(c) a notice under paragraph (c)(ii) of the definition of tertiary education organisation in subsection (1), unless it applies only to 1 or more named individuals or bodies:

(d) regulations under subsection (2):

(e) an order under subsection (10):

(f) an order under subsection (10A).

(12) If a notice under paragraph (c)(ii) of the definition of tertiary education organisation in subsection (1) is not secondary legislation, the Minister must give the notice to—

(a) the TEC; and

(b) the individuals or bodies named in the notice.

(13) *[Repealed]*

Compare: 1964 No 135 s 2; 1989 No 80 ss 2, 11B, 60, 91A, 92, 139AC, 145, 159, 159B, 164A, 216, 232, 234C, 238D, 239, 246, 302, 309, 320, 323, 342, 348, 378, 414, 476B, 492, Schedule 6 cls 1, 19; 1992 No 55 ss 2, 25

Legislation Act 2019 requirements for secondary legislation referred to in subsection (11)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 10(1) **accreditation**: replaced, on 1 August 2022, by section 6(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **approved micro-credential**: inserted, on 1 August 2022, by section 6(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **approved training scheme**: repealed, on 1 August 2022, by section 6(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **award** paragraph (a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **award** paragraph (b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **category A wānanga**: inserted, on 23 August 2023, by section 5(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **category B wānanga**: inserted, on 23 August 2023, by section 5(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **category C wānanga**: inserted, on 23 August 2023, by section 5(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **Charter School Agency** or **Agency**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **charter school contract**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **charter school/kura hourua** or **charter school**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **Charter Schools Authorisation Board** or **Authorisation Board**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **code**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **code administrator**: amended, on 1 August 2022, by section 6(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **consensual methods**: inserted, on 1 August 2022, by section 6(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **contract of enrolment**: amended, on 1 October 2024, by section 4(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **converting school**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **council** paragraph (a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **council** paragraph (b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **Crown agent**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **Directory of Assessment Standards**: repealed, on 1 August 2022, by section 6(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **Directory of Assessment and Skill Standards**: inserted, on 1 August 2022, by section 6(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **domestic student** paragraph (b): amended, on 23 August 2023, by section 19(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **domestic student** paragraph (c): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(1) **domestic tertiary student** paragraph (a)(iii): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(1) **DRS operator**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **early childhood education and care centre** paragraph (c)(iv): replaced, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 10(1) **early childhood education and care centre** paragraph (c)(iv): amended, on 30 June 2024, by section 43 of the Pae Ora (Disestablishment of Māori Health Authority) Amendment Act 2024 (2024 No 5).

Section 10(1) **educational outcome**: replaced, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **employer** paragraph (aa): inserted, on 1 October 2024, by section 4(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **excluded early childhood service**: repealed, on 1 October 2024, by section 4(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **free kindergarten association**: inserted, on 1 August 2022, by section 6(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **institution** paragraph (a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **Kura Kaupapa Māori**: inserted, on 23 August 2023, by section 19(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **listed skill standard**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **micro-credential**: inserted, on 1 August 2022, by section 6(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **Minister**: amended, on 1 August 2022, by section 6(6) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **New Zealand Institute of Skills and Technology or NZIST**: repealed, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **NZIST subsidiary**: repealed, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **person responsible for teaching and learning**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **programme**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **proposed sponsor**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **provider** paragraph (c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **qualification**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **Qualifications and Credentials Framework** (previously **Qualifications Framework**): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **refund period** paragraph (a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **refund period** paragraph (b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **refund period** paragraph (b)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **registered school**: amended, on 1 October 2024, by section 4(5) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **relevant school** paragraph (e): inserted, on 1 October 2024, by section 4(6) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **school community** paragraph (c): amended, on 1 October 2024, by section 4(7) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **signatory provider**: replaced, on 1 August 2022, by section 6(7) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **skill standard**: replaced, on 1 August 2022, by section 6(8) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **specified user** paragraph (a): amended, on 1 August 2022, by section 6(9) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **sponsor**: inserted, on 1 October 2024, by section 4(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **student claimant** paragraph (b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **teaching position** paragraph (c): amended, on 1 August 2022, by section 6(10) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **Te Pūkenga—New Zealand Institute of Skills and Technology**: inserted, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary**: inserted, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 10(1) **Te Tauihu o Ngā Wānanga**: inserted, on 23 August 2023, by section 19(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(1) **tertiary component** paragraph (a)(ia): inserted, on 1 October 2024, by section 4(8) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(1) **tertiary education organisation** paragraph (c)(ii): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(1) **training package**: repealed, on 1 August 2022, by section 6(11) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **training scheme**: repealed, on 1 August 2022, by section 6(12) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(1) **wānanga**: replaced, on 23 August 2023, by section 5(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(2): amended, on 23 August 2023, by section 19(3) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(3A): repealed, on 1 October 2024, by section 4(9) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 10(4A): inserted, on 23 August 2023, by section 19(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 10(5): replaced, on 1 August 2022, by section 6(14) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(10)(c): amended, on 1 August 2022, by section 6(15) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(10A): inserted, on 1 August 2022, by section 6(16) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(11): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(11)(f): inserted, on 1 August 2022, by section 6(17) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 10(12): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 10(13): repealed, on 1 October 2024, by section 4(10) of the Education and Training Amendment Act 2024 (2024 No 40).

11 Transitional, savings, and related provisions

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

Compare: 1989 No 80 s 2A

12 Act binds the Crown

This Act binds the Crown.

Compare: 1989 No 80 s 415; 1992 No 55 s 4; 2018 No 32 s 12

Part 2
Early childhood education

13 Outline of Part 2

(1) This Part, which concerns the regulation of early childhood education, is divided into 3 subparts.

(2) Subpart 1 provides for the licensing and certification of early childhood services.

(3) Subpart 2 concerns the administration of licensed early childhood services.

(4) Subpart 3 sets out several offence provisions.

Compare: 1989 No 80 s 308

14 Purpose of Part 2

The purpose of this Part is to regulate an early childhood education system where all children are able to participate and receive a strong foundation for learning, positive well-being, and life outcomes by—

(a) setting standards to support quality provision and learning; and

(b) supporting the health, safety, and well-being of children; and

(c) enabling parental choice by providing for licensing and funding of different types of provision.

Subpart 1—Licensing and certification

15 Service providers operating early childhood education and care centres must be licensed

(1) A service provider who operates an early childhood education and care centre must be licensed in accordance with regulations made under section 636.

(2) A licensed early childhood education and care centre may be operated within the premises of a registered school, and its status as an early childhood education and care centre is not affected by the fact of its being operated within those premises.

Compare: 1989 No 80 ss 310(4), 315(1)

16 Certain other service providers may be licensed

A service provider who provides a home-based education and care service or a hospital-based education and care service may, but need not, be licensed in accordance with regulations made under section 636 in respect of the service.

Compare: 1989 No 80 s 316

17 Ministerial approval required to apply for licence

[Repealed]

Section 17: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

17A Conditions on approval to apply for licence

[Repealed]

Section 17A: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

17B Expiry of approval to apply for licence

[Repealed]

Section 17B: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

17C Revocation of approval to apply for licence

[Repealed]

Section 17C: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

17D Minister may issue statements relating to network of licensed early childhood services

[Repealed]

Section 17D: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

18 Secretary to assess whether applicants for approval to apply for licences are fit and proper

[Repealed]

Section 18: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

18A Secretary to assess financial viability of proposed early childhood service

[Repealed]

Section 18A: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

18B Notification of adverse assessment

[Repealed]

Section 18B: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

18C Appeal against adverse assessment

[Repealed]

Section 18C: repealed, on 1 October 2024, by section 5 of the Education and Training Amendment Act 2024 (2024 No 40).

19 Requirements for licensed home-based education and care service

(1) A licensed home-based education and care service may be provided to no more than 4 children per home.

(2) While children are participating in the service, the total number of children present in a home in which the service is provided (including those receiving the service) may not be more than 6.

(3) In this section,—

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

educator means the person who—

(a) provides education and care and comfort directly to children in the person's care; and

(b) attends to the health and safety of those children.

Compare: 1989 No 80 s 317A

20 Playgroups may be certified

A service provider who operates a playgroup may, but need not, apply for a certificate issued under regulations made under section 637 in respect of the playgroup.

Compare: 1989 No 80 s 318

21 Application of Legislation Act 2019 to certain material incorporated by reference

(1) This section applies if section 64 of the Legislation Act 2019 is relied on to incorporate material by reference in criteria prescribed under section 636(2)(b) or 637(2)(b) of this Act.

(2) Despite section 65 of the Legislation Act 2019, clause 1 of Schedule 2 of that Act (which is about consultation) does not apply in relation to the incorporation of that material.

Section 21: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22 Records

The service provider of a licensed early childhood service must keep, and make available to the Secretary on request,—

(a) a register of the children who attend or have attended the service, specifying the date of birth of each; and

(b) a record of the attendance of children at the service; and

(c) a record of all fees and other charges paid in respect of children's attendance at the service; and

(d) evidence that parents of children attending the service have regularly examined the attendance record; and

(e) any other records that are necessary to enable the service's performance to be monitored adequately.

Compare: 1989 No 80 s 313

Subpart 2—Administration

23 Curriculum frameworks

(1) The Minister may prescribe or change a curriculum framework for—

(a) licensed early childhood services:

(b) certified playgroups.

(2) The Minister may prescribe or change a curriculum framework only if the Minister has consulted with organisations that the Minister considers represent those likely to be substantially affected by the framework or change.

(3) *[Repealed]*

(4) The curriculum framework may specify—

(a) different commencement dates for different provisions of the curriculum framework or for different purposes; and

(b) a transitional period during which service providers may elect to comply with another specified curriculum requirement.

(5) A service provider must implement any applicable curriculum framework in accordance with any regulations made under section 636 or 637.

(6) A curriculum framework under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 314

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* with a statement of where it can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 23(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 23(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 23(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

24 Prohibition on corporal punishment and seclusion in early childhood services

(1) A person must not—

(a) use force, by way of correction or punishment, toward a child enrolled at or attending an early childhood service; or

(b) seclude a child enrolled at or attending an early childhood service.

(2) In this section, **person** means an individual who—

(a) is employed or engaged by a service provider of an early childhood service; or

(b) is supervising or controlling a child on behalf of a service provider of an early childhood service; or

(c) owns, manages, or controls an early childhood service.

Compare: 1989 No 80 ss 139A, 139AB

25 Police vetting in respect of early childhood services

A service provider of a licensed early childhood service must obtain Police vets of non-teaching and unregistered employees, contractors, and other adults in accordance with Schedule 4.

26 Kindergarten attendance fees

(1) Fees may be charged in respect of the attendance of any child at any kindergarten (whether or not it is known or described as a free kindergarten).

(2) Subsection (1) has effect despite anything to the contrary in—

(a) any enactment or rule of law; or

(b) anything in the constitution of any body corporate.

Compare: 1989 No 80 s 319I

27 Parent's right of entry

The parent of a child has a right to enter the premises of a licensed early childhood education and care centre or a licensed home-based education and care service when the child is there unless the parent—

(a) is required to comply with—

(i) a court order that prohibits access to, or contact with, the child (either generally or when attending the centre or service); or

(ii) a warning under section 4 of the Trespass Act 1980 to stay off the premises; or

(b) is suffering from a contagious or infectious disease likely to have a detrimental effect on the children if passed on to them; or

(c) is, in the opinion of a person responsible for the operation of the centre or service,—

(i) under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or

(ii) exhibiting behaviour that is, or is likely to be, disruptive to the effective operation of the centre or service.

Compare: 1989 No 80 s 319A

Subpart 3—Offences

28 Service providers must be licensed

(1) Every service provider who operates an early childhood education and care centre commits an offence if the service provider—

(a) operates the centre without holding a current licence to operate the centre; or

(b) ceases to operate a centre for which it holds a current licence to operate the centre, in circumstances other than an emergency, without first telling the Secretary that it intends to stop operating the centre; or

(c) ceases to operate the centre for which it holds a current licence to operate the centre, in circumstances involving an emergency, and fails to tell the Secretary as soon as practicable after the closure.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an offence against subsection (1)(a), to a fine not exceeding $50,000; and

(b) in the case of an offence against subsection (1)(b) or (c), to a fine not exceeding $200.

Compare: 1989 No 80 s 315(2), (3)

29 Offence relating to obstruction of right of entry

A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, who obstructs, hinders, resists, or deceives any person exercising or attempting to exercise a right of entry conferred by section 27.

Compare: 1989 No 80 s 319H

30 Offence of insulting, abusing, or intimidating teacher or staff

A person commits an offence, and is liable on conviction to a fine not exceeding $1,000, who intentionally insults, abuses, or intimidates a teacher or staff member of an early childhood education and care centre—

(a) within the presence or hearing of any child at the centre; and

(b) while on centre premises or in any other place where children are assembled for purposes associated with the centre.

Compare: 1989 No 80 s 319G

Part 3
Primary and secondary education

31 Outline of Part 3

(1) This Part, which concerns primary and secondary education, is divided into 11 subparts.

(2) Subpart 1 concerns priorities, rights, and responsibilities.

(3) Subpart 2 concerns restrictions on the right to enrol and attend school.

(4) Subpart 3 concerns teaching, learning, and well-being.

(5) Subpart 4 concerns searches and the surrender of property.

(6) Subpart 5 concerns the administration of State schools.

(7) Subpart 6 concerns the establishment and designation of State schools.

(7A) Subpart 6A concerns the establishment and operation of charter schools/kura hourua.

(8) Subpart 7 concerns private schools.

(9) Subpart 8 concerns secondary–tertiary programmes.

(10) Subpart 9 concerns resolving serious disputes.

(11) Subpart 10 sets out various miscellaneous provisions.

(12) Subpart 11 sets out several offence provisions.

Compare: 1989 No 80 s 308

Section 31(7A): inserted, on 1 October 2024, by section 6 of the Education and Training Amendment Act 2024 (2024 No 40).

32 Purpose of Part 3

The purpose of this Part is to establish a schooling system that supports all learners/ākonga to gain the skills and knowledge they need to be lifelong learners/ākonga and fully participate in the labour market, society, and their communities by—

(a) ensuring that all children and young people are present in the schooling system to be able to exercise their right to an education, including setting up fair and consistent processes when students are excluded from the system that aim to return them to education as soon as possible; and

(b) supporting the health, safety, and well-being of students; and

(c) providing for what is to be taught in schools; and

(d) establishing governing bodies for State and State integrated schools, and providing for their elections, duties, powers, administration, and accountabilities; and

(da) providing for the approval of governing bodies for charter schools/kura hourua and their duties, powers, administration, and accountabilities; and

(e) establishing and managing a network of State schools and charter schools that allows every student to access quality schooling and provides choice about the types of education they receive; and

(f) regulating the teaching profession to ensure the quality of teaching in the schooling system, including (without limitation) setting standards for the registration of teachers; and

(g) providing for the efficient and effective administration of the schooling system; and

(h) honouring Te Tiriti o Waitangi and supporting Māori-Crown relationships that make a difference to learning; and

(i) reflecting and integrating te reo Māori, tikanga Māori, mātauranga Māori, and te ao Māori in the schooling system.

Section 32(da): inserted, on 1 October 2024, by section 7(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 32(e): amended, on 1 October 2024, by section 7(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 1—Priorities, rights, and responsibilities

33 Right to free enrolment and free education at State schools or charter schools (including entitlement to attend full-time)

(1) Except as provided in this Part, every domestic student is entitled to free enrolment and free education at any State school or charter school during the period beginning on the student's fifth birthday and ending on 1 January after the student's 19th birthday.

(2) This right includes the entitlement to attend the school at which the student is enrolled during all the hours that the school is open for instruction.

Compare: 1989 No 80 s 3

Section 33 heading: amended, on 1 October 2024, by section 8(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 33(1): amended, on 1 October 2024, by section 8(2) of the Education and Training Amendment Act 2024 (2024 No 40).

34 Students with special educational needs have same rights to education at State schools or charter schools as others

(1) Except as provided in this Part, students who have special educational needs (whether because of disability or otherwise) have the same rights to enrol, attend, and receive education at State schools or charter schools as students who do not.

(2) This section does not limit or affect subpart 2 (which concerns restrictions on the right to enrol and attend school).

Compare: 1989 No 80 s 8

Section 34 heading: amended, on 1 October 2024, by section 9(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 34(1): amended, on 1 October 2024, by section 9(2) of the Education and Training Amendment Act 2024 (2024 No 40).

35 Domestic students aged between 6 and 16 years must be enrolled at registered school

(1) Every domestic student must, during the period beginning on the student's sixth birthday and ending on the student's 16th birthday, be enrolled at a registered school.

(2) Before a domestic student's seventh birthday, the student is not required to be enrolled at a school more than 3 kilometres walking distance from the student's residence.

(3) Subsections (1) and (2) do not apply to international students.

Compare: 1989 No 80 s 20

36 Students of registered schools required to attend whenever schools are open

(1) Except as provided in this Act, a student is required to attend a registered school whenever it is open if the student—

(a) is required to be enrolled at a registered school:

(b) is aged 5 years and is enrolled at a registered school.

(2) A board or sponsor must take all reasonable steps to ensure that the school's students attend the school when it is open.

(3) For the purposes of this section, a student attends a school on any day if, on the day,—

(a) it has been open for instruction for 4 hours or more; and

(b) the student has been present for 4 hours or more when it was open for instruction.

Compare: 1989 No 80 s 25(1)-(3)

Section 36(2): amended, on 1 October 2024, by section 10 of the Education and Training Amendment Act 2024 (2024 No 40).

37 Special education

(1) If satisfied that a student under the age of 21 years should have special education, the Secretary must—

(a) agree with the student's parent that the student should be enrolled, or direct the parent to enrol the student, at a particular State school, charter school, or specialist school; or

(b) agree with the student's parent that the student should have, or direct the parent to ensure that the student has, education or help from a special service.

(2) If an agreement is reached or a direction is given under subsection (1), the student concerned must be allowed to enrol at the State school, charter school, or specialist school concerned or to have education or help from the special service concerned.

(3) Subsection (1) applies despite anything in this Act that relates to enrolment schemes, or anything in the enrolment scheme of any school, but is subject to subpart 2.

(4) Subject to section 47(4), if a direction has been given under subsection (1), a parent who, more than 1 month after it was given, fails or refuses to comply

with it commits an offence and is liable on conviction to the penalty set out in section 243(1) (which relates to a failure to enrol).

(5) A student may not be or continue to be enrolled at a specialist school, or have or continue to have education or help from a special service, except under an agreement or direction given under subsection (1).

(6) Despite sections 62 and 67,—

(a) a student under the age of 5 years may be or continue to be enrolled at a primary school or below year 9 at a composite school; and

(b) a student under the age of 21 years who turned 14 years in any year may, in any later year, be or continue to be enrolled at a primary school or below year 9 at a composite school; and

(c) a student under the age of 21 years may be or continue to be enrolled at a secondary school or above year 8 at a composite school if, in the Secretary's opinion, the student has made insufficient progress in terms of any curriculum statement for year 8 made under section 90; and

(d) a student under the age of 21 years may be or continue to be enrolled at a secondary school or above year 8 at a composite school, on or after 1 January after the student's 19th birthday, under an agreement or direction under subsection (1).

Compare: 1989 No 80 s 9

Section 37(1)(a): amended, on 1 October 2024, by section 11 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 37(2): amended, on 1 October 2024, by section 11 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 37(6)(c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

38 Long-term exemptions from enrolment

(1) An employee of the Ministry designated by the Secretary for the purpose (a **designated officer**) may, on application by a parent of the student, grant the parent a certificate that exempts the student from the requirements of section 35 if the designated officer is satisfied that the student—

(a) is to be taught at least as regularly and well as in a registered school; or

(b) is to be taught at least as regularly and well as in a specialist school or a special service (if the student would otherwise be likely to need special education).

(2) If a designated officer refuses to grant a certificate under subsection (1), the applicant may appeal to the Secretary, who, after considering a report on the matter from the Chief Review Officer, must confirm the refusal or grant a certificate.

(3) The Secretary's decision is final.

(4) An exemption certificate granted under this section must state why it was granted.

(5) The Secretary may revoke an exemption certificate, but only if the Secretary—

(a) has made reasonable efforts to get all of the relevant information; and

(b) has considered a report on the matter from the Chief Review Officer; and

(c) is not satisfied under subsection (1).

(6) If the Secretary thinks any student to whom an exemption certificate applies would be better off if receiving special education, the Secretary may revoke the certificate and issue a direction under section 37.

(7) An exemption certificate expires when the person to whom it applies turns 16 years or enrols at a registered school, whichever occurs first.

(8) A certificate continues in force until it is revoked or expires.

Compare: 1989 No 80 s 21

39 Exemption from enrolment of student who has turned 15

(1) The Secretary may, on application by a parent of a student who has turned 15 years, grant the parent a certificate that exempts the student from the requirements of section 35 if the Secretary is satisfied that it is sensible to do so, on the basis of—

(a) the student's educational problems; and

(b) the student's conduct; and

(c) the benefit (if any) the student is likely to get from attending another available school.

(2) However, the Secretary may not exempt any student who—

(a) has made insufficient progress in terms of any curriculum statement for year 8 made under section 90; or

(b) has not enrolled for a year level above year 8.

(3) The Secretary must tell the chief executive of Oranga Tamariki the name and address and any other available contact details of every student exempted under subsection (1).

(4) If satisfied that it is in the best interests of any student to do so, the Secretary may revoke the student's certificate granted under subsection (1).

Compare: 1989 No 80 s 22

Section 39(2)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

40 Effect of exemption under section 38 or 39

While an exemption certificate granted under section 38 or 39 is in force,—

(a) the exempted student does not have to be enrolled at any school; and

(b) no person has to have the exempted student enrolled at any school.

Compare: 1989 No 80 s 23

41 Exemption of person placed in residence or programme under Oranga Tamariki Act 1989

(1) The Secretary may, on an application from the chief executive of Oranga Tamariki, grant a certificate to the chief executive of Oranga Tamariki that exempts a student from the requirements of section 35 if satisfied that the requirements set out in subsection (2) have been met.

(2) The requirements are that the student—

(a) has been placed—

(i) in a residence established under section 364 of the Oranga Tamariki Act 1989; or

(ii) in a residential programme instituted by, and operated under contract with, the chief executive of Oranga Tamariki and the student would otherwise be in a residence established under section 364 of that Act; and

(b) is to receive education services that are appropriate to the student's needs.

(3) The Secretary may revoke a certificate granted under subsection (1)—

(a) on notification by the chief executive that the student exempted has been released from a residence other than for a temporary period; or

(b) if the Secretary is no longer satisfied that the student exempted meets the requirements of subsection (2); or

(c) at the request of the chief executive of Oranga Tamariki and if satisfied that an exemption from the requirements of section 35 is no longer required.

(4) A certificate granted under subsection (1) continues in force until it is revoked or it expires.

Compare: 1989 No 80 s 22A

42 Exceptions to attendance because of well-being or transitional plan

(1) Despite section 36, on the request of a parent of a student enrolled at a registered school, the parent, the principal, and the Secretary may, if they consider it is in the student's best interests, agree a plan that reduces the student's hours of attendance to help meet the student's well-being needs as identified, in writing, by a medical practitioner or a psychologist.

(2) A full-time caregiver of the student may act as a parent under subsection (1) if the Secretary considers it appropriate for the caregiver to do so.

(3) Despite section 36, if a student is aged 5 years and is enrolled at a registered school, a parent of the student, the principal, and the Secretary may, if they

consider it is in the student's best interests, agree a plan to help the transition of the student to school, depending on the particular needs of the student.

(4) A student subject to a plan agreed under subsection (1) or (3) is required to attend school in accordance with the plan.

(5) A plan agreed under subsection (1) may not be for a period that exceeds 6 months, but may be renewed or extended for 1 further period of 6 months if—

(a) the parent initiates the request for the renewal or extension; and

(b) the parent, the principal, and the Secretary agree that the renewal or extension is in the best interests of the student.

(6) The medical practitioner or psychologist requirement specified under subsection (1) does not apply to a renewal or extension under subsection (5).

(7) A plan agreed under subsection (3) may not be for a period that exceeds 6 months and may not be renewed or extended.

Compare: 1989 No 80 s 25(3A)

43 Exceptions to attendance because of secondary–tertiary programmes and multiple timetable arrangements

(1) Section 36 does not apply to a participating student who is enrolled at a registered school for the purposes of the secondary component of the student's secondary–tertiary programme, but a participating student must attend the school for any portion of the programme as notified by the provider group or lead provider under clause 9 of Schedule 8.

(2) Section 36 does not apply to an affected student, but the student must attend school for the whole of the time period (or periods) each day during which their timetable is running.

(3) A board or a sponsor that is running a multiple timetable arrangement must take all reasonable steps to ensure that an affected student attends the school for the whole of the time period (or periods) each day during which the student's timetable is running.

Compare: 1989 No 80 s 25(4)–(7)

Section 43(3): amended, on 1 October 2024, by section 12 of the Education and Training Amendment Act 2024 (2024 No 40).

44 Exemption from attendance because of walking distance to school or some other reason

(1) Despite section 36, the Secretary may, on application by a parent of a student, grant a certificate to the parent of the student that exempts the student (entirely or partly) from attending a school if the Secretary is satisfied that—

(a) the student is under the age of 10 years and the walking distance between the student's residence and the school is more than 3 kilometres; or

(b) the walking distance between the student's residence and the school is more than 5 kilometres; or

(c) it is sensible to exempt the student for some other reason.

(2) The parent of a student exempted under subsection (1) is not subject to the requirements of section 35 in respect of the student for the period to which the exemption relates.

(3) A certificate granted under subsection (1) must state—

(a) the grounds on which it was granted; and

(b) the day on which it expires.

(4) A certificate granted under subsection (1)(a) or (b) may not specify an expiry day more than 1 year after the day it is granted.

(5) A certificate granted under subsection (1)(c) may not specify an expiry day more than 7 school days after the day on which it is granted.

(6) When a certificate granted under subsection (1) expires, the Secretary may issue another in its place.

(7) The Secretary may cancel a certificate issued under subsection (1).

Compare: 1989 No 80 s 26

45 Exemption of student from attendance for period of no more than 5 days

(1) Despite section 36, if satisfied that a student's absence is justified, the principal of the school may exempt the student from attending the school for a period of no more than 5 school days.

(2) In the absence of evidence to the contrary, a certificate from the principal stating that a student was absent from school for any period and that the principal is not satisfied that the absence was justified is sufficient proof that the student was absent for that period without being exempted under subsection (1).

(3) For the purposes of this section, judicial notice must be taken of the appointment and signature of the principal.

Compare: 1989 No 80 s 27

46 Secretary may require enrolment of certain children at distance school

(1) The Secretary may, by notice in writing, require the parent of a student who holds an exemption certificate issued under section 44 or who has been directed under section 82(1) to enrol the student at a distance school to—

(a) enrol the student at a distance school specified in the notice; and

(b) ensure that the student does the work of the course in which the student is enrolled.

(2) Enrolment must,—

(a) for a student exempted under section 44(1)(b), be for the period of exemption; and

(b) in any other case, be until the student turns 16 years or any shorter period specified in the notice.

Compare: 1989 No 80 s 28

47 Reconsideration of special education enrolment or services

(1) A parent of a student may, by a request made in accordance with this section, require reconsideration of—

(a) a direction under section 37(1) relating to the student; or

(b) if the student is a domestic student, the Secretary's refusal to come to an agreement under that subsection relating to the student.

(2) A request must be made to the Secretary in writing within 1 month after the direction or refusal concerned.

(3) If a request is made in relation to a direction given by the Secretary,—

(a) the direction does not take effect—

(i) until the Secretary has reconsidered and confirmed it; or

(ii) where a request is made under subsection (4)(c), until that request has been considered by an arbitrator and the parent concerned has been told of the arbitrator's decision; and

(b) an offence is not committed under section 37(4) if the direction has not taken effect.

(4) If a request is made, the following provisions apply:

(a) if the request relates to a direction, the Secretary must reconsider it and then—

(i) confirm it, or cancel it and issue another, or cancel it and refuse to issue another, as seems appropriate; and

(ii) notify the parent concerned in writing of the result of the reconsideration and the reasons for it:

(b) if the request relates to a refusal, the Secretary must reconsider whether or not the matter concerned should be agreed, and then—

(i) agree or refuse to agree to the matter with the parent concerned, as appropriate; and

(ii) notify the parent concerned in writing of the result of the request and the reasons for it:

(c) a parent who is dissatisfied with the result of the reconsideration may, by a request in writing to the Secretary, require the result to be sent to an arbitrator.

(5) A direction takes effect immediately, and section 37(2) applies accordingly, if—

(a) a request has been made under subsection (4)(c) in respect of the result of the reconsideration by the Secretary of a direction under section 37(1); and

(b) 1 month after the Secretary notified the parent concerned of the name of a person who is to represent the Secretary in the appointment of an arbitrator, the Secretary's representative and a nominee of the parent have not appointed an arbitrator.

(6) If a parent makes a request under subsection (4)(c), the following provisions apply:

(a) the Secretary must as soon as practicable give the parent the names of 3 people (other than an employee of the Ministry or an employee or a member of a board) who, in the Secretary's opinion, have experience in or expert knowledge of special education:

(b) within 14 days of being given the names, the parent must tell the Secretary—

(i) which one of the people is acceptable; or

(ii) that none of them is acceptable, and the name of some other person who is:

(c) if, within 14 days of being given the names, the parent tells the Secretary that one of the people is acceptable, the person concerned is to be the arbitrator:

(d) if, within 14 days of being given the names, the parent tells the Secretary that none of the people is acceptable, and the name of some other person who is, the Secretary must as soon as practicable accept or reject the other person:

(e) if the Secretary accepts the other person, the other person is to be the arbitrator:

(f) if the Secretary rejects the other person, the Secretary must as soon as practicable tell the other person the name of a person to act as the Secretary's agent in choosing an arbitrator, and the other person and the Secretary's agent must, as soon as practicable, choose the arbitrator:

(g) if within 14 days of being given the names, the parent does not comply with paragraph (b), the Secretary must choose one of the 3 people to be the arbitrator:

(h) once it is known who the arbitrator is, the Secretary must give the arbitrator a copy of all the relevant documents:

(i) the arbitrator must give the parent notice in writing that—

(i) the arbitrator has been appointed; and

(ii) the parent may make written submissions:

(j) on receiving written submissions from the parent or 21 days after notifying the parent (whichever comes first), the arbitrator must tell the parent and the Secretary when and where the arbitrator is to hear the matter:

(k) the parent (or a nominee), a representative of the parent, the Secretary (or a nominee), and a representative of the Secretary may take part in the hearing and may require the student concerned to be present:

(l) except as provided in this subsection, the arbitrator is to decide how the hearing is to proceed:

(m) if, at the hearing, the parent of the student concerned produces evidence about the student that was not available to the Secretary when the Secretary reconsidered the relevant direction or refusal to come to an agreement under section 37(1),—

(i) the arbitrator may not consider that evidence and must refer the case back to the Secretary:

(ii) the Secretary must reconsider the decision that was the subject of the arbitration, and subsection (4) applies to the Secretary's decision under this subparagraph with any necessary modifications:

(n) subject to paragraph (m), after the hearing, the arbitrator must confirm the Secretary's decision or direct the Secretary to make a different decision:

(o) the Secretary must comply with the arbitrator's direction:

(p) despite subsection (1), a parent does not have the right to request the reconsideration or reference to an arbitrator of a decision that the Secretary has made in accordance with an arbitrator's direction:

(q) despite subsection (1), if the arbitrator confirms a decision of the Secretary to refuse to come to an agreement under section 37(1), no parent has a right to require the reconsideration or reference to an arbitrator of a further refusal made in respect of the same student within 12 months after the confirmation of the decision.

Compare: 1989 No 80 s 10

48 Board of State school or sponsor may appoint attendance officer

(1) A board of a State school or a sponsor must, by any means it thinks fit, take all reasonable steps to ensure the attendance of students enrolled at its school.

(2) For the purposes of complying with subsection (1), the board or sponsor may appoint an attendance officer for the schools it administers.

(3) A person may be appointed as an attendance officer by more than 1 board or sponsor.

Compare: 1989 No 80 s 31(1)–(3)

Section 48 heading: amended, on 1 October 2024, by section 13(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 48(1): amended, on 1 October 2024, by section 13(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 48(2): amended, on 1 October 2024, by section 13(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 48(3): amended, on 1 October 2024, by section 13(3) of the Education and Training Amendment Act 2024 (2024 No 40).

49 Powers of attendance officers and constables

(1) An attendance officer or a constable may detain any person who appears to have turned 5 years and not to have turned 16 years, and who appears to be absent from school, and question the person as to—

(a) the person's name and address; and

(b) the school (if any) at which the person is enrolled and its address; and

(c) the reason for the person's absence from school.

(2) Before exercising the power under subsection (1), an attendance officer must produce a distinctive badge or other evidence of appointment.

(3) The attendance officer or constable may, if not satisfied that the person has a good reason for not being at school, take the person to the person's home, or to the school at which the attendance officer or constable thinks the person is enrolled.

(4) The following persons may file charging documents, conduct prosecutions, and take any other proceedings under this Part:

(a) an attendance officer:

(b) a principal:

(c) the person responsible for teaching and learning in a charter school:

(d) a person appointed by a board, a sponsor, or the Secretary for the purpose.

(5) A certificate sealed by a board or a sponsor showing that a person named in it is appointed for any purpose under this section is sufficient evidence of the matters specified in the certificate, and the authenticity of, and validity of the affixing of, a board's or a sponsor's seal may not in any proceedings under this Part be inquired into or disputed.

(6) This section applies—

(a) to a participating student only in relation to any portion of the student's secondary–tertiary programme during which the student is required to attend school, as notified by the provider group or lead provider under clause 9 of Schedule 8:

(b) to an affected student only in relation to the time period (or periods) each day during which the student's timetable is running.

Compare: 1989 No 80 s 31(4)–(9)

Section 49(4): replaced, on 1 October 2024, by section 14(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 49(5): amended, on 1 October 2024, by section 14(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 49(5): amended, on 1 October 2024, by section 14(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Release from tuition

50 Release from tuition on religious or cultural grounds

(1) This section applies to students enrolled at—

(a) a State school that is not a State integrated school; or

(b) a charter school.

(2) A student over the age of 16 years, or a parent of a student under the age of 16 years, may ask the principal or person responsible for teaching and learning in a charter school to release the student from tuition in a particular class or subject.

(3) A request under subsection (2) must be made in writing and at least 24 hours before the start of the tuition.

(4) The principal or person responsible for teaching and learning in a charter school may not release the student unless satisfied that—

(a) the parent or student has asked because of sincerely held religious or cultural views; and

(b) the student is to be adequately supervised (whether within or outside the school) during the period of release from tuition.

(5) On receiving a request from a parent under subsection (2), the principal or person responsible for teaching and learning in a charter school must, before agreeing to release the student, take all reasonable steps to find out the student's views on the matter.

(6) Subject to subsection (4), the principal or person responsible for teaching and learning in a charter school must release the student from the tuition and (if the student is to be supervised outside the school) let the student leave the school during the tuition unless satisfied that it is inappropriate to do so, having regard to—

(a) the student's age, maturity, and ability to formulate and express views; and

(b) any views the student has expressed.

(7) Nothing in this section limits or affects section 59.

Compare: 1989 No 80 s 25A

Section 50(1): replaced, on 1 October 2024, by section 15(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 50(2): amended, on 1 October 2024, by section 15(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 50(4): amended, on 1 October 2024, by section 15(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 50(5): amended, on 1 October 2024, by section 15(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 50(6): amended, on 1 October 2024, by section 15(2) of the Education and Training Amendment Act 2024 (2024 No 40).

51 Release from tuition for specified parts of health curriculum

(1) A parent of a student enrolled at a State school or charter school may ask the principal or person responsible for teaching and learning in a charter school in writing to ensure that the student is released from tuition in specified parts of the health curriculum related to sexuality education.

(2) On receiving a request under subsection (1), the principal or person responsible for teaching and learning in a charter school must ensure that—

(a) the student is released from the relevant tuition; and

(b) the student is supervised during the period of release from that tuition.

(3) Subsection (1) does not require a principal or person responsible for teaching and learning in a charter school to ensure that a student who is to be excluded from tuition in specified parts of the health curriculum related to sexuality education is excluded at any other time while a teacher deals with a question raised by another student that relates to the specified part of the curriculum.

Compare: 1989 No 80 s 25AA

Section 51(1): amended, on 1 October 2024, by section 16(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 51(1): amended, on 1 October 2024, by section 16(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 51(2): amended, on 1 October 2024, by section 16(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 51(3): amended, on 1 October 2024, by section 16(2) of the Education and Training Amendment Act 2024 (2024 No 40).

52 Release from tuition for outside tuition or if good reasons to leave early

The principal of a State school or person responsible for teaching and learning in a charter school may,—

(a) if satisfied that the student is to receive outside the school tuition acceptable to the principal or person responsible for teaching and learning in a charter school, release a student from attendance at the school, for a period or periods agreed with a parent of the student, to receive the

tuition (and, as appropriate, travel between the school and the place where the tuition is to be given):

(b) let a student leave early on a particular day if satisfied that—

(i) the student has, on the day on which the school was open for instruction, been present at the school for 4 hours or more; and

(ii) there are good reasons for the student to leave before the school closes on the day.

Compare: 1989 No 80 s 25B

Section 52: amended, on 1 October 2024, by section 17(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 52(a): amended, on 1 October 2024, by section 17(2) of the Education and Training Amendment Act 2024 (2024 No 40).

53 Courses, work experience, and visits outside school premises

(1) A board or sponsor may authorise any students to undertake courses of education, gain work experience, or make visits outside the school premises.

(2) If authorisation is given, the student must be treated as attending the school while undertaking the course, gaining the experience, or making the visit.

(3) A principal or person responsible for teaching and learning in a charter school, a teacher, or an occupier of a workplace may not allow a student to go into, or remain in, a workplace to gain work experience except in accordance with any conditions prescribed by the Minister by notice.

(4) A student who is in any workplace to gain work experience is to be treated as being employed by the workplace, and every enactment and collective agreement (to the extent that it relates to the health, safety, and welfare of workers) applies to the student and the occupier of the workplace accordingly.

(5) However, subsection (4) does not—

(a) entitle a student to be paid; or

(b) require a student to join or belong to a union; or

(c) entitle a student to enter or remain in a workplace; or

(d) require any person to pay a levy, fee, or charge of any kind.

(6) A notice under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 71

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 53(1): amended, on 1 October 2024, by section 18(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 53(3): amended, on 1 October 2024, by section 18(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 53(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 53(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

54 Restrictions on employing school-age children

(1) An employer may not employ any person under the age of 16 years—

(a) within school hours; or

(b) if the person is a student participating in a secondary–tertiary programme and the employment would interfere with the person's ability to undertake the secondary–tertiary programme; or

(c) if the person is enrolled at a distance school and the employment would interfere with the person's ability to do the work of the course in which the student is enrolled; or

(d) if the person's parent is granted an exemption certificate under section 38 and the employment would interfere with the person's ability to be taught as well and as regularly as in a registered school; or

(e) if the employment would—

(i) prevent or interfere with the person's attendance at school; or

(ii) in the case of a person who is a participating student, interfere with the person's ability to undertake their secondary–tertiary programme; or

(iii) if the person is enrolled at a distance school, interfere with the person's ability to do the work of the course in which the person is enrolled.

(2) Subsection (1) does not apply if the person provides the employer with a certificate of exemption or other satisfactory evidence that verifies that the person is exempted (otherwise than under section 38(1)) from enrolment at any school.

Compare: 1989 No 80 s 30(1), (2)

Religious instruction and observances at State primary and intermediate schools

55 Application

Sections 56 to 60 apply to religious instruction and observances in State primary and intermediate schools only.

Compare: 1964 No 135 s 81

56 Religious instruction and observances in State primary and intermediate schools

(1) This section applies if a State school's board, after consultation with the principal, determines that school buildings may be used for the purposes of religious instruction or observances conducted in a manner approved by the board.

(2) Despite section 97 and any other provisions in this Act or regulations made under this Act relating to the closure of schools, any 1 or more classrooms at the school, or the school as a whole, may be closed during the school day for any period or periods not exceeding 60 minutes in aggregate in any week or 20 hours in a school year for the purposes of religious instruction or observances conducted by voluntary instructors approved by the school's board.

Compare: 1964 No 135 s 78

57 Additional religious instruction

(1) This section applies if the Minister is satisfied that—

(a) the majority of the parents of students attending a State school wish their children to receive religious instruction additional to that provided under section 56; and

(b) the additional religious instruction is not to the detriment of the normal curriculum of the school.

(2) Despite sections 56 and 97, the Minister may, after consulting the school's board, authorise the additional religious instruction to the extent and subject to any conditions that the Minister thinks fit.

Compare: 1964 No 135 s 78A

58 Student attendance at religious instruction must be confirmed

(1) A student enrolled at a State school may only attend or take part in any religious instruction at the school if a parent of the student has confirmed in writing to the principal that they wish for the student to take part or attend.

(2) A parent who has given an indication of wishes under subsection (1) may withdraw it.

Compare: 1964 No 135 s 79(2)

59 Student attendance at religious observances not compulsory

(1) A student enrolled at a State school may not be required to attend or take part in any religious observances if a parent of the student does not wish the student to take part and makes this wish known in writing to the principal.

(2) A parent who has given an indication of wishes under subsection (1) may withdraw it.

Compare: 1964 No 135 s 79

60 Teacher may be released from duties to take part in religious instruction or observances

(1) A teacher at a State school must, if the school's board approves the teacher's request, be released from school duties for up to 30 minutes a week to allow them to take part in the school's religious instruction and observances.

(2) However, a person must not directly or indirectly bring any pressure to bear on a teacher to induce the teacher to take part, and the position of any teacher and their opportunities for appointments or promotion must not be adversely affected because the person does not take part in the school's religious instruction and observances.

Compare: 1964 No 135 s 80

Miscellaneous provisions

61 Exemptions from taxation

(1) Every board must be treated as the agent of the Crown in respect of its property and the performance of its functions and is entitled to all the privileges that the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.

(2) Nothing in subsection (1) exempts the board from—

(a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or

(b) any obligation imposed by that Act.

Compare: 1964 No 135 s 187

Subpart 2—Restrictions on right to enrol at and attend school

Restrictions on enrolment at primary school

62 Restrictions on primary school enrolment

The following persons may not be enrolled at or continue to be enrolled at a primary school or below year 9 at a composite school:

(a) a child under the age of 5 years:

(b) a child who turned 14 years in a previous year:

(c) a child who, in the Secretary's opinion, has made sufficient progress, in terms of any curriculum statement for year 8 made under section 90.

Compare: 1989 No 80 s 5

Section 62(c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

63 Cohort entry policy

(1) A State school or charter school may adopt or revoke a cohort entry policy after complying with the requirements of section 65.

(2) A cohort entry policy must—

(a) apply to all children aged 5 years who have not previously enrolled at a registered school; and

(b) provide that they may be enrolled only on a date determined in accordance with section 64.

Compare: 1989 No 80 s 5A

Section 63(1): amended, on 1 October 2024, by section 19 of the Education and Training Amendment Act 2024 (2024 No 40).

64 Dates for starting school under cohort entry policy

(1) This section applies to a State school or charter school that has a cohort entry policy.

(2) A child may be enrolled no earlier than the child's fifth birthday on a date that is—

(a) a term start date:

(b) a mid-term start date.

(3) In this section,—

mid-term start date means a date that is published as a mid-term start date under section 66

term start date, in relation to a school, means a date that is the first day of a term on which the school is open for instruction.

Compare: 1989 No 80 s 5B

Section 64(1): amended, on 1 October 2024, by section 20 of the Education and Training Amendment Act 2024 (2024 No 40).

65 Adoption or revocation of cohort entry policy

(1) When adopting a proposed cohort entry policy for a State school or charter school, a board or sponsor must take all reasonable steps to discover and consider the views of the following persons about the policy and whether it is generally acceptable:

(a) parents of students at the school:

(b) employees of the board or sponsor at the school:

(c) early childhood services in the local community:

(d) parents of prospective students of the school.

(2) When considering whether to revoke a cohort entry policy, a board or sponsor must take all reasonable steps to discover and consider the views of the persons described in subsection (1) as to whether the policy should be revoked.

(3) A board or sponsor must take all reasonable steps to give notice of at least 1 term to the Secretary and the persons described in subsection (1) before a cohort entry policy takes effect or ceases to have effect.

Compare: 1989 No 80 s 5C

Section 65(1): amended, on 1 October 2024, by section 21(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 65(1): amended, on 1 October 2024, by section 21(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 65(1)(b): amended, on 1 October 2024, by section 21(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 65(2): amended, on 1 October 2024, by section 21(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 65(3): amended, on 1 October 2024, by section 21(2) of the Education and Training Amendment Act 2024 (2024 No 40).

66 Publication of mid-term start dates

(1) The Minister must, before 1 July in any year, publish in a notice the mid-term start dates for the following year.

(2) A mid-term start date must be the Monday that is closest to the date that is halfway between the first and last dates of a term.

(3) A notice under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 5D

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 66(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 66(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Restrictions on enrolment at secondary school

67 Restrictions on secondary school enrolment

(1) A person who, in the Secretary's opinion, has made insufficient progress in terms of any curriculum statement for year 8 made under section 90 may not be enrolled at or continue to be enrolled at a secondary school or above year 8 at a composite school.

(2) Subsection (1) does not apply to a person who turned 13 years before 1 April in the previous year.

Compare: 1989 No 80 s 6

Section 67(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

68 Restrictions on enrolment at distance school

(1) The Minister may, by notice, fix criteria for enrolment in early childhood, primary, and secondary education at a distance school.

(2) A notice under subsection (1) may fix different criteria for—

(a) different distance schools:

(b) distance schools of different classes or descriptions:

(c) early childhood, primary, and secondary classes at distance schools.

(3) A person may not be enrolled at a distance school unless—

(a) the school's board is satisfied that the person's enrolment meets the criteria fixed under subsection (1) (if any); or

(b) the person is entitled under section 33 to free education at a State school and the Secretary has directed the distance school's board to enrol the person.

(4) The Secretary may not give a direction under subsection (3)(b) unless satisfied that the only State school that the person can conveniently attend is a distance school.

(5) If the Secretary is satisfied that a person who is enrolled at a distance school in accordance with a direction under subsection (3)(b) can conveniently attend a State school that is not a distance school, the Secretary may notify the board of the distance school of that fact.

(6) If the board of a distance school receives a notice under subsection (5), it must cancel the person's enrolment unless the board is satisfied that the person's enrolment meets the criteria fixed under subsection (1) (if any).

(7) The board of a distance school must cancel the enrolment if it is satisfied that—

(a) a person's enrolment at a distance school does not meet the criteria fixed under subsection (1) (if any); and

(b) a direction under subsection (3)(b) has not been made in respect of the person relating to the school.

(8) The board of a distance school may delegate the task of being satisfied that enrolments meet or do not meet the criteria fixed under subsection (1) (if any) to the principal.

(9) For the purposes of subsection (4), the distance school must offer education at the level, and in the subjects, required by the person or a parent of the person.

(10) A notice under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 7

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 68(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 68(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

69 Some domestic students may have to pay fees for tuition from distance schools

(1) The following students may not be enrolled or continue to be enrolled in a course, class, or programme at a distance school unless the appropriate fee (if any) prescribed by the board with the Minister's consent has been paid:

(a) a domestic student who has turned 16 years and is not enrolled full-time at a registered school:

(b) a domestic student enrolled at a private school:

(c) a domestic student who is granted an exemption certificate under section 38(1).

(2) Subsection (1) does not give any person the right to enrol at or receive tuition from a distance school.

Compare: 1989 No 80 s 7A

70 Evening classes

(1) The board of a State school may—

(a) provide evening classes:

(b) prescribe and charge appropriate fees (if any) for the evening classes it provides:

(c) refuse to allow a person to take part in evening classes it provides if the person fails to pay the relevant fees.

(2) In this section, **evening classes** means classes at a school usually held outside normal school hours (for example, after school or during weekends) and open to people not enrolled full-time at the school.

Compare: 1989 No 80 s 7B

Enrolment schemes

71 Purpose and principles

(1) The purpose of the enrolment scheme of a State school is—

(a) to avoid overcrowding, or the likelihood of overcrowding, at the school; and

(b) to ensure that the selection of applicants for enrolment at the school is carried out in a fair and transparent manner; and

(c) to enable the Secretary to make the best use of existing networks of State schools.

(2) In achieving its purpose, the enrolment scheme of every State school must, as far as possible, ensure that—

(a) the scheme does not exclude local students; and

(b) no more students are excluded from the school than is necessary to avoid overcrowding at the school.

Compare: 1989 No 80 s 11A

72 When enrolment schemes required

(1) If overcrowding occurs or is likely to occur at a State school, the Secretary must establish an enrolment scheme for the school.

(2) An enrolment scheme must comply with Schedule 20 and any regulations made under this Act regarding enrolment schemes.

73 Content of enrolment schemes

A State school's enrolment scheme must—

(a) define a home zone for the school; and

(b) identify any special programmes offered by the school and the criteria by which students are to be accepted into any special programme.

Compare: 1989 No 80 s 11C

74 How enrolment schemes work

(1) A person who lives in the home zone of a State school that has an enrolment scheme is entitled to enrol at that school.

(2) An applicant for enrolment at a school with an enrolment scheme who lives outside the school's home zone is entitled to enrol at the school only—

(a) if the applicant is offered a place at the school in accordance with the procedure set out in the enrolment scheme; or

(b) if the Secretary has agreed or directed under section 37, or directed under section 76, 82, or 87 or clause 14 of Schedule 20, or directed in accordance with regulations made under this Act, that the student be enrolled at the school; or

(c) if all of the following apply:

(i) the student has been excluded or expelled from another school (**school A**); and

(ii) the principal of the school at which the student wishes to enrol agrees, by arrangement with the principal of school A, to enrol the student; and

(iii) the Secretary endorses the proposal.

Compare: 1989 No 80 s 11D

75 Additional entitlement to enrol in certain circumstances

(1) Despite section 74, the Secretary may authorise an enrolment scheme to permit a student to enrol at the school as if the student lived in the home zone of the school if,—

(a) in the case of an existing enrolment scheme whose home zone is amended,—

(i) the student lives outside the amended home zone; and

(ii) the student has a sibling who is enrolled at the school at the time that the amendment is implemented; and

(iii) the sibling, at the time that the amendment is implemented, lives inside the home zone as it was before the amendment; and

(iv) the student, at the time of enrolment, lives inside the home zone as it was before the amendment:

(b) in the case of a new enrolment scheme, the student—

(i) lives outside of the home zone of the new enrolment scheme; and

(ii) has a sibling who is enrolled at the school at the time that the new enrolment scheme is implemented.

(2) Before granting an authorisation under subsection (1), the Secretary must be satisfied that doing so—

(a) is in the best interests of the school and local community; and

(b) can be managed within the existing school network.

(3) For the purposes of this section, child A is the **sibling** of child B if—

(a) both children have the same parent; or

(b) a parent of child A is married to, or in a civil union with, a parent of child B; or

(c) a parent of child A was married to, or in a civil union with, a parent of child B at the time when child B's parent died; or

(d) a parent of child A is the de facto partner of a parent of child B; or

(e) both children live in the same household and, in recognition of family obligations, are treated by the adults of that household as if they were siblings; or

(f) the Secretary, by written notice to the school, advises that child A is to be treated as the sibling of child B.

Compare: 1989 No 80 s 11F(3)

Other restrictions on enrolment and attendance

76 Secretary may direct that students attend particular schools

(1) The Secretary may, on the recommendation of the chief executive of Oranga Tamariki, direct—

(a) the board of a State school to enrol a person at the school; or

(b) the sponsor to enrol a person at the charter school.

(2) However, the Secretary may not give a direction under subsection (1) unless the Secretary has first taken all reasonable steps to consult—

(a) a parent of the person; and

(b) the board or sponsor concerned; and

(c) the chief executive of Oranga Tamariki and any other person or organisation that, in the Secretary's opinion, may be interested in, or able to advise on or help with, the person's education or welfare.

(3) The board or sponsor must comply with a direction given under subsection (1).

(4) A direction given under subsection (1) overrides any enrolment scheme the school may have in place.

Compare: 1989 No 80 s 18A

Section 76(1): replaced, on 1 October 2024, by section 22(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 76(2)(b): amended, on 1 October 2024, by section 22(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 76(3): amended, on 1 October 2024, by section 22(2) of the Education and Training Amendment Act 2024 (2024 No 40).

77 Principals or persons responsible for teaching and learning may preclude students for health reasons

(1) A principal of a State school or the person responsible for teaching and learning in a charter school may preclude a student from the school if they have reasonable grounds to believe that the student may have a communicable disease (within the meaning of the Health Act 1956).

(2) As soon as practicable after precluding a student under subsection (1), the principal or person responsible for teaching and learning in a charter school must make all reasonable efforts to tell the following persons that the student has been precluded and why:

(a) the school's board or sponsor; and

(b) the student (if the student has turned 20 years) or a parent of the student (in any other case); and

(c) the Medical Officer of Health.

(3) If a student has been precluded on suspicion of having a communicable disease, the board or sponsor must, as soon as practicable, investigate the matter and—

(a) cancel the preclusion; or

(b) confirm that the student should stay precluded until the board or sponsor has received a certificate from a medical practitioner stating that the student is well enough to go back to school.

(4) The following persons are not liable for any act done or omitted in good faith with reasonable care in exercising or performing, or in intending to exercise or perform, a power or duty under this section:

(a) a principal:

(b) the person responsible for teaching and learning in a charter school:

(c) a board:

(d) a sponsor.

(5) If a parent is charged with an offence against section 244—

(a) it is a defence to the charge if it is proved that—

(i) the student did not attend because the student was precluded for having a communicable disease; and

(ii) the time for which the student did not attend was no longer than was necessary for the board to cancel the preclusion or the student to get well enough to go back to school; and

(b) except to the extent set out in paragraph (a), it is not a defence to the charge that the student did not attend because the student was precluded under subsection (1).

Compare: 1989 No 80 s 19

Section 77 heading: amended, on 1 October 2024, by section 23(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(1): amended, on 1 October 2024, by section 23(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(2): amended, on 1 October 2024, by section 23(3)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(2): amended, on 1 October 2024, by section 23(3)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(3): amended, on 1 October 2024, by section 23(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(3)(b): amended, on 1 October 2024, by section 23(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 77(4): replaced, on 1 October 2024, by section 23(5) of the Education and Training Amendment Act 2024 (2024 No 40).

78 Purpose of sections 79 to 89

The purpose of sections 79 to 89 relating to the standing-down, suspension, exclusion, or expulsion of a domestic student from a State school or a charter school is to—

(a) provide a range of responses for cases of varying degrees of seriousness; and

(b) minimise the disruption to a student's attendance at school and facilitate the return of the student to school when that is appropriate; and

(c) ensure that individual cases are dealt with in accordance with the principles of natural justice.

Compare: 1989 No 80 s 13

Section 78: amended, on 1 October 2024, by section 24 of the Education and Training Amendment Act 2024 (2024 No 40).

79 Application of sections 80 to 89

Sections 80 to 89 (and any rules made under section 89) apply only in relation to domestic students at a State school or a charter school.

Compare: 1989 No 80 s 13A

Section 79: amended, on 1 October 2024, by section 25 of the Education and Training Amendment Act 2024 (2024 No 40).

80 Principals of State schools or persons responsible for teaching and learning in charter schools may stand down or suspend students

(1) The principal of a State school or the person responsible for teaching and learning in a charter school may stand down or suspend a student if satisfied on reasonable grounds that—

(a) the student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or

(b) because of the student's behaviour, it is likely that the student, or other students at the school, would be seriously harmed if the student were not stood down or suspended.

(2) A stand-down may be for 1 or more specified periods, and—

(a) the period or periods may not exceed 5 school days in any one term:

(b) a student may be stood down more than once in the same year but for not more than 10 school days in total in that year:

(c) in calculating the period of a stand-down, the day on which the student was stood down, and any day on which the student would not have had to attend school in any event, may not be counted:

(d) the principal or person responsible for teaching and learning in a charter school may lift the stand-down before it is due to expire.

(3) If a student has been stood down or suspended, the following provisions apply in relation to the student's attendance at the school:

(a) the principal or person responsible for teaching and learning in a charter school may require the student to attend the school if the principal or person responsible for teaching and learning in a charter school reasonably considers that the student's attendance is appropriate for the purposes of section 84:

(b) the principal or person responsible for teaching and learning in a charter school must allow the student to attend the school if a parent of the student requests that the student be permitted to attend the school and the principal or person responsible for teaching and learning in a charter school considers the request is reasonable:

(c) otherwise the student does not have to, and is not permitted to, attend the school while stood down or suspended.

Compare: 1989 No 80 s 14

Section 80 heading: amended, on 1 October 2024, by section 26(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 80(1): amended, on 1 October 2024, by section 26(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 80(2)(d): amended, on 1 October 2024, by section 26(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 80(3)(a): amended, on 1 October 2024, by section 26(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 80(3)(b): amended, on 1 October 2024, by section 26(3) of the Education and Training Amendment Act 2024 (2024 No 40).

81 Powers of State school board and charter school sponsor when suspended students aged under 16 years

(1) If a student aged under 16 years has been suspended from a State school or a charter school, the school's board or the sponsor may—

(a) lift the suspension before it expires, either unconditionally or subject to any reasonable conditions the board wants to make:

(b) extend the suspension conditionally for a reasonable period determined by the board when extending the suspension, in which case subsection (2) applies:

(c) if the circumstances of the case justify the most serious response, exclude the student from the school by extending the suspension and requiring the student to be enrolled at another school.

(2) If the board or sponsor extends a suspension conditionally, the board or sponsor must impose reasonable conditions aimed at facilitating the return of the student to school and must take appropriate steps to facilitate the return of the student to school.

(3) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of their suspension, the principal or person responsible for teaching and learning in a charter school may request the board or sponsor to reconsider the action it took under this section.

(4) If subsection (3) applies, the board or sponsor may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in subsection (1).

(5) If the board or sponsor has not sooner lifted or extended it or excluded the student under subsection (1)(c), the suspension of the student ceases to have effect—

(a) at the close of the seventh school day after the day of the suspension; or

(b) if the suspension occurs within 7 school days before the end of a term, at the close of the tenth calendar day after the day of the suspension.

(6) If the board or sponsor excludes the student under subsection (1)(c), the principal or person responsible for teaching and learning in a charter school must try to arrange for the student to attend another school that is suitable and that the student can reasonably conveniently attend.

(7) If the principal or person responsible for teaching and learning in a charter school is unable, by the tenth school day after the day of the board's or sponsor's decision to exclude a student, to arrange for the student to attend another school, the principal or person responsible for teaching and learning in a charter school must tell the Secretary what steps the principal or person responsible for teaching and learning in a charter school took in trying to do so.

Compare: 1989 No 80 s 15

Section 81 heading: amended, on 1 October 2024, by section 27(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(1): amended, on 1 October 2024, by section 27(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(1): amended, on 1 October 2024, by section 27(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(2): amended, on 1 October 2024, by section 27(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(3): amended, on 1 October 2024, by section 27(4)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(3): amended, on 1 October 2024, by section 27(4)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(4): amended, on 1 October 2024, by section 27(5) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(5): amended, on 1 October 2024, by section 27(5) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(6): amended, on 1 October 2024, by section 27(6)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(6): amended, on 1 October 2024, by section 27(6)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(7): amended, on 1 October 2024, by section 27(7)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 81(7): amended, on 1 October 2024, by section 27(7)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

82 Secretary's powers when excluded students aged under 16 years

(1) If the Secretary is satisfied that the board of a State school or a sponsor has excluded a student aged under 16 years from the school under section 81(1)(c), and that the principal or person responsible for teaching and learning in a charter school has not arranged for the student to attend another school, the Secretary must,—

(a) if satisfied that it is appropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or

(b) arrange for, and if necessary direct, the following to enrol the student at the other school:

(i) the board of any other State school (other than a State integrated school):

(ii) the sponsor of any other charter school.

(c) direct a parent of the student to enrol the student at a distance school.

(2) The Secretary may not lift an exclusion under subsection (1)(a) or give a direction under subsection (1)(b) unless the Secretary has made all reasonable attempts to consult—

(a) the student; and

(b) a parent of the student; and

(c) the board or the sponsor; and

(d) any other person or organisation that, in the Secretary's opinion, may be interested in, or able to advise on or help with, the student's education or welfare.

(3) If the board or the sponsor of a school from which the student has been excluded also controls another school, the Secretary (in exercising the power conferred by subsection (1)(b)) may direct the board or the sponsor to enrol the student at that other school.

(4) A board or the sponsor must comply with a direction under subsection (1)(b), and the direction overrides any enrolment scheme the school may have in place.

Compare: 1989 No 80 s 16

Section 82(1): amended, on 1 October 2024, by section 28(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 82(1): amended, on 1 October 2024, by section 28(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 82(1)(b): replaced, on 1 October 2024, by section 28(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 82(2)(c): amended, on 1 October 2024, by section 28(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 82(3): amended, on 1 October 2024, by section 28(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 82(4): amended, on 1 October 2024, by section 28(3) of the Education and Training Amendment Act 2024 (2024 No 40).

83 Powers of State school board and charter school sponsor when suspended students aged 16 years or over

(1) If a student aged 16 years or over has been suspended from a State school or a charter school, the school's board or sponsor may—

(a) lift the suspension before it expires, either unconditionally or subject to any reasonable conditions it wants to make; or

(b) extend the suspension conditionally for a reasonable period determined by the board or sponsor when extending the suspension, in which case subsection (2) applies; or

(c) expel the student.

(2) If the board or sponsor extends a suspension conditionally, the board or sponsor must impose reasonable conditions aimed at facilitating the return of the student to school, and must take steps to facilitate the return of the student to school.

(3) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of their suspension, the principal or person responsible for teaching and learning in a charter school may request the board or sponsor to reconsider the action it took under this section.

(4) If subsection (3) applies, the board or sponsor may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in subsection (1).

(5) If the board or sponsor has not sooner lifted or extended it or expelled the student under subsection (1)(c), the suspension of the student ceases to have effect—

(a) at the close of the seventh school day after the day of the suspension; or

(b) if the suspension occurs within 7 school days before the end of a term, at the close of the tenth calendar day after the day of the suspension.

Compare: 1989 No 80 s 17

Section 83 heading: amended, on 1 October 2024, by section 29(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(1): amended, on 1 October 2024, by section 29(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(1): amended, on 1 October 2024, by section 29(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(1)(b): amended, on 1 October 2024, by section 29(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(2): amended, on 1 October 2024, by section 29(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(3): amended, on 1 October 2024, by section 29(4)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(3): amended, on 1 October 2024, by section 29(4)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(4): amended, on 1 October 2024, by section 29(5) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 83(5): amended, on 1 October 2024, by section 29(5) of the Education and Training Amendment Act 2024 (2024 No 40).

84 Duties of principals or persons responsible for teaching and learning when students stood down or suspended from State schools or charter schools

(1) When a student is stood down or suspended from a State school or a charter school, the principal or person responsible for teaching and learning in a charter school must take all reasonable steps to ensure that the student has the guidance and counselling that are reasonable and practicable in all the circumstances of the stand-down or suspension.

(2) If a student's suspension is subject to conditions, the principal or person responsible for teaching and learning in a charter school must take all reasonable steps to ensure that an appropriate educational programme is provided to the student.

(3) The purpose of the programme referred to in subsection (2) is to facilitate the return of a student to school and to minimise the educational disadvantages that occur from absence from school.

Compare: 1989 No 80 s 17A

Section 84 heading: replaced, on 1 October 2024, by section 30(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 84(1): amended, on 1 October 2024, by section 30(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 84(1): amended, on 1 October 2024, by section 30(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 84(2): amended, on 1 October 2024, by section 30(3) of the Education and Training Amendment Act 2024 (2024 No 40).

85 Who may attend meeting concerning suspension

(1) If a student has been suspended from a State school or a charter school, the student, a parent of the student, and their representatives are entitled to attend at least 1 meeting of the board or sponsor and speak at that meeting, and to have their views considered by the board or sponsor before it decides whether to lift or extend the suspension or exclude or expel the student.

(2) Instead of attending and speaking at a meeting of the board or sponsor in person, the student, a parent of the student, and their representatives may attend and speak by way of telephone conference or video link.

(3) However, a telephone conference or video link may be used only if the student and a parent of the student have requested it to be used.

Compare: 1989 No 80 s 17B

Section 85 heading: replaced, on 1 October 2024, by section 31(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 85(1): amended, on 1 October 2024, by section 31(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 85(1): amended, on 1 October 2024, by section 31(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 85(2): amended, on 1 October 2024, by section 31(3) of the Education and Training Amendment Act 2024 (2024 No 40).

86 Effect of suspension on school register

(1) The name of a student aged under 16 years who has been suspended from a State school or a charter school under section 80 or excluded from a State school or a charter school under section 81(1)(c) must stay on the school's register until the earlier of the following days:

(a) the day the student is enrolled at another registered school:

(b) the day the student is given an exemption under section 38 or 39.

(2) The name of a student who has turned 16 years and is suspended from a State school or a charter school under section 80 must stay on the register of the school until the earliest of the following days:

(a) the day on which the student is enrolled at another registered school:

(b) the day on which the student is expelled from the school:

(c) the day on which the student leaves school:

(d) 1 January after the student's 19th birthday.

(3) Subsection (2) applies to a student who is aged under 16 years when suspended from a State school or a charter school under section 80, or who is excluded

from a State school or a charter school under section 81(1)(c), and turns 16 years while subject to the suspension or exclusion.

Compare: 1989 No 80 s 17C

Section 86(1): amended, on 1 October 2024, by section 32 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 86(2): amended, on 1 October 2024, by section 32 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 86(3): amended, on 1 October 2024, by section 32 of the Education and Training Amendment Act 2024 (2024 No 40).

87 Re-enrolment of excluded or expelled student

(1) The board of a State school or a sponsor from which a student has ever been excluded or expelled may refuse to enrol the student at the school (unless, in the case of an exclusion, the Secretary has lifted the exclusion under section 82(1)(a)).

(2) Subject to section 82(1)(b), the board of a State school or a sponsor may refuse to enrol a student who is for the time being excluded or expelled (whether under section 81 or 83) from another State school or another charter school.

(3) The Secretary may, in the case of a student who has turned 16 years, direct the board of another State school (other than a State integrated school) to enrol a student at the school if—

- (a) the student has been expelled from a State school under section 83; and
- (b) the Secretary has made all reasonable attempts to consult—
  - (i) the student; and
  - (ii) a parent of the student; and
  - (iii) the board; and
  - (iv) any other person or organisation that, in the Secretary's opinion, may be interested in, or able to advise on or help with, the student's education or welfare.

(3A) The Secretary may, in the case of a student who has turned 16 years, direct the sponsor of another charter school to enrol a student at the charter school if—

- (a) the student has been expelled from a charter school under section 83; and
- (b) the Secretary has made all reasonable attempts to consult—
  - (i) the student; and
  - (ii) a parent of the student; and
  - (iii) the sponsor; and
  - (iv) any other person or organisation that, in the Secretary's opinion, may be interested in, or able to advise on or help with, the student's education or welfare.

(4) A board or sponsor must comply with a direction under subsection (3) and the direction overrides any enrolment scheme the school may have in place.

Compare: 1989 No 80 s 17D

Section 87(1): amended, on 1 October 2024, by section 33(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 87(2): amended, on 1 October 2024, by section 33(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 87(2): amended, on 1 October 2024, by section 33(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 87(3A): inserted, on 1 October 2024, by section 33(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 87(4): amended, on 1 October 2024, by section 33(4) of the Education and Training Amendment Act 2024 (2024 No 40).

88 Notice requirements for stand-downs, suspensions, exclusions, and expulsions

(1) Immediately after a student is stood down under section 80, the principal or person responsible for teaching and learning in a charter school must tell the Secretary and a parent of the student—

(a) that the student has been stood down; and

(b) the reasons for the decision of the principal or person responsible for teaching and learning in a charter school; and

(c) the period for which the student has been stood down.

(2) Immediately after a student is suspended under section 80, the principal or person responsible for teaching and learning in a charter school must tell the board or sponsor, the Secretary, and a parent of the student—

(a) that the student has been suspended; and

(b) the reasons for the decision of the principal or person responsible for teaching and learning in a charter school.

(3) Immediately after the principal or person responsible for teaching and learning in a charter school or the board or sponsor lifts a suspension, extends a suspension, excludes a student, or expels a student, the principal or person responsible for teaching and learning in a charter school or the board or sponsor must tell the Secretary and a parent of the student—

(a) that the suspension has been lifted or extended, and the period of the extension (if any), or that the student has been excluded or expelled; and

(b) the reasons for the decision of—

(i) the principal; or

(ii) the person responsible for teaching and learning in a charter school; or

(iii) the board; or

(iv) the sponsor.

(4) Nothing in this section requires the board or sponsor to tell a parent of a student about an action taken under this section if the student has turned 20 years.

Compare: 1989 No 80 s 18

Section 88(1): amended, on 1 October 2024, by section 34(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(1)(b): replaced, on 1 October 2024, by section 34(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(2): amended, on 1 October 2024, by section 34(3)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(2): amended, on 1 October 2024, by section 34(3)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(2)(b): replaced, on 1 October 2024, by section 34(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(3): amended, on 1 October 2024, by section 34(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(3): amended, on 1 October 2024, by section 34(5)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(3)(b): replaced, on 1 October 2024, by section 34(6) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 88(4): amended, on 1 October 2024, by section 34(7) of the Education and Training Amendment Act 2024 (2024 No 40).

89 Secretary may make rules

(1) The Secretary may make rules (which must be consistent with this Act) regulating the practice and procedure to be followed by boards, sponsors, principals, persons responsible for teaching and learning in charter schools, students, parents of students, and other persons under sections 80 to 88, including (without limitation) rules—

(a) setting out procedural requirements to be followed when a proposed stand-down, suspension, exclusion, or expulsion is to be considered or decided:

(b) specifying who should be consulted about the circumstances of a stand-down, suspension, exclusion, or expulsion:

(c) setting out the steps to be taken by the principal (or person responsible for teaching and learning in a charter school) and board (or sponsor), respectively, when a student has been stood down, suspended, excluded, or expelled:

(d) specifying the notices to be given when a decision not to lift a suspension, or a decision to extend a suspension or expel a student, is made and the particulars to be set out in each notice:

(e) specifying time limits within which specified things are to be done and the reports that are to be produced and the persons who are to produce them:

(f) providing reasonable measures (which must not be inconsistent with the Privacy Act 2020) to protect the privacy of individuals:

(g) providing for any other matters that the Secretary considers desirable in the interests of natural justice.

(2) Before making any rules under this section, the Secretary must—

(a) publish in the *Gazette*, and on an Internet site maintained by or on behalf of the Ministry, a notice of the Secretary's intention to make the rules; and

(b) give interested persons reasonable time (as specified in the notice) to make submissions on the proposed rules; and

(c) consult the persons and groups that the Secretary thinks fit.

(3) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 18AA

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 89(1): amended, on 1 October 2024, by section 35(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 89(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 89(1)(c): amended, on 1 October 2024, by section 35(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 89(1)(f): amended, on 1 December 2020, by section 667(3)(a).

Section 89(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 3—Teaching, learning, and well-being

Curriculum and performance measures of schools

90 Curriculum statements and national performance measures

(1) The Minister may make the following:

(a) **foundation curriculum policy statements**, which are statements of policy concerning teaching, learning, and assessment that are made for the purposes of underpinning and giving direction to—

(i) the way in which curriculum and assessment responsibilities are to be managed in schools:

(ii) national curriculum statements and locally developed curricula:

(b) **national curriculum statements**, which are statements of—

(i) the areas of knowledge and understanding to be covered by students during the years of schooling; and

(ii) the skills to be developed by students during the years of schooling; and

(iii) desirable levels of knowledge, understanding, and skill to be achieved by students during the years of schooling:

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

(2) Without limiting subsection (1), a national curriculum statement may—

(a) specify different commencement dates for different provisions or different purposes, which dates may differ according to the classification or designation of a school, the group or year level of students attending a school, or any combination of those classifications, designations, groups, and levels:

(b) specify a transitional period during which a board may elect to comply with an existing curriculum statement or the new curriculum statement, and specify a date on which a board must begin complying with the new curriculum statement.

(3) The following instruments under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) foundation curriculum policy statements:

(b) national curriculum statements:

(c) national performance measures.

Compare: 1989 No 80 s 60A; 2017 No 20 s 41(2), (5)

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description of it and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 90(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 90(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

91 Board of State school must consult about delivery of health curriculum

(1) The board of a State school must, at least once every 2 years, after consulting the school community, adopt a statement on the delivery of the health curriculum.

(2) The purpose of the consultation is to—

(a) inform the school community about the content of the health curriculum; and

(b) ascertain the wishes of the school community regarding the way in which the health curriculum should be implemented given the views, beliefs, and customs of the members of that community; and

(c) determine, in broad terms, the health education needs of the students at the school.

(3) The board may adopt any method of consultation that it thinks fit to best achieve the purpose, but it may not adopt a statement on the delivery of the health curriculum until it has—

(a) prepared the statement in draft; and

(b) given members of the school community an adequate opportunity to comment on the draft statement; and

(c) considered any comments received.

(4) In this section,—

school community means,—

(a) for a State integrated school, the parents of students enrolled at the school, and the school's proprietors:

(b) for any other State school, the parents of students enrolled at the school:

(c) in every case, any other person who the board considers is part of the school community for the purpose of this section

statement on the delivery of the health curriculum means a written statement of how the school intends to implement the health education components of the relevant national curriculum statements.

Compare: 1989 No 80 s 60B

Restrictions on appointment and continued employment of teaching staff

92 Restrictions on appointment of teachers

(1) An employer may not appoint the following persons to a teaching position:

(a) a person—

(i) whose registration has been cancelled; and

(ii) who has not since been registered again:

(b) a person whose practising certificate is suspended under section 498 or 500(1)(d) or cancelled under section 500(1)(g):

(c) a person whose authorisation has been cancelled and who has not since—

(i) been authorised again; or

(ii) been registered as a teacher:

(d) a person whose limited authority to teach is suspended under section 498 or 500(1)(d).

(2) An employer may not permanently appoint a person to any teaching position if the person does not hold a practising certificate.

(3) Despite subsection (2), an employer who is a sponsor may permanently appoint to a teaching position a person who holds a limited authority to teach.

Compare: 1989 No 80 s 349

Section 92(3): inserted, on 1 October 2024, by section 36 of the Education and Training Amendment Act 2024 (2024 No 40).

93 Restrictions on continued employment of teachers

(1) An employer may not continue to employ the following persons in a teaching position:

(a) a person—

(i) whose registration has been cancelled; and

(ii) who has not since been registered again:

(b) a person whose practising certificate is suspended under section 500(1)(d):

(c) a person whose authorisation has been cancelled and who has not since—

(i) been authorised again; or

(ii) been registered as a teacher:

(d) a person whose limited authority to teach is suspended under section 500(1)(d).

(2) An employer may not continue to employ in a teaching position a person who holds neither a practising certificate nor an authorisation if the person is not under the general supervision of a person who holds a practising certificate.

(3) An employer may not, in any calendar year, continue to employ in a teaching position a person who holds neither a practising certificate nor an authorisation if the sum of the following periods is not less than the period specified in subsection (4):

(a) the period or periods for which that person has already during that year been employed by the employer in a teaching position or positions:

(b) any period or periods (of which the employer is aware) for which that person has already during that year been employed by any other employer in a teaching position or positions:

(c) any period or periods (of which the employer is aware) for which that person has during that year been employed as a teacher by the employer at an early childhood education and care service.

(4) The period is 20 half-days or any greater number of half-days the Teaching Council has allowed in any particular case, each being a half-day on which the school or early childhood education and care service at which the person was then employed was open for instruction.

Compare: 1989 No 80 s 350

94 Chief executive of distance school not required to be registered

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

(2) This section overrides sections 92 and 93.

Compare: 1989 No 80 s 350A

94A Appointment of chief executive of Te Aho o Te Kura Pounamu

The chief executive of Te Aho o Te Kura Pounamu is appointed for a term of not more than 5 years, but may be reappointed for 1 or more terms.

Section 94A: inserted, on 23 August 2023, by section 20 of the Education and Training Amendment Act 2023 (2023 No 45).

95 Restrictions on teachers subject to interim suspension

(1) This section applies to a person employed in a teaching position if the person—

(a) holds a practising certificate that is suspended under section 498; or

(b) has a limited authority to teach that is suspended under section 498.

(2) The employer of the person—

(a) must ensure that the person does not carry out any of the duties of the teaching position concerned; and

(b) if the person is employed at a registered school or an early childhood education and care service, must take all reasonably practicable steps to ensure that the person does not undertake any activities that might bring them into contact with students enrolled at the school or children who attend the service.

(3) The person may not carry out any of the duties of the teaching position concerned.

Compare: 1989 No 80 s 351

96 Further provisions relating to registration of teachers, practising certificates, and authorities to teach

The registration of teachers, the issue of practising certificates, and the grant of authorities to teach must be done in accordance with Schedule 3.

Other restrictions and requirements

97 Teaching in State primary and intermediate schools must be secular

(1) Teaching in every State primary and intermediate school must, while the school is open, be entirely of a secular character.

(2) However, religious instruction and observances at State schools may be held in accordance with subpart 1 of this Part.

Compare: 1964 No 135 s 77

98 Prohibition on corporal punishment and seclusion in registered schools

The following persons must not use force, by way of correction or punishment, towards any student enrolled at or attending a registered school or seclude any student enrolled at or attending the school:

(a) a person who is employed or engaged by the school's board, the sponsor, or the managers of a private school:

(b) a person who is supervising or controlling a student on behalf of the school's board, the sponsor, or the managers of a private school.

Compare: 1989 No 80 s 139A

Section 98(a): amended, on 1 October 2024, by section 37 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 98(b): amended, on 1 October 2024, by section 37 of the Education and Training Amendment Act 2024 (2024 No 40).

99 Limits on use of physical restraint at registered schools

(1) A person holding a teaching position or an authorised staff member at a registered school must not physically restrain a student unless the conditions set out in subsection (2) are met.

(2) The conditions are that—

(a) the physical restraint is necessary to prevent imminent harm to the student or another person; and

(b) the person holding a teaching position or authorised staff member reasonably believes that there is no other option available in the circumstances to prevent the harm; and

(c) the physical restraint is reasonable and proportionate in the circumstances.

(3) In subsection (2), **harm** means harm to the health, safety, or well-being of the student or another person, including any significant emotional distress suffered by the student or the other person.

(4) For the purposes of this section and sections 100 and 101,—

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

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

(5) Nothing in this section limits or affects section 98.

Compare: 1989 No 80 s 139AC

Section 99(1): amended, on 16 December 2021, by section 5(1) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 99(2)(b): amended, on 16 December 2021, by section 5(2) of the Education and Training Amendment Act 2021 (2021 No 58).

100 Rules on use of physical restraint at registered schools

(1) The Secretary must make rules prescribing the practice and procedure to be followed by employers, principals, persons holding a teaching position, and authorised staff members relating to the use of physical restraint at registered schools.

(2) The rules must include—

(a) requirements to keep written records on the use of physical restraint, including requirements to notify, monitor, and report on the use of physical restraint; and

(b) a procedure for authorising staff members to use physical restraint in accordance with section 99.

(3) When developing rules under this section, the Secretary must make reasonable efforts to consult—

(a) children and young people, in particular those who are Māori and those with disabilities or learning support needs:

(b) parents, whānau, and caregivers:

(c) national bodies representing the interests of—

(i) teachers:

(ii) principals:

(iii) governing bodies of schools:

(iv) parents:

(v) the disability community.

(4) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 139AD

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 100(1): amended, on 16 December 2021, by section 6 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 100(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

101 Guidelines on use of physical restraint and behaviour management at registered schools

(1) The Secretary must, by notice in the *Gazette*, issue guidelines on the use of physical restraint and behaviour management at registered schools.

(2) The guidelines must include—

(a) best practice examples of—

(i) how to use physical restraint safely; and

(ii) how to assess significant emotional distress; and

(iii) understanding, and responding safely to, behaviour; and

(b) a framework for decision making and problem solving to prevent, de-escalate, and safely respond to disruptive or assaultive behaviour; and

(c) advice on assessing behaviour escalation levels that precede imminent harm to health, safety, or well-being.

(3) When developing guidelines under this section, the Secretary must make reasonable efforts to consult—

(a) children and young people, in particular those who are Māori and those with disabilities or learning support needs:

(b) parents, whānau, and caregivers:

(c) national bodies representing the interests of—

(i) teachers:

(ii) principals:

(iii) governing bodies of schools:

(iv) parents:

(v) the disability community.

(4) Employers, principals, persons holding a teaching position, and authorised staff members at registered schools must have regard to the guidelines.

Compare: 1989 No 80 s 139AE

Section 101(4): amended, on 16 December 2021, by section 7 of the Education and Training Amendment Act 2021 (2021 No 58).

102 Students at State schools or charter schools may be released from tuition or for outside tuition

(1) A student enrolled at a State school or a charter school may be released from a particular class or subject on religious or cultural grounds in accordance with section 50.

(2) A student enrolled at a State school or a charter school may be released from tuition of specified parts of the health curriculum related to sexuality education in accordance with section 51.

(3) A student enrolled at a State school or a charter school may be released from tuition at a State school or be allowed to leave early in accordance with section 52.

Section 102 heading: amended, on 1 October 2024, by section 38(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 102(1): amended, on 1 October 2024, by section 38(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 102(2): amended, on 1 October 2024, by section 38(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 102(3): amended, on 1 October 2024, by section 38(2) of the Education and Training Amendment Act 2024 (2024 No 40).

103 Students at State schools or charter schools must receive guidance and counselling and their parents must be told about certain things

The principal of a State school or the person responsible for teaching and learning at a charter school must take all reasonable steps to ensure that—

(a) students get good guidance and counselling; and

(b) students in year 7 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave school; and

(c) a parent of the student is told of matters that, in the opinion of the principal or person responsible for teaching and learning at a charter school (as the case may be),—

(i) are preventing or slowing the student's progress through the school; or

(ii) are harming the student's relationships with teachers or other students.

Compare: 1989 No 80 s 77

Section 103 heading: amended, on 1 October 2024, by section 39(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 103: amended, on 1 October 2024, by section 39(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 103(c): amended, on 1 October 2024, by section 39(3) of the Education and Training Amendment Act 2024 (2024 No 40).

104 Required Police vetting

The board of a State school, the sponsor, and the managers of a private school must obtain Police vets of non-teaching and unregistered employees and contractors in accordance with the requirements of Schedule 4.

Section 104: amended, on 1 October 2024, by section 40 of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 4—Searches and surrender of property

105 Interpretation

(1) In this subpart, unless the context otherwise requires,—

authorised staff member means a board employee who is authorised by the board to exercise powers under section 106 or 107

harmful item means an item that a teacher or an authorised staff member has reasonable grounds to believe poses an immediate threat to the physical or emotional safety of any person

item includes information stored in electronic form

outer clothing includes (without limitation) any coat, jacket, jumper, or cardigan

rub-down search means a search in which the person conducting the search—

(a) runs or pats their hand over the body of the person being searched, whether outside or inside the clothing of the person being searched:

(b) inserts their hand inside any pocket or pouch in the clothing of the person being searched

search, in relation to a student, includes—

(a) a strip search; and

(b) a rub-down search

socks does not include tights or stockings

strip search means a search where the person conducting the search requires the person being searched to—

(a) remove any of the latter person's clothing other than outer clothing, head covering, gloves, footwear, or socks; or

(b) raise, lower, or open all or any part of the latter person's clothing

student includes a person under the supervision of a teacher, whether or not the person is enrolled at the school at which the teacher is employed

teacher means a person employed at a State school in a teaching position.

(2) An authorisation referred to in the definition of authorised staff member must be in writing and may be subject to conditions.

106 Surrender and retention of property

(1) This section applies if a teacher or an authorised staff member has reasonable grounds to believe that a student has hidden or in clear view on or about the student's person, or in any bag or other container under the student's control, an item that is likely to—

(a) endanger the safety of any person; or

(b) detrimentally affect the learning environment.

(2) The teacher or authorised staff member may require the student to produce and surrender the item.

(3) If the item is stored on a computer or other electronic device, the teacher or authorised staff member may require the student—

(a) to reveal the item:

(b) to surrender the computer or other electronic device on which the item is stored.

(4) A teacher or an authorised staff member may do either or both of the following in relation to an item surrendered under this section:

(a) retain the item for a reasonable period:

(b) dispose of the item (if appropriate).

(5) A teacher or an authorised staff member may retain a computer or other electronic device surrendered under subsection (3)(b) for a reasonable period.

(6) If an item or a computer or other electronic device is retained under this section, it must be stored in an appropriate manner.

(7) At the end of any period of retention, any computer or other electronic device, or any item that is not disposed of under subsection (4)(b), must be—

(a) returned to the student; or

(b) passed to another person or agency, as appropriate.

(8) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under section 113.

Compare: 1989 No 80 s 139AAA

107 Searches of clothing and bags or other containers

(1) This section applies if a teacher or an authorised staff member—

(a) has reasonable grounds to believe that a student has a harmful item on or about the student's person, or in any bag or other container under the student's control; and

(b) has required the student to produce and surrender the harmful item under section 106 and the student has refused to produce and surrender it.

(2) The teacher or authorised staff member may do any of the following:

(a) require the student to remove any outer clothing, except where the student has no other clothing, or only underclothing, under that outer clothing:

(b) require the student to remove any head covering, gloves, footwear, or socks:

(c) require the student to surrender the bag or other container.

(3) The teacher or authorised staff member may search any clothing or footwear removed, and any bag or other container surrendered, under subsection (2).

(4) If, during a search under this section, the teacher or authorised staff member finds a harmful item or an item that is likely to detrimentally affect the learning environment, the item may be seized by the teacher or authorised staff member.

(5) Section 106(4) to (7) applies, with any necessary modifications, to an item seized under subsection (4).

(6) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under section 113.

Compare: 1989 No 80 s 139AAB

108 Restrictions on searches under section 107

(1) A teacher or an authorised staff member who carries out a search under section 107 must carry out the search with decency and sensitivity and in a manner that affords the student the greatest degree of privacy and dignity consistent with the purpose of the search.

(2) Unless impracticable, a search under section 107 must be carried out—

(a) by a teacher or an authorised staff member who is of the same sex as the student; and

(b) in the presence of the student and another teacher or authorised staff member who is of the same sex as the student.

(3) Unless impracticable, a search under section 107 may not be carried out in the view of any person other than the person carrying out the search, the student, and another teacher or authorised staff member.

(4) A teacher or an authorised staff member who carries out a search under section 107 must—

(a) return any clothing or footwear removed and any bag or other container surrendered as soon as the search is completed; and

(b) keep a written record of any items seized under section 107(4).

Compare: 1989 No 80 s 139AAC

109 Limits on sections 106 and 107

(1) Nothing in section 106 or 107 permits a teacher or authorised staff member to—

(a) search any student; or

(b) use physical force against a student; or

(c) require a student to provide a bodily sample (but a teacher or authorised staff member may encourage a student to participate in a voluntary drug treatment programme that involves testing of bodily samples).

(2) Nothing in section 106 or 107 permits a teacher or an authorised staff member to have a dog with them for the purpose of exercising a power under that section.

(3) The powers set out in sections 106 and 107 may not be exercised in relation to 2 or more students together unless the teacher or authorised staff member has reasonable grounds to believe that each student has an item specified in section 106(1) or a harmful item on or about their person, or in any bag or other container under their control.

(4) Subsection (1) does not limit or affect section 81 or 83, or sections 41, 48, and 59 of the Crimes Act 1961.

Compare: 1989 No 80 s 139AAD

110 Prohibitions on searches by contractors

(1) A contractor may not—

(a) exercise any power in section 106 or 107; or

(b) search a student.

(2) However, a contractor may bring a dog that is trained for the purpose of searching to a school and use the dog for the purpose of searching school property (including lockers, desks, or other receptacles provided to students for storage purposes).

(3) In this section, **contractor** means a person who works at a school under a contract for services.

Compare: 1989 No 80 s 139AAE

111 Refusal to produce, reveal, or surrender item

(1) If a student refuses to produce, reveal, or surrender an item or computer or other electronic device under section 106(2) or (3), a teacher or an authorised staff member may take any disciplinary steps, or steps to manage the student's behaviour, that the teacher or authorised staff member considers reasonable.

(2) If a student refuses to remove any outer clothing, head covering, gloves, footwear, or socks or to surrender a bag or other container under section 107(2), a teacher or an authorised staff member may take any disciplinary steps, or steps to manage the student's behaviour, that the teacher or authorised staff member considers reasonable.

Compare: 1989 No 80 s 139AAF

112 Power to search storage containers not affected

Sections 106 and 107 do not limit or affect any power to search any locker, desk, or other receptacle provided to students for storage purposes.

Compare: 1989 No 80 s 139AAG

113 Rules about surrender and retention of property and searches

(1) The Secretary must make rules (which must be consistent with this Act) regulating the practice and procedure to be followed by boards, principals, teachers, and authorised staff members under sections 106 to 111, including (without limitation) rules—

(a) providing for the keeping of written records relating to the use of the powers under section 106; and

(b) prescribing requirements relating to the keeping of written records under section 107; and

(c) prescribing the procedure for authorising staff members to exercise powers or carry out functions under sections 106 to 114; and

(d) specifying the circumstances in which items may be disposed of under section 106(4)(b); and

(e) setting out requirements for the storage of items and computers and other electronic devices under section 106(6); and

(f) providing for the return of items and computers and other electronic devices under section 106(7)(a).

(2) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 139AAH

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 113(2): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

114 Guidelines about surrender and retention of property and searches

(1) The Secretary must issue guidelines for the exercise of powers and carrying out of functions under sections 106 to 113.

(2) Boards, principals, teachers, and authorised staff members must have regard to guidelines issued under subsection (1).

Compare: 1989 No 80 s 139AAI

Subpart 5—Administration of State schools

General provisions

115 When State schools must be open

State schools must be open and closed for instruction in accordance with regulations made under section 638.

Section 115: amended, on 23 August 2023, by section 21 of the Education and Training Amendment Act 2023 (2023 No 45).

116 Communities of learning for State schools

The Minister may approve, and the Secretary may enter into an agreement with, a community of learning in accordance with Schedule 5.

Compare: 1989 No 80 s 71C

117 State schools may use off-site locations approved by Minister

(1) This section applies to the use of off-site locations by schools to provide education to 1 or more students on a long-term or full-time basis.

(2) The Minister may, by written notice to the board of a State school, approve the use of an off-site location by the school.

(3) The Minister may issue a notice under subsection (2) only if satisfied that the school's board and the owner or occupier of the off-site location have both agreed to that use and the terms of that use.

(4) Except as provided under this Act, a school may not—

(a) use an off-site location; or

(b) host an off-site location for another school.

(5) If approval is given under subsection (2), the board must, before any use is made of the off-site location, enter into a written agreement with the Secretary that sets out—

(a) who is responsible for the education provided at the off-site location:

(b) who is responsible for the welfare and safety of the students at that location:

(c) the terms agreed on any other matter the Secretary considers relevant in the particular case.

(6) **Off-site location** means any premises outside the premises of the school that is to use the off-site location for the purpose described in subsection (1).

Compare: 1989 No 80 s 71A

Functions and powers of boards

118 State schools and special institutions must have boards

(1) Except as provided in this Act, every State school and every special institution must have a board.

(2) However, neither is required to have a board while a commissioner holds office to act in place of its board.

Compare: 1989 No 80 s 93

119 Constitution of boards of State schools

(1) The board of a State school must comprise—

(a) no more than 7 and no fewer than 3 parent representatives; and

(b) the principal of the school or, for a combined board, the principal or principals of the schools administered by the board; and

(c) except where the principal is the only member of the school staff, 1 staff representative; and

(d) a number (determined by the board) of board members either—

(i) co-opted by the board; or

(ii) appointed by bodies corporate approved by the board for the purpose; and

(e) for a board that administers a State integrated school, not more than 4 board members appointed by the school's proprietors; and

(f) for a board that administers a school where students are enrolled full-time in year levels above year 9, 1 student representative.

(2) Despite subsection (1), except to the extent that a board has decided otherwise, it must have—

(a) 6 parent representatives, for a board that administers more than 2 schools; and

(b) 5 parent representatives, in any other case.

(3) Subsection (1) is subject to sections 120, 121, and 122(1).

(4) Subsection (2) is subject to section 122(1).

Compare: 1989 No 80 s 94

120 Proprietors of State integrated schools may vary number of board members they appoint

(1) Despite section 119(1), except as provided in this section, a board that administers a State integrated school must have 4 board members appointed by the school's proprietors.

(2) The proprietors of a State integrated school may, by written notice to the board, consent to a reduction in the number of board members the proprietors are entitled to appoint to the board.

(3) A notice under subsection (2) must—

(a) specify that it is to take effect on the occurrence of the earlier of the following events:

(i) the going out of office of board members:

(ii) the appointment under section 181 of a commissioner to act in the board's place; or

(b) specify a day on which it is to take effect, and contain the dismissal (with effect on that day) of enough board members appointed by the proprietors to give effect to the reduction consented to.

(4) The proprietors of a State integrated school may, by written notice to the board, require an increase (to no more than 4) in the number of board members the proprietors are entitled to appoint to the board.

(5) A notice under subsection (4) takes effect on the occurrence of the earlier of the following events:

(a) the going out of office of board members:

(b) the appointment under section 181 of a commissioner to act in the board's place.

Compare: 1989 No 80 s 94A

121 Boards may alter their constitutions

(1) A board may, in accordance with this section, decide—

(a) to increase to no more than 7 the number of board members who are parent representatives:

(b) to decrease to no fewer than 3 the number of board members who are parent representatives:

(c) to approve a body corporate for the purpose of appointing a specified number of board members to the board:

(d) to modify an approval under paragraph (c) by increasing the number of board members a body corporate may appoint to the board:

(e) in its absolute discretion, and without giving reasons, to modify an approval under paragraph (c) by reducing the number of board members a body corporate may appoint to the board:

(f) in its absolute discretion, and without giving reasons, to withdraw an approval under paragraph (c).

(2) A decision under subsection (1) must be made by resolution of the board passed at a meeting of the board open to all parents of students enrolled at the school or schools administered by the board.

(3) Before making a decision under subsection (1), the board must take reasonable steps to ensure that the parents of students enrolled at the school or schools administered by the board have reasonable notice of—

(a) the time, day, and place of the meeting of the board at which the decision is to be made; and

(b) the nature of the decision; and

(c) the fact that they have a right to attend the meeting.

(4) If a board decides to decrease the number of board members who are parent representatives,—

(a) no parent representative is to go out of office; and

(b) no casual vacancy for a parent representative may be filled unless the vacancy has reduced the number of parent representatives on the board to fewer than the decreased number decided by the board.

(5) All co-opted board members go out of office as if they had resigned if a board decides to decrease the number of board members who are parent representatives to a number that is not more than the total number of—

(a) co-opted board members for the time being holding office; and

(b) board members capable of being appointed in accordance with approvals under subsection (1)(c).

(6) If, when any co-opted board members have gone out of office under subsection (5), the number of board members on the board concerned who are parent representatives is not more than the number of board members capable of being appointed in accordance with approvals under subsection (1)(c),—

(a) the approvals under subsection (1)(c) of the organisations by whom they may be appointed must, starting with the most recent and continuing successively to the least recent, be treated as having been withdrawn; and

(b) all board members appointed by an organisation whose approval has been treated as having been withdrawn go out of office as if they had resigned,—

until the number of board members who are parent representatives is more than the number of board members capable of being appointed in accordance with approvals under subsection (1)(c).

(7) A vacancy on a board caused by a decision to increase the number of members who are parent representatives must be filled by election as if it were a casual vacancy, but is not capable of being filled by selection.

(8) A board that makes a decision under subsection (1) must ensure that, as soon as practicable after making it, the Secretary is given written notice of the nature of the decision and the day on which it was made.

Compare: 1989 No 80 s 94B

122 Composition of boards of special institutions

(1) The Minister must, by notice in the *Gazette*, determine the composition of the board of a special institution.

(2) A notice under subsection (1)—

(a) may apply to a specified institution or specified institutions, or to institutions of a specified class or description:

(b) may revoke or amend any other notice.

(3) However, no board member is to go out of office by reason only of the amendment or revocation of a notice under subsection (1).

(4) If a notice under subsection (1) relates to a special institution that is a distance school, the notice must specify—

(a) that the board is required to have a staff representative as a member; and

(b) whether the staff representative is to be elected, co-opted by the board, or appointed by the Minister.

(5) One board may administer a number of special institutions.

Compare: 1989 No 80 s 95

123 Other provisions relating to boards

Other provisions relating to boards are set out in the following schedules:

(a) Schedule 22, which contains provisions relating to the constitution and operation of boards and combining and splitting boards:

(b) Schedule 23, which contains provisions relating to the election, appointment, and co-opting of board members.

124 Status of board

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

(2) A board—

(a) is accordingly a legal entity separate from its members, office holders, employees, and the Crown; and

(b) continues in existence until it is dissolved in accordance with this Act.

Compare: 1989 No 80 Schedule 6 cl 2

125 Board is governing body

(1) A board is the governing body of its school.

(2) A board is responsible for the governance of the school, including setting the policies by which the school is to be controlled and managed.

(3) Under section 130, the school's principal is the board's chief executive in relation to the school's control and management.

Compare: 1989 No 80 Schedule 6 cl 4

126 Bylaws

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

(2) Before making a bylaw, the board must consult its staff, its students (to the extent that the board considers appropriate), and the school community regarding the proposed bylaw.

Compare: 1989 No 80 Schedule 6 cl 18

127 Objectives of boards in governing schools

(1) A board's primary objectives in governing a school are to ensure that—

(a) every student at the school is able to attain their highest possible standard in educational achievement; and

(b) the school—

(i) is a physically and emotionally safe place for all students and staff; and

(ii) gives effect to relevant student rights set out in this Act, the New Zealand Bill of Rights Act 1990, and the Human Rights Act 1993; and

(iii) takes all reasonable steps to eliminate racism, stigma, bullying, and any other forms of discrimination within the school; and

(c) the school is inclusive of, and caters for, students with differing needs; and

(d) the school gives effect to Te Tiriti o Waitangi, including by—

(i) working to ensure that its plans, policies, and local curriculum reflect local tikanga Māori, mātauranga Māori, and te ao Māori; and

(ii) taking all reasonable steps to make instruction available in tikanga Māori and te reo Māori; and

(iii) achieving equitable outcomes for Māori students.

(2) To meet the primary objectives, the board must—

(a) have particular regard to the statement of national education and learning priorities issued under section 5; and

(b) give effect to its obligations in relation to—

(i) any foundation curriculum statements, national curriculum statements, and national performance measures; and

(ii) teaching and learning programmes; and

(iii) monitoring and reporting students' progress; and

(c) perform its functions and exercise its powers in a way that is financially responsible; and

(d) if the school is a member of a community of learning that has a community of learning agreement under clause 2 of Schedule 5, comply with its obligations under the agreement; and

(e) comply with all of its other obligations under this or any other Act.

Compare: 1989 No 80 Schedule 6 cl 5

128 Staff

A board may, in accordance with this Act, appoint, suspend, and dismiss school staff.

Compare: 1989 No 80 Schedule 6 cl 6

Section 128: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

129 Boards may appoint, suspend, and dismiss principal

(1) The powers conferred on a board by section 128 include the powers to appoint, suspend, and dismiss a principal.

(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 may appoint 1 person to be the principal of 2 or more schools administered by the board.

Compare: 1989 No 80 s 75A

130 Principal is chief executive of board in relation to school's control and management

(1) A school's principal is the board's chief executive in relation to the school's control and management.

(2) Except to the extent that any enactment, or the general law of New Zealand, provides otherwise, the principal—

(a) must comply with the board's general policy directions; and

(b) subject to paragraph (a), has complete discretion to manage the school's day-to-day administration as they think fit.

Compare: 1989 No 80 s 76

131 Board has complete discretion

(1) A board has complete discretion to perform its functions and exercise its powers as it thinks fit.

(2) Subsection (1) is subject to this Act, any other enactment, and the general law of New Zealand.

Compare: 1989 No 80 Schedule 6 cl 13

132 Things boards may do

(1) A board may do anything that it is authorised to do by this Act.

(2) A board may do anything that a natural person of full age and capacity may do.

(3) Subsection (2) applies except as provided in this Act or another enactment or rule of law.

(4) A board may do an act under this section only for the purpose of performing its functions.

Compare: 1989 No 80 Schedule 6 cl 14

133 Board's policies and practices must reflect cultural diversity

A board must take all reasonable steps to ensure that the policies and practices for its school reflect New Zealand's cultural diversity.

Compare: 1989 No 80 Schedule 6 cl 16

134 Statements of variance and annual reports

(1) A board must give the Secretary—

(a) a statement of variance by a date fixed by the Secretary each year; and

(b) an annual report as soon as practicable after the end of each financial year, and no later than a date fixed by the Secretary.

(2) The annual report must contain the following:

(a) the information required by regulations made under section 639; and

(b) the board's annual financial statements; and

(c) the auditor's report provided under section 135; and

(d) in respect of the board or, in the case of a Crown entity group, each Crown entity in the group,—

(i) the total value of the remuneration (other than compensation and other benefits referred to in subparagraph (v)) paid or payable to the board members in their capacity as board members by the board (or entities in the group) during the financial year; and

(ii) the total value of the remuneration (other than compensation and other benefits referred to in subparagraph (v)) paid or payable to the committee members in their capacity as committee members by the board (or entities in the group) during the financial year

(except that this subparagraph does not apply to board members whose remuneration is disclosed under subparagraph (i)); and

(iii) the number of employees (other than principals of the school) to whom, during the financial year, remuneration (other than compensation and other benefits referred to in subparagraph (v)) was paid or payable in their capacity as employees, the total value of which is or exceeds $100,000 per annum, and the number of those employees in brackets of $10,000; and

(iv) a report, presented in the manner required by the Minister by notice in the *Gazette*, on the total remuneration (including benefits, any compensation, ex gratia payments, any other payments, and any other consideration paid or payable in the school principal's capacity as an employee) paid to a principal of the school; and

(v) the total value of any compensation or other benefits paid or payable to persons who ceased to be board members, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was payable; and

(e) the statement of variance.

(3) In addition, a board that is a parent in a Crown entity group must, to the extent required to do so by generally accepted accounting practice, prepare consolidated financial statements in relation to the group for that financial year.

(4) The annual financial statements must be in the form (if any) determined by the Secretary after consultation with the Auditor-General.

(5) The annual financial statements must be accompanied by a statement of responsibility that complies with section 155 of the Crown Entities Act 2004 but that is signed by the chair of the board and the principal instead of 2 members.

(6) The requirements of this section and section 135 as to annual financial statements also apply to a Crown entity subsidiary of a board as if the subsidiary were a board and with all necessary modifications.

(7) The rest of the amendments made to this section by Schedule 6 of the Crown Entities Act 2004 apply as provided in section 198 of that Act.

(8) In this section,—

board member and **employee** include a person who was a board member or an employee at any time during the applicable financial year but who is no longer a board member or an employee

statement of variance means a statement that details—

(a) any variance between the school's performance and the achievement of the school's objectives set out in its strategic plan and annual implementation plan; and

(b) any matters required by regulations made under section 639.

(9) However, in relation to a 2023 school charter, **statement of variance** means the statement referred to in subsection (2)(e) as it read, or would have read, immediately before the commencement of subsection (8).

Compare: 2017 No 20 s 68

135 Audit

(1) A board must submit its annual financial statements to the Auditor-General within 90 days after the end of each financial year.

(2) The Auditor-General must audit the financial statements and provide an audit report on them to the board.

Compare: 1989 No 80 s 87A

136 Annual report to be made available

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

Compare: 1989 No 80 s 87AB

137 Annual financial statements of boards

(1) A board must provide its audited annual financial statements to the Secretary no later than 31 May in the year after the previous financial year.

(2) The Minister must make available (including, without limitation, by electronic means) to a member of Parliament on request from that member of Parliament any statement provided to the Secretary under subsection (1).

(3) The statement must be made available not later than 1 month after the request was received by the Minister.

Compare: 1989 No 80 s 87C

Strategic planning and reporting

138 School strategic plan and annual implementation plan

(1) A board must have the following strategic planning documents for its school:

(a) a **strategic plan**, for each 3-year period or for a shorter period determined by the Secretary, that sets out the board's strategy for achieving (or making progress towards achieving) its objectives during that period; and

(b) an **annual implementation plan** for each year that sets out how the board intends to implement that strategy during the year.

(2) A board must prepare its first strategic plan and annual implementation plan when required by regulations made under section 639 to do so.

(3) If, at the commencement of this section, a board has a charter in effect for the 2022 year, the charter is to be treated as the board's first strategic plan.

(4) If a board's strategic plan is its 2022 school charter, the statement of variance is not required to include a comparison with an annual implementation plan.

(5) However, a board with a 2022 school charter as its strategic plan must continue to update the annually updated sections of its charter until its first annual implementation plan is required under regulations made under section 639.

(6) The annually updated sections of a 2022 school charter must be updated no later than a date fixed by the Secretary.

Compare: 2017 No 20 s 158

139 Preparing strategic plan

(1) A board must prepare a strategic plan for every 3-year period, or for a shorter period determined by the Secretary, and submit it to the Secretary in accordance with regulations made under section 639.

(2) The strategic plan must comply with any regulations made under section 639 relating to the form and content of strategic plans.

(3) In preparing a strategic plan, the board must—

(a) consult—

(i) the school community; and

(ii) the school's staff; and

(iii) where appropriate, the school's students; and

(iv) any other persons required by the regulations; and

(b) comply with any other regulations relating to the development of strategic plans; and

(c) in the case of a State integrated school, ensure that the plan reflects the school's special character; and

(d) in the case of a designated character school, ensure that the plan reflects the school's different character or, in the case of a Kura Kaupapa Māori, its special characteristics.

(4) In preparing a strategic plan, the board may consult any person, group, or organisation that it thinks fit to consult.

(5) This section is subject to section 138(3).

Compare: 2017 No 20 s 158

Section 139 heading: amended, on 1 August 2022, by section 11(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(1): amended, on 1 August 2022, by section 11(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(2): amended, on 1 August 2022, by section 11(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(3): amended, on 1 August 2022, by section 11(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(3)(c): amended, on 1 August 2022, by section 11(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(3)(d): amended, on 1 August 2022, by section 11(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 139(4): amended, on 1 August 2022, by section 11(2) of the Education and Training Amendment Act 2022 (2022 No 38).

140 Secretary may review strategic plan

(1) The Secretary may review a strategic plan in accordance with regulations made under section 639.

(2) After reviewing the strategic plan, the Secretary may direct that the board—

(a) consider, or further consider, any matter and revise the plan in the light of that consideration; or

(b) revise the plan as directed by the Secretary.

(3) If the strategic plan is returned to the board, the board must comply with the Secretary's directions and then resubmit a revised plan.

(4) *[Repealed]*

(5) If a board fails to comply with the Secretary's directions, or resubmits a revised strategic plan that still does not meet the requirements of the Act or the regulations, the Secretary may revise the plan and confirm it by giving written notice to the board.

Compare: 2017 No 20 s 158

Section 140 heading: amended, on 1 August 2022, by section 12(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 140(1): replaced, on 1 August 2022, by section 12(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 140(2): replaced, on 1 August 2022, by section 12(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 140(3): amended, on 1 August 2022, by section 12(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 140(4): repealed, on 1 August 2022, by section 12(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 140(5): amended, on 1 August 2022, by section 12(3) of the Education and Training Amendment Act 2022 (2022 No 38).

141 Amending strategic plan

(1) A board may amend its strategic plan.

(2) If the board considers that a proposed amendment to its strategic plan is significant, the board must comply with the requirements of section 139(3) before confirming an amendment.

(3) The Secretary may require a board to amend its strategic plan.

Compare: 2017 No 20 s 158

Section 141(1): replaced, on 1 August 2022, by section 13 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 141(2): replaced, on 1 August 2022, by section 13 of the Education and Training Amendment Act 2022 (2022 No 38).

142 Expiry of strategic plan

(1) A strategic plan expires 3 years after the plan takes effect.

(2) However, a 2022 school charter (which is a document that is to be treated as a board's first strategic plan) expires when replaced by a strategic plan adopted in accordance with regulations made under section 639.

(3) If there is no new plan to replace the expired plan, the expired plan continues to apply for a period approved by the Secretary.

Compare: 2017 No 20 s 158

143 Preparing annual implementation plan

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

(2) The plan must—

(a) contain the information required by regulations made under section 639; and

(b) be prepared in accordance with those regulations.

Compare: 2017 No 20 s 158

144 Amending annual implementation plan

A board may amend its annual implementation plan.

Compare: 2017 No 20 s 158

145 Board to monitor performance against strategic planning documents

(1) A board must monitor and evaluate its performance—

(a) in achieving (or making progress towards achieving) its objectives in accordance with its strategic plan; and

(b) in implementing its strategy in accordance with its annual implementation plan.

(2) The monitoring and evaluation must be carried out in accordance with regulations made under section 639.

(3) The board must report on its performance in the annual report, in accordance with regulations made under section 639.

Compare: 2017 No 20 s 158

146 Strategic planning documents to be on Internet site

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

Compare: 2017 No 20 s 158

Validity of acts and liability

147 Acts in breach of statute invalid

(1) An act of a board is invalid (unless section 148 applies) if—

(a) the act is contrary to, or outside the authority of, an Act; or

(b) the act is done otherwise than for the purpose of performing its functions.

(2) Subsection (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

Compare: 1989 No 80 Schedule 6 cl 20

148 Some natural person acts protected

(1) Section 147, or any rule of law to similar effect, does not prevent a person dealing with a board from enforcing a transaction that is a natural person act unless the person dealing with the board knew, or ought reasonably to have known, that—

(a) an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or

(b) the act was done otherwise than for the purpose of performing the board's functions.

(2) A person who relies on subsection (1) has the onus of proving that the person did not have, and could not reasonably be expected to have had, the knowledge referred to in that subsection.

(3) A board must report, in its annual report, each transaction that the board has performed in the year to which the report relates that was invalid under section 147 but enforced in reliance on subsection (1).

(4) To avoid doubt, this section does not affect any person's remedies under the general law (for example, remedies in contract).

(5) In this section, **natural person act**—

(a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and

(b) includes entry into a contract for, or relating to,—

(i) the acquisition of financial products (within the meaning of section 7 of the Financial Markets Conduct Act 2013) or the borrowing of money; or

(ii) the purchase, leasing, or sale of, or other dealings with, property; or

(iii) the employment, or engagement of the services, of a person.

Compare: 1989 No 80 Schedule 6 cl 21

149 Acts that are not in best interests of board

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

Compare: 1989 No 80 Schedule 6 cl 22

150 Dealings between boards and other persons

(1) A board may not assert against a person dealing with the board that—

(a) a person held out by the board to be a member, office holder, chief executive, employee, or agent of the board—

(i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or

(ii) does not have the authority to exercise a power that, given the nature of the board, a person appointed to that capacity customarily has the authority to exercise; or

(iii) does not have the authority to exercise a power that the board holds the person out as having; or

(b) a document issued on behalf of the board by a member, office holder, chief executive, employee, or agent of the board who has actual or usual authority to issue the document is not valid or genuine.

(2) However, a board may assert any of those matters if the person dealing with the board has, or could reasonably be expected to have had, knowledge of the matter.

(3) Nothing in this section affects a person's right to apply, in accordance with the law, for judicial review.

Compare: 1989 No 80 Schedule 6 cl 23

151 Personal liability of board members

(1) A board member is not personally liable for—

(a) any act done or omitted by the board; or

(b) any loss to the board arising out of any act done or omitted by the board member.

(2) However, subsection (1) applies only if the act or omission was (as far as the board member's involvement is concerned) in good faith in the performance or intended performance of the functions of the board.

Compare: 1989 No 80 Schedule 6 cl 24

Financial and property matters and application of Crown Entities Act 2004

152 Board to be financially responsible

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

Compare: 1989 No 80 Schedule 6 cl 25

153 Application of Crown Entities Act 2004

(1) A board is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) However, that Act applies to boards only to the extent that subsection (3) provides.

(3) The provisions set out in Schedule 3 of the Crown Entities Act 2004 apply to boards and their Crown entity subsidiaries (within the meaning of that Act).

(4) A board must comply with any direction given under section 107 of the Crown Entities Act 2004.

(5) If the board does not comply with a direction, it may be dismissed under section 171(1)(i).

Compare: 1989 No 80 Schedule 6 cls 26, 27

154 Restrictions on acquisition of securities

(1) Sections 160 and 161 of the Crown Entities Act 2004 apply.

(2) Under section 161 of the Crown Entities Act 2004, a board may not acquire securities—

(a) other than—

(i) a debt security denominated in New Zealand dollars that is issued by a registered bank, or by any other entity, that satisfies a credit-rating test that is specified in regulations made under Part 4 of the Crown Entities Act 2004 or a notice in the *Gazette* published by the Minister of Finance; or

(ii) a public security; or

(b) otherwise than as provided in—

(i) any regulations made under Part 4 of that Act; or

(ii) any approval given jointly by the Minister of Education and the Minister of Finance; or

(iii) this Act.

Compare: 1989 No 80 Schedule 6 cl 28

155 Restrictions on borrowing

(1) Sections 160 and 162 of the Crown Entities Act 2004 apply.

(2) Under sections 160 and 162 of that Act, a board may not borrow from any person, or amend the terms of any borrowing, otherwise than as provided in—

(a) any regulations made under Part 4 of that Act; or

(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

(c) this Act.

Compare: 1989 No 80 Schedule 6 cl 29

156 No delegation of power to borrow

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

Compare: 1989 No 80 Schedule 6 cl 30

157 Restrictions on giving of guarantees and indemnities

(1) Sections 160 and 163 of the Crown Entities Act 2004 apply.

(2) Under sections 160 and 163 of that Act, a board may not, with or without security, give a guarantee to, or indemnify, another person otherwise than as provided in—

(a) any regulations made under Part 4 of that Act; or

(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

(c) this Act.

Compare: 1989 No 80 Schedule 6 cl 31

158 Restrictions on use of derivatives

(1) Sections 160 and 164 of the Crown Entities Act 2004 apply.

(2) Under sections 160 and 164 of that Act, a board may not enter into an agreement constituting a derivative, or amend the terms of that agreement, otherwise than as provided in—

(a) any regulations made under Part 4 of that Act; or

(b) any approval given jointly by the Minister of Education and the Minister of Finance; or

(c) this Act.

Compare: 1989 No 80 Schedule 6 cl 32

159 Gifts

(1) Any money or property that is gifted to a school may be accepted or disclaimed by the board in accordance with section 167 of the Crown Entities Act 2004.

(2) A limitation that is provided in this Act or that applies under the Crown Entities Act 2004 (for example, a limitation on the form in which property may be held) does not apply during a period that is reasonable in the circumstances.

(3) Subsections (1) and (2) apply to any gift that is received by the board for funding scholarships or bursaries, or for other educational purposes in connection with a school.

(4) A board must hold the gift for the specific purpose declared by the giver.

(5) Unless the giver has created a special trust, scholarships and bursaries from a gift must be open to every student at the school.

(6) If the school for which a gift was given closes, the Minister must direct that the gift should apply to another school.

Compare: 1989 No 80 Schedule 6 cl 33

160 Real property

Except as provided in section 159, a board may not acquire an interest in land, or any licence to occupy any land or premises, without the consent of the Minister.

Compare: 1989 No 80 Schedule 6 cl 34

161 Occupancy of property and buildings

(1) The Secretary may—

(a) specify terms and conditions applying generally to land and buildings occupied by boards:

(b) by written notice to a particular board, specify terms and conditions applying to land and buildings occupied by the board.

(2) Terms and conditions under subsection (1)—

(a) may apply to any land and buildings occupied by a board (regardless of who owns the property); but

(b) to the extent that it applies to the board of a State integrated school, is subject to Schedule 6 and to the integration agreement for the time being in force between the Minister and the proprietor of the school.

(3) Terms and conditions under subsection (1) may include standards of maintenance, standards of capital works, and minimum safety and health requirements.

(4) Subsection (3) does not limit the generality of subsection (1).

(5) Terms and conditions may be specified under subsection (1) for—

(a) a particular school or institution or particular schools or institutions; or

(b) schools or institutions of particular classes or descriptions; or

(c) all schools and institutions.

(6) Terms and conditions under subsection (1)(a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(7) Terms and conditions specified under subsection (1) apply to boards or a board as if—

(a) the land and buildings were owned by the Crown and the Crown has leased them to the board; and

(b) the terms and conditions were part of the lease; and

(c) the Crown had empowered the Secretary to exercise the Crown's powers concerning the lease.

Compare: 1989 No 80 Schedule 6 cl 35

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description of it and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 161(1): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 161(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 161(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

162 Leases and licences granted by boards

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

(2) The Secretary may agree to the grant of a lease or a licence by the board only if satisfied that—

(a) the land, building, or facilities are not needed or used for the purposes of the school during the time covered by the lease or licence; and

(b) the lease or licence is in the public interest; and

(c) the lease or licence—

(i) is for a purpose associated with educational outcomes and is to bring educational benefit to the school or its community, or to any other school; or

(ii) is for a community purpose, and has no educational disadvantage for the school.

(3) The Secretary must determine the terms and conditions of any lease or licence granted by a board by doing either or both of the following:

(a) specifying the general terms and conditions that apply to all, or specified classes of, leases or licences:

(b) giving written notice to the board.

(4) Terms and conditions specified under subsection (3)(a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) In relation to a State integrated school, this section applies subject to Schedule 6 and to any integration agreement in force between the Minister and the proprietor of the school.

Compare: 1989 No 80 Schedule 6 cl 36

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description of it and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 162(3)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 162(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

163 Other agreements to occupy school land or buildings

(1) A board may not enter into an agreement unless the agreement—

(a) is of a type permitted by notice under subsection (4); and

(b) is consistent with this section and any conditions specified by notice under subsection (4).

(2) It is a condition of every agreement that the board has the right to enter, at any time, the land, buildings, or facilities that are the subject of the agreement.

(3) No person has the right under an agreement to use or occupy any land, buildings, or facilities in such a way as to unduly interfere with the use, by the board for school purposes, of that land or those buildings or facilities, or any other land, buildings, or facilities of the school.

(4) The Secretary may, by notice,—

(a) identify the kinds of agreements (for example, agreements for the use of playing fields) that boards may enter into; and

(b) specify conditions to which agreements, or specified types of agreements, are subject.

(5) A notice under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) In relation to a State integrated school, this section applies subject to Schedule 6 and to any integration agreement in force between the Minister and the proprietor of the school.

(7) In this section, **agreement** means an agreement, other than a lease or a licence to occupy under section 162, between a board and any other person for the use of land, buildings, or facilities occupied by the board.

Compare: 1989 No 80 Schedule 6 cl 37

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description of it and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 163(1)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 163(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 163(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 163(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Programmes and monitoring

164 Teaching and learning programmes

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

(a) give effect to any foundation curriculum policy statements and national curriculum statements made under section 90; and

(b) give the school's students access to a nationally and internationally recognised qualifications system.

Compare: 2017 No 20 s 43

Section 164(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

165 Monitoring of and reporting on student performance

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

(2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to—

(a) any foundation curriculum policy statements and national curriculum statements made under section 90; and

(b) any qualifications system referred to in section 164(b) that is offered at the school.

(3) The board must ensure that information about a student's performance is given to a parent of the student in a timely manner and in a form that is readily understandable.

(4) The board must report to the Secretary, to its school community, and to parents on the performance of the school's students in accordance with any regulations made under section 639.

Compare: 2017 No 20 s 43

Section 165(2)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Code of conduct

166 Code of conduct for board members

(1) The Minister may issue a code of conduct for the members of State school boards that—

(a) sets out the minimum standards of conduct that each member is required to meet; and

(b) is consistent with any code issued under section 598.

(2) Before issuing a code of conduct for the members of State school boards, the Minister—

(a) must consult the national bodies representing the interests of boards; and

(b) may consult any other persons or bodies that the Minister thinks fit.

(3) A code of conduct under this section—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) comes into force on a date specified in it, being not less than 28 days after it is published under that Act.

(4) *[Repealed]*

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette*; or	LA19 ss 73, 74(1)(a), Sch 1 cl 14

	• notify it in the *Gazette* giving enough information to identify it and state where copies of it may be obtained	
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 166(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 166(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 166(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

167 Boards may augment code of conduct for board members

A board, by resolution, may specify additional standards of conduct for its members provided they are consistent with any code issued under section 166 and the requirements under this Act and any other enactment.

168 Board members must comply with code of conduct

(1) Every board member must comply with any code issued under section 166.

(2) However, if a conflict between a standard in a code issued under section 166 (or in a code augmented under section 167) and a standard in a code issued under section 485 arises, the standard in the code issued under section 485 prevails.

169 Sanctions for failures to comply with code of conduct

(1) A board may, by resolution, censure a board member (other than a principal) for any significant or persistent breach of a code issued under section 166 (or a code augmented under section 167).

(2) The Minister may remove a board member (other than a principal) if—

(a) the board member has significantly or persistently breached a code issued under section 166 (or a code augmented under section 167); and

(b) the board—

(i) considers the board member's failure to comply with the code warrants the removal of the board member; and

(ii) has presented the Minister with a written report about the board member's failure that recommends the removal of the board member; and

(c) the Minister is satisfied that there is just cause to remove the board member.

(3) The removal must be made by written notice to the board member (with a copy to the board).

(4) The notice must state—

(a) the day on which the removal takes effect, which must be no earlier than the day on which the notice is received; and

(b) the reasons for the removal.

(5) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.

(6) The Minister may remove a board member with as little formality and technicality, and as much expedition, as is permitted by—

(a) the principles of natural justice; and

(b) a proper consideration of the matter; and

(c) the requirements of this section.

(7) In this section, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of board members or the individual duties of members (depending on the seriousness of the breach).

Compare: 1989 No 80 ss 176C, 176D

Validation

170 Validation and invalidation of board elections

(1) Subsection (2) applies if—

(a) anything required to be done in connection with an election under this Act—

(i) has been done after the time it is required to be done; or

(ii) has not been done at all; or

(iii) has been done irregularly; and

(b) the Minister thinks the lateness, omission, or irregularity could not materially have affected the result of the election.

(2) If this subsection applies, the Minister may, by notice in the *Gazette*, validate the lateness, omission, or irregularity.

(3) Where anything required to be done in connection with an election under this Act cannot be done at or by the time at or by which it is required to be done, the Minister may, by notice in the *Gazette*, extend the time for doing it.

(4) Subsection (5) applies if the following occurs in connection with an election under this Act:

(a) any lateness, omission, or irregularity that is capable of being validated under this section, but that the Minister thinks it would be improper or undesirable to validate; or

(b) any other irregularity that the Minister thinks could materially have affected the result of the election.

(5) If this subsection applies, the Minister may within 60 days of the election, by notice in the *Gazette*,—

(a) declare the election invalid; and

(b) require a new election to be held on a day specified in the notice; and

(c) either—

(i) declare that the board members holding office on the date of the invalid election remain in office until the close of the day before the day on which the new board members take office; or

(ii) direct the Secretary to appoint a commissioner to act in place of the board until the close of the day before the day on which the new board members take office.

Compare: 1989 No 80 s 101D

Interventions in State schools

171 Interventions in State schools by Secretary or Minister

(1) The following interventions may be used in relation to a State school:

(a) a requirement by the Secretary for information:

(b) a requirement by the Secretary for a board to engage specialist help:

(c) a requirement by the Secretary for a board to prepare and carry out an action plan:

(d) a requirement by the Secretary that the board attend a case conference to enable a particular issue or particular issues to be discussed and actions to be agreed:

(e) a requirement by the Secretary that the board engage an appropriately qualified person to undertake a specialist audit of any aspect of the school's affairs:

(f) the issuing by the Secretary to the board of a performance notice requiring the board to carry out a specified action by a specified date:

(g) the appointment by the Minister of a board member (who may be the presiding board member) to the board for a specified period of time:

(h) the appointment by the Secretary, at the direction of the Minister, of a limited statutory manager:

(i) the dissolution of a board by the Minister and the appointment of a commissioner:

(j) the dissolution of a board by the Secretary and the appointment of a commissioner in accordance with section 181(3).

(2) The Secretary may use an intervention described in subsection (1)(a) to (f) only if the Secretary has reasonable grounds for concern about the operation of the school or the welfare or educational performance of its students.

(3) The Secretary or the Minister may use an intervention described in subsection (1)(g) to (i) in relation to a school only if the Secretary or the Minister has reasonable grounds to believe that there is a risk to the operation of the school or to the welfare or educational performance of its students.

(4) The Secretary or the Minister may use an intervention described in subsection (1) in relation to a school if either of the following requests the intervention:

(a) the board:

(b) for a State integrated school, the school's proprietors.

(5) When applying an intervention, the Secretary or the Minister must apply whichever intervention they consider is reasonable to deal with the risk without intervening more than necessary in the affairs of the school.

(6) The application of any one intervention does not preclude applying any other intervention, either concurrently or at any other time.

Compare: 1989 No 80 s 78I

Section 171(1)(i): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 171(1)(j): replaced, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 171(2): amended, on 16 December 2021, by section 8 of the Education and Training Amendment Act 2021 (2021 No 58).

172 Requirement to provide information

(1) The Secretary may, by written notice to a board, require the board to provide specified information—

(a) as at a given time or times; or

(b) at specified intervals; or

(c) both.

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

(3) A board that receives a notice under subsection (1) must provide the Secretary with the information required and an analysis of the information (if that has been sought)—

(a) by the time or times, or at the intervals, or both, as specified in the notice; and

(b) in the form (if any) required by the Secretary.

Compare: 1989 No 80 s 78J

173 Specialist help

(1) The Secretary may, by written notice to a board, require the board to engage specified specialist help.

(2) A notice given under subsection (1) must identify particular persons or organisations, or types of persons or organisations, whom the board must engage.

(3) The Secretary may also require, in the notice, that the board provide to the Secretary a report or reports (for example, a progress report and a final report) on the specialist help—

(a) by the specified time or times; or

(b) at the specified intervals; or

(c) both.

(4) A board that receives a notice under subsection (1) must—

(a) engage the specialist help as soon as practicable; and

(b) pay the fees and reasonable expenses of any person or organisation engaged to provide specialist help, unless the Secretary determines otherwise; and

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

Compare: 1989 No 80 s 78K

174 Action plans

(1) The Secretary may, by written notice to a board, require the board to prepare and carry out an action plan, and any notice must specify—

(a) the matters that the action plan must address; and

(b) the outcomes sought; and

(c) the time within which a draft action plan must be prepared.

(2) A board that receives a notice under subsection (1) must comply with it by preparing a draft action plan within the time specified in the notice and presenting it to the Secretary for approval.

(3) The Secretary may negotiate with the board over the draft action plan in order to reach an agreed plan, but if, after a reasonable period, the board and the Secretary have not reached agreement over the content of the action plan, the Secretary may give notice to the board that the Secretary is to approve a particular version of the plan.

(4) When the Secretary has approved an action plan, the board must—

(a) implement it in accordance with its terms, unless or until the Secretary directs otherwise; and

(b) make the plan available as if it were part of the strategic plan required under section 138.

Compare: 1989 No 80 s 78L

175 Case conference

(1) The Secretary may, by written notice to a board, require the board to attend a case conference on a specified date.

(2) The notice must specify the issue or issues to be discussed.

(3) A board that receives a notice under subsection (1) must attend the case conference.

(4) The Secretary may invite any person to attend the case conference if the Secretary considers that the person's presence at the conference is desirable.

(5) If the case conference results in the parties reaching agreement on any action or actions to address any issue or issues, the agreement—

(a) must be recorded in writing; and

(b) is binding on the parties.

(6) If the Secretary and the board are not able to agree on an action or actions to address any issue or issues, the Secretary may, by written notice to the board, require it—

(a) to take a particular action or particular actions; and

(b) to provide the Secretary with a report or reports (for example, a progress report and a final report) on the action or actions taken—

(i) as at a given time or given times; or

(ii) at specified intervals; or

(iii) both.

(7) A board that receives a notice under subsection (6) must,—

(a) in relation to a requirement to take a particular action or particular actions, take the action or actions as soon as practicable; and

(b) if the notice includes a requirement to report to the Secretary, provide a report or reports at the time or times, or intervals, specified in the notice.

Compare: 1989 No 80 s 78LA

176 Specialist audit

(1) The Secretary may, by written notice to the board, require a board to engage an appropriately qualified person to undertake a specialist audit of any aspect of the school's affairs.

(2) A notice given under subsection (1) must identify particular persons or organisations, or types of persons or organisations, whom the board must engage.

(3) The Secretary may also require, in the notice, that the board provide the Secretary with a report or reports (for example, a progress report and a final report) on the audit—

(a) as at a given time or times; or

(b) at specified intervals; or

(c) both.

(4) A board that receives a notice under subsection (1) must—

(a) undertake the audit as soon as practicable; and

(b) pay the fees and reasonable expenses of any person or organisation engaged to undertake the audit, unless the Secretary determines otherwise; and

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

Compare: 1989 No 80 s 78LB

177 Performance notice

(1) The Secretary may, by written notice to a board, issue a performance notice requiring the board to carry out a specified action by a specified date.

(2) The Secretary may also require, in the notice, that the board provide the Secretary with a report or reports (for example, a progress report and a final report) on the action taken—

(a) as at a given time or given times; or

(b) at specified intervals; or

(c) both.

(3) A board that receives a notice under subsection (1) must—

(a) take the action by the date specified in the notice; and

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

Compare: 1989 No 80 s 78LC

178 Appointment of additional board member by Minister

(1) The Minister may, by written notice to a board, appoint an additional board member, and the Minister may also appoint that board member as the presiding board member.

(2) The notice must specify a period of time for which the appointment is made.

(3) A person who is ineligible to be a board member under this Act or any regulations made under this Act may not be appointed under this section.

Compare: 1989 No 80 s 78LD

179 Amendment and revocation of notices

(1) The Secretary may, by giving written notice to a board, amend or revoke a notice given by the Secretary under any of sections 172 to 177, 180, and 181.

(2) The amendment or revocation takes effect on the date specified in the notice.

Compare: 1989 No 80 s 78LE

180 Limited statutory manager

(1) The Minister may, by notice in the *Gazette*, direct the Secretary to appoint a limited statutory manager for a board.

(2) A notice under subsection (1) must specify—

(a) any functions, powers, and duties of the board (whether statutory or otherwise) that are to be vested in the limited statutory manager; and

(b) any matters on which the limited statutory manager may or must advise the board; and

(c) any conditions attaching to the exercise of the powers by the board or by the limited statutory manager.

(3) On publication of the *Gazette* notice, the Secretary must, by notice to the board,—

(a) appoint a person to be the limited statutory manager for the board; and

(b) state the date on which the appointment takes effect.

(4) A notice under subsection (3) appointing a person to be the limited statutory manager for the board may refer to the person appointed—

(a) by the limited statutory manager's own name; and

(b) as being of a named body corporate.

(5) On and from the date on which the limited statutory manager's appointment takes effect,—

(a) any functions, powers, or duties of the board specified in a notice under subsection (1) vest in the limited statutory manager; and

(b) the board must take into consideration advice given by the limited statutory manager on any matter on which the manager is obliged to give advice; and

(c) any conditions specified in the notice apply.

(6) The board must pay the fees and expenses of a limited statutory manager appointed for it, unless the Secretary determines otherwise.

(7) The Minister may, by notice in the *Gazette*, amend a notice under subsection (1), and the amendment takes effect on and from the date given in the notice.

(8) If the Minister is satisfied that the appointment of the limited statutory manager is no longer required, the Minister must revoke the notice under subsection (1), in which case the appointment terminates from the date of the revocation.

Compare: 1989 No 80 s 78M

181 Dissolution of board and appointment of commissioner

(1) The Minister may, by notice in the *Gazette*, dissolve a board and direct the Secretary to appoint a commissioner to replace that board.

(2) On publication of a notice under subsection (1), the Secretary must, by notice in the *Gazette*, appoint a commissioner for the school and state the date on which the appointment takes effect.

(3) The Secretary may, by notice in the *Gazette*, dissolve the board and appoint a commissioner in its place, as from a specified date, if any of the following applies:

(a) the board has not held a meeting during the previous 3 months:

(b) so many casual vacancies have arisen that there is no longer any board member who is eligible to preside at meetings of the board:

(c) the result of an election of board members is that the board has fewer than 3 board members elected by parents:

(d) an election of board members has not been held as required by this Act:

(e) it is impossible or impracticable to discover the results of an election of board members:

(f) the Minister has directed the Secretary to appoint a commissioner under subsection (1).

(4) A notice under subsection (2) or (3) appointing a commissioner for a school may refer to the person appointed—

(a) by the commissioner's own name; and

(b) as being of a named body corporate.

Compare: 1989 No 80 s 78N

182 No compensation for loss of office

(1) A board member is not entitled to any compensation or other payment or benefit relating to the board member ceasing for any reason to hold office as a board member.

(2) A board must ensure, to the extent that it is reasonably able to do so, that each of its Crown entity subsidiaries does not pay directors of the subsidiary any compensation or other payment or benefit, on any basis, for ceasing for any reason to hold office.

(3) However, subsections (4) and (5) apply to a person who is entitled, at the commencement of this section under any contract or arrangement, to any compensation or other payment or benefit relating to their ceasing for any reason to hold office.

(4) The entitlement is not affected by the enactment of this section.

(5) The entitlement is cancelled on the date of reappointment of the board member or director or of the member to the committee (if any).

Compare: 1989 No 80 s 78NA

183 Commissioners

(1) A commissioner appointed under section 170(5)(c)(ii) or 181 has all the functions, duties, and powers of the board that the commissioner is appointed to replace.

(2) Anything that, if done by or on behalf of the board, must be done by affixing the board's seal, or by the signature of 2 or more board members, or both, may be done by the signature of the commissioner.

(3) The remuneration of the commissioner must be determined by the Secretary and paid for out of funds of the board, unless the Secretary determines otherwise.

Compare: 1989 No 80 s 78O

184 Commissioner sets date for election of board members

(1) In the case of a commissioner appointed under section 181(2), when the Secretary is satisfied that a commissioner is no longer required for the school, the commissioner must appoint a date for the election of board members.

(2) In the case of a commissioner appointed under section 181(3), when the Secretary is satisfied that an election of board members is likely to produce a functioning board, the commissioner must appoint a date for the election of board members.

(3) A commissioner's appointment ends 7 days after the date that the commissioner has set for the election of board members.

Compare: 1989 No 80 s 78P

185 Personal liability of limited statutory managers and commissioners

A limited statutory manager or commissioner is not personally liable for any act done or omitted by the manager or commissioner, or for any loss arising out of any act done or omitted by them, if the act or omission was in good faith and occurred in the course of performing their functions.

Compare: 1989 No 80 s 78Q

186 Annual review of interventions

Within 1 year of the date of a notice under any of sections 172 to 178, 180, and 181, the Secretary must review the operation of the intervention commenced by each notice, and after that must review the operation of the intervention annually.

Compare: 1989 No 80 s 78R

187 Application of interventions to State integrated schools

(1) The Secretary must, if practicable, consult with the proprietors of a State integrated school before appointing a limited statutory manager or commissioner for the school, and must have regard to any recommendations made by the proprietors.

(2) If the Secretary considers that it is not practicable to consult with the proprietors before making an appointment, the Secretary must consult with the proprietors after making the appointment and must consider whether, in light of any recommendations made by the proprietors, a different person should be appointed in place of the original appointee.

Compare: 1989 No 80 s 78S

188 Application of interventions to Kura Kaupapa Māori

(1) Before applying any of the interventions in this subpart to a Kura Kaupapa Māori, the Secretary must consult with te kaitiaki o Te Aho Matua.

(2) Subsection (1) applies only to Kura Kaupapa Māori that are required by their school charters to operate in accordance with Te Aho Matua.

Compare: 1989 No 80 s 78T

Subpart 6—Establishment and designation of State schools

189 Overview: classifications and types of State schools

This subpart concerns—

(a) the following classifications of State schools:

(i) primary school:

(ii) intermediate school:

(iii) secondary school:

(iv) composite school:

(b) the following types of State schools:

(i) ordinary State school:

(ii) designated character school:

(iia) Kura Kaupapa Māori:

(iii) State integrated school:

(iv) specialist school:

(v) distance school.

Section 189(b)(ii): replaced, on 23 August 2023, by section 22 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 189(b)(iia): inserted, on 23 August 2023, by section 22 of the Education and Training Amendment Act 2023 (2023 No 45).

190 Minister may establish State schools

(1) The Minister may, by notice in the *Gazette*, establish a State school by—

(a) describing the place where the school is to be located; and

(b) for a secondary school, specifying whether it is a boys' school, a girls' school, or a co-educational school; and

(c) specifying a name for the school.

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

(3) A school established under this section must be established as a primary, an intermediate, a secondary, or a composite school, and the notice establishing it must specify what classification of school it is.

(4) A notice under subsection (1) establishing a school may specify the year levels for which education may be given at the school and may provide for different year levels to be phased in over a specified period or periods.

(5) A notice under subsection (1) establishing a primary school may designate the school as a contributing school.

(6) Despite clauses 3 and 4 of Schedule 22, the Minister may approve an alternative constitution when establishing a school.

(7) This section is subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 146

191 Single-sex schools

(1) The Minister may, by notice in the *Gazette*, declare a State school to be a single-sex school or a co-educational school.

(2) A declaration under subsection (1) takes effect on the day that is 5 months after the first day of August after the notice is published.

(3) The Minister may, by notice in the *Gazette*, limit, in relation to a specified single-sex school,—

(a) in the case of a boys' school, the number of girls who may enrol at it, or the proportion of the total roll of the school that may be girls:

(b) in the case of a girls' school, the number of boys who may enrol at it, or the proportion of the total roll of the school that may be boys.

(4) In setting limits under subsection (3), the Minister must have regard to the necessity of maintaining the single-sex nature of the school.

(5) Subsection (1) is subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 146A

192 Names of State schools

(1) The name of a State school established after 31 December 1989 must be the name specified in the notice establishing it.

(2) The name of a State school whose classification has been changed under section 198 must be the name specified in the last notice changing its classification.

(3) The name of a State school established before 1 January 1990 must be the name it had on 1 December 1989.

(4) However, the board of the State school may, by resolution and with the Secretary's written consent, change the school's name.

(5) The Secretary may not withhold consent under subsection (4) unless satisfied that the proposed new or amended name is inappropriate.

Compare: 1989 No 80 s 147

193 Normal schools, etc

(1) The Minister may, by notice in the *Gazette*,—

(a) designate 1 or more specified primary schools as normal or model schools for providers of pre-service teacher education:

(b) designate within a specified primary school a normal or model school, or model class, for providers of pre-service teacher education:

(c) revoke any designation under this section.

(2) Subsection (1) does not apply to a State integrated school.

(3) Every school that was on 31 December 1989 designated a normal or model school under section 72 of the Education Act 1964 must be treated as having been designated a normal school under this section.

(4) Every normal or model school, or model class, that was on 31 December 1989 designated within a primary school under section 72 of the Education Act 1964 must be treated as having been designated under this Act.

(5) Subsection (1) is subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 148

194 Contributing schools

(1) The Minister must determine which primary schools are to be or cease to be contributing schools.

(2) If the Minister determines that a primary school is to be or cease to be a contributing school, the Minister must give the school's board written notice of the determination.

(3) While a primary school is a contributing school, its board must limit the education given at the school to students enrolled in year levels—

(a) not higher than year 6; and

(b) if the Minister allows in a notice given under subsection (2), not higher than year 7.

(4) However, if satisfied that there are enrolled at a contributing school students whose education at the school is wholly or in part bilingual, the Minister may, by written notice to the board specifying the languages concerned, permit

the board to give education to those students in accordance with conditions specified in the notice.

(5) Every school that was on 31 December 1989 a contributing school of any other school under section 74 of the Education Act 1964 must be treated as having been designated under subsection (1).

(6) This section applies to a school designated as a contributing school under section 190(5) as if the school had become a contributing school under subsection (1) and the Minister had given the school's board the appropriate notice under subsection (2).

(7) In determining that a school should be or should cease to be a contributing school, the Minister may provide for education at specified year levels to be phased in or phased out over a specified period or specified periods.

(8) Subsection (1) is subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 150

195 Provision of education at composite schools

(1) The Minister may, by written notice to the board of a composite school, require the board to provide education for the year levels specified in the notice, and if the Minister does so, the board must provide the education at the school accordingly.

(2) Subsection (1) is subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 151

196 Distance schools

(1) The Minister may, by notice in the *Gazette*,—

(a) when establishing the school, or at any other time, designate a State school that is not a State integrated school as a distance school; or

(b) at any time, remove a designation under paragraph (a).

(2) However, the Minister may not designate a school as a distance school, or cancel a designation as a distance school, without having regard to the education of people unable conveniently to receive tuition from a suitable State school that is not a distance school.

(3) Subject to clauses 8(7) and 12 of Schedule 23 and any regulations made under this Act specifying when a board member's office becomes vacant, if an existing State school is designated as a distance school, its board must continue in office as constituted until a day specified by the Minister in the notice in the *Gazette* under section 122(1) determining the composition of its board, but must go out of office on that day.

(4) With the consent of the Minister, a distance school may provide early childhood education.

(5) A distance school may deliver education through any medium, including digital technology.

(6) The school that was, immediately before the commencement of the Education Amendment Act 1989, a correspondence school is to be treated as having been—

(a) established under section 190 as a composite school; and

(b) designated under subsection (1) as a distance school.

Compare: 1989 No 80 s 152

197 Specialist schools and special services

(1) The Minister may, having regard to the provision of special education in any locality or localities,—

(a) establish a specialist school:

(b) establish, or authorise the establishment of, any special service.

(2) The Minister may disestablish a specialist school or special service established under subsection (1) if the Minister—

(a) is dissatisfied with the manner in which the school or service is being conducted; or

(b) considers that sufficient provision is made by another similarly established school or service, or by any other school or class in or reasonably near to the same locality.

Compare: 1964 No 135 s 98

198 Minister may change classification of school

(1) The Minister may, by notice in the *Gazette*, do any of the following:

(a) declare a composite school to be a primary, an intermediate, or a secondary school:

(b) declare a primary, an intermediate, or a secondary school to be a composite school:

(c) declare an intermediate school to be a primary or secondary school:

(d) declare a primary or secondary school to be an intermediate school.

(2) Subsection (1) does not apply to a State integrated school.

(3) The Minister may, by notice in the *Gazette*, specify the year levels for which education must be given at a school (whether it is an existing school or a school whose classification has been changed under subsection (1)) and provide for year levels to be phased in over a specified period or periods.

(4) A decision to change the classification of a school under subsection (1) or to specify year levels (and, if relevant, to provide for the phasing in of these) under subsection (3) is in the Minister's absolute discretion.

(5) A notice under subsection (1) must specify a day (no earlier than the end of the term after the term during which the notice is published) on which it is to take effect, and the school becomes a school of the classification concerned, and ceases to be a school of the classification it was, on the day specified.

(6) Subject to clauses 8(7) and 12 of Schedule 23 and any regulations made under this Act specifying when a board member's office ends or becomes vacant, if an existing State school becomes a school of a different classification, its board continues in office as constituted until the close of the seventh day after the first election following its change of classification.

(7) Subsections (1) and (3) are subject to section 209 (which sets out consultation requirements).

Compare: 1989 No 80 s 153

199 Minister may close State school

(1) This section applies if, after consulting the board of a State school, the Minister is satisfied that the school should be closed.

(2) Before making a decision under subsection (1), the Minister may, by written notice to the board, ask the board if it has any arguments in favour of the school staying open.

(3) The Minister may, after considering all arguments (if any) received from the board within 28 days after it received notice under subsection (2), by notice in the *Gazette* specifying a day on which the school is to close, close the school, and the school ceases to be established on the day specified.

(4) If the board of a State school advises or indicates to the Minister in writing that it agrees to or does not oppose the proposed closure of the school, the Minister may (despite anything in subsection (2) or (3) and regardless of whether the Minister has formally begun or completed the necessary consultation under subsection (1)) close the school by notice under subsection (3) on or after receiving the board's written advice.

(5) A decision to close a school under subsection (3) is in the Minister's absolute discretion.

(6) If a school is closed under this section,—

(a) its board must be treated as having been dissolved; and

(b) all assets, liabilities, and debts that the board had immediately before dissolution must be treated as assets, liabilities, and debts of the Minister.

(7) Without limiting subsection (6)(b), the following provisions apply to property that was, immediately before dissolution, held by the board in trust for the benefit of the school:

(a) the Minister may apply to Public Trust to devise a scheme to modify the trust for the benefit of another school:

(b) if the Minister applies under paragraph (a), section 208(2) to (8) applies with any necessary modifications (as if the property were property to which that section applies).

(8) A school that has been closed may not be reopened, except by being established again under this Act.

(9) This section is subject to section 209 (which sets out consultation requirements) and clause 22 of Schedule 6.

Compare: 1989 No 80 s 154

200 Minister may designate and redesignate schools

(1) The Minister may, by notice in the *Gazette*, after consultation with the board of the affected school, do any of the following:

(a) designate a State school that is not a Kura Kaupapa Māori or a designated character school as a Kura Kaupapa Māori or a designated character school:

(b) remove the designation of a Kura Kaupapa Māori and redesignate it as a designated character school:

(c) remove the designation of a designated character school and redesignate it as a Kura Kaupapa Māori:

(d) remove the designation of a Kura Kaupapa Māori or a designated character school while keeping the school established as a State school.

(2) The designation or removal of a designation of a school takes effect on the date specified in the notice under subsection (1) and, on and from that date, section 204—

(a) applies to a school that is designated as a Kura Kaupapa Māori or as a designated character school; and

(b) ceases to apply to a school that has had its designation as a Kura Kaupapa Māori or a designated character school removed.

(3) A notice under subsection (1) may prescribe a new name for the redesignated school.

(4) Section 204 applies in respect of a school that is, or is to be, redesignated as a Kura Kaupapa Māori in the same way as it would apply if the school were being established as a Kura Kaupapa Māori.

(5) No school may have its designation as a Kura Kaupapa Māori removed unless the Minister has first consulted with te kaitiaki o Te Aho Matua.

(6) No State school may be designated as a Kura Kaupapa Māori unless the Minister has first consulted with te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua.

(7) Section 204 applies in respect of a school that is, or is to be, redesignated as a designated character school in the same way as it would apply if the school were being established as a designated character school.

Compare: 1989 No 80 s 154A

201 Kura Kaupapa Māori

(1) When establishing a State school, the Minister may, by notice in the *Gazette*, designate the school as a Kura Kaupapa Māori.

(2) The Minister may, in the Minister's absolute discretion, refuse to establish a school as Kura Kaupapa Māori.

(3) The Minister may not establish a school under this section unless satisfied that—

(a) te reo Māori is to be the main language of instruction at the school:

(b) the school is to operate in accordance with Te Aho Matua:

(c) it is desirable for students whose parents want them to do so to get such an education:

(d) students at the school are to receive an education of a kind that differs significantly from the education they would receive at an ordinary State school.

(4) A Kura Kaupapa Māori may have other special characteristics that give it a particular character (its **special characteristics**).

(5) The Minister may not establish a State school as a Kura Kaupapa Māori unless the Minister has first consulted te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua.

(6) A notice under subsection (1) must—

(a) specify the name of the school, which must at all times begin with the words "Te Kura Kaupapa Māori o"; and

(b) state that the school will operate in accordance with Te Aho Matua; and

(c) summarise any special characteristics of the school; and

(d) specify the constitution of the board of the school.

(7) After consultation with the board, the Minister may from time to time, by notice in the *Gazette*, amend the name of the school (but not so as to omit the words "Te Kura Kaupapa Māori o"), its special characteristics, or the constitution of the board.

(8) The board of a school established under this section must ensure that—

(a) te reo Māori is the principal language of instruction at the school; and

(b) the school operates in accordance with Te Aho Matua.

(9) The board may refuse to enrol any person whose parents do not accept that the school operates in accordance with Te Aho Matua.

(10) The Secretary must, by written notice to a Kura Kaupapa Māori, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.

(11) Except as provided in this section, clause 16 of Schedule 20, and any regulations made under this Act regarding enrolment schemes for Kura Kaupapa Māori, this Act applies to every Kura Kaupapa Māori as if it were not a Kura Kaupapa Māori.

Compare: 1989 No 80 s 155

Section 201: replaced, on 23 August 2023, by section 23 of the Education and Training Amendment Act 2023 (2023 No 45).

202 Te Aho Matua

(1) The official version of Te Aho Matua is the statement (including any gazetted amendments) in te reo Māori that is—

(a) prepared by te kaitiaki o Te Aho Matua; and

(b) published in the *Gazette* under the authority of the Minister.

(2) The Minister may authorise the reprinting of all, or the amendment of any part, of Te Aho Matua in the *Gazette*, but only if asked to do so by te kaitiaki o Te Aho Matua.

(3) When all, or an amendment to any part, of Te Aho Matua is published in the *Gazette*, the Minister must ensure that an explanation in English of Te Aho Matua or of the amendment is published in the same *Gazette*.

(4) The explanation must be one that te kaitiaki o Te Aho Matua has approved as being an accurate interpretation of the meaning of the Māori text.

Compare: 1989 No 80 s 155A

203 Protection of term Kura Kaupapa Māori

(1) A registered school may not use the term Kura Kaupapa Māori in its name unless the school is established under section 201.

(2) Subsection (1) does not apply to a registered school that, immediately before the commencement of this section, is not established under section 201 but uses the term Kura Kaupapa Māori in its name.

Compare: 1989 No 80 s 155F

Section 203(1): amended, on 23 August 2023, by section 24 of the Education and Training Amendment Act 2023 (2023 No 45).

204 Designated character schools

(1) When establishing a State school, the Minister may designate the school as a designated character school in accordance with this section and section 205.

(2) The Minister may, in the Minister's absolute discretion, refuse to establish a designated character school.

(3) The Minister may not establish a school as a designated character school unless satisfied that, if the school is established,—

(a) the school is to have a character that is in some specific way or ways different from the character of ordinary State schools (its **different character**):

(b) it is desirable for students whose parents want them to do so to get such an education:

(c) students at the school are to receive an education of a kind that differs significantly from the education they would receive at an ordinary State school.

(4) The board of a designated character school must ensure that—

(a) the aims, purposes, and objectives of the school's different character are set out in the school's strategic plan; and

(b) the school operates consistently with its different character.

(5) A board of a designated character school may refuse to enrol students whose parents do not accept that the school operates consistently with its different character.

(6) The Secretary must, by written notice to a designated character school, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.

(7) Except as provided in this section, clause 16 of Schedule 20, and any regulations made under this Act regarding enrolment schemes for designated character schools, this Act applies to every designated character school as if it were not a designated character school.

Compare: 1989 No 80 s 156

Section 204: replaced, on 23 August 2023, by section 25 of the Education and Training Amendment Act 2023 (2023 No 45).

205 Process for establishing designated character schools

(1) The Minister may, by notice in the *Gazette*, when establishing a State school, designate the school as a designated character school.

(2) Before doing so, the Minister must be satisfied of the matters in section 204(3).

(3) The notice establishing a designated character school must—

(a) describe the different character of the school (as defined in section 204(3)(a)):

(b) state the constitution of the school's board.

(4) The notice establishing a designated character school may also name a body that has a special affiliation with the school or has responsibility for the different character of the school.

(5) The Minister may, after consultation with the board of a designated character school, by notice in the *Gazette*,—

(a) amend the description of the different character of the school:

(b) name a body that has a special affiliation with the school or has responsibility for the different character of the school:

(c) amend the statement of the constitution of the board.

(6) The Minister must consult any body named under subsection (4) or (5)(b) before amending the description of the school's different character.

Compare: 1989 No 80 s 156AA

Section 205: replaced, on 23 August 2023, by section 25 of the Education and Training Amendment Act 2023 (2023 No 45).

206 Minister may merge schools

(1) The Minister may, by notice in the *Gazette*, merge 1 or more State schools that are not State integrated schools with another State school that is not a State integrated school, if the Minister is satisfied that—

(a) each board of a school concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at the school about the proposed merger; and

(b) the consultation that has taken place has been adequate in all the circumstances; and

(c) the creation of a single school by the merger is appropriate in the circumstances.

(2) A decision to merge a school under subsection (1) is in the Minister's absolute discretion.

(3) A notice under subsection (1) takes effect on a day (no earlier than the end of the term after the term during which the notice is published) specified in the notice and has effect as follows:

(a) the merging schools are part of the continuing school:

(b) if the continuing school and each merging school are not already administered by a single board,—

(i) the board of each merging school is dissolved; and

(ii) all rights, assets, liabilities, and debts of each merging school are vested in the board of the continuing school:

(c) the continuing school is a school of the classification specified in the notice and provides education for the student year levels specified in the notice.

(4) A notice under subsection (1) does not affect the name of the continuing school.

(5) Before a notice under subsection (1) takes effect, the Minister must give notice in the *Gazette* of whether,—

(a) during the period between a date specified in the notice and the date on which new board members take office following an election, the board of the continuing school is to be—

(i) the board of the continuing school plus co-opted board members representing each merging school; or

(ii) a board appointed by the Minister; or

(b) the board of the continuing school is to have an alternative constitution approved under clause 4 of Schedule 22.

(6) This section is subject to sections 207 and 209.

Compare: 1989 No 80 s 156A

207 Restrictions on mergers in certain cases

(1) A Kura Kaupapa Māori established after the commencement of the Education (Te Aho Matua) Amendment Act 1999 may not merge or be merged with another Kura Kaupapa Māori or other school unless the schools involved in the merger—

(a) operate in accordance with Te Aho Matua; and

(b) use te reo Māori as the principal language of instruction.

(2) Any other Kura Kaupapa Māori may merge with another school only if both schools use te reo Māori as the principal language of instruction and have the same aims, purposes, and objectives.

(3) A designated character school may not merge or be merged with another designated character or other school unless the schools involved in the merger have the same aims, purposes, and objectives, being the aims, purposes, and objectives that constitute the way in which the character of each school is different from the character of ordinary State schools.

Compare: 1989 No 80 s 156B

208 Property held in trust

(1) This section applies to any property that, immediately before 2 or more schools merged under section 206, was held in trust—

(a) by the board of 1 (or more) of those schools; or

(b) by any other person or body for the benefit of—

(i) 1 (or more) of those schools; or

(ii) the students or former students of 1 (or more) of those schools.

(2) The property continues to be subject to the trust concerned, but the person or body in whom it is vested may apply to Public Trust to devise a scheme to modify the trust in light of the merger of the schools concerned.

(3) If satisfied that adequate arrangements have been made to meet the costs of doing so, Public Trust must, in consultation with the board concerned, devise a scheme to modify any trust in respect of which Public Trust has received an application under this section and notify the Solicitor-General of the scheme.

(4) If Public Trust notifies the Solicitor-General of a scheme, the Solicitor-General may, by written notice to Public Trust,—

(a) approve the scheme (as originally notified or with any amendments agreed by Public Trust after consultation with the board concerned); or

(b) suggest amendments to it; or

(c) direct that it should not proceed.

(5) If the Solicitor-General directs that it should not proceed, the matter may be dealt with under the Charitable Trusts Act 1957.

(6) If, within 90 days of being notified of a scheme, the Solicitor-General does not suggest amendments to it or direct that it should not proceed, the Solicitor-General is to be treated as having approved the scheme.

(7) If the Solicitor-General approves a scheme notified under this section, the trust concerned has effect accordingly.

(8) The Solicitor-General may not approve a scheme under this section unless satisfied that—

(a) it modifies the trust concerned so as best to give effect to the intentions of the testator, settlor, or other person or body by whom or which the trust was established; and

(b) subject to paragraph (a), it effects the minimum change necessary to enable the trust to operate successfully in light of the merger of the schools concerned.

Compare: 1989 No 80 s 156C

209 Consultation

(1) The Minister must consult the board of the State school concerned before—

(a) declaring a school to be a single-sex school or a co-educational school under section 191(1):

(b) setting limits by notice under section 191(3) on the number of girls who may attend a boys' school or boys who may attend a girls' school:

(c) designating a primary school as a normal or model school under section 193(1)(a):

(d) designating a normal or model school or a model class within a primary school under section 193(1)(b):

(e) revoking a designation under section 193(1)(c):

(f) determining under section 194(1) that a particular school is to be a contributing school:

(g) limiting the education given at a composite school under section 195:

(h) changing the classification of a school under section 198(1).

(2) The Minister must consult the boards of all the State schools whose rolls might, in the Minister's opinion, be affected before—

(a) establishing a school under section 190(1):

(b) declaring a school to be a single-sex school or a co-educational school under section 191(1):

(c) determining under section 194(1) that a primary school is to be or cease to be a contributing school:

(d) limiting the education given at a composite school under section 195:

(e) changing the classification of a school under section 198(1):

(f) closing a school under section 199:

(g) redesignating, or removing a designation from, a school under section 200:

(h) merging a school or schools with another under section 206.

(3) Subsection (2)(f) and (h) does not apply if the relevant boards have already been consulted on a closure or merger option as part of a review of the provision of schooling in a particular area.

Compare: 1989 No 80 s 157

210 Community education forums

(1) The Minister may appoint a person to—

(a) convene within a specified area public meetings relating to any action the Minister is considering in respect of State schools; and

(b) advise the Minister on the views expressed at the meetings.

(2) The Minister may take, or refuse to take, the action without—

(a) giving the person reasonable time to convene the meetings and advise the Minister; and

(b) considering any advice the person gives the Minister in that time.

Compare: 1989 No 80 s 157A

211 State integrated schools part of State system

(1) Subject to subsection (2),—

(a) on integration, a State integrated school becomes part of the State system of education in New Zealand; and

(b) this Act and regulations made under this Act apply to a State integrated school.

(2) The enactments applied to State integrated schools by subsection (1)(b) are subject to Schedule 6.

Compare: 1989 No 80 s 417

212 Application to negotiate integration

The proprietor of a private school, and any person who proposes to establish a school with the intention that it become a State integrated school, may apply to the Minister to enter into negotiations for integration under Schedule 6.

Compare: 1989 No 80 s 418

Subpart 6A—Charter schools/kura hourua

Subpart 6A: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Authorisation Board

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212A Authorisation Board established

(1) This section establishes the Charter Schools Authorisation Board.

(2) The Authorisation Board is a body corporate with perpetual succession and is capable of—

(a) holding real and personal property; and

(b) suing and being sued; and

(c) otherwise doing and suffering all that bodies corporate may do and suffer.

Section 212A: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212B Membership of Authorisation Board

(1) The Authorisation Board consists of at least 5, but not more than 9, members appointed by the Minister by notice in the *Gazette*.

(2) In appointing members, the Minister must have regard to the knowledge, skills, and experience necessary to carry out the Authorisation Board's functions, including in the following areas:

(a) education:

(b) governance:

(c) leadership:

(d) financial management:

(e) audit and performance management:

(f) legal and property management:

(g) procurement and contracting:

(h) engagement with Māori, Pacific people, and other stakeholders.

Section 212B: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212C Functions and powers of Authorisation Board

(1) The functions of the Authorisation Board are to—

(a) decide on applications by proposed sponsors to operate charter schools:

(b) oversee the performance of charter schools:

(c) provide advice to the Minister on the operation of the charter school model:

(d) provide any other advice or oversight that the Minister requests in writing:

(e) decide whether to apply an intervention referred to in section 212ZF to a sponsor:

(f) perform any other functions conferred on it by this Act or any other legislation.

(2) The Authorisation Board may exercise its powers only for the purpose of performing its functions.

(3) Schedule 6A sets out further provisions relating to the Authorisation Board.

Section 212C: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212D Application of Public Service Act 2020 to Authorisation Board

Sections 12 and 17 to 20 of the Public Service Act 2020 apply, with any necessary modifications, to the Authorisation Board as if it were a Crown agent.

Section 212D: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212E Application of Crown Entities Act 2004 to Authorisation Board

The provisions of the Crown Entities Act 2004 set out in Schedule 6B apply, with any necessary modifications, to the Authorisation Board as if it were a Crown agent.

Section 212E: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Application to operate charter school

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212F Application for approval to operate charter schools

(1) The following may apply to the Authorisation Board for approval to operate a charter school:

(a) a body corporate, corporation sole, limited partnership, institution, or related entity (a **proposed sponsor**); or

(b) in the case of a converting school,—

(i) the school's board with the support of the proposed sponsor; or

(ii) 1 or more members of the school community with the support of the proposed sponsor.

(2) The application must—

(a) be in the approved form (if any); and

(b) be accompanied by—

(i) evidence or information specified in the approved form; and

(ii) the prescribed fee (if any).

(3) The Authorisation Board may require the applicant to provide further information to support the application.

(4) The chief executive of the Agency may approve forms for the purposes of this section.

Section 212F: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212G Minister may direct board to apply to convert State school to charter school

(1) The Minister may, in the Minister's absolute discretion and after considering whether it is appropriate in all the circumstances, direct the board of a State school to make an application to the Authorisation Board to convert the State school to a charter school.

(2) Before issuing a direction under subsection (1), the Minister must first seek the views of the Authorisation Board about whether the State school would be appropriate to convert to a charter school.

(3) A direction issued by the Minister must specify the proposed sponsor of the charter school.

(4) The board must make an application to the Authorisation Board with the support of the proposed sponsor named in the direction as soon as practicable after receiving the direction.

(5) Sections 212F, 212I, 212J, and 212K apply, with any necessary modifications, to an application made under this section.

Section 212G: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212H Restriction on applications and directions

(1) A specialist school may not apply under section 212F for approval to operate a charter school.

(2) The Minister may not issue a direction under section 212G to the board of any of the following State schools:

(a) a specialist school:

(b) a State integrated school:

(c) a distance school:

(d) a Kura Kaupapa Māori:

(e) a designated character school.

Section 212H: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Approval of sponsor

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212I Authorisation Board may approve sponsor

General criteria

(1) The Authorisation Board may approve a sponsor to operate a charter school if satisfied that the proposed sponsor and every governing member of the proposed sponsor are fit and proper persons (after considering the criteria set out in section 212J).

(2) When deciding whether to approve a proposed sponsor, the Authorisation Board must take into account the following matters:

(a) the focus of the proposed charter school:

(b) the capability of the proposed sponsor, including—

(i) its experience and knowledge of the New Zealand schooling system; and

(ii) its financial and governance capability:

(c) the standard of tuition to be provided by the proposed charter school, including—

(i) the mode of curriculum delivery; and

(ii) the regularity of instruction:

(d) the financial implications for the Crown if the proposed charter school is established:

(e) whether the purpose in section 32(e) would be achieved if the proposed charter school is established:

(f) the level of support for the proposed charter school from the community in which it is proposed to be established:

(g) any other matters that the Authorisation Board considers relevant.

(3) The Authorisation Board must seek the views of the Secretary and the Chief Review Officer on the matters set out in subsections (1) and (2).

Additional criteria for converting schools

(4) In the case of a converting school, the Authorisation Board must also take into account the following matters:

(a) the performance of the State school:

(b) the level of support from the school community, school staff, and students for the proposed sponsor:

(c) the level of support from the school community, school staff, and students for the proposed conversion of the school to a charter school.

(5) For the purpose of ascertaining the matters in subsection (4), the Authorisation Board—

(a) must consult the school board, school community, school staff, and students; and

(b) may consult any other person it thinks fit.

Section 212I: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212J Criteria for assessing whether proposed sponsor and governing members are fit and proper persons

Assessment of proposed sponsor

(1) In assessing whether a proposed sponsor is a fit and proper person to operate a charter school, the Authorisation Board must take into account the following matters:

(a) whether the proposed sponsor has been convicted of any offence involving fraud or any crime involving dishonesty:

(b) whether the proposed sponsor owes or has owed money to the Crown, including in respect of bodies the proposed sponsor has been involved in managing:

(c) whether an intervention has been applied in relation to another charter school which the proposed sponsor is or was operating:

(d) whether the proposed sponsor committed a serious or repeated breach of the sponsor's statutory duties in relation to another charter school:

(e) any other matters that the Authorisation Board considers relevant.

Assessment of governing members

(2) In assessing whether a governing member of a proposed sponsor is a fit and proper person to operate a charter school, the Authorisation Board must take into account the following matters:

(a) whether the person has been convicted of serious criminal activity (as defined in section 10(1)):

(b) whether the person has been—

(i) adjudicated bankrupt under the Insolvency Act 2006:

(ii) prohibited from being a director or promoter of, or being concerned or taking part in the management of,—

(A) a company under the Companies Act 1993; or

(B) any other body corporate:

(c) whether an intervention has been applied in relation to another charter school of which the person is or was a governing member of the sponsor:

(d) whether the person committed a serious or repeated breach of the person's statutory duties as a governing member of the sponsor:

(e) any other matters that the Authorisation Board considers relevant.

(3) For the purposes of subsection (2), if the proposed sponsor is—

(a) a company, the assessment applies to its directors:

(b) an incorporated society or an incorporated trust board, the assessment applies to its governing members:

(c) another body corporate, corporation sole, institution, or its related entity, the assessment applies to its governing members:

(d) a limited partnership, the assessment applies to its partners as defined in the Limited Partnerships Act 2008.

Section 212J: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212K Conditions on approval

(1) If the school to which an approval relates is a converting school, the following conditions apply to the approval:

(a) all students currently enrolled at the State school who wish to attend the charter school must be allowed to do so:

(b) if the State school is a designated character school, a Kura Kaupapa Māori, or a State integrated school, the character of the school must be maintained:

(c) if the State school is an ordinary State school, it must not provide education with a special character or that is different from the character of ordinary State schools.

(2) When granting an approval of a sponsor, the Authorisation Board may impose any other conditions on the approval as it thinks fit, including conditions relating to the maximum number of international students that may be enrolled at the charter school.

(3) The Authorisation Board may—

(a) impose new conditions on the approval; or

(b) amend or revoke any existing conditions.

(4) However, the Authorisation Board may not amend or remove the conditions specified in subsection (1).

Section 212K: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Charter school contracts

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212L Charter school contracts

(1) The Agency may, in the name and on behalf of the Crown, enter into a contract with a sponsor that allows the sponsor to operate a charter school.

(2) If the Agency is unable to conclude a contract with the sponsor within a reasonable time, it must refer the matter back to the Authorisation Board for further consideration.

(3) When negotiating a charter school contract, the Agency must have regard to the available budget for charter schools.

(4) The charter school contract must be for a fixed term.

(5) The charter school contract must set out, or provide for, the following matters:

(a) the physical capacity of the school premises:

(b) the conditions that apply to the approval of the sponsor under section 212K:

(c) whether the sponsor intends to operate the charter school for profit or not-for-profit:

(d) the performance targets and outcomes that the sponsor must meet in relation to the operation of the school:

(e) the specific measures to be used to determine if the performance targets and outcomes referred to in paragraph (d) have been met or achieved:

(f) the time period to which annual financial statements referred to in section 212S must relate:

(g) an annual self-audit report to be provided by the sponsor to the chief executive of the Agency by a specified date that includes—

(i) a report on the performance targets and outcomes of the sponsor under the contract:

(ii) a report on the sponsor's compliance with contractual and legislative obligations in relation to the charter school:

(iii) the annual financial statements referred to in section 212S:

(h) the number or percentage of teaching positions at the charter school that—

(i) must be filled by persons holding a practising certificate; and

(ii) may be filled by persons holding a limited authority to teach:

(i) the curriculum to be taught at the charter school and its mode of delivery:

(j) the qualifications to be offered by the charter school (if it is a secondary or composite school):

(k) the renewal and termination of the contract:

(l) the obligations of the sponsor to comply with any instructions issued by the Agency if the contract expires or is terminated to ensure the orderly and efficient transfer of the operation of the school:

(m) the charter school to have a complaints policy, including a procedure for the independent review of complaints:

(n) the grounds for the Authorisation Board to apply an intervention under section 212ZF(1)(a), (b), or (c):

(o) the process that the Authorisation Board must follow in applying an intervention under section 212ZF:

(p) in the case of a converting school, the conversion date for the school.

Additional requirements for charter schools that offer or provide distance learning

(6) The charter school contract for a charter school that offers or provides distance learning must also set out, or provide for, the following matters:

(a) how student engagement and attendance will be measured and ensured:

(b) pastoral care, including the online safety of students and adequate supervision arrangements for students aged under 16 years.

(7) The charter school contract may contain other provisions as agreed between the Agency and the sponsor that are not inconsistent with this Act, any other legislation, or the general law of New Zealand.

Section 212L: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Notification of charter school

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212M Notification of charter school

(1) The Minister must, by notice in the *Gazette*, notify the establishment of a charter school as soon as practicable after the date on which the Agency and the sponsor enter into a charter school contract for the school.

(2) A notice under subsection (1) must specify—

(a) the name and location of the charter school to which the contract relates; and

(b) the name of the sponsor; and

(c) whether the charter school is to be a primary, secondary, or composite school; and

(d) if the charter school will offer or provide distance learning and, if so, whether the school's main mode of curriculum delivery will be distance learning; and

(e) the year levels for which education may be given at the school; and

(f) any religious, philosophical, or other distinguishing characteristics of the school; and

(g) whether all or any (and if so, which) year levels are to be single-sex.

(3) A notice under subsection (1) may provide for different year levels to be phased in over a specified period.

Section 212M: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212N Prohibition on operating charter school without approval

(1) A person that has not been approved as a sponsor under section 212I may not operate, or purport to operate, a charter school.

(2) A sponsor may not operate a charter school unless the sponsor has entered into a charter school contract with the Agency to operate the school.

Section 212N: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Duties and powers of sponsors

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212O Duties of sponsors

A sponsor must—

(a) govern the school so as to ensure that every student is able to attain the highest possible standard of educational achievement; and

(b) ensure that every governing member of the sponsor remains a fit and proper person to operate the school; and

(c) ensure that a safe physical and emotional environment is provided for students and staff; and

(d) appoint—

(i) a chief executive to be responsible for the day-to-day management of the school:

(ii) a person to be the person responsible overall for teaching and learning at the school who is appropriately qualified and holds a current practising certificate; and

(e) ensure that teachers employed in the school have the necessary qualifications and skills to teach; and

(f) ensure that the school's chief executive and staff develop and deliver a curriculum for teaching, learning, and assessment—

(i) having regard to any statement of national education and learning priorities; and

(ii) that meets tuition standards at least equivalent to those at State schools of the same year levels; and

(g) in operating the school, have regard to any statement of national education and learning priorities; and

(h) ensure that students have access to a nationally and internationally recognised qualification system; and

(i) inform parents of the progress of their children at school, and any barriers to progress, at intervals specified in the charter school contract; and

(j) make details of the curriculum and its mode of delivery available to parents; and

(k) have policies relating to the following matters:

(i) internal disputes management:

(ii) engagement with the school community; and

(l) ensure that any complaints against the school are responded to promptly.

Section 212O: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212P Sponsor to control management of charter school

(1) A sponsor has complete discretion to control the management of the school as the sponsor thinks fit.

(2) A sponsor may make any bylaws that the sponsor thinks necessary or desirable for the control and management of the school.

(3) Subsections (1) and (2) are subject to this Act, any other legislation, the general law of New Zealand, and the charter school contract.

(4) Before making a bylaw, the sponsor must consult its staff, its students (to the extent that the sponsor considers appropriate), and the school community regarding the proposed bylaw.

Section 212P: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212Q Sponsor's power to delegate

(1) A sponsor may, either generally or specifically, delegate any of its functions, duties, or powers under this Act to any person.

(2) A delegation—

(a) must be in writing; and

(b) may be revoked at will in writing; and

(c) may be subject to instructions or conditions.

(3) Despite subsection (1), a sponsor must not delegate—

(a) the general power of delegation:

(b) its power to make bylaws set out in section 212P:

(c) its functions, duties, or powers relating to the standing-down, suspension, exclusion, or expulsion of students set out in rules made under this Act.

(4) The person to whom any functions, duties, or powers are delegated under this section may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act (subject to any general or special instructions given or conditions imposed by the sponsor).

(5) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.

Subdelegation

(6) If the sponsor has delegated any functions, duties, or powers to a person, that person may, with the written approval of the sponsor, subdelegate those functions, duties, or powers to another person.

(7) Subsection (2) applies to a subdelegation under subsection (6).

Section 212Q: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212R Charter schools situated on land owned by, or leased to, the Crown

(1) The operation of a charter school on land owned by, or leased to, the Crown, and the occupation by a charter school of any building on that land, may be governed by—

(a) a lease, tenancy, or licence between the Crown and the sponsor; or

(b) a lease between a third party (to whom a lease has been granted by the Crown) and the sponsor.

(2) In this section, **lease** includes a sublease.

Compare: 1989 No 80 s 319J(1), (4)

Section 212R: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212S Annual financial statements

(1) A sponsor must ensure the preparation of annual financial statements relating to the charter school for a year ending on a date specified in the charter school contract.

(2) The financial statements must be audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

Section 212S: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212T Charter school may participate in school risk management scheme

(1) A sponsor may, with the consent of the Secretary, participate in a school risk management scheme established under section 576.

(2) Sections 576 and 577, any regulations made under section 642, and any legal instrument by which a school risk management scheme is established apply to a sponsor that participates in the scheme as if it were a participating school board.

Compare: 1989 No 80 s 158L

Section 212T: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Enrolment, conditions of enrolment, and instruction of students

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212U Enrolment in charter schools

(1) A charter school must enrol all domestic students entitled to free enrolment and free education under section 33 who apply to the school (up to the physical capacity of the school premises as stated in the charter school contract).

(2) However, a charter school may refuse to enrol a student if a parent, or other person who has accepted responsibility for the education of the student, refuses to accept that the school operates in accordance with any religious, philosophical, or other distinguishing characteristics approved by the Authorisation Board and notified in the *Gazette* under section 212M(2)(f).

(3) Subsections (4) and (5) apply if a charter school receives more applications than there are places at the school.

(4) If the charter school was previously a State school that had an enrolment scheme in place before its conversion to a charter school, the order of priority is as follows:

(a) first priority must be given to any applicant who lives in the area of the converting school's previous home zone:

(b) second priority must be given to any student accepted for enrolment in a special programme run by the school, if applicable:

(c) third priority must be given to any applicant who is the sibling of a current student of the school:

(d) fourth priority must be given to any applicant who is the sibling of a former student of the school:

(e) fifth priority must be given to any applicant who is a child of a former student of the school:

(f) sixth priority must be given to any applicant who is a child of an employee of the sponsor or a child of a member of the sponsor:

(g) seventh priority must be given to all other applicants.

(5) For all other charter schools, the order of priority is as follows:

(a) first priority must be given to any applicant who is the sibling of a current student of the school:

(b) second priority must be given to any applicant who is the sibling of a former student of the school:

(c) third priority must be given to all other applicants.

(6) For the purposes of subsections (4) and (5),—

(a) if there are more applicants within a priority group than there are places available, applicants must be selected by ballot; and

(b) if 2 or more siblings apply at the same time, their applications must be treated as a single application for the purpose of the ballot.

(7) In this section, **sibling** has the same meaning as in section 75(3).

Section 212U: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212V Students at charter school may be given tuition by State school or another charter school

(1) Students enrolled at a charter school may, by agreement between the sponsor of a charter school and the board of a State school, receive tuition at or from a State school.

(2) Students enrolled at a charter school may, by agreement between the sponsors concerned, receive tuition at or from another charter school.

(3) The sponsor of a charter school at which the students are enrolled may pay the board of the State school or the sponsor of the other charter school giving the tuition.

(4) Tuition provided under this section may be delivered through any medium, including digital technology.

Section 212V: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212W Property maintenance fee

(1) This section applies if an integration agreement that was in force immediately before a State integrated school became a charter school allowed the proprietor to charge attendance dues.

(2) The sponsor may, if the charter school contract for the school provides, require a parent or other person who has accepted the responsibility for the education of a student at the charter school to pay a property maintenance fee as a condition of the student's enrolment at the school.

(3) The fee must be paid at the rate, and subject to any conditions, specified in the charter school contract.

(4) Revenue that the sponsor receives from the property maintenance fee must be used solely for the following:

(a) paying for improvements to the charter school's buildings and associated facilities as specified or provided for in the charter school contract:

(b) any capital works as specified or provided for in the charter school contract:

(c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the charter school.

(5) No revenue that the sponsor receives from property maintenance fees may be used to provide or improve the charter school's buildings and associated facilities to a standard higher than that appropriate for a comparable State school.

Compare: 1989 No 80 s 447

Section 212W: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212X Failure to pay property maintenance fee

(1) If a parent, or other person who has accepted the responsibility for the education of a student at a charter school, has entered into an agreement to pay a property maintenance fee and fails to make a payment, the payment is recoverable from the parent or other person in any court of competent jurisdiction as a debt due to the sponsor.

(2) In addition, any failure to make payment constitutes grounds for the sponsor of the charter school to suspend the student's attendance at that school and to remove the student's name from the school register.

(3) However, no student may be suspended and have the student's name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the student to be enrolled at another registered school.

Compare: 1989 No 80 s 449

Section 212X: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212Y Accounts for property maintenance fees

(1) A sponsor who is permitted to charge property maintenance fees must keep accounts in a manner approved by the chief executive of the Agency, showing—

(a) the total amount of fees received; and

(b) how the fees have been spent.

(2) The accounts must be—

(a) balanced at a date each year approved by the chief executive; and

(b) audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

(3) The sponsor must send a copy of the accounts, together with the auditor's report on them, to the chief executive by a date to be approved by the chief executive.

Compare: 1989 No 80 s 450

Section 212Y: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212Z Religious instruction and observances

(1) A charter school may provide religious instruction and observances only if permitted under its charter school contract.

(2) If religious instruction and observances form part of the education with a special character provided by a charter school, these may continue to form part of the general school programme in accordance with the terms and conditions set out in the charter school contract relating to that school.

(3) If religious instruction and observances form part of the education with a special character provided by a charter school, that school—

(a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and

(b) may not require a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction

concerned with particular observances if a parent of the student states that they do not wish that student to participate.

Section 212Z: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Multiple timetable arrangements

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZA Multiple timetable arrangements at charter schools

(1) A sponsor may run a multiple timetable arrangement at a charter school for a specified period if the sponsor is satisfied that the arrangement is appropriate in the circumstances.

(2) A sponsor must take all reasonable steps to notify every affected student and the student's parents in writing of—

(a) the multiple timetable arrangement; and

(b) the time periods for each day during which the affected student's timetable will run.

Compare: 1989 No 80 s 158Q

Section 212ZA: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Employment and appointment of teachers

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZB Religious instruction: appointments to special positions relating to character of charter school

If religious instruction forms part of the special character of a charter school, advertisements for the position of the chief executive and the person responsible for teaching and learning at the school may state that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment.

Section 212ZB: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZC Effect of religious instruction requirements in advertisements

If, in accordance with section 212ZB, an advertisement for a position states a requirement that a willingness and an ability to take part in religious instruction are conditions of appointment, any person appointed to that position must accept that requirement as a condition of appointment.

Section 212ZC: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZD Restrictions on requirement for teacher to take part in religious instruction

(1) The appointment of a teacher to a position in a charter school may not be conditional on the willingness and ability of that teacher to take part in religious instruction, and no appointed teacher may be required to take part.

(2) Subsection (1) is subject to section 212ZB.

Section 212ZD: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Multi-employer collective agreements

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZE Restriction on initiating bargaining for multi-employer collective agreement involving sponsor

(1) This section applies to a union whose members include employees of a sponsor.

(2) The union may not initiate bargaining under the Employment Relations Act 2000 for a multi-employer collective agreement (as defined in section 33(5) of that Act) with—

(a) 2 or more sponsors; or

(b) 1 or more sponsors and any 1 or more other employers.

Section 212ZE: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Interventions

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZF Interventions in charter schools by Authorisation Board

Types of interventions

(1) The Authorisation Board may apply 1 or more of the following interventions in relation to a sponsor:

(a) require the Chief Review Officer to review the governance and management of the charter school by the sponsor:

(b) require a sponsor to provide the Authorisation Board (or any other person authorised by the Authorisation Board) with the following at a given time, at specified intervals, or both:

(i) specified information:

(ii) an analysis of the specified information to be provided:

(c) require a sponsor to do the following at a given time, at specified intervals, or both:

(i) carry out a specified action:

(ii) provide the chief executive of the Agency with a report (for example, a progress report and a final report) on the action taken:

(d) terminate the charter school contract with a sponsor:

(e) terminate the charter school contract with a sponsor and replace the sponsor with another sponsor.

Grounds for intervention

(2) The Authorisation Board may apply an intervention described in subsection (1)(a), (b), or (c) if permitted under the relevant charter school contract.

(3) The Authorisation Board may apply an intervention described in subsection (1)(d) or (e) only if it considers that a less serious intervention is not sufficient to deal with the matter, and either of the following circumstances applies:

(a) the Authorisation Board has reasonable grounds to believe that the sponsor—

(i) has failed to comply with any of its contractual or legislative obligations in respect of the charter school; and

(ii) has not remedied the failure within a reasonable time or the failure cannot be remedied:

(b) the Authorisation Board has reasonable grounds to believe that—

(i) a significant risk exists that the sponsor will fail to comply with any of its contractual or legislative obligations in respect of the charter school; and

(ii) the sponsor is unlikely to mitigate that risk within a reasonable time.

General process for applying interventions

(4) The Authorisation Board must ensure that any interventions in subsection (1) are applied in accordance with relevant provisions of the charter school contract.

Process for applying specified interventions

(5) The Authorisation Board's written notice to the sponsor terminating the charter school contract must contain the following information:

(a) details of the contractual or legislative obligation the sponsor has failed to comply with; and

(b) the grounds for the Authorisation Board's belief that the sponsor is at risk of failing to comply with specified contractual or legislative obligations; and

(c) whether the sponsor will be replaced by another sponsor; and if so, the reasons for the replacement.

(6) If the Authorisation Board proposes to replace a sponsor, it—

(a) must consult the sponsor, school community, school staff, and students; and

(b) may consult any other person it thinks fit.

Section 212ZF: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZG Obligations of sponsor subject to intervention

(1) A sponsor subject to an intervention under section 212ZF must give the Authorisation Board or any person acting on its behalf—

(a) reasonable access to the school on request; and

(b) any reasonable assistance on request.

(2) If a sponsor is required to provide information under section 212ZF(1)(b), it must do so—

(a) within the time, or at the intervals, or both, specified by the Authorisation Board; and

(b) in the form (if any) required by the Authorisation Board.

(3) If a sponsor is required to carry out a specified action or provide a report to the Authorisation Board under section 212ZF(1)(c), it must do so—

(a) within the time, or at the intervals, or both, specified by the Authorisation Board; and

(b) in the form (if any) required by the Authorisation Board.

Section 212ZG: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZH Process relating to replacement of sponsor

(1) The Authorisation Board may, without receiving an application under section 212F, approve—

(a) a replacement sponsor to operate the charter school; or

(b) a temporary sponsor to operate the charter school before replacing the sponsor under subsection (1)(a).

(2) A replacement sponsor or temporary replacement sponsor must be a body corporate, corporation sole, limited partnership, institution, or related entity.

(3) Sections 212I, 212J, and 212K apply, with any necessary modifications, to the approval of a replacement sponsor or temporary replacement sponsor under this section.

(4) Section 212L applies, with any necessary modifications, to a replacement sponsor or temporary replacement sponsor.

Section 212ZH: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Application of other legislation to charter schools

Heading: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZI Application of New Zealand Bill of Rights Act 1990

Section 3(b) of the New Zealand Bill of Rights Act 1990 applies to the following persons when performing functions under this Act or in relation to a charter school contract:

(a) a sponsor:

(b) a person employed or engaged to work in the school by a sponsor.

Compare: 1989 No 80 s 158W

Section 212ZI: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZJ Application of Official Information Act 1982 to sponsor

(1) The Official Information Act 1982 does not apply to a sponsor if the sponsor is performing or exercising its functions, duties, or powers under this Act or the relevant charter school contract.

(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 charter school contract.

Compare: 1989 No 80 s 158Y

Section 212ZJ: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

212ZK Application of Public Service Act 2020 to sponsor that is institution

The Public Service Act 2020 does not apply to an institution that is a sponsor if the institution is performing or exercising its functions, duties, or powers as a sponsor under this Act or the relevant charter school contract.

Compare: 1989 No 80 s 158Z

Section 212ZK: inserted, on 1 October 2024, by section 41 of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 7—Private schools

213 Secretary may require application for registration of school

The Secretary may require the managers of a private entity that is not registered under section 214 to apply for its registration as a private school under that section if the Secretary considers that the entity is operating as a school, whether or not any exemption certificates issued under section 38 are held in respect of any or all of the students being taught there.

Compare: 1989 No 80 s 35B

214 Registration of private schools

(1) This section applies if the managers of an existing school or proposed school wish the school to be registered as a private school under this section.

(2) The managers must apply to the Secretary, on a form provided by the Secretary for the purpose, for its provisional registration as a primary, secondary, or special private school, or as a school of 2 or all of those descriptions.

(3) The provisional and full registration of private schools, and the operation of private schools, must be done in accordance with Schedule 7.

Compare: 1989 No 80 s 35A(1)

Subpart 8—Secondary–tertiary programmes

215 Recognition of secondary–tertiary programmes

The Minister may recognise, and the Secretary may enter into an agreement with, a provider group of secondary–tertiary programmes in accordance with Schedule 8.

Subpart 9—Resolving serious disputes

216 Purpose

The purpose of this subpart is to establish a dispute resolution scheme to facilitate and promote the resolution of serious disputes between students and State schools in an effective, flexible, and timely manner.

217 Meaning of serious dispute

In this subpart, **serious dispute** means a dispute between a student and the board of the student's school about—

(a) the student's right to enrol at or attend the school:

(b) the student's rights to education under this Act generally:

(c) the learning support the student receives at the school:

(d) the standing-down, suspension, exclusion, or expulsion of the student by the school:

(e) any racism or other form of discrimination that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993 experienced by the student while at the school:

(f) the student's physical or emotional safety while at the school:

(g) any physical restraint used on the student by a teacher or an authorised staff member employed or engaged by the school.

218 Dispute resolution panels

(1) One or more dispute resolution panels may be established by regulations made under section 644 to resolve serious disputes under this subpart.

(2) Each dispute resolution panel must consist of the combination of local community members and expert members specified in the regulations.

219 Chief Referee and deputy chief referees

(1) The Minister may appoint a Chief Referee and, if required, may appoint 1 or more deputy chief referees for the purposes of this subpart and in accordance with any regulations made under section 644.

(2) No person may be appointed as Chief Referee unless the person—

(a) holds a Bachelor of Laws from a university in New Zealand or a qualification that the Minister considers is equivalent to that qualification; and

(b) is capable, because of the person's personal attributes, knowledge, and experience, of performing the functions of the Chief Referee set out in section 220.

(3) A deputy chief referee must be appointed in the same manner, and must meet the same criteria, as the Chief Referee.

(4) Subject to the control of the Chief Referee, a deputy chief referee may perform all the functions of the Chief Referee.

220 Functions of Chief Referee

(1) The functions of the Chief Referee are—

(a) to receive and consider applications for resolution of serious disputes; and

(b) to appoint the members and chairperson of dispute resolution panels; and

(c) to maintain a list of persons suitable to serve as expert members and local community members of dispute resolution panels; and

(d) to carry out any other functions as necessary to support the conduct and administration of dispute resolution panels established for the purposes of this subpart.

(2) The Chief Referee may delegate in writing any of the Chief Referee's functions or powers to any person or office holder, or class of person or office holder, specified in regulations made under section 644.

(3) The Chief Referee and a deputy chief referee may be an expert member of a dispute resolution panel.

Application for dispute resolution

221 Application for dispute resolution

(1) The following persons may apply to the Chief Referee for a serious dispute to be resolved by a dispute resolution panel:

(a) a student aged 16 years or over:

(b) in the case of a student aged under 16 years, the student and a parent, guardian, or full-time caregiver of the student:

(c) in the case of a student aged under 16 years and who is in care—

(i) the student and a guardian of the student; or

(ii) the student and the chief executive, person, body, or organisation referred to in section 7(4) of the Oranga Tamariki Act 1989 (or their nominated representative) who has the custody or care of the student.

(2) However, an application may be made only if, before making the application, the applicant has given the board an opportunity to resolve the dispute by agreement and—

(a) the applicant is dissatisfied with that process or the outcome (or both); or

(b) the board has refused to do so.

(3) For the purposes of subsection (1)(c), **in care** has the same meaning as in section 7(4) of the Oranga Tamariki Act 1989.

222 Form of application

(1) An application may be made orally or in writing.

(2) However, an application made orally must be put in writing as soon as practicable.

(3) An application must include a statement setting out—

(a) the nature of the serious dispute; and

(b) what steps the applicant has taken to resolve the serious dispute with the board before seeking to refer the matter to a dispute resolution panel.

223 Procedure on receipt of application

(1) As soon as practicable after receiving an application, the Chief Referee must consider the application and—

(a) decide to accept the application and refer the matter to a dispute resolution panel; or

(b) decide, in accordance with section 224, to decline the application.

(2) As soon as practicable after making a decision, the Chief Referee must give written notice to the applicant of that decision.

224 Grounds for declining application

The Chief Referee may decline an application if satisfied that—

(a) the applicant has not made reasonable efforts to resolve the serious dispute with the board before making the application; or

(b) the subject matter of the application is trivial; or

(c) the application is frivolous or vexatious; or

(d) the application involves a dispute or complaint that would be more appropriately dealt with by another body.

Dispute resolution process

225 Appointment of mediator

(1) If a serious dispute is referred to a dispute resolution panel under section 223(1)(a), the panel must appoint a mediator to assist the parties to resolve the serious dispute by agreement unless, in the particular circumstances, the panel considers it is inappropriate to do so.

(2) The mediator may be a panel member.

(3) However, if the mediator is a panel member, the person must not continue to serve on the panel if the panel decides to make a recommendation under section 227 or a determination under section 228.

226 Panel may make recommendation or determination

(1) This section applies if a dispute resolution panel considers that it is inappropriate to appoint a mediator under section 225 or not all of the issues between the parties are resolved through mediation provided under that section.

(2) The dispute resolution panel may do either or both of the following:

(a) make 1 or more of the recommendations set out in section 227; or

(b) make a determination in relation to the serious dispute and take 1 or more of the actions set out in section 228.

(3) A recommendation under subsection (2)(a) is not binding on the parties.

(4) A determination under subsection (2)(b) is not binding on the parties unless, before the determination is made, the parties have agreed to be bound by the determination.

227 Recommendations

For the purposes of section 226(2)(a), the dispute resolution panel may make the following recommendations:

(a) that the board reverse or modify its original decision in relation to the student:

(b) that the board apologise to the student:

(c) that the board refrain from continuing or repeating the conduct that gave rise to the serious dispute:

(d) that the board—

(i) review any of its rules, bylaws, or policies relating to the conduct that gave rise to the serious dispute:

(ii) establish any rule, bylaw, or policy relating to the conduct that gave rise to the serious dispute:

(e) that the board take any other relevant action to resolve the serious dispute.

228 Determinations

(1) If the panel decides to determine the serious dispute under section 226(2)(b), the panel may—

(a) confirm, reverse, or modify the board's original decision in relation to the student:

(b) make a declaration that the board has committed a breach of the student's rights:

(c) make a recommendation that the board—

(i) review any of its rules, bylaws, or policies relating to the conduct that gave rise to the serious dispute:

(ii) establish any rule, bylaw, or policy relating to the conduct that gave rise to the serious dispute:

(iii) take any other relevant action to resolve the serious dispute:

(d) make 1 or more of the following orders:

(i) an order that the board apologise to the student:

(ii) an order that the board refrain from continuing or repeating the breach, or from engaging in conduct of any similar kind specified in the order in relation to the student:

(iii) an order setting out the detail of what the parties must do to comply with a determination confirming, reversing, or modifying the board's original decision in relation to the student:

(iv) an order setting out the particulars of any other relevant action that the panel directs the board to take.

(2) If the parties have agreed to be bound by an order made under subsection (1)(d), either party may enforce 1 or more of the orders through the courts by means specified in regulations made under section 644.

229 Participation in dispute resolution process

(1) If a serious dispute is referred to a dispute resolution panel under this subpart, the board must participate in the dispute resolution process undertaken by the panel, including any meetings convened by a mediator or by the panel.

(2) Either party may have 1 or more persons present to provide support at any meeting referred to in subsection (1) by notifying the panel in advance of the meeting.

(3) However, if the Chief Referee considers it impracticable or inappropriate for the person providing support to be present at any meeting, that person may not be present.

(4) A party may not be represented by a lawyer during any meeting, and a support person may not provide any legal advice or representation to the party during the meeting.

Settlements

230 Settlements

(1) If a serious dispute is resolved through mediation under section 225(1), the mediator may, at the request of the parties, prepare a record of the agreed terms of settlement to be signed by the parties and the mediator.

(2) Before signing the agreed terms of settlement, the mediator must—

(a) explain to the parties the effect of subsection (3); and

(b) be satisfied that, knowing the effect of that subsection, the parties affirm their request.

(3) If, following the affirmation referred to in subsection (2)(b), the agreed terms of settlement to which the request relates are signed by the parties and the mediator,—

(a) those terms are final and binding on, and enforceable by, the parties; and

(b) except for enforcement purposes, no party may seek to bring those terms before the court, whether by action, appeal, application for review, or otherwise.

(4) For the purposes of this section, a minor aged 16 years or over may be a party to agreed terms of settlement, and be bound by that settlement, as if the minor were a person of full age and capacity.

General provisions

231 Duty to comply with prescribed processes or procedures

A dispute resolution panel must comply with the processes or procedures (if any) prescribed in regulations made under section 644 when performing its functions.

232 Duty to act independently

(1) The Chief Referee and every deputy chief referee must act independently in performing their functions.

(2) Each member of a dispute resolution panel must act independently in performing the functions of a dispute resolution panel.

233 Conflicts of interest

(1) If the Chief Referee, a deputy chief referee, or a member of a dispute resolution panel has a conflict of interest relating to a serious dispute referred to a dispute resolution panel, the person must—

(a) disclose the nature of the interest to the panel and the parties concerned as soon as practicable after the person knows about the relevant facts; and

(b) if the conflict is material, withdraw from the panel, unless both parties to the serious dispute agree otherwise.

(2) In this section, **interest** includes (without limitation) that the person is a parent, child, spouse, civil union partner, or de facto partner of any person who is a party to the dispute.

234 Personal liability of Chief Referee and deputy chief referees

The Chief Referee appointed under section 219 and any deputy chief referee appointed under that section are not personally liable for any act done or omitted if the act or omission was—

(a) in good faith; and

(b) in performance or intended performance of the Chief Referee's or deputy chief referee's functions.

235 Personal liability of panel members and mediators

A member of a dispute resolution panel and any mediator appointed by the panel is not personally liable for any act done or omitted by the dispute resolution panel or mediator if the act or omission was (as far as the panel member's or mediator's involvement is concerned)—

(a) in good faith; and

(b) in performance or intended performance of the dispute resolution panel's functions.

236 Confidentiality

(1) This section applies to the following persons:

(a) the Chief Referee and any deputy chief referee:

(b) a person who is a party to a serious dispute referred to a dispute resolution panel under section 223(1)(a) or is a support person of that party:

(c) a person who is a member of a dispute resolution panel:

(d) a mediator appointed under section 225(1).

(2) The person must, unless authorised by the parties or by or under any enactment, keep confidential—

(a) any statement, admission, or document created or made for the purposes of resolving the serious dispute under this subpart (including any agreed terms of settlement under section 230); and

(b) any information that, for the purposes of resolving the serious dispute, is disclosed orally in the course of the dispute resolution process.

(3) Despite subsection (2), the Chief Referee may publish anonymised reports relating to serious disputes referred to dispute resolution panels under this subpart.

Subpart 10—Miscellaneous provisions

237 Enrolment records

(1) The following persons must ensure that an enrolment record in the form and containing the information that may be specified in rules made under subsection (3) is kept for each student who is enrolled at the school:

(a) the principal of a State school:

(b) the person responsible for teaching and learning in a charter school:

(c) a manager of a private school.

(2) When a student moves from one registered school to another registered school, the principal, or person responsible for teaching and learning, or manager of the first school must take reasonable steps to send the student's enrolment record to the principal, or person responsible for teaching and learning, or manager of the second school.

(3) The Secretary may make rules setting out administrative and procedural requirements relating to enrolment records, including (without limitation) rules—

(a) setting out the duties of principals, persons responsible for teaching and learning, and managers concerning enrolment records and the information contained in enrolment records:

(b) requiring principals, persons responsible for teaching and learning, and managers to inform students and parents about enrolment records and the use and distribution of enrolment records, and specifying the particulars about which students and parents are to be informed:

(c) specifying the form and content of enrolment records:

(d) specifying exceptions to particular requirements of the rules.

(4) The persons referred to in subsection (1) must comply with rules made under subsection (3).

(5) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 77A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 237(1): replaced, on 1 October 2024, by section 42(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 237(2): amended, on 1 October 2024, by section 42(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 237(3): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 237(3)(a): amended, on 1 October 2024, by section 42(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 237(3)(b): amended, on 1 October 2024, by section 42(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 237(4): amended, on 1 October 2024, by section 42(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 237(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

237A Attendance records

(1) The principal of a State school must ensure that an attendance record is kept for each student who is enrolled at the school.

(2) The attendance record must be in the form and contain the information specified in rules made under subsection (3).

(3) The Secretary may make rules setting out administrative and procedural requirements relating to attendance records, including (without limitation) rules—

(a) specifying the form and content of attendance records:

(b) relating to the collection, storage, and disclosure of information contained in attendance records:

(c) specifying the circumstances in which any exceptions to any general requirements for specific school types may be made.

(4) A principal of a State school must comply with rules made under subsection (3).

(5) Rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 s 73, 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 237A: inserted, on 1 October 2024, by section 43 of the Education and Training Amendment Act 2024 (2024 No 40).

238 Building Act 2004

(1) A person inspecting sitework or a building under this Act must provide written notice of any non-compliance with the Building Act 2004 to the relevant territorial authority.

(2) In this section, **building**, **sitework**, and **territorial authority** have the same meanings as in section 7 of the Building Act 2004.

Compare: 1989 No 80 s 139B

Subpart 11—Offences

239 Offence relating to failure to comply with notice given under section 46

A parent who fails to comply with a notice given under section 46(1) commits an offence and is liable on conviction to a fine not exceeding $3,000.

Compare: 1989 No 80 s 28

240 Offence relating to employing school-age children

A person commits an offence and is liable on conviction to a fine not exceeding $1,000 if the person,—

(a) being a parent of any other person, permits the other person to be employed in contravention of section 54(1); or

(b) employs any other person in contravention of section 54(1).

Compare: 1989 No 80 s 30

241 Offence relating to insulting, abusing, or intimidating teachers or staff members of registered schools

(1) A person commits an offence and is liable on conviction to a fine not exceeding $1,000 if the person intentionally insults, abuses, or intimidates a teacher or staff member of a registered school—

(a) within the presence or hearing of any student of the school; and

(b) while on school premises, or in any other place where students of the school are assembled for school purposes.

(2) Subsection (1) does not apply to a student of the school.

Compare: 1989 No 80 s 139C

242 Offence relating to interference with attendance officers

A person who intentionally obstructs or interferes with an attendance officer exercising their powers under section 49 commits an offence and is liable on conviction to a fine not exceeding $1,000.

Compare: 1989 No 80 s 31(6)

243 Offence relating to failure to enrol

(1) If a parent of a person required to be enrolled at a registered school fails or refuses to ensure that the person is enrolled at the school, the parent commits an offence and is liable on conviction to a fine not exceeding $3,000.

(2) The payment of a fine in respect of a conviction for an offence against this section is not a bar to proceedings for any further offence.

Compare: 1989 No 80 s 24

244 Offence relating to irregular attendance

(1) A parent of a student commits an offence if the student,—

(a) while enrolled at a registered school, does not attend the school as required by sections 36 and 42; or

(b) while enrolled at a distance school, does not do the work of the course in which the student is enrolled.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $30 for every school day on which the offence occurs.

(3) However, a fine imposed for an offence against subsection (1) may not exceed $300 for a first offence or $3,000 for a second or subsequent offence.

(4) The imposition of a penalty under this section does not limit or affect any provision of the Oranga Tamariki Act 1989.

Compare: 1989 No 80 s 29

245 Hearings of proceedings may be private

If a District Court Judge orders, proceedings for an offence against section 243 or 244 must be held in private.

Compare: 1989 No 80 s 32

246 Evidence of school roll, etc

(1) In any proceedings for an offence against section 243 or 244, a certificate from a school's principal regarding any of the following matters is, in the absence of proof to the contrary, sufficient evidence of the matter stated:

(a) the enrolment of the student at a school:

(b) the days on which the school was open during any period:

(c) the student's attendance at the school during any period:

(d) the student's age:

(e) the name and address of a parent of the student.

(2) Judicial notice must be taken of the principal's appointment and signature on a certificate given under subsection (1).

Compare: 1989 No 80 s 33

247 Burden of proof on parents

In proceedings under section 243 or 244, the burden of proving any of the following matters in relation to a student is on a parent of the student:

(a) the enrolment of the student at a school:

(b) the student's attendance at a school:

(c) the student's exemption from enrolment or attendance at a school.

Compare: 1964 No 135 s 126; 1989 No 80 s 34

248 Fines to be paid to board or sponsor

A fine recovered under section 243 or 244 must be paid to the board or sponsor on whose behalf the proceedings concerned were commenced.

Compare: 1989 No 80 s 35

Section 248 heading: replaced, on 1 October 2024, by section 44(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 248: amended, on 1 October 2024, by section 44(2) of the Education and Training Amendment Act 2024 (2024 No 40).

249 Offences relating to operation of private schools

(1) A manager of a private entity that is not registered as a private school under section 214 commits an offence if the entity operates as a school.

(2) A manager of a private school that is registered as a school of a particular description or particular descriptions commits an offence if the school operates as a school of another description or of other descriptions.

(3) A manager of a private school commits an offence if the school ceases to operate before the managers tell the Secretary that it is to cease to operate.

(4) A person who commits an offence against any of subsections (1) to (3) is liable on conviction to a fine not exceeding $200 for every day or part of a day on which the offence took place.

Compare: 1989 No 80 s 35R

Part 4
Tertiary education and vocational education and training

250 Outline of Part 4

(1) This Part, which concerns tertiary education and vocational education and training, is divided into 7 subparts.

(2) Subpart 1 deals with various preliminary matters.

(3) Subpart 2 concerns teaching, learning, and well-being.

(4) Subpart 3 concerns the administration of tertiary institutions.

(5) Subpart 4 concerns the Te Pūkenga—New Zealand Institute of Skills and Technology.

(6) Subpart 5 concerns private training establishments.

(7) Subpart 6 concerns work-based training.

(8) Subpart 7 sets out several offence provisions.

Compare: 1989 No 80 s 308

251 Purpose of Part 4

The purpose of this Part is to establish and support a tertiary education and vocational education and training system that meets the objectives set out in section 252 by—

(a) providing the framework for the Government to set out its strategic direction for tertiary education; and

(b) establishing tertiary education organisations, and providing for their operation, duties, powers, compliance, and disestablishment; and

(c) providing for the admission of domestic and international students and setting out student rights, responsibilities, and protections; and

(d) supporting the health, safety, and well-being of students; and

(e) regulating learning and providing quality assurance for learning, including qualifications, credentials, micro-credentials, programmes, assessment and skill standards, national curricula, and apprenticeship training arrangements; and

(f) providing for funding of tertiary education; and

(g) providing for the roles and functions of other regulators and education agencies.

Section 251(e): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Subpart 1—Preliminary matters

252 Objectives of Part 4

(1) The objectives of this Part are to foster and develop a tertiary education and vocational education and training system that—

(a) fosters, in ways that are consistent with the efficient use of national resources, high-quality learning and research outcomes, equity of access, and innovation; and

(b) contributes to the development of cultural and intellectual life in New Zealand; and

(c) responds to the needs of learners, interested persons or bodies, and the nation, in order to foster a skilled and knowledgeable population over time; and

(d) contributes to the sustainable economic and social development of the nation; and

(e) strengthens New Zealand's knowledge base and enhances the contribution of New Zealand's research capabilities to national economic development, innovation, international competitiveness, and the attainment of social and environmental goals; and

(f) provides for a diversity of teaching and research that fosters, throughout the system, the achievement of international standards of learning and, as relevant, scholarship.

(2) The Minister, TEC, and NZQA must take these objectives into account when making decisions under this Part or any decisions under Part 5 relating to tertiary education or vocational education and training.

Compare: 1989 No 80 s 159AAA

253 Roles within tertiary education and vocational education and training sectors

To avoid doubt,—

(a) the Ministry is the Minister's principal policy adviser on matters relating to tertiary education and vocational education and training:

(b) NZQA is the body primarily responsible for quality assurance matters in the tertiary education and vocational education and training sectors, apart from universities:

(c) the Vice-Chancellors Committee is the body primarily responsible for quality assurance matters in respect of universities.

Compare: 1989 No 80 s 159AD

254 Ministry may hold and disseminate information

Any information collected by TEC or NZQA—

(a) may be held by the Ministry on behalf of TEC or NZQA; and

(b) may be disclosed by the Ministry to TEC or NZQA or to any other person or agency that is entitled to receive it.

Compare: 1989 No 80 s 159AE

255 Enrolment of students

(1) A person is eligible to be enrolled as a student in a programme or micro-credential provided by an institution if—

(a) the person is a domestic student or the institution's council complies with section 525 and consents; and

(b) the person holds the minimum entry requirements for the programme or micro-credential as determined by the institution's council; and

(c) the person has attained,—

(i) if the institution has fixed a minimum age for enrolment at the institution, the fixed age; and

(ii) if the institution has fixed a minimum age for enrolment in the programme or micro-credential, the fixed age.

(2) Subsection (1)(b) and (c) does not apply to a person if—

(a) the person has turned 20 years; or

(b) the council of the institution is satisfied that the person is capable of undertaking the programme or micro-credential concerned.

(3) An eligible student who applies for enrolment in a programme or micro-credential at an institution is entitled to be enrolled in that programme or micro-credential.

(4) However, the council of the institution—

(a) may determine the maximum number of students that may be enrolled in a particular programme or micro-credential at the institution in a particular year if the council is satisfied that it is necessary to do so because of insufficiency of staff, accommodation, or equipment:

(b) may, in the selection of the students to be enrolled, give preference to eligible persons who are included in a class of persons that is under-represented among the students undertaking the programme or micro-credential if—

(i) the maximum number of students who may be enrolled at an institution in a particular programme or micro-credential in a particular year is determined by the council under paragraph (a); and

(ii) the number of eligible students who apply for enrolment in that programme or micro-credential in that year exceeds the maximum number so determined.

(5) Nothing in this section prevents an institution's council from refusing to permit, or from cancelling, the enrolment of a person as a student at the institution, or in a particular programme or micro-credential at the institution, on the ground that—

(a) the person is not of good character; or

(b) the person has been guilty of misconduct or a breach of discipline; or

(c) the person is enrolled for full-time instruction at another institution or at a school; or

(d) the person has made insufficient progress in the person's study or training after a reasonable trial at the institution or at another institution.

(6) The chief executive of an institution that provides approved programmes of pre-service teacher training must ensure that the appropriate authorities of the institution liaise with the appropriate authorities of other institutions that provide the programmes to establish common requirements to govern the selection and enrolment of people in those programmes.

(7) In this section,—

eligible student, in relation to a programme or micro-credential at an institution, means a person who is eligible to be enrolled as a student in that programme or micro-credential

year means a period of 12 months commencing on 1 January.

Compare: 1989 No 80 s 224

Section 255(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(1)(c)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(2)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(3): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(4)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(4)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(4)(b)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(4)(b)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(5): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 255(7) **eligible student**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Fees

256 Fees for domestic students and employers

(1) An institution's council may fix, or specify a means to determine,—

(a) a tuition fee for any programme of study or training at the institution:

(b) a fee for the provision of student services that are provided by the institution or by another person or body on behalf of the institution.

(2) An institution's council that receives funding under section 425 or 428 may not fix, in relation to domestic students or employers, a fee (or a fee of a particular kind) that does not comply with any limit or requirement specified in a condition imposed under section 426 or 429(2) (whichever is applicable).

(3) *[Repealed]*

(4) *[Repealed]*

(5) A domestic student may not be or continue to be enrolled in a programme of study or training at an institution unless the following fees have been paid to the institution's council in respect of the student:

(a) the tuition fee (if any) fixed, or determined, under subsection (1)(a); and

(b) the fee for the provision of student services (if any) determined under subsection (1)(b); and

(c) all other fees (if any) prescribed by the council.

(6) Subsection (5) does not prevent a council from accepting any fee required to be paid by instalments.

(7) An institution's council must take all reasonable steps to ensure that, before the procedures for enrolling a student at the institution for the first time in any year are complete, the student is given written notice of any circumstances in which the student is or may be entitled to a refund of all or any part of fees paid or to be paid to the council.

(8) The power of an institution's council to refund to a student all or any part of any fees paid to it is not limited or affected by—

(a) any failure to comply with subsection (7); or

(b) the fact that the circumstances fall outside those notified; or

(c) the fact that the refund is larger than specified in the notice.

Compare: 1989 No 80 s 227

Section 256 heading: amended, on 1 August 2022, by section 14(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 256(2): replaced, on 1 August 2022, by section 14(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 256(3): repealed, on 1 August 2022, by section 14(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 256(4): repealed, on 1 August 2022, by section 14(3) of the Education and Training Amendment Act 2022 (2022 No 38).

257 Ministerial direction to institutions relating to compulsory student services fees

[Repealed]

Section 257: repealed, on 1 August 2022, by section 15 of the Education and Training Amendment Act 2022 (2022 No 38).

258 Institutions to give prospective students information about fees

An institution must ensure that prospective students receive, before enrolment is completed, full written details of—

(a) all fees associated with their programmes; and

(b) the class or lecture materials, books, special clothing, safety equipment, tools, and other items that are or may be required by the institution to be bought or provided by students enrolled in each programme of study or training; and

(c) any fee fixed under section 256(1)(b) that must be paid to the institution for the provision of student services.

Compare: 1989 No 80 s 228A

Student loans and allowances

259 Provisions about student loans and allowances and Student Allowance Appeal Authorities

(1) Schedule 9 contains provisions relating to student allowances and the administration of student loans.

(2) Sections 386, 387, and 396 are offence provisions relating to Schedule 9.

(3) Section 645 authorises the making of regulations relating to student allowances.

(4) Schedule 10 contains provisions relating to the composition and operation of Student Allowance Appeal Authorities.

(5) Section 666 sets out an offence provision relating to Schedule 10.

(6) Section 646 authorises the making of regulations relating to Student Allowance Appeal Authorities.

Subpart 2—Teaching, learning, and well-being

260 Programmes

(1) Subject to subpart 2 of Part 5, an institution's council may determine the programmes of study and training to be provided at the institution.

(2) However, the Minister may direct the institution's council not to provide or continue to provide a particular programme of study or training if the Minister believes on reasonable grounds, after consulting the council and any other persons that the Minister thinks fit, that the provision or continued provision of the programme of study or training—

(a) would have significant implications for the allocation of the national resources available for tertiary education or vocational training; and

(b) would be contrary to the efficient use of those resources.

(3) A direction under subsection (2)—

(a) must be in writing and set out the reasons for giving the direction:

(b) may be exercised only in relation to a programme of study or training as a whole and may not be exercised in relation to any particular subjects or other constituent elements of a programme of study or training.

(4) An institution's council must comply with a direction given to it.

(5) This section applies to Te Pūkenga—New Zealand Institute of Skills and Technology's council subject to section 318(6).

Compare: 1989 No 80 s 223

Students association

261 Membership of students association voluntary

A student or prospective student at an institution is not required to be a member of a students association.

Compare: 1989 No 80 s 229A

262 Prohibition on undue influence

A person may not exert undue influence on any student or prospective student with the intention of making that student or prospective student—

(a) become or remain a member of a students association; or

(b) cease to be a member of a students association; or

(c) not become a member of a students association.

Compare: 1989 No 80 s 229B

263 Complaints regarding undue influence

(1) A student or prospective student who believes on reasonable grounds that a person has exerted undue influence in breach of section 262 may lodge a complaint with the relevant institution's council.

(2) A complaint must be in writing and specify the grounds on which the person believes that undue influence has been exerted.

(3) A student or prospective student who lodges a complaint—

(a) is entitled to be heard on the matter by the council; and

(b) may be self-represented, or be represented by an advocate.

(4) A students association in respect of which a complaint has been lodged—

(a) is entitled to be heard on the matter by the council; and

(b) may be represented by a member of the association or by an advocate.

(5) The council may refuse to hear a complaint if it believes that no reasonable grounds exist for it to be made.

(6) If the council hears a complaint, it must deal with that complaint in accordance with the principles of natural justice and the procedures (if any) prescribed by the council in statutes made under section 284.

(7) The council may uphold, reject, or otherwise decide on the complaint as it thinks fit in the circumstances, and its decision is final.

Compare: 1989 No 80 s 229C

264 Students association membership fees

(1) A person may not be required to pay a membership fee to a students association, or to pay money to another person as an alternative to paying a mem-

bership fee to a students association, unless the person chooses to become or remain a member of the association.

(2) A person who is not a member of a students association may not be required to pay a representation fee to the association for any services that the association provides generally to the institution's student body.

(3) Subsections (1) and (2) do not prevent a students association from—

(a) charging a person who is not a member of the association for the provision of a specific service to the person, at the person's request; or

(b) being contracted by an institution or any other person to provide services to students of an institution.

(4) An institution's council must, if asked by a students association of the institution, collect the membership fees of that association, but only if the association provides the council with—

(a) a copy of its current constitution; and

(b) an independently audited set of financial accounts of the association for the last financial year.

(5) The council must pay all membership fees collected on behalf of the students association to the association in a timely manner.

(6) Despite subsections (4) and (5), the council may decline a request to collect membership fees on behalf of a students association, or may withhold all or part of any membership fees collected, if the council believes that—

(a) the terms of the constitution of the students association are being breached; or

(b) the accounts disclose financial irregularities.

(7) The council may retain any membership fees that have been withheld under subsection (6) until the council is satisfied that all breaches of the terms of the students association's constitution, and all financial irregularities, have been appropriately addressed by the association.

(8) The council may charge a students association for the actual and reasonable costs incurred by the council in collecting membership fees on behalf of the association.

Compare: 1989 No 80 s 229CA

265 Application of sections 261 to 264 to private training establishments

Sections 261 to 264 apply to private training establishments as if—

(a) every reference to an institution includes a reference to a private training establishment; and

(b) every reference to a council includes a reference to the governing body of the private training establishment.

Compare: 1989 No 80 s 229D

Subpart 3—Administration of institutions

266 Object

The object of the provisions of this Act relating to institutions, including those established under Part 4A, is to give them as much independence and freedom to make academic, operational, and management decisions as is consistent with the nature of the services they provide, the efficient use of national resources, the national interest, and the demands of accountability.

Compare: 1989 No 80 s 160

Section 266: amended, on 23 August 2023, by section 6 of the Education and Training Amendment Act 2023 (2023 No 45).

267 Academic freedom and institutional autonomy of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology)

(1) It is the intention of Parliament in enacting the provisions of this Act relating to universities and wānanga that academic freedom and the autonomy of those institutions are preserved and enhanced.

(2) In exercising their academic freedom and autonomy, institutions must act in a manner that is consistent with—

(a) the need for institutions to maintain the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards; and

(b) the need for institutions to be accountable and make proper use of resources allocated to them.

(3) In performing their functions, the councils and chief executives of institutions, Ministers, and authorities and agencies of the Crown must act in all respects so as to give effect to the intention of Parliament as expressed in this section.

(4) In this section, **academic freedom**, in relation to an institution, means—

(a) the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas, and to state controversial or unpopular opinions:

(b) the freedom of academic staff and students to engage in research:

(c) the freedom of the institution and its staff to regulate the subject matter of courses taught at the institution:

(d) the freedom of the institution and its staff to teach and assess students in the manner that they consider best promotes learning:

(e) the freedom of the institution through its chief executive to appoint its own staff.

(5) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology (for which section 318 provides).

Compare: 1989 No 80 s 161

Section 267 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 267(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

268 Establishment of institutions

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish an institution.

(2) Before making a recommendation, the Minister must—

(a) give NZQA a reasonable period to give advice to the Minister on the matter and consider any advice given; and

(b) be satisfied that the establishment of the institution is in the interests of the tertiary education system and the nation as a whole; and

(c) consult the institutions, organisations representing institutions, and other relevant bodies that the Minister thinks fit; and

(d) take into account—

(i) that universities have all the following characteristics and other institutions have 1 or more of them:

(A) they are primarily concerned with more advanced learning, the principal aim being to develop intellectual independence:

(B) their research and teaching are closely interdependent and most of their teaching is done by people who are active in advancing knowledge:

(C) they meet international standards of research and teaching:

(D) they are a repository of knowledge and expertise:

(E) they accept a role as critic and conscience of society; and

(ii) that—

(A) a university is characterised by a wide diversity of teaching and research, especially at a higher level, that maintains, advances, disseminates, and assists the application of knowledge, develops intellectual independence, and promotes community learning.

(B) *[Repealed]*

(3) An order under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(3) *[Repealed]*

(4) In the case of a university, its name may be changed if the procedure set out in subsections (5) to (7) is followed.

(5) The university must give written notice to the Minister of the proposed name change.

(6) If notice is given, the Minister must present the proposal to the House of Representatives.

(7) If the House of Representatives, by resolution, accepts the proposed name change, the Minister must change the name of the university by notice published in the *Gazette*.

Compare: 1989 No 80 s 162

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 268(2)(d)(ii)(B): repealed, on 23 August 2023, by section 7(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 268(3): inserted, as section 268(2A), on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 268(3) subsection number: replaced, on 23 August 2023, by section 7(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 268(3): repealed, on 23 August 2023, by section 7(1) of the Education and Training Amendment Act 2023 (2023 No 45).

269 Constitution of institutions

An Order in Council establishing an institution must make provision for determining the people who are to constitute the institution.

Compare: 1989 No 80 s 163(2)

270 Disestablishment of institutions

(1) The Governor-General may, by Order in Council made on recommendation of the Minister, disestablish an institution.

(2) However, the Governor-General may not disestablish a university unless the House of Representatives has passed a resolution approving the disestablishment of the university.

(3) The Minister may not recommend the disestablishment of an institution unless the Minister—

(a) is satisfied on reasonable grounds that there are good reasons to do so; and

(b) is satisfied that the disestablishment is in the interests of the tertiary education system and the nation as a whole; and

(c) specifies the reasons in the recommendation.

(4) When an institution is, or 2 or more institutions are, disestablished, the Governor-General may, by Order in Council made on the recommendation of the Minister, incorporate the disestablished institution or any 1 or more of the disestablished institutions in another institution, whether the other institution is—

(a) an existing institution or a new institution established for the purpose:

(b) an institution of the same class as the disestablished institution or institutions or an institution of a different class from it or them.

(5) Before making a recommendation under this section, the Minister must—

(a) give to the institution's council or the councils of the institutions concerned, and to every other council of an institution that the Minister considers is likely to be directly affected, written notice—

(i) setting out the action that the Minister is considering whether to take and the reasons for that action; and

(ii) inviting each council to make a written submission to the Minister in relation to the matter; and

(b) publish, in the *Gazette*, the notices that the Minister thinks fit inviting members of the public to make written submissions in relation to the matter; and

(c) consider any submissions made within a reasonable period in response to the notices.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6A) When the order is presented to the House of Representatives (as required by the Legislation Act 2019) it must be accompanied by a statement of the reasons for the making of the order.

(7) To avoid doubt, nothing in this section applies to Te Pūkenga—New Zealand Institute of Skills and Technology.

Compare: 1989 No 80 s 164

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives and comply with subsection (6A)	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 270(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 270(6A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 270(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Councils

271 Institutions to be governed by councils

Te Pūkenga—New Zealand Institute of Skills and Technology

(1) The governing body of Te Pūkenga—New Zealand Institute of Skills and Technology is its council, the members of which are appointed under section 320.

Wānanga

(2) The governing body of a wānanga that is a Crown entity is its council constituted in accordance with—

(a) this Part; or

(b) the order establishing the wānanga under Part 4A; or

(c) the order made under clause 90(1) of Schedule 1 reconstituting the council of the wānanga.

(3) The governing body of a wānanga that is not a Crown entity is its council constituted in accordance with—

(a) the order establishing the wānanga under Part 4A; or

(b) the order made under clause 94(2) of Schedule 1 converting a wānanga that is a Crown entity to a wānanga that is not a Crown entity.

Other institutions

(4) The governing body of every other institution is its council constituted in accordance with this Part.

References to, and actions of, councils

(5) A reference in any enactment to the council or other governing body of an institution referred to in subsections (2) to (4) must be construed as a reference to the council of the institution.

(6) Subject to section 283(2), all acts or things done in the name of, or on behalf of, an institution with the authority of, or of a delegate of, the council or the chief executive are to be treated as being done by the institution.

Further provisions relating to councils

(7) Part 4A provides for the constitution, appointment, and operation of councils of certain wānanga, and for related matters.

(8) Schedule 11 provides for the constitution, appointment, and operation of councils of Te Pūkenga—New Zealand Institute of Skills and Technology and other institutions, and for related matters.

Section 271: replaced, on 23 August 2023, by section 8 of the Education and Training Amendment Act 2023 (2023 No 45).

272 Incorporation

(1) Each university or wānanga established under section 268, Te Pūkenga—New Zealand Institute of Skills and Technology as continued by section 314, and each wānanga established under Part 4A, is a body corporate with perpetual succession and is capable of—

(a) holding real and personal property; and

(b) suing and being sued; and

(c) otherwise doing and suffering all that bodies corporate may do and suffer.

(2) This section does not limit section 282(1).

Compare: 1989 No 80 s 166

Section 272(1): amended, on 23 August 2023, by section 9 of the Education and Training Amendment Act 2023 (2023 No 45).

273 Common seal

(1) An institution may have a common seal if its council adopts one by statute.

(2) A council may, by statute,—

(a) specify the type or class of documents that may be executed by affixing the common seal to them; and

(b) specify the type or class of documents that may be executed only by affixing the common seal to them; and

(c) specify any member or members of the council, and any member or members of the staff of the institution, who may countersign documents (or a specified type or class of documents) to which the common seal is affixed.

(3) All courts and persons acting judicially must take judicial notice of an institution's common seal.

(4) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology or its subsidiaries.

Compare: 1989 No 80 s 167

Section 273(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

274 Method of contracting

(1) An institution may enter into a contract or other enforceable obligation as provided in this section.

(2) An obligation that, if entered into by an individual, is required to be entered into by deed may be entered into by the institution's council in writing, signed under the name of the institution by 2 or more council members.

(3) An obligation that, if entered into by an individual, is required to be entered into in writing may be entered into by the institution's council in writing,

signed by 1 person or more than 1 person acting under the institution's express or implied authority.

(4) An obligation that, if entered into by an individual, is not required to be entered into in writing may be entered into by the institution's council in writing or orally by a person acting under the institution's express or implied authority.

(5) This section applies to a contract or other enforceable obligation,—

(a) whether or not that obligation was entered into in New Zealand; and

(b) whether or not the law governing that obligation is the law of New Zealand.

(6) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology or its subsidiaries.

Compare: 1989 No 80 s 167A

Section 274(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

275 Constitution to provide for membership of council

(1) The constitution of a council must provide that it has 8, 9, 10, 11, or 12 members.

(2) Subsection (1) does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 320 provides).

Compare: 1989 No 80 s 170A

Section 275(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

276 Membership of council

(1) An institution's council must have a total of 8, 9, 10, 11, or 12 council members, as provided in its constitution, comprising—

(a) the following number of members appointed by the Minister by written notice to the council:

(i) 4 members (for a council comprising 10, 11, or 12 members):

(ii) 3 members (for a council comprising 8 or 9 members); and

(b) enough members appointed by the council by resolution, in accordance with its statutes, to bring the membership up to that total number.

(2) Subsection (1) does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 320 provides).

Compare: 1989 No 80 s 171

Section 276(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

277 Certain people disqualified from appointment

(1) A person may not be appointed as a council member if the person—

(a) has been removed as a council member of an institution of any kind; or

(b) is subject to a property order under the Protection of Personal and Property Rights Act 1988; or

(c) is 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 their —

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or

(d) is a bankrupt—

(i) who has not obtained an order of discharge; or

(ii) whose order of discharge has been suspended for a term not yet expired or is subject to conditions not yet fulfilled.

(2) Subsection (1) does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 320(2) provides).

Compare: 1989 No 80 s 171A

Section 277(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

278 Matters to be considered when appointing council members

(1) An institution's council should, as far as is reasonably practicable, reflect—

(a) the ethnic and socio-economic diversity of the communities served by the institution; and

(b) the fact that approximately half the population of New Zealand is male and half the population is female.

(2) When appointing council members, the Minister or council must have regard to subsection (1), but—

(a) must ensure that at least 1 council member is Māori; and

(b) must appoint people who (in the Minister's or council's opinion)—

(i) have relevant knowledge, skills, or experience; and

(ii) are likely to be able to fulfil their individual duties to the council; and

(iii) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

(3) When appointing council members, the council must ensure that—

(a) at least—

(i) 1 member is a permanent member of the teaching or general staff of the institution that the permanent members of the teaching and general staff of the institution have elected to represent them; or

(ii) 1 member is a permanent member of the teaching staff of the institution that the permanent members of the teaching staff of the institution have elected to represent them and 1 member is a permanent member of the general staff of the institution that the permanent members of the general staff of the institution have elected to represent them; and

(b) at least 1 member is a student—

(i) who is enrolled at the institution; and

(ii) whom the students of the institution have elected to represent them.

(4) Subsection (3) does not apply to the membership of the council of a wānanga.

(5) An elected person specified in subsection (3)—

(a) is to be treated as meeting any relevant knowledge, skills, or experience requirements; and

(b) must be appointed unless the person is ineligible for appointment under section 277(1).

(6) An institution or its council may not specify who is eligible to stand for election as a representative of—

(a) the permanent members of the teaching or general staff of the institution; or

(b) the students of the institution.

(7) Before making an appointment under this section, the Minister must seek, and consider, nominations from the relevant council.

(8) This section does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 321 provides).

Compare: 1989 No 80 s 171B

Section 278(8): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

279 Statutes relating to appointment of members by councils of institutions

(1) An institution's council may make statutes relating to the appointment of members under section 276(1)(b).

(2) The statutes may—

(a) provide for direct appointment by the council of a member chosen by the council; or

(b) require the council to appoint a member—

(i) of a stated description; or

(ii) holding a stated office; or

(iii) nominated by a stated institution or institutions, or an institution or institutions of a stated description; or

(iv) elected by people of a stated description.

(3) To the extent that the statutes require the council to appoint—

(a) a member elected by people of a stated description, they must also provide for the processes by which elections must be held and their results must be determined:

(b) a member nominated by a stated institution or institutions, or an institution or institutions of a stated description, they must also provide for the process by which nominations may be called for and must be considered.

(4) For an appointment under a statute providing for any of the matters stated in subsection (2)(b), section 278(2)(b) is complied with if, when making the statute concerned, the council—

(a) has regard to section 278(1); and

(b) is satisfied that compliance with the statute is likely to result in the appointment of a person who—

(i) has relevant knowledge, skills, or experience; and

(ii) is likely to be able to fulfil the person's individual duties to the council; and

(iii) together with the other members of the council, is capable of undertaking its responsibilities, functions, and duties.

(5) Subsections (2) to (4) do not limit section 284.

(6) This section does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 171C

Section 279(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Functions and duties of councils

280 Functions of councils

The functions of an institution's council are—

(a) to appoint a chief executive in accordance with the Public Service Act 2020, and to monitor and evaluate the chief executive's performance:

(b) to prepare and submit a proposed plan if the institution is seeking funding under a funding mechanism that provides for funding via plans:

(c) if the institution has a plan,—

(i) to ensure that the institution is managed in accordance with that plan; and

(ii) to determine policies to implement that plan:

(d) to determine, subject to the Public Service Act 2020, the policies of the institution in relation to the management of its affairs:

(e) to undertake planning relating to the institution's long-term strategic direction.

Compare: 1989 No 80 s 180

Section 280(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 280(d): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

281 Duties of councils

(1) It is the duty of an institution's council, in performing its functions and exercising its powers,—

(a) to strive to ensure that the institution attains the highest standards of excellence in education, training, and research:

(b) to acknowledge the principles of Te Tiriti o Waitangi:

(c) to encourage the greatest possible participation by the communities served by the institution so as to maximise the educational potential of all members of those communities, with particular emphasis on groups in those communities that are under-represented among the students of the institution:

(d) to ensure that the institution does not discriminate unfairly against any person:

(e) to ensure that the institution operates in a financially responsible manner that ensures the efficient use of resources and maintains the institution's long-term viability:

(f) to ensure that proper standards of integrity, conduct, and concern for the public interest and the well-being of students attending the institution are maintained.

(2) In addition, Te Pūkenga—New Zealand Institute of Skills and Technology's council must comply with section 97 of the Crown Entities Act 2004 in respect of its subsidiaries.

Compare: 1989 No 80 s 181

Powers of institutions and councils

282 Powers of institutions

(1) An institution has—

(a) the rights, powers, and privileges of a natural person; and

(b) the power to issue debentures; and

(c) the power to grant floating charges on the institution's undertaking or property, or any of it; and

(d) the power to invest in the financial products of a related entity; and

(e) the power to do any other thing it is authorised to do by this Act, by any other enactment, or by any rule of law.

(2) However, none of the rights, powers, or privileges of an institution may be exercised except for the purpose of performing—

(a) functions characteristic of institutions of the class to which the institution belongs; or

(b) in the case of an institution that incorporates another institution or other institutions under section 270(4), functions characteristic of institutions of the class to which the incorporating institution belongs and functions characteristic of institutions of the class or classes to which the incorporated institution or institutions belong; or

(c) functions of a kind that, in the opinion of the institution's council,—

(i) may conveniently, and without disadvantage to the performance of those characteristic functions, be performed in association with those functions; and

(ii) are appropriate for institutions of the class to which the institution belongs or, in the case of an institution that incorporates another institution or other institutions under section 270(4), are appropriate for institutions of the classes represented in the institution.

(3) Subsection (1)(b) to (e) does not limit subsection (1)(a).

(4) An institution may not exercise any of the following powers without the written consent of the Secretary:

(a) the power to sell or otherwise dispose of assets or interests in assets:

(b) the power to mortgage or otherwise charge assets or interests in assets:

(c) the power to grant leases of land or buildings or parts of buildings:

(d) the power to borrow, issue debentures, or otherwise raise money.

(5) Despite subsection (4), an institution may, without the consent of the Secretary,—

(a) sell or otherwise dispose of, or mortgage or otherwise charge, an asset or an interest in an asset, where the value of the asset or interest does not exceed an amount determined by the Minister or an amount ascertained in accordance with a formula determined by the Minister:

(b) grant a lease for a term that does not exceed, and when added to any term for which the lease may be renewed does not exceed, 15 years:

(c) borrow, issue debentures, or otherwise raise money, where the amount to be borrowed, the amount of the debentures, or the amount to be raised, does not exceed an amount determined by the Minister or ascertained in accordance with a formula determined by the Minister.

(6) A determination by the Minister under this section may relate to all institutions, institutions of a specified class or description, or a specified institution or institutions, and must be made after the Minister has consulted the institution or institutions concerned.

(7) If the Secretary consents under subsection (4) to the exercise of a power by an institution, the council must—

(a) comply with any conditions imposed by the Secretary; and

(b) advise the Secretary when the transaction has been completed and how the proceeds, if any, of the transaction have been dealt with.

(8) The powers to grant awards conferred on an institution by this Act or any other enactment,—

(a) in the case of nationally recognised awards, are subject to any reasonable requirements made by NZQA in the performance of its functions under this Act; and

(b) in any case, do not extend, without the consent of NZQA, to granting an award that is described as a degree or the description of which includes the word bachelor, master, or doctor.

(9) Subsection (8)(b) does not apply in relation to the granting of an award by a university.

(10) Any consent by NZQA under subsection (8)(b) may be withdrawn, after consultation with the council of the institution concerned, with effect from a date no earlier than 1 January next following the giving of notice of the withdrawal to that institution.

Compare: 1989 No 80 s 192

283 Powers of councils

(1) An institution's council has all powers reasonably necessary to enable it to perform its functions efficiently and effectively.

(2) Except where they are exercised by delegation under this Act, the following powers of an institution may be exercised only by its council:

(a) to provide courses of study or training, admit students (including by discretion and *ad eundem statum*) and grant awards:

(b) to grant fellowships, scholarships, bursaries, or prizes:

(c) to authorise the making of grants or loans out of the money of the institution to the chief executive, to members of the staff or students of the institution, or to any association of staff or students, on the terms and conditions that the council thinks fit and guarantee loans made by other

persons to the chief executive or members of the staff of the institution for housing purposes:

(d) to accept gifts, devises, and bequests made to the institution, whether on trust or otherwise:

(e) to agree to the disestablishment of the institution and its incorporation in another institution of the same class or a different class:

(f) to agree to the incorporation in the institution of another institution or other institutions, whether of the same class as itself or a different class from itself:

(g) to arrange for the manufacture of, and distribution of (whether by way of sale or otherwise), any article or thing bearing a mark, symbol, or writing that is associated with the institution:

(h) to arrange for the provision of (whether by sale or otherwise) goods and services to staff or students of the institution or other persons using, or otherwise attending at, facilities of the institution:

(i) to prescribe fees payable by students of the institution or any of them:

(j) to establish bodies within the institution to give advice to the council:

(k) to do anything incidental to the exercise of any of the preceding powers.

(3) Subsection (2)(e) and (f) does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(4) An institution's council has the power to appoint committees consisting of the persons, whether or not members of the council, that the council determines to exercise the powers that are delegated to them under section 285 and the powers that are conferred on them by statutes made by the council, and to alter, discharge, and reconstitute committees so appointed.

Compare: 1989 No 80 s 193

Section 283(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

284 Statutes

(1) An institution's council may make statutes, not inconsistent with this Act or the Public Service Act 2020, in relation to any of the following matters:

(a) the good government and discipline of the institution and the board of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(b) the imposition, by or on behalf of the council, of penalties upon staff or students of the institution for a contravention of or a failure to comply with a statute with respect to a matter referred to in paragraph (a):

(c) subject to sections 255, 256, 258, 260, 309, 310, 386, 525, and 526, and clause 8 of Schedule 9, the enrolment of persons in courses of study or

training of the institution or the admission of persons to examinations of the institution:

(d) subject to sections 255, 256, 258, 260, 309, 310, 386, 525, and 526, and clause 8 of Schedule 9, the courses of study and training of the institution:

(e) subject to section 282(8), the awards that may be granted by the council and the requirements for those awards:

(f) the granting by the council of fellowships, scholarships, bursaries, and prizes:

(g) the provision of superannuation or retirement benefits for, or in respect of, the chief executive or members of the staff of the institution:

(h) any of the matters stated in section 279:

(i) any other matter required or permitted by this Act to be provided for by statutes.

(2) Subsection (1)(h) does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council or the board of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) If an institution's council makes a statute under subsection (1)(b) providing for the imposition of penalties upon staff or students of the institution, the statute must provide for the council, if so requested by a member of the staff or a student upon whom a penalty is imposed, to review, or arrange for the review of, the amount of the penalty, the imposition of the penalty, or both.

Compare: 1989 No 80 s 194

Section 284(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 284(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 284(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 284(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 284(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

285 Delegation of council's functions and powers

(1) An institution's council may, either generally or specifically, delegate any of its functions or powers under this Act (except the power to appoint a chief executive) or under any other Act to—

(a) the chief executive of the institution; or

(b) a committee appointed under section 283(4).

(2) The power of the council to delegate—

(a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the council's functions or powers; but

(b) does not limit any power of delegation conferred on the council by any other Act.

(3) The person to whom any functions or powers are delegated under this section may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act (subject to any general or special directions given or conditions imposed by the council).

(4) A delegation to a committee under subsection (1)(b) must be treated as a delegation to the persons constituting the committee.

(5) This section applies to the academic committee of an institution (established under clause 18(2) of Schedule 11) as if—

(a) it were a committee of the institution's council; and

(b) all its powers were powers of the council, conferred on the committee by the council by delegation.

(6) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 222

Section 285(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

286 Further provisions relating to delegation

(1) A delegation under section 285—

(a) must be in writing signed by at least 2 members of the council:

(b) is revocable at will in writing signed by at least 2 members of the council.

(2) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

(3) A delegation does not prevent the council from performing any function or exercising any power, or affect the council's responsibility for the actions of any person acting under the delegation.

(4) If the chief executive to whom a delegation is made ceases to hold office, the delegation continues to have effect as if it were made to the chief executive's successor in office.

Subdelegation

(5) If the council has delegated any functions or powers to the chief executive or an academic committee, the chief executive or that committee may, with the

written approval of the council, subdelegate those functions or powers (or any of them) to a member of the staff of the institution.

(6) A subdelegation under subsection (5)—

(a) must be in writing signed by the chief executive or by at least 2 of the members of the committee; and

(b) is revocable at will in writing signed by the chief executive or by at least 2 of the members of the committee; and

(c) may be made to—

(i) a specified person or persons of a specified class; or

(ii) the holder or holders of a specified office or specified class of offices.

Compare: 1989 No 80 s 222(2), (5), (6), (9)

Institutions at risk

287 Criteria for risk assessment of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology)

(1) The Secretary must, after consulting institution councils, determine criteria for assessing the level of risk to the operation and long-term viability of institutions.

(2) The Secretary must publish criteria determined under subsection (1) in the *Gazette*.

(3) Criteria determined under this section must be reviewed at least once in every 2 years following the date of their publication.

(4) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 329 provides).

Compare: 1989 No 80 s 195A

Section 287 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 287(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

288 Institutions to provide information to TEC if required

(1) The chief executive of TEC may, if the chief executive has reasonable grounds to believe that an institution may be at risk, by written notice to the institution's council, require the council to provide either or both of the following:

(a) specified information about the operation, management, or financial position of the institution at a given time:

(b) reports at specified intervals on specific aspects of the operation, management, or financial position of the institution.

(2) If the chief executive of TEC requires information under subsection (1), the information required must relate to the risks to the institution that the chief executive is concerned about.

(3) A council that receives a notice under subsection (1) must provide the chief executive of TEC with the required information within or at the time or times specified in the notice.

(4) The chief executive of TEC may revoke or amend any notice given under subsection (1).

(5) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 330 provides).

Compare: 1989 No 80 s 195B

Section 288(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Interventions

289 Minister may appoint Crown observers for institutions

(1) If the Minister believes on reasonable grounds that the operation or long-term viability of an institution is at risk, the Minister may appoint a Crown observer to the council of the institution.

(2) A Crown observer may not be appointed to an institution's council unless the Minister has first—

(a) consulted the council; and

(b) advised the council that the Minister is considering appointing a Crown observer; and

(c) given the council an opportunity to comment on the proposal.

(3) An appointment under this section must be in writing and state the date on which it takes effect.

(4) A Crown observer may—

(a) attend any meeting of the council to which the Crown observer is appointed or any committee of that council; and

(b) offer advice to that council or to any member or committee of that council; and

(c) report to the Minister on any matter raised or discussed at any meeting that the Crown observer attends as a Crown observer.

(5) A Crown observer must at all times maintain confidentiality with respect to council affairs, except as authorised by subsection (4)(c).

(6) A Crown observer is not a member of the council or any council committee and may not—

(a) vote on any matter; or

(b) exercise any of the powers, or perform any of the functions or duties, of a council member.

(7) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology or its subsidiaries (for which section 331 provides).

Compare: 1989 No 80 s 195C

Section 289(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

290 Minister may dissolve council and appoint commissioner

(1) The Minister may, by notice in the *Gazette*, dissolve an institution's council and appoint a commissioner to act in place of the council if the Minister believes on reasonable grounds that—

(a) there is a serious risk to the operation or long-term viability of the institution; and

(b) other methods of reducing the risk either have failed or appear likely to fail.

(2) For the purpose of subsection (1), there is a **serious risk to the operation or long-term viability of an institution** if—

(a) the institution is, or is at risk of being, unable to pay its debts as they become due in the normal course of business; and

(b) according to the criteria published under section 287(2), there is a serious level of risk to the operation or long-term viability of the institution.

(3) A notice under subsection (1) must specify—

(a) the date on which the dissolution and appointment take effect; and

(b) the name of the person appointed as commissioner.

(4) The Minister may not exercise the power under subsection (1) in relation to an institution unless the Minister has first—

(a) consulted the council of the institution and any other interested parties over the possible need to dissolve the council and appoint a commissioner; and

(b) following that consultation, given the council written notice of the Minister's preliminary decision that the council should be dissolved and a commissioner appointed in its place; and

(c) allowed the council at least 21 days in which to respond to the preliminary decision; and

(d) considered any submissions made by the council about why the preliminary decision should not be confirmed.

(5) As soon as practicable after giving a notice under subsection (1), the Minister must present a copy of it to the House of Representatives.

(6) When a commissioner is appointed under this section, the Minister must review the appointment at least once in every 12 months following the appointment.

(7) As soon as the Minister is satisfied (following an annual review or at any other time) that the risk that gave rise to the appointment of the commissioner has reduced enough so that it is appropriate that the institution be administered by a council, a new council must be appointed in accordance with the constitution of the council most recently notified in the *Gazette*.

(8) A commissioner's appointment ends on the close of the day before a new council takes office.

(9) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology or its subsidiaries (for which section 337 provides).

Compare: 1989 No 80 s 195D

Section 290(9): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

291 Personal liability of commissioners

A commissioner appointed under section 290 is not personally liable for an act the commissioner has done or omitted to do, or for any loss arising from that act or omission, if the commissioner was acting—

(a) in good faith; and

(b) in the course of performing or exercising their functions, duties, or powers.

Compare: 1989 No 80 s 195DA

292 Functions, duties, and powers of commissioner

(1) A commissioner appointed under section 290 has all the functions, duties, and powers of the council that the commissioner is appointed to replace, and must perform or exercise those functions, duties, and powers in accordance with this Act (having particular regard to sections 266 and 267) and, in the case of an institution that has a plan, that plan.

(2) A commissioner replaces all council members who serve on any council committee that the commissioner is appointed to replace.

(3) Anything that, if done by or on behalf of a council, is required to be signed by 2 or more council members, may be done by the commissioner's signature alone.

Compare: 1989 No 80 s 195E

293 Minister to appoint advisory committee

(1) If the Minister appoints a commissioner under section 290, the Minister must also appoint an advisory committee for the purpose of advising and supporting the commissioner in the performance or exercise of the commissioner's functions, duties, and powers.

(2) The Minister may appoint up to 5 persons to be members of an advisory committee and must ensure that the composition of the committee reasonably reflects the community of the institution as represented by its council at the time of the council's dissolution.

(3) Members of an advisory committee may be paid fees at the same rates as were paid to members of the council at the time of its dissolution.

(4) The commissioner must have regard to any advice given by an advisory committee.

(5) For the purposes of section 285(1) (which relates to delegations by the council to committees), an advisory committee is to be treated as a committee appointed under section 283(4).

Compare: 1989 No 80 s 195F

Chief executives of institutions

294 Duties of chief executive

(1) The academic and administrative affairs of an institution must be managed by its chief executive.

(2) The chief executive of—

(a) a university may be referred to as the Vice-Chancellor or by any other title that the council of the university determines:

(b) an institution other than a university may be referred to by any title (except Vice-Chancellor or another title that includes the word "Chancellor") that the council of the institution determines.

Compare: 1989 No 80 s 196

295 Delegation of chief executive's functions and powers

(1) The chief executive of an institution may, either generally or specifically, delegate any of the chief executive's functions or powers under this Act or any other Act (including any functions or powers delegated to the chief executive under another Act) to—

(a) the academic committee; or

(b) any member of the staff of the institution.

(2) The power of a chief executive to delegate—

(a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the chief executive's functions or powers; but

(b) does not limit any power of delegation conferred on the chief executive by any other Act.

(3) A person to whom any functions or powers are delegated may perform those functions or exercise those powers in the same manner and with the same

effect as if they had been conferred on that person directly by this Act and not by delegation (subject to any general or special directions given or conditions imposed by the chief executive).

(4) A delegation under subsection (1)(a) must be treated as being a delegation to the persons constituting the academic committee.

(5) Section 296 applies to a delegation made under this section.

Compare: 1989 No 80 s 197(1), (3), (4)

296 Further provisions applying to delegation

(1) A delegation under section 295—

(a) must be in writing signed by the chief executive; and

(b) is revocable at will in writing signed by the chief executive.

(2) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

(3) A delegation does not prevent the chief executive from performing any function or exercising any power or affect the chief executive's responsibility for the actions of any person acting under the delegation.

(4) If the chief executive ceases to hold office, the delegation continues to have effect as if it were made by the chief executive's successor in office.

Subdelegation

(5) If the chief executive has delegated any functions or powers to an academic committee or a member of the staff of the institution, that committee or member may, with the written approval of the chief executive, subdelegate those functions or powers (or any of them) to another member of the staff of the institution.

(6) A subdelegation under subsection (5)—

(a) must be in writing signed by at least 2 members of that committee or by the member; and

(b) is revocable at will in writing; and

(c) may be made to—

(i) a specified person or persons of a specified class; or

(ii) the holder or holders of a specified office or specified class of offices.

Compare: 1989 No 80 s 197(2), (5), (6), (7), (8), (9)

Financial matters and application of Crown Entities Act 2004

297 Bank accounts

(1) An institution's council may establish, maintain, and operate bank accounts in the name of the institution at any registered bank or any registered building

society with which a Crown entity may establish, maintain, or operate a bank account under section 158 of the Crown Entities Act 2004.

(2) As soon as practicable after receiving any money, the council must pay it into one of the institution's bank accounts.

(3) The council must properly authorise every withdrawal and payment of money from any of the institution's bank accounts.

(4) This section does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 200

Section 297(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

298 Proper accounts to be kept

Section 168(1) and (2) of the Crown Entities Act 2004 applies to an institution's council.

Compare: 1989 No 80 s 201

299 How institutions may use income and capital

(1) An institution may, subject to any enactment and the terms of any trust or endowment,—

(a) apply its income and capital in doing whatever the council thinks likely to enable the institution—

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

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

(b) create, maintain, or add to, out of income, a fund or funds for any 1 or more of the purposes for which the income may be applied.

(2) Subsection (1)(b) does not limit subsection (1)(a).

Compare: 1989 No 80 s 201A

300 Gifts

(1) Any money or property that is gifted to an institution may be accepted or disclaimed by the council of the institution in accordance with section 167 of the Crown Entities Act 2004.

(2) A limitation in this Act or the Crown Entities Act 2004 does not apply during a period that is reasonable in the circumstances (including, without limitation, a limitation on the form in which property may be held).

Compare: 1989 No 80 s 201B

301 Council may establish common fund

(1) An institution's council may—

(a) establish a common fund; and

(b) invest any trust funds in its possession, in whole or in part, in the common fund.

(2) However, the council—

(a) may, if in possession of trust funds of a trust of which the council is a co-trustee, only invest those trust funds in the common fund with the consent of all the other co-trustees:

(b) may not invest trust funds in the common fund if that would be inconsistent with the terms of any trust instrument governing the investment of the trust funds.

Compare: 1989 No 80 s 201C

302 Investment of funds held in common fund

(1) The council may invest funds that are held in a common fund only in accordance with the Trusts Act 2019.

(2) Investments of funds held in a common fund may not be made on account of, and do not belong to, any particular trust, but the council must, at all times, maintain an account showing the entitlement of each trust in the common fund.

(3) If trust funds are invested in a type or class of investment in which the common fund may be invested, the council may transfer that investment to the common fund and, if it does so,—

(a) the investment ceases, at the time of transfer, to belong to the trust that held the investment; and

(b) the council must give credit in the common fund to the trust for the fair market value of the investment at the time of transfer.

(4) Any profit or loss upon the realisation of any investment in a common fund is to be credited or debited to the common fund.

Compare: 1989 No 80 s 201D

303 Income and capital of common fund

(1) Each financial year, the council must—

(a) pay or allocate the income from the common fund to the trusts entitled to the amounts invested in the common fund—

(i) in proportion to the value of their respective interests in the common fund; and

(ii) at a uniform rate determined by the council; and

(b) hold the capital of the common fund on behalf of the trusts entitled to the amounts invested in proportion to the value of their respective interests; and

(c) hold any income that is not paid or allocated to trusts, and any capital that is not held on behalf of trusts, in a reserve fund separate from other trust funds.

(2) The council may apply funds held in the reserve fund, including any income derived from investments of the reserve fund, for any of the following purposes:

(a) augmenting the capital of the common fund:

(b) reinstating any losses of capital in the common fund:

(c) increasing or supplementing the income paid or allocated to trusts that have interests in the common fund.

(3) The council may withdraw any amount from the common fund to the credit of a trust that has an interest in the common fund—

(a) for the purpose of investing the amount in a separate account for the trust; or

(b) for any other purpose relating to the exercise and performance of its duties, powers, authorities, and functions.

(4) If any amount is withdrawn from the common fund to the credit of a trust that has an interest in the common fund,—

(a) that amount may, at the discretion of the council, be paid or provided in cash or rateably in investments, or partly in cash and partly rateably in investments; and

(b) as from the date of its withdrawal, the trust has no claim on the fund in respect of the amount, whether for interest or otherwise.

(5) The council—

(a) may charge a reasonable fee, payable out of the income received by the common fund, for services provided by the council in relation to the administration or management of the common fund; and

(b) must publish the amount of the fee, and the method by which the fee is calculated or applied (and any change to that method), in the annual report.

Compare: 1989 No 80 s 201E

304 Application of money

The money of an institution may be applied only—

(a) in payment or discharge of the expenses, charges, obligations, or liabilities incurred or undertaken by or on behalf of the institution; or

(b) in payment of any remuneration or allowances payable to council members or council committees or to the chief executive or members of the staff of the institution; or

(c) in making any other payments that are required or permitted by this Act or any other enactment to be made out of the money of the institution.

Compare: 1989 No 80 s 202

305 Institutions are Crown entities

(1) Every institution is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) However, that Act applies to institutions and their Crown entity subsidiaries (within the meaning of that Act) only to the extent that this section provides.

(3) Part 1 of Schedule 4 of that Act applies to all institutions and their Crown entity subsidiaries (within the meaning of that Act).

(4) Section 65I(1) and (2) of the Public Finance Act 1989—

(a) applies, with all necessary modifications, to 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.

(5) An instruction issued by the Minister of Finance under section 80A of the Public Finance Act 1989 does not apply to an institution.

(6) The financial year of an institution is an academic year.

(7) The council members of an institution are the board for the purposes of the Crown Entities Act 2004.

Compare: 1989 No 80 s 203

306 Annual report

(1) As soon as practicable after the end of each academic year, the council of the institution must give to the Minister a report (an **annual report**) on the operations of the institution during that year.

(2) A council must comply with sections 154 to 156B and 157A of the Crown Entities Act 2004 in respect of the report.

(3) However,—

(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) an institution's council 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).

(4) A council must include in its annual report—

(a) a summary of its equal employment opportunities programme for the year to which the report relates; and

(b) an account of the extent to which the council was able, during the year to which the report relates, to meet the equal employment opportunities programme for that year; and

(c) an account of the extent to which the council has eliminated unnecessary barriers to the progress of students; and

(d) an account of the extent to which the council has avoided the creation of unnecessary barriers to the progress of students; and

(e) an account of the extent to which the council has developed programmes to attract students from groups in the community that are—

(i) under-represented in the institution's student body; or

(ii) disadvantaged in terms of their ability to attend the institution; and

(f) in the case of an institution that has a plan, a statement of service performance for that financial year reporting on the performance of the institution as compared with the proposed outcomes described in that plan; and

(g) in the case of an institution that is a university or a wānanga, a statement of the number of employees or former employees of the university or wānanga who, in their capacity as employees, received remuneration of $100,000 or more (including compensation or other benefits) in the year to which the report relates and the number of those employees or former employees in each bracket of remuneration in $10,000 increments.

(5) Section 156 of the Crown Entities Act 2004 applies to institutions and, for that purpose, is to be read as referring to a statement of service performance under subsection (4)(f).

(6) A statement of service performance under subsection (4)(f) must be prepared in accordance with generally accepted accounting practice, within the meaning of section 8 of the Financial Reporting Act 2013.

(7) The Minister must present the report to the House of Representatives within 5 working days after receiving the report or, if Parliament is not in session, as soon as practicable after the commencement of the next session of Parliament.

(8) The first report by an institution's council must extend to operations during the part of the academic year before the council became the governing body of the institution.

(9) In this section, **parent Crown entity** has the same meaning as in section 8 of the Crown Entities Act 2004.

(10) For the purposes of subsection (4)(g), **employees** includes the chief executive appointed by the council of the university or wānanga.

Compare: 1989 No 80 s 220

Section 306(4)(g): inserted, on 23 August 2023, by section 26(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 306(10): inserted, on 23 August 2023, by section 26(2) of the Education and Training Amendment Act 2023 (2023 No 45).

307 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 287) for assessing the level of risk to the operation and long-term viability of institutions.

(3) Before issuing a notice, 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.

Compare: 1989 No 80 s 220A

308 Annual report to be available for inspection

An institution's council must ensure that copies of its annual report are available at the office of the council for inspection during ordinary office hours by any person without charge.

Compare: 1989 No 80 s 221

Miscellaneous provisions

309 Records relating to students

(1) Each institution must keep records that show—

(a) the progress of each student at the institution (including the main results achieved by the student) in the student's programme of study or training; and

(b) particulars of any allowances, grants, or other payments received by each student at the institution in respect of the student's programme of study or training out of money appropriated by Parliament.

(2) The records to be kept by an institution include (without limitation) records that enable the institution to comply with any requirement that may be made by the Secretary under section 310.

Compare: 1989 No 80 s 225

310 Secretary may require information

The Registrar or other appropriate officer of an institution must, if required by the Secretary, provide to the Secretary, in the form that the Secretary specifies, any statistical information in the possession of the institution that the Secretary specifies in relation to students generally or a particular class of students.

Compare: 1989 No 80 s 226

Vice-Chancellors committee

311 Vice-Chancellors Committee continued

(1) The committee known as the New Zealand Vice-Chancellors Committee established under section 240 of the Education Act 1989 is continued.

(2) The Vice-Chancellors Committee consists of the Vice-Chancellors of the institutions that are universities.

(3) If an office of Vice-Chancellor of a university is vacant, the person for the time being acting in that office must be treated as the Vice-Chancellor of that university for the purposes of this Act.

(4) The Vice-Chancellors Committee is a body corporate with perpetual succession and a common seal and is capable of—

(a) holding real and personal property; and

(b) suing and being sued; and

(c) otherwise doing and suffering all that bodies corporate may lawfully do and suffer.

(5) Sections 153 to 156 of the Crown Entities Act 2004 apply to the Vice-Chancellors Committee as if it were a Crown entity within the meaning of that Act.

(6) Schedule 12 provides for the administration of the Vice-Chancellors Committee.

Compare: 1989 No 80 s 240

312 Functions of Vice-Chancellors Committee

The functions of the Vice-Chancellors Committee are—

(a) to set up inter-university course approval and moderation procedures:

(b) to exercise, in accordance with section 453, the powers of NZQA under this Act in relation to universities:

(c) to list qualifications offered by universities on the Qualifications and Credentials Framework:

(d) to grant scholarships to students enrolled or proposing to enrol at universities out of money under its control on the terms that the Committee thinks fit:

(e) where another body has power to grant those scholarships,—

(i) to make recommendations to the person or authority having power to make appointments to that body as to the persons who should be appointed:

(ii) if authorised to do so, to make appointments to that body:

(iii) if requested by that body to do so, to advise that body on the grant of those scholarships:

(f) to make recommendations to NZQA on criteria for entrance to universities for the purposes of the performance by NZQA of its functions under section 434:

(g) if requested by the councils of the universities to do so, to consider applications by international students for enrolment at any of those universities and make recommendations to the councils in respect of those applications:

(h) to liaise with the councils of institutions other than universities in respect of procedures for enrolling international students:

(i) to issue certificates relating to degrees and other academic qualifications and courses of, or examinations conducted by, the University of New Zealand as if that university had continued in existence and to charge the reasonable fees for the certificates that the Committee determines:

(j) to perform any other functions conferred on it by this Act or any other enactment.

Compare: 1989 No 80 s 241

Section 312(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

313 Powers of Vice-Chancellors Committee

The Vice-Chancellors Committee has—

(a) the powers given to it under this Act or any other enactment; and

(b) all other powers reasonably necessary to enable it to perform its functions efficiently and effectively.

Compare: 1989 No 80 s 242

Subpart 4—Te Pūkenga—New Zealand Institute of Skills and Technology

314 Te Pūkenga—New Zealand Institute of Skills and Technology continued

(1) This section continues the Te Pūkenga—New Zealand Institute of Skills and Technology as an institution.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister given after receiving a recommendation from Te Pūkenga—New Zealand Institute of Skills and Technology's council, do either or both of the following:

(a) change the name of Te Pūkenga—New Zealand Institute of Skills and Technology:

(b) amend this Act or any other enactment by omitting from it the name of Te Pūkenga—New Zealand Institute of Skills and Technology and substituting some other name.

(3) To avoid doubt, Te Pūkenga—New Zealand Institute of Skills and Technology does not cease to be an institution merely because its name is changed under subsection (2).

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 222A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 314 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 314(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 314(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 314(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 314(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 314(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

315 Functions of Te Pūkenga—New Zealand Institute of Skills and Technology

Te Pūkenga—New Zealand Institute of Skills and Technology has the following functions:

(a) to provide or arrange, and support, a variety of education and training, including vocational, foundation, and degree-level or higher education and training:

(b) to conduct research, with a focus on applied and technological research:

(c) to be responsive to and to meet the needs of the regions of New Zealand and their learners, industries, employers, and communities by utilising Te Pūkenga—New Zealand Institute of Skills and Technology's national network of tertiary education programmes and activities:

(d) to improve the consistency of vocational education and training by using skill standards and working in collaboration with workforce development councils:

(e) to improve outcomes in the tertiary education system as a whole, including (without limitation) by making connections with schools and other organisations involved in tertiary education and by promoting and supporting life-long learning:

(f) to improve outcomes for Māori learners and Māori communities in collaboration with Māori and iwi partners, hapū, and interested persons or bodies:

(g) to carry out any other functions consistent with its role as a tertiary education institution.

Compare: 1989 No 80 s 222B

Section 315 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 315: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

316 Te Pūkenga—New Zealand Institute of Skills and Technology's charter

(1) Te Pūkenga—New Zealand Institute of Skills and Technology must give effect to its charter as set out in Schedule 13.

(2) Te Pūkenga—New Zealand Institute of Skills and Technology must report in its annual report on how it has given effect to the charter.

(3) The duty in subsection (1) is owed to the Minister.

Compare: 1989 No 80 s 222C

Section 316 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 316(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 316(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

317 Minister may specify administrative regions for Te Pūkenga—New Zealand Institute of Skills and Technology

The Minister may, by notice in the *Gazette*, specify administrative regions of government with which Te Pūkenga—New Zealand Institute of Skills and Technology must make arrangements to operate effectively.

Compare: 1989 No 80 s 222D

Section 317 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 317: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

318 Academic freedom of Te Pūkenga—New Zealand Institute of Skills and Technology

(1) It is the intention of Parliament in enacting the provisions of this Act relating to Te Pūkenga—New Zealand Institute of Skills and Technology that Te Pūkenga—New Zealand Institute of Skills and Technology's academic freedom is preserved and enhanced.

(2) Te Pūkenga—New Zealand Institute of Skills and Technology's academic freedom also applies in relation to every Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary that provides education or training, or both.

(3) In this section, **academic freedom**, in relation to Te Pūkenga—New Zealand Institute of Skills and Technology, means—

(a) the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas, and to state controversial or unpopular opinions:

(b) the freedom of academic staff and students to engage in research:

(c) the freedom of Te Pūkenga—New Zealand Institute of Skills and Technology and its staff to regulate the subject matter of its courses:

(d) the freedom of Te Pūkenga—New Zealand Institute of Skills and Technology and its staff to teach and assess students in the manner that they consider best promotes learning:

(e) the freedom of Te Pūkenga—New Zealand Institute of Skills and Technology through its chief executive to appoint its own staff.

(4) In exercising academic freedom, Te Pūkenga—New Zealand Institute of Skills and Technology must act in a manner that is consistent with—

(a) the need for institutions to maintain the highest ethical standards and the need to permit public scrutiny to ensure the maintenance of those standards; and

(b) the need for institutions to be accountable and to properly use resources allocated to them.

(5) In performing their functions, Te Pūkenga—New Zealand Institute of Skills and Technology's council and its chief executive, Ministers, departments of State, authorities, and agencies of the Crown must act in all respects to give effect to the intention of Parliament as expressed in this section.

(6) To avoid doubt,—

(a) nothing in subsection (3) limits or affects a workforce development council performing its functions under section 366(1)(b) to (f); and

(b) the performance of those functions by the workforce development council does not limit or affect the academic freedom of Te Pūkenga—New Zealand Institute of Skills and Technology as set out in subsection (3)(a), (b), or (e).

Compare: 1989 No 80 s 222E

Section 318 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(3)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(3)(d): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(3)(e): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 318(6)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

319 Te Pūkenga—New Zealand Institute of Skills and Technology must establish regional divisions

(1) Te Pūkenga—New Zealand Institute of Skills and Technology must establish regional divisions for the purposes of—

(a) appointing members to a staff committee or a students' committee established under section 325:

(b) appointing directors to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) Te Pūkenga—New Zealand Institute of Skills and Technology may make statutes for the purposes of subsection (1).

Compare: 1989 No 80 s 222F

Section 319 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 319(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 319(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 319(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Te Pūkenga—New Zealand Institute of Skills and Technology's council

Heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

320 Membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council

(1) Te Pūkenga—New Zealand Institute of Skills and Technology's council must have at least 8, but not more than 12, members, as follows:

- (a) 1 member who is a member of, and elected by, its staff committee; and
- (b) 1 member who is a member of, and elected by, its students' committee; and
- (c) 1 member who is a member of, and elected by, its Māori advisory committee; and
- (d) the rest of the members must be appointed by the Minister.

(2) A person is not eligible for appointment under subsection (1) if—

- (a) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or
- (b) a personal order has been made under that Act in respect of the person that reflects adversely on their—
  - (i) competence to manage their own affairs in relation to their property; or
  - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or
- (c) the person has been adjudicated bankrupt and has not obtained an order of discharge, or whose order of discharge has been suspended for a term that has not yet expired or is subject to any conditions that have not yet been fulfilled; or
- (d) the person has been removed from office as a member of the council.

(3) An act or a proceeding of Te Pūkenga—New Zealand Institute of Skills and Technology's council, or of any member or any committee of Te Pūkenga—New Zealand Institute of Skills and Technology's council, is not invalid because of—

(a) a defect in the appointment or election of a member of the council or committee; or

(b) a disqualification of a member of the council or committee; or

(c) a defect in the convening of a meeting; or

(d) a vacancy in the membership of the council or committee.

(4) For the purposes of this section,—

(a) a person referred to in subsection (1)(a) is a member of the council only while the person is a permanent member of the staff of Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(b) a person referred to in subsection (1)(b) is a member of the council only if the person is a student enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, but may continue to be a member of the council for a period of up to 12 months after the date on which their enrolment ends.

(5) To avoid doubt,—

(a) all permanent members of Te Pūkenga—New Zealand Institute of Skills and Technology's or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary's staff are eligible for appointment under subsection (1)(a):

(b) all students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary are eligible for appointment under subsection (1)(b), regardless of the delivery mode by which the student receives education or training (for example, on-campus learning, distance learning, or work-based training).

Compare: 1989 No 80 s 222G

Section 320 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(4)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(4)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(5)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 320(5)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

321 Matters to be considered when Minister appoints members to Te Pūkenga—New Zealand Institute of Skills and Technology's council

(1) The Minister must, as far as possible, ensure that Te Pūkenga—New Zealand Institute of Skills and Technology's council reflects—

(a) the ethnic, gender, and socio-economic diversity, and the diversity of abilities, of New Zealand's population; and

(b) the fact that New Zealand is made up of a number of regions.

(2) When appointing members of Te Pūkenga—New Zealand Institute of Skills and Technology's council, the Minister must have regard to subsection (1) and must appoint people who (in the Minister's opinion)—

(a) have relevant knowledge, skills, and experience in relation to governance, cultural competency, and the importance of diversity; and

(b) are likely to be able to fulfil their individual duties to the council; and

(c) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

(3) A person specified in section 320(1)(a) and (b) is appointed by the council in accordance with the council's statute unless the person is ineligible for appointment under section 320(2).

Compare: 1989 No 80 s 222H

Section 321 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 321(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 321(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

322 Chairperson and deputy chairperson

(1) The Minister may appoint a chairperson and deputy chairperson of Te Pūkenga—New Zealand Institute of Skills and Technology's council from among its members by giving written notice to the member concerned stating the term for which the member is appointed as chairperson or deputy chairperson.

(2) The Minister may, by written notice to the member concerned, dismiss the chairperson or deputy chairperson of Te Pūkenga—New Zealand Institute of Skills and Technology's council from office as chairperson or deputy chairperson.

(3) However, the Minister may not dismiss the chairperson or deputy chairperson without first consulting them about the proposed dismissal.

(4) The chairperson or deputy chairperson of Te Pūkenga—New Zealand Institute of Skills and Technology's council—

(a) may resign as chairperson or deputy chairperson by giving written notice to the Minister; and

(b) ceases to hold office if they—

(i) cease to be a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council; or

(ii) become the chief executive of Te Pūkenga—New Zealand Institute of Skills and Technology or a member of the staff of Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; or

(iii) become a student enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(5) A chairperson or deputy chairperson who resigns must give a copy of the notice of resignation to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(6) The chairperson or deputy chairperson of Te Pūkenga—New Zealand Institute of Skills and Technology's council holds office as chairperson or deputy chairperson for the term for which they were appointed (but may be reappointed), unless the person earlier dies, is dismissed, resigns, or ceases to hold office under subsection (4)(b).

(7) If the term of office of the chairperson or deputy chairperson expires before a successor is appointed, the chairperson or deputy chairperson continues in office until their successor is appointed.

Compare: 1989 No 80 s 222I

Section 322(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(4)(b)(i): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(4)(b)(ii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(4)(b)(iii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 322(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

323 Term of office

(1) A member of Te Pūkenga—New Zealand Institute of Skills and Technology's council is appointed for a period not exceeding 4 years.

(2) When appointing members of Te Pūkenga—New Zealand Institute of Skills and Technology's council under section 320(1)(d), the Minister must state in the notice appointing the member—

(a) the day on which the member's appointment takes effect; and

(b) the term for which the member is appointed.

(3) If a member's term of office expires before their successor is appointed, the member continues in office until their successor's appointment takes effect.

Compare: 1989 No 80 s 222J

Section 323(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 323(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 323(3): inserted, on 23 August 2023, by section 27 of the Education and Training Amendment Act 2023 (2023 No 45).

Additional provisions applying to Te Pūkenga—New Zealand Institute of Skills and Technology's council and subsidiaries

Heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

324 Determination of policy

(1) In determining the policy of Te Pūkenga—New Zealand Institute of Skills and Technology with respect to any matter, Te Pūkenga—New Zealand Institute of Skills and Technology's council must consult any board, committee, or other body established within Te Pūkenga—New Zealand Institute of Skills and Technology that has responsibility for giving advice in relation to, or for giving effect to, the policy of Te Pūkenga—New Zealand Institute of Skills and Technology with respect to the matter.

(2) For the purposes of subsection (1), Te Pūkenga—New Zealand Institute of Skills and Technology's council must establish an academic board consisting of its chief executive and members of the staff and students of Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary to—

(a) advise it on matters relating to work-based learning, courses of study or training, awards, and other academic matters; and

(b) exercise powers delegated to it by the council.

(3) Without limiting subsection (1), Te Pūkenga—New Zealand Institute of Skills and Technology's council may not make any decision or statute in respect of any academic matter referred to in subsection (2) unless it has requested the

advice of the academic board and considered any advice given by the academic board.

(4) However, a decision or statute made by Te Pūkenga—New Zealand Institute of Skills and Technology's council is not invalid merely because of a failure of the council to comply with either of subsection (1) or (3).

Compare: 1989 No 80 s 222K

Section 324(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 324(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 324(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 324(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

325 Te Pūkenga—New Zealand Institute of Skills and Technology's council must establish advisory committees

(1) Te Pūkenga—New Zealand Institute of Skills and Technology's council must establish a staff committee, a students' committee, and a Māori advisory committee.

(2) Each committee established under subsection (1) must be treated as a board established by the council under section 283(2)(j).

(3) Without limiting section 324(1), Te Pūkenga—New Zealand Institute of Skills and Technology's council must—

(a) consult each committee established under subsection (1) about significant matters relating to the council's strategic direction that are relevant to the class of people represented by that committee; and

(b) consider any advice given on those matters or any other matters by the committee.

(4) However, a decision or statute made by Te Pūkenga—New Zealand Institute of Skills and Technology's council is not invalid merely because of a failure of the council to comply with subsection (3).

Compare: 1989 No 80 s 222L

Section 325 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 325(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 325(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 325(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

326 Membership of advisory committees

(1) When appointing members of its staff committee or its students' committee, Te Pūkenga—New Zealand Institute of Skills and Technology's council must ensure that—

(a) each committee consists of persons representing a minimum of each regional division of Te Pūkenga—New Zealand Institute of Skills and Technology established under section 319; and

(b) each member of the staff committee is a permanent member of the teaching or general staff of Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary whom the permanent members of the teaching and general staff of Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary have elected to represent them; and

(c) each member of the students' committee is a student enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary whom the students have elected to represent them.

(2) When appointing members of its Māori advisory committee, Te Pūkenga—New Zealand Institute of Skills and Technology's council must determine, in consultation with its Māori and iwi partners and interested persons or bodies, the size and composition of the committee, but must ensure that the composition includes—

(a) representation from Te Pūkenga—New Zealand Institute of Skills and Technology or any of its subsidiaries; and

(b) external people.

Compare: 1989 No 80 s 222M

Section 326(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 326(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 326(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 326(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 326(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 326(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

327 Te Pūkenga—New Zealand Institute of Skills and Technology must obtain consent for certain capital projects of Te Pūkenga—New Zealand Institute

of Skills and Technology or Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) A capital project may be undertaken by Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary only if—

(a) the cost of, or level of risk of, the project to Te Pūkenga—New Zealand Institute of Skills and Technology is below thresholds set by the Secretary under subsection (2); or

(b) the project is within a capital plan of Te Pūkenga—New Zealand Institute of Skills and Technology approved in writing by the Secretary; or

(c) Te Pūkenga—New Zealand Institute of Skills and Technology has obtained the written consent of the Secretary for the project.

(2) The Secretary must, after consulting Te Pūkenga—New Zealand Institute of Skills and Technology, set thresholds for the purposes of subsection (1)(a) and publish those thresholds on an Internet site maintained by or on behalf of the Ministry.

(3) This section applies despite section 299 (which relates to how institutions may use income and capital).

Compare: 1989 No 80 s 222N

Section 327 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 327(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 327(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 327(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 327(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 327(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

328 Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must obtain consent before exercising certain powers

Unless section 282(5) applies, an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary may not exercise any of the powers in section 282(4) unless—

(a) it has notified Te Pūkenga—New Zealand Institute of Skills and Technology in writing of the proposed exercise of the power; and

(b) Te Pūkenga—New Zealand Institute of Skills and Technology has obtained the consent of the Secretary to the proposed exercise of the

power by the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

Compare: 1989 No 80 s 222O

Section 328 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 328: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 328(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 328(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Interventions relating to Te Pūkenga—New Zealand Institute of Skills and Technology

Heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

329 Criteria for risk assessment of Te Pūkenga—New Zealand Institute of Skills and Technology and related entities

(1) For the purpose of exercising a power under any of sections 331 to 337, the Secretary must, after consulting Te Pūkenga—New Zealand Institute of Skills and Technology's council, determine criteria for assessing the levels of risks to—

(a) Te Pūkenga—New Zealand Institute of Skills and Technology and any related entity of Te Pūkenga—New Zealand Institute of Skills and Technology; or

(b) the education and training performance of students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology and any related entity of Te Pūkenga—New Zealand Institute of Skills and Technology.

(2) The Secretary must publish the criteria in the *Gazette*.

(3) The criteria must be reviewed at least once in every 2 years following the date of their publication in the *Gazette*.

Compare: 1989 No 80 s 222P

Section 329 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 329(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 329(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 329(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

330 Te Pūkenga—New Zealand Institute of Skills and Technology or related entity must provide information if required

(1) If the chief executive of TEC has reasonable grounds to believe that Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk, the chief executive may, by written notice to Te Pūkenga—New Zealand Institute of Skills and Technology's council, require the council to provide either or both of the following:

(a) specified information about the operation, management, or financial position of Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology at a given time:

(b) reports at specified intervals on specific aspects of the operation, management, or financial position of Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology.

(2) If the chief executive of TEC requires information under subsection (1), the information required must relate to the risks to Te Pūkenga—New Zealand Institute of Skills and Technology or the related entity that the chief executive is concerned about.

(3) If Te Pūkenga—New Zealand Institute of Skills and Technology's council receives a notice under subsection (1) it must provide the chief executive of TEC with the required information within the period specified in the notice.

(4) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 222Q

Section 330 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 330(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 330(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 330(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 330(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

331 Minister may appoint Crown observer for Te Pūkenga—New Zealand Institute of Skills and Technology

(1) This section applies if the Minister believes on reasonable grounds that—

(a) Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk; or

(b) the education and training performance of the students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk.

(2) The Minister may appoint a Crown observer to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(3) However, a Crown observer may not be appointed unless the Minister has first—

(a) consulted Te Pūkenga—New Zealand Institute of Skills and Technology's council; and

(b) advised Te Pūkenga—New Zealand Institute of Skills and Technology's council that the Minister is considering appointing a Crown observer; and

(c) given Te Pūkenga—New Zealand Institute of Skills and Technology's council an opportunity to comment on the proposal.

(4) An appointment under this section must be in writing and must state the date on which it takes effect.

(5) A Crown observer may—

(a) attend any meeting of Te Pūkenga—New Zealand Institute of Skills and Technology's council (or a committee or board of Te Pūkenga—New Zealand Institute of Skills and Technology's council) to which the Crown observer is appointed; and

(b) offer advice to Te Pūkenga—New Zealand Institute of Skills and Technology's council (or a committee or board of Te Pūkenga—New Zealand Institute of Skills and Technology's council); and

(c) report to the Minister on any matter raised or discussed at any meeting that the person attends as a Crown observer.

(6) Except as authorised by subsection (5)(c), a Crown observer must, at all times, maintain confidentiality with respect to the affairs of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(7) A Crown observer is not a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council (or a committee or board of Te Pūkenga—New Zealand Institute of Skills and Technology's council), and may not—

(a) vote on any matter; or

(b) exercise any of the powers, or perform any of the functions or duties, of a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 222R

Section 331 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(3)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(3)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(3)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(5)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(5)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 331(7)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

332 Specialist help

(1) This section applies if the chief executive of TEC believes on reasonable grounds that—

(a) Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk; or

(b) the education and training performance of the students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk.

(2) The chief executive may, by written notice to Te Pūkenga—New Zealand Institute of Skills and Technology's council, require it—

(a) to obtain specialist help; or

(b) to obtain specialist help for a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) The notice must state—

(a) the help or kind of help to be obtained; and

(b) the person or organisation, or kind of person or organisation, from whom or from which it is to be obtained.

(4) As soon as practicable after receiving the notice, Te Pūkenga—New Zealand Institute of Skills and Technology's council must comply with it.

(5) Te Pūkenga—New Zealand Institute of Skills and Technology's council must—

(a) provide the information and access, and do all other things, reasonably necessary to enable the person or organisation engaged to provide the help; and

(b) to the extent that the help provided is advice, take the advice into account in performing its functions and duties; and

(c) pay the person's or organisation's reasonable fees and expenses.

Compare: 1989 No 80 s 222S

Section 332(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 332(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 332(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 332(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 332(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 332(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

333 Performance improvement plan

(1) This section applies if the chief executive of TEC believes on reasonable grounds that—

(a) Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk; or

(b) the education and training performance of the students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology may be at risk.

(2) The chief executive may, by written notice to Te Pūkenga—New Zealand Institute of Skills and Technology's council, require it to prepare and give to the chief executive a draft performance improvement plan for Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) The notice must state—

(a) the matters to be addressed by the draft plan; and

(b) the outcomes that implementation of the draft plan is intended to achieve; and

(c) the times by which those outcomes should be achieved; and

(d) the performance measures that are to be used to determine whether those outcomes have been achieved; and

(e) the date by which the draft plan must be given to the chief executive.

(4) Te Pūkenga—New Zealand Institute of Skills and Technology's council must prepare, and give to the chief executive by the stated date, a draft plan that complies with subsection (3).

(5) The chief executive may—

(a) approve the draft plan; or

(b) after considering the draft plan, approve for Te Pūkenga—New Zealand Institute of Skills and Technology or the related entity some other plan that complies with subsection (3) (whether a modified version of the draft plan or a different plan).

(6) If the council does not comply with subsection (4), the chief executive may approve for Te Pūkenga—New Zealand Institute of Skills and Technology or the related entity any plan that complies with subsection (3) that the chief executive thinks fit.

(7) The chief executive may not approve any plan other than a draft plan given to the chief executive before discussing it with Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(8) Te Pūkenga—New Zealand Institute of Skills and Technology's council must take all reasonably practicable steps to implement a plan approved under this section.

Compare: 1989 No 80 s 222T

Section 333(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(5)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 333(8): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

334 Minister may appoint Crown manager for Te Pūkenga—New Zealand Institute of Skills and Technology

(1) This section applies if the Minister believes on reasonable grounds—

(a) that there is a risk to the operation or long-term viability of Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology; or

(b) that the education and training performance of the students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology is at risk.

(2) The Minister may, by written notice to Te Pūkenga—New Zealand Institute of Skills and Technology's council, appoint a Crown manager for Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) The Minister may not appoint a Crown manager under subsection (2) without—

(a) giving Te Pūkenga—New Zealand Institute of Skills and Technology's council written notice of the Minister's intention to do so and the Minister's reasons for intending to do so; and

(b) allowing Te Pūkenga—New Zealand Institute of Skills and Technology's council reasonable time (as specified in the notice) to respond to the notice; and

(c) considering any written submissions received from Te Pūkenga—New Zealand Institute of Skills and Technology's council within that time.

(4) Whether a time is reasonable in any particular case may depend (among other things) on the urgency of the matters the Crown manager must deal with.

(5) The notice must state—

(a) the name of the Crown manager and the day on which their appointment takes effect; and

(b) the functions of Te Pūkenga—New Zealand Institute of Skills and Technology's council to be performed by the Crown manager; and

(c) any conditions subject to which the Crown manager may perform those functions; and

(d) any matters about which the Crown manager may advise Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(6) As soon as practicable after appointing a Crown manager, the Minister must notify the appointment in the *Gazette*.

(7) While there is a Crown manager appointed for Te Pūkenga—New Zealand Institute of Skills and Technology,—

(a) the Crown manager may perform any of the functions stated in the notice appointing them, and,—

(i) for that purpose, the Crown manager has all the powers of Te Pūkenga—New Zealand Institute of Skills and Technology's council; but

(ii) in performing any of those functions (and exercising any of those powers in order to do so) the Crown manager must comply with all relevant duties of Te Pūkenga—New Zealand Institute of Skills and Technology's council; and

(b) Te Pūkenga—New Zealand Institute of Skills and Technology's council—

(i) may not perform any of those functions; but

(ii) must provide the information and access, and do all other things, reasonably necessary to enable the Crown manager to perform those functions and exercise those powers.

(8) The Crown manager must perform any function under subsection (7)(a) (and exercise any power in order to do so) in accordance with this Act and, in particular, must have regard to section 318.

(9) Te Pūkenga—New Zealand Institute of Skills and Technology's council must pay the Crown manager's reasonable fees and expenses.

(10) If the Crown manager's appointment has not been revoked earlier, the Minister must consider whether the reasons for the appointment still apply—

(a) no later than 12 months after it was made; and

(b) no later than 12 months after the Minister last considered whether they still apply.

Compare: 1989 No 80 s 222U

Section 334 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(3)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(3)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(3)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(5)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(5)(d): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(7)(a)(i): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(7)(a)(ii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(7)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 334(9): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

335 Personal liability of Crown manager

A Crown manager appointed under section 334 is not personally liable for any act done or omitted to be done by the Crown manager, or for any loss arising from that act or omission, if the Crown manager was acting—

(a) in good faith; and

(b) in the course of performing their functions.

Compare: 1989 No 80 s 222V

336 Powers may be used concurrently

To the extent that it is possible in practice, the powers specified in sections 330 to 334 may be exercised concurrently.

Compare: 1989 No 80 s 222W

337 Minister may dissolve Te Pūkenga—New Zealand Institute of Skills and Technology's council and appoint commissioner

(1) The Minister may, by written notice, dissolve Te Pūkenga—New Zealand Institute of Skills and Technology's council and appoint a commissioner to act in place of the council if the Minister believes on reasonable grounds that—

(a) there is a serious risk to the operation or long-term viability of Te Pūkenga—New Zealand Institute of Skills and Technology; and

(b) other methods of reducing the risk have failed or appear likely to fail.

(2) A notice under subsection (1) must specify—

(a) the date on which the dissolution and appointment take effect; and

(b) the name of the person appointed as commissioner.

(3) The Minister may not exercise the power under subsection (1) unless the Minister has first—

(a) consulted Te Pūkenga—New Zealand Institute of Skills and Technology's council and any other interested parties about the possible need to dissolve the council and appoint a commissioner; and

(b) following that consultation, given the council written notice of the Minister's preliminary decision that Te Pūkenga—New Zealand Institute of Skills and Technology's council should be dissolved and a commissioner appointed in its place; and

(c) allowed Te Pūkenga—New Zealand Institute of Skills and Technology's council at least 21 days in which to respond to the preliminary decision; and

(d) considered any submissions made by Te Pūkenga—New Zealand Institute of Skills and Technology's council about why the preliminary decision should not be confirmed.

(4) As soon as practicable after giving a notice under subsection (1), the Minister must—

(a) publish a copy of it in the *Gazette*; and

(b) present a copy of it to the House of Representatives.

(5) When a commissioner is appointed under this section, the Minister must review the appointment at least once in every 12 months following the appointment.

(6) As soon as the Minister is satisfied (following an annual review or at any other time) that the risk that gave rise to the appointment of the commissioner has been reduced enough so that it is appropriate that Te Pūkenga—New Zealand Institute of Skills and Technology be administered by a council, a new council must be appointed in accordance with sections 320 to 323.

(7) A commissioner's appointment ends on the close of the day before a new council takes office.

(8) Sections 291, 292, and 293 apply, with any necessary modifications, as if a commissioner appointed under subsection (1) were appointed under section 290.

Compare: 1989 No 80 s 222X

Section 337 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(3)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(3)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(3)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(3)(d): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 337(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

338 Te Pūkenga—New Zealand Institute of Skills and Technology's council may request intervention

If Te Pūkenga—New Zealand Institute of Skills and Technology's council requests the Minister or the chief executive of TEC to act under any of sections 331 to 337, the Minister or the chief executive—

(a) must consider any submission or evidence supplied by Te Pūkenga—New Zealand Institute of Skills and Technology's council; and

(b) must consider whether to act under that section; but

(c) may then (if any necessary conditions are satisfied) act under another of those sections giving them power to act.

Compare: 1989 No 80 s 222Y

Application of Crown Entities Act 2004 to Te Pūkenga—New Zealand Institute of Skills and Technology's council

Heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

339 Additional provisions of Crown Entities Act 2004 that apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council

(1) The provisions set out in Part 2 of Schedule 4 of the Crown Entities Act 2004 apply to Te Pūkenga—New Zealand Institute of Skills and Technology and Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(2) Te Pūkenga—New Zealand Institute of Skills and Technology must be treated as a statutory entity for the purpose of applying those provisions.

Compare: 1989 No 80 s 222Z

Section 339 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 339(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 339(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Further provisions relating to Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

Heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

340 Formation of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries and provisions that apply

(1) Te Pūkenga—New Zealand Institute of Skills and Technology may form 1 or more Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries.

(2) Schedule 15 specifies other provisions of this Act that apply and do not apply to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary formed under subsection (1) that provides education or training, or both.

(3) The Governor-General may, by Order in Council made on the recommendation of the Minister, specify provisions of this Act that do not apply to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary formed under subsection (1) that does not provide education or training, or both.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 222ZA

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 340 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 340(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 340(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 340(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 340(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

341 Application of Schedule 14

Schedule 14 applies to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary on its dissolution date (as defined in clause 1 of that schedule).

Compare: 1989 No 80 s 222ZB

Section 341: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Subpart 5—Private training establishments

342 Minister may recognise categories of private training establishments

(1) The Minister may, by notice, recognise categories and subcategories of registered private training establishments.

(2) The Minister must, by notice, specify the criteria for including a registered private training establishment in a particular category or subcategory.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 232AA

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 342(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 342(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 342(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

343 Requirement to be registered before providing approved programmes or micro-credentials

A private training establishment must be registered before it can provide an approved programme or micro-credential to a student.

Compare: 1989 No 80 s 232C

Section 343 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 343: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Applications for registration

344 Application for registration as registered establishment

(1) A private training establishment that is a body corporate may apply to NZQA for registration as a registered establishment for the purposes of this Act.

(2) The application must—

(a) include a written statement setting out—

(i) the kinds of education the establishment proposes to provide; and

(ii) the outcomes it seeks to achieve through the provision of those kinds of education; and

(b) demonstrate how the establishment intends to meet the requirements of sections 346(1), 347(1), and 348(1) and (2); and

(c) contain a statutory declaration from each governing member of the establishment in respect of—

(i) any material conflicts of interest arising from the person's role as a governing member of the establishment; and

(ii) any interests that the person has in organisations in the education or immigration sector that provide goods or services to tertiary students; and

(d) contain a statutory declaration from each governing member of the establishment in respect of the matters described in section 347(1)(a) to (g); and

(e) describe the arrangements that the establishment has in place to manage any conflicts of interest that may arise; and

(f) be in a form and contain any other information that NZQA requires; and

(g) be accompanied by an amount that NZQA requires as a deposit on the fee charged under section 457(1)(a)(vii).

(3) NZQA may not consider an application for registration if the applicant does not provide all the information required under subsection (2).

Compare: 1989 No 80 s 232D

345 NZQA may verify identity of governing members of private training establishment

(1) NZQA may require a private training establishment to provide evidence of the identities of its governing members—

(a) before considering its application for registration; or

(b) at any time there is a change in the membership of the governing members of the establishment.

(2) NZQA may interview any governing member of the establishment for the purpose of verifying the member's identity.

Compare: 1989 No 80 s 232E

Determination of application

346 Grant or refusal of application

(1) NZQA must grant an application for registration of a private training establishment if satisfied that—

(a) every governing member of the establishment is a fit and proper person (after considering the criteria set out in section 347); and

(b) the establishment has in place effective arrangements for managing any conflicts of interest that exist or may arise; and

(c) no governing member of the establishment has a material conflict of interest that NZQA considers is or is likely to be unmanageable; and

(d) no governing member of the establishment has an interest of a kind described in section 344(2)(c)(ii) that NZQA considers is or is likely to be unmanageable; and

(e) the establishment has, or is to have at the relevant time, adequate staff, equipment, and premises to provide its programmes or micro-credentials; and

(f) the establishment,—

(i) if it is already operational, has acceptable financial management practices and performance (for example, is able to pay its staff, taxes, and creditors); or

(ii) if it is not yet operational, is likely to have acceptable financial management practices and performance (for example, is likely to be able to pay its staff, taxes, and creditors); and

(g) the establishment complies, or is capable of complying and likely to comply, with the conditions of registration under section 348; and

(h) before accepting the enrolment of any prospective student, the establishment provides or is to provide that student with a written statement of—

(i) the total costs and other financial commitments associated with the programme or micro-credential for which the student seeks enrolment; and

(ii) any material conflicts of interest of any of the governing members of the establishment; and

(iii) any interests of a kind described in section 344(2)(c)(ii); and

(i) if the establishment intends to enrol international students, it is to become a signatory to the applicable code issued under section 534 before enrolling any international students.

(2) Registration may be granted for a specified period or indefinitely.

(3) The grant of registration does not entitle the establishment or any of its students to receive financial assistance out of money appropriated by Parliament.

(4) NZQA may refuse to grant registration to a private training establishment or cancel the establishment's registration (if already granted) if satisfied that a governing member of the establishment has provided a false or misleading declaration under section 344(2)(c).

(5) NZQA must give written notice to a private training establishment if it grants, refuses to grant, or cancels registration.

(6) If NZQA refuses or cancels registration, it must give reasons for doing so.

Compare: 1989 No 80 s 233

Section 346(1)(e): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 346(1)(h)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

347 Criteria for determining whether governing member is fit and proper person

(1) For the purpose of determining whether a governing member of a private training establishment is a fit and proper person for that position, NZQA must give any weight that it thinks fit to all of the following matters:

(a) the person's experience in the provision of education services (for example, any previous involvement in a registered establishment); and

(b) whether the person was a governing member of a registered establishment that was closed, sold due to insolvency, or taken over; and

(c) whether the person has been convicted of any offence involving fraud, violence, or dishonesty, or any offence against this Act or section 352 of the Immigration Act 2009; and

(d) whether the person is a defendant in proceedings in respect of an offence described in paragraph (c); and

(e) whether the person was adjudicated bankrupt under the Insolvency Act 2006; and

(f) whether the person has been prohibited from being a director or promoter of, or being concerned or taking part in the management of,—

(i) a company under the Companies Act 1993; or

(ii) any other body corporate; and

(g) whether the person has failed to disclose any material conflict of interest as required under section 344(2)(c)(i); and

(h) any other matter that NZQA considers relevant.

(2) If the applicant has had direct involvement in the provision of education services that have failed, NZQA must give the applicant an opportunity to explain why this is unlikely to occur again.

Compare: 1989 No 80 s 233A

Conditions and other requirements of registration

348 Conditions of registration

(1) A private training establishment must, as a condition of registration,—

(a) comply at all times with the requirements in the rules made under section 452, except to the extent that NZQA exempts the establishment, by a condition on its registration, from compliance; and

(b) keep up to date the written statement required under section 344(2)(a); and

(c) ensure that—

(i) existing governing members keep up to date the declarations required under section 344(2)(c) and (d); and

(ii) any new governing member submits the declarations required under section 344(2)(c) and (d) before commencing as a governing member of the establishment.

(2) NZQA may impose conditions on the registration of an establishment that are specific to the establishment or a group or class of establishments.

(3) NZQA may, with the agreement of the establishment,—

(a) impose new conditions on the establishment's registration; or

(b) amend or revoke any existing conditions.

(4) NZQA may, without the agreement of an establishment, impose conditions on the establishment's registration, or amend or revoke any existing conditions, but only if NZQA has first—

(a) given written notice to the establishment of its intention to do so; and

(b) given the establishment a reasonable opportunity to respond to the notice; and

(c) considered any submissions made by the establishment in response to the notice.

(5) When conditions are imposed, amended, or revoked, NZQA must give written notice to the establishment of the new, amended, or revoked conditions.

Compare: 1989 No 80 s 233B

349 Annual registration fee

Every registered establishment must pay NZQA an annual registration fee of an amount prescribed by or determined under rules made under section 452.

Compare: 1989 No 80 s 233C

Cancellation and lapse of registration

350 Cancellation of registration

(1) NZQA may cancel the registration of a registered establishment—

(a) if it is satisfied on reasonable grounds that—

(i) the establishment no longer meets 1 or more of the criteria set out in section 346(1); or

(ii) the establishment is not complying, or has not complied, with 1 or more of its conditions of registration; or

(b) if the establishment has provided false or misleading information in its application for registration; or

(c) if it is satisfied on reasonable grounds that the establishment has failed or refused to comply with any relevant duties or obligations under this Act, including (without limitation) the obligations relating to student fee protection; or

(ca) if the establishment has been convicted of an offence against section 352 of the Immigration Act 2009; or

(d) at the written request of the establishment.

(2) NZQA must cancel the registration of a registered establishment if—

(a) the establishment has been convicted of an offence against this Act; or

(b) a governing member of the establishment is convicted of any serious criminal activity or any offence referred to in paragraph (a), and the establishment fails to comply with a written notice issued by NZQA on reasonable grounds requiring that the person be removed, within 2 months of receipt of the notice, from the person's position as a governing member and from every other position in the establishment.

(3) Before cancelling a registration under subsection (1)(a), (b), or (c), NZQA must—

(a) notify the establishment that it is considering cancelling its registration, and give reasons; and

(b) give the establishment a reasonable opportunity to respond to the notice; and

(c) consider any submissions made by the establishment in response to the notice.

(4) If NZQA cancels a registration under this section, it must give notice of its decision to both the establishment and TEC, with reasons.

(5) Nothing in this section limits NZQA's powers under section 459(6)(a) to cancel an establishment's registration.

Compare: 1989 No 80 s 233D

Section 350(1)(ca): inserted, on 1 August 2022, by section 16(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 350(2)(a): replaced, on 1 August 2022, by section 16(2) of the Education and Training Amendment Act 2022 (2022 No 38).

351 Effect of cancellation

(1) Cancellation of registration under section 350 or 459(6)(a) takes effect on the date specified by NZQA in the notice given under section 350(4) (the **cancellation date**).

(2) If the registration of a registered establishment is cancelled under section 350 or 459(6)(a), the following apply from the cancellation date:

(a) all approved programmes or micro-credentials granted to the establishment are withdrawn; and

(b) all accreditations granted to the establishment are withdrawn; and

(c) all consents to assess against standards granted to the establishment are withdrawn.

(3) No notice is required to be given to a registered establishment for a withdrawal under subsection (2).

Compare: 1989 No 80 s 233E

Section 351(2)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

352 Lapse of registration

(1) The registration of a registered establishment lapses—

(a) on the date that is 1 year after registration is granted if,—

(i) within that period, the establishment does not provide an approved programme that it is accredited to provide to enrolled students; and

(ii) within that period, the establishment does not provide an approved micro-credential it is accredited to provide to enrolled students:

(b) on the date that is 1 year after the establishment has ceased to provide to enrolled students—

(i) any approved programme it is accredited to provide; and

(ii) any approved micro-credential it is accredited to provide.

(2) Subsection (1) does not affect the registration of a private training establishment if—

(a) the time for the lapse of the establishment's accreditation to provide an approved programme is extended under section 443(2) beyond either of the dates specified in subsection (1), in which case the establishment's registration lapses when the accreditation lapses; or

(b) the time for the lapse of the establishment's accreditation to provide an approved micro-credential is extended under section 447(2) beyond either of the dates specified in subsection (1), in which case the establishment's registration lapses when the accreditation to provide an approved micro-credential lapses.

(3) Despite anything in subsections (1) and (2), the registration of a registered establishment lapses on the date on which the establishment ceases to be a body corporate.

(4) If a registered establishment is required under this Act to pay any fees to NZQA, and fails to pay those fees after receiving 2 reminder notices within 3 months, the registration of the establishment lapses on the date that is 1 calendar month after the date of the second reminder notice from NZQA.

(5) NZQA must give written notice of the lapse of a registration to the establishment.

(6) If the registration of a registered private training establishment lapses under subsection (1), (3), or (4), any accreditation, approval, or consent associated with the registration is withdrawn on the date on which the registration lapses.

(7) No notice is required to be given to a registered establishment for a withdrawal under subsection (6).

Compare: 1989 No 80 s 234

Section 352(1)(a)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 352(1)(b)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 352(2)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 352(2)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Fees for domestic students

353 Fees for domestic students and employers may not exceed maximums set in conditions of funding

(1) A registered establishment that receives funding from TEC under section 425 or 428—

(a) may not exceed the maximum amount when fixing a tuition fee, a fee for the provision of student services, or a fee of a particular kind for any programme or micro-credential at the establishment; and

(b) must comply with any limit or requirement specified in a condition imposed under section 426 or 429(2) (whichever is applicable).

(2) *[Repealed]*

(3) In subsection (1), **maximum amount** means the maximum specified in a condition imposed under section 426 or 429(2) (whichever is applicable) as being the maximum fee (or fee of that kind) that can be charged to a domestic student or an employer.

Compare: 1989 No 80 s 234A

Section 353(1): replaced, on 1 August 2022, by section 17(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 353(2): repealed, on 1 August 2022, by section 17(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Information that must be given to prospective students

354 Information that private training establishments must give prospective students

A private training establishment must—

(a) ensure that all information made available to prospective students contains full details of—

(i) the total fees for each programme or micro-credential, including fees for class or lecture materials, books, special clothing, safety equipment, tools, and any other items that are or may be provided

to students enrolled in that programme or micro-credential, and including any students association membership fees; and

(ii) the class or lecture materials, books, special clothing, safety equipment, tools, and other items that are or may be required by the establishment to be bought or provided by students enrolled in each programme or micro-credential; and

(b) before accepting the enrolment of any prospective student, give the student a written statement of—

(i) the total costs of the programme or micro-credential and all other financial commitments associated with the programme or micro-credential; and

(ii) the cost of fees charged for student services provided by the establishment; and

(iii) any material conflicts of interest of any of the governing members of the establishment; and

(iv) any interests of a kind described in any statement required under section 344(2)(c)(ii); and

(c) give every prospective student a written statement of the student's entitlements under sections 357 and 529, in the event that the student withdraws from a programme or micro-credential.

Compare: 1989 No 80 s 234B

Section 354(a)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 354(a)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 354(b)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 354(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Protection of student fees

355 Application of rules relating to student fee protection

(1) This section applies to a person who receives money from a student for the purpose of enrolling, or helping the student to enrol, in a programme or micro-credential at a private training establishment.

(2) The person must comply with the requirements of any rules made under section 452 that relate to student fee protection.

Compare: 1989 No 80 s 234D

Section 355(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

356 Student fees must be deposited with independent trustee

(1) If a private training establishment receives any funds paid by or on behalf of a student in respect of a programme or micro-credential provided by the establishment, the establishment must—

(a) deposit those funds, as soon as practicable, with an independent trustee approved by NZQA; and

(b) hold those funds on trust for the student until they are deposited with the independent trustee.

(2) If a person to whom section 355 applies receives any funds paid by or on behalf of a student in respect of a programme or micro-credential provided by the establishment, the person must—

(a) deposit those funds, as soon as practicable, with an independent trustee approved by NZQA unless the establishment has made alternative arrangements that are acceptable to NZQA; and

(b) hold those funds on trust for the student until they are deposited with the independent trustee or in accordance with the alternative arrangements referred to in paragraph (a).

(3) An independent trustee approved by NZQA must comply with the requirements of any rules made under section 452 relating to student fee protection.

(4) NZQA—

(a) may withdraw its approval of a particular trustee if satisfied that the trustee is not managing the trust funds in accordance with the rules; and

(b) must, if approval for a trustee is withdrawn, appoint a new trustee in accordance with the rules.

(5) The requirements specified in subsection (1) do not apply—

(a) in respect of any programme or micro-credential that is exempt from those requirements by any rules made under section 452(1)(u); or

(b) in the case of a student or group of students for whom the private training establishment has deposited, with an independent trustee approved by NZQA, an amount of money that is sufficient to make the necessary refunds to that student or those students under section 357 or 529.

Compare: 1989 No 80 ss 234E, 292G

Section 356(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 356(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 356(5)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

357 Refund entitlements of domestic students

(1) This section applies to a domestic student who—

(a) is enrolled at a private training establishment for all or part of a programme or micro-credential of more than 3 months' duration; and

(b) withdraws from that programme or micro-credential within the refund period.

(2) The student is entitled to a refund of the payment (or the sum of any payments) made by the student in respect of the programme or micro-credential that exceeds $500 or 10% of the amount of that payment or the sum of those payments, whichever is the lesser.

(3) Despite subsection (2), a private training establishment must—

(a) allow every domestic student enrolled in a programme or micro-credential that is of less than 3 months' duration to withdraw from it within a period (being less than 7 days) specified by NZQA; and

(b) refund to every domestic student who so withdraws a minimum amount or proportion, specified by NZQA, of any payments made by the student to the establishment in respect of the programme or micro-credential.

(4) If the student withdraws from a programme or micro-credential within the refund period, the independent trustee must refund all payments made to it by the private training establishment in respect of the programme or micro-credential—

(a) to the trustee of the student's new education provider; or

(b) if the fee has been paid for by student loan, to MSD; or

(c) to the student, if neither paragraph (a) nor (b) applies.

(5) When the refund period, in relation to any fees paid by or behalf of a student, has expired,—

(a) the fees paid must continue to be held in trust by the independent trustee and the private training establishment must be paid from the trust in the manner prescribed in the rules made under section 452; or

(b) the private training establishment may, if NZQA approves, make alternative arrangements in relation to the fees paid.

(6) An instrument containing a specification by NZQA under subsection (3) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 235

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 357(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(3)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(3)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(4): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 357(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

358 Rules apply if students withdraw because of programme or micro-credential closure

Any fees paid by or on behalf of a student who withdraws from a programme or micro-credential because of the closure of the programme or micro-credential are subject to the protections set out in the rules made under section 452.

Compare: 1989 No 80 s 235C

Section 358 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 358: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

359 Requirement that funds be paid applies to all components of fee payable

The requirement that funds paid by or on behalf of a student be deposited with an independent trustee applies to all components of any fee payable by the student (for example, it includes any component of the fee payable by the student in respect of accommodation costs or agent commissions).

Compare: 1989 No 80 s 234C

360 Ministerial direction to registered establishments relating to compulsory student services fees

[Repealed]

Section 360: repealed, on 1 August 2022, by section 18 of the Education and Training Amendment Act 2022 (2022 No 38).

Student records

361 Duties of private training establishments to maintain student records

(1) A private training establishment must—

(a) keep accurate enrolment and academic records for each student enrolled in—

(i) a programme or micro-credential provided by the establishment; or

(ii) standards-based study or training provided by the establishment through a consent to assess against standards granted under section 449; and

(b) comply with rules made under section 452(1)(q) in respect of those records; and

(c) ensure that the enrolment records required to be kept under this section are up to date; and

(d) ensure that the enrolment records are readily available, upon request, to—

(i) NZQA:

(ii) Immigration New Zealand:

(iii) a code administrator:

(iv) the department for the time being responsible for the administration of the Social Security Act 2018:

(v) Public Trust, if it is approved as an independent trustee for the private training establishment.

(2) If a private training establishment closes, the establishment must forward each student's records to—

(a) the student's new education provider; or

(b) the student, if there is no new education provider.

Compare: 1989 No 80 s 236A

Section 361(1)(a)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Subpart 6—Vocational education and training

362 Training agreements and apprenticeship training agreements part of employment agreement

Training agreements and apprenticeship training agreements are part of the employment agreement between the employee and employer concerned.

Compare: 1989 No 80 s 478; 1992 No 55 s 3

Workforce development councils

363 Establishment of workforce development councils

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a workforce development council for 1 or more specified industries.

(2) An order made under subsection (1)—

(a) must—

(i) state the name of the workforce development council; and

(ii) state the 1 or more specified industries that the workforce development council covers; and

(iii) set out the governance arrangements for the workforce development council, including arrangements relating to the appointment, composition, suspension, or removal of members of the council; and

(iv) state the additional functions (if any) conferred on the workforce development council by the Minister in accordance with section 366(1)(l); and

(b) may—

(i) outline the means by which the 1 or more specified industries covered by the workforce development council may engage with the council in relation to the performance or exercise of its functions, duties, or powers; and

(ii) prescribe matters relating to the workforce development council's use of its assets, including any assets allocated to the council from a transitional ITO under clause 57 of Schedule 1 or to any other industry body; and

(iii) impose conditions on the performance or exercise of the workforce development council's functions, duties, or powers; and

(iv) provide for any other matters that are necessary or desirable to clarify the governance arrangements of the workforce development council.

(3) In making a recommendation relating to the governance arrangements for a workforce development council, the Minister must, as far as is reasonably practicable, ensure that those arrangements provide for—

(a) the collective representation of employers and employees in the 1 or more specified industries covered by the workforce development council in the governance of the council; and

(b) the representation on the council of Māori employers from any or all of the 1 or more specified industries.

(4) The Minister must not recommend the making of an order under subsection (1) or a significant amendment to an order made under that subsection unless the Minister has—

(a) consulted the representatives of the 1 or more specified industries covered or proposed to be covered by the workforce development council; and

(b) taken into account any views expressed by those representatives regarding—

(i) the proposed name and governance arrangements of the workforce development council; and

(ii) the desirability of avoiding duplication of resources in the coverage of workforce development councils in relation to the specified industries; and

(iii) the capability required by the proposed workforce development council to perform and exercise its functions, duties, and powers efficiently and effectively.

(5) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 479

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 363(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

364 Disestablishment of workforce development councils

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, disestablish a workforce development council and provide for the distribution of its assets and liabilities.

(2) The Minister may not recommend the disestablishment of a workforce development council under subsection (1) unless—

(a) the Minister has received a request from the workforce development council or 1 or more of the specified industries covered by the workforce development council for it to be disestablished and is satisfied on reasonable grounds that there are good reasons to do so; or

(b) the Minister is satisfied that it is necessary to do so because—

(i) the workforce development council has persistently engaged in unlawful activity; or

(ii) the workforce development council has persistently failed to perform its functions or duties; or

(iii) there has been a persistent pattern of complaints to the Commission or the Minister from the 1 or more specified industries covered by the workforce development council regarding the council's performance or exercise of its functions, duties, or powers.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 480

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 364(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

365 Incorporation

Each workforce development council established under section 363 is a body corporate with perpetual succession and a common seal, and is capable of—

(a) holding real and personal property; and

(b) suing and being sued; and

(c) otherwise doing and suffering all that bodies corporate may do and suffer.

Compare: 1989 No 80 s 481

366 Functions of workforce development councils

(1) The functions of a workforce development council, in relation to the specified industries covered by it, are—

Leadership

(a) to provide skills and workforce leadership for the specified industries, including by identifying their current and future needs and advocating for those needs to be met through its work with the industries and with schools, providers, regional bodies, and the Government:

Developing and setting standards, capstone assessments, and qualifications

(b) to develop, set, and maintain skill standards:

(c) to develop and maintain industry qualifications for listing on the Qualifications and Credentials Framework and to maintain qualifications for which it has become the qualifications developer:

(d) to develop and maintain micro-credentials:

(e) to develop and maintain national curricula for qualifications for which it is responsible as a standard-setting body under section 438:

(f) to develop, set, and maintain capstone assessments based on the needs of the specified industries:

Endorsing programmes and moderating assessments

(g) to decide whether to endorse programmes developed by providers:

(h) to carry out moderation activities in relation to any standards and capstone assessments it sets:

Advisory and representative role

(i) to provide employers with brokerage and advisory services approved by TEC:

(j) to advise TEC, as provided for in section 411,—

(i) about its overall investment in vocational education and training:

(ii) about the mix of vocational education and training needed for the 1 or more specified industries covered by the workforce development council in the manner required by TEC:

(k) to represent the interests of the specified industries:

Other functions

(l) to perform any other functions conferred on it by the Minister in relation to the specified industries.

(2) For the purposes of subsection (1)(g), the Minister may, by notice in the *Gazette*, specify criteria relating to when a workforce development council must endorse a programme before it may be approved by NZQA under section 439.

(3) The Minister must not confer any additional function on a workforce development council under subsection (1)(l) without first consulting the workforce development council.

Compare: 1989 No 80 s 482

Section 366(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 366(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 366(1)(e): replaced, on 1 August 2022, by section 19 of the Education and Training Amendment Act 2022 (2022 No 38).

367 Workforce development council's functions in relation to wānanga

(1) Subject to subsection (2),—

(a) a workforce development council may endorse a programme developed by a wānanga only if requested by the wānanga:

(b) a capstone assessment developed by a workforce development council applies to a wānanga only if requested by the wānanga.

(2) If a programme includes a component of work-based training, a workforce development council may perform its functions under section 366 in relation to the programme.

Compare: 1989 No 80 s 483

368 Workforce development council may not operate registered establishment

(1) A workforce development council may not operate or hold any interest (whether financial or otherwise) in a registered establishment.

(2) A workforce development council must not, whether directly or through an agent,—

(a) provide any education and training approved by NZQA; or

(b) operate, or hold an interest in, an organisation that provides education and training approved by NZQA.

Compare: 1989 No 80 s 484

369 Duties of workforce development councils

(1) A workforce development council must comply with any prescribed quality assurance requirements set by NZQA relating to the performance of its functions.

(2) In performing its functions, a workforce development council—

(a) must take into account the needs of employers and employees in the 1 or more specified industries covered by the workforce development council but, in doing so, must also consider national and regional interests:

(b) must have regard to the needs of Māori and other population groups identified in the tertiary education strategy issued under section 7:

(c) must, to the extent that is necessary or desirable in the circumstances, work collaboratively with—

(i) providers in relation to the functions set out in section 366(1)(b), (c), and (e) and, in the case of wānanga, while respecting their special character under section 268(2)(d)(ii)(B):

(ii) other workforce development councils, particularly on matters of common interest:

(iii) NZQA, in relation to qualifications development, programme endorsement, or developing, setting, or maintaining skill standards or national curricula:

(iv) any relevant regulatory body that performs or exercises any functions, duties, or powers under an enactment in relation to entry to an occupation in any of the specified industries covered by the workforce development council:

(d) must, when performing its functions under section 366(1)(i) to (k), take all reasonable steps to avoid any adverse impact on its relationship with a provider or providers.

Compare: 1989 No 80 s 485

Section 369(2)(c)(i): amended, on 1 August 2022, by section 20(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 369(2)(c)(iii): amended, on 1 August 2022, by section 20(2) of the Education and Training Amendment Act 2022 (2022 No 38).

370 Annual fee payable by workforce development council

(1) A workforce development council must pay to NZQA an annual fee prescribed by or determined under rules made under section 452(1)(h).

(2) The annual fee may recover no more than the reasonable costs, excluding those costs that are recoverable through fees charged under section 457, incurred by NZQA for—

(a) prescribing quality assurance requirements under section 452(1)(i); and

(b) monitoring compliance, and addressing non-compliance, with those requirements in accordance with its functions under section 433(1)(e); and

(c) issuing quality assurance improvement notices under section 371.

(3) The fee is—

(a) payable by the due date prescribed in the rules; and

(b) recoverable as a debt due to NZQA.

Compare: 1989 No 80 s 486

371 NZQA may issue quality assurance improvement notice

(1) NZQA may, if satisfied that action is reasonably necessary to maintain the quality and effectiveness of a workforce development council's performance of its functions, issue a quality assurance improvement notice to a workforce development council.

(2) A quality assurance improvement notice must—

(a) set out any concerns NZQA has about the workforce development council's systems, practices, or procedures; and

(b) specify the time within which the workforce development council is expected to address NZQA's concerns (which must be a reasonable time, having regard to the nature and complexity of the action required); and

(c) state that, if NZQA's concerns are not addressed within the specified time, NZQA may issue a compliance notice under section 372; and

(d) state the consequence of a failure to comply with a compliance notice.

Compare: 1989 No 80 s 487

372 NZQA may issue compliance notice

(1) NZQA may issue a compliance notice to a workforce development council requiring it to do either or both of the following:

(a) do, or refrain from doing, a particular thing in relation to a prescribed quality assurance requirement:

(b) address any concerns set out in a quality assurance improvement notice issued under section 371 that were not addressed within the time specified in that notice.

(2) Section 459(2) to (5) applies to a compliance notice issued under this section.

(3) If a workforce development council fails to comply with a compliance notice issued under this section, NZQA may notify the Minister in writing.

(4) A compliance notice may be issued to a workforce development council whether or not a quality assurance improvement notice has been issued under section 371.

(5) Nothing in this section limits the power of NZQA to issue a compliance notice to a workforce development council in accordance with section 459.

Compare: 1989 No 80 s 488

Audit

373 Application of Public Audit Act 2001

Each workforce development council established under section 363 is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

Compare: 1989 No 80 s 489

Validity of acts

374 Acts in breach of statute invalid

(1) An act of a workforce development council is invalid (unless section 375 applies) if—

(a) the act is contrary to, or outside the authority of, an Act; or

(b) the act is done otherwise than for the purpose of performing its functions.

(2) Subsection (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

Compare: 1989 No 80 s 490; 2004 No 115 s 19

375 Some natural person acts protected

(1) Section 374, or any rule of law to similar effect, does not prevent a person dealing with a workforce development council from enforcing a transaction that is a natural person act unless the person dealing with the entity knew, or ought reasonably to have known, that—

(a) an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or

(b) the act was done otherwise than for the purpose of performing the workforce development council's functions.

(2) A person who relies on subsection (1) has the onus of proving that the person did not have, and could not reasonably be expected to have had, the knowledge referred to in that subsection.

(3) A workforce development council must report, in its financial report required by clause 13 of Schedule 18, each transaction that the council has performed in the year to which the report relates that was invalid under section 374 but enforced in reliance on subsection (1).

(4) To avoid doubt, this section does not affect any person's other remedies under the general law (for example, remedies in contract).

(5) In this section, **natural person act** has the same meaning as in section 148(5).

Compare: 1989 No 80 s 491

Apprenticeships

376 Apprenticeship training activities must be included in proposed plan

(1) A provider that seeks funding for an apprenticeship training activity (as described in subsection (2)) via a plan must specify in its proposed plan how it intends to carry out that activity.

(2) The **apprenticeship training activities** are—

(a) to promote apprenticeship training generally through providing information, guidance, and advice to employers and prospective apprentices about the benefits of an apprenticeship:

(b) to identify—

(i) prospective apprentices; and

(ii) employers able to offer apprenticeship training that satisfies all of the work-based requirements of the approved programme of the provider:

(c) to provide or arrange training or employment that may lead to apprenticeship training for prospective apprentices:

(d) to help prospective apprentices enter into apprenticeship training agreements:

(e) to produce, and facilitate (in consultation with the apprentice and the apprentice's employer) the implementation of, individual training plans consistent with an apprentice's apprenticeship training agreement:

(f) to monitor individual apprentices to ensure that their apprenticeship training leads them to attain, within a reasonable time, the level of skills necessary to complete a qualification in the skills of the specified industry:

(g) to ensure, as far as is reasonably practicable, that apprenticeship training, and every apprenticeship training agreement, within the specified industry is consistent with any apprenticeship training code:

(h) to provide or procure appropriate pastoral care and support for apprentices, having regard to the age and experience of the apprentice and the contents of any apprenticeship training code.

Compare: 1989 No 80 s 493; 1992 No 55 s 13D

377 Duties of persons carrying out apprenticeship training activities

(1) Persons carrying out apprenticeship training activities (whether or not via a plan) must,—

(a) in performing any apprenticeship training activity described in section 376(2), comply with every part of the apprenticeship training code that affects that activity:

(b) before helping a person to enter into an apprenticeship training agreement, advise that person to seek advice about the agreement from an independent person.

(2) A provider must give written notice to an apprentice under the provider's care if the provider becomes aware that it is impracticable for the apprentice to continue their apprenticeship training with their current employer.

(3) A notice under subsection (2) must advise the apprentice—

(a) that the provider is able to assist the apprentice with finding a new employer with whom the apprentice can complete their apprenticeship training; and

(b) if the apprentice so requests, the provider will make reasonable endeavours to find a new employer with whom the apprentice can complete their training.

Compare: 1989 No 80 s 494; 1992 No 55 s 13E

378 Minister may issue apprenticeship training code

(1) The Minister may issue an apprenticeship training code that—

(a) is consistent with this subpart; and

(b) sets out the responsibilities of apprentices, their employers, and persons carrying out apprenticeship training activities under this subpart.

(2) The apprenticeship training code may, but need not, be a code recommended by TEC.

(3) Before issuing an apprenticeship training code, the Minister may consult any persons or organisations that the Minister thinks fit.

(4) *[Repealed]*

(5) Before issuing an apprenticeship training code under subsection (1), the Minister must consult relevant workforce development councils that cover the 1 or more specified industries to which the code relates.

(6) An apprenticeship training code—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) comes into force on a date specified in it, being not less than 28 days after it is published under that Act.

Compare: 1989 No 80 ss 495, 498; 1992 No 55 ss 13F, 13I

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving enough information to identify it and state where copies of it may be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 378(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 378(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 378(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

379 Availability of apprenticeship training code

[Repealed]

Section 379: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

380 Apprenticeship training code to be taken into account by mediator, Employment Relations Authority, and Employment Court

In exercising or performing, in relation to a matter concerning an apprentice, any power or function under the Employment Relations Act 2000, the following must take into account every applicable element of any apprenticeship training code:

(a) a person providing mediation services under that Act:

(b) the Employment Relations Authority:

(c) the Employment Court.

Compare: 1989 No 80 s 497; 1992 No 55 s 13H

Training levy

381 Purpose of levy

The purpose of sections 382 to 385 and Schedules 16 and 17 is to enable the imposition of a training levy on the members of an industry, payable to a workforce development council, if a ballot of those members shows sufficient support for the imposition of the levy.

Compare: 1989 No 80 s 500; 1992 No 55 s 24

382 Levy may be imposed by Order in Council

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, impose a levy on qualifying members of a levy group that is payable to a workforce development council.

(2) The Minister may not recommend the making of an Order in Council unless the Minister is satisfied on reasonable grounds of the matters in section 384.

(3) A levy may be payable to—

(a) 1 workforce development council by all qualifying members of the industry that is covered by that council; or

(b) 1 workforce development council by all qualifying members of a specific industry that is within the range of industries covered by that council; or

(c) more than 1 workforce development council, jointly, by all qualifying members of an industry that is covered by those councils.

(4) A levy order under this section—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

Compare: 1989 No 80 s 501; 1992 No 55 s 26

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 382(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

383 Minister must indicate whether orders to continue in force

(1) The Minister on whose recommendation a levy order is made must indicate the Minister's intentions with regard to the levy order continuing in force by publishing a notice in the *Gazette* at least 6 months before the deadline that applies under subpart 3 of Part 5 of the Legislation Act 2019 (the **6-month date**).

(2) However, this section does not apply if the levy order has already been revoked, disallowed under subpart 2 of Part 5 of the Legislation Act 2019, or confirmed by an Act before the 6-month date.

Section 383: replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

384 Restrictions on making of levy orders

(1) The Minister may not recommend the making of a levy order under section 382 unless satisfied on reasonable grounds that—

(a) the workforce development council to which the levy is payable has, within the previous 12 months, balloted all known members of the levy group, in accordance with clauses 5 to 12 of Schedule 16, in relation to a proposal that the levy should be imposed on those members; and

(b) at least 60% of the ballot papers distributed were validly completed and returned before the closing date to the independent returning officer conducting the ballot; and

(c) of the ballot papers validly completed and returned,—

(i) more than 60% of the total supported the imposition of the levy; and

(ii) more than 60%, weighted according to the size of the industry member that returned the ballot paper (calculated at the date on which the ballot closed and on the same basis as the levy is proposed to be charged, as set out in the ballot paper), supported the imposition of the levy; and

(d) the details specified in the order do not differ in any material way from those specified in the ballot paper; and

(e) the details specified in the order are acceptable to the Minister; and

(f) the workforce development council has or is to have in place adequate systems for accounting to qualifying members of the levy group for the expenditure of levy funds; and

(g) all other relevant matters known to the Minister have been properly considered.

(2) When considering the matters in subsection (1), the Minister must consult TEC and may consult any other persons that the Minister thinks fit.

Compare: 1989 No 80 s 502; 1992 No 55 s 27

385 Further provisions relating to training levy

Schedules 16 and 17 contain further provisions relating to the imposition of a training levy and the matters that must be specified in a levy order.

Subpart 7—Offences

386 Offences relating to information requests from MSD

(1) Any institution that intentionally fails or refuses to comply with clause 8(6) of Schedule 9 commits an offence and is liable on conviction to the penalty specified in subsection (3).

(2) An institution commits an offence and is liable on conviction to a penalty specified in subsection (3) if, in response to any requirement to supply information under clause 8(6) of Schedule 9, the institution intentionally—

(a) makes a false or misleading statement; or

(b) makes a statement from which any material matter has been omitted; or

(c) provides any false or misleading paper, document, or record; or

(d) provides a paper, document, or record from which any material matter has been omitted.

(3) The maximum penalty for an offence against subsection (1) or (2) is a fine not exceeding $5,000, and, if the offence is a continuing one, a fine not exceeding $500 for each day the offence continues.

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution under this section must be commenced within 12 months of the date on which MSD becomes aware of the offence.

Compare: 1989 No 80 s 226B; 1993 No 87 s 226

387 Other offences relating to information requests from MSD

(1) A private training establishment that intentionally fails or refuses to comply with clause 9(6) of Schedule 9 commits an offence and is liable on conviction to the penalty specified in subsection (3).

(2) A private training establishment commits an offence and is liable on conviction to the penalty specified in subsection (3) if, in response to any requirement

to supply information under section 9(6) of Schedule 9, the establishment intentionally—

(a) makes a false or misleading statement; or

(b) makes a statement from which any material matter has been omitted; or

(c) provides any false or misleading paper, document, or record; or

(d) provides a paper, document, or record from which any material matter has been omitted.

(3) The maximum penalty for an offence against subsection (1) or (2) is a fine not exceeding $5,000, and, if the offence is a continuing one, a fine not exceeding $500 for each day the offence continues.

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution under this section must be commenced within 12 months of the date on which MSD becomes aware of the offence.

Compare: 1989 No 80 s 236

388 Offences relating to handling student fees

A private training establishment that contravenes section 356(1) or a person who contravenes section 356(2) commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 80 s 292G

389 Offences relating to duties to maintain student records

A private training establishment that fails, without reasonable excuse, to comply with the requirements of section 361 commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 80 s 292D

390 Offences relating to use of certain terms

(1) A person commits an offence if the person—

(a) uses the term university to describe an educational establishment or facility unless it—

(i) is a university; or

(ii) is a registered establishment or wānanga that has the Minister's consent under section 456 to use the term; or

(iii) was a university but, despite being incorporated under section 270(4) into another institution, retains the characteristics of a university as set out in section 268(2)(d)(i) and (ii)(A):

(b) uses the term polytechnic to describe an educational establishment or facility unless the educational establishment or facility is Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(c) uses the term institute of technology to describe an educational establishment or facility unless the educational establishment or facility is Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) A person, other than a university, commits an offence if the person grants or purports to grant an award that is described as a degree, or the description of which includes the word bachelor, master, doctor, or postgraduate, unless the person has the consent of NZQA.

(3) A person commits an offence if the person, without the consent of NZQA, grants or purports to grant an award that (or the name or description of which) includes the word national or the words New Zealand.

(4) A person who commits an offence against this section is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 80 s 292

Section 390(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 390(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

391 Offences relating to false representations

(1) A person commits an offence if the person falsely represents, expressly or by implication, that—

(a) a qualification, credential, or micro-credential is listed on the Qualifications and Credentials Framework; or

(b) a programme or micro-credential—

(i) is an approved programme or training scheme; or

(ii) leads to a qualification or micro-credential listed on the Qualifications and Credentials Framework; or

(ba) a curriculum is a national curriculum recognised under section 438B; or

(c) a body—

(i) is a registered establishment; or

(ii) has accreditation to provide an approved programme or micro-credential; or

(iii) is providing or purports to provide an approved programme or micro-credential; or

(iv) has consent to assess against standards; or

(d) a standard is in the Directory of Assessment and Skill Standards; or

(e) the person is an agent of an institution, a government training establishment, a registered establishment, or a relevant school when the person is not.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.

(3) A person commits an offence if the person, without reasonable excuse, makes a false representation for the purpose of receiving, or continuing to receive, free tertiary education from a tertiary education organisation.

(4) A person who commits an offence against subsection (3) is liable on conviction to a fine not exceeding $5,000.

(5) For the purposes of subsection (3), **free tertiary education** means any tuition or training—

(a) that a tertiary education organisation provides to, or arranges for, eligible students; and

(b) that has costs (which would otherwise be payable by those students) that are (in whole or in part) met by money appropriated by Parliament.

Compare: 1989 No 80 s 292A

Section 391(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(ba): inserted, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(b)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(c)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(c)(iii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 391(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

392 Offence to issue false qualifications and falsify records

(1) A person commits an offence if the person—

(a) receives an award knowing that the award falsely represents, expressly or by implication, that the person has achieved a qualification listed on the Qualifications and Credentials Framework; or

(b) knowingly or recklessly issues an award that falsely represents, expressly or by implication, that a person has achieved a qualification listed on the Qualifications and Credentials Framework; or

(c) enters or changes an educational outcome on a student's record of achievement, knowing that or being reckless as to whether the entry or change has the effect of falsifying the student's record; or

(d) fails to enter an educational outcome on a student's record of achievement, knowing that or being reckless as to whether the omission has the effect of falsifying the student's record; or

(e) causes, without reasonable excuse or lawful authority, an entry or a change to be made on a student's record of achievement that has the effect of falsifying the student's record.

(2) A person who commits an offence against subsection (1)(a) is liable on conviction to a fine not exceeding $10,000.

(3) A person who commits an offence against subsection (1)(b), (c), (d), or (e) is liable on conviction to a fine not exceeding $50,000.

Compare: 1989 No 80 s 292C

Section 392(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 392(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

393 Offence to provide or advertise cheating services

(1) A person commits an offence if the person—

(a) provides a specified service with the intention of giving a student an unfair advantage over other students; or

(b) advertises a specified service knowing that the service has or is to have the effect of giving a student an unfair advantage over other students; or

(c) publishes, without reasonable excuse, an advertisement for a specified service.

(2) A person who commits an offence against subsection (1) is liable on conviction to a fine not exceeding $10,000.

(3) In this section,—

specified service, in relation to a student, means—

(a) completing an assignment or any other work that the student is required to complete as part of a programme or micro-credential:

(b) providing or arranging the provision of an assignment that the student is required to complete as part of a programme or micro-credential:

(c) providing or arranging the provision of answers for an examination that the student is required to sit as part of a programme or micro-credential:

(d) sitting an examination that the student is required to sit as part of a programme or micro-credential or providing another person to sit the examination in place of the student

student means a student of a programme or micro-credential.

Compare: 1989 No 80 s 292E

Section 393(3) **specified service** paragraph (a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 393(3) **specified service** paragraph (b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 393(3) **specified service** paragraph (c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 393(3) **specified service** paragraph (d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 393(3) **student**: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

394 Offence relating to registration of private training establishments

A private training establishment that contravenes section 343 commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 80 s 292F(2), (3)

395 Offences relating to enrolment of international students at private training establishments or institutions

(1) A private training establishment that contravenes section 527(1) or (2) commits an offence and is liable on conviction to a fine not exceeding $10,000.

(2) The council of an institution (including an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary) that contravenes section 525 commits an offence and is liable on conviction to a fine not exceeding $10,000.

Compare: 1989 No 80 s 292F

Section 395(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

396 Offences relating to allowances and student loans

(1) A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if the person, in response to a requirement under clause 3(1) of Schedule 9 or a question asked under clause 3(3) of Schedule 9, knowingly—

(a) makes a false or misleading statement; or

(b) makes a statement from which any material matter has been omitted; or

(c) provides any false or misleading paper, document, or record; or

(d) provides a paper, document, or record from which any material matter has been omitted.

(2) A recipient or non-recipient commits an offence and is liable on conviction to a fine not exceeding $2,000 if the recipient or non-recipient refuses to comply with clause 3(3) of Schedule 9.

(3) A recipient commits an offence and is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding $5,000 if the recipient, for the purpose of receiving or continuing to receive a statutory allowance or

student loan, or a statutory allowance at a particular rate or any amount of a student loan, other than that to which the recipient is entitled,—

(a) knowingly makes a false or misleading statement in an application for a statutory allowance or student loan; or

(b) knowingly makes a false or misleading statement in a notification of a change in the recipient's circumstances that materially affects the recipient's entitlement—

(i) to a statutory allowance or student loan; or

(ii) to be paid a statutory allowance at a particular rate or a particular amount of a student loan; or

(c) wilfully fails to comply with clause 3(4) of Schedule 9.

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a prosecution under this section must be commenced within 12 months of the date on which MSD becomes aware of the offence.

Compare: 1989 No 80 s 307AA; 1993 No 87 s 226A

General provisions relating to offences

397 Injunctions and orders of High Court

(1) If a person has engaged, is engaging, or proposes to engage in conduct that contravenes section 525(1) or any of sections 389 to 395 and 398, the High Court may, on application by NZQA, grant an injunction or make any appropriate order—

(a) restraining the person from engaging in that conduct; or

(b) for the purpose of ensuring that the person does not engage in that conduct.

(2) The court may grant the injunction or make the order on any terms that it thinks fit.

Compare: 1989 No 80 s 292H

398 Liability of body corporate and directors in respect of certain offences

(1) If, in proceedings in respect of conduct engaged in by a body corporate, being conduct to which any of sections 388 to 395 apply, it is necessary to establish the state of mind of the body corporate, it is sufficient to show that a director, an employee, or an agent of the body corporate, acting within the scope of that individual's actual or apparent authority, had that state of mind.

(2) For the purpose of sections 388 to 395, any conduct engaged in on behalf of a body corporate is to be treated as having been engaged in also by the body corporate if the conduct was engaged in by—

(a) a director, an employee, or an agent of the body corporate, acting within the scope of that individual's actual or apparent authority; or

(b) any other individual acting on the direction or with the consent or agreement (whether express or implied) of a director, an employee, or an agent of the body corporate, given within the scope of the actual or apparent authority of the director, employee, or agent.

(3) If a body corporate is convicted of an offence against any of sections 388 to 395, any director of the body corporate and, if the body corporate is a private training establishment, any governing member of the establishment is to be treated as having committed the same offence, if the director or governing member—

(a) approved of the act that constituted the offence; or

(b) knew the offence was to be or was being committed and failed to take all reasonable steps to prevent it.

(4) In this section, **state of mind**, in relation to an individual, includes the knowledge, intention, opinion, belief, or purpose of the individual and the individual's reasons for that intention, opinion, belief, or purpose.

Compare: 1989 No 80 s 292B

Part 4A
Wānanga

Part 4A: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398A Outline of Part 4A

(1) This Part, which concerns wānanga, is divided into 4 subparts.

(2) Subpart 1 deals with various preliminary matters.

(3) Subpart 2 concerns the administration of category A wānanga.

(4) Subpart 3 concerns the administration of category B wānanga.

(5) Subpart 5 concerns the disestablishment of wānanga.

Section 398A: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398B Purpose of Part 4A

The purpose of this Part is to provide for the establishment, modification, and administration of wānanga in a manner that gives effect to the principles of Te Tiriti o Waitangi and supports Māori-Crown relationships and, in particular, that—

(a) better reflects the unique characteristics, functions, and purposes of wānanga in the tertiary education system for delivering the best possible education outcomes for ākonga; and

(b) recognises the interests of iwi or Māori in ensuring the effective governance and administration of wānanga; and

(c) enables direct accountability to iwi or Māori for the performance of wānanga.

Section 398B: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 1—Preliminary matters

Subpart 1: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398C Application

(1) This Part applies to a wānanga that—

(a) is established on or after the date on which this Part commences; or

(b) existed immediately before the date on which this Part commences, and on or after that date—

(i) reconstitutes its governance or administration to become a category A wānanga; or

(ii) converts to a category B wānanga.

Provisions that do not apply to category A wānanga and category B wānanga

(2) On or after commencement of this Part,—

(a) the following provisions of this Act do not apply to a category A wānanga or category B wānanga:

(i) section 268 (establishment of institutions):

(ii) section 269 (constitutions of institutions):

(iii) section 270 (disestablishment of institutions):

(iv) section 573 (effect of the disestablishment of institutions):

(b) the following provisions of this Act do not apply to councils of category A wānanga or category B wānanga:

(i) section 275 (constitution to provide for membership of councils):

(ii) section 276 (membership of councils):

(iii) section 277 (disqualifications):

(iv) section 278 (appointment criteria):

(v) section 279 (statutes relating to appointments):

Provisions that do not apply to category A wānanga

(c) the following provisions in Schedule 11 of this Act do not apply to a category A wānanga:

(i) clause 1 (constitutions of councils of new institutions):

(ii) clause 2 (amendment of constitution):

(iii) clause 3 (limit on number of occasions on which members may be appointed):

(iv) clause 6 (term of office):

(v) clause 9 (casual vacancies):

(vi) clause 12 (removal of members):

(vii) clause 13 (process for removal):

(viii) clause 15 (chairpersons and deputy chairpersons):

(ix) clause 16 (meetings of councils):

(x) clause 18 (determination of policy):

Provisions that do not apply to category B wānanga

(d) the following provisions of this Act do not apply to a category B wānanga:

(i) section 273 (common seals):

(ii) section 274 (methods of contracting):

(iii) section 280 (functions of councils):

(iv) section 281 (duties of councils):

(v) section 282(4) to (7) (powers of institutions):

(vi) section 287 (criteria for risk assessment of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology)):

(vii) section 288 (institutions to provide information to TEC if required):

(viii) section 289 (ministerial appointment of Crown observers for institutions):

(ix) sections 290 to 293 (ministerial dissolution of councils and appointments and processes to appoint commissioners):

(x) section 294 (duties of chief executives):

(xi) section 295 (delegation of functions and powers of chief executives):

(xii) section 296 (further provisions applying to delegation):

(xiii) section 297 (bank accounts):

(xiv) section 298 (accounts to be kept):

(xv) section 300 (gifts):

(xvi) section 305 (institutions are Crown entities):

(xvii) section 306 (annual reports):

(xviii) section 307 (requirements to prepare statements or reports):

(xix) section 308 (availability of annual reports for inspection):

(xx) section 597 (good employer principles):

(xxi) section 602 (duty to act independently):

(xxii) section 603 (appointments on merit):

(xxiii) section 604 (notification of vacancies):

(xxiv) section 608 (chief executives of institutions):

(xxv) section 609 (appointment of chief executives):

(xxvi) section 610 (reappointment of chief executives):

(xxvii) section 611 (conditions of employment of chief executives):

(xxviii) section 612 (removal from office):

(xxix) Schedule 11 (council procedures).

Provisions that apply to category A wānanga, category B wānanga, and category C wānanga

(3) Despite anything in subsection (1), the following sections of this Part apply to category A wānanga, category B wānanga, and category C wānanga:

(a) section 398B (purpose of Part 4A):

(b) section 398D (what wānanga are (characteristics)):

(c) section 398Y (disestablishing wānanga):

(d) section 398Z (effect of disestablishing wānanga):

(e) section 398ZA (disestablished wānanga and their councils cease to exist):

(f) section 398ZB (entitlements of certain persons for certain awards):

(g) section 398ZC (vesting of property of disestablished wānanga):

(h) section 398ZD (treatment of certain contracts, instruments, and proceedings):

(i) section 398ZE (continuation of disestablished wānanga for certain purposes):

(j) section 398ZF (restriction on subsequent distribution of surplus assets).

Relationship of this Part with other provisions

(4) If a provision in this Part conflicts with a provision in subpart 3 of Part 4 or Schedule 11, the provision in this Part prevails.

Section 398C: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398D What wānanga are (characteristics)

Wānanga are institutions that—

(a) Māori, primarily iwi, have been instrumental in establishing; and

(b) are concerned with a wide diversity of teaching and intellectual endeavour (including research) that is—

(i) closely interdependent; and

(ii) associated with higher learning; and

(c) are kaitiaki of mātauranga Māori, te reo Māori, and tikanga Māori within the tertiary education sector; and

(d) have a role in the promotion and maintenance of social, spiritual, cultural, political, and economic well-being in the community; and

(e) follow practices that are consistent with mātauranga Māori and tikanga Māori at all levels of governance and operations; and

(f) accept a role as a critic and conscience of society from a mātauranga Māori, te reo Māori, and tikanga Māori perspective; and

(g) position themselves within the networks of indigenous tertiary institutions across the world and contribute to the setting of international indigenous standards of teaching and intellectual endeavour, including research.

Section 398D: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 2—Administration of category A wānanga

Subpart 2: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398E Establishment of category A wānanga

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a category A wānanga.

(2) Before making a recommendation to establish a wānanga under subsection (1), the Minister must—

(a) seek advice from NZQA on education quality assurance matters and consider any advice given; and

(b) seek advice from Te Tauihu o Ngā Wānanga on whether the proposed wānanga would have the characteristics of a wānanga, and take that advice into account; and

(c) consult iwi or Māori who are instrumental in its establishment, and take their views into account; and

(d) consult other persons or bodies that the Minister thinks fit; and

(e) be satisfied that any additional functions and purposes of the proposed wānanga and of its council specified under subsection (3)(f) are consistent with the characteristics of a wānanga; and

(f) be satisfied that the establishment of the proposed wānanga is in the interests of the tertiary education system and the nation as a whole.

(3) An order made under subsection (1) must do all of the following:

(a) revoke and replace a previous order, if any, establishing the wānanga; and

(b) state the name of the wānanga; and

(c) provide for determining the people who are to constitute the wānanga; and

(d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and arrangements for the appointment, suspension, and removal of members; and

(e) set out the procedures for conducting meetings of the council; and

(f) specify any functions and purposes of the wānanga and its council that are in addition to any functions and purposes of an institution or its council set out in this Act; and

(g) specify the manner in which policies of the wānanga are to be determined; and

(h) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters; and

(i) provide for any other matters that are necessary or desirable—

(i) for the good governance of the wānanga; or

(ii) to clarify the arrangements for the administration of the wānanga.

(4) An order made under subsection (1) may do 1 or both of the following:

(a) set out by way of preamble the historical background to the establishment of the wānanga and any Crown acknowledgments:

(b) impose conditions on the performance or exercise of the powers of the wānanga.

(5) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 398E: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398F Appointment of council members

When appointing members to the council of a category A wānanga, the council, or any other person or body making the appointments, must appoint people who (in the opinion of the council, person, or body making the appointment)—

(a) have relevant knowledge, skills, or experience; and

(b) are likely to be able to fulfil their individual duties to the council; and

(c) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

Section 398F: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398G Certain people ineligible to be appointed

A person is not eligible for appointment to the council of a category A wānanga if—

(a) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or

(b) a personal order has been made under that Act in respect of the person that reflects adversely on their—

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or

(c) the person has been adjudicated bankrupt and has not obtained an order of discharge, or their order of discharge has been suspended for a term that has not yet expired or is subject to any conditions that have not yet been fulfilled; or

(d) the person has been removed from office as a member of the council of any institution.

Section 398G: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398H Statutes relating to appointment

(1) The council of a category A wānanga may make statutes relating to the appointment of members under its constitution.

(2) The statutes may—

(a) provide for direct appointment by the council of a member chosen by the council; or

(b) require the council to appoint a member—

(i) of a stated description; or

(ii) holding a stated office; or

(iii) nominated by a stated person or body or by a person or body of a stated description; or

(iv) elected by people of a stated description.

(3) To the extent that the statutes require the council to appoint—

(a) a member elected by people of a stated description, they must also provide for the processes by which elections must be held and their results must be determined:

(b) a member nominated by a stated person or body or a body of a stated description, they must also provide for the process by which nominations may be called for and must be considered.

(4) For an appointment under a statute providing for any of the matters set out in subsection (2)(b), section 398F is complied with if, when making the statute concerned, the council is satisfied that compliance with the statute is likely to result in the appointment of a person who—

(a) has relevant knowledge, skills, or experience; and

(b) is likely to be able to fulfil the person's individual duties to the council; and

(c) together with the other members of the council, is capable of undertaking its responsibilities, functions, and duties.

(5) This section does not limit section 284.

Section 398H: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 3—Administration of category B wānanga

Subpart 3: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398I Establishment of category B wānanga

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a category B wānanga.

(2) Before making a recommendation to establish a wānanga under subsection (1), the Minister must do all of the following:

(a) seek advice from NZQA on education quality assurance matters and consider any advice given; and

(b) seek advice from Te Tauihu o Ngā Wānanga on whether the proposed wānanga would have the characteristics of a wānanga and take that advice into account; and

(c) consult iwi or Māori instrumental in its establishment; and

(d) consult other persons or bodies that the Minister thinks fit; and

(e) be satisfied that—

(i) the functions and purposes of the proposed wānanga and its council are consistent with the characteristics of a wānanga; and

(ii) the accountability arrangements set out in subsection (3)(g) and (h) are sufficient for the effective governance and administration of the wānanga; and

(f) be satisfied that the person or body identified under subsection (3)(g) as the iwi or Māori to whom the wānanga is accountable—

(i) accepts responsibility for ensuring that the wānanga and its council are accountable; and

(ii) has access to the skills and resources reasonably necessary to ensure that the wānanga and its council are accountable; and

(g) be satisfied that the establishment of the proposed wānanga is in the interests of the tertiary education system and the nation as a whole.

(3) An order made under subsection (1) must do all of the following:

(a) state the name of the wānanga; and

(b) specify the people who are to constitute the wānanga; and

(c) set out the governance arrangements for the council of the wānanga, including the constitution of the council and arrangements for the appointment, suspension, and removal of members; and

(d) specify the functions, duties, and purposes of the wānanga and its council; and

(e) set out the procedures for conducting the meetings of the council; and

(f) specify the collective and individual duties of the members of the council and the manner in which members will be accountable for the performance of their duties; and

(g) specify the iwi or Māori to whom the wānanga is accountable for the effective governance and administration of the wānanga, and the things for which the wānanga is accountable (for example, the progress made towards achieving the purposes of the wānanga, the financial management of the wānanga, and the educational performance of the wānanga); and

(h) set out what the wānanga must do to ensure adequate accountability for the effective governance and administration of the wānanga, including—

(i) requirements for the efficient and prudent financial management of the wānanga; and

(ii) requirements for financial reporting and reporting on other matters, including (without limitation) requiring wānanga to prepare, in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013),—

(A) a statement of service performance; and

(B) annual financial statements; and

(iii) the means by which risk to the operation and long-term viability of the wānanga is to be managed, including the range or type of interventions available to address those risks; and

(iv) requirements for setting the long-term strategic direction and objectives of the wānanga in respect of the performance of its functions; and

(i) provide for the appointment of a chief executive, including—

(i) the functions and duties of the chief executive; and

(ii) the delegation of any functions or duties of the chief executive; and

(j) set out the requirements relating to the appointment of employees of the wānanga; and

(k) set out the things that the wānanga must do to ensure the fair and proper treatment of employees in all aspects of their employment; and

(l) require the wānanga to publish an annual report on an Internet site maintained by or on behalf of the wānanga; and

(m) require the annual report of the wānanga to include (without limitation) a statement of—

(i) the number of employees or former employees of the wānanga who, in their capacity as employees, received remuneration of $100,000 or more (including compensation or other benefits) in the year to which the report relates; and

(ii) the number of those employees or former employees in each bracket of remuneration in $10,000 increments.

(4) An order made under subsection (1) may do all or any of the following:

(a) set out, by way of a preamble, the historical background to the establishment of the wānanga and any acknowledgements by the Crown:

(b) specify the means by which the council of the wānanga is to engage with the people who constitute the wānanga, and the iwi or Māori to whom the wānanga is accountable for its effective governance and administration:

(c) impose conditions on the performance or exercise of the functions, duties, or powers of the wānanga and its council:

(d) specify the manner in which policies of the wānanga are to be determined:

(e) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters:

(f) provide for any other matters that are necessary or desirable—

(i) for the good governance of the wānanga; or

(ii) to clarify the arrangements for the administration of the wānanga.

(5) For the purposes of subsection (3)(m), **employees** includes the chief executive appointed by the council of the wānanga.

(6) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 398I: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398J Appointment and nomination of council members

When appointing or nominating members of the council of a category B wānanga, the council or any other person or body making the appointments or nominations must appoint or nominate people who (in the opinion of the council or other person or body making the appointment)—

(a) have relevant knowledge, skills, or experience; and

(b) are likely to be able to fulfil their individual duties to the council; and

(c) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

Section 398J: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398K Certain people ineligible to be appointed

A person is not eligible for appointment to the council of a category B wānanga if—

(a) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or

(b) a personal order has been made under that Act in respect of the person that reflects adversely on their—

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or

(c) the person has been adjudicated bankrupt and has not obtained an order of discharge, or whose order of discharge has been suspended for a term that has not yet expired or is subject to any conditions that have not yet been fulfilled; or

(d) the person has been removed from office as a member of the council of any institution.

Section 398K: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398L Membership of more than 1 council

A person who is a council member of a category B wānanga may be appointed as a council member of another institution (whether or not they are institutions of the same kind).

Section 398L: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398M Statutes relating to appointment

(1) The council of a category B wānanga may make statutes relating to the appointment of members under its constitution.

(2) The statutes may—

(a) provide for direct appointment by the council of a member chosen by the council; or

(b) require the council to appoint a member—

(i) of a stated description; or

(ii) holding a stated office; or

(iii) nominated by a stated person or by a body or person of a stated description; or

(iv) elected by people of a stated description.

(3) To the extent that the statutes require the council to appoint—

(a) a member elected by people of a stated description, they must also provide for the processes by which elections must be held and their results must be determined:

(b) a member nominated by a stated person or body or a body of a stated description, they must also provide for the process by which nominations may be called for and must be considered.

(4) For an appointment under a statute providing for any of the matters set out in subsection (2)(b), section 398J is complied with if, when making the statute concerned, the council is satisfied that compliance with the statute is likely to result in the appointment of a person who—

(a) has relevant knowledge, skills, or experience; and

(b) is likely to be able to fulfil the person's individual duties to the council; and

(c) together with the other members of the council, is capable of undertaking its responsibilities, functions, and duties.

(5) This section does not limit section 284.

Section 398M: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398N Acts and proceedings not invalidated by certain defects

No act or proceeding of the council, or any council committee, of a category B wānanga is invalidated by—

(a) a defect in the appointment of a council member or of the committee; or

(b) a defect in the nomination of a council member or committee for appointment as a council member; or

(c) a defect in the election of a council member or committee for appointment as a council member; or

(d) a disqualification of a council member or committee member; or

(e) a vacancy in the membership of the council or committee; or

(f) a defect in the convening of any meeting.

Section 398N: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398O Amendments to constitutions

If the council of a category B wānanga recommends to the Minister that the constitution of the council be amended in a manner that complies with the requirements of the Order in Council establishing the wānanga, the Minister must amend the constitution in accordance with the recommendation by notice published in the *Gazette*.

Section 398O: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398P Application of Local Authorities (Members' Interests) Act 1968

The council of a category B wānanga is not a local authority for the purposes of the Local Authorities (Members' Interests) Act 1968.

Section 398P: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398Q Application of Public Records Act 2005

An institution that is a category B wānanga is a public office for the purposes of the Public Records Act 2005.

Compare: 2022 No 30 s 28

Section 398Q: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398R Application of Public Audit Act 2001

(1) An institution that is a category B wānanga is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

(2) The wānanga must forward to the Auditor-General,—

(a) within 3 months after the end of each financial year,—

(i) the annual financial statements of the wānanga; and

(ii) the statement of service performance of the wānanga; and

(iii) any other information that the Auditor-General has agreed, or is required, to audit; and

(b) the annual report of the wānanga in a timely manner to enable the Auditor-General to review that report before providing the audit report required under subsection (3)(b).

(3) The Auditor-General must—

(a) audit the statements and information referred to in subsection (2)(a); and

(b) provide an audit report to the wānanga within 4 months after the end of each financial year.

Section 398R: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398S Office holders and employees are officials

(1) This section applies to office holders and employees of a category B wānanga or a subsidiary that it owns solely or together with 1 or more other institutions or Crown entities.

(2) Individuals working for the wānanga or its subsidiary as contractors or secondees and performing or exercising a function, duty, or power of the wānanga are to be treated as if they are employees.

(3) This section also applies to a person who was formerly an employee or office holder in respect of any acts or omissions or decisions made while that person was an employee or office holder of the wānanga or its subsidiary.

(4) A person to whom this section applies is an official for the purposes of sections 105 and 105A of the Crimes Act 1961.

(5) This section does not limit the meaning of official in section 99 of the Crimes Act 1961.

Compare: 2004 No 115 s 135

Section 398S: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398T Disclosure of interest

(1) A council member of a category B wānanga, or a council committee member, who has an interest in a matter being considered or about to be considered by

the council or the committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the council or the committee.

(2) A disclosure under subsection (1) must be recorded in the minutes of the meeting of the council or committee, and the member may not, unless the council decides otherwise,—

(a) be present during any deliberation of the council or the committee with respect to that matter; or

(b) take part in any decision of the council or the committee with respect to that matter.

(3) For the purposes of this section, a person **has an interest in a matter** if, and only if, the matter relates to the conditions of service of the person as the chief executive or a member of the staff of the wānanga concerned or the person has any other direct or indirect pecuniary interest in the matter.

Compare: 1989 No 80 s 175

Section 398T: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398U Fees and allowances

(1) A member of the council of a category B wānanga (other than the chief executive) may be paid fees at the rates, not exceeding the maximum rates fixed by the Minister in accordance with the fees framework, that the council determines.

(2) A council member is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the wānanga, for actual and reasonable travelling and other expenses incurred in carrying out the member's office as a member.

(3) In this section, **fees framework** means the framework determined by the Government for the classification and remuneration of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries and institutions.

Section 398U: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398V Personal liability of council members

A council member of a category B wānanga is not personally liable for any act done or omitted by the council member or by the council—

(a) in good faith; and

(b) in the performance or intended performance of the functions of the wānanga or of the council.

Section 398V: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398W Trust property

Despite anything to the contrary in this Act or any other enactment, any real or personal property held upon trust by a category B wānanga must be dealt with in accordance with the powers and duties of the wānanga as trustee.

Section 398W: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 4—Conversion to category B wānanga

Subpart 4: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398X Conversion of category A wānanga or category C wānanga to category B wānanga

A category A wānanga or category C wānanga may be converted to a category B wānanga in accordance with clauses 94 to 108 of Schedule 1.

Section 398X: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 5—Disestablishment of wānanga

Subpart 5: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398Y Disestablishing wānanga

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—

(a) disestablish a wānanga and provide for the distribution of its assets and liabilities:

(b) disestablish a wānanga and incorporate the disestablished wānanga into another wānanga or other institution, whether the wānanga or other institution is an existing wānanga or other institution or a new wānanga or other institution that is established for the purpose:

(c) provide for the distribution of the assets and liabilities of a wānanga that is to be disestablished.

(2) Before making a recommendation, the Minister must—

(a) give to the council of the wānanga, and any other institution that the Minister considers is likely to be directly affected, written notice—

(i) setting out the action that the Minister is considering whether to take and the reasons for that action; and

(ii) inviting the council and institutions to make a written submission to the Minister in relation to the matter; and

(b) consult iwi or Māori instrumental in the establishment of the wānanga and take those views into account; and

(c) consult any other person or body that the Minister thinks fit; and

(d) publish, in the *Gazette*, the notices that the Minister thinks fit inviting members of the public to make written submissions in relation to the matter; and

(e) consider any submissions made within a reasonable period in response to the notices.

(3) The Minister may not recommend the disestablishment of a category A wānanga or category C wānanga, or its disestablishment and incorporation into another wānanga or other institution, unless the Minister is satisfied—

(a) on reasonable grounds that there is good reason to do so; and

(b) that disestablishing the wānanga, or disestablishing the wānanga and incorporating the disestablished wānanga into another wānanga or other institution, is in the interests of the tertiary education system and the nation as a whole.

(4) The Minister may not recommend the disestablishment of a category B wānanga, or its disestablishment and incorporation in another wānanga or other institution, unless—

(a) the iwi or Māori instrumental in the establishment of the wānanga has determined that there is good reason to do so; and

(b) the Minister is satisfied that disestablishing the wānanga, or disestablishing the wānanga and incorporating the disestablished wānanga in another wānanga or other institution, is in the interests of the tertiary education system and the nation as a whole; and

(c) the iwi, hapū, or Māori organisation that is primarily accountable for the wānanga is instrumental in the Minister's disestablishment decision.

(5) The Minister must specify in the recommendation the reasons for the proposed disestablishment of a wānanga or proposed disestablishment of a wānanga and its incorporation into another wānanga or other institution.

(6) An order made under this section must,—

(a) in respect of the disestablishment of any wānanga, be consistent with the provisions of this Act regarding the distribution of assets and liabilities, including (without limitation) sections 398ZC (vesting of property of disestablished wānanga) and 575A (taxes and duties where assets and liabilities of disestablished institution vested in iwi or Māori):

(b) in respect of the disestablishment of a category B wānanga,—

(i) require the wānanga to provide a final report to the Minister; and

(ii) specify the required content of the final report and the date or dates by which the contents of the report must be provided.

(7) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 398Y: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398Z Effect of disestablishing wānanga

Sections 398ZA to 398ZF apply if a wānanga is disestablished.

Section 398Z: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZA Disestablished wānanga and their councils cease to exist

The disestablished wānanga and its council cease to exist.

Section 398ZA: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZB Entitlements of certain persons for certain awards

(1) A person who would, but for the disestablishment of the wānanga, have been entitled to be granted an award of the wānanga is entitled to be granted an equivalent award at—

(a) the institution into which the wānanga is incorporated; or

(b) any other institution that the Secretary directs.

(2) A person who has partially completed a programme at the disestablished wānanga leading to an award is entitled—

(a) to enrol in a similar programme at—

(i) the institution into which the wānanga is incorporated; or

(ii) any other institution that the Secretary directs; and

(b) to be granted the status, and the credit for work performed at the disestablished wānanga, as the council of the institution referred to in paragraph (a)(i) or (ii), after consulting NZQA, thinks fit.

Section 398ZB: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZC Vesting of property of disestablished wānanga

(1) If the disestablished wānanga is, immediately upon its disestablishment, incorporated into another institution,—

(a) all real and personal property that, immediately before the disestablishment, was vested in the disestablished wānanga (including property held on trust) is vested in the other institution subject to all charges,

encumbrances, estates, and interests, and any enactment, affecting that property; and

(b) the other institution becomes liable to pay and discharge all the debts, liabilities, and obligations of the disestablished institution that existed immediately before its disestablishment.

(2) The following provisions apply to a category A wānanga or category C wānanga:

(a) if the disestablished wānanga is not immediately upon its disestablishment incorporated into another institution, all real and personal property that, immediately before the disestablishment, was vested in the council of the disestablished wānanga (including property held on trust) is vested in the Crown, subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property:

(b) despite paragraph (a), the Minister may, by written notice, direct that any of the following specified real or personal property of the wānanga is vested in the iwi or Māori concerned subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property:

(i) property that is derived from the settlement of a claim under Te Tiriti o Waitangi in relation to the wānanga:

(ii) property that is gifted to the wānanga by iwi or Māori instrumental in the establishment of the wānanga:

(c) before issuing a direction under paragraph (b), the Minister must consult the iwi or Māori concerned and any other person or body the Minister thinks fit:

(d) the Minister is liable to pay and discharge all the debts, liabilities, and obligations of the council of the disestablished wānanga that existed immediately before its disestablishment other than in relation to any property vested in iwi or Māori under paragraph (b).

(3) If any real or personal property that was held by a disestablished wānanga on trust vests in the Crown under subsection (2)(a), the Minister may appoint another institution or body to be the trustee of that property.

(4) In the case of a category B wānanga, if the disestablished wānanga is not, immediately upon its disestablishment, incorporated into another institution,—

(a) all real and personal property that, immediately before the disestablishment, was vested in the council of the disestablished wānanga (including property held on trust) is vested in the iwi or Māori to whom the wānanga is accountable, subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property; and

(b) the iwi or Māori concerned become liable to pay and discharge all the debts, liabilities, and obligations of the council of the disestablished wānanga that existed immediately before its disestablishment.

(5) If any real or personal property that was held by a disestablished wānanga on trust vests in an iwi or Māori under subsection (4)(a), the iwi or Māori concerned may appoint another institution or body to be the trustee of that property.

(6) If any land vests in an institution, or in the Minister or iwi or Māori under this section, the Registrar-General of Land, on the deposit with the Registrar-General of the plans and documents that the Registrar-General may require, must make the entries in the register and generally do all the other things necessary to give full effect to this section.

(7) If property is vested in iwi or Māori under this section, the iwi or Māori concerned are responsible for any obligations under section 40 of the Public Works Act 1981 in relation to the vested land (as if they were a local authority).

Section 398ZC: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZD Treatment of certain contracts, instruments, and proceedings

Any contract or other instrument (other than a contract of, or instrument relating to, employment) subsisting, or any proceeding pending, immediately before the disestablishment of a wānanga to which the wānanga was a party has effect after the disestablishment as if—

(a) the institution into which the disestablished wānanga is incorporated or the Minister or iwi or Māori concerned is substituted for the disestablished wānanga as a party to the contract, other instrument, or proceeding; and

(b) any reference in the contract or other instrument, or in a pleading, affidavit, or other document in the proceeding, to the disestablished wānanga in its capacity as a party to the contract, other instrument, or proceeding is (except in relation to matters that occurred before the disestablishment) a reference to the wānanga in which the disestablished wānanga is incorporated or the Minister or iwi or Māori concerned.

Section 398ZD: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZE Continuation of disestablished wānanga for certain purposes

(1) Despite section 398ZA, the council of a disestablished wānanga that was a Crown entity continues in existence for the purpose of complying, or facilitating compliance, with Part 4 of the Crown Entities Act 2004 and section 306 of this Act in relation to any academic year of the wānanga and,—

(a) if the wānanga is incorporated into another institution, the council of the other institution; or

(b) otherwise, the Secretary—

must give to the council of the disestablished wānanga any assistance that the council requires for the purpose of complying with its obligations under those

provisions and is responsible for paying any expenses incurred by the council (including remuneration and expenses of members of the council or governing body) in so complying.

(2) Despite section 398ZA, the council of a disestablished wānanga that was a category B wānanga continues in existence for the purpose of complying, or facilitating compliance, with an order made under section 398Y.

Section 398ZE: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

398ZF Restriction on subsequent distribution of surplus assets

If a wānanga is disestablished, any surplus assets vested in the iwi or Māori concerned under section 398ZC may only be used for a public or charitable purpose to advance Māori tertiary education.

Section 398ZF: inserted, on 23 August 2023, by section 10 of the Education and Training Amendment Act 2023 (2023 No 45).

Part 5
Performance, funding, and support

399 Outline of Part 5

(1) This Part, which concerns performance, funding, and support agencies, is divided into 8 subparts.

(2) Subpart 1 concerns the Tertiary Education Commission.

(3) Subpart 2 concerns the New Zealand Qualifications Authority.

(4) Subpart 3 concerns the Education Review Office.

(5) Subpart 4 concerns the Teaching Council.

(6) Subpart 5 concerns Education New Zealand.

(7) Subpart 6 concerns international students.

(8) Subpart 7 concerns the well-being and safety of students.

(9) Subpart 8 sets out several offences provisions.

Compare: 1989 No 80 s 308

Section 399(8): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Subpart 1—Tertiary Education Commission

Preliminary provisions

400 Outline of framework for planning, funding, and monitoring in tertiary education sector

(1) This section outlines the framework for planning, funding, and monitoring in the tertiary education sector and describes, in general terms, how the framework works:

- (a) the Minister determines the design of funding mechanisms and whether funding under those mechanisms is via plans:
- (b) TEC develops the details of how to implement funding mechanisms:
- (c) TEC issues guidance on what must be contained in proposed plans:
- (d) TEC identifies criteria for assessing proposed plans:
- (e) an organisation prepares a proposed plan—
  - (i) in consultation with the persons or bodies the organisation considers ought to be consulted and any other persons specified by TEC; and
  - (ii) in a manner consistent with TEC's guidance:
- (f) the organisation submits its proposed plan to TEC:
- (g) TEC applies assessment criteria to the proposed plan and decides whether or not to give funding approval:
- (h) if the proposed plan is given funding approval, TEC determines the amount of funding payable to the organisation by applying the appropriate funding mechanism:
- (i) if an organisation's proposed plan receives funding approval, TEC monitors the organisation's performance to determine if it is achieving, or has achieved, the outcomes it has specified in its plan.

(2) This section is by way of explanation only.

(3) If any other section in this Act conflicts with this section, the other section prevails.

Compare: 1989 No 80 s 159ABA

Tertiary Education Commission

401 TEC continued

(1) The Tertiary Education Commission (**TEC**) established under section 159C of the Education Act 1989 is continued.

(2) TEC is—

- (a) owned by the Crown; and

(b) a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to TEC except to the extent that this Act expressly provides otherwise.

(4) The members of TEC are the board for the purposes of the Crown Entities Act 2004.

(5) Schedule 18 sets out provisions regarding TEC, including the funding mechanisms that it operates.

Compare: 1989 No 80 s 159C

402 Composition of TEC

(1) TEC comprises at least 6, but not more than 9, members appointed in accordance with section 28(1)(a) of the Crown Entities Act 2004 after consultation with the Minister for Māori Development.

(2) At least 2 months before appointing a member, the Minister must advertise the Minister's intention to appoint a member and must seek responses from interested persons.

(3) When appointing members of TEC, the Minister must have regard to the need for its members to collectively have broad experience and expertise, and deep knowledge, about areas of the tertiary education sector.

(4) Subsection (3) does not limit section 29 of the Crown Entities Act 2004.

Compare: 1989 No 80 s 159D

403 Chief executive

(1) TEC must appoint a chief executive in accordance with section 117 of the Crown Entities Act 2004.

(2) The chief executive may not be a member of TEC.

(3) TEC must—

(a) act independently when appointing the chief executive; and

(b) monitor and evaluate the performance of the chief executive.

Compare: 1989 No 80 s 159KA

404 Responsibilities of chief executive

The chief executive of TEC must—

(a) ensure the efficient and effective administration of the affairs of TEC; and

(b) act in accordance with lawful policies and directions given to the chief executive by TEC.

Compare: 1989 No 80 s 159KB

405 Chief executive must monitor and report on institutions

(1) The chief executive of TEC—

(a) must, on an ongoing basis, monitor institutions that receive funding in order to assess whether the operation or long-term viability of any of those institutions is at risk; and

(b) may report to the Minister on the outcome of that monitoring.

(2) In the case of an institution that is a wānanga that is not a Crown entity, the chief executive of TEC—

(a) may, along with the council of the wānanga, establish a framework for monitoring risk to the operation and long-term viability of the wānanga, having regard to the purpose set out in section 398B and, in particular, the accountability of the wānanga to iwi or Māori; and

(b) must undertake any monitoring activity in relation to the wānanga in accordance with the framework; and

(c) may report on the outcome of risk monitoring in relation to the wānanga to the Minister and to the iwi or Māori to whom the wānanga is accountable for the operation and long-term viability of the wānanga.

(3) Nothing in subsection (2) limits or affects the duty of the chief executive to monitor institutions at risk under this section.

Compare: 1989 No 80 s 159KBA

Section 405(2): inserted, on 23 August 2023, by section 11 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 405(3): inserted, on 23 August 2023, by section 11 of the Education and Training Amendment Act 2023 (2023 No 45).

406 Additional requirement of Te Pūkenga—New Zealand Institute of Skills and Technology's council to provide information

(1) The chief executive of TEC may, by written notice to Te Pūkenga—New Zealand Institute of Skills and Technology's council, require it to provide any information that the chief executive considers is reasonably required in relation to the operation of Te Pūkenga—New Zealand Institute of Skills and Technology or any related entity of Te Pūkenga—New Zealand Institute of Skills and Technology for the purpose of determining whether there is a risk to, or arising from,—

(a) the governance, management, or financial position of Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology; or

(b) the education and training performance of students enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology or a related entity of Te Pūkenga—New Zealand Institute of Skills and Technology.

(2) If Te Pūkenga—New Zealand Institute of Skills and Technology's council receives a notice under subsection (1), it must provide the chief executive of TEC with the required information within the period specified in the notice.

(3) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 159KBB

Section 406 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 406(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 406(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 406(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 406(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

407 Declaration of interests

(1) A person who is proposed to be appointed as chief executive of TEC must declare any interests (within the meaning of that term in section 10 of the Crown Entities Act 2004) to TEC before accepting appointment to the position of chief executive.

(2) If the chief executive has any direct or indirect interest in any transaction or other matter referred to in section 62 of the Crown Entities Act 2004, the chief executive must disclose that interest to TEC.

Compare: 1989 No 80 s 159KC

408 Principles guiding how TEC operates

(1) In performing its functions, TEC must—

(a) comply with any direction of the Minister given under section 103 of the Crown Entities Act 2004; and

(b) work closely with tertiary education providers and workforce development councils and their stakeholders.

(2) TEC must have regard to the tertiary education strategy when performing its functions under this Act or any other enactment.

Compare: 1989 No 80 ss 159AB, 159G

409 Functions of TEC

(1) The functions of TEC are—

(a) to give effect to the tertiary education strategy issued under section 7 by—

(i) prescribing and publishing guidance on the content of, and processes associated with seeking funding approval for, proposed plans; and

(ii) prescribing and publishing guidance on the criteria TEC is to use to assess proposed plans; and

(iii) assessing proposed plans and deciding whether they are to receive funding approval by applying the relevant assessment criteria; and

(iv) determining the amount of funding payable to organisations by applying the appropriate funding mechanisms; and

(v) allocating funding to organisations that have plans; and

(vi) allocating funding to organisations that are not required to have plans in order to receive funding; and

(vii) prescribing what plan summaries must contain for the purposes of public inspection; and

(viii) building the capability of organisations; and

(b) to provide advice to the Minister about the activities and performance of tertiary education organisations and the tertiary education sector generally; and

(c) to develop details of how to implement funding mechanisms; and

(d) to implement funding mechanisms; and

(e) to provide a publicly available careers information service that includes a database of information about occupations and tertiary education and training; and

(f) to facilitate and strengthen the connections between schools, employers, and tertiary education organisations to ensure that students are prepared for employment and further education or training, or both; and

(g) to provide advice to the Minister on the implementation of policy and on the operational implications of new policy initiatives; and

(h) to monitor the performance of organisations that receive funding from TEC, including by measuring performance against specified outcomes; and

(i) to undertake any functions directed by the Minister under section 416; and

(j) to undertake any functions delegated to TEC, including (without limitation) functions relating to the funding of organisations other than under section 425 or 428; and

(k) to ensure the availability within industry of high-quality vocational education and training; and

(l) to promote the availability of vocational education and training to people of a kind or description specified in TEC's statement of intent as people to whom that training has not traditionally been available (whether within a particular industry or industries, or generally); and

(m) to develop and recommend to the Minister an apprenticeship training code for the purposes of section 378; and

(n) *[Repealed]*

(o) to monitor the performance of persons carrying out apprenticeship training activities (whether or not under a plan) to ensure that they comply with the apprenticeship training code; and

(p) to exercise the powers and perform the functions of TEC under sections 381 to 385 (which relate to work-based training levies); and

(q) to undertake any other function conferred on it by this Act or any other enactment.

(2) In addition, TEC may provide information and other tertiary-related services to the Crown, provided that those functions are consistent with TEC's statement of intent and are consistent with, and do not displace, any of its functions under subsection (1).

Compare: 1989 No 80 s 159F

Section 409(1)(n): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

410 Certain powers may not be delegated

(1) TEC may not delegate—

(a) the power to appoint a chief executive; or

(b) any other power that the Minister specifies by notice in writing to TEC.

(2) This clause applies despite section 73 of the Crown Entities Act 2004.

Compare: 1989 No 80 s 159KG

411 Duties of TEC in relation to workforce development councils

(1) TEC must—

(a) have regard to advice from a workforce development council in relation to its 1 or more specified industries when assessing any proposed plan under section 425 or when considering funding an organisation other than via a plan under section 428 in relation to vocational education and training; and

(b) give effect to advice from a workforce development council about the mix of vocational education and training needed for the 1 or more industries covered by the workforce development council when deciding to give funding approval to organisations under section 425(5).

(2) The duty in subsection (1)(b) is subject to—

(a) any funding limits set by the Minister under section 419 and TEC under section 422; and

(b) any constraints on the capacity or ability of organisations to provide, arrange, and support the mix of vocational education and training.

(3) TEC must advise a workforce development council, in writing, if it is unable to give effect to the workforce development council's advice about the mix of vocational education and training needed for the council's specified industries due to any limits or constraints referred to in subsection (2) and advise the workforce development council about—

(a) what specific actions TEC intends to take to address those limits or constraints within the next 3 years; and

(b) its right to object to the Minister if the workforce development council reasonably believes that TEC has not adequately responded to its advice about the mix of vocational education and training required to meet the needs of its specified industries.

Compare: 1989 No 80 s 159FA

412 Power of TEC to require information from workforce development council

(1) The chief executive of TEC may, by written notice to a workforce development council, require it to provide the chief executive with any information about the financial position or operations (or both) of the workforce development council (whether or not funded under a plan under section 425).

(2) A workforce development council that receives a notice under subsection (1) must provide the chief executive of TEC with the required information within the period specified in the notice.

(3) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 159FB

413 Power of TEC to audit workforce development councils

(1) For the purpose of ascertaining whether a workforce development council is complying, or has complied, with this Act, the chief executive of TEC may commission an independent audit of the workforce development council.

(2) The audit may (without limitation) include an assessment of—

(a) the performance of the workforce development council's functions:

(b) the application of funding provided to the workforce development council by TEC.

Compare: 1989 No 80 s 159FC

414 Secretary may delegate certain functions and powers to TEC

(1) The Secretary may delegate to TEC any functions or powers of the Secretary under regulations made under section 645 or 646 or clause 3 of Schedule 9 (which relate to student allowances).

(2) A delegation—

(a) must be in writing; and

(b) may not include a power to further delegate any function or power; and

(c) may be revoked by notice in writing.

(3) TEC may perform or exercise any functions or powers delegated to it in the same manner and with the same effect as if the functions or powers had been conferred on TEC directly, rather than by delegation.

(4) If TEC purports to act under a delegation, TEC is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

Compare: 1989 No 80 s 159AF

415 Minister may delegate functions or powers to TEC

(1) The Minister may, either generally or specifically, delegate to TEC any or all of the Minister's functions and powers under this Act (except those referred to in section 419) or any other Act, including functions or powers delegated to the Minister under this Act or any other Act.

(2) A delegation must be in writing.

(3) No delegation under this section may include the power to delegate under this section.

(4) The power of the Minister to delegate under this section—

(a) is subject to any prohibitions, restrictions, or conditions contained in any other Act in relation to the delegation of the Minister's functions or powers; but

(b) does not limit any power of delegation conferred on the Minister by any other Act.

(5) TEC may perform or exercise any functions or powers delegated to it in the same manner and with the same effect as if they had been conferred on it directly and not by delegation (subject to any general or special directions given or conditions imposed by the Minister).

(6) If TEC purports to act under any delegation, TEC is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

(7) A delegation does not affect or prevent the Minister from performing any function or exercising any power or affect the Minister's responsibility for the actions of any person acting under the delegation.

Compare: 1989 No 80 s 159I

416 Minister may direct TEC

(1) The Minister may, in accordance with section 112 of the Crown Entities Act 2004, direct TEC to undertake additional functions that are consistent with TEC's objectives.

(2) However, the Minister may not direct TEC to provide or deny funding under section 425 or 428 to any specified organisation.

(3) If the Minister gives a direction to TEC, TEC must include in its annual report for each year to which the direction relates a report on how it has responded to the direction.

(4) Every direction must be consistent with the tertiary education strategy and the functions of TEC.

Compare: 1989 No 80 s 159J

417 Charging

(1) TEC may charge a commercial rate for any goods and services that it provides under section 409(1)(e) and (f).

(2) However, TEC may not charge a commercial rate for any other goods and services that it provides unless the Minister approves.

(3) TEC may charge an organisation a fee relating to the cost of TEC investigating whether the organisation has breached or is breaching a condition subject to which the organisation was given funding approval under section 425 or funding under section 428 if TEC finds that the organisation has breached or is breaching the condition.

(4) However, TEC may charge a fee under subsection (3) only if it has notified the affected organisation of the proposed investigation and the date on which the investigation is to start.

(5) In deciding whether to charge an organisation a fee under subsection (3) and the amount of the fee (if one is to be charged), TEC must have regard to—

(a) the nature and seriousness of the breach; and

(b) the effect that a fee would have on the operation, long-term viability, and performance of the organisation.

Compare: 1989 No 80 s 159E(1)–(5)

418 Application of Commerce Act 1986

Despite section 6 of the Commerce Act 1986, nothing in that Act applies to TEC except to the extent that it engages in supplying goods and services for which it charges.

Compare: 1989 No 80 s 159K

Funding mechanisms

419 Minister must determine design of funding mechanisms

(1) The Minister must determine the design of the funding mechanisms that TEC uses to fund organisations.

(2) Without limiting subsection (1), in making a determination, the Minister must—

(a) identify the general form and essential components of each funding mechanism; and

(b) indicate which of the funding mechanisms relates to—

(i) funding to be paid by TEC under section 425 (which relates to funding organisations via plans); and

(ii) funding to be paid by TEC under section 428 (which relates to funding organisations other than via plans); and

(iii) other types of funding (if any).

(3) Without limiting subsection (1), in making a determination, the Minister may—

(a) specify the amount of money, or the proportion of an amount of money, available under any particular funding mechanism; and

(b) provide for funding to different groups of organisations or types of organisation; and

(c) provide for different versions of, or modifications to, a funding mechanism when applying it to different groups of organisations or types of organisation; and

(d) specify the conditions that TEC must attach to funding that is provided under funding mechanisms, including (without limitation) conditions setting limits on and requirements relating to fees, including fees for student services, that organisations may charge—

(i) domestic students:

(ii) employers for supporting their employees' work-based training; and

(e) provide for funding that targets particular groups of students.

(4) A determination under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 159L

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 419(3)(d): amended, on 1 August 2022, by section 21 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 419(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

420 Restrictions on design of funding mechanisms

(1) In determining a design for a funding mechanism under section 419 or in varying a determination under section 423, the Minister may not—

(a) identify a specified organisation or specified organisations to which funding is to be provided or denied under any funding mechanism; or

(b) specify conditions under section 419(3)(d) that set limits or requirements relating to fees that organisations may charge domestic students or that organisations may charge employers 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

(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

(ii) the date by which submissions must be received has passed.

(2) However, the Minister may direct that funding be provided to Te Pūkenga—New Zealand Institute of Skills and Technology via a funding mechanism if the Minister reasonably considers that it is consistent with the efficient use of national resources and in the national interest to do so.

Compare: 1989 No 80 s 159M

Section 420(1)(b): amended, on 1 August 2022, by section 22 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 420(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

421 Funding mechanisms consistent with quality assurance principle

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

Compare: 1989 No 80 s 159N

422 TEC to implement funding mechanisms

TEC must—

(a) develop the details of how to implement the Minister's determination of the design of funding mechanisms under section 419; and

(b) implement the funding mechanisms.

Compare: 1989 No 80 s 159O

423 Variation of determination of design of funding mechanisms

(1) After TEC has implemented, or started to implement, the funding mechanisms under section 422, the Minister may vary the determination of the design of the funding mechanisms.

(2) The Minister may only vary a determination—

(a) if it is reasonably necessary to do so; and

(b) by making changes in relation to the matters mentioned in section 419(3).

(3) Before deciding to vary a determination, the Minister must consult—

(a) all organisations that would be affected by a variation that the Minister proposes; and

(b) all other persons and organisations that the Minister thinks fit to consult.

(4) However, the Minister is not required to consult under subsection (3) in relation to a variation of the conditions under section 419(3)(d) that set limits or requirements relating to fees that organisations may charge domestic students and employers.

(5) If the Minister varies a determination, an organisation affected by the variation must—

(a) consider whether any amendments are needed to its plan as a result of the variation; and

(b) if it considers that a significant amendment is needed to its plan, or that its plan needs to be replaced, ask TEC to approve the significant amendment to, or the replacement of, its plan under clause 20 of Schedule 18.

(6) If the Minister varies a determination and, as a result of the variation, TEC must attach new conditions to funding under a funding mechanism,—

(a) TEC must attach the new conditions to any funding approval that it has given under that funding mechanism; and

(b) TEC must notify any affected organisation of the attachment of the new conditions to the organisation's funding approval; and

(c) the new conditions take effect on the date on which the affected organisation is so notified.

(7) A variation of a determination under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(8) The variation comes into force on the date specified in it, being no earlier than whichever is the later of the following:

(a) the day that is 3 months after the date on which the Minister varies the determination:

(b) the beginning of the calendar year after the calendar year during which the Minister varies the determination.

(9) However, if the variation is in response to, or to support recovery from, an epidemic or an emergency declared or notified under an enactment, the variation comes into force on the date specified in it, even if it is not yet published.

Compare: 1989 No 80 s 159OA

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 423(4): amended, on 1 August 2022, by section 23 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 423(7): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 423(8): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 423(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

424 Criteria for assessing proposed plans

(1) TEC must prescribe and give public notice of the criteria that TEC is to use to assess proposed plans to determine if they are to receive funding approval.

(2) The prescribed criteria must include (without limitation) criteria for assessing—

(a) how an organisation contributes to the Government's current and medium-term priorities described in the tertiary education strategy; and

(b) the tertiary education programmes and activities of an organisation in relation to which funding is sought under section 425; and

(c) the performance indicators used in measuring whether the specified outcomes relating to those tertiary education programmes and activities are being or have been achieved; and

(d) the extent and nature of an organisation's consultation over its proposed plan; and

(e) how, in the case of a wānanga, the activities of the wānanga (other than those activities that contribute towards the Government's priorities set out in the tertiary education strategy) support the functions and purposes of the wānanga.

(3) When prescribing matters under subsection (1), TEC may include standard criteria, as well as different criteria applying to different organisations, types of organisation, or groups of organisations.

(4) Notices given under subsection (1) may be—

(a) given at different times; and

(b) amended by TEC.

(5) TEC must give public notice of a significant amendment made under subsection (4)(b).

Compare: 1989 No 80 s 159Y

Section 424(2)(e): inserted, on 23 August 2023, by section 12 of the Education and Training Amendment Act 2023 (2023 No 45).

425 TEC may fund tertiary education programmes and activities

(1) TEC must assess whether a proposed plan is to receive funding approval by applying the assessment criteria prescribed under section 424.

(2) After applying the assessment criteria, TEC may decide to—

(a) fund (in whole or in part) all or some of the tertiary education programmes and activities described in the proposed plan under clause 4(d)(i) and (ii) of Schedule 18 in relation to which funding is sought; or

(b) not fund any of the tertiary education programmes or activities described in the proposed plan under clause 4(d)(i) and (ii) of Schedule 18 in relation to which funding is sought.

(3) Before deciding not to fund some or any, or part of some or any, of the tertiary education programmes or activities, TEC must—

(a) notify the organisation of its proposed decision; and

(b) give the organisation a reasonable opportunity to be heard.

(4) TEC must give its reasons to the affected organisation if it decides not to fund some or any, or part of some or any, of the tertiary education programmes or activities.

(5) In deciding to give funding approval, TEC must—

(a) specify the date from which that funding approval has effect; and

(b) determine the amount of funding payable to the organisation by applying the appropriate funding mechanism; and

(c) arrange for the payment to the organisation of the amount of funding determined under paragraph (b).

Compare: 1989 No 80 s 159YA

426 Conditions on receiving funding

(1) It is a condition of an organisation receiving funding under section 425 that the organisation supply to TEC or the Ministry, as required by TEC or the Ministry, and in a form specified by TEC or the Ministry, any financial, statistical, or other information that TEC or the Ministry requires the organisation to supply.

(2) TEC may give funding approval subject to conditions, but only if the conditions are—

(a) conditions that the Minister has determined TEC must attach to funding under section 419(3)(d); or

(b) conditions that TEC considers necessary to ensure that the specified outcomes in a plan that relate to tertiary education programmes and activities in relation to which funding is being given are being achieved or are to be achieved; or

(c) conditions that TEC considers reasonably necessary to enable TEC to effectively monitor the performance of organisations and the tertiary education sector generally.

(3) If TEC intends to give funding approval subject to a condition of the type described in subsection (2)(c), TEC must, before giving funding approval,—

(a) give the affected organisation at least 21 days' notice of the proposed condition; and

(b) consider any submissions on the proposed condition made by the organisation.

(4) TEC may amend any condition imposed under subsection (2).

(5) The amendment to the condition takes effect when the organisation has been given reasonable notice of it.

Compare: 1989 No 80 s 159YC

427 TEC may decline to assess proposed plans

(1) TEC may decline to assess a proposed plan under section 425 if it is satisfied on reasonable grounds that the proposed plan does not adequately satisfy the requirements of Schedule 18 (including, unless the organisation is exempt under clause 7 of Schedule 18, complying with the matters prescribed by TEC under clause 6 of Schedule 18).

(2) Before making a decision to decline to assess an organisation's proposed plan, TEC must discuss with the organisation why the proposed plan does not adequately satisfy the requirements of Schedule 18.

(3) TEC must give its reasons to the affected organisation if it declines to assess the organisation's proposed plan.

Compare: 1989 No 80 s 159YB

428 Funding other than via plans

(1) If a funding mechanism provides for funding for an organisation other than via plans, TEC may fund that organisation in accordance with that funding mechanism.

(2) Nothing in subsection (1) limits TEC's powers to fund organisations in other ways under a delegated authority or another enactment.

Compare: 1989 No 80 s 159ZC

429 Conditions on funding received under section 428

(1) It is a condition of receiving funding under section 428 that the recipient supply TEC or the Ministry, as required by TEC or the Ministry, and in a form specified by TEC or the Ministry, any financial, statistical, or other information that TEC or the Ministry requires the organisation to supply.

(2) TEC may impose conditions on funding received by an organisation under section 428, but only if the Minister has provided that, under the funding mechanism under which that funding is provided,—

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

(b) specified conditions must be imposed.

(3) TEC may amend any condition imposed under subsection (2).

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

Compare: 1989 No 80 s 159ZD

Subpart 2—New Zealand Qualifications Authority

430 NZQA continued

(1) The body called the New Zealand Qualifications Authority (**NZQA**) in existence immediately before the commencement of this subpart is continued.

(2) NZQA is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to NZQA except to the extent that this Act expressly provides otherwise.

(4) The members of NZQA are the board for the purposes of the Crown Entities Act 2004.

Compare: 1989 No 80 s 256A

Section 430(1): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

431 Constitution

(1) NZQA must have at least 8, but not more than 10, members.

(2) In appointing members, the Minister must consult the persons, authorities, and bodies that the Minister thinks fit and must have regard to the interests of industry, the professions, and the authorities and bodies that are respectively responsible for providing secondary and tertiary education.

(3) Subsection (2) does not limit section 29 of the Crown Entities Act 2004.

Compare: 1989 No 80 s 256B

432 Chief executive of NZQA

(1) NZQA must appoint a chief executive of NZQA, on terms and conditions agreed by NZQA and the person appointed in accordance with section 117 of the Crown Entities Act 2004.

(2) NZQA may not delegate the power to appoint a chief executive.

(3) Subsection (2) applies despite section 73 of the Crown Entities Act 2004.

(4) A delegation under section 73 of the Crown Entities Act 2004 to the chief executive, if there is no chief executive for the time being, or if the chief executive is absent from duty, continues to have effect as if made to the person for the time being acting in place of the chief executive.

Compare: 1989 No 80 ss 256C, 256D

433 Functions of NZQA

(1) NZQA has the following functions:

(a) to oversee the setting of standards for qualifications in relevant schools and in tertiary education:

(b) to monitor and regularly review, and advise the Minister on, the standards for qualifications in relevant schools and in tertiary education, either generally or in relation to a particular organisation or a particular programme or micro-credential:

(c) to maintain mechanisms for the recognition of learning (for example, the recognition of learning through qualifications gained and standards met):

(d) to maintain the Qualifications and Credentials Framework and Directory of Assessment and Skill Standards:

(e) to monitor, through the exercise of its powers under this Act, compliance by workforce development councils with the prescribed quality assurance requirements, and to address non-compliance:

(f) to monitor the quality and results of a workforce development council's systems and procedures for its moderation activities:

(g) to make rules, not inconsistent with this Act, under any provision of this subpart that empowers NZQA to make rules:

(h) to ensure there are mechanisms in place to guarantee that relevant schools and tertiary education providers that provide programmes or micro-credentials that, in the view of NZQA, require national consistency have assessment and moderation procedures that are fair, equitable, and consistent, and comply with the appropriate standards:

(i) to assist overseas governments, and agencies of those governments, by—

(i) conducting examinations and assessments:

(ii) approving programmes and micro-credentials:

(iii) granting accreditations for the provision of approved programmes or approved micro-credentials:

(iv) assisting governments and agencies to develop and conduct examinations, and to develop and confer awards:

(j) to maintain effective liaison with overseas certifying and validating bodies, in order to recognise overseas educational and vocational qualifications in New Zealand and to achieve recognition overseas of New Zealand educational and vocational qualifications:

(k) to ensure that post-school educational and vocational qualifications maintain international comparability:

(l) to promote and monitor the delivery of inter-institutional programmes and micro-credentials:

(m) any other functions that are conferred on it by this Act or any other enactment.

(2) NZQA may consult any persons, authorities, and bodies that it thinks fit for the purposes of performing any of its functions.

(3) NZQA must have regard to the tertiary education strategy when performing its functions under this Act or any other enactment.

Compare: 1989 No 80 ss 159AB, 246A

Section 433(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 433(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 433(1)(g): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 433(1)(h): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 433(1)(i)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 433(1)(i)(iii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 433(1)(l): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

434 Additional functions of NZQA relating to entrance to universities

(1) In addition to its other functions, NZQA has,—

(a) in relation to the rights of people who have not turned 20 years to obtain entrance to universities, the function of establishing and maintaining, by any means that it thinks fit, a common educational standard as a prerequisite for entrance to a university, other than discretionary entrance and entrance *ad eundem statum*; and

(b) the function of consulting the universities about the criteria to be established for discretionary entrance, or entrance *ad eundem statum*, to universities.

(2) A person who is refused discretionary entrance or entrance *ad eundem statum* to a university on grounds relating to the person's educational qualifications may appeal to NZQA against the refusal.

(3) NZQA must consider the appeal and,—

(a) if it is satisfied that the person meets the criteria established by the universities, as mentioned in subsection (1)(b), must allow the appeal and direct the council of the university concerned to admit the person as a student and, where appropriate, to grant the person the status that NZQA determines; or

(b) if it is not so satisfied, must dismiss the appeal.

(4) The council of a university must comply with a direction given to it by NZQA under subsection (3)(a).

(5) Before establishing standards for entrance to universities, NZQA must consult the council of each university and the Vice-Chancellors Committee.

Compare: 1989 No 80 s 247

435 Research

NZQA has the power to carry out any research activities that it considers relevant to the performance of its functions.

Compare: 1989 No 80 s 256

Qualifications and Credentials Framework

Heading: amended, on 1 August 2022, by section 24 of the Education and Training Amendment Act 2022 (2022 No 38).

436 Qualifications and Credentials Framework

(1) The Qualifications and Credentials Framework—

(a) consists of all qualifications and micro-credentials that have been approved and listed by NZQA in accordance with the rules made under section 452; and

(b) includes the rules relating to the framework made under that section.

(2) NZQA—

(a) must list on the Qualifications and Credentials Framework all qualifications and micro-credentials that it has approved in accordance with the rules made under section 452:

(b) may, in accordance with the rules, review, amend, remove, or alter the status of any qualification or micro-credential on the framework.

(3) If a qualification is removed from the Qualifications and Credentials Framework,—

(a) any programme approval granted to an institution under section 439 in respect of that qualification lapses; and

(b) any accreditation granted to an institution under section 441 in respect of that qualification lapses.

(4) If a micro-credential is removed from the Qualifications and Credentials Framework,—

(a) any approval of the content of that micro-credential granted to an institution under section 445 lapses; and

(b) any accreditation granted to an institution under section 446A to provide that micro-credential lapses.

Section 436: replaced, on 1 August 2022, by section 25 of the Education and Training Amendment Act 2022 (2022 No 38).

Directory of Assessment and Skill Standards

Heading: amended, on 1 August 2022, by section 26 of the Education and Training Amendment Act 2022 (2022 No 38).

437 Directory of Assessment and Skill Standards

(1) The Directory of Assessment and Skill Standards consists of all assessment and skill standards approved by NZQA for use by institutions as standards for the assessment of students.

(2) An application to have standards listed in the Directory—

(a) may only be made by an approved standard-setting body; and

(b) must be made in accordance with the rules.

Compare: 1989 No 80 s 248A

Section 437 heading: amended, on 1 August 2022, by section 27(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 437(1): amended, on 1 August 2022, by section 27(2) of the Education and Training Amendment Act 2022 (2022 No 38).

438 Standard-setting bodies

(1) An approved standard-setting body includes—

(a) a workforce development council established in accordance with section 363; and

(b) the Ministry; and

(c) NZQA; and

(d) any other body approved by NZQA under subsection (3).

(2) A body may apply, in accordance with the rules, to NZQA for approval as a standard-setting body.

(3) In deciding whether to approve a standard-setting body, NZQA must apply the criteria set out in the rules, and must be satisfied that the applicant is able to—

(a) draft standards that meet the requirements in the rules; and

(b) manage consistency across New Zealand in learning outcomes in the relevant subject areas; and

(c) carry out national moderation of assessment of students; and

(d) develop and maintain national curricula for qualifications for which the standard-setting body is responsible.

Compare: 1989 No 80 s 248B

Section 438(3)(d): inserted, on 1 August 2022, by section 28 of the Education and Training Amendment Act 2022 (2022 No 38).

438A Standard-setting bodies may develop national curricula

(1) An approved standard-setting body may develop and maintain a national curriculum for a qualification for which the body is responsible.

(2) In performing this function, a standard-setting body must, to the extent that is necessary or desirable in the circumstances, work collaboratively with—

(a) providers:

(b) other standard-setting bodies, particularly on matters of common interest:

(c) NZQA:

(d) any relevant regulatory body that performs or exercises any functions, duties, or powers under an enactment in relation to entry to an occupa-

tion in any of the specified industries covered by the standard-setting body.

Section 438A: inserted, on 1 August 2022, by section 29 of the Education and Training Amendment Act 2022 (2022 No 38).

438B Recognition of national curricula

(1) The standard-setting body may apply to NZQA for recognition of a national curriculum.

(2) NZQA—

(a) may grant or refuse to grant recognition of the national curriculum to the applicant; and

(b) must give the applicant written notice of its decision to grant or refuse recognition; and

(c) may grant recognition for a specified period or indefinitely.

(3) If 2 or more standard-setting bodies have developed a national curriculum together, they may make a joint application for recognition of the national curriculum.

(4) If NZQA considers that there may be grounds for withdrawing recognition of a national curriculum,—

(a) NZQA must give written notice to the standard-setting body concerned stating the grounds on which NZQA is considering withdrawing recognition; and

(b) NZQA must give the standard-setting body reasonable time (as specified in the notice) to make submissions on the matter; and

(c) after considering those submissions, NZQA—

(i) may withdraw recognition from a specified date if it considers there are reasonable grounds to do so; and

(ii) must notify the standard-setting body of the withdrawal (if any) and the reasons for it.

(5) NZQA may withdraw recognition of a national curriculum from a specified date at the written request of the standard-setting body concerned.

Section 438B: inserted, on 1 August 2022, by section 29 of the Education and Training Amendment Act 2022 (2022 No 38).

438C Recognised national curriculum treated as approved programme

(1) For the purposes of this Act, a national curriculum that is recognised under section 438B is to be treated as if it were a programme granted approval under section 439 and any reference in this Act to an approved programme applies to that national curriculum.

(2) However, the following sections do not apply in respect of a recognised national curriculum:

(a) section 440 (which relates to conditions on programme approvals):

(b) section 459 (which relates to compliance notices).

Section 438C: inserted, on 1 August 2022, by section 29 of the Education and Training Amendment Act 2022 (2022 No 38).

Approval of programmes

Heading: inserted, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

439 Approval of programmes

(1) An institution may apply to NZQA for approval of a programme.

(2) NZQA—

(a) may grant or refuse to grant approval of the programme to the applicant; and

(b) is required only to consider the programme as a whole; and

(c) must give the applicant written notice of its decision to grant or refuse approval; and

(d) may grant approval for a specified period or indefinitely.

(3) If 2 or more institutions have prepared a programme together, they may make a joint application for approval of the programme.

(4) If NZQA considers that there may be grounds for withdrawing approval of a programme,—

(a) NZQA must give written notice to the institution concerned stating the grounds on which NZQA is considering withdrawing approval; and

(b) NZQA must give the institution reasonable time (as specified in the notice) to make submissions on the matter; and

(c) after considering those submissions, NZQA—

(i) may withdraw approval if it considers there are reasonable grounds to do so; and

(ii) must notify the institution of the withdrawal (if any) and the reasons for it.

(5) NZQA may withdraw approval of a programme at the written request of the institution concerned.

(6) This section—

(a) is subject to section 453:

(b) does not limit NZQA's power to withdraw a programme approval under section 459(6):

(c) does not apply in respect of NCEA.

Compare: 1989 No 80 s 249

440 Conditions on programme approvals

(1) Every programme approval is subject to the condition that the institution complies at all times with the relevant rules, except to the extent that NZQA exempts the institution, by a condition on the approval, from compliance.

(2) When approving a programme, NZQA may impose conditions on the approval that are specific to the programme or to a class of programmes.

(3) NZQA may, with the agreement of the institution that holds the programme approval,—

(a) impose new conditions on the approval; or

(b) amend or revoke any existing conditions.

(4) NZQA may, without the agreement of the institution, impose conditions on a programme approval, or amend or revoke any existing conditions, but only if NZQA has first—

(a) given written notice to the institution of its intentions; and

(b) given the institution a reasonable opportunity to respond to the notice; and

(c) considered any submissions made by the institution in response to the notice.

(5) When conditions are imposed, amended, or revoked, NZQA must give notice in writing to the institution that holds the approval of the new, amended, or revoked conditions.

Compare: 1989 No 80 s 249A

Accreditation to provide approved programmes

441 Accreditation to provide approved programmes

(1) An institution may not offer or provide all or part of an approved programme unless the institution is granted accreditation to provide the programme or part of the programme.

(2) An institution may apply to NZQA for a grant of accreditation to provide all or part of a programme.

(3) *[Repealed]*

(4) NZQA—

(a) may grant or refuse to grant accreditation to the institution to provide all or part of the programme; and

(b) must give the institution written notice of its decision to grant or refuse accreditation; and

(c) may grant accreditation for a specified period or indefinitely.

(4A) If NZQA grants accreditation to the institution to provide all or part of the programme and the programme or part of the programme incorporates stand-

ards from the Directory of Assessment and Skill Standards, the institution is authorised to assess against those standards.

(5) This section—

(a) does not apply to any secondary school qualification or class of secondary school qualification that NZQA exempts, by notice, from the application of this section:

(b) is subject to section 453.

(6) A notice under subsection (5)(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 250

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 441(3): repealed, on 1 August 2022, by section 30(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 441(4)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 441(4A): inserted, on 1 August 2022, by section 30(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 441(5)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 441(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

442 Conditions on accreditation

(1) Every accreditation to provide an approved programme is subject to the condition that the institution complies at all times with the relevant rules made under section 452, except to the extent that NZQA exempts the institution, by a condition on the accreditation, from compliance.

(2) When granting accreditation to an institution to provide an approved programme, NZQA may impose conditions on the accreditation that are—

(a) specific to the programme or a particular class of programmes; or

(b) specific to the institution or a particular class of institutions.

(3) NZQA may, with the agreement of the accredited institution, impose new conditions on the accreditation and may amend or revoke any existing conditions.

(4) NZQA may, without the agreement of the institution, impose conditions on an accreditation, or amend or revoke any existing conditions, but only if NZQA has first—

(a) given written notice to the institution of its intentions; and

(b) given the institution a reasonable opportunity to respond to the notice; and

(c) considered any submissions made by the institution in response to the notice.

(5) When conditions are imposed, amended, or revoked, NZQA must give notice in writing to the accredited institution of the new, amended, or revoked conditions.

Compare: 1989 No 80 s 250A

Section 442(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

443 Lapse of accreditation to provide approved programme

(1) An accreditation to provide an approved programme granted to an institution lapses when—

(a) 12 months have passed since accreditation was granted and the institution has not during that time provided all or part of the programme to which the accreditation relates; or

(b) 12 months have passed since the institution last provided all or part of the programme to which the accreditation relates; or

(c) the programme to which the accreditation relates ceases to be an approved programme; or

(d) the status of the qualification to which the accreditation relates is discontinued on the Qualifications and Credentials Framework.

(2) Despite subsection (1), NZQA may, if it considers that the circumstances so require, extend the time specified in subsection (1)(a) or (b).

(3) NZQA must give written notice of the lapse of an accreditation to the institution concerned.

Compare: 1989 No 80 s 250B

Section 443 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 443(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 443(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

444 Withdrawal of accreditation to provide approved programme

(1) If NZQA considers that there may be grounds for withdrawing an accreditation to provide an approved programme from an institution, NZQA must give written notice to the institution—

(a) setting out the grounds on which NZQA is considering withdrawing the accreditation; and

(b) giving the institution a reasonable period to make submissions on the matter.

(2) After that period, and having considered any submission made by the institution, NZQA may, on any reasonable grounds, withdraw the accreditation.

(3) If NZQA withdraws an accreditation under subsection (2), it must give notice of the withdrawal, with reasons, to the institution concerned.

(4) NZQA may withdraw an accreditation at the written request of the institution concerned.

(5) This section does not limit NZQA's power to withdraw an accreditation under section 459(6).

Compare: 1989 No 80 s 250C

Section 444 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 444(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Micro-credentials

Heading: replaced, on 1 August 2022, by section 31 of the Education and Training Amendment Act 2022 (2022 No 38).

445 Application for micro-credential approval

(1) An institution may apply to NZQA for approval of the content of a micro-credential.

(2) NZQA—

(a) may grant or refuse to grant approval of the content of the micro-credential; and

(b) must give the institution and any joint applicant written notice of its decision to grant or refuse approval; and

(c) may grant approval for a specified period or indefinitely.

(3) *[Repealed]*

(4) This section does not apply to any secondary school qualification or class of secondary school qualification that NZQA exempts, by notice, from the application of this section.

(5) A notice under subsection (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 251

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Section 445 heading: amended, on 1 August 2022, by section 32(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 445(1): amended, on 1 August 2022, by section 32(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 445(2)(a): amended, on 1 August 2022, by section 32(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 445(3): repealed, on 1 August 2022, by section 32(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 445(4): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 445(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

446 Conditions of micro-credential approval

(1) Every approval of the content of a micro-credential is subject to the condition that the institution complies at all times with the relevant rules made under section 452 except to the extent that NZQA exempts the institution, by a condition on the approval, from compliance.

(2) NZQA may impose conditions on an approval, and, for that purpose, section 442(2) to (5) applies as if each reference to accreditation or accreditation to provide an approved programme were a reference to a training scheme approval under this section.

Compare: 1989 No 80 s 251A

Section 446 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 446(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 446(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

446A Accreditation to provide approved micro-credentials

(1) An institution may not offer or provide an approved micro-credential unless the institution is granted accreditation to provide the micro-credential.

(2) An institution may apply to NZQA for accreditation to provide a micro-credential.

(3) NZQA—

(a) may grant or refuse to grant accreditation to the institution to provide the micro-credential; and

(b) must give the institution written notice of its decision to grant or refuse accreditation; and

(c) may grant accreditation for a specified period or indefinitely.

(4) If NZQA grants accreditation to the institution to provide the micro-credential and the micro-credential incorporates standards from the Directory of Assessment and Skill Standards, the institution is authorised to assess against those standards.

Section 446A: inserted, on 1 August 2022, by section 33 of the Education and Training Amendment Act 2022 (2022 No 38).

446B Conditions on accreditation to provide approved micro-credentials

(1) Every accreditation to provide an approved micro-credential is subject to the condition that the institution complies at all times with the relevant rules made under section 452, except to the extent that NZQA exempts the institution, by a condition on the accreditation, from compliance.

(2) NZQA may impose conditions on an accreditation to provide an approved micro-credential, and, for that purpose, section 442(2) to (5) applies as if each reference to accreditation or accreditation to provide an approved programme included an accreditation to provide an approved micro-credential under this section.

Section 446B: inserted, on 1 August 2022, by section 33 of the Education and Training Amendment Act 2022 (2022 No 38).

447 Lapse of accreditation to provide approved micro-credential

(1) An accreditation to provide an approved micro-credential granted to an institution lapses when—

(a) 12 months have passed since the accreditation was granted and the institution has not during that time provided the micro-credential to which the accreditation relates; or

(b) 12 months have passed since the institution last provided the micro-credential to which the accreditation relates.

(2) Despite subsection (1), NZQA may, if it considers that the circumstances so require, extend the time specified in subsection (1)(a) or (b).

(3) NZQA must give written notice of the lapse of an accreditation to the institution concerned.

Compare: 1989 No 80 s 251C

Section 447 heading: amended, on 1 August 2022, by section 34(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 447(1): replaced, on 1 August 2022, by section 34(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 447(3): amended, on 1 August 2022, by section 34(3) of the Education and Training Amendment Act 2022 (2022 No 38).

448 Withdrawal of micro-credential approval or accreditation

(1) If NZQA considers that there may be grounds for withdrawing an approval of the content of a micro-credential or an accreditation to provide a micro-credential from an institution, NZQA must give written notice to the institution—

(a) setting out the grounds on which NZQA is considering withdrawing the approval or accreditation; and

(b) giving the institution a reasonable period to make submissions on the matter.

(2) After the period referred to in subsection (1)(b), and having considered any submission made by the institution, NZQA—

(a) may, on reasonable grounds, withdraw the approval or accreditation; and

(b) must give notice of the withdrawal, with reasons, to the institution concerned.

(3) This section does not limit NZQA's power to withdraw a approval or accreditation under section 459(6).

(4) NZQA may withdraw a approval or accreditation at the written request of the institution concerned.

Compare: 1989 No 80 s 251B

Section 448 heading: amended, on 1 August 2022, by section 35(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 448(1): amended, on 1 August 2022, by section 35(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 448(1)(a): amended, on 1 August 2022, by section 35(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 448(2)(a): amended, on 1 August 2022, by section 35(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 448(3): amended, on 1 August 2022, by section 35(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 448(4): amended, on 1 August 2022, by section 35(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Consent to assess against standards

449 Consent to assess against standards

(1) An institution that proposes to assess its students against standards listed in the Directory of Assessment and Skill Standards must apply to NZQA for consent to assess against those standards.

(2) NZQA may grant or refuse consent to assess against those standards.

(3) NZQA may withdraw a consent, but only after complying with subsection (4).

(4) Before NZQA withdraws a consent, it must—

(a) give written notice of its intentions to the institution; and

(b) give the institution a reasonable opportunity to respond to the notice; and

(c) consider any submissions made by the institution in response to the notice.

(5) NZQA must give the institution written notice of its decision under subsection (3), and must give reasons for its decision.

(6) Despite subsection (3), NZQA may withdraw a consent at the written request of the institution concerned.

Compare: 1989 No 80 s 252

Section 449(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

450 Conditions on consent

(1) Every consent to assess against standards is subject to the condition that the institution complies at all times with the relevant rules made under section 452 except to the extent that NZQA exempts the institution, by a condition on the consent, from compliance.

(2) NZQA may impose conditions on a consent to assess against standards, and for that purpose section 442(2) to (5) applies as if each reference to accreditation or accreditation to provide an approved programme were a reference to a consent to assess against standards.

Compare: 1989 No 80 s 252A

Section 450(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

451 When consent expires or ceases to have effect

(1) A consent to assess against standards expires—

(a) when any accreditation to which the consent relates is withdrawn, lapses, expires, or otherwise ceases to have effect:

(b) when the status of all standards to which the consent relates is discontinued in the Directory of Assessment and Skill Standards.

(2) If the status of any standard to which the consent relates is discontinued in the Directory of Assessment and Skill Standards, the consent ceases to have effect in respect of that standard.

Compare: 1989 No 80 s 252B

Section 451(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 451(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 451(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Rules

452 Rules

(1) NZQA may make rules—

(a) prescribing the process for, and the information required in, an application for—

(i) registration of a private training establishment:

(ii) approval of a programme:

(iii) approval of a micro-credential:

(iv) accreditation:

(v) consent to assess against standards:

(vi) approval as a standard-setting body:

(vii) the listing of a qualification or micro-credential on the Qualifications and Credentials Framework:

(viii) the listing of a standard on the Directory of Assessment and Skill Standards:

(ix) recognition of a national curriculum:

(b) prescribing criteria that NZQA must apply when considering—

(i) each class of application described in paragraph (a); and

(ii) different kinds of application within each class:

(c) prescribing requirements that the applicant must meet in order to maintain the registration, approval, accreditation, consent, or recognition granted by NZQA:

(d) prescribing the amount of, or the method of determining, the annual registration fee required under section 349:

(e) prescribing the requirements for the protection of student fees that must be met by a private training establishment, any person to whom section 355 applies, any agent or person purporting to act as an agent for a student or private training establishment, and any independent trustee:

(f) prescribing matters relating to the general operation of the Qualifications and Credentials Framework and the Directory of Assessment and Skill Standards:

(g) prescribing the quality assurance requirements that must be met by providers of adult and community education:

(h) prescribing the amount of, or the method of determining, the annual fee payable by a workforce development council and when and how that fee is payable:

(i) prescribing quality assurance requirements for workforce development councils, including (without limitation) requirements relating to the performance of the relevant functions of workforce development councils:

(j) *[Repealed]*

(k) providing for the review, amendment, removal, or alteration of the status of qualifications, micro-credentials, and standards, including their components (including where amendments to titles occur, consequential amendments to approved programmes of study or training titles, micro-credential approval titles, accreditations to provide approved pro-

grammes or approved micro-credentials, and consents to assess against standards):

(l) providing any special requirements for NCEA and other secondary school qualifications or awards for the purposes of the Qualifications and Credentials Framework:

(m) providing for the conduct of assessments and examinations relating to any qualifications or awards:

(n) prescribing the details for credits, cross-credits, recognition of prior learning, and moderation:

(o) prescribing requirements for qualifications in respect of which NZQA is the qualifications developer:

(p) prescribing requirements relating to work-based training:

(q) providing for the following matters for the purposes of section 361:

(i) the kinds of enrolment and academic records that must be kept:

(ii) the manner in which the records must be kept:

(iii) how long the records must be kept:

(r) prescribing reporting requirements that institutions or workforce development councils must comply with in relation to the student's record of achievement that is maintained by NZQA:

(s) for the purposes of rules made under paragraph (r), specifying the qualifications or standards for which institutions or workforce development councils are required to report the credits gained by students undertaking or who have undertaken study or training towards those qualifications or standards:

(t) prescribing the quality assurance requirements for tertiary education bodies in respect of which NZQA grants approvals or consents under this subpart:

(u) prescribing the types of programmes and micro-credentials that are exempt from the requirements specified in section 356(1):

(ua) prescribing the process that an institution must follow in order to make any 1 of the following types of transitions:

(i) a transition from education and training that leads to a qualification through an approved programme that it is accredited to provide to education and training that it is accredited to provide through a national curriculum (or vice versa):

(ii) a transition from education that leads to a qualification through a national curriculum that it is accredited to provide to an amended or a replacement national curriculum for that qualification.

(v) providing for any other matters contemplated by this subpart and subpart 5 of Part 4, necessary for their administration, or necessary for giving them full effect.

(2) Without limiting any power to make rules under this section, restrictions on the use of standards may be included in any rules made under subsection (1)(b) that—

(a) prescribe criteria that NZQA must apply when considering applications for approval of a programme leading to a degree or postgraduate qualification:

(b) prescribe criteria that NZQA must apply when considering applications for the listing of a degree or postgraduate qualification on the Qualifications and Credentials Framework:

(c) prescribe criteria that NZQA must apply when considering applications for the listing of a standard in the Directory of Assessment and Skill Standards that relates to any programme leading to a degree or postgraduate qualification.

(3) Rules made under subsection (1)(o) may specify different requirements for different qualifications.

(4) Before making rules under this section that apply to a class of institutions, NZQA must consult,—

(a) if the rules relate to universities, the Vice-Chancellors Committee; and

(b) if the rules relate to bodies that provide adult and community education, those bodies or a body that represents their interests; and

(c) if the rules relate to a class of institutions in respect of which there is a body whose function is to set up programme approval and moderation procedures, the representative bodies of those institutions, and any other bodies as NZQA considers appropriate.

(5) Any proposed rules under this section must be approved by the board of NZQA and the Minister before being made, but, if the rules relate to any matter described in subsection (1)(m), the approval of the Minister is not required.

(6) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(7) *[Repealed]*

Compare: 1989 No 80 s 253

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it on an Internet site maintained by, or on behalf of, NZQA • make it available in printed form for purchase at a reasonable price on request by members of the public	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Section 452(1)(a)(iii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(a)(vii): replaced, on 1 August 2022, by section 36(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(a)(viii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(a)(ix): inserted, on 1 August 2022, by section 36(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(c): amended, on 1 August 2022, by section 36(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(f): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(j): repealed, on 1 August 2022, by section 36(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(k): replaced, on 1 August 2022, by section 36(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(l): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(u): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(1)(ua): inserted, on 1 August 2022, by section 36(6) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(2)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(2)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 452(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 452(7): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Functions and powers of NZQA in relation to universities

453 Exercise of certain powers of NZQA by Vice-Chancellors Committee

(1) In this section, **powers of NZQA** means NZQA's powers under sections 439 to 448, 458(1)(b), and 459.

(2) The powers of NZQA, as far as they are applicable to universities, may be exercised by the Vice-Chancellors Committee in relation to universities as if references to NZQA in the relevant provisions were references to the Vice-Chancellors Committee.

(3) In exercising the powers of NZQA, the Vice-Chancellors Committee—

(a) must apply the relevant rules made under section 452:

(b) may charge fees to a university for the grant of any approval or accreditation:

(c) may list or arrange for the listing of qualifications offered by universities on the Qualifications and Credentials Framework:

(d) may correct any errors or omissions in the listing of qualifications on the Qualifications and Credentials Framework.

(4) To avoid doubt, this section does not limit NZQA's power to delegate its functions or powers under the Crown Entities Act 2004.

Compare: 1989 No 80 s 253A

Section 453(3)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 453(3)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Granting of awards

454 Powers of NZQA in granting of awards

(1) A person may apply to NZQA for consent—

(a) to grant an award that is described as a degree or the description of which includes the word bachelor, master, or doctor:

(b) to grant an award that is described as a postgraduate qualification, for example, a postgraduate certificate or diploma.

(2) NZQA may, in accordance with this section, grant or refuse its consent.

(3) NZQA may not consent to the granting of an award of a kind referred to in subsection (1) unless it is satisfied that the award recognises the completion of a programme of advanced learning that—

(a) is taught mainly by people engaged in research; and

(b) emphasises general principles and basic knowledge as the basis for self-directed work and learning.

(4) NZQA may not withhold its consent to the use of any particular term or the granting of an award that, or whose name or description, includes any particular word, unless satisfied on reasonable grounds that it should do so.

Compare: 1989 No 80 s 253B

454A Withdrawal of consent to grant award

(1) If NZQA considers that there may be grounds for withdrawing consent to grant an award from a person, NZQA must give written notice to the person—

(a) setting out the grounds on which NZQA is considering withdrawing consent; and

(b) giving the person a reasonable period to make submissions on the matter.

(2) After that period, and having considered any submission made by the person, NZQA may, on any reasonable grounds, withdraw consent.

(3) If NZQA withdraws consent under subsection (2), it must give notice of the withdrawal, with reasons, to the person concerned.

(4) NZQA may withdraw consent at the written request of the person concerned.

Section 454A: inserted, on 1 August 2022, by section 37 of the Education and Training Amendment Act 2022 (2022 No 38).

455 NCEA may not be provided outside New Zealand

(1) A person may not provide, or offer to provide, an NCEA qualification outside New Zealand.

(2) Subsection (1) does not apply in respect of—

(a) domestic students outside New Zealand if they are studying through a distance school; or

(b) students outside New Zealand if they are studying in a jurisdiction with which New Zealand has entered into an arrangement that authorises the teaching and assessment of NCEA standards in that jurisdiction.

Use of certain terms in name or description of registered establishment or wānanga

456 Minister may consent to use of certain terms in name or description of registered establishment or wānanga

(1) A registered establishment may apply to the Minister for consent to describe itself using the term university.

(2) A wānanga may apply to the Minister for consent to describe itself using the term university.

(3) Before deciding whether to grant consent under subsection (1) or (2), the Minister must—

(a) take into account the characteristics of institutions as described in section 268(2)(d); and

(b) receive advice about the application from NZQA and from TEC; and

(c) be satisfied that consenting to the application is in the interests of the tertiary education system and the nation as a whole; and

(d) consult the institutions, organisations representing institutions, and other relevant bodies that the Minister thinks fit; and

(e) in the case of a wānanga, consult the persons or bodies who are knowledgeable in āhuatanga Māori (Māori tradition) and tikanga Māori (Māori custom) within a kaupapa Māori pedagogy that the Minister thinks fit.

(4) The Minister may grant consent under subsection (1) or (2) subject to conditions that the Minister considers reasonably necessary to—

(a) ensure that students, employers, and members of the public are adequately informed of the legal status or the characteristics of the registered establishment or wānanga to which the consent is granted; and

(b) ensure adequate protection of the quality and reputation of the institutions that may use the term without applying to do so; and

(c) protect the interests of the tertiary education system and the nation as a whole.

(5) The Minister may carry out a review of a registered establishment or wānanga to assess whether it is continuing to comply with any conditions subject to which it was granted consent under subsection (1) or (2).

(6) If, having regard to a review carried out under subsection (5), the Minister is not satisfied that a registered establishment or wānanga is continuing to comply with the conditions subject to which it was granted consent under subsection (1) or (2), the Minister may—

(a) withdraw the consent; or

(b) suspend the consent for a specified period, at the expiry of which the Minister must either lift the suspension or withdraw the consent.

Compare: 1989 No 80 s 253C

Fees

457 Fees

(1) NZQA may—

(a) charge fees to any person or institution for any of the following:

(i) programme approval:

(ii) micro-credential approval:

(iii) accreditation:

(iv) consent to assess against standards:

(v) approval to list qualifications on the Qualifications and Credentials Framework:

(vi) approval to list standards in the Directory of Assessment and Skill Standards:

(vii) registration of a private training establishment:

(viii) approval to be a standard-setting body:

(ix) consent to award a degree:

(x) consent for the use by a registered establishment of certain terms in its name:

(xi) reporting credits for the purposes of rules made under section 452(1)(r) and (s):

(b) charge fees to any person or institution for any services provided by NZQA, including fees in relation to sitting an examination conducted by NZQA, to the making of any assessment by NZQA, or to the granting to any person of an award certifying that the person had passed the examination or been so assessed:

(c) charge fees to any person or institution for any quality assurance activities undertaken by NZQA.

(2) A fee may not be charged under subsection (1)(b) to a person who is a student at a relevant school unless the Minister has consented to the charging of the fee.

(3) Fees set under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 254

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it on an Internet site maintained by, or on behalf of, NZQA • make it available in printed form for purchase at a reasonable price on request by members of the public	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 457(1)(a)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 457(1)(a)(v): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 457(1)(a)(vi): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 457(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Enforcement powers of NZQA

458 Power to obtain information

(1) The chief executive or a person authorised by the chief executive may, subject to subsection (2),—

(a) by written notice to the Secretary, require the Secretary, within a reasonable period that is specified in the notice, to supply to NZQA the information or documents relating to institutions that are specified in the notice; and

(b) by written notice to the chief executive of an institution or a workforce development council, require the chief executive, within a reasonable period that is specified in the notice, to supply to NZQA the information

or documents relating to the institution or workforce development council that are specified in the notice.

(2) The powers conferred by subsection (1) may be exercised only where the obtaining of the information or documents is necessary for the purposes of the performance of the functions of NZQA.

Compare: 1989 No 80 s 254A

459 Compliance notices

(1) NZQA may issue a compliance notice to an institution requiring the institution to do, or refrain from doing, a particular thing in relation to—

(a) the institution's registration as a registered establishment; or

(b) the institution's programme approvals, micro-credential approvals, or accreditations; or

(c) any consent that the institution has to assess against standards; or

(d) any quality assurance conditions on work-based training; or

(e) any notice issued under section 458(1)(b).

(2) A compliance notice must be in writing and must state—

(a) the date on which it is issued; and

(b) a time on or before which, or a period within which, the institution must comply with the notice; and

(c) the consequences or possible consequences of non-compliance with the notice.

(3) *[Repealed]*

(4) An institution that receives a compliance notice must comply with it within the time or period stated in the notice.

(5) NZQA may, before the expiry of the time or period referred to in subsection (2)(b), extend that time or period during which the notice must be complied with.

(6) If the institution does not comply with the compliance notice, NZQA may immediately,—

(a) if the notice related to the registration of a registered establishment, cancel the registration, or impose new conditions, or amend or revoke any existing conditions, on the registration; or

(b) if the notice related to a programme or micro-credential approval, withdraw the approval, or impose new conditions, or amend or revoke any existing conditions, on the approval; or

(c) if the notice related to an accreditation, withdraw the accreditation, or impose new conditions, or amend or revoke any existing conditions, on the accreditation; or

(d) if the notice related to a consent to assess against standards, withdraw the consent, or impose new conditions, or amend or revoke any existing conditions, on the consent; or

(e) if the notice related to any quality assurance conditions on work-based training, withdraw the programme or micro-credential approval to which the training relates, or impose new conditions, or amend or revoke any existing conditions, on the approval.

(7) NZQA may not do any of the things specified in subsection (6) until the later of the following:

(a) 10 days from the date of issue of the notice:

(b) the expiry of the time or period referred to in subsection (2)(b).

(8) If NZQA withdraws programme approval, it must also withdraw any consent to assess against standards or any accreditation in respect of the programme approval.

(9) If NZQA withdraws any micro-credential approval, it must also withdraw any consent to assess against standards or any accreditation in respect of the micro-credential approval.

Compare: 1989 No 80 s 255

Section 459(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 459(3): repealed, on 1 August 2022, by section 38 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 459(6)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 459(6)(e): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 459(9): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Publication of conditions and notices by NZQA

Heading: inserted, on 1 August 2022, by section 39 of the Education and Training Amendment Act 2022 (2022 No 38).

459A Publication of conditions and notices

NZQA may publish the following on an Internet site maintained by or on behalf of NZQA:

(a) any condition (or summary of a condition) imposed by NZQA under any 1 of the following provisions:

(i) section 348(2) (which relates to registration of private training establishments):

(ii) section 440 (which relates to approval of programmes):

(iii) section 442 (which relates to accreditation of institutions to provide approved programmes):

(iv) section 446 (which relates to approval to provide micro-credentials):

(v) section 446B (which relates to accreditation to provide approved micro-credentials):

(vi) section 450 (which relates to consent to assess students against standards):

(b) any notice (or summary of a notice) issued by NZQA under any 1 of the following provisions:

(i) section 371(1) (which relates to quality assurance improvement notices):

(ii) section 372(1) (which relates to compliance notices):

(iii) section 459(1) (which relates to compliance notices):

(iv) section 535(1) (which relates to sanctions for breach of code):

(v) section 535C(1) (which relates to performance improvement notices):

(c) any notice (or summary of a notice) of a cancellation of the registration of a registered establishment under section 350:

(d) any notice (or summary of a notice) of a withdrawal made under any 1 of the following provisions of an accreditation, an approval, or a consent from an institution or a person:

(i) section 438B(4) (which relates to withdrawal of recognition of national curricula):

(ii) section 439 (which relates to withdrawal of approval of programmes):

(iii) section 444 (which relates to withdrawal of accreditation to provide approved programmes):

(iv) section 448 (which relates to withdrawal of approval of content of micro-credentials or accreditation to provide micro-credentials):

(v) section 449 (which relates to withdrawal of consent to assess against standards):

(vi) section 454A (which relates to withdrawal of consent to grant awards):

(vii) section 524A (which relates to withdrawal of approval of classes, courses, or programmes intended for international students).

Section 459A: inserted, on 1 August 2022, by section 39 of the Education and Training Amendment Act 2022 (2022 No 38).

Miscellaneous provisions

460 Child care allowances

A member of NZQA may be paid any allowances in respect of child care that NZQA determines.

Compare: 1989 No 80 s 256F

461 Taxation

(1) NZQA is to be treated as the agent of the Crown in respect of its property and the performance of its functions and is entitled accordingly to all the privileges the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations.

(2) Subsection (1) does not exempt NZQA from—

(a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or

(b) any obligation imposed by that Act.

Compare: 1989 No 80 s 256G

Subpart 3—Education Review Office

462 Education services to which this subpart applies

(1) This subpart applies to every education service (other than a service provided only to or for people over 16 years who are not enrolled at a State school)—

(a) that is provided by an organisation that is—

(i) owned or operated by the Crown; or

(ii) forbidden by law to provide that service (or a service of that kind) unless it holds a licence, permit, or other authority issued by or on behalf of the Crown; or

(b) whose provision is (wholly or partly)—

(i) funded by money appropriated by Parliament; or

(ii) regulated by or under statute.

(2) Sections 466 to 469 apply in relation to education services provided to persons who are exempted from the requirements of section 35; and, for the purposes of this subsection and sections 466 to 469, **education service** is to be construed in that context, and the meaning it has in the definition of applicable service in section 10(1) does not apply.

Compare: 1989 No 80 s 324

463 Chief Review Officer to perform certain functions

(1) The Chief Review Officer must—

(a) administer reviews, either general or relating to particular matters, of the performance of applicable organisations in relation to the applicable services they provide—

(i) when directed by the Minister to do so; or

(ii) on the Chief Review Officer's own motion (despite section 52 of the Public Service Act 2020); and

(b) administer the preparation of reports to the Minister on the undertaking and results of the reviews; and

(c) give the Minister any other assistance and advice on the performance of the applicable organisations that the Minister requires.

(2) The Chief Review Officer—

(a) must administer reviews of professional learning and development services accessed by applicable organisations when directed by the Minister to do so; and

(b) may, despite section 52 of the Public Service Act 2020, administer reviews of professional learning and development services accessed by applicable organisations on the Chief Review Officer's own motion; and

(c) must administer the preparation of reports to the Minister on the undertaking and results of the reviews.

Compare: 1989 No 80 s 325

Section 463(1)(a)(ii): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 463(2): inserted, on 1 August 2022, by section 40 of the Education and Training Amendment Act 2022 (2022 No 38).

464 Information requests

(1) In carrying out the functions specified in section 463, the Chief Review Officer may request in writing from an applicable organisation or applicable person, or a provider of professional learning and development services, such information that the Chief Review Officer considers is reasonably necessary or desirable for the purposes of carrying out those functions.

(2) In this section, **applicable organisation**, in relation to an early childhood service, includes an entity that owns the service (wholly or partly) or operates the service.

Section 464(1): amended, on 1 August 2022, by section 41 of the Education and Training Amendment Act 2022 (2022 No 38).

465 Review officers

The Chief Review Officer—

(a) may designate any suitably qualified person (whether or not an employee of the Chief Review Officer) a review officer; and

(b) must ensure that every person for the time being so designated has a certificate to that effect, in a form approved by the Chief Review Officer.

Compare: 1989 No 80 s 326

Provisions concerning students with enrolment exemption

466 Functions of Chief Review Officer

The Chief Review Officer—

(a) may carry out reviews (which may be general or in relation to particular matters) of the education services provided to persons exempted from the requirements of section 35, and must carry out the reviews when directed by the Minister to do so; and

(b) must administer the preparation of reports to the Minister on the undertaking and results of the reviews; and

(c) must give the Minister any other assistance and advice that the Minister requires on the education services provided to persons exempted from the requirements of section 35.

Compare: 1989 No 80 s 328A

467 Review officers

Review officers designated under section 465 are also review officers for the purposes of section 466, and sections 468 and 469 apply to them accordingly.

Compare: 1989 No 80 s 328B

468 Powers of review officers for purposes of section 466

(1) For the purposes of enabling any functions of the Chief Review Officer to be performed for the purposes of section 466, any review officer may, at any reasonable time and having given reasonable notice,—

(a) conduct inspections or inquiries:

(b) require a parent or other person to produce, and permit the review officer to make copies or extracts of, documents or information relating to—

(i) the education service the parent or other person provides; or

(ii) people to whom the education service is (or has been) provided:

(c) require a parent or other person to make or provide statements, in the form and manner that is reasonable in the circumstances, about any matters relating to provision of the education service provided by that parent or person:

(d) inspect the work of any person to whom the education service concerned is (or has been) provided:

(e) meet and talk with any person to whom the education service concerned is being provided.

(2) Nothing in this section confers on a review officer the power to enter any dwelling house without the consent of the owner or occupier.

Compare: 1989 No 80 s 328C

469 Review officers to prove identity before acting under section 468

A review officer who exercises any power under section 468 must, before exercising that power and, if requested at any later time, produce to the parent or other person providing the education service concerned the review officer's certificate of designation.

Compare: 1989 No 80 s 328D

Provisions concerning hostels

470 Functions of Chief Review Officer

The Chief Review Officer—

(a) may carry out reviews (which may be general or in relation to particular matters) of the provision of a safe physical and emotional environment that supports learning for students accommodated in hostels, and must carry out those reviews when directed by the Minister to do so; and

(b) must administer the preparation of reports to the Minister on the undertaking and results of the reviews; and

(c) must give the Minister any other assistance and advice that the Minister requires on the provision of a safe physical and emotional environment that supports learning for students accommodated at hostels.

Compare: 1989 No 80 s 328E

471 Review officers

Review officers designated under section 465 are also review officers for the purposes of section 470, and sections 472 and 473 apply to them accordingly.

Compare: 1989 No 80 s 328F

472 Powers of review officers for purposes of section 470

(1) For the purposes of enabling any functions of the Chief Review Officer to be performed under section 470, any review officer may, at any reasonable time and having given reasonable notice to the management of the hostel, enter any hostel and do 1 or more of the following:

(a) conduct inspections or inquiries:

(b) require any person to produce documents or information relating to—

(i) the provision of a safe physical and emotional environment that supports learning for the students accommodated in the hostel; or

(ii) the students accommodated in the hostel:

(c) make copies or extracts of any documents and information referred to in paragraph (b):

(d) require any person to make or provide statements, in any form and manner that is reasonable in the circumstances, about any matters relating to the provision of a safe physical and emotional environment that supports learning for the students accommodated in the hostel:

(e) meet and talk to any person who is accommodated at the hostel.

(2) Nothing in this section confers on a review officer the power to enter any room or sleeping area of a student accommodated at the hostel unless—

(a) the review officer believes on reasonable grounds that entry or inspection is necessary for the purpose of review; and

(b) the review officer produces the review officer's certificate of designation to the student; and

(c) the student is present during the inspection.

(3) This section does not limit any other powers of a review officer under this Act.

Compare: 1989 No 80 s 328G

473 Review officers to prove identity before acting under section 472

A review officer who exercises any power under section 472 must, before exercising that power and, if requested at any later time, produce to the person apparently in charge the review officer's certificate of designation.

Compare: 1989 No 80 s 328H

Subpart 4—Teaching Council

474 Continuation of Teaching Council

(1) The Teaching Council of Aotearoa New Zealand is continued.

(2) The Teaching Council is a body corporate with perpetual succession and is capable of—

(a) holding real and personal property; and

(b) suing and being sued; and

(c) otherwise doing and suffering all that bodies corporate may lawfully do and suffer.

(3) Schedule 19 sets out provisions regarding the Teaching Council.

Compare: 1989 No 80 s 379

475 Composition of Teaching Council

(1) The Teaching Council comprises 13 members as follows:

(a) 6 members appointed by the Minister in accordance with section 476:

(b) 7 elected members, being—

(i) 1 teacher representing the early childhood education sector, elected by teachers from that sector; and

(ii) 1 teacher representing the primary education sector, elected by teachers from that sector; and

(iii) 1 teacher representing the secondary education sector, elected by teachers from that sector; and

(iv) 1 teacher educator, elected by registered teachers working in the fields of initial and ongoing teacher education; and

(v) 1 principal representing the primary education sector, elected by principals from that sector; and

(vi) 1 principal representing the secondary education sector, elected by principals from that sector; and

(vii) 1 early childhood education service leader, representing leadership in the early childhood education sector, elected by leaders from that sector.

(2) Each of the elected members must be a registered teacher holding a current practising certificate, except the teacher educator, who need not hold a current practising certificate but must—

(a) be a registered teacher; and

(b) have 5 or more years of experience in the field of initial teacher education or ongoing teacher education, or both; and

(c) be currently working in one of those fields.

(3) The Minister—

(a) must appoint one of the members appointed or elected under this section as chairperson; and

(b) may appoint one of the members appointed or elected under this section as a deputy chairperson.

(4) The elected members of the Teaching Council must be nominated and elected in accordance with rules made under section 486.

(5) However,—

(a) elections must be held at least 4 months before members take office; and

(b) the Teaching Council must provide confirmation of the election results to the Minister at least 3 months before members take office.

(6) The electors specified in subsection (1)(b)(i), (ii), (iii), (v), and (vi) must be—

(a) registered teachers with current practising certificates; or

(b) currently authorised persons.

(7) The electors specified in subsection (1)(b)(vii) must be early childhood education service leaders who are registered teachers with current practising certificates.

Compare: 1989 No 80 s 380

476 Ministerial appointment as member

(1) The members of the Teaching Council appointed by the Minister must be persons nominated after notification of the Teaching Council vacancy in the *Gazette* and consultation by the Minister undertaken in accordance with subsection (3).

(2) A *Gazette* notice must specify the appointment process and must list the criteria for appointment specified in subsections (3) and (4).

(3) At least 1 of the appointed members must be appointed after the Minister consults, as the Minister thinks fit, representatives of parent and community interest groups in relation to schools and early childhood services.

(4) When considering whether to appoint a member of the Teaching Council, the Minister must—

(a) take into account each candidate's ability to carry out the duties of a member of the Teaching Council and represent the public interest; and

(b) have regard to the collective skills, experience, and knowledge of members of the Teaching Council, including (without limitation) the candidate's knowledge and experience in any of the following areas:

(i) education:

(ii) governance:

(iii) leadership experience and skills:

(iv) financial skills:

(v) understanding of the partnership principles of Te Tiriti o Waitangi.

Compare: 1989 No 80 Schedule 21 cl 1

477 Disqualification from office

(1) The following persons are disqualified from being members:

(a) a person who is an undischarged bankrupt:

(b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under any enactment other than this Act:

(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 that Act that reflects adversely on the person's—

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their 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 the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person:

(f) a member of Parliament:

(g) an elected member of the Teaching Council—

(i) who ceases to be registered as a teacher; or

(ii) who ceases to hold a current practising certificate; or

(iii) whose registration as a teacher is suspended; or

(iv) whose practising certificate is suspended.

(2) Subsection (1)(g)(ii) and (iv) does not apply to teacher educators.

Compare: 1989 No 80 Schedule 21 cl 2

478 Purpose of Teaching Council

The purpose of the Teaching Council is to ensure safe and high-quality leadership, teaching, and learning for children and young people in early childhood, primary, and secondary schooling in English-medium and Māori-medium settings, and settings of other languages, through raising the status of the profession.

Compare: 1989 No 80 s 377

Section 478: amended, on 1 August 2022, by section 42(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 478: amended, on 1 August 2022, by section 42(2) of the Education and Training Amendment Act 2022 (2022 No 38).

479 Functions and powers of Teaching Council

(1) The functions that the Teaching Council must perform are as follows:

(a) to provide direction for teachers:

(b) to enhance the status of teachers:

(c) to identify and disseminate best practice in teaching and foster the teaching profession's continued development in light of research and evidence of changes in society and technology:

(d) to carry out the functions under Schedule 3 relating to teacher registration:

(e) to establish and maintain any criteria for teacher registration under Schedule 3 that the Teaching Council considers necessary or desirable:

(f) to review, at any time, the criteria for teacher registration established under paragraph (e) and, after consulting the Minister,—

(i) vary, delete, or replace 1 or more of the criteria; or

(ii) add 1 or more criteria; or

(iii) delete all of the criteria and substitute new criteria:

(g) to establish and maintain standards for qualifications that lead to teacher registration:

(h) to review, at any time, the standards for qualifications established under paragraph (g) and, after consulting the Minister,—

(i) vary, delete, or replace 1 or more of the standards; or

(ii) add 1 or more standards; or

(iii) delete all of the standards and substitute new standards:

(i) to conduct, in conjunction with quality assurance agencies, approvals of teacher education programmes:

(j) to establish and maintain—

(i) standards for ongoing practice; and

(ii) criteria for the issue of practising certificates of different kinds:

(k) to establish and maintain a code of conduct for teachers under section 485:

(l) to monitor and enforce the requirements relating to mandatory reporting in this subpart and Schedule 3:

(m) to perform the disciplinary functions in this subpart relating to teacher misconduct and reports of teacher convictions:

(n) to set the criteria for reporting serious misconduct and for reporting on competence issues:

(o) to perform the functions in this subpart relating to teacher competence:

(p) to co-ordinate a system providing for the vetting by the Police of all teachers:

(pa) to prosecute, as the Teaching Council considers appropriate, breaches of the requirements of this Act relating to teacher registration, practising certificates, and limited authorities to teach:

(q) to perform any other functions conferred on it by this Act or any other enactment.

(2) The functions that the Teaching Council may perform, with the written approval of the Minister, are as follows:

(a) to provide leadership to the education profession:

(b) to enhance the status of education leaders:

(c) to identify and disseminate best practice in education leadership.

(3) The Teaching Council may, by written notice to a governing body, require the governing body to give the Teaching Council, within a time specified in the notice, any information specified in the notice, and the governing body must within that time give the Teaching Council in writing all information so required that is reasonably necessary or desirable for the Teaching Council to have for the proper administration of this subpart.

(4) The Teaching Council has and may exercise all other powers conferred by this Act or reasonably necessary for the purpose of performing its functions.

(5) For the purposes of subsection (3), **governing body** means the board of a State school or a service provider that operates any licensed early childhood service or any certified playgroup, or the managers of a private school.

(6) When performing its functions and exercising its powers, the Teaching Council must act in accordance with the rules of natural justice.

Compare: 1989 No 80 ss 382, 383(6)–(8)

Section 479 heading: amended, on 20 November 2021, by section 4(1) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(1): amended, on 20 November 2021, by section 4(2) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(1)(a): replaced, on 20 November 2021, by section 4(3) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(1)(b): replaced, on 20 November 2021, by section 4(3) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(1)(c): replaced, on 20 November 2021, by section 4(3) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(1)(pa): inserted, on 1 August 2022, by section 43 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 479(2): replaced, on 20 November 2021, by section 4(4) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(3): inserted, on 20 November 2021, by section 4(4) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(4): inserted, on 20 November 2021, by section 4(4) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(5): inserted, on 20 November 2021, by section 4(4) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479(6): inserted, on 20 November 2021, by section 4(4) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Section 479 compare note: replaced, on 20 November 2021, by section 4(5) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

480 Teaching Council fees, levies, and costs

(1) The Teaching Council may, by notice,—

(a) fix fees payable for—

(i) registration as a teacher:

(ii) the issuing of a practising certificate:

(iii) the granting of a limited authority to teach:

(iv) any other matter associated with those matters (for example, inspection of the register of registered teachers or supplying a copy of an entry in the register):

(b) impose a levy payable by registered teachers, holders of a limited authority to teach, and applicants for registration as a teacher or a limited authority to teach for the purpose of funding the Teaching Council's functions set out in section 479(1).

(2) A notice under subsection (1) may fix different fees or provide for different amounts of levy payable—

(a) by registered teachers, holders of a limited authority to teach, and applicants for registration as a teacher or a limited authority to teach; and

(b) for registration effected in different circumstances; and

(c) for practising certificates of different kinds.

(3) Fees fixed and levies imposed under subsection (1) are payable in the manner (for example, by instalments) prescribed in the notice and are recoverable as a debt due to the Teaching Council.

(4) Before issuing a notice under subsection (1), the Teaching Council must—

(a) consult registered teachers and holders of a limited authority to teach on any proposed fees or levies; and

(b) receive the views presented to it with an open mind and give those views due consideration when making a decision on the proposed fees or levies.

(5) The Teaching Council may also charge a fee for any goods or services it provides in accordance with its functions under section 479(1).

(6) Fees fixed and levies imposed under subsection (1) and any fees charged under subsection (5) must recover only the actual and reasonable costs incurred by the Teaching Council in performing its functions set out in section 479(1).

(7) Despite anything in this Act, the Teaching Council may refuse to register a person as a teacher, issue a practising certificate, or grant a limited authority to teach until the appropriate fee or levy has been paid in the manner prescribed by the notice.

(8) If the Teaching Council cancels a teacher's registration or limited authority to teach, it may, by written notice to the teacher or person concerned, require the teacher or person to pay the Teaching Council any reasonable costs specified in the notice that were incurred by the Teaching Council in dealing with the proposal to cancel the registration or authorisation, or with the cancellation itself.

(9) A notice made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 ss 364, 372, 383(1), (2), (5)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 480: replaced, on 20 November 2021, by section 5 of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

481 Ministerial powers

(1) For the purpose of ascertaining whether the Teaching Council is complying, or has complied, with this subpart and Schedule 3, the Minister may commission an independent audit of the conduct of the Teaching Council's functions.

(2) The Minister may, by written notice to the Teaching Council, require the Teaching Council to provide to the Minister any financial, statistical, or other information, including information relating to the performance of the functions of the Teaching Council or any of its committees.

Compare: 1989 No 80 s 384

482 Issue of statement of Government policy relating to Teaching Council's functions

(1) The Minister may, at any time, issue a statement of Government policy relating to 1 or more of the Teaching Council's functions specified in section 479(1).

(2) Before issuing a statement of Government policy, the Minister must consult the Teaching Council.

(3) Every statement of Government policy must be—

(a) given in writing to the Teaching Council; and

(b) published in the *Gazette*; and

(c) presented to the House of Representatives.

(4) A statement of Government policy comes into effect on the date specified in the *Gazette* notice, which date must be on or after the date of the notice and is to be treated as the date on which the statement is issued.

(5) When performing its functions, the Teaching Council must have regard to any relevant statement of Government policy.

(6) A statement of Government policy may be amended, revoked, or replaced in the same way as it is given.

(7) *[Repealed]*

Compare: 1989 No 80 s 382A

Section 482(7): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

483 Reports

(1) At least every 3 years, following consultation with teachers, the Government, and the public, the Teaching Council must publish on an Internet site maintained by or on behalf of the Teaching Council a report setting out its strategic direction for the next 5 years.

(2) The Teaching Council must present to the House of Representatives an annual report on its operations, including (without limitation) the audited financial statements of the Teaching Council.

Compare: 1989 No 80 s 385

484 Advisory committees

The Teaching Council may establish advisory committees for specific aspects of its operation or for particular issues as it sees fit.

Compare: 1989 No 80 s 386

485 Code of conduct

(1) The Teaching Council must establish and maintain a code of conduct for teachers.

(2) When preparing the code of conduct (and any amendments to it), the Teaching Council—

(a) must take all reasonable steps—

(i) to consult those who are to be bound by it; and

(ii) to consult the Public Service Commissioner; and

(b) must have regard to any relevant minimum standards of integrity and conduct or code of conduct that the Public Service Commissioner sets or issues under section 17 of the Public Service Act 2020.

(3) The chairperson of the Teaching Council must sign the code of conduct.

(4) The code of conduct, or an amendment to the code of conduct, is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) The Teaching Council must take all reasonable steps to ensure that those bound by the code of conduct are aware of its existence and where it is available.

(6) The code of conduct prepared under this section is binding on all teachers who hold a practising certificate and on all authorised persons.

Compare: 1989 No 80 s 387

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • notify it in the *Gazette* and state where copies of it may be obtained free of charge	LA19 ss 73, 74(1)(a), Sch 1 cl 14

	• make copies of it available free of charge • comply with subsection (5)	
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 485(2)(a)(ii): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 485(2)(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 485(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 485(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 485(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

486 Teaching Council to make rules

(1) The Teaching Council must make rules providing for—

(a) the conduct of elections for electing members to the Teaching Council, including the election process; and

(b) a Complaints Assessment Committee to—

(i) investigate complaints of misconduct about, and reports of convictions of, teachers; and

(ii) carry out any other function, and exercise any power, given under this Act or delegated to it by the Teaching Council; and

(c) a Disciplinary Tribunal to conduct hearings, and review decisions of the Complaints Assessment Committee, relating to misconduct by, and convictions of, individual teachers, and to exercise the powers given under this Act; and

(d) a Competence Authority to consider reports and complaints about teacher competence and to exercise the powers given under this Act; and

(e) the practices and procedures of the disciplinary bodies and the Competence Authority; and

(f) the procedures of the Teaching Council for dealing with reports received under the mandatory reporting provisions in sections 489 to 493; and

(g) the procedures relating to Police vetting, and in particular the rights of persons who are vetted; and

(h) the requirements that teachers must meet to satisfy the refresh process referred to in clause 10 of Schedule 3.

(2) The Teaching Council may make rules for any other purpose relating to the performance of its functions.

(3) When preparing rules (and any amendments to them), the Teaching Council must take all reasonable steps to consult those affected by the rules.

(4) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) The Teaching Council must take all reasonable steps to ensure that those bound by the rules are aware of their existence and where they are available.

Compare: 1989 No 80 s 388

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 486(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 486(4): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 486(5): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

487 Delegations

(1) The Teaching Council may delegate any of its powers (other than this power of delegation), either generally or specifically, as it sees fit.

(2) Despite subsection (1), the Teaching Council may not delegate its powers—

(a) to appoint a chief executive:

(b) to make rules:

(c) relating to voluntary deregistration:

(d) relating to cancellation of registration, practising certificates, or limited authorities to teach:

(e) to establish and maintain a code of conduct for teachers under section 485.

Compare: 1989 No 80 s 389

488 Chief executive and employees

(1) The Teaching Council may appoint a chief executive and any other employees it thinks necessary for the efficient performance of its functions.

(2) A person appointed under subsection (1) may not be a member of the Teaching Council.

Compare: 1989 No 80 s 390

Mandatory reporting

489 Mandatory reporting of dismissals and resignations

(1) When an employer dismisses a teacher for any reason, the employer must immediately report the dismissal to the Teaching Council.

(2) If, within the 12 months before the resignation of a teacher from a teaching position (including a fixed-term position) or the expiry of the term of a teacher's fixed-term position, the teacher's employer had advised the teacher that it was dissatisfied with, or intended to investigate, any aspect of the teacher's conduct, or the teacher's competence, the employer must, immediately after the resignation or expiry, report it to the Teaching Council.

(3) A report must be in writing and must include,—

(a) for a dismissal, the reason for the dismissal; and

(b) for a resignation or an expiry,—

(i) a description of the conduct or competence issues that the employer was concerned about; and

(ii) a report of what action (if any) the employer took with respect to the issues.

Compare: 1989 No 80 s 392

490 Mandatory reporting of complaints received about former employees

(1) The former employer of a teacher must immediately report to the Teaching Council if, within 12 months after a teacher ceases to be employed by the employer, the employer receives a complaint about the teacher's conduct or competence while the teacher was an employee.

(2) A report must be in writing and must include,—

(a) for an oral complaint, a description of the aspects of the teacher's conduct or competence complained of; and

(b) for a written complaint, a copy of the complaint; and

(c) a report of what action (if any) the employer took with respect to the matters complained of.

(3) This section does not apply to a complaint received by a sponsor in relation to the competence of a former employee who held a limited authority to teach.

Compare: 1989 No 80 s 393

Section 490(3): inserted, on 1 October 2024, by section 45 of the Education and Training Amendment Act 2024 (2024 No 40).

491 Mandatory reporting of possible serious misconduct

(1) The employer of a teacher must immediately report to the Teaching Council if it has reason to believe that the teacher has engaged in serious misconduct.

(2) A report must be in writing and include—

(a) a description of the conduct of the teacher that the employer believes to be serious misconduct; and

(b) a description of what action (if any) the employer has taken in relation to it.

Compare: 1989 No 80 s 394

492 Mandatory reporting of failure to reach required level of competence

(1) The employer of a teacher must immediately report to the Teaching Council if the employer, despite undertaking competency procedures with the teacher, is satisfied that the teacher has not reached the required level of competence.

(2) A report must be in writing and include—

(a) a description of the competence issues leading to the report; and

(b) a description of the action that the employer has taken in relation to it.

(3) This section does not apply to a sponsor in relation to an employee who holds a limited authority to teach.

Compare: 1989 No 80 s 395

Section 492(3): inserted, on 1 October 2024, by section 46 of the Education and Training Amendment Act 2024 (2024 No 40).

493 Mandatory reporting of convictions

(1) Every holder of a practising certificate, and every authorised person, who is convicted of an offence punishable by imprisonment for 3 months or more must, within 7 days of conviction, report the conviction to the Teaching Council.

(2) Failure to report a conviction to the Teaching Council in accordance with subsection (1) is misconduct that may give rise to disciplinary proceedings.

(3) The Registrar of every court must, unless the court expressly orders otherwise, report to the Teaching Council when a person whom the Registrar believes to be, or to have been, a teacher is convicted of an offence punishable by imprisonment for 3 months or more.

(4) If the Registrar has reported a conviction to the Teaching Council under subsection (3), then, if that conviction is subsequently quashed, the Registrar must notify the Teaching Council of that fact.

Compare: 1989 No 80 s 397

Disciplinary functions

494 Disciplinary bodies

(1) The constitution of the disciplinary bodies must be set out in the rules, and those rules must be consistent with this section.

(2) Both disciplinary bodies may operate in panels, and more than 1 panel of each body may operate at any one time.

(3) The Disciplinary Tribunal must include at least 1 person who is selected from a list, prepared by the Minister after consultation with the Teaching Council, of people who are not teachers, employers, or members of an employing body.

(4) The majority of members on the Disciplinary Tribunal, and on every panel of the Disciplinary Tribunal, must be registered teachers.

(5) No member of the Complaints Assessment Committee may be a member of the Disciplinary Tribunal.

(6) Rules must provide for the replacement of any member of a disciplinary body who, in relation to a particular complaint,—

(a) made the complaint; or

(b) is otherwise in a position of conflict of interest.

(7) When performing their functions and exercising their powers, the disciplinary bodies must act in accordance with the rules of natural justice.

Compare: 1989 No 80 s 398

495 Complaints about conduct

(1) A person who wishes to make a complaint about the conduct of a teacher, including complaints about possible breaches of the code of conduct prepared by the Teaching Council under section 485, must first make the complaint to the teacher's employer, unless one of the circumstances in subsection (2) applies.

(2) Any person (including a parent, an employer, or a member of the Teaching Council) may make a written complaint to the Teaching Council about the conduct of a teacher—

(a) if the complaint is about a teacher who is not currently employed by an employer; or

(b) if the complainant considers, on reasonable grounds, that the employer is unable to deal with the complaint effectively because of an actual or a perceived conflict of interest; or

(c) if the complaint has been made to the employer, but the complainant is not satisfied with the way in which the complaint is being, or was, dealt with; or

(d) in any other exceptional circumstance.

(3) A complaint by an employer or a former employer must include a report of any action that the employer or former employer has taken in relation to it.

Compare: 1989 No 80 s 399

496 Complaints and reports relating to teacher conduct

(1) The Teaching Council may refer to the Complaints Assessment Committee—

(a) any report it receives under any of sections 489 to 491 and 493 that relates to teacher conduct; and

(b) any complaint it receives under section 495.

(2) The Teaching Council may refer to the Complaints Assessment Committee any matters that relate to teacher conduct of its own motion as it sees fit.

(3) In relation to a complaint received under section 495 from a person other than the current employer of the teacher concerned,—

(a) if the Complaints Assessment Committee considers that the complaint should have been sent first to the teacher's employer or former employer, the Complaints Assessment Committee must refer the matter to the employer or former employer; and

(b) if the teacher is currently employed by an employer and it has not already referred the matter to the employer under paragraph (a), it must notify the employer that it has received a complaint about the teacher.

(4) An employer to whom a complaint is referred under subsection (3), or who is required to provide information in the course of an investigation by the Complaints Assessment Committee, must report to the Complaints Assessment Committee as required by it.

Compare: 1989 No 80 s 400

497 Powers of Complaints Assessment Committee

(1) The Complaints Assessment Committee may investigate any report, complaint, or matter referred to it under section 496 and, for this purpose, may conduct a hearing.

(1A) A hearing is to be a hearing on the papers, unless the Complaints Assessment Committee otherwise directs.

(2) Following an investigation, the Complaints Assessment Committee may do 1 or more of the following:

(a) resolve to take the matter no further:

(b) refer the teacher concerned to a competency review:

(c) refer the teacher concerned to an impairment process, which may involve either or both of the following:

(i) assessment of an impairment:

(ii) assistance with an impairment.

(2A) Subsection (2)(b) does not apply to an employee in a charter school who holds a limited authority to teach.

(3) If the Complaints Assessment Committee makes a finding of misconduct or serious misconduct, with the agreement of the teacher concerned, it may do 1 or more of the following:

(a) censure the teacher:

(b) impose conditions on the teacher's practising certificate or authority, including (without limitation) requiring the teacher to undergo supervision or professional development:

(c) *[Repealed]*

(d) annotate the register or the list of authorised persons in a specified manner:

(e) direct the Teaching Council to impose conditions on any subsequent practising certificate issued to the teacher.

(4) The Complaints Assessment Committee may, at any time, refer a matter to the Disciplinary Tribunal for a hearing.

(5) The Complaints Assessment Committee must refer to the Disciplinary Tribunal any matter if the Committee considers that either of the following powers is likely to be considered in order to address the matter:

(a) the power to suspend a teacher's practising certificate or authority under section 500(1)(d):

(b) the power to cancel a teacher's registration or authority or practising certificate under section 500(1)(g).

(6) When a matter is referred to the Disciplinary Tribunal under subsection (5), a notice must be sent to the teacher concerned setting out the charge of misconduct against the teacher.

(7) Any person authorised by the Complaints Assessment Committee may require an employer, a former employer, or a government agency to provide information that the person considers necessary for the purposes of an investigation.

Compare: 1989 No 80 s 401

Section 497(1): amended, on 29 July 2023, by section 44(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 497(1A): inserted, on 29 July 2023, by section 44(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 497(2A): inserted, on 1 October 2024, by section 47 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 497(3): amended, on 29 July 2023, by section 44(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 497(3)(c): repealed, on 29 July 2023, by section 44(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 497(5): replaced, on 29 July 2023, by section 44(5) of the Education and Training Amendment Act 2022 (2022 No 38).

498 Interim suspension until matter about or involving possible serious misconduct concluded

(1) At any time between when the Complaints Assessment Committee receives a complaint or receives or becomes aware of a report that is about or involves a teacher's possible serious misconduct and when the matter is concluded (as defined in section 499(6)), the Complaints Assessment Committee may apply

to the chairperson of the Disciplinary Tribunal for an interim suspension of the teacher's practising certificate or authority.

(2) On an application under subsection (1) for an interim suspension, the chairperson of the Disciplinary Tribunal may, having regard primarily to the safety of the children in the school or early childhood education and care service and to the reputation of the teaching profession, either with or without a hearing, suspend the teacher's practising certificate or authority.

Compare: 1989 No 80 s 402

499 Duration of interim suspension

(1) The duration of an interim suspension under section 498 is initially until the earliest of the following occurs:

(a) the expiry of a period specified by the chairperson of the Disciplinary Tribunal at the time the interim suspension commences:

(b) the expiry of a period specified by the chairperson of the Disciplinary Tribunal after the interim suspension commences:

(c) any conditions specified by the chairperson of the Disciplinary Tribunal are met:

(d) the interim suspension is otherwise lifted or revoked, for example, as the result of a review under subsection (2).

(2) The chairperson of the Disciplinary Tribunal must review the initial interim suspension decision if the teacher—

(a) requests a review during the initial interim period of suspension; and

(b) provides a written explanation or statement in support of the request.

(3) The Disciplinary Tribunal may renew an interim suspension under section 498 for further successive periods specified by the chairperson of the Disciplinary Tribunal if, at the end of the relevant period of interim suspension,—

(a) the matter has not been concluded; and

(b) the interim suspension has not been otherwise lifted or revoked, for example, as the result of an appeal against it under subsection (4).

(4) A teacher whose practising certificate or authority is subject to an interim suspension under section 498 that is renewed under subsection (3) may, during a further period of interim suspension, appeal against the interim suspension to the Disciplinary Tribunal at a hearing if the teacher believes that there is an unreasonable delay in concluding the matter.

(5) A hearing under subsection (4) is before the Disciplinary Tribunal, and sections 501 to 504 apply to it.

(6) For the purposes of this section and section 498(1) and clauses 8(4) and 21(4) of Schedule 3, a matter is **concluded** when the later of the following occurs in relation to the complaint or report:

(a) the Complaints Assessment Committee has carried out whatever action it decides to take under section 497(2):

(b) the Disciplinary Tribunal has carried out whatever action it decides to take under section 500(1), if the Complaints Assessment Committee has referred the matter to the Disciplinary Tribunal under section 497(4) or (5).

Compare: 1989 No 80 s 403

499A Review of Complaints Assessment Committee decisions

(1) A teacher who is the subject of a decision by the Complaints Assessment Committee under section 497(2) or (3), or the person who made the complaint or report or referred the matter to the Committee under section 496 that led to the decision, may request that the Disciplinary Tribunal review all or part of that decision.

(2) A request for a review under this section must be made within 28 days after receipt of written notice of the decision, or any longer period that the Disciplinary Tribunal allows.

(3) The review is by way of written notice to the Disciplinary Tribunal of the teacher's or person's intention to request a review, accompanied by—

(a) a copy of the written notice of the decision; and

(b) the fee prescribed by notice made under section 480, if any; and

(c) any other information that the teacher or person wishes the Disciplinary Tribunal to consider in relation to the review.

(4) The review is by way of rehearing.

(5) The Disciplinary Tribunal must consider the review as soon as practicable, and may confirm, reverse, or modify the decision in accordance with its powers under section 500, or refer the matter back to the Complaints Assessment Committee.

(6) Nothing in this section gives the Disciplinary Tribunal power to review any part of the Complaint Assessment Committee's decision to which the request does not relate.

(7) A decision of the Complaints Assessment Committee continues in force and has effect pending the determination of the review.

(8) The Disciplinary Tribunal may order a party to pay the costs incurred by the other party in respect of the review.

Section 499A: inserted, on 29 July 2023, by section 45 of the Education and Training Amendment Act 2022 (2022 No 38).

500 Powers of Disciplinary Tribunal

(1) Following a hearing of a charge of serious misconduct, or a hearing into any matter referred to it by the Complaints Assessment Committee, the Disciplinary Tribunal may do 1 or more of the following:

(a) any of the things that the Complaints Assessment Committee could have done under section 497(2):

(b) censure the teacher:

(c) impose conditions on the teacher's practising certificate or authority for a specified period:

(d) suspend the teacher's practising certificate or authority for a specified period, or until specified conditions are met:

(e) annotate the register or the list of authorised persons in a specified manner:

(f) impose a fine on the teacher not exceeding $3,000:

(g) order that the teacher's registration or authority or practising certificate be cancelled:

(h) require any party to the hearing to pay costs to any other party:

(i) require any party to pay a sum to the Teaching Council in respect of the costs of conducting the hearing:

(j) direct the Teaching Council to impose conditions on any subsequent practising certificate issued to the teacher.

(1A) Despite subsection (1)(a), the Disciplinary Tribunal may not refer an employee in a charter school who holds a limited authority to teach to a competency review.

(2) Despite subsection (1), following a hearing that arises out of a report under section 493 of the conviction of a teacher, the Disciplinary Tribunal may not do anything specified in subsection (1)(f), (h), or (i).

(3) A fine imposed on a teacher under subsection (1)(f), and a sum ordered to be paid to the Teaching Council under subsection (1)(i), are recoverable as debts due to the Teaching Council.

Compare: 1989 No 80 s 404

Section 500(1A): inserted, on 1 October 2024, by section 48 of the Education and Training Amendment Act 2024 (2024 No 40).

501 Evidence at Disciplinary Tribunal hearings

(1) The Disciplinary Tribunal may—

(a) receive evidence on oath (and for that purpose an officer or employee of the Teaching Council may administer an oath); and

(b) permit a person appearing as a witness before it to give evidence by written statement and verify that statement by oath.

(2) A hearing before the Disciplinary Tribunal is a judicial proceeding for the purposes of section 109 of the Crimes Act 1961 (which relates to punishment for perjury).

(3) Except as provided in subsections (4) to (6), every hearing of the Disciplinary Tribunal must be held in public.

(4) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including, without limitation, the privacy of the complainant (if any)) and to the public interest, it may hold a hearing or part of a hearing in private.

(5) The Disciplinary Tribunal may, in any case, deliberate in private about its decision or about any question arising in the course of a hearing.

(6) If the Disciplinary Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person (including, without limitation, the privacy of the complainant (if any)) and to the public interest, it may make any 1 or more of the following orders:

(a) an order prohibiting the publication of any report or account of any part of any proceedings before it, whether held in public or in private:

(b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing:

(c) an order prohibiting the publication of the name, or any particulars of the case, of the person charged or any other person.

Compare: 1989 No 80 s 405

502 Powers of Disciplinary Tribunal in relation to witnesses

(1) The Disciplinary Tribunal may require a person to do either or both of the following:

(a) attend and give evidence at a hearing of the Disciplinary Tribunal:

(b) produce any documents, records, or other information in the person's custody or control that relate to the subject matter of the hearing, whether specified by the Disciplinary Tribunal or not.

(2) A requirement under subsection (1) must be in writing and signed by the chairperson of the Disciplinary Tribunal.

(3) A person required to attend a hearing is entitled to be paid, by the party calling the person (or, if called by the Disciplinary Tribunal itself, by the Teaching Council), witnesses' fees, allowances, and travelling expenses prescribed by regulations made under the Criminal Procedure Act 2011, and those regulations apply accordingly.

Compare: 1989 No 80 s 406

503 Privileges and immunities

(1) A person who does any of the following has the same privileges as witnesses in court:

(a) provides documents, things, or information to a disciplinary body:

(b) produces documents or things to a disciplinary body:

(c) gives evidence to, or answers questions from, a disciplinary body.

(2) A counsel appearing before a disciplinary body has the same privileges and immunities as counsel in a court.

(3) If a person is represented at a hearing before a disciplinary body by a person other than a barrister or solicitor,—

(a) any communications between the person and the representative in relation to the hearing are as privileged as they would have been if the representative had been a barrister or solicitor; and

(b) the representative is treated as counsel for the purposes of subsection (2).

Compare: 1989 No 80 s 408

504 Appeals against decisions of chairperson or Disciplinary Tribunal

(1) The teacher who is the subject of a decision by the chairperson or the Disciplinary Tribunal made under section 498(2) or 500 may appeal against that decision to the District Court.

(2) The Complaints Assessment Committee may, with the leave of the Teaching Council, appeal to the District Court against a decision of the chairperson or the Disciplinary Tribunal made under section 498(2) or 500.

(3) An appeal under this section must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows.

(4) Clause 5(2) to (6) of Schedule 3 applies to an appeal under this section as if it were an appeal under clause 5(1) of Schedule 3.

Compare: 1989 No 80 s 409

Section 504 heading: amended, on 1 August 2022, by section 46 of the Education and Training Amendment Act 2022 (2022 No 38).

504A Application of competence provisions to holders of limited authority to teach in charter schools

Sections 506 to 509 do not apply to an employee in a charter school who holds a limited authority to teach.

Section 504A: inserted, on 1 October 2024, by section 49 of the Education and Training Amendment Act 2024 (2024 No 40).

Review of competence

505 Competence Authority

(1) The constitution of the Competence Authority must be set out in rules made under section 486, and those rules must be consistent with this section.

(2) The Competence Authority may operate in panels, and more than 1 panel may operate at any one time.

(3) The Competence Authority must include at least 1 person who is selected from a list, prepared by the Minister after consultation with the Teaching Council, of people who are not teachers, employers, or members of an employing body.

(4) The majority of members on the Competence Authority, and on every panel of the Competence Authority, must hold practising certificates.

(5) No member of the Competence Authority may be a member of the Complaints Assessment Committee or the Disciplinary Tribunal.

(6) The rules must provide for the replacement of any member of the Competence Authority who, in relation to a particular complaint,—

(a) made the complaint; or

(b) is otherwise in a position of conflict of interest.

(7) The rules must also provide for the Competence Authority to co-opt up to 2 members onto the Competence Authority for their specialist knowledge and expertise in relation to a particular complaint.

(8) Members co-opted onto the Competence Authority may be in addition to any limit on the number of members set in the rules.

(9) When performing its functions and exercising its powers, the Competence Authority must act in accordance with the rules of natural justice.

Compare: 1989 No 80 s 410AA

506 Complaints about competence

(1) A person who wishes to make a complaint about a teacher's competence must first make the complaint to the teacher's employer, unless one of the circumstances in subsection (2)(a) to (d) applies.

(2) Any person (including a parent, an employer, or a member of the Teaching Council) may make a written complaint to the Teaching Council about the competence of a teacher—

(a) if the complaint is about a teacher who is not currently employed by an employer; or

(b) if the complainant considers, on reasonable grounds, that the employer is not able to deal with the complaint effectively because of an actual or a perceived conflict of interest; or

(c) if the complaint has been made to the employer, but the complainant is not satisfied with the way in which the complaint is being, or was, dealt with; or

(d) in any other exceptional circumstance.

(3) The Teaching Council may investigate any matters that relate to teacher competence of its own motion as it sees fit.

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

(5) A complaint under this section by an employer or a former employer must include a description of the competence issues leading to the complaint and the actions (if any) that the employer or former employer has undertaken in relation to them.

(6) If the Teaching Council considers that a complaint should first have been sent to the teacher's employer, it must refer it to the employer, and, in any other case, it must notify the employer (if the teacher is currently employed by an employer) that—

(a) it has received a complaint about the teacher's competence; or

(b) it is investigating the teacher's competence of its own motion.

(7) When the Teaching Council refers a complaint to an employer, the employer must report as required by the Teaching Council.

(8) If the Teaching Council is satisfied that the employer has not responded, or has not been able to respond, to the complaint in a satisfactory way, the Teaching Council may investigate the complaint.

(9) When a complaint about competence is made by a member of the Teaching Council, that member may not be involved in any investigation of the complaint.

Compare: 1989 No 80 s 410

507 Investigation by Teaching Council of mandatory reports relating to competence and referral to Competence Authority for decision

(1) The Teaching Council may, after any investigation it decides to make, refer to the Competence Authority a report it receives under section 489, 490, or 492 that relates to competence.

(2) When investigating a report that relates to competence under section 489, 490, or 492, the Teaching Council may require the teacher's employer or former employer to supply information in addition to the information supplied in the report and, in that case, the employer or former employer must supply it.

(3) When a report that relates to competence is made under section 489, 490, or 492 by a member of the Teaching Council, that member may not be involved in any investigation of the report.

Compare: 1989 No 80 s 411

508 Powers of Competence Authority after finding required level of competence not attained

Following any investigation by the Teaching Council under section 506, or of a report received by the Teaching Council under section 507 and referred to the Competence Authority, the Competence Authority may, if satisfied that a teacher has not attained the required level of competence,—

(a) do any 1 or more of the following:

(i) impose conditions on the teacher's practising certificate or authority:

(ii) refer the teacher to an impairment process, which may involve either or both of the following:

(A) assessment of an impairment:

(B) assistance with an impairment:

(iii) annotate the register or the list of authorised persons in a specified manner, in relation to any action taken under subparagraph (i):

(iv) direct the Teaching Council to impose conditions on any subsequent practising certificate or authority issued to the teacher; or

(b) order the Teaching Council to cancel the teacher's registration, practising certificate, or authority.

Compare: 1989 No 80 s 412

509 Appeals against decisions of Competence Authority

(1) A teacher who is the subject of a decision by the Competence Authority made under section 508 may appeal against that decision to the District Court.

(2) An appeal must be made within 28 days after receipt of written notice of the decision, or any longer period that the court allows.

(3) Clause 5(2) to (6) of Schedule 3 applies to an appeal under this section as if it were an appeal under clause 5(1) of Schedule 3.

Compare: 1989 No 80 s 412A

Subpart 5—Education New Zealand

510 Education New Zealand continued

(1) The body called Education New Zealand in existence before the commencement of this subpart is continued.

(2) Education New Zealand is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(3) The Crown Entities Act 2004 applies to Education New Zealand except to the extent that this Act expressly provides otherwise.

Compare: 1989 No 80 s 269

Section 510(1): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

511 Functions

(1) The functions of Education New Zealand are—

(a) to deliver strategies, programmes, and activities for promoting, together with providers and other government agencies, New Zealand education overseas; and

(b) to promote New Zealand as an educational destination for international students; and

(c) to promote the provision of New Zealand education and training services overseas; and

(d) to manage, in collaboration with other government agencies, activities undertaken by representatives appointed to act on behalf of the New Zealand Government in relation to international education; and

(e) to carry out research on international education markets and marketing strategies; and

(f) to administer any international programmes or activities that are consistent with the Government's policy on international education; and

(g) to provide information, advice, and assistance to providers on strategies to promote industry co-ordination and professional development; and

(h) to provide information to international students about living and studying in New Zealand; and

(i) to work with other agencies to ensure that international students are adequately supported while living and studying in New Zealand; and

(j) to foster collaborative networks with former international students; and

(k) to perform any other function directed by the Minister under subsection (3).

(2) In performing its functions under this Act or any other enactment, Education New Zealand must give effect to the Government's policy on international education.

(3) The Minister may direct Education New Zealand to perform any function that the Minister considers consistent with the Government's policy on international education.

(4) In this section, **provider** means any organisation that provides education, training, or education-related services.

Compare: 1989 No 80 s 270

512 Membership of board of Education New Zealand

(1) The board of Education New Zealand consists of at least 5 members and no more than 7 members appointed by the Minister under section 28 of the Crown Entities Act 2004.

(2) Before appointing any member to the board, the Minister must consult—

(a) the bodies that represent the organisations involved in the provision of international education; and

(b) any organisations or people that, in the Minister's opinion, have a substantial interest in the board's operations.

Compare: 1989 No 80 s 272

513 Special advisers to board

(1) The Minister may appoint as special advisers to the board—

(a) the Secretary; and

(b) the chief executive of the department responsible for the administration of the Immigration Act 2009; and

(c) any other person as the Minister determines.

(2) The function of a special adviser is to assist the board to align its strategies and activities with Government policy.

(3) A special adviser may attend any meeting of the board or any board committees but may not vote.

(4) The board (including any board committee) must give the special advisers sufficient notice of its meetings and copies of all documents and materials to be considered at each meeting.

(5) A special adviser may delegate to any person the functions and powers conferred by this section, and the delegate may perform or exercise those functions and powers in the same manner and with the same effect as if they had been conferred directly by this section.

(6) Every person purporting to act under a delegation under subsection (5) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

Compare: 1989 No 80 s 272A

514 International education advisory committee

(1) The Minister may establish an international education advisory committee to provide expert advice to the board on matters relating to the performance of its functions.

(2) The board must consider any advice it receives from the committee.

(3) The members of the committee must be appointed by the Minister, on terms and conditions that the Minister determines, by written notice to each member.

(4) When appointing members of the committee, the Minister must ensure, as far as practicable, that—

(a) the committee's membership is broadly representative of the international education industry; and

(b) the members collectively have sufficient experience and knowledge of the international education industry to give appropriate advice to the board.

(5) The Minister may give terms of reference on the topics or subject areas on which the committee may advise the board.

(6) The committee must comply with any terms of reference given by the Minister.

(7) The committee may determine its own procedure.

Compare: 1989 No 80 s 272B

515 Chief executive

(1) The board—

(a) must appoint a chief executive of Education New Zealand; and

(b) must act independently when appointing the chief executive; and

(c) may not delegate its duty under paragraph (a).

(2) The chief executive may not be a member of the board.

Compare: 1989 No 80 s 273

516 Responsibilities of chief executive

The chief executive is responsible for—

(a) the effective and efficient management and administration of Education New Zealand; and

(b) the achievement of outcomes identified in the statement of intent of Education New Zealand.

Compare: 1989 No 80 s 273A

517 Application of Part 2 of Commerce Act 1986

(1) For the purposes of section 43 of the Commerce Act 1986, the Governor-General may, by Order in Council, specifically authorise any act, matter, or thing, or kind of act, matter, or thing, to be done or omitted to be done by Education New Zealand.

(2) Part 2 of the Commerce Act 1986 does not apply to any act, matter, or thing, or kind of act, matter, or thing, that is specifically authorised under subsection (1).

Compare: 1989 No 80 s 274

Subpart 6—International students

518 Purpose of subpart 6

The purpose of this subpart is to ensure that international students trust New Zealand education and consider it appropriate, which is to be achieved by—

(a) providing for the health, safety, and welfare of international students studying in New Zealand; and

(b) regulating enrolment, the payment of fees, and the repayment of fees; and

(c) providing for levies on institutions enrolling international students to offset the contribution of the State to the costs of educating international students.

International students at schools

519 Enrolment of international students

(1) Subject to section 520(3), an international student may not be enrolled at a State school or a charter school without the board's or sponsor's consent.

(2) Subject to sections 79 and 521 and to subsections (3) to (6), once enrolled at a State school or a charter school an international student has the same rights to remain enrolled, and to tuition, at the school as a domestic student.

(3) If an international student's conduct is in breach of the student's contract of enrolment, the school's board or sponsor may take appropriate disciplinary action against the student.

(4) For the purposes of subsection (3), disciplinary action, including suspension, exclusion, or the termination of the student's enrolment, is **appropriate disciplinary action** if it is taken in accordance with the applicable code issued under section 534 and the student's contract of enrolment.

(5) An international student may not be enrolled at a State school or a charter school if the student's enrolment has the effect that a domestic student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

(6) An international student may not be enrolled in any subject, course, or programme at a State school or a charter school if the student's enrolment has the effect that a domestic student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.

(7) Despite subsection (5) or (6), although domestic students may not be able to be enrolled, an international student may be enrolled at a State school or charter school, or in any subject, course, or programme at a State school or charter school, if the enrolment is in a vacant place—

(a) that the board or sponsor established for international students; and

(b) the continued availability of which is dependent on the fees payable by international students enrolled in it.

(8) As soon as practicable after an international student is enrolled at a State school or charter school, the principal or person responsible for teaching and learning in a charter school must give the Secretary written notice of—

(a) the student's name, age, and nationality; and

(b) the day on which the student began (or will begin) to receive tuition at the school.

(9) Despite anything in this section or section 521, an international student may, with the consent of the principal or person responsible for teaching and learning in a charter school and during a period of not more than 28 consecutive days (or any longer period the Secretary approves for any particular student), receive tuition at or from a State school or charter school—

(a) without the consent of the school's board or the sponsor; and

(b) without paying the amount required by section 521.

(10) If subsection (9) applies, the student may not be counted for the purpose of calculating or ascertaining the school's entitlement to teachers or funding.

Compare: 1989 No 80 s 4

Section 519(1): amended, on 1 October 2024, by section 50(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(1): amended, on 1 October 2024, by section 50(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(2): amended, on 1 October 2024, by section 50(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(3): amended, on 1 October 2024, by section 50(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(5): amended, on 1 October 2024, by section 50(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(6): amended, on 1 October 2024, by section 50(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(7): amended, on 1 October 2024, by section 50(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(7)(a): amended, on 1 October 2024, by section 50(5)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(8): amended, on 1 October 2024, by section 50(6)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(8): amended, on 1 October 2024, by section 50(6)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(9): amended, on 1 October 2024, by section 50(6)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(9): amended, on 1 October 2024, by section 50(6)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 519(9)(a): amended, on 1 October 2024, by section 50(7) of the Education and Training Amendment Act 2024 (2024 No 40).

520 Certain international students may enrol at State schools or charter schools as of right

(1) The Minister may, by notice, declare international students of a specified kind or description to be entitled to enrol at State schools or charter schools.

(2) A notice may be unconditional or subject to any conditions specified in it.

(3) An international student of a kind or description for the time being specified in a notice under subsection (1) has the same rights to enrolment and tuition at State schools as a domestic student, subject to section 521 and any conditions specified in the notice.

(4) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 4A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 520 heading: amended, on 1 October 2024, by section 51(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 520(1): amended, on 1 October 2024, by section 51(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 520(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 520(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

521 Fees for international students

(1) Subject to section 519(9), no international student may receive tuition in any subject, course, or programme at a State school or a charter school unless there has been paid to the school's board or the sponsor an amount fixed by the board that is not less than the sum of the following amounts:

(a) the board's or the sponsor's best estimate of the cost involved (including the appropriate proportion of the board's or the sponsor's administrative and other general costs) in providing tuition in the subject, course, or programme for 1 student:

(b) an amount that is in the board's or the sponsor's opinion an appropriate reflection of the use made of the board's or the sponsor's capital facilities by 1 student receiving tuition in the subject, course, or programme:

(c) the amount (if any) prescribed under section 523 for a student receiving tuition at a State school or a charter school in the subject, course, or programme:

(d) all other fees (if any) prescribed by the board or the sponsor.

(2) Nothing in subsection (1) prevents a board or the sponsor from accepting any amount required by that subsection to be paid by instalments but, subject to section 525(2), no international student may continue to receive tuition in any subject, course, or programme at a State school or a charter school unless the sum of the following amounts is less than the sum of the instalments paid up to that time:

(a) the board's or the sponsor's best estimate of the cost involved (including the appropriate proportion of the board's or the sponsor's administrative and other general costs and the appropriate proportion of any initial or start-up costs of the subject, course, or programme) in providing tuition in the subject, course, or programme for 1 student up to that time:

(b) an amount that is in the board's or the sponsor's opinion an appropriate reflection of the use made of the board's or the sponsor's capital facilities by 1 student receiving tuition in the subject, course, or programme:

(c) the appropriate proportion of the amount (if any) prescribed under section 523 for a student receiving tuition at a State school or a charter school in the subject, course, or programme:

(d) all other fees (if any) prescribed by the board or the sponsor.

(3) If an international student has received tuition in a subject, course, or programme at a State school or charter school without paying the full amount required by subsection (1) in respect of the subject, course, or programme, the board or sponsor may, in any court of competent jurisdiction, recover the underpayment from the student (or a parent of the student) as a debt due to the board or sponsor.

(4) A board's or sponsor's grant under section 550 may be reduced if the student's education has been subsidised by money appropriated by Parliament.

(5) A grant may not be reduced under subsection (4) unless the Secretary has given the board or sponsor concerned written notice of the circumstances taken into account when the proposed reduction was decided on.

(6) If the board or sponsor disagrees that a grant should be reduced under subsection (4), or disputes the amount by which it should be reduced, the following provisions apply:

(a) the board or sponsor may, within 28 days of getting notice from the Secretary under subsection (5), by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration:

(b) if, within 14 days of getting the board's or sponsor's notice, the Secretary has agreed an arbitrator with the board or sponsor, the agreed arbitrator must settle the dispute:

(c) if, within 14 days of getting the board's or sponsor's notice, the Secretary has not agreed an arbitrator with the board or sponsor, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the board or sponsor must settle the dispute:

(d) the arbitrator's decision is final.

(7) If an international student withdraws from a subject, course, or programme at a State school or charter school, the school's board or sponsor may refund to the person who paid (in respect of the student's enrolment in the subject, course, or programme) the amount of the fees referred to in subsection (1) (or the sum of any instalments paid in respect of those fees) any amount it thinks fit not exceeding the extent (if any) by which the amount paid exceeds the sum of the following amounts:

(a) the board's or sponsor's best estimate of the cost involved (including the appropriate proportion of the board's or sponsor's administrative and other general costs and the appropriate proportion of any initial or start-up costs of the subject, course, or programme) in providing tuition in the subject, course, or programme for 1 student up to that time:

(b) an amount that is in the board's or sponsor's opinion an appropriate reflection of the use made of the board's or sponsor's capital facilities by 1 student receiving tuition in the subject, course, or programme:

(c) the appropriate proportion of the amount (if any) prescribed under section 523 for a student receiving tuition at a State school or charter school in the subject, course, or programme:

(d) all other fees (if any) prescribed by the board or sponsor.

Compare: 1989 No 80 s 4B

Section 521(1): amended, on 1 October 2024, by section 52(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(1): amended, on 1 October 2024, by section 52(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(1)(a): amended, on 1 October 2024, by section 52(1)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(1)(b): amended, on 1 October 2024, by section 52(1)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(1)(c): amended, on 1 October 2024, by section 52(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(1)(d): amended, on 1 October 2024, by section 52(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2): amended, on 1 October 2024, by section 52(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2): amended, on 1 October 2024, by section 52(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2)(a): amended, on 1 October 2024, by section 52(1)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2)(b): amended, on 1 October 2024, by section 52(1)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2)(c): amended, on 1 October 2024, by section 52(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(2)(d): amended, on 1 October 2024, by section 52(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(3): amended, on 1 October 2024, by section 52(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(3): amended, on 1 October 2024, by section 52(2)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(4): amended, on 1 October 2024, by section 52(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(5): amended, on 1 October 2024, by section 52(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6): amended, on 1 October 2024, by section 52(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6)(a): amended, on 1 October 2024, by section 52(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6)(b): amended, on 1 October 2024, by section 52(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6)(b): amended, on 1 October 2024, by section 52(5)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6)(c): amended, on 1 October 2024, by section 52(5)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(6)(c): amended, on 1 October 2024, by section 52(5)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7): amended, on 1 October 2024, by section 52(6)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7): amended, on 1 October 2024, by section 52(6)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7)(a): amended, on 1 October 2024, by section 52(6)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7)(b): amended, on 1 October 2024, by section 52(6)(c) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7)(c): amended, on 1 October 2024, by section 52(6)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 521(7)(d): amended, on 1 October 2024, by section 52(6)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

522 Exemption from paying fees

(1) The Minister may, by notice, exempt international students of a particular kind or description from paying all or a specified proportion or amount of the amount required by section 521 to be paid.

(2) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 4C

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 522(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 522(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

523 Board or sponsor must reimburse the Crown for expenditure relating to international students

(1) The Minister must, by notice, set fees to be paid by the following:

(a) boards in respect of international students enrolled at State schools:

(b) sponsors in respect of international students enrolled at charter schools.

(2) Fees may be set for 1 or more of the following:

(a) all State schools, State schools of a specified kind or description, or specified State schools:

(aa) all charter schools, charter schools of a specified kind or description, or specified charter schools:

(b) all international students, or international students of a specified kind or description:

(c) all subjects, courses, and programmes; subjects, courses, and programmes of a specified kind or description; or specified subjects, courses, or programmes.

(3) Within 28 days of the first day in any year on which an international student enrolled at a State school or charter school attends the school, the board or sponsor must pay to the Secretary the appropriate fee (if any) prescribed under subsection (1).

(4) The Minister may pay to the proprietors of a State integrated school whose board has paid a fee under this section a portion of that fee, as determined in accordance with a formula prescribed under subsection (5), for the purpose of reimbursing the proprietors for that part of the levy associated with the use of capital assets owned by the proprietors.

(5) The Minister may, by notice, prescribe a formula for the payment of money under subsection (4), and may prescribe different formulas to apply to different schools or classes of school.

(6) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a notice under subsection (1):

(b) a notice under subsection (5), unless it applies only to 1 or more named schools.

(7) If a notice under subsection (5) is not secondary legislation, the Minister must give the notice to the proprietor or proprietors of the school or schools named in the notice.

Compare: 1989 No 80 s 4D

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 523 heading: amended, on 1 October 2024, by section 53(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 523(1): replaced, on 1 October 2024, by section 53(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 523(2)(aa): inserted, on 1 October 2024, by section 53(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 523(3): amended, on 1 October 2024, by section 53(4)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 523(3): amended, on 1 October 2024, by section 53(4)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 523(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 523(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 523(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

524 Courses for international students

(1) The board of a State school, the sponsor, or the managers of a school registered under section 214 may not establish, or permit any student to enrol or continue to be enrolled in, any class, course, or programme intended exclusively or mainly for international students unless the class, course, or programme is for the time being approved by NZQA.

(2) NZQA may not approve a class, course, or programme under subsection (1) unless satisfied on reasonable grounds that—

(a) the school has or will have adequate staff, equipment, and premises to provide it; and

(b) the standard of instruction provided in it will not be lower than the standard that would be expected in any similar class, course, or programme for domestic students.

Compare: 1989 No 80 s 4E

Section 524(1): amended, on 1 October 2024, by section 54 of the Education and Training Amendment Act 2024 (2024 No 40).

524A Withdrawal of approval of course for international students

(1) If NZQA considers that there may be grounds for withdrawing approval of a class, course, or programme intended exclusively or mainly for international students, NZQA must give written notice to the board of the State school, the sponsor, or the managers of the school registered under section 214 to whom the approval was granted—

(a) setting out the grounds on which NZQA is considering withdrawing approval; and

(b) giving the board, the sponsor, or the managers a reasonable period to make submissions on the matter.

(2) After that period, and having considered any submission made by the board or the managers, NZQA may, on any reasonable grounds, withdraw approval.

(3) If NZQA withdraws approval under subsection (2), it must give notice of the withdrawal, with reasons, to the board, the sponsor, or the managers concerned.

(4) NZQA may withdraw an approval at the written request of the board, the sponsor, or the managers concerned.

Section 524A: inserted, on 1 August 2022, by section 47 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 524A(1): amended, on 1 October 2024, by section 55(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 524A(1)(b): amended, on 1 October 2024, by section 55(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 524A(3): amended, on 1 October 2024, by section 55(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 524A(4): amended, on 1 October 2024, by section 55(2) of the Education and Training Amendment Act 2024 (2024 No 40).

International students at tertiary education and vocational education and training institutions

525 Enrolment of international students

(1) An institution's council may not permit the enrolment of an international student at the institution for all or part of a programme unless—

(a) the programme is approved by NZQA and the institution is accredited to provide the programme; or

(b) the programme is exempted under section 528.

(2) An institution's council may not permit the enrolment of an international student at the institution for a micro-credential unless—

(a) the micro-credential is approved by NZQA and the institution is accredited to provide the micro-credential; or

(b) the micro-credential is exempted under section 528.

(3) An international student—

(a) may not be enrolled at an institution if the student's enrolment there has the effect that a domestic student who is eligible to enrol there and has applied for enrolment is not able to be enrolled:

(b) may not be enrolled in any programme or micro-credential at an institution if the student's enrolment has the effect that a domestic student who is eligible to enrol in the programme or micro-credential and has applied for enrolment in it is not be able to be enrolled in it.

(4) Despite subsection (3), although domestic students may not be able to be enrolled, an international student may be enrolled at an institution, or in any programme or micro-credential at the institution, if the enrolment is in a vacant place—

(a) that the institution's council established for international students; and

(b) whose continued availability is dependent on the fees payable by international students enrolled in it.

Compare: 1989 No 80 s 224(7)–(11)

Section 525(2): replaced, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 525(3)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 525(4): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

526 Fees for international students

(1) An institution's council must take all reasonable steps to ensure that no person is enrolled at the institution until it has established whether the person is a domestic student or an international student.

(2) An international student may not be enrolled or continue to be enrolled in any programme of study or training at an institution unless there have been paid to the council in respect of the student—

(a) an amount fixed by the council that is not less than the council's best estimate of—

(i) the cost involved (including the institution's marginal administrative and other general costs, and the appropriate portion of any initial or start-up costs of the programme) of providing tuition in the programme for 1 student, in the case of a programme in which no domestic student is enrolled:

(ii) the marginal cost involved (including the institution's marginal administrative and other general costs, and any marginal initial or start-up costs of the programme) of providing tuition in the programme for 1 student in addition to the domestic students receiving tuition in the programme, in every other case; and

(b) an amount fixed by the council that is not less than an amount that in the council's opinion is an appropriate reflection of the use by 1 student receiving tuition in the programme of the capital facilities (if any) whose provision at the institution is necessary owing only to the institution's provision of tuition to international students in addition to domestic students; and

(c) all other fees (if any) prescribed by the council.

(3) Despite subsection (2), a council may accept from an international student in respect of any programme of study or training at an institution an amount that is less than the sum of the amounts referred to in that subsection by an amount that is no greater than the sum of—

(a) any amounts by which the council has decided to subsidise the student in respect of the programme; and

(b) the appropriate proportion of any amounts by which the council has decided to subsidise the student in respect of programmes of a kind or description that include the programme; and

(c) the appropriate proportion of any amounts by which the council has decided to subsidise students of a kind or description that include the student in respect of the programme; and

(d) the appropriate proportion of any amounts by which the council has decided to subsidise students of a kind or description that include the student in respect of programmes of a kind or description that include the programme,—

out of the general revenue of the council (not being funds provided under sections 425 or 428) or out of any special supplementary grant under that section that may be used for the purpose.

(4) Subsection (2) does not prevent a council from accepting payment of a fee by instalments.

(5) If an international student has received tuition in a programme of study or training at an institution without paying the full amounts required by subsection (2)(a) or (b) in respect of the programme, the institution may, in any court

of competent jurisdiction, recover the underpayment from the student as a debt to the institution.

(6) In any year, the amount of any grant for an institution may be reduced from what it would otherwise have been by any amount by which (in the Secretary's opinion), because the full amount required by subsection (2)(a) in respect of a programme of study or training at the institution in which an international student was enrolled has not been paid to the institution, the student's education has been subsidised by money appropriated by Parliament.

(7) A grant may not be reduced under subsection (6) unless the Secretary has given to the council of the institution written notice of the circumstances taken into account when the proposed reduction was decided on.

(8) If an institution's council disagrees that a grant should be reduced under subsection (6), or disputes the amount by which it should be reduced, the following provisions apply:

(a) the council may, within 28 days of getting notice from the Secretary under subsection (7), by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration:

(b) if, within 14 days of getting the council's notice, the Secretary has agreed an arbitrator with the council, the agreed arbitrator must settle the dispute:

(c) if, within 14 days of getting the council's notice, the Secretary has not agreed an arbitrator with the council, an arbitrator appointed jointly by the Secretary and by the arbitrator originally proposed by the council must settle the dispute:

(d) the arbitrator's decision is final.

(9) An institution's council must,—

(a) when an international student enrols, or resumes attendance, at the institution, give to the Secretary written notice (to the best of the council's knowledge) of the student's name, nationality, and programme of study or training:

(b) when an international student ceases to be enrolled at, or ceases to attend, the institution, notify the Secretary in writing:

(c) comply with all accounting requirements relating to international students enrolled at institutions contained in any notice published by the Minister in the *Gazette* that is for the time being in force.

(10) An institution's council must take all reasonable steps to ensure that when a student enrols at the institution (whether for the first time or for a subsequent time) the student is given written notice of the circumstances (if any) in which the student is or may be entitled to a refund of all or any part of fees under this section paid or to be paid to the council.

(11) The power of a council to refund to a student all or any part of any fees paid to it under this section is not limited or affected by—

(a) any failure to comply with subsection (10); or

(b) the fact that the circumstances fall outside those notified under that subsection; or

(c) the fact that the refund is larger than a notice under that subsection provides for.

Compare: 1989 No 80 s 228

527 Requirements that private training establishments must comply with before enrolling international students

(1) A private training establishment may not enrol an international student in all or part of a programme at the establishment unless—

(a) the establishment is registered under section 346 and is a signatory to the applicable code issued under section 534; and

(b) either—

(i) the programme is an approved programme and the establishment is accredited to provide the entire programme; or

(ii) the programme is of less than 3 months' duration and is exempted under section 528; and

(c) if standards from the Directory of Assessment and Skill Standards are included in the programme, the establishment has a consent to assess against standards.

(2) A private training establishment may not enrol an international student in a micro-credential at the establishment unless—

(a) the establishment is a registered establishment and is a signatory to the applicable code issued under section 534; and

(b) either—

(i) the micro-credential is an approved micro-credential and the establishment is accredited to provide the micro-credential; or

(ii) the micro-credential is of less than 3 months' duration and is exempted under section 528; and

(c) if standards from the Directory of Assessment and Skill Standards are included in the approved micro-credential, the establishment has a consent to assess against those standards.

(3) For the purposes of this section and section 528, a programme or micro-credential is of **less than 3 months' duration** if the period starting on the day on which the programme or scheme starts and ending on the day on which it ends (or is likely to end) is less than 3 calendar months, irrespective of the number

of days on which the programme or micro-credential is, or is proposed to be, provided during that period.

Compare: 1989 No 80 s 232A

Section 527(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 527(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 527(2)(b)(i): replaced, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 527(2)(b)(ii): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 527(2)(c): amended, on 23 August 2023, by section 28 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 527(2)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 527(3): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

528 Exemptions

(1) NZQA may—

(a) exempt programmes for the purposes of section 525(1)(b) or 527(1)(b)(ii); or

(b) exempt micro-credentials for the purposes of section 525(2)(b) or 527(2)(b)(ii).

(2) An exemption under subsection (1)—

(a) may exempt only programmes or micro-credentials that are, or are likely to be, of less than 3 months' duration; and

(b) may identify programmes or micro-credentials, or classes of programmes or micro-credentials, that are exempt; and

(c) may identify programmes or micro-credentials by reference to a provider, or a class of providers, that offers them; and

(d) may be in respect of programmes or micro-credentials that have been completed, are in progress, or have not yet started.

(3) An exemption under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 232B

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 528(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 528(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(1)(b): amended, on 23 August 2023, by section 29 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 528(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 528(2)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(2)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(2)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(2)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 528(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

529 Refund entitlements of international students

(1) A private training establishment must—

(a) allow every international student enrolled for a programme or micro-credential that is of 3 months' duration or more to withdraw from it within the refund period; and

(b) refund to every international student who so withdraws, without deduction, at least so much of any payment, or of the sum of any payments, made by the student to the establishment in respect of that programme or micro-credential, and, if withdrawal from the programme or micro-credential also constitutes withdrawal from the establishment as a whole, in respect of enrolment at the establishment, as exceeds the percentage specified in the notice made under section 530; and

(c) allow every international student enrolled for a programme or micro-credential that is of less than 3 months' duration to withdraw from it within a period (being less than 7 days) specified by NZQA; and

(d) refund to every international student who so withdraws a minimum amount or proportion, specified by NZQA, of any payments made by the student to the establishment in respect of the programme or micro-credential.

(2) For the purposes of subsection (1)(c), a programme or micro-credential is of less than 3 months' duration if the period starting on the day on which the programme or micro-credential starts and ending on the day on which it ends

(or is likely to end) is less than 3 calendar months, irrespective of the number of days on which the programme or micro-credential is, or is proposed to be, provided during that period.

(3) When the refund period, in relation to any fees paid by or on behalf of an international student, has expired,—

(a) the fees paid must continue to be held in trust with the independent trustee and the private training establishment must be paid from the trust in the manner prescribed in the rules made under section 452; or

(b) the private training establishment may, if NZQA approves, make alternative arrangements in relation to the fees paid.

(3A) An instrument containing a specification by NZQA under subsection (1)(c) or (d) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) In this section, **refund period** means the period that begins when the student's fees are paid to the private training establishment (or paid directly to the independent trustee) and ends on the date specified in the notice made under section 530.

Compare: 1989 No 80 s 235A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 529(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 529(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 529(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 529(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 529(2): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 529(3A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

530 Refund requirements set by Minister

(1) For the purposes of refunds under section 529, the Minister must specify, by notice,—

(a) either—

(i) the end of the period within which an international student may withdraw from a programme or micro-credential of 3 months' duration or more and be entitled to a refund under that section; or

(ii) a means by which the end of that period may be calculated or ascertained; and

(b) the maximum percentage of the payment or payments that an establishment may retain; and

(c) the cost components of the fee total on which the maximum percentage is determined; and

(d) the expenses or categories of expenses that the establishment must show that it has incurred in relation to an international student in order to deduct the maximum percentage.

(2) Before giving notice, the Minister must, as the Minister considers appropriate, consult any 1 or more of the following:

(a) private training establishments:

(b) sector and industry representative organisations:

(c) any other relevant bodies.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 235B

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 530 heading: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 530(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 530(1)(a)(i): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 530(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

531 Private training establishment to notify immigration officer if student withdraws from programme or micro-credential

(1) A private training establishment must ensure that, within 7 days of the withdrawal of any student from a programme or micro-credential at the establishment, an immigration officer (within the meaning of section 4 of the Immigration Act 2009) is given written notice of the name of the student and the programme or micro-credential, and the day on which the student withdrew.

(2) Subsection (1) does not apply to a student if the establishment is satisfied on reasonable grounds that the student is a domestic student.

Compare: 1989 No 80 s 235E

Section 531 heading: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 531(1): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Subpart 7—Well-being and safety of students

Heading: amended, on 1 August 2022, by section 48 of the Education and Training Amendment Act 2022 (2022 No 38).

Signatory providers

Heading: inserted, on 1 August 2022, by section 49 of the Education and Training Amendment Act 2022 (2022 No 38).

531A Approval and removal of signatory providers

(1) Before a provider can become a signatory provider of a code, the provider must apply to the relevant code administrator for approval, in exercise of the code administrator's power under section 535A(3)(a), for the provider to become a signatory provider.

(2) The relevant code administrator may withdraw approval of a signatory provider at the written request of the provider concerned.

(3) If approval is withdrawn under subsection (2), a provider ceases to be a signatory to the code and is no longer a signatory provider.

Section 531A: inserted, on 1 August 2022, by section 49 of the Education and Training Amendment Act 2022 (2022 No 38).

Enrolment of international students

532 Signatory providers may enrol persons as international students

(1) A provider may enrol a person as an international student or continue to have an international student enrolled, as long as the provider is a signatory provider.

(2) A provider may not enrol a person as an international student or continue to have an international student enrolled, or provide educational instruction for the person, if the provider—

(a) is not a signatory provider; or

(aa) has its approval to be a signatory provider withdrawn under section 531A(2); or

(b) is removed as a signatory provider under section 535(2); or

(c) ceases to be a signatory provider for any other reason provided in the code.

(3) A signatory provider that is subject to a sanction under section 535(1) may continue to have international students enrolled and may provide educational instruction to those students, but only to the extent permitted by the sanction.

Compare: 1989 No 80 s 238E

Section 532(2)(aa): inserted, on 1 August 2022, by section 50 of the Education and Training Amendment Act 2022 (2022 No 38).

533 Providers must enrol persons as international students in certain circumstances

A provider must enrol a person as an international student if the person is not a domestic student and the provider—

(a) provides the person with educational instruction for more than 2 weeks; or

(b) accepts tuition fees from the person.

Compare: 1989 No 80 s 238F

Well-being and safety of domestic and international students

Heading: amended, on 1 August 2022, by section 51 of the Education and Training Amendment Act 2022 (2022 No 38).

534 Well-being and safety codes of practice

(1) The Minister may issue—

(a) 1 or more codes that provide a framework for the well-being and safety of domestic tertiary students:

(b) 1 or more codes that provide a framework for the well-being and safety of international students:

(c) 1 or more codes that provide a framework for the well-being and safety of domestic tertiary students and international students.

(1A) The Minister must specify whether a code applies to—

(a) any provider that provides educational instruction to the students in respect of whom the code is issued; or

(b) a particular type of provider or group of providers (for example, schools, Kura Kaupapa Māori, or Māori providers).

(2) The purpose of a code,—

(a) in respect of domestic tertiary students, is to support the Government's objectives for the education of domestic tertiary students by—

(i) requiring providers to take all reasonable steps to maintain the well-being and safety of domestic tertiary students; and

(ii) ensuring, so far as is possible, that domestic tertiary students have a positive experience that supports their educational achievement:

(b) in respect of international students, is to support the Government's objectives for international education by—

(i) requiring providers to take all reasonable steps to maintain the well-being and safety of international students; and

(ii) ensuring, so far as is possible, that international students have a positive experience that supports their educational achievement.

(3) The scope of a code,—

(a) in respect of domestic tertiary students, is to prescribe, alongside other quality assurance prescribed by this Act,—

(i) outcomes sought from providers for their domestic tertiary students; and

(ii) key processes required of providers to support the well-being and safety, achievement, and rights of domestic tertiary students:

(b) in respect of international students, is to prescribe, alongside other quality assurance prescribed by this Act,—

(i) outcomes sought from providers for their international students; and

(ii) key processes required of providers to support the well-being and safety, achievement, and rights of international students.

(4) Without limiting subsections (1) to (3), a code may include provisions for 1 or more of the following purposes:

(a) despite anything in the Public Finance Act 1989, requiring providers to indemnify the code administrator:

(b) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

(5) Before issuing a code, the Minister must consult—

(a) those parties that the Minister considers likely to be affected by the code, including representatives of students, parents, providers, signatory providers, and the staff of providers and signatory providers; and

(aa) Māori; and

(b) the Privacy Commissioner.

(6) A code—

(a) in respect of domestic tertiary students is binding on all providers:

(b) in respect of international students is binding on all signatory providers.

(7) A code—

(a) may make different provision for students under the age of 18 years and students aged 18 years or over:

(b) that applies in respect of students undertaking study or training with a provider applies whether the students undertake the study or training in New Zealand or in another country.

(b) *[Repealed]*

(c) *[Repealed]*

(8) A code must be made and administered in accordance with regulations made under section 648.

(9) A code under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 238G

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it on an Internet site maintained by, or on behalf of, the Ministry	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 534 heading: amended, on 1 August 2022, by section 52(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(a): amended, on 1 August 2022, by section 52(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(a): amended, on 1 August 2022, by section 52(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(b): amended, on 1 August 2022, by section 52(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(b): amended, on 1 August 2022, by section 52(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(c): amended, on 1 August 2022, by section 52(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1)(c): amended, on 1 August 2022, by section 52(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(1A): inserted, on 1 August 2022, by section 52(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(2)(a)(i): amended, on 1 August 2022, by section 52(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(2)(b)(i): amended, on 1 August 2022, by section 52(6) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(2)(b)(ii): amended, on 1 August 2022, by section 52(7) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(3)(a)(ii): amended, on 1 August 2022, by section 52(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(3)(b)(ii): amended, on 1 August 2022, by section 52(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(5)(aa): inserted, on 1 August 2022, by section 52(8) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(7)(a): amended, on 1 August 2022, by section 52(9) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(7)(b): inserted, on 1 August 2022, by section 52(10) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 534(7)(b): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 534(7)(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 534(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

534A Code for particular providers to be mandatory or optional

(1) A code that applies to a particular type of provider or group of providers under section 534(1A)(b) must specify whether the code is mandatory or optional.

(2) If a code is mandatory, a provider to which the code applies must comply with that code and is not required to comply with any other code.

(3) If a code is optional, a provider to which the code applies may elect to comply with that code in place of compliance with any other code and,—

(a) if an election is made, the provider must comply with the code and is not required to comply with any other code; and

(b) if an election is not made, the provider is not required to comply with the code.

(4) An election under subsection (3) to comply with a code must be made in accordance with the mechanism set out in the code for this purpose.

Section 534A: inserted, on 1 August 2022, by section 53 of the Education and Training Amendment Act 2022 (2022 No 38).

534B Minister may make minor or technical changes to code or grant exemptions

(1) The Minister may—

(a) make minor or technical amendments to a code; and

(b) exempt specified providers, or types or groups of providers, from compliance with specified requirements of a code that applies to that provider, or type or group of providers, under section 534(1A)(b).

(2) To avoid doubt, the Minister is not required to consult the parties set out in section 534(5) when making an amendment or granting an exemption under this section.

(3) If the Minister amends a code under subsection (1)(a), the code administrator must make reasonable efforts to notify representatives of students, parents, providers, signatory providers, and the staff of providers and signatory providers of the amendment.

Section 534B: inserted, on 1 August 2022, by section 53 of the Education and Training Amendment Act 2022 (2022 No 38).

535 Sanctions for breach of code

(1) If satisfied that a provider or signatory provider has breached the relevant code or failed to comply with a performance improvement notice issued under section 535C, a code administrator may,—

(a) in the case of signatory providers, impose new, or amend or revoke any existing, conditions on the signatory provider's approval as a signatory provider:

(b) in the case of providers and signatory providers, impose limitations on the provider's or the signatory provider's power to enrol students.

(2) If satisfied that a signatory provider has not complied with a sanction imposed under subsection (1) or notice issued under section 535C, a code administrator may remove the signatory provider as a signatory provider.

Compare: 1989 No 80 s 238L

Section 535(1): amended, on 1 August 2022, by section 54(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 535(2): amended, on 1 August 2022, by section 54(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Code administrators

Heading: inserted, on 1 August 2022, by section 55 of the Education and Training Amendment Act 2022 (2022 No 38).

535A Appointment and functions of code administrators

(1) The Minister may, by notice, appoint a person or an agency to be responsible for—

(a) administering—

(i) a code for domestic tertiary students:

(ii) a code for international students:

(iii) a code for domestic tertiary students and international students; and

(b) administering 2 or more codes.

(2) When appointing a code administrator, the Minister must have regard to the knowledge, skills, or experience of the person or agency.

(3) The functions of the code administrator are,—

(a) in the case of international students,—

(i) to receive applications from providers seeking to become signatory providers; and

(ii) to assess those applications against—

(A) the criteria stated in a code; and

(B) the purpose stated in section 534(2) and the scope of the code stated in section 534(3); and

(iii) to approve or decline to approve applicants becoming signatory providers in accordance with those assessments; and

(b) in the case of domestic tertiary students and international students,—

(i) to monitor the extent to which providers comply with a code in close collaboration with quality assurance agencies; and

(ii) to issue to providers and signatory providers notices under section 535C; and

(iii) to impose on providers and signatory providers sanctions under section 535 for breaches of a code and failure to comply with notices; and

(iv) to undertake periodic reviews of how providers and signatory providers generally are giving effect to a code, or a part or parts of a code, in order to assess the extent to which the purposes of the code are being met.

(4) The Minister may set performance standards and priorities for code administrators, which code administrators must have regard to in the performance of their duties and functions.

(5) A code administrator may allow an applicant to become a signatory provider unconditionally, or subject to any written conditions made known to the applicant at the time the code administrator informs the applicant that the applicant is allowed to become a signatory provider.

(6) A code administrator may, with the Minister's prior written approval and subject to any conditions that the code administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in this section to another person or agency (having regard to their knowledge, skills, or experience).

(7) *[Repealed]*

Compare: 1989 No 80 s 238H(1)–(4), (9)

Section 535A(7): repealed, on 23 August 2023, by section 30 of the Education and Training Amendment Act 2023 (2023 No 45).

535B Further obligations of code administrator

A code administrator must—

(a) exercise and perform all of its functions, powers, and duties in a manner that honours Te Tiriti o Waitangi and supports Māori-Crown relationships; and

(b) report annually to the Minister on the exercise and performance of its functions, powers, and duties, including the extent to which providers and signatory providers are giving effect to their obligations under the

codes, and publish the report on an Internet site maintained by or on behalf of the code administrator; and

(c) provide information to the Minister, at the request and in the form specified by the Minister, relating to—

(i) the performance of its duties and functions; and

(ii) the performance of providers and signatory providers in meeting the requirements of a code.

Section 535B: inserted, on 1 August 2022, by section 55 of the Education and Training Amendment Act 2022 (2022 No 38).

535C Power to issue performance improvement notices

(1) A code administrator may issue a performance improvement notice to a provider or signatory provider that requires the provider or signatory provider to do, or refrain from doing, a particular thing in relation to—

(a) its obligations under a code; or

(b) in the case of a signatory provider, the conditions of its approval as a signatory provider.

(2) The notice must—

(a) set out any concerns the administrator has about the provider's or signatory provider's systems, practices, training, or procedures; and

(b) identify—

(i) any areas for improvement in relation to any of the specified outcomes in a code; and

(ii) any areas for compliance in relation to key process requirements in a code; and

(c) specify the time within which the provider or signatory provider is expected to address the code administrator's concerns (which must be a reasonable time, having regard to the nature and complexity of the action required); and

(d) specify the possible consequences of a failure to comply with a performance improvement notice.

(3) The code administrator may publish the notice, or a summary of it, in a manner designed to give public notice of it.

(4) The code administrator may, before the expiry of the time referred to in subsection (2)(c), extend the time, and in that case the time as extended becomes the time within or during which the notice must be complied with.

Compare: 1989 No 80 s 238I

Section 535C: inserted, on 1 August 2022, by section 55 of the Education and Training Amendment Act 2022 (2022 No 38).

535D Providers and signatory providers to comply with performance improvement notices

(1) A provider or signatory provider must comply with a performance improvement notice issued under section 535C.

(2) If, in a code administrator's opinion, a provider or signatory provider does not comply with the notice, the code administrator may (as the code administrator sees fit) impose sanctions against the provider or signatory provider under section 535.

(3) The code administrator may not act under subsection (2) until the later of the following:

(a) 10 working days after the date on which the notice was issued:

(b) the expiry of any time of a kind referred to in section 535C(2)(c) or any extension of that time if that time has been extended under section 535C(4).

Compare: 1989 No 80 s 238K

Section 535D: inserted, on 1 August 2022, by section 55 of the Education and Training Amendment Act 2022 (2022 No 38).

Dispute resolution

536 Student contract dispute resolution scheme established

(1) This section establishes a student contract dispute resolution scheme (the **DRS**).

(2) The purpose of the DRS is to resolve disputes between students (and former and prospective students) and providers or signatory providers relating to the following matters:

(a) contractual and financial matters:

(b) a claim for redress for any loss or harm suffered by a student as a result of a breach by a provider or signatory provider of a code issued under section 534.

(3) Every provider or signatory provider that enrols, intends to enrol, or has enrolled students is subject to and must (in relation to a dispute described in subsection (2)(a) or (b) with a student or a former or prospective student) comply with the rules of the DRS prescribed under section 539.

(4) The Minister—

(a) may, by notice in the *Gazette*, appoint 1 or more persons or organisations to be responsible for administering the DRS; and

(b) must take reasonable steps to ensure that there is at all times a person or an organisation appointed to be responsible for administering the DRS; and

(c) may impose any conditions on the appointment that the Minister thinks fit.

(5) A student claimant may lodge with a DRS operator for resolution under the DRS a dispute described in subsection (2)(a) or (b) with a provider or signatory provider, but only if—

(a) the provider or signatory provider has been given an opportunity to resolve the dispute, but the student claimant is not satisfied with the process or outcome, or both; or

(b) the provider or signatory provider—

(i) has not tried to resolve the dispute; or

(ii) has refused to try to do so.

(5A) In addition, a student claimant may lodge with a DRS operator for resolution under the DRS a dispute with a provider or signatory provider described in subsection (2)(b) only if the code administrator is satisfied that the provider or signatory provider has breached the applicable code.

(6) However, a student may not lodge a dispute for resolution under subsection (5) later than 7 years after the date of the act or omission on which the dispute is based.

(7) The resolution of a dispute is binding on all parties to the dispute if—

(a) it is the outcome of an adjudication of the dispute by or on behalf of a DRS operator; or

(b) it is produced by consensual methods undertaken by or on behalf of a DRS operator, and the parties to the dispute have agreed that it is to be binding.

(8) A DRS operator—

(a) may charge fees to a student claimant or the provider concerned, or both, according to the rules of the DRS prescribed under section 539; but

(b) (despite those rules) may in its absolute discretion partially or completely exempt any person, or class of persons, from the payment of fees.

Compare: 1989 No 80 s 238M

Section 536(2): replaced, on 1 August 2022, by section 56(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(3): amended, on 1 August 2022, by section 56(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(4)(a): amended, on 1 August 2022, by section 56(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(4)(b): amended, on 1 August 2022, by section 56(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(5): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(5): amended, on 1 August 2022, by section 56(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(5A): inserted, on 1 August 2022, by section 56(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(7)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(7)(b): replaced, on 1 August 2022, by section 56(6) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 536(8): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

536A How DRS operator must perform role

(1) A DRS operator must perform and exercise its functions, powers, and duties in a manner that contributes to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships by—

(a) resolving disputes in a way that—

(i) has regard to tikanga Māori; and

(ii) is consistent with the principles of Te Tiriti o Waitangi; and

(b) responding to the concerns and interests of Māori in the administration and operation of the scheme.

(2) A DRS operator must perform and exercise its functions, duties, and powers—

(a) in a manner that is fair and reasonable in the relevant circumstances; and

(b) having regard to—

(i) the general law; and

(ii) best practice for dispute resolution; and

(iii) in the case of a particular dispute, the provisions of a code issued under section 534 that is relevant to the dispute.

(3) In the adjudication of any dispute, a DRS operator, or a person appointed as an adjudicator, must determine the dispute according to the substantial merits of the case and—

(a) is not bound by the rules of evidence or by previous decisions; and

(b) is not required to give effect to strict legal obligations, or to legal forms or technicalities.

Section 536A: inserted, on 1 August 2022, by section 57 of the Education and Training Amendment Act 2022 (2022 No 38).

536B Obligation of DRS operator to provide information

(1) If a specified body reasonably considers that it is necessary for the efficient and effective performance and exercise of any of the body's functions, duties, and powers that a DRS operator provide certain information to the specified body, the specified body may request that the DRS operator provide the information.

(2) A DRS operator must—

(a) comply with a request under subsection (1) within a reasonable time; and

(b) in relation to matters arising from the information requested, provide any other reasonable assistance to the specified body.

(3) In this section, a **specified body** means one of the following:

(a) the Ministry:

(b) a quality assurance agency (for example, NZQA, the Education Review Office, or the Vice-Chancellors Committee) or other body responsible for monitoring or enforcement of education quality:

(c) a code administrator or other body responsible for the well-being and safety of students.

Section 536B: inserted, on 1 August 2022, by section 57 of the Education and Training Amendment Act 2022 (2022 No 38).

536C Sharing of information relating to disputes

(1) A DRS operator, a code administrator, and a quality assurance agency may provide any information about a dispute or the resolution of a dispute to each other if the sharing of information relates to a purpose set out in subsection (2).

(2) A DRS operator, code administrator, or quality assurance agency may provide information under subsection (1) for 1 or more of the following purposes:

(a) to enable the DRS operator, code administrator, or quality assurance agency to perform any of their duties and responsibilities in relation to the dispute or to matters or concerns to which the dispute relates:

(b) to ensure the timely and expedient resolution of the dispute:

(c) to avoid the unnecessary use or duplication of resources in the resolution of a dispute.

Section 536C: inserted, on 1 August 2022, by section 57 of the Education and Training Amendment Act 2022 (2022 No 38).

536D Sharing of personal information restricted

(1) No personal information may be supplied under section 536B or 536C except in accordance with—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020; or

(c) principles 11 and 12 set out in section 22 of the Privacy Act 2020.

(2) In this section, **personal information** has the meaning given to it by section 7(1) of the Privacy Act 2020.

Section 536D: inserted, on 1 August 2022, by section 57 of the Education and Training Amendment Act 2022 (2022 No 38).

537 Cap on amount to be paid

In resolving any dispute, a DRS operator—

(a) may not require a provider or signatory provider to pay to a student claimant in relation to any particular claim any amount exceeding $200,000; but

(b) may charge the provider fees in addition to any amount required to be paid.

Compare: 1989 No 80 s 238N

Section 537: amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

537A Time frame for payment for resolution of claim

(1) Within 20 working days of the date of a resolution of a dispute under section 536(7), a provider or signatory provider must pay to a student claimant any amount it is required to pay to comply with the resolution.

(2) However, if, before the expiration of the 20 working days, the provider or signatory provider has applied to the District Court under section 538(1)(c) for a modification of the terms of the resolution, the provider or signatory provider is not required to pay the amount until the District Court has determined the matter.

Section 537A: inserted, on 1 August 2022, by section 58 of the Education and Training Amendment Act 2022 (2022 No 38).

538 District Court to enforce DRS

(1) The District Court may,—

(a) on the application of a student claimant or a DRS operator, make an order requiring a provider or signatory provider to comply with the rules of the DRS or to give effect to any resolution that is binding under section 536(7); or

(b) on the application of the provider or signatory provider or a DRS operator, make an order requiring a student claimant to give effect to any resolution that is binding under section 536(7); or

(c) on the application of a student claimant, provider, or signatory provider, make an order—

(i) modifying the terms of an adjudicated resolution of a dispute by a DRS operator if the District Court is satisfied that the terms are manifestly unreasonable; and

(ii) requiring the student claimant, provider, or signatory provider to give effect to the modified resolution.

(2) If an order (or part of an order) requiring the provider or signatory provider to comply with the resolution or modified resolution requires the provider or signatory provider to pay any sum of money to any person, that order (or part) may be enforced as if it were a judgment by the District Court for the payment of that sum of money to that person.

(3) *[Repealed]*

(4) An order made under subsection (1)(c) overrides section 536(7).

Compare: 1989 No 80 s 238O

Section 538(1)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 538(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 538(1)(c): inserted, on 1 August 2022, by section 59(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 538(2): amended, on 1 August 2022, by section 59(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 583(3): repealed, on 1 August 2022, by section 59(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 538(4): replaced, on 1 August 2022, by section 59(4) of the Education and Training Amendment Act 2022 (2022 No 38).

539 Rules of student contract dispute resolution scheme

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make rules for the functioning and administration of the DRS.

(2) Before recommending that an order be made, the Minister must consult any relevant bodies and sector representatives that the Minister thinks fit.

(3) The rules may prescribe fees, or a means by which fees can be calculated or ascertained.

(4) Rules under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 238P

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 539(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Export education levy

540 How export education levy may be applied

(1) Funds arising from an export education levy imposed in accordance with regulations made under section 641 may be applied for the following purposes:

(a) the development, promotion, and quality assurance of the export education sector, which may include (without limitation)—

(i) professional and institutional development; and

(ii) marketing; and

(iii) implementation of scholarship schemes; and

(iv) research, and resource development; and

(v) support (financial or otherwise) of other bodies engaged in the development, promotion, or quality assurance of the export education sector:

(b) the making of payments as set out in subsections (2) and (3):

(c) the administration and audit of the code in respect of international students:

(d) the funding of the cost of the operation of the DRS established by section 536 that is attributable to international students:

(e) the general administration of the levy and associated purposes.

(2) Subsection (3) applies if—

(a) an international student is or was enrolled at a private training establishment or a private school for a course of study or training; and

(b) at the time of the international student's enrolment, the private training establishment held a current registration under section 346, or the private school held a current registration under section 214; and

(c) the private training establishment or private school has not provided, cannot provide, or is not to provide, in whole or in part, the course of study or training.

(3) If this subsection applies, the levy funds may be used for any of the following purposes:

(a) to make payment to any person to ensure the reimbursement of the student, in whole or in part, for tuition fees or for any payment other than tuition fees made by or on behalf of that student to the private training establishment or private school in respect of the student's course of study or training if, and to the extent that,—

(i) the private training establishment or private school has not refunded the tuition fees or other payment; and

(ii) the agency responsible for the administration of the levy approves the reimbursement of the student as necessary and appropriate in the circumstances:

(b) with the approval of the Minister, to reimburse the Crown for any sum provided by the Crown and paid to any person to ensure the reimbursement of the student, in whole or in part, for tuition fees or for any other payment made by or on behalf of that student to the private training establishment or private school in respect of the student's course of study or training if, and to the extent that,—

(i) the private training establishment or private school had not refunded the tuition fees or other payment; and

(ii) the agency responsible for the administration of the levy approved the reimbursement of the student as necessary and appropriate in the circumstances:

(c) with the approval of the Minister, to reimburse, in whole or in part, the agency responsible for the administration of the levy, or any Crown entity, for—

(i) costs incurred by that agency or Crown entity in placing the student with an alternative provider; or

(ii) other costs incurred by that agency or Crown entity as a direct result of the private training establishment or private school not providing the course of study or training.

(4) Levy funds must be kept in a separate bank account that is used only for the purposes of the levy.

(5) The amount of levy payable by a provider under regulations made under section 641 is a debt due to the Crown and may be recovered in any court of competent jurisdiction.

(5) *[Repealed]*

Compare: 1989 No 80 s 238R

Section 540(5) (former subsection number (6)): renumbered, on 23 August 2023, by section 31(3) of the Education and Training Amendment Act 2023 (2020 No 45).

Section 540(5) (former subsection number (6)): amended, on 23 August 2023, by section 31(2) of the Education and Training Amendment Act 2023 (2020 No 45).

Section 540(5): repealed, on 23 August 2023, by section 31(1) of the Education and Training Amendment Act 2023 (2020 No 45).

Employees of student accommodation

Heading: inserted, on 1 August 2022, by section 60 of the Education and Training Amendment Act 2022 (2022 No 38).

540A Good character assessment of employees of student accommodation

(1) This section applies in respect of student accommodation operated by a provider or signatory provider.

(2) The provider or signatory provider must not employ a person to work in the student accommodation without ensuring that the person is of good character.

(3) In assessing whether a person is of good character, the provider or signatory provider must—

(a) obtain a Police vet of the person; and

(b) take into account the matters specified in regulations made under section 648(a) for that purpose.

(4) The provider or signatory provider must make a further assessment of good character of every person—

(a) of whom an assessment of good character has already been made under this section by that provider or signatory provider; and

(b) who is still employed to work at the student accommodation.

(5) The further assessment of good character under subsection (4) must be made within 3 years of the previous assessment of that person by the provider or signatory provider.

(6) This section does not apply in respect of a person if the provider or signatory provider is required under Part 3 of the Children's Act 2014 to ensure that a safety check of the person is completed in order for the person to be employed to work in the student accommodation.

Section 540A: inserted, on 1 August 2022, by section 60 of the Education and Training Amendment Act 2022 (2022 No 38).

Subpart 8—Offences

541 Offence relating to providing or offering to provide NCEA outside New Zealand

A person who intentionally contravenes section 455(1) commits an offence and is liable on conviction to a fine not exceeding $10,000.

542 Offence relating to failure to report certain matters to Teaching Council

(1) An employer or a former employer commits an offence, and is liable on conviction to a fine not exceeding $25,000, if it fails without reasonable justification to report to the Teaching Council in relation to any matter of conduct as required under section 489, 490, or 491.

(2) An employer or a former employer commits an offence, and is liable on conviction to a fine not exceeding $5,000, if it fails without reasonable justification to report to the Teaching Council in relation to any matter of competence as required under section 489, 490, or 492.

Compare: 1989 No 80 s 396

543 Other offences

(1) A person commits an offence, and is liable on conviction to a fine not exceeding $500, if the person, without lawful justification, fails or refuses—

(a) to attend and give evidence when required by the Disciplinary Tribunal; or

(b) to answer truthfully and fully any question put to the person by a member of the Disciplinary Tribunal; or

(c) to produce any document, record, or other information as required by the Disciplinary Tribunal.

(2) A person commits an offence, and is liable on conviction to a fine not exceeding $1,000, if the person, without lawful excuse, breaches an order made by the Disciplinary Tribunal under section 501(6).

Compare: 1989 No 80 s 407

544 Offence relating to breach of code resulting in serious harm to or death of students

(1) A provider or signatory provider commits an offence if—

(a) the provider or signatory provider, without reasonable excuse, breaches the applicable code; and

(b) the breach results in serious harm to or the death of 1 or more of its students.

(2) A provider who commits an offence against this section is liable on conviction to a fine not exceeding $100,000.

Compare: 1989 No 80 s 238S

545 Pecuniary penalty relating to breach of code

(1) On the application of a code administrator, a court may order a provider or signatory provider to pay to the Crown any pecuniary penalty that the court determines to be appropriate if the court is satisfied that the provider or signatory provider has, without reasonable excuse, committed a serious breach of the applicable code.

(2) The amount of any pecuniary penalty may not exceed $100,000.

Compare: 1989 No 80 s 238T

546 Relationship between offences and penalties

(1) Once criminal proceedings against a provider or signatory provider for an offence against section 544 are determined, a court may not order the provider or signatory provider to pay a pecuniary penalty under section 545 in respect of the conduct, events, transactions, or other matters that were the subject of the criminal proceedings.

(2) Once civil proceedings against a provider or signatory provider for a pecuniary penalty under section 545 are determined, the provider or signatory provider may not be convicted of an offence against section 544 in respect of the conduct, events, transactions, or other matters that were the subject of the civil proceedings.

(3) Any uncompleted proceedings for an order under this Act that a provider or signatory provider pay a pecuniary penalty must be stayed if criminal proceedings are started or have already been started against the provider or signatory provider for the same act or omission, or substantially the same act or omission, in respect of which the pecuniary penalty order is sought.

Compare: 1989 No 80 s 238U

Part 6
Administration of education system

547 Outline of Part 6

(1) This Part, which concerns the administration of New Zealand's education system, is divided into 9 subparts.

(2) Subpart 1 concerns funding.

(3) Subpart 2 concerns property and assets.

(4) Subpart 3 concerns the payment of salaries.

(5) Subpart 4 concerns employment matters.

(6) Subpart 5 concerns information and reporting.

(7) Subpart 6 concerns entry and inspection.

(8) Subpart 7 sets out provisions empowering the making of regulations.

(9) Subpart 8 sets out offence provisions.

(10) Subpart 9 sets out consequential amendments and repeals.

Compare: 1989 No 80 s 308

Subpart 1—Funding

548 Funding of certain early childhood services and certified playgroups

(1) In each year, out of money appropriated by Parliament,—

(a) the service provider of every licensed early childhood service—

(i) must be paid general grants; and

(ii) may be paid 1 or more discretionary grants; and

(b) the service provider who operates a certified playgroup—

(i) may be paid general grants; and

(ii) may be paid 1 or more discretionary grants; and

(c) the management of any body corporate may be paid a discretionary grant for the purpose of establishing a licensed early childhood service or certified playgroup.

(2) The amount of every grant must be determined by the Minister.

(3) The Minister may determine the means by which the amounts of grants may be calculated or ascertained, and—

(a) different means may be determined in respect of—

(i) grants of different classes or descriptions; and

(ii) licensed early childhood services of different classes or descriptions and certified playgroups; and

(b) the amount of any grant may be determined accordingly; but

(c) nothing in this subsection limits or affects the Minister's power under subsection (2) to determine the amount of any grant.

(4) Without limiting subsection (3), the Minister may determine that no grant is payable in respect of any international student attending a licensed early childhood service.

(5) Any grant—

(a) may be paid unconditionally, or subject to any conditions the Minister specifies in writing when the grant is paid or earlier; and

(b) may be paid to be used for any purpose the service provider thinks fit, or for only the purposes that the Minister specifies in writing when the grant is paid or earlier; and

(c) may be withheld in whole or in part if the service provider fails to comply with any regulations made under section 636 or 637 or any conditions of the licence or certificate.

(5A) Subsections (5B) and (5C) apply to conditions or purposes—

(a) specified under subsection (5)(a) or (b); and

(b) that relate to employment matters (for example, remuneration).

(5B) Those conditions or purposes may be specified by the Minister to help achieve aims that are, or include, employment relations aims.

(5C) Those aims may, but need not, also be specified by the Minister.

(6) The service provider must ensure that,—

(a) where a grant has been paid subject to conditions, the conditions are complied with; and

(b) if a grant has been paid to be used only for purposes specified by the Minister under subsection (5)(b), the grant is used only for those purposes.

Compare: 1989 No 80 s 311

Section 548(5A): inserted, on 13 July 2021, by section 4 of the Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28).

Section 548(5B): inserted, on 13 July 2021, by section 4 of the Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28).

Section 548(5C): inserted, on 13 July 2021, by section 4 of the Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28).

548A Data accessed by Ministry under Data and Statistics Act 2022

(1) This section applies despite section 54(1)(c) of the Data and Statistics Act 2022.

(2) The Ministry may, if the criteria specified in this section are met, publish or otherwise disclose the following data accessed under Part 5 of the Data and Statistics Act 2022 in a form that may identify an individual or an organisation:

Early childhood services

(a) data relating to the socio-economic status of children attending early childhood services and their families, but only if—

(i) the data is published or disclosed at the level of an early childhood service; and

(ii) the publication or other disclosure is for the purpose of assisting the Ministry to develop or use tools relating to the provision of funding to early childhood services under this Act; and

(iii) the data does not include personal information, unless the service provider of the early childhood service, who is an individual, has consented to the publication or disclosure of information regarding the service they operate:

Charter schools

(b) data relating to the socio-economic status of children attending the charter school and their families, but only if—

(i) the data is published or disclosed at the level of a charter school; and

(ii) the publication or other disclosure is for the purpose of assisting the Ministry to develop or use tools relating to the provision of funding to charter schools or to enable performance measurement of charter schools under this Act.

(3) In this section,—

organisation has the same meaning as in section 6 of the Data and Statistics Act 2022

personal information has the same meaning as in section 7(1) of the Privacy Act 2020.

Section 548A: replaced, on 1 October 2024, by section 56 of the Education and Training Amendment Act 2024 (2024 No 40).

549 Loans to licensed early childhood services

The Minister may, on any terms and conditions the Minister thinks fit, lend to the service provider of any licensed early childhood service money appropriated by Parliament for the purpose.

Compare: 1989 No 80 s 312

550 Grants and supplementary grants to boards

(1) In each financial year, boards must be paid, out of money appropriated by Parliament for the purpose, grants and supplementary grants of the amounts that the Minister determines.

(2) Subsection (1) is subject to subsections (3) and (4) and section 554.

(3) However, in determining the amount of a grant, the Minister may not take into account international students (other than students entitled under section 520(1)) enrolled, or likely to be enrolled, at a school that the board administers.

(4) A supplementary grant is payable on the condition that it be used for the purposes set out in the grant, and a board that receives a supplementary grant must use it for those purposes only.

Compare: 1989 No 80 s 79

551 Discretionary grants to boards

(1) The Minister may, in or for a financial year, make discretionary grants to boards out of money appropriated by Parliament for the purpose.

(2) Subsection (1) is subject to subsections (3) to (7).

(3) The Minister must determine the amount of each discretionary grant made under subsection (1).

(4) In determining the amount of a discretionary grant, the Minister must take no account of international students (other than students entitled under section 520(1)) enrolled, or likely to be enrolled, at a school administered by the board concerned.

(5) A discretionary grant made under subsection (1)—

(a) must be made subject to the condition that a board that receives it does not seek or receive any solicited voluntary payment from parents; and

(b) may also be made subject to other conditions (except a condition that it be used for the purposes set out in the grant) determined by the Minister.

(6) A discretionary grant may be paid to a board only if the board has decided by resolution to receive the grant.

(7) A board that receives a discretionary grant must take all reasonable steps to ensure that all conditions of the grant are complied with.

(8) An instrument imposing conditions under subsection (5)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named boards.

(9) If an instrument under subsection (5)(b) is not secondary legislation, the Minister must give a copy of the instrument to the boards named in the instrument.

Compare: 1989 No 80 s 79A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 551(5)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 551(8): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 551(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

552 Minister may prescribe exemptions to mandatory condition

(1) The Minister may, by notice, prescribe exemptions to the condition in section 551(5)(a).

(2) Exemptions prescribed by a notice under this section enable any board, or class or classes of boards, specified in the notice to which a discretionary grant is made, or is to be made, to seek or receive any solicited voluntary payment from parents for any student activity or student activities specified in the notice.

(3) An exemption under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named boards.

(4) If an exemption is not secondary legislation, the Minister must give a copy of the exemption to the boards named in the notice.

Compare: 1989 No 80 s 79B

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 552(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 552(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 552(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

553 Application of Legislation Act 2012

[Repealed]

Section 553: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

554 Effect of non-compliance with conditions of earlier discretionary grants

(1) In determining for the purposes of section 550 or 551 the amount of any grant, supplementary grant, or discretionary grant payable to a board in respect of a school in or for a financial year, the Minister—

(a) must have regard to the extent to which the board has, in any 1 or more earlier financial years, failed to comply with all or any conditions of a discretionary grant paid to the board in respect of the school in or for those 1 or more earlier financial years; and

(b) may, after consulting the board, determine for the grant, supplementary grant, or discretionary grant an amount that is less than it would otherwise have been.

(2) However, the total of all reductions (if any) made under subsection (1)(b) because of non-compliance with all or any conditions of a discretionary grant paid to the board in respect of the school in or for those 1 or more earlier financial years may not exceed the amount of that discretionary grant.

Compare: 1989 No 80 s 79D

555 Grants for distance schools

Despite section 550,—

(a) the board of a distance school must in each financial year be paid, out of money appropriated by Parliament for the purpose, a single grant of an amount that the Minister determines:

(b) any part of a grant may be used for the payment of teacher salaries:

(c) a board may not, out of money that is not part of a grant, pay any part (or all) of a teacher's salary, or pay to the Crown any part (or all) of a teacher's salary paid by the Crown, except—

(i) with the Minister's consent; and

(ii) in accordance with the conditions of the consent (if any):

(d) the Minister must withhold consent under paragraph (c)(i) unless satisfied that special circumstances applying to the school make it inappropriate for the Minister to do so.

Compare: 1989 No 80 s 81A

556 Grants to educational bodies

(1) An educational body may, on conditions that the Minister thinks fit, be paid grants out of money appropriated by Parliament for the purpose.

(2) However, a grant may not be paid to a tertiary education provider or a workforce development council unless the Minister is satisfied that the payment is in the national interest.

(3) The Minister may determine the amount of, and the conditions that apply to, each grant.

(4) Before a grant is paid, the Minister may give the educational body written notice that the grant, or a part or parts of the grant (specified as a particular sum or as a proportion of the total grant), is not to be used except for purposes specified in the notice.

(5) If notice is given, the educational body must ensure that no part of the grant to which the notice relates is used for purposes other than those specified for it in the notice.

(6) Apart from this restriction, an educational body to which a grant is paid may apply the grant as it sees fit.

(7) In the financial year during which a grant was paid to an educational body, and during the next financial year,—

(a) the Secretary may, by written notice, require the educational body to provide the Secretary with any financial report, or statistical or other information, relating to the educational body, within a time specified in the notice and in writing; and

(b) the educational body must take all reasonable steps to comply with the notice.

(8) The Minister may, for the purposes of this section and section 557, recognise a body that provides any educational or developmental service or facility, including a tertiary education organisation, as an educational body.

Compare: 1989 No 80 s 321

557 Educational bodies to keep accounts

(1) Every grant to an educational body must be paid under a funding agreement that specifies—

(a) the purpose of the grant; and

(b) any conditions attaching to it; and

(c) the reporting obligations of the recipient.

(2) If a grant has conditions, the educational body receiving the grant must—

(a) keep records (in respect of the year in which the grant was paid and the year after), in a manner approved by the Minister, that show fully and fairly—

(i) the effect of the grant on the financial transactions, assets, liabilities, and funds of the educational body; and

(ii) the educational body's compliance with the conditions; and

(b) ensure that the records are available for inspection at all reasonable times by a Ministry employee whom the Secretary has authorised for the purpose.

Compare: 1989 No 80 s 322

558 Reduction in grants if limits not met

When determining the amount of a grant payable to a board under section 550, the Minister—

(a) must have regard to the extent to which the Secretary has caused teachers employed at the relevant school to be paid salaries greater in total than the salaries that would have been payable if the board had complied with sections 581(1) and 583; and

(b) may, after consulting the board, reduce the amount that the grant would otherwise have been had the board complied.

Compare: 1989 No 80 s 91K

559 School transport

(1) The Secretary may assist in the provision of school transport by doing any of the following:

(a) paying registered schools, early childhood services, and certified playgroups to provide school transport for their students:

(b) arranging transport providers to provide school transport:

(c) contributing to the cost of parents providing school transport.

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

(3) In this section, **school transport** means the transport of students to and from—

(a) a registered school:

(b) an early childhood service:

(c) a certified playgroup:

(d) an educational activity that the Secretary has approved.

Compare: 1989 No 80 ss 139D, 446

Subpart 2—Property and assets

560 Centres situated on land owned by, or leased to, the Crown

(1) The operation of an early childhood education and care centre on land owned by, or leased to, the Crown, and the occupation by an early childhood education and care centre of any building on that land, may be governed by—

(a) a lease, tenancy, or licence between the Crown and the service provider who operates the centre under section 45 of the Public Works Act 1981; or

(b) a lease or licence between a board and the service provider; or

(c) a lease between a third party (to whom a lease has been granted by the Crown) and the service provider; or

(d) an occupancy document notified to the service provider who operates the centre by the Secretary.

(2) If subsection (1)(d) applies to an early childhood education and care centre, the following provisions also apply:

(a) the Secretary may direct the building of any capital works on that land that are intended for the centre's use:

(b) the service provider who operates the centre must—

(i) pay to the Secretary the rent for the time being charged by the Secretary; and

(ii) comply with standards of maintenance and capital works as determined by the Secretary:

(c) the service provider who operates the centre may not, without the Secretary's approval,—

(i) carry out any capital works on the land; or

(ii) grant any lease or sublease of, or grant any licence or permit in respect of, or assign any rights in respect of, or part with possession or control of, or allow any other person to share possession, control, or use of, the land or any other property of the Crown.

(3) The Secretary may amend an occupancy document by written notice to the service provider who operates the early childhood education and care centre.

(4) In this section, **lease** includes a sublease.

Compare: 1989 No 80 s 319J

561 Minister may declare land no longer needed for educational purposes

(1) The Minister may, by notice in the *Gazette*, declare any land of the Crown to be no longer needed for educational purposes.

(2) On publication of a notice under subsection (1), any land referred to in the notice that was, immediately before publication of the notice, held for a purpose set out in subsection (3), ceases to be held and may be disposed of as land no longer required for a public work.

(3) Subsection (2) applies to land held—

(a) for education or educational purposes; or

(b) for, or for the purposes of, a school or other educational institution (whether or not any particular school or institution); or

(c) for any purpose related to or connected with a school or other educational institution (whether or not any particular school or institution); or

(d) for any similar purpose.

Compare: 1989 No 80 s 71B

562 Rent for teachers' residences

(1) A teacher who is provided with a teacher's residence in respect of the teacher's teaching position must pay rent in accordance with a scheme prescribed by the Minister.

(2) A rental scheme under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 88A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must notify it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 562(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 562(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

563 Transfer of Crown assets and liabilities to institutions

(1) Despite any Act, rule of law, or agreement, the Minister may, on behalf of the Crown and on any terms and conditions the Minister agrees with an institution's chief executive, do any 1 or more of the following:

(a) transfer to an institution assets and liabilities of the Crown (being assets and liabilities relating to the activities to be carried on by the institution):

(b) vest in an institution any rights conferred by designations under operative district plans under the Resource Management Act 1991 applying to land transferred to the institution:

(c) grant to an institution leases, licences, easements, permits, or rights of any kind in respect of any assets or liabilities of the Crown.

(2) The Minister must, within 12 sitting days after taking any action under subsection (1)(a) or (b), present to the House of Representatives a copy of the document by which the action was taken.

(3) Assets that are fixed to, or are under or over, any land may be transferred to an institution under this section whether or not any interest in the land is also

transferred; but, if the asset is transferred, the asset and the land must be treated as separate assets each capable of separate ownership.

(4) Any asset or liability of the Crown may be transferred to an institution under this section whether or not any Act or agreement relating to the asset or liability permits the transfer or requires any consent to the transfer.

(5) If a transfer referred to in subsection (4) takes place,—

(a) the transfer does not entitle any person to terminate, alter, or in any way affect the rights or liabilities of the Crown or the institution under any Act or agreement:

(b) if the transfer is registrable, the person responsible for keeping the register must register the transfer as soon as practicable after written notice of the transfer is received by that person from any other person authorised for this purpose by the Minister:

(c) the presentation to the House of Representatives of any document relating to the transfer must be treated as notice of the transfer, and any third party must after the date of the document deal with the institution in place of the Crown:

(d) the Crown remains liable to any third party as if the asset or liability had not been transferred:

(e) any satisfaction or performance by the institution in respect of the asset or liability must also be treated as being satisfaction or performance by the Crown:

(f) any satisfaction or performance in respect of the asset or liability by any third party to the benefit of the institution must also be treated as being to the benefit of the Crown.

(6) No provision in any agreement limiting the Crown's right to sell any assets to third parties, or for determining the consideration for the sale of any assets to third parties, or obliging the Crown to account to any person for the whole or part of the proceeds of sale by the Crown of any assets to third parties, or obliging the Crown to pay a greater price than otherwise by reason of or as a consequence of the sale of any assets to third parties, may have any application or effect in respect of any agreement or transfer entered into or made under this section or under the agreement or transfer.

(7) If land, interests in land, licences, permits, or rights created on terms and conditions wholly or partly set out in any Act are transferred to an institution under this section, and the Governor-General has by Order in Council declared that this subsection applies in respect of that land or those interests, licences, permits, or rights, then the terms and conditions set out in the Act (whether or not repealed) and that are specified in the order (with all necessary modifications) continue to apply in respect of that land or those interests, licences, permits, or rights after the transfer unless the institution and the holders of that land or those interests, licences, permits, or rights otherwise agree.

(8) If any requirement has been made under section 168 of the Resource Management Act 1991 in respect of any work that has been transferred to an institution under this Act, the procedures specified in the Resource Management Act 1991 may be completed as if a Minister of the Crown continued to be financially responsible for the work and as if the work were a public work.

(9) *See* section 572(3) for the status of an order made for the purposes of subsection (7).

Compare: 1989 No 80 s 206

Section 563(1)(b): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 563(8): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 563(9): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

564 Transfer of land

(1) Crown land and any lands of the Crown other than lands registered under the Land Transfer Act 2017 that are to be transferred to an institution must—

(a) be identified by an adequate legal description, or on plans lodged in the office of the Chief Surveyor for the land district in which the land is situated (being plans certified as correct for the purposes of this section by that Chief Surveyor); and

(b) be approved by the Governor-General in Council and vest in the institution in accordance with, and on a date specified in, an Order in Council made for the purposes of this section.

(2) All land that is subject to the Land Act 1948 or the Forests Act 1949 and that is transferred to an institution under this Act must cease to be subject to the Land Act 1948 or the Forests Act 1949 from the date of that transfer, unless otherwise expressly provided by this Act or any other Act.

(3) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer of land to an institution under this Act; but sections 40 and 41 of that Act apply after the transfer to the land as if the institution were the Crown and the land had not been transferred under section 563 of this Act.

(4) Nothing in this Act or in any transfer of land to an institution under section 563 limits—

(a) section 3 of the Petroleum Act 1937:

(b) sections 10 and 11 of the Crown Minerals Act 1991:

(c) section 354 of the Resource Management Act 1991.

(5) *See* section 572(3) for the status of an order made for the purposes of subsection (1).

Compare: 1989 No 80 s 207

Section 564(4)(c): replaced, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

Section 564(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

565 Title to land

(1) The Registrar-General of Land must, on written application by any person authorised by the Minister and on payment of the prescribed fee,—

(a) register an institution as the owner, replacing the Crown, of the estate or the interest of the Crown in any land that is incorporated in the register or otherwise registered under the Land Transfer Act 2017 and that is transferred to the institution under section 563 of this Act; and

(b) make the entries in the register and generally do all the things required to give effect to this section.

(2) The powers conferred by subsection (1) may be exercised in respect of an estate or interest that is incorporated in the register owing to a lease or licence that has expired or has been determined.

(3) The Registrar-General of Land must, on written application by any person authorised by the Minister and on payment of the prescribed fee, issue a record of title for land vested in an institution under section 564(1).

(4) As soon as the land is registered in accordance with subsection (1) or a record of title is issued in accordance with subsection (3), the institution must, except where the interest acquired is either an easement in gross or an estate as lessee or mortgagee, be treated as being seised of an estate in fee simple in possession in respect of that land.

(5) Applications in accordance with subsections (1) and (3) must specify the name of the institution and the date of the approval under section 564(1)(b) of the land to be transferred, together with a description of the land sufficient to identify it and, in the case of applications under subsection (3), a certificate by the Chief Surveyor for the district concerned as to the correctness of the description.

Compare: 1989 No 80 s 208

566 Land certification

(1) Before the Registrar-General of Land issues a record of title in respect of any land vested in an institution under section 564(1), the Registrar-General of Land must either receive or request from the Surveyor-General, within the meaning of section 4 of the Cadastral Survey Act 2002, or any Chief Surveyor a certificate in the form set out in Schedule 2 of the Land Act 1948 as to the

legal description of the land, any trusts, reservations, or restrictions affecting the land, and any other matters that the Registrar-General of Land thinks fit.

(2) Where any land that has been vested in an institution under section 564(1), and for which no record of title has been issued in the name of that institution, is to be transferred to any other person, the Registrar-General of Land must, before issuing a record of title, either receive or request from the Surveyor-General, within the meaning of section 4 of the Cadastral Survey Act 2002, or any Chief Surveyor for a certificate in the form set out in Schedule 2 of the Land Act 1948 as to the legal description of the land, any trusts, reservations, or restrictions affecting the land, and any other matters that the Registrar-General of Land thinks fit.

Compare: 1989 No 80 s 209

567 Māori land claims

The submission in respect of any land or interest in land of a claim under section 6 of the Treaty of Waitangi Act 1975 does not prevent the transfer of that land or of any interest in that land or of that interest in land—

(a) by the Crown to an institution; or

(b) by an institution to any other person.

Compare: 1989 No 80 s 210

568 Registrar-General of Land to register memorial

(1) If any land or interest in land is transferred to an institution under section 563 or vested in an institution by an Order in Council made under section 572, the Registrar-General of Land must, without fee, note on the record of title "Subject to section 569 of the Education and Training Act 2020 (which provides for the resumption of land on the recommendation of the Waitangi Tribunal and which does not provide for third parties (for example, the owner of the land) to be heard in relation to the making of the recommendation)".

(2) Subsection (1) does not apply in relation to any piece of land or interest in land that is excluded under section 569(2) or (3).

Compare: 1989 No 80 s 211

569 Resumption of land on recommendations of Waitangi Tribunal

(1) If the Waitangi Tribunal has, under section 8A(2)(a) of the Treaty of Waitangi Act 1975, recommended the return to Māori ownership of any land or interest in land transferred to an institution under section 563 or vested in an institution by an Order in Council made under section 572, that land or interest in land must, if the recommendation has been confirmed with or without modifications under section 8B of that Act, be resumed by the Crown in accordance with section 570 and returned to Māori ownership.

(2) This section does not apply in relation to any piece of land that, at the date of its transfer to an institution under section 563 or the date of its vesting in an institution by an Order in Council made under section 572, was subject to—

(a) a deferred payment licence issued under the Land Act 1948; or

(b) a lease under which the lessee had the right of acquiring the fee simple.

(3) This section does not apply in relation to any piece of land or interest in land in respect of which a certificate issued under section 8E(1) of the Treaty of Waitangi Act 1975 has been registered.

Compare: 1989 No 80 s 212

570 Resumption of land to be acquired under Public Works Act 1981

(1) If section 569 requires any land or interest in land to be resumed by the Crown, the responsible Minister must acquire that land or interest in land under Part 2 of the Public Works Act 1981 as if it were land or an interest in land required for both Government work and a public work and Parts 2, 4, 5, 6, and 7 of that Act and Schedules 1, 3, 4, and 5 of that Act, subject to any necessary modifications, apply accordingly.

(2) The existence on the record of title to any land or interest in land acquired under subsection (1) of a memorial under section 568 may not be taken into account in any assessment of compensation made under the Public Works Act 1981 in relation to the acquisition of that land or interest in land.

(3) The power conferred by this section does not include the power to acquire or take and to hold under section 28 of the Public Works Act 1981 any interest in land described in section 8A(6) of the Treaty of Waitangi Act 1975.

Compare: 1989 No 80 s 213

571 Resumption of wāhi tapu

(1) If the Governor-General is satisfied that any land or interest in land held by an institution, being land or an interest in land transferred to that institution under section 563 or vested in that institution by an Order in Council made under section 572, is wāhi tapu, being land of special spiritual, cultural, or historical tribal significance, the Governor-General may, by Order in Council published in the *Gazette*, declare—

(a) that the land or interest in land is resumed by the Crown on a date specified in the order; and

(b) that, on the date of its resumption in accordance with the order, that land or interest in land is no longer liable to resumption under section 569.

(2) If any land or interest in land is resumed under subsection (1)(a),—

(a) the institution must transfer the land or interest in land to the Crown on the date specified in the order; and

(b) the Crown must pay to the institution in respect of the land or interest in land the compensation that would have been payable to the institution if, on the date specified in the order, the land or interest in land had, under section 570, been acquired by the relevant Minister under Part 2 of the Public Works Act 1981.

(3) Every memorandum of transfer executed in accordance with an order must—

(a) state that it is executed in accordance with the order; and

(b) give both the date of the order and the date of its publication in the *Gazette*.

(4) Upon its resumption under subsection (1), the land or interest in land must be dealt with in accordance with an agreement made between the Crown and the relevant iwi or, if they fail to agree, in accordance with any recommendation of the Waitangi Tribunal in accordance with a claim made under section 6 of the Treaty of Waitangi Act 1975.

(5) A resumption of land or of an interest in land under subsection (1)(a) is not a subdivision of land within the meaning of section 218 of the Resource Management Act 1991.

Compare: 1989 No 80 s 214

Section 571(5): amended, on 23 December 2023, by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68).

572 Orders in Council relating to transfer of assets and liabilities

(1) For the purpose of facilitating the transfer of assets and liabilities to an institution under section 563, the Governor-General may, by Order in Council, do any 1 or more of the following:

(a) vest in or impose on an institution any asset or liability (other than land to which section 564(1) applies), or any class of asset or liability, that the institution has agreed to have transferred to it:

(b) vest land in an institution for the purposes of section 564(1):

(c) declare that a reference to the Crown or a Minister, officer, employee, department, or instrument of the Crown in any or all regulations, orders, notices, or documents is to be treated as being, or to include, a reference to an institution specified in the order:

(d) declare that an institution must assume or continue to have the rights and obligations of the Crown or a Minister, officer, employee, department, or instrument of the Crown in respect of applications for rights, objections, or proceedings before any court, authority, or other person, being rights and obligations that the institution has agreed to assume:

(e) declare, in respect of any assets or liabilities transferred to an institution under section 563, that the institution is to be treated as having specified rights or obligations in respect of those assets or liabilities, being rights

or obligations that are required in respect of those assets or liabilities as a result of the change of ownership or responsibility from the Crown to the institution:

(f) declare that any order made under this section is to be treated as being notice to all persons, and that specific notice need not be given to any authority or other person:

(g) direct any authority or other person to register or record the vesting or declaration.

(2) Every order made under this section may be made on the terms and conditions that the Governor-General thinks fit, and has effect according to its terms.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 215

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 572(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

573 Effect of disestablishment of institution

(1) If an institution is disestablished, the following provisions apply.

(2) The institution and the council of the institution cease to exist.

(3) A person who would, but for the disestablishment of the institution, have been entitled to be granted an award of the institution is entitled to be granted an equivalent award,—

(a) if the institution is incorporated into another institution, of the other institution; or

(b) otherwise, of any institution that the Secretary directs.

(4) A person who has partially completed a programme at the disestablished institution leading to an award is entitled—

(a) to enrol in a similar programme at—

(i) another institution if the disestablished institution is incorporated into that institution; or

(ii) any other institution that the Secretary directs to enrol the person; and

(b) to be granted the status, and the credit for work performed at the disestablished institution, as the council of the other institution, after consulting NZQA, thinks fit.

(5) If the disestablished institution is, immediately upon its disestablishment, incorporated into another institution,—

(a) all real and personal property that, immediately before the disestablishment, was vested in the disestablished institution (including property held on trust) is vested in the other institution subject to all charges, encumbrances, estates, and interests, and any enactment, affecting that property; and

(b) the other institution becomes liable to pay and discharge all the debts, liabilities, and obligations of the disestablished institution that existed immediately before its disestablishment.

(6) If the disestablished institution is not, immediately upon its disestablishment, incorporated into another institution,—

(a) all real and personal property that, immediately before the disestablishment, was vested in the council of the disestablished institution (including property held on trust) is vested in the Minister subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property; and

(b) the Minister becomes liable to pay and discharge all the debts, liabilities, and obligations of the council of the disestablished institution that existed immediately before its disestablishment.

(7) If any real or personal property that was held by a disestablished institution on trust vests in the Minister under subsection (6)(a), the Minister may appoint another institution to be the trustee of that property.

(8) If any land vests in an institution or in the Minister under this section, the Registrar-General of Land, on the deposit with the Registrar-General of the plans and documents that the Registrar-General may require, must make the entries in the register and generally do all the other things necessary to give full effect to this section.

(9) Any contract or other instrument (other than a contract of, or instrument relating to, employment) subsisting, or any proceeding pending, immediately before the disestablishment of an institution to which the institution was a party has effect after the disestablishment as if—

(a) the institution into which the disestablished institution is incorporated or the Minister is substituted for the disestablished institution as a party to the contract, other instrument or proceeding; and

(b) any reference in the contract or other instrument, or in a pleading, affidavit or other document in the proceeding, to the disestablished institution in its capacity as a party to the contract, other instrument or proceeding

is (except in relation to matters that occurred before the disestablishment) a reference to the institution in which the disestablished institution is incorporated or the Minister.

(10) Despite subsection (2), the council of the disestablished institution continues in existence for the purpose of complying, or facilitating compliance, with Part 4 of the Crown Entities Act 2004 and section 306 of this Act in relation to any academic year of the institution and,—

(a) if the institution is incorporated into another institution, the council of the other institution; or

(b) otherwise, the Secretary,—

must give to the council of the disestablished institution any assistance that the council requires for the purpose of complying with its obligations under those provisions and is responsible for paying any expenses incurred by the council (including remuneration and expenses of members of the council) in so complying.

Compare: 1989 No 80 s 217

574 Taxes and duties where disestablished institution incorporated into another institution

(1) For the purposes of the Acts specified in Schedule 1 of the Tax Administration Act 1994 and any other enactment that imposes, or provides for the collection of, a tax, duty, levy, or other charge,—

(a) a disestablished institution referred to in section 398ZC(1) or 573(5) and the other institution referred to in those provisions must be treated as being the same person with effect on and from the date on which the real and personal property of the disestablished institution vests in the other institution under that section; and

(b) in respect of the liability under 1 or more of those enactments for, and the assessment, determination, or imposition of, taxes, duties, levies, or other charges accruing on and from the day on which the real and personal property of the disestablished institution so vests in the other institution, all transactions entered into by, and acts of, the disestablished institution before the vesting under section 398ZC(1) or 573(5) must be treated as having been entered into by, or to be those of, the other institution and to have been entered into or performed by the other institution at the time when they were entered into or performed by the disestablished institution.

(2) For the purposes of determining a matter referred to in subsection (3), shares held by a disestablished institution in any company (whether directly or through any 1 or more interposed companies) immediately before the vesting under section 573(6) must be treated as having been acquired by the Minister at the time when they were acquired by the disestablished institution.

(3) The matters are whether—

(a) any taxpayer satisfies the requirements of section IA 5(2) of the Income Tax Act 2007:

(b) any taxpayer is included in a group of companies or a wholly-owned group for the purposes of section IA 6 of the Income Tax Act 2007:

(c) any debit arises to be recorded in a taxpayer's imputation credit account under section OB 41 of the Income Tax Act 2007.

(4) The vesting of all the real and personal property of a disestablished institution in another institution under section 398ZC(1) or 573(5) may not be treated as a supply of any goods or services for the purposes of the Goods and Services Tax Act 1985, or as a disposition of property for the purposes of the Estate and Gift Duties Act 1968.

(5) Nothing in subsection (2) or (4) limits the generality of subsection (1).

Compare: 1989 No 80 s 218

Section 574(1)(a): amended, on 23 August 2023, by section 13(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 574(1)(b): amended, on 23 August 2023, by section 13(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 574(4): amended, on 23 August 2023, by section 13(2) of the Education and Training Amendment Act 2023 (2023 No 45).

575 Taxes and duties in other cases

(1) For the purposes of the Acts specified in Schedule 1 of the Tax Administration Act 1994 and any other enactment that imposes, or provides for the collection of, a tax, duty, levy, or other charge,—

(a) a disestablished institution referred to in section 398ZC(2) or 573(6) and the Minister must be treated as being the same person with effect on and from the date on which the real and personal property of the disestablished institution vests in the Minister under that section; and

(b) in respect of the liability under 1 or more of those enactments for, and the assessment, determination, or imposition of, taxes, duties, levies, or other charges accruing on and from the day on which the real and personal property of the disestablished institution so vests in the Minister, all transactions entered into by, and acts of, the disestablished institution before the vesting under section 398ZC(2) or 573(6) must be treated as having been entered into by, or to be those of, the Minister and to have been entered into or performed by the Minister at the time when they were entered into or performed by the disestablished institution.

(2) For the purposes of determining a matter referred to in subsection (3), shares held by a disestablished institution in any company (whether directly or through any 1 or more interposed companies) immediately before the vesting under section 398ZC(2) or 573(6) must be treated as having been acquired

by the Minister at the time when they were acquired by the disestablished institution.

(3) The matters are whether—

(a) any taxpayer satisfies the requirements of section IA 5(2) of the Income Tax Act 2007:

(b) any taxpayer is included in a group of companies or a wholly-owned group for the purposes of section IA 6 of the Income Tax Act 2007:

(c) any debit arises to be recorded in a taxpayer's imputation credit account under section OB 41 of the Income Tax Act 2007.

(4) The vesting of all the real and personal property of a disestablished institution in the Minister under section 398ZC(2) or 573(6) may not be treated as a supply of any goods or services for the purposes of the Goods and Services Tax Act 1985, or as a disposition of property for the purposes of the Estate and Gift Duties Act 1968.

(5) Nothing in subsection (2) or (4) limits the generality of subsection (1).

Compare: 1989 No 80 s 219

Section 575(1)(a): amended, on 23 August 2023, by section 14 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 575(1)(b): amended, on 23 August 2023, by section 14 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 575(2): amended, on 23 August 2023, by section 14 of the Education and Training Amendment Act 2023 (2023 No 45).

Section 575(4): amended, on 23 August 2023, by section 14 of the Education and Training Amendment Act 2023 (2023 No 45).

575A Taxes and duties where assets and liabilities of disestablished institution vested in iwi or Māori

(1) For the purposes of the Acts specified in Schedule 1 of the Tax Administration Act 1994, and of any other enactment that imposes, or provides for the collection of, a tax, duty, levy, or other charge,—

(a) a disestablished wānanga referred to in section 398ZC(4) and the iwi or Māori concerned must be treated as being the same person with effect on and from the date on which the real and personal property of the disestablished wānanga vests in the iwi or Māori under that section; and

(b) in respect of the liability under 1 or more of those enactments for, and the assessment, determination, or imposition of, taxes, duties, levies, or other charges accruing on and from the day on which the real and personal property of the disestablished wānanga vests in the iwi or Māori concerned, all transactions entered into by, and acts of, the disestablished wānanga before the vesting under section 398ZC(4) must be treated as having been entered into by, or to be those of, the iwi or Māori concerned and to have been entered into or performed by those iwi or

Māori at the time when they were entered into or performed by the disestablished wānanga.

(2) For the purposes of determining a matter referred to in subsection (3), shares held by a disestablished wānanga in any company (whether directly or through any 1 or more interposed companies) immediately before the vesting under section 398ZC(4) must be treated as having been acquired by the iwi or Māori concerned at the time when they were acquired by the disestablished wānanga.

(3) The matters are whether—

(a) any taxpayer satisfies the requirements of section IA 5(2) of the Income Tax Act 2007:

(b) any taxpayer is included in a group of companies or a wholly-owned group for the purposes of section IA 6 of the Income Tax Act 2007:

(c) any debit arises to be recorded in a taxpayer's imputation credit account under section OB 41 of the Income Tax Act 2007.

(4) The vesting of all the real and personal property of a disestablished wānanga in the iwi or Māori concerned under section 398ZC(4) may not be treated as a supply of any goods or services for the purposes of the Goods and Services Tax Act 1985, or as a disposition of property for the purposes of the Estate and Gift Duties Act 1968.

(5) Nothing in subsection (2) or (4) limits subsection (1).

Compare: 1989 No 80 s 219

Section 575A: inserted, on 23 August 2023, by section 15 of the Education and Training Amendment Act 2023 (2023 No 45).

School risk management schemes

576 School risk management scheme

(1) The Minister may, in accordance with this section, establish a school risk management scheme for the purpose of indemnifying participating boards—

(a) against accidental loss or damage to property of the participating boards:

(b) for any other purpose authorised by regulations made under section 642.

(2) An indemnity under the school risk management scheme must be given in a form and contain terms and conditions authorised by regulations made under this Act.

(3) A participating board is liable to pay to the Crown the annual fee set under section 577.

(4) The Minister may, on giving reasonable notice to all participating boards, discontinue a school risk management scheme and direct the Secretary to wind up the scheme.

Compare: 1989 No 80 s 78D

577 School risk management scheme fee

(1) In respect of each year during which a school risk management scheme has effect, the Minister must, by notice, set the amount of the annual fee payable by a participating board or the rate at which the amount is to be assessed.

(2) The purpose of the annual fee is to recover the administration, insurance, and claims costs of the scheme.

(3) The Secretary must deduct the fee from grants made to the participating board under section 550.

(4) The Secretary must establish a separate bank account for the purposes of this section, and—

(a) all fees deducted under subsection (3) must be paid into the account; and

(b) the Secretary may authorise payments to be made from the account for the purposes of administering the scheme.

(5) If the school risk management scheme is discontinued, the money held in the separate account after the scheme has been wound up must be paid into a Crown Bank Account in accordance with any directions of the Secretary to the Treasury.

(6) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 78E

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 577(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 577(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 3—Payment of salaries

578 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.

(2) A board must use the payroll service unless the Secretary directs otherwise.

(3) A board required 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.

Compare: 1989 No 80 s 89

579 Salaries of teachers at certain schools to be paid by the Crown

(1) Despite any other provision in this Act, the Secretary must cause to be paid out of money appropriated by Parliament for the purpose the salaries of all regular teachers employed at payrolled schools.

(2) This section applies to State schools apart from distance schools.

Compare: 1989 No 80 s 91C

580 Restrictions on payment of salaries of regular teachers by boards of payrolled schools

A board may not pay all or any part of the salary of a regular teacher in respect of employment at a payrolled school it administers unless—

(a) the Minister has consented to the payment, and

(b) the board complies with the conditions of the consent (if any).

Compare: 1989 No 80 s 91F

581 Payment of salaries of relieving teachers and employment-based trainee teachers

(1) Boards must pay the salaries of relieving teachers and employment-based trainee teachers employed at schools they administer.

(2) However, the Secretary must cause the salary of a relieving teacher or an employment-based trainee teacher to be paid out of money appropriated by Parliament for the purpose if, under an order under subsection (3), the employment to which the payment relates justifies the central payment of the salary.

(3) The Governor-General may, by Order in Council, specify the circumstances in which the employment of a relieving teacher or an employment-based trainee teacher justifies the central payment of the teacher's salary—

(a) immediately; or

(b) after employment for an initial specified period of consecutive school days on which the school at which the teacher is employed is open for instruction.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 91G

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)

Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 581(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

582 Limits on appointment and employment of regular teachers at payrolled schools

(1) To limit the financial liability of the Crown under section 579, the Governor-General must in every year, by Order in Council, prescribe limits on the number of regular teachers who may be employed at payrolled schools during the next year.

(2) The order may do any 1 or more of the following:

(a) apply different limits to different types of school or to particular schools:

(b) impose limits on the numbers of particular types of teachers who may be employed:

(c) set out 1 or more mechanisms by which the applicable limits are calculated:

(d) specify—

(i) the circumstances in which the Secretary may exempt a school or type of school from a limitation:

(ii) any conditions that apply to the exemption.

(3) An order under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) If an order authorises the Secretary under subsection (2)(d) to grant exemptions in respect of a type of school,—

(a) instruments granting those exemptions are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the order must contain a statement to that effect.

Compare: 1989 No 80 s 91H

Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)(a)

Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (3)	LA19 ss 73, 74, Sch 1 cl 14

Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 582(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 582(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

583 Boards to comply with limit

If an order made under section 582 applies, a board must ensure that the appointment and employment of teachers at the school are in accordance with any limit in that order while it applies.

Compare: 1989 No 80 s 91J

584 Secretary may grant exemptions in individual cases

Despite section 583,—

(a) the Secretary may, in accordance with any conditions specified in an order made under section 582, by written notice to a board,—

(i) exempt the board from any limitation that the order imposes; or

(ii) amend or revoke the notice; and

(b) the board may appoint and employ teachers at the school in accordance with the notice.

Compare: 1989 No 80 s 91I

Subpart 4—Employment matters

Education service

585 Application of Employment Relations Act 2000

Except as otherwise provided in this subpart, the Employment Relations Act 2000 applies in relation to the education service.

Compare: 1988 No 20 s 73

586 Negotiation of conditions of employment

(1) Except as provided in section 593, the Public Service Commissioner is responsible for negotiating under the Employment Relations Act 2000 every collective agreement applicable to employees in the education service as if the Commissioner were the employer.

(2) Without limiting subsection (1), for the purposes of initiating bargaining for a collective agreement, good-faith bargaining for a collective agreement, and entering into collective agreements,—

(a) the Public Service Commissioner has the same rights, duties, and obligations under the Employment Relations Act 2000 as the Commissioner would have if the Commissioner were the employer; and

(b) employees in the education service are to be treated as if they were all employees of the Commissioner.

(3) Unless otherwise directed in writing by the Public Service Commissioner, an employer in the education service may not lock out employees or suspend striking employees in relation to negotiations by the Commissioner for a collective agreement applicable to those employees.

(4) The Public Service Commissioner must conduct the negotiations—

(a) with a union of which the employees are members; and

(b) in consultation with—

(i) the Secretary; and

(ii) representatives of the employer or employers who are to be bound by the collective agreement, which representatives must be employers, or organisations of employers, of persons employed in the education service.

(5) Every collective agreement must be entered into between—

(a) the Public Service Commissioner; and

(b) a union of which the employees to whom the collective agreement is applicable are members.

(6) Every collective agreement entered into between the Public Service Commissioner and any union and relating to employees in the education service is binding on—

(a) the employers of the employees to whom the collective agreement is applicable; and

(b) the employees in the education service who are, or who become, members of the union.

(7) Except as provided in this section, an employer who is bound by a collective agreement under subsection (6) has the rights, obligations, and duties that the employer would have, in respect of that collective agreement, under the Employment Relations Act 2000 as if that employer were a party to that agreement.

Compare: 1988 No 20 s 74

Section 586(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 586(2)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 586(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 586(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 586(5)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 586(6): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

587 Public Service Commissioner's powers when collective agreements are negotiated

(1) During the negotiations for a collective agreement that is to bind any employees of a board, the Public Service Commissioner has, for the purpose of those negotiations, all the rights, duties, and powers of an employer under the Employment Relations Act 2000 in respect of those employees.

(2) To avoid doubt and without limiting subsection (1), the powers referred to in that subsection include the power to lock out or suspend employees.

(3) Despite subsection (1), in the case of employees who are members of a union, the Public Service Commissioner may, where there is a strike, exercise the power of suspension by advising the union of the class or classes of employees who are, or are to be, suspended, and, if the union is so advised, the suspension takes effect on the date specified for the purpose in the advice, and the Commissioner need not—

(a) separately advise any employee who is included in a class; or

(b) comply with section 89 of the Employment Relations Act 2000.

(4) In any case where the Public Service Commissioner has suspended or locked out an employee under this section, the Commissioner may, at the Commissioner's discretion, give either or both of the following directions:

(a) that the employee is not to be remunerated in respect of the period of the suspension or lockout:

(b) that any amount paid to the employee in respect of that period be deducted from any remuneration otherwise payable to the employee.

(5) Any direction under subsection (4)—

(a) may be given to any person responsible for effecting payments or transfers of sums of money required for the remuneration of the employee; and

(b) must be followed by the person.

(6) The Public Service Commissioner may give any notice that, as a result of a direction under subsection (4)(b), is required to be given to an employee under section 6(3)(b) of the Wages Protection Act 1983.

(7) Subsection (1)—

(a) overrides section 601(2); and

(b) is subject to sections 589 and 590.

Compare: 1988 No 20 s 74AA

Section 587 heading: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 587(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 587(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 587(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 587(6): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

588 Boards indemnified by Public Service Commissioner

(1) If, in any claim or proceedings, a board becomes liable for costs or damages that arise from the exercise or purported exercise of any of the powers conferred on the Public Service Commissioner by section 587, the Commissioner must, out of money appropriated for the purpose by Parliament, indemnify the board for those costs or damages.

(2) However, a board may not be indemnified for any costs or damages to the extent that those costs or damages arise out of conduct of the board that, in the reasonable opinion of the Public Service Commissioner,—

(a) is not in good faith; or

(b) is engaged in without reasonable care.

Compare: 1988 No 20 s 74AB

Section 588 heading: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 588(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 588(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

589 Strikes in schools to be notified

(1) A strike by employees of any board is not lawful for the purposes of the Employment Relations Act 2000 unless the Public Service Commissioner and each board are given notice in written or electronic form of the proposed strike 3 days before the commencement of the proposed strike.

(2) The notice required by subsection (1) must state—

(a) the nature of the proposed strike, including whether or not the proposed action is to be continuous; and

(b) the school or schools that are to be affected by the proposed strike; and

(c) the period of the proposed strike, which is to be specified by giving—

(i) the date on and time at which the proposed strike is to commence; and

(ii) the date on and time at which, or an event on the occurrence of which, the proposed strike is to end.

(3) The notice must be signed by a representative of the employees' union.

(4) Unless the notice is withdrawn before the commencement of the strike, every employee is, throughout the period stated in the notice, to be treated as participating in the strike if—

(a) the employee's duties are normally performed in a school affected by the strike; and

(b) the strike relates to the negotiation of a collective agreement that is to bind the employee; and

(c) the employee's name has not been notified to the Public Service Commissioner in a current notice given under section 590.

(5) A notice required under subsection (1) may be withdrawn by a representative of the employees' union giving written or electronic notice of the withdrawal to the Public Service Commissioner and each board.

(6) This section is in addition to, and does not limit or affect, the Employment Relations Act 2000.

Compare: 1988 No 20 s 74AC

Section 589(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 589(4)(c): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 589(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

590 Boards to notify Public Service Commissioner about participation in strikes

(1) As soon as practicable after the commencement of a strike notified under section 589, the board of each school to which the notice relates must—

(a) provide the Public Service Commissioner with a list of the names of the employees of the board who are not participating in the strike notified by the notice; and

(b) notify each of those employees that they have been included in the list.

(2) A board that has complied, or is to comply, with subsection (1) must, at the written direction of the Public Service Commissioner, provide the Commissioner with any information required by the Commissioner about the conduct of the strike to which the notice under section 589 relates.

(3) Information under subsection (2) may, without limitation, include, or consist of, information about the number of hours worked by any employee or any class of employee.

(4) The Public Service Commissioner may, at the Commissioner's discretion, require a board to inform the Commissioner, by a specified date, about the board's compliance with this section or any directions given under it.

(5) If the Public Service Commissioner has reasonable grounds for believing that a board has failed to comply with this section or any directions given under it, the Commissioner may report those grounds to the Minister.

Compare: 1988 No 20 s 74AD

Section 590 heading: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 590(1)(a): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 590(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 590(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 590(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

591 Personal grievances and disputes

Despite section 586,—

(a) in relation to a personal grievance, the employer is the employer as defined in section 10(7); and

(b) in relation to a dispute about the interpretation, application, or operation of any collective agreement, the employer is the employer as defined in section 10(7), acting, if the Public Service Commissioner so requires, together or in consultation with the Commissioner; and

(c) in relation to any other employment relationship problem (within the meaning of section 5 of the Employment Relations Act 2000), the employer is the employer as defined in section 10(7).

Compare: 1988 No 20 s 74A

Section 591(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

592 Delegation of Public Service Commissioner's powers

(1) The Public Service Commissioner may delegate, in writing, any of the Commissioner's powers specified in section 586 to—

(a) an employer; or

(b) any organisation of employers of persons employed in the education service.

(2) If the Public Service Commissioner, acting under subsection (1), delegates to an employer or an organisation of employers the function, under section 586(1), of conducting negotiations with a union of which the employees are members, the employer or organisation of employers must conduct those negotiations in consultation with—

(a) the Commissioner; and

(b) the Secretary.

(3) Nothing in this section limits clause 6 of Schedule 3 of the Public Service Act 2020.

Compare: 1988 No 20 s 74B

Section 592 heading: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 592(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 592(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 592(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

593 Negotiation of conditions of employment for employees of institutions

(1) The chief executive of each institution is responsible, individually or jointly through an organisation of employers of persons employed in an institution, for negotiating under the Employment Relations Act 2000 collective agreements that are applicable to a group of employees in an institution.

(2) Before entering into a collective agreement under the Employment Relations Act 2000, the chief executive of each institution or an organisation of employers representing jointly the chief executives, must consult the Public Service Commissioner about the conditions of employment to be included in the collective agreement.

Compare: 1988 No 20 s 74C(3)

Section 593(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

594 Senior positions at institutions

[Repealed]

Section 594: repealed, on 23 August 2023, by section 33 of the Education and Training Amendment Act 2023 (2023 No 45).

595 Actual conditions of employment

(1) The Public Service Commissioner may declare that all or any part of the conditions of employment fixed under a collective agreement for persons employed in the education service are to be the actual conditions of employment.

(2) The Public Service Commissioner may, in addition to the actual conditions declared under subsection (1), approve further conditions of employment for

an individual employee who is employed in the education service under a collective agreement if the conditions are—

(a) mutually agreed by the employee and their employer; and

(b) not inconsistent with the conditions of the collective agreement.

(3) The conditions of employment of employees in the education service who are not bound by any collective agreement must be determined in each case by agreement between the employer and the individual employee, but the employer must obtain the written concurrence of the Public Service Commissioner to the conditions of employment with that individual employee.

(4) The Public Service Commissioner, in carrying out the function under subsection (3), may promulgate in writing to employers, either generally or specifically, the conditions of employment for persons who are to have their conditions of employment determined in accordance with that subsection.

(5) Where the conditions of employment agreed between the employer and the person to be appointed comply with the conditions of employment promulgated by the Public Service Commissioner, the employer must, without any further action, be treated as having obtained the written concurrence of the Commissioner with those conditions of employment.

(6) In this section, **education service** excludes service in the employment of an institution.

Compare: 1988 No 20 s 75

Section 595(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 595(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 595(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 595(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 595(5): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

596 Personal liability of education service chief executives and employees

Education service chief executives and employees are not personally liable for any act done or omitted by the education service chief executives or employees—

(a) in good faith; and

(b) in the performance or intended performance of the functions of the education service chief executives or employees.

Compare: 1988 No 20 s 77

Personnel provisions in relation to education service

597 General principles

(1) Every employer in the education service must—

(a) operate an employment policy that complies with the principle of being a good employer; and

(b) make that policy (including the equal employment opportunities programme) available to its employees; and

(c) ensure its compliance with that policy (including its equal employment opportunities programme) and report in its annual report (if any) on the extent of its compliance.

(2) In this section, **good employer** means an employer who operates an employment policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

(a) good and safe working conditions; and

(b) an equal employment opportunities programme; and

(c) the impartial selection of suitably qualified persons for appointment; and

(d) recognition of—

(i) the aims and aspirations of Māori; and

(ii) the employment requirements of Māori; and

(iii) the need for greater involvement of Māori in the education service; and

(e) opportunities for the enhancement of the abilities of individual employees; and

(f) recognition of the aims and aspirations and employment requirements, and the cultural differences, of ethnic or minority groups; and

(g) recognition of the employment requirements of women; and

(h) recognition of the employment requirements of persons with disabilities.

(3) In addition to the requirements specified in subsections (1) and (2), each employer must ensure that all employees maintain proper standards of integrity, conduct, and concern for—

(a) the public interest; and

(b) the well-being of students attending the place of education.

Compare: 1988 No 20 s 77A

598 Code of conduct

(1) The Secretary may issue a code of conduct covering the minimum standards of integrity and conduct that are to apply in the education service.

(2) The Secretary may issue separate codes of conduct under this section to apply to different parts of the education service.

(3) Before the Secretary issues a code of conduct under this section, the Secretary must consult—

(a) representatives of the employers whose employees are to be bound by the code of conduct, which representatives must be employers, or organisations of employers, of persons employed in the education service; and

(b) the organisations of employees employed in the education service that represent the employees who are to be bound by the code of conduct; and

(c) the Public Service Commissioner, and must have regard to any code of conduct issued by the Commissioner under section 17 of the Public Service Act 2020.

(4) Nothing in this section prevents an employer from prescribing standards of integrity or conduct that are to apply to that employer's employees (being standards that are not inconsistent with any code of conduct issued by the Secretary under this section and that apply in relation to employees of that employer).

(5) Nothing in this section applies to any institution.

Compare: 1988 No 20 s 77B

Section 598(3)(c): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

599 Performance of teachers

(1) The Secretary may prescribe matters that are to be taken into account by employers in assessing the performance of teachers.

(2) Before the Secretary prescribes any matters under subsection (1), the Secretary must consult—

(a) the Teaching Council; and

(b) the chief executive of the Education Review Office; and

(c) representatives of employers of teachers; and

(d) the organisations of teachers that represent teachers who are to be subject to the matters prescribed under this section.

(3) Nothing in this section prevents an employer from prescribing matters to be taken into account in assessing the performance of teachers employed by that employer (being matters that are not inconsistent with any matters prescribed under this section by the Secretary and that apply to teachers employed by that employer).

(4) Nothing in this section applies to any teachers employed in any institution, or any early childhood service that is not a free kindergarten.

Compare: 1988 No 20 s 77C

600 Equal employment opportunities

The Secretary is responsible for promoting, developing, and monitoring equal employment opportunities policies and programmes in the education service.

Compare: 1988 No 20 s 77D

601 Employees in education service

(1) Subject to this Act, each employer—

(a) may appoint any employees (including acting, temporary, casual, or relieving employees) that the employer thinks necessary for the efficient performance or exercise of the functions, duties, and powers of the place of education; and

(b) may, subject to any conditions of employment included in the employment agreement applying to the employee, remove any employee from that employee's employment.

(2) Unless expressly provided to the contrary in this Act, the employer has all the rights, duties, and powers of an ordinary employer in respect of the persons employed in that place of education.

Compare: 1988 No 20 s 77E

601A Lawful instruction regarding charter school services

(1) The board of a State school may require a person employed by the board at the school to provide services to a charter school (a **recipient school**) or a charter school student if that requirement would be a lawful and reasonable instruction but for the recipient school being a charter school, or the student being enrolled at a charter school.

(2) This section overrides anything to the contrary in—

(a) the Employment Relations Act 2000; and

(b) a relevant employment agreement.

Section 601A: inserted, on 1 October 2024, by section 57 of the Education and Training Amendment Act 2024 (2024 No 40).

602 Duty to act independently

In matters relating to decisions on individual employees (whether matters relating to the appointment, promotion, demotion, transfer, disciplining, or the cessation of the employment of any employee, or other matters), the employer must act independently.

Compare: 1988 No 20 s 77F

603 Appointments on merit

An employer in making an appointment under this Act must give preference to the person who is best suited to the position.

Compare: 1988 No 20 s 77G

604 Obligation to notify vacancies

If an employer intends to fill a position that is vacant or is to become vacant in a place of education (other than with an acting, temporary, casual, or relieving employee), the employer must, when practicable, notify the vacancy or prospective vacancy in a manner sufficient to enable suitably qualified persons to apply for the position.

Compare: 1988 No 20 s 77H

605 Restriction of compensation for technical redundancy arising from closure or merger of schools

(1) An employee in a school is not entitled to receive any payment or other benefit on the ground that the employee's position in the school (the **previous position**) has ceased to exist because the school is affected by a merger under section 206 or is closed under section 199 and, before the date on which the merger or the closure takes effect,—

(a) the employee is offered in writing employment in an equivalent position (whether or not the employee accepts the offer) in the continuing school or in the replacement school or in another school directly affected by the merger or the closure; or

(b) the employee is offered in writing, and accepts, employment in any other position in the continuing school or in the replacement school or in another school directly affected by the merger or the closure.

(2) The Minister may determine whether a school is directly affected by a closure or merger, and that determination is binding on all parties.

(3) Subsection (1)(b) is subject to any contrary provision in an employment agreement that provides for a payment on the ground that the employee's position has ceased to exist, but only if that payment is less than the amount that would otherwise be payable in any case to which subsection (1) does not apply.

(4) A collective agreement that binds employees in schools may provide, consistently with subsection (1), for the manner in which that subsection is to apply to those employees.

(5) In this section, **employment in an equivalent position**, in relation to the employee's previous position, means employment that—

(a) is generally similar in role, duties, and status; and

(b) requires similar qualifications, training, skills, and experience, but may have a different title; and

(c) is in the same general locality; and

(d) is on terms and conditions of employment that are no less favourable than those that applied to the employee immediately before the offer of employment (including any service-related redundancy conditions and superannuation conditions); and

(e) is on terms that treat the period of service with the school in which the previous position was held (and any other period of service recognised for the purposes of the previous position as continuous service) as if it were continuous service for the purposes of the position offered to the employee.

Compare: 1988 No 20 s 77HA

606 Appointment of employees following closure or merger of schools

(1) Sections 603 and 604 do not apply to an appointment of an employee to a position in a school if—

(a) the appointment is made in connection with the closure of a school under section 199 or the merger of schools under section 206; and

(b) the position that the employee previously held has ceased to exist as a result of the closure or merger.

(2) Subsection (1) does not apply to the appointment of an employee to the position of principal.

Compare: 1988 No 20 s 77HB

607 Acting appointments

(1) In the case of absence from duty of any employee (from whatever cause arising) or on the occurrence from any cause of a vacancy in any position with an employer (whether by reason of death, resignation, or otherwise) and while the absence or vacancy continues, all or any of the powers and duties of the employee or pertaining to the position may be exercised and performed by any other employee for the time being directed by the employer to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it continues.

(2) No direction and no acts done by any employee acting under a direction may, in any proceedings, be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the employee has not been appointed to any position to which the direction relates.

Compare: 1988 No 20 s 77I

Senior appointments in institutions

608 Chief executives of institutions

Despite anything to the contrary in any other enactment, the appointment and conditions of employment of every chief executive of an institution must be determined under this subpart.

Compare: 1988 No 20 s 77IA

609 Appointment of chief executive

(1) Subject to section 610, each council of an institution must appoint its chief executive in accordance with this section.

(2) Where there is a vacancy or an impending vacancy in the position of chief executive of an institution, the council of the institution must notify the vacancy or impending vacancy in the manner that it thinks sufficient to enable suitably qualified persons to apply for the position.

(3) The council may—

(a) examine applicants for the position; and

(b) seek advice from the sources that it considers relevant.

(4) The council may invite any other persons that it thinks fit to assist it to decide on the person to be appointed, and any person so invited may take part in the examination of applicants or in the council's deliberations on the matter, or in both.

(5) In deciding upon the person to be appointed as chief executive, the council must have regard to the need to appoint a person who can—

(a) discharge the specific responsibilities placed on the chief executive; and

(b) imbue the employees with a spirit of service to the institution and to the community; and

(c) promote efficiency; and

(d) manage the institution in a responsible manner that reflects the needs of academic freedom, accountability, and the proper use of resources; and

(e) maintain appropriate standards of integrity and conduct among employees and ensure the well-being of students attending the institution; and

(f) ensure that the institution is a good employer; and

(g) promote equal employment opportunities.

Compare: 1988 No 20 s 77IB

610 Reappointment of chief executive

A council may reappoint its existing chief executive for a further term without first notifying the impending vacancy or examining other applicants.

Compare: 1988 No 20 s 77IC

611 Conditions of employment of chief executive

(1) A chief executive must be appointed for a term of not more than 5 years.

(2) A chief executive is eligible for reappointment.

(3) Except where specific conditions of employment for a chief executive are provided in this Act, the conditions of employment for a chief executive must

be determined in each case by agreement between the council of the institution and the chief executive, but,—

(a) in the case of a wānanga that is a Crown entity, the council must consult the Public Service Commissioner on the conditions of employment before finalising them with the chief executive or amending any or all of the conditions once they have been finalised:

(b) in the case of any other institution, the council must obtain the written agreement of the Public Service Commissioner to the conditions of employment before finalising them with the chief executive or amending any or all of the conditions once they have been finalised.

Compare: 1988 No 20 s 77ID

Section 611(3): replaced, on 23 August 2023, by section 16 of the Education and Training Amendment Act 2023 (2023 No 45).

612 Removal from office

The council, for just cause or excuse, may remove the chief executive from office.

Compare: 1988 No 20 s 77IE

613 Acting chief executive

(1) All or any of the functions, powers, and duties of the chief executive or relating to the position may be exercised and performed by an employee for the time being directed by the council of the institution to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it continues if—

(a) a vacancy in the position of chief executive of an institution exists; or

(b) a chief executive of an institution is absent from duty (from whatever cause arising).

(2) No direction and no acts done by any person acting under any direction may, in any proceedings, be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the person had not been appointed to the position of chief executive.

(3) The council of the institution must determine the conditions of employment that are to apply to any person directed under subsection (1) to exercise and perform any of the functions, powers, and duties of a chief executive.

Compare: 1988 No 20 s 77IF

Employment of others

614 Power of Secretary to employ teachers

(1) The Secretary may employ persons to work in State schools as teachers.

(2) An order made under section 582 that limits the number of teachers who may be employed at a State school does not include teachers employed under this section.

(3) The following provisions apply to persons employed as teachers under this section as if the Secretary were a board, and with any other necessary modifications:

(a) sections 92 to 96 (which set out restrictions on appointment and continued employment of teaching staff):

(b) sections 489 to 509 (which relate to mandatory reporting to, disciplinary functions of, and review of competence by the Teaching Council):

(c) sections 542, 543, and 662 (which set out offence provisions):

(d) Schedule 3 (which relates to teacher registration, practising certificates, and other matters):

(e) clause 13 of Schedule 19 (which relates to Police vetting).

Compare: 1989 No 80 s 91N

615 Employment-based trainee teaching positions

(1) On receipt of a request from a board, the Secretary may, by written notice to the board, establish an employment-based trainee teaching position for the school.

(2) Despite any provision to the contrary in this Act, the board for which an employment-based trainee teaching position has been established may appoint only an employment-based trainee teacher to the position.

Compare: 1989 No 80 s 91O

616 Agreements with trainee teachers

(1) The Minister may enter into an agreement with any person who undertakes teacher training.

(2) The agreement must provide for—

(a) payment by the Minister to the person of an amount of money on condition that the person must, on completion of teacher training, work in New Zealand as a teacher for a specified period; and

(b) an undertaking by the person that, if the person defaults on the condition, the person must repay the amount paid under the agreement (in full or as specified in the agreement).

(3) The Minister may require the agreement with the person to be signed by a guarantor, in which case the person and the guarantor are jointly and severally liable.

Compare: 1989 No 80 s 139E

617 Minister must issue eligibility criteria relating to appointment of principals

(1) The Minister must issue eligibility criteria that must be met by applicants for appointment to the position of principal for the purposes of—

(a) ensuring consistency in the skills, competencies, knowledge, and expertise that applicants for appointment to the position must demonstrate; and

(b) supporting better understanding of the background and experience needed for school leadership among persons aspiring to the role of a principal as part of their future career; and

(c) providing confidence to boards in making appointments; and

(d) signalling the importance of the role of a principal across the wider school system.

(2) Before issuing any criteria under subsection (1), the Minister must make reasonable efforts to consult—

(a) children and young people and their parents, whānau, and communities:

(b) national bodies representing the interests of—

(i) teachers:

(ii) principals:

(iii) boards:

(iv) the disability community:

(v) support staff in schools:

(vi) Māori education organisations:

(vii) proprietors of State integrated schools:

(c) national bodies with a particular role in respect of the character of designated character schools and Kura Kaupapa Māori.

(3) The Minister may delegate the Minister's function under subsection (1) to any person or persons that the Minister thinks fit.

(4) In making an appointment to the position of principal, a board must apply any criteria issued under subsection (1) and may also apply any specific additional criteria developed by it under section 618.

Section 617(2)(c): amended, on 23 August 2023, by section 34 of the Education and Training Amendment Act 2023 (2023 No 45).

618 Board may develop additional criteria relating to appointment of principals

(1) A board may develop additional criteria relating to the appointment of a principal at the relevant board's school.

(2) Any additional criteria developed by the board must not be inconsistent with any eligibility criteria issued by the Minister under section 617.

(3) In developing any additional criteria, the board must consult its school community.

Subpart 5—Information and reporting

619 Secretary may require information for administration of Act

(1) The Secretary may, by written notice that complies with subsection (2), require any of the following individuals or bodies to provide information:

(a) the board of a State school:

(aa) the sponsor:

(b) the service provider who operates any licensed early childhood service or any certified playgroup:

(c) the managers of a private school.

(2) The notice must specify the information required and the date by which it must be provided to the Secretary.

(3) The individual or body must provide the information in writing by the date specified in the notice.

(4) Information that identifies individuals may be used only for the following purposes:

(a) statistical purposes:

(b) ensuring that institutions and students receive relevant resourcing:

(c) monitoring and ensuring student rights in respect of enrolment and attendance.

(5) For the purposes of registering or inspecting private schools, information required under subsection (1) is relevant to determining whether a school meets the criteria for registration as a private school.

Compare: 1989 No 80 s 144A

Section 619(1)(aa): inserted, on 1 October 2024, by section 58 of the Education and Training Amendment Act 2024 (2024 No 40).

620 Report on performance of school sector

(1) The Minister must in each year, not later than 30 September, prepare and present to the House of Representatives a report on the performance of the school sector in the immediately preceding financial year ending on 31 December.

(2) The report must include information about—

(a) the performance of the school sector:

(b) the management performance in the school sector, including the quality of the management systems and practices in the school sector and the management of all the assets used in the school sector:

(c) the effectiveness of the school sector in terms of educational achievement.

(3) The report—

(a) must relate to all of the schools owned by the Crown; and

(b) may relate to other schools.

Compare: 1989 No 80 s 87B

621 National student numbers

The Secretary must ensure that national student numbers are assigned and used in accordance with Schedule 24 and any regulations made under this Act.

Subpart 6—Entry and inspection

Review officers

622 Powers of entry and inspection for places other than dwelling houses

(1) For the purpose of enabling any functions of the Chief Review Officer under subpart 3 of Part 5 to be performed, a review officer may, at any reasonable time and having given reasonable notice to the applicable organisation or applicable person of an applicable organisation, enter any place (other than a dwelling house) occupied by the applicable organisation or applicable person, and—

(a) conduct inspections or make inquiries:

(b) require any applicable person to produce documents or provide information, and permit the review officer to make copies of or take extracts from the documents or information, relating to—

(i) an applicable service that the applicable organisation provides; or

(ii) people to whom the service is (or has been) provided:

(c) require any applicable person of the applicable organisation, or any other person employed by the applicable organisation or any applicable person of the applicable organisation or involved in the management of the applicable organisation, to make or provide statements, in any form and manner the review officer specifies, about any matters relating to an applicable service:

(d) inspect the work of any person to whom an applicable service is (or has been) provided:

(e) meet and talk with any person to whom an applicable service is being provided.

(2) In this section, **applicable organisation**, in relation to an early childhood service, includes an entity that owns the service (wholly or partly) or operates the early childhood service.

Compare: 1989 No 80 s 327

623 Review officers to prove identity before acting under section 622

A review officer who enters any place under the authority of section 622 must, on first entering and, if requested at any later time, produce to the person apparently in charge the review officer's certificate of designation.

Compare: 1989 No 80 s 328

Early childhood services

624 Power to enter and inspect, without warrant, homes used by licensed home-based education and care services

(1) For the purposes of enabling the functions of the Chief Review Officer to review and evaluate curriculum delivery and health and safety performance in a home used by a licensed home-based education and care service, a review officer may, at any reasonable time and having given reasonable notice to the relevant service provider, enter the home, and—

(a) conduct inspections or inquiries, including (without limitation) observing any children present in the home who are receiving the service:

(b) require the person providing the service in the home—

(i) to make available documents or information, and permit the review officer to make copies or extracts of the documents or information, relating to curriculum delivery and health and safety performance of the service in the home:

(ii) to make or provide statements, in any form and manner the review officer specifies, about any matters relating to curriculum delivery and health and safety performance of the service in the home:

(c) inspect the work of any person to whom the service is (or has been) provided:

(d) meet and talk with the person providing the service in the home or any person to whom the service is being provided.

(2) If a service provider receives a notice, the service provider must provide the Education Review Office with a list of the addresses of all the homes where the service provider provides a licensed home-based education and care service.

(3) A review officer may only inspect those areas of a home that are used to provide the licensed home-based education and care service.

(4) A review officer may request those given notice to provide, before the entry, information that is reasonably necessary or desirable to carry out the inspection or inquiries.

(5) The request may be part of the notice.

625 Review officers to prove identity before acting under section 624

A review officer who enters any place under the authority of section 624 must, on first entering and, if requested at any later time, produce to the person apparently in charge the review officer's certificate of designation.

Compare: 1989 No 80 s 328

626 Powers of entry and inspection without warrant

(1) A person authorised under subsection (3) may, for the purpose of ensuring that the provisions of this Act and any regulations made under this Act, or the conditions of any licence, certificate, or grant issued or made under any of those provisions, are being complied with, or for the purpose of conducting any audit, at any reasonable time, do all or any of the following:

(a) enter and inspect—

(i) any premises that—

(A) are or contain a licensed early childhood education and care centre; or

(B) are used to provide a licensed home-based education and care service (whether or not used as a home by the person providing the service); or

(C) are used to provide a licensed hospital-based education and care service; or

(D) are used by a certified playgroup:

(ii) any offices of a service provider that are related to those premises:

(b) inspect, photocopy, print, or copy onto a storage device any documents (whether held in electronic or paper form) that the person believes on reasonable grounds to be those of the licensed early childhood service or certified playgroup:

(c) remove any document described in paragraph (b), whether in its original form or as an electronic or a paper copy.

(2) If any documents are removed from premises under subsection (1)(c), the person who removes them must—

(a) leave at the premises a list of the documents removed; and

(b) return the documents, or a copy of them, to the premises as soon as practicable, unless to do so would prejudice any investigation being or to be carried out by the Ministry.

(3) The Secretary may authorise in writing any person who, in the Secretary's opinion, is suitably qualified and trained in the exercise of powers under subsection (1) to exercise those powers.

(4) An authorisation under subsection (3) must contain—

(a) a reference to this section; and

(b) the full name of the person authorised; and

(c) a statement of the powers conferred on that person by this section.

(5) A person exercising any power under subsection (1) must have the appropriate written authorisation and evidence of identity, and must produce them to the person in charge of the premises concerned (or the person having possession or control of the documents concerned)—

(a) on first entering the premises; and

(b) whenever subsequently reasonably required to do so by the person in charge.

(6) For the purposes of this section and section 627, **inspection**, in relation to any premises, includes observing any children present there.

Compare: 1989 No 80 s 319B

627 Powers of entry and inspection with warrant

(1) A person who is authorised under section 626 and who has reasonable grounds to believe that premises are being used as an early childhood education and care centre in contravention of this Act, or regulations made under section 636, may apply in writing on oath to a District Court Judge, Justice of the Peace, Community Magistrate, or Registrar or Deputy Registrar of any court for a warrant.

(2) If the Judge or other person to whom the application is made is satisfied that there are reasonable grounds to believe that the premises are being so used, the Judge or other person may issue a warrant directed to the person by name authorising the person to enter the premises.

(3) A warrant issued under subsection (2) must contain—

(a) a reference to this section; and

(b) the full name of the person authorised; and

(c) a description of the premises concerned; and

(d) the date on which it was issued and the date on which it expires.

(4) A warrant issued under subsection (2) must authorise the person named in it, at any reasonable time within 4 weeks after the date on which it is issued, to—

(a) enter the premises described in the warrant; and

(b) do on those premises anything necessary to ascertain whether those premises are being used as an early childhood education and care centre in contravention of this Act or any regulations made under section 636.

(5) A person exercising any power under subsection (4)—

(a) must have the appropriate warrant and evidence of identity and must produce them to the occupier of the premises concerned—

(i) on first entering the premises; and

(ii) whenever subsequently reasonably required to do so by that occupier; and

(b) may observe any children present.

(6) A warrant issued under subsection (2) expires on the earlier of the following dates:

(a) the date on which the purpose for which it was issued has been satisfied:

(b) the date specified as the date of expiry under subsection (3)(d).

Compare: 1989 No 80 s 319C

Schools

628 Powers of entry and inspection

(1) A person holding an authorisation under subsection (3) may, at any reasonable time,—

(a) enter and inspect any registered school:

(b) inspect, photocopy, print, or copy onto a storage device any documents (whether held in electronic or paper form) that the person believes on reasonable grounds to be those of the board or manager of the school:

(c) remove any document described in paragraph (b), whether in its original form or as an electronic or a paper copy.

(2) If any documents are removed from a school under subsection (1)(c), the person who removes the documents must—

(a) leave at the school a list of the documents removed; and

(b) return the documents, or a copy of them, to the school as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the Ministry.

(3) The Secretary may authorise in writing any person to exercise the powers in subsection (1).

(4) An authorisation under subsection (3) must contain—

(a) a reference to this section; and

(b) the full name of the person authorised; and

(c) a statement of the powers conferred on that person by this section.

(5) A person exercising any power under subsection (1) must have the appropriate written authorisation and evidence of identity, and must produce them to the person in charge of the premises concerned (or the person having possession or control of the books, records, or accounts concerned)—

(a) on first entering the premises; and

(b) whenever subsequently reasonably required to do so by the person in charge.

(6) In this section, **inspection**, in relation to a school, includes—

(a) access to the written and recorded work of students enrolled there; and

(b) meeting and talking with students enrolled there.

Compare: 1989 No 80 s 78A

629 Entry where private school suspected of being unregistered

(1) A person who holds an authorisation under section 628(3), and who has reasonable cause to believe that any premises are being used as a private school in contravention of section 249, may apply for a warrant to enter the premises.

(2) An application for a warrant must be in writing, on oath, and be made to a District Court Judge, Justice of the Peace, or Registrar or Deputy Registrar of any court.

(3) A warrant may be issued if the person issuing it is satisfied that there is reasonable cause to believe that the premises are being used as a private school in contravention of section 249.

(4) A warrant issued under subsection (3) must contain—

(a) a reference to this section; and

(b) the full name of the person authorised; and

(c) a description of the premises concerned; and

(d) the date on which it was issued and the date on which it expires.

(5) A warrant issued under subsection (3) authorises the person named in it, at any reasonable time within 4 weeks of the date on which it is issued, to enter and inspect the premises described in the warrant to ascertain whether those premises are being used as a private school in contravention of section 249.

(6) A person acting under a warrant issued under subsection (3) must retain the warrant and must produce it, along with evidence of identity, to the occupier of the premises concerned—

(a) on first entering the premises; and

(b) whenever subsequently reasonably required to do so by that occupier.

Compare: 1989 No 80 s 35S

School hostels

630 Purpose of sections 631, 632, and 643

The purpose of sections 631, 632, and 643 is to help ensure the safety of students who board at hostels.

Compare: 1989 No 80 s 144B

631 Entry to inspect hostels

(1) An authorised person may, at any reasonable time, do 1 or more of the following:

(a) enter any hostel premises and inspect the premises and facilities:

(b) inspect, and make and remove copies of, any information relating to the management of the hostel:

(c) require any person at a hostel to make or provide statements, in whatever form or manner is reasonable in the circumstances, about any matter relating to the safety of students who board at the hostel.

(2) An authorised person may exercise the powers in subsection (1) only for the purpose of monitoring compliance with minimum standards, codes of practice, licences, or licence conditions.

(3) The person in charge (or apparently in charge) of the hostel must, if an authorised person requests it, co-operate in allowing the authorised person access to the premises, facilities, and information relating to the management of the hostel, including assisting the authorised person to copy (in usable form) any information required for the inspection.

(4) An authorised person may not enter or inspect the room or sleeping area of a student accommodated at the hostel unless—

(a) the authorised person believes on reasonable grounds that entry or inspection is necessary for a purpose specified in subsection (2); and

(b) prior notice of the inspection is given to the student, and the purpose of the inspection is explained; and

(c) the student is present during the inspection.

Compare: 1989 No 80 s 144D

632 Authorised persons

(1) The Minister may, by notice in writing, appoint any person as an authorised person for the purpose of exercising the powers in section 631.

(2) An authorisation under subsection (1) must state—

(a) the name of the authorised person; and

(b) the powers that the person may exercise under section 631; and

(c) the date on which the authorisation was given, and the date (if any) on which it expires.

(3) When an authorised person is exercising powers under section 631, the person must carry a copy of their authorisation and must produce it,—

(a) on entering a hostel to be inspected, to the person in charge, or apparently in charge, of the hostel; and

(b) if the authorised person wishes to speak to any person in connection with the inspection, to that person.

Compare: 1989 No 80 s 144E

Student accommodation

633 Entry to inspect student accommodation subject to codes

(1) A code administrator may—

(a) enter any student accommodation and inspect the premises and facilities:

(b) inspect, and make and remove copies of, any information relating to the management of student accommodation:

(c) ask any person at any student accommodation to make or provide statements, in whatever form or manner is reasonable in the circumstances, about any matter relating to the safety of students who board at the student accommodation.

(2) A code administrator may exercise the powers in subsection (1) only for the purposes of monitoring or investigating compliance with the relevant code.

(3) A code administrator may not enter or inspect the room or sleeping area of a student accommodated at any student accommodation unless—

(a) the code administrator believes on reasonable grounds that the entry or inspection is necessary for the purposes specified in subsection (2); and

(b) the code administrator gives the student at least 24 hours' written notice of the intended entry or inspection and that notice explains the purpose of the entry or inspection; and

(c) the student consents to the entry or inspection, and the student is present during the entry or inspection if being present is a condition of the consent.

(4) Subsection (3)(c) does not apply if obtaining the student's consent is unreasonable in the circumstances.

(5) A code administrator may, with the Minister's prior written approval and subject to any conditions that the code administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in this section to another person or agency (having regard to their knowledge, skills, or experience).

Compare: 1989 No 80 s 238H(5)–(9)

Section 633(1): amended, on 1 August 2022, by section 61 of the Education and Training Amendment Act 2022 (2022 No 38).

Private training establishments

634 Powers of entry and inspection

(1) For the purpose of ensuring that a private training establishment (whether registered or not) and any agent of the establishment comply with this Act, the rules made under section 452, and any approval, consent, or other authorisation granted by NZQA, the chief executive may authorise any person to do, at any reasonable time, any 1 or more of the following things:

(a) enter and inspect any premises (other than a dwelling house) that are occupied by the private training establishment or its agent:

(b) require any person to produce documents or information under the control of the person:

(c) inspect, photocopy, print, or copy any documents (whether held in electronic or paper form) produced under paragraph (b) or that the authorised person believes on reasonable grounds to belong to the establishment:

(d) remove any document referred to in paragraph (c), whether in its original form or as an electronic or a paper copy:

(e) require any employee or member of the establishment to make or provide statements, in any form and manner that the authorised person specifies:

(f) inspect any education and training work and any related materials:

(g) meet and talk with any person.

(2) A person authorised by the chief executive under subsection (1) must—

(a) produce evidence of the person's authorisation to the person in charge of the premises when the person first enters the premises, and at any later time, at the request of the person in charge; and

(b) give the person in charge a list of all documents that have been removed (if any); and

(c) return any documents that have been removed unless to do so would prejudice any investigation.

(3) An authorisation under subsection (1) must be in writing and contain—

(a) a reference to this section; and

(b) the full name of the person authorised; and

(c) a statement of the powers conferred on that person under this section.

Compare: 1989 No 80 s 255A

Providers and signatory providers

Heading: inserted, on 1 August 2022, by section 62 of the Education and Training Amendment Act 2022 (2022 No 38).

634A Powers of entry and inspection

(1) For the purpose of ensuring that a provider or signatory provider complies with a code with which it is required to comply, a code administrator may authorise any person to do, at any reasonable time, any 1 or more of the following things:

- (a) enter and inspect any premises (other than a dwelling house) that is occupied by the provider or signatory provider:
- (b) require any person to produce documents or information under the control of the person:
- (c) inspect, photocopy, print, or copy any documents (whether held in electronic or paper form) that are produced under paragraph (b) or that the authorised person believes on reasonable grounds to belong to the establishment:
- (d) remove any document referred to in paragraph (c), whether in its original form or as an electronic or a paper copy:
- (e) require any employee or member of the provider or signatory provider to make or provide statements, in any form and manner that the authorised person specifies:
- (f) inspect any education and training work and any related materials:
- (g) meet and talk with any person.

(2) A person authorised by the code administrator under subsection (1) must—

- (a) produce evidence of the person's authorisation to the person in charge of the premises when the person first enters the premises, and at any later time, at the request of the person in charge; and
- (b) give the person in charge a list of all documents that have been removed (if any); and
- (c) return any documents that have been removed unless to do so would prejudice any investigation.

(3) Before authorising a person under subsection (1), the code administrator must be satisfied that the person—

- (a) is of good character; and
- (b) has received appropriate training on the exercise of the powers available under subsection (1).

(4) An authorisation under subsection (1) must be in writing and contain—

- (a) a reference to this section; and
- (b) the full name of the person authorised; and

(c) a statement of the powers conferred on that person under this section.

Section 634A: inserted, on 1 August 2022, by section 62 of the Education and Training Amendment Act 2022 (2022 No 38).

Other entry and inspection provisions

635 Entry and inspection powers elsewhere in Act

The right of parents who have children in early childhood centres to enter the premises is set out in section 27.

Subpart 7—Regulations and directions

Regulations

636 Regulations relating to early childhood services

(1) The Governor-General may, by Order in Council, make regulations—

(a) *[Repealed]*

(aa) providing for the licensing of service providers to provide early childhood services of any kind, including (without limitation) providing for the transfer of licences:

(b) regulating the management, operation, and control of licensed early childhood services of any kind, and imposing duties on service providers:

(c) declaring specified early childhood services, or early childhood services of 1 or more specified types or descriptions, to be early childhood education and care services for the purpose of Part 2:

(d) modifying the definition of teaching position in section 10(1) for the purposes of applying it to Kura Kaupapa Māori or early childhood services or both:

(e) *[Repealed]*

(2) Without limiting subsection (1), the regulations may—

(a) prescribe, for the purposes of ensuring the health, comfort, care, education, and safety of children attending licensed early childhood services, minimum standards relating to—

(i) premises and facilities:

(ii) programmes of education, practices in relation to children's learning and development, and implementation of the curriculum framework:

(iii) staff and parent and caregiver involvement (including adult-to-child ratios):

(iv) health and safety:

(v) practices in relation to behaviour management and limits on the use of physical restraint:

(vi) communication and consultation with parents:

(vii) the operation or administration of licensed early childhood services:

(b) authorise the Minister, after consultation with those organisations that appear to the Minister to be representative of persons likely to be substantially affected by the regulations, to prescribe criteria to be used by the Secretary to assess compliance with the minimum standards imposed by the regulations:

(c) *[Repealed]*

(d) limit or regulate the number of children who may attend licensed early childhood education and care centres or any premises used to provide a licensed home-based education and care service or a licensed hospital-based education and care service:

(e) provide for the grant or refusal to grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of licences of 1 or more specified kinds for service providers for each kind of early childhood service, and prescribe the conditions under which licences may be granted, renewed, suspended, or transferred and the fees payable in respect of the grant, renewal, suspension, or transfer of the licences, or do any of those things:

(f) prescribe conditions governing licensed early childhood services and the duties of their service providers:

(g) prescribe the records to be kept by service providers in respect of children attending licensed early childhood education and care centres, licensed home-based education and care services, and licensed hospital-based education and care services:

(h) regulate, including by authorising the Secretary to issue a notice recognising a qualification, the qualifications to be held by any specified number or proportion of persons carrying out the following activities:

(i) the control and management of each licensed early childhood education and care centre, licensed home-based education and care service, or licensed hospital-based education and care service:

(ii) the education and care of children attending a licensed early childhood education and care centre, licensed home-based education and care service, or licensed hospital-based education and care service:

(i) provide for transitional matters not dealt with in this Act:

(j) prescribe offences punishable on conviction by a fine not exceeding $500 in respect of the contravention of, or non-compliance with, the regulations.

(3) The regulations may prescribe different standards and other requirements—

(a) for early childhood services of different types or descriptions; and

(b) in respect of different kinds of licences.

(4) Criteria prescribed by the Minister for use in assessing compliance with minimum standards imposed by regulations made under this section—

(a) may differ in any way, including (without limitation) providing for—

(i) early childhood services of different types or descriptions; and

(ii) different kinds of licences; and

(iii) different minimum standards.

(b) *[Repealed]*

(5) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(6) If the regulations authorise the Minister under subsection (2)(b) to prescribe criteria,—

(a) an instrument that prescribes the criteria is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Compare: 1989 No 80 s 317; 2001 No 88 s 69(2)(a), (c)

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (6)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (5)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 636(1)(a): repealed, on 1 October 2024, by section 59 of the Education and Training Amendment Act 2024 (2024 No 40).

Section 636(1)(aa): inserted, on 16 December 2021, by section 9(1) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 636(1)(e): repealed, on 16 December 2021, by section 9(2) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 636(2): amended, on 16 December 2021, by section 9(3) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 636(2)(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 636(2)(h): amended, on 1 August 2022, by section 63 of the Education and Training Amendment Act 2022 (2022 No 38).

Section 636(4)(b): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 636(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 636(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

637 Regulations relating to certifying playgroups

(1) The Governor-General may, by Order in Council, make regulations for certifying playgroups.

(2) The regulations may—

(a) prescribe, for the purpose of ensuring the health, comfort, care, education, and safety of children attending certified playgroups, minimum standards relating to—

(i) premises and facilities:

(ii) programmes of education, practices in relation to children's learning and development, and implementation of the curriculum framework:

(iii) staff and parent and caregiver participation (including adult-to-child ratios):

(iv) health and safety:

(v) practices in relation to behaviour management and limits on the use of physical restraint:

(vi) communication and consultation with parents:

(vii) the operation and administration of playgroups:

(b) authorise the Minister, after consultation with those organisations that appear to the Minister to be representative of persons likely to be substantially affected by the regulations, to prescribe criteria to be used by the Secretary to assess compliance with the minimum standards imposed by the regulations:

(c) *[Repealed]*

(d) limit or regulate the number of children who may attend certified playgroups:

(e) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of certificates of 1 or more specified kinds for playgroups, and prescribe the conditions under which certificates may be granted, renewed, or transferred and the fees payable in respect of the grant, renewal, or transfer of the certificates:

(f) prescribe conditions governing certified playgroups and the duties of their service providers:

(g) prescribe the records to be kept by the service provider in respect of children attending certified playgroups:

(h) regulate the qualifications to be held by any specified number or proportion of persons responsible for—

(i) the control and management of a certified playgroup:

(ii) the education and care of children attending a certified playgroup:

(i) provide for transitional matters not dealt with in this Act.

(3) Criteria prescribed by the Minister for use in assessing compliance with minimum standards imposed by regulations made under this section—

(a) may differ in any way, including (without limitation) providing for—

(i) different kinds of certificates; and

(ii) different minimum standards.

(b) *[Repealed]*

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) If the regulations authorise the Minister under subsection (2)(b) to prescribe criteria,—

(a) an instrument that prescribes the criteria is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Compare: 1989 No 80 s 319

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (4)	LA19 ss 73, 74, Sch 1 cl 14

Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 637(2)(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 637(3)(b): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 637(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 637(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

638 Regulations relating to how schools must be run

(1) The Governor-General may, by Order in Council, make regulations providing for the control, management, organisation, conduct, and administration of schools.

(2) Without limiting subsection (1), the regulations may—

(a) provide differently for different classes or descriptions of schools:

(b) give powers to, or impose duties on, the following:

(i) boards or principals (or both):

(ii) sponsors or persons responsible for teaching and learning in charter schools (or both):

(c) prescribe processes and procedures in respect of boards or sponsors:

(d) provide for the development of enrolment schemes:

(e) provide for when schools (other than charter schools) must or may be open and closed for instruction, including (without limitation) by—

(i) specifying term dates and the number of half-days on which schools must be open and providing for exceptions in particular cases:

(ii) allowing boards to vary the time at which any 1 or more half-days take place subject to any specified preconditions or requirements:

(iii) allowing boards to run multiple timetable arrangements unconditionally or subject to any specified preconditions or requirements:

(iv) authorising the Minister, by notice, to determine the matters set out in subparagraphs (i) to (iii), and authorising the Minister to delegate the power to determine those matters to the Secretary in relation to any individual school:

(f) provide for the circumstances in which the Secretary may direct that a student be enrolled at a school.

(3) Regulations made under this section prescribing a course of study may not restrict the method by or manner in which any subject forming part of the course is to be taught, except to the extent necessary to ensure that the teaching of the subject is consistent with the general aims of the course.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) If the regulations authorise the Minister to determine matters referred to in subsection (2)(e)—

(a) an instrument that determines those matters is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) the regulations must contain a statement to that effect.

Compare: 1989 No 80 s 78

Legislation Act 2019 requirements for secondary legislation made under this section, except for subsection (5)(a)

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021, unless it is published by PCO	LA19 ss 69, 73, 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) of the Legislation Act 2019	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019	LA19 ss 115, 116

This note is not part of the Act.

Section 638(2): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 638(2)(b): replaced, on 1 October 2024, by section 60(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 638(2)(c): amended, on 1 October 2024, by section 60(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 638(2)(d): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 638(2)(e): replaced, on 23 August 2023, by section 35(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 638(2)(e): amended, on 1 October 2024, by section 60(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 638(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 638(5): inserted, on 23 August 2023, by section 35(2) of the Education and Training Amendment Act 2023 (2023 No 45).

639 Regulations relating to planning, implementation, monitoring, and reporting for schools and boards

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

- (a) developing school strategic plans under sections 138 to 144:
- (b) monitoring and reporting on a board's performance under section 145:
- (c) monitoring and reporting on the performance of a school's students under section 165:
- (d) preparing and delivering statements of variance and annual reports under section 134.

(2) Without limiting subsection (1), the regulations may make provision in relation to 1 or more of the following:

- (a) the form of school strategic plans:
- (b) matters that must be dealt with in plans:
- (c) when plans must be prepared or submitted:
- (d) requirements for consultation in the development and implementation of plans:
- (e) requirements for how and when plans are amended or expire:
- (f) the information that must be included in a statement of variance under section 134(1)(a):
- (g) the form of statements of variance:
- (h) the information that must be included in an annual report under section 134(2)(a):
- (i) the form and content of annual reports, including financial statements:
- (j) the form of reports on the performance of a school's students:
- (k) the information that must be included in reports on the performance of a school's students:
- (l) any other matters contemplated by, or necessary for giving full effect to, any of the following provisions:
  - (i) section 90(1)(c):
  - (ii) section 165:
  - (iii) sections 134 to 136:
  - (iv) sections 138 to 145.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 118A

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 639(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

640 Regulations relating to board elections and appointments

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) *[Repealed]*

(b) prescribing the manner in which board members may be elected, co-opted, or appointed:

(c) prescribing a board member's term of office and providing for vacancies in board membership:

(d) prescribing the manner in which returning officers are to be appointed for the purposes of an election of board members.

(2) Without limiting subsection (1), the regulations may—

(a) provide for persons who are forbidden to participate in 2 elections to choose the election in which they prefer to stand or vote, or both; and

(b) provide for persons who do not exercise their choice within the time or in the manner provided for to be restricted to standing or voting, or both, in only 1 election; and

(c) require a person who has chosen or been restricted to 1 election to continue to be restricted to elections of the kind concerned if elections are later held to fill casual vacancies.

(3) A person who has been nominated for election to a board is not eligible to be appointed returning officer for the election.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 118

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 640(1)(a): repealed, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 640(2): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 640(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

641 Regulations relating to imposition of export education levy

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations imposing an export education levy on signatory providers who receive tuition fees from international students enrolled with them.

(2) Without limiting subsection (1), regulations made under this section must—

(a) prescribe the amount or the method of calculating the amount (or both) of export education levy payable by individual signatory providers, and may prescribe different amounts, or different methods of calculating the amounts, payable by different classes of signatory provider; and

(b) prescribe when the levy, or any part of the levy, is payable; and

(c) designate an agency to administer the levy and, if that agency is the Ministry, may authorise the Ministry to delegate all or specified aspects of the levy's collection and use to another body; and

(d) require a signatory provider to supply, on request by the agency responsible for the administration of the levy, information about student numbers or any other matter that is necessary to determine or verify the amount of levy payable by the signatory provider.

(3) Before making a recommendation under subsection (1), the Minister must consult signatory providers.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 238Q

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 641(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

642 Regulations relating to school risk management schemes

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) providing for the establishment of a school risk management scheme:

(b) defining accidental loss or damage and other terms for the purposes of the regulations:

(c) setting out the scope of the indemnity that may be given by the Crown, including any exclusions:

(d) setting out the procedure for lodging claims and their determination:

(e) listing the kinds of costs that the Crown may deduct from money payable under the scheme to a participating board:

(f) providing for the manner in which the parties may withdraw from the scheme:

(g) providing for the manner in which the scheme may be varied, replaced, or terminated.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 78F

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 642(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

643 Regulations relating to school hostels

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) adopting minimum standards that apply to hostel premises and facilities:

(b) adopting codes of practice relating to the management of hostels:

(c) creating offences for failing to comply with minimum standards or codes of practice adopted by regulations, and providing for a penalty on conviction for any offence to be a fine not exceeding $10,000:

(d) providing for exemptions from the application of minimum standards or codes of practice:

(e) prescribing a system of licensing for hostels, which may include provisions—

(i) providing for different sorts of licences:

(ii) setting out the conditions to be met before a licence may be issued:

(iii) prescribing the circumstances in which conditions may be imposed on a licence:

(iv) setting out the conditions or types of conditions that may attach to a licence:

(v) prohibiting students from boarding at an unlicensed hostel:

(vi) prohibiting the payment of a boarding bursary, or any government subsidy relating to the cost of boarding at a hostel, in respect of a student boarding at an unlicensed hostel:

(vii) creating offences for failure to comply with any or all licence conditions, and providing for a penalty on conviction for any offence to be a fine not exceeding $10,000:

(viii) providing for the suspension or cancellation of any licence:

(ix) establishing a licensing body:

(x) prescribing fees payable on application for, or renewal of, a licence, and for the return or refund of any fees in specified circumstances:

(f) establishing a procedure for complaints about hostels by students, parents, and boards:

(g) providing for matters relating to the inspection of hostels and the authorisation of persons to inspect hostels:

(h) providing for any other matters necessary or expedient for giving effect to the purpose described in section 630.

(2) Regulations made under subsection (1) may relate to all hostels, individual hostels, hostels of specified classes, or parts of hostels.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 144C

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 643(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

644 Regulations relating to dispute resolution panels

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) establishing 1 or more dispute resolution panels for the purpose of subpart 9 of Part 3 and prescribing the process and procedures (if any) of the panels:

(b) prescribing criteria for the appointment and removal of dispute resolution panel members:

(c) prescribing the maximum number of members that may be appointed to a dispute resolution panel and specifying the number of panel members who must be local community members and expert members:

(d) in relation to the Chief Referee and any deputy chief referees,—

(i) prescribing further criteria for appointment:

(ii) prescribing criteria for removal:

(iii) specifying the term of office:

(e) providing for the Chief Referee or a dispute resolution panel to receive, obtain, or use any specified information that is reasonably required for the purpose of performing or exercising their functions, duties, and powers under subpart 9 of Part 3.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 644(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

645 Regulations relating to student allowances

(1) The Governor-General may, by Order in Council, make regulations for the purposes of Schedule 9 by establishing student allowances to help recipients undertake—

(a) courses of education or training within New Zealand; and

(b) secondary and tertiary level courses of education inside and outside New Zealand.

(2) Every student allowance must—

(a) be awarded in accordance with the regulations establishing it; and

(b) have an annual or other value set out in it.

(3) The regulations may, in relation to the payment of student allowances for courses of study at private schools or private training establishments, apply to—

(a) all of those schools or establishments; or

(b) schools or establishments of a specified class or description only; or

(c) particular schools or establishments.

(4) The regulations may require officials of institutions at which any student allowance established by the regulations is or has been payable to give the chief executive 1 or both of the following:

(a) information about payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution:

(b) statistical or other information relating to payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution, whether—

(i) in general; or

(ii) in relation to recipients of a particular class or description; or

(iii) in relation to a particular recipient or particular recipients.

(5) The regulations may be expressed to come into force, and may come into force, before the date on which they are made, but only if they—

(a) increase the value or maximum value of any allowance, or the rate or maximum rate at which any allowance may be paid; or

(b) extend the class or classes of persons entitled to be paid an allowance, or entitled to be paid an allowance at any particular rate.

(6) The regulations must adjust the rates of student allowances (except the rates of allowances provided for accommodation benefit) as at 1 April each year so that in each case the new rate (after the deduction of standard tax) is the rate at that date (after the deduction of standard tax and before the adjustment under this section is made) adjusted by an amount equal to the percentage movement upwards in the CPI between the CPI for the quarter ended with 31 December 1 year before the immediately preceding 31 December and the CPI for the quarter ended with the immediately preceding 31 December.

(7) The adjustments may not reduce the weekly amounts of student allowances payable.

(8) The adjustments come into force, or are considered to have come into force, on 1 April of the calendar year in which they are made, and apply to student allowances payable on and after that date.

(9) The power to make regulations under this section includes (and is to be treated as always having included) power to make regulations—

(a) authorising the chief executive of MSD, for the purposes of assessing the eligibility of any person for an allowance, to take into account the income of that person's parents, spouse, or partner:

(b) defining parent, spouse, and partner, and any related terms, for the purposes of the regulations:

(c) stating when and to what extent income referred to in paragraph (a) is to be taken into account.

(9A) Regulations under this section—

(a) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) commence in accordance with subsections (5) to (8), even if they are not yet published.

(10) In this section,—

CPI means the Consumers Price Index (all groups) published by Statistics New Zealand or, if that index ceases to be published, any measure certified by the Government Statistician as being equivalent to that index

standard tax means the amount of tax calculated on a weekly basis that would be withholdable in accordance with tax code M stated in Schedule 5, Part A, clause 4, row 1 of the table of the Tax Administration Act 1994.

Compare: 1989 No 80 ss 303, 307

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 645(9A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 645(10) **CPI**: replaced, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

646 Regulations relating to Student Allowance Appeal Authorities

(1) The Governor-General may, by Order in Council, make regulations for the purposes of Schedule 10 prescribing how—

(a) appeals are to be made to a Student Allowance Appeal Authority; and

(b) a Student Allowance Appeal Authority is to deal with appeals and conduct its proceedings.

(2) A Student Allowance Appeal Authority may regulate its procedures as it thinks fit, subject to—

(a) this Act and any regulations made under it; and

(b) any practice notes issued under clause 6 of Schedule 10.

(3) The Ministry of Justice must provide for all the Student Allowance Appeal Authorities all administrative and secretarial services necessary to enable them to perform their functions.

(4) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 306

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 646(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

647 Regulations relating to charging by TEC

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:

(a) prescribing the criteria against which TEC must assess a breach to determine the nature and seriousness of the breach for the purposes of section 417(5):

(b) prescribing the criteria against which TEC must assess a proposed fee to determine, for the purposes of section 417(5), the effect that the fee would have on the operation, long-term viability, and performance of an organisation:

(c) specifying the maximum percentage or proportion of the cost incurred by TEC in its investigation that may be charged as a fee by TEC under section 417(3).

(2) Before making a recommendation under subsection (1), the Minister must consult the persons and organisations that the Minister thinks fit.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 159E(6), (7)

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 647(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

647A Regulations relating to contracts of enrolment

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that set out the following requirements:

(a) requirements for the form, content, and scope of contracts of enrolment:

(b) requirements for the supply of information to students regarding the rights and responsibilities of the parties to a contract of enrolment.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 647A: inserted, on 1 August 2022, by section 64 of the Education and Training Amendment Act 2022 (2022 No 38).

648 Regulations relating to well-being and safety

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations in relation to the following matters:

(a) prescribing the matters that providers and signatory providers must take into account when assessing whether a person working in student accommodation is of good character under section 540A:

(b) dispute resolution schemes relating to the well-being and safety of students, including (without limitation)—

(i) establishing the schemes:

(ii) providing rules for the schemes:

(iii) prescribing fees for the schemes:

(iv) setting caps on the amounts that those found liable must pay to claimants:

(v) prescribing annual reporting requirements for a DRS operator, including in relation to the publication of reports.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 648 heading: amended, on 1 August 2022, by section 65(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 648(1)(a): replaced, on 1 August 2022, by section 65(2) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 648(1)(b): amended, on 1 August 2022, by section 65(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 648(1)(b)(v): inserted, on 1 August 2022, by section 65(4) of the Education and Training Amendment Act 2022 (2022 No 38).

Section 648(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

649 Regulations relating to national student numbers

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations identifying any agency or body as a specified user of national student numbers.

(2) Before making a recommendation under subsection (1), the Minister must consult the Privacy Commissioner.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 347

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 649(1): replaced, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 649(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

650 Regulations relating to State integrated schools

(1) The Governor-General may, by Order in Council, make regulations for the following purposes:

(a) prescribing a form of integration agreement:

(b) providing for the control, management, organisation, finance, and conduct of State integrated schools.

(2) If there is a conflict between regulations made under this section and regulations made under another provision of this Act or any enactment repealed by this Act, the regulations made under this section prevail.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 476

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 650(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

651 Regulations relating to composite schools

(1) If a provision of this Act empowers the making of regulations relating to State primary or secondary schools or both, or to the staff or students of State primary or secondary schools or both, any regulations made under those provisions may be limited in their application to—

(a) composite schools or composite schools of any specified class; or

(b) staff or students of composite schools or composite schools of any specified class.

(2) Subject to any regulations to which subsection (1) refers, this Act applies to every composite school as if a reference in this Act to—

(a) a State primary school were a reference to those classes and courses in that composite school providing primary education; and

(b) a State secondary school were a reference to those classes and courses in the composite school providing secondary education.

Compare: 1964 No 135 s 87

651A Regulations relating to applications to operate charter schools

(1) The Governor-General may, by Order in Council, make regulations prescribing, or providing for the fixing of, the fee payable for an application made under section 212F to operate a charter school.

(2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 651A: inserted, on 1 October 2024, by section 61 of the Education and Training Amendment Act 2024 (2024 No 40).

652 General regulations

(1) The Governor-General may, by Order in Council, make regulations providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

(2) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 301

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 652(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Directions

653 Application and purpose of sections 654 to 658

(1) Sections 654 to 658 apply if—

(a) a state of emergency is declared under section 66 or 68 of the Civil Defence Emergency Management Act 2002:

(b) a transition period is notified under section 94A of the Civil Defence Emergency Management Act 2002:

(c) an epidemic notice is in force under section 5 of the Epidemic Preparedness Act 2006.

(2) The purpose of sections 654 to 658 is to support the response to, and recovery from, an emergency or an epidemic in a manner that—

(a) avoids, remedies, or mitigates the actual or potential adverse effects of the emergency or epidemic; and

(b) facilitates co-ordinated processes among education entities and government agencies.

Compare: 1989 No 80 s 476A

654 Power of Secretary to direct education entities

(1) The Secretary may direct the governing body of an education entity (or the governing bodies of a class of education entities) to comply with any specified requirements—

(a) to close or open the education entity or any part of it (including in relation to any specified category, class, or year group of students):

(b) to close or open the education entity for physical attendance or instruction, or both:

(c) to set restrictions on the attendance of students and those working at an education entity, having regard to any relevant employment or health and safety legislation:

(d) to operate, control, or manage the education entity:

(e) to provide education or instruction through the education entity in any specified ways.

(2) The Secretary may renew, amend, or revoke a direction while the relevant state of emergency, transition period, or epidemic notice is in force.

(3) *[Repealed]*.

(4) A direction, or a renewal, an amendment, or a revocation of a direction, under this section—

(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and

(b) comes into force when it is made or at a later date specified in it, even if it is not yet published.

Compare: 1989 No 80 s 476C

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	The maker must: • publish it in the *Gazette* • publish it on an Internet site maintained by, or on behalf of, the Ministry	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 654(3): repealed, on 1 January 2023, by section 669(1)(a).

Section 654(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

655 Effect of directions

(1) Every education entity to which a direction applies must give effect to the direction on the date on which the direction is given or on any later date that is specified in the direction.

(2) A direction overrides every other provision of this Act (apart from the provisions set out in sections 653 to 658).

(3) However, a direction does not override the provisions of any other Act, including (without limitation) the Civil Defence Emergency Management Act 2002, the Epidemic Preparedness Act 2006, the Health Act 1956, and the Health and Safety at Work Act 2015.

Compare: 1989 No 80 s 476D

656 Publication of directions

[Repealed]

Section 656: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

657 Expiry of directions

A direction expires on the earlier of—

(a) the expiry date specified in the direction:

(b) the date on which the relevant state of emergency, transitional period, or epidemic notice ends.

Compare: 1989 No 80 s 476E(2)

658 Academic freedom unaffected

Nothing in sections 653 to 657 limits the academic freedom of—

(a) an institution other than Te Pūkenga—New Zealand Institute of Skills and Technology as set out in section 267:

(b) Te Pūkenga—New Zealand Institute of Skills and Technology as set out in section 318.

Compare: 1989 No 80 s 476F

Section 658(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Section 658(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

659 Power of boards and sponsors to close schools

(1) Despite anything in regulations made under section 638(2)(e), a board or a sponsor may close a school it administers because of an epidemic, a flood, a fire, or any other emergency.

(2) The Secretary may, by written notice to the board, reduce the number of half-days for which a school would otherwise be required by regulations made under section 638(2)(e) to be open for instruction if satisfied that its closure for instruction was necessary because of an epidemic, flood, fire, or other emergency.

(3) The Secretary may direct a board or a sponsor to reopen a school if the Secretary, after consulting the board or a sponsor and any other parties that the Secretary considers relevant, is satisfied that the closure is no longer justified.

(4) A board or a sponsor may not close a school if the Secretary has issued a direction under section 654 in respect of the school.

Compare: 1989 No 80 s 65E

Section 659 heading: amended, on 1 October 2024, by section 62(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 659(1): amended, on 1 October 2024, by section 62(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 659(1): amended, on 23 August 2023, by section 36(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 659(2): amended, on 23 August 2023, by section 36(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Section 659(3): amended, on 1 October 2024, by section 62(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Section 659(4): amended, on 1 October 2024, by section 62(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 8—Offences

660 Offence relating to attempt to influence employer

(1) A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if the person directly or indirectly solicits or endeavours to influence, with respect to decisions on the matters described in section 602, any employer or any other person or persons to whom the employer has, under this Act or any other Act, delegated powers.

(2) This section does not apply to a person giving information or advice or making representations to the employer or to any other person acting under a delegation from the employer in respect of any matter at the request or invitation of the employer or to any other person acting under a delegation.

(3) Nothing in this section is to be construed so as to prevent any union from making representations to the employer or to any other person acting under a delegation from the employer on any matter affecting the salaries, wages, or conditions of employment of any employees who are members of that union.

Compare: 1988 No 20 s 76

661 Offences relating to national student numbers

(1) A specified user commits an offence, and is liable on conviction to a fine not exceeding $15,000, if the specified user uses or discloses a person's national student number otherwise than—

(a) in accordance with the authorisations under this Act or any regulations made under this Act that apply to that user; or

(b) as required by section 141 of the Intelligence and Security Act 2017 (to the extent that a permission granted under section 137 or 138 of that Act permits the Director-General of an intelligence and security agency to access information relating to national student numbers).

(2) A person (**person A**) who is not a specified user commits an offence, and is liable on conviction to a fine not exceeding $15,000, if the person, without reasonable excuse, keeps a record of, or requires the disclosure of, the national student number of another person (**person B**) if the number is, or is capable by person A of being, linked to any information that may lead person A to the identification of person B.

Compare: 1989 No 80 s 346

662 Offences relating to false representations

(1) A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if the person—

(a) makes a statement to the Teaching Council about the person's qualifications or experience that would be perjury if made on oath in judicial proceedings; or

(b) not being a registered teacher, uses, or permits to be used, in connection with the person's name or business, the words "registered teacher", or any words or initials intended or likely to make any other person believe that the person is a registered teacher; or

(c) wilfully makes, or causes to be made, a false entry in, or falsification of, the register or a practising certificate; or

(d) falsely represents a document that is not a practising certificate to be a practising certificate; or

(e) falsely represents a document that is not a limited authority to teach to be a limited authority to teach; or

(f) is appointed to or continues to be employed in a position, knowing that the appointment or employment is contrary to section 92 or 93; or

(g) being the employer of a person to whom section 95(1) applies, fails or refuses to ensure that the person does not carry out any of the duties of the teaching position in which the person is employed; or

(h) being the employer of a person to whom section 95(1) applies, fails or refuses to take all reasonably practicable steps to ensure that the person does not undertake any activities that might bring the person into contact with students enrolled at the school or children who attend the service; or

(i) being a person to whom section 95(1) applies, carries out any of the duties of the teaching position in which the person is employed; or

(j) being a person who holds neither a practising certificate nor a limited authority to teach, in any calendar year continues in the employment of an employer in a teaching position after the sum of the following periods is 20 half-days, or any greater number of half-days the Teaching Council has allowed that person (each being a half-day on which a school or an early childhood education and care service at which the person was then employed was open for instruction):

(i) the period or periods for which that person has already during that year been employed by the employer in a teaching position or teaching positions; and

(ii) any period or periods for which that person has already during that year been employed by any other employer in a teaching position or teaching positions; and

(iii) any period or periods for which that person has during that year been employed as a teacher by the employer at an early childhood education and care service; or

(k) being a person who holds neither a practising certificate nor a limited authority to teach, in any calendar year continues in the employment of the employer at an early childhood education and care service as a teacher after the sum of the following periods is 20 half-days, or any greater number of half-days the Teaching Council has allowed that person (each being a half-day on which an early childhood education and care service or a school at which the person was then employed was open for instruction):

(i) the period or periods for which that person has already during that year been employed by the employer as a teacher; and

(ii) any period or periods for which that person has already during that year been employed by an employer at any other early childhood education and care service as a teacher; and

(iii) any period or periods for which that person has during that year been employed in a teaching position by the employer at a State school.

(2) A person commits an offence, and is liable on conviction to a fine not exceeding $5,000, if the person appoints any person to a position, or continues to employ any person in a position, knowing that the appointment or employment is contrary to section 92 or 93.

Compare: 1989 No 80 s 374

663 Offence relating to obstructing power of entry

A person commits an offence, and is liable on conviction to a fine not exceeding $2,000, if the person obstructs, hinders, resists, or deceives any person

exercising or attempting to exercise a power of entry conferred by section 626 or 627.

Compare: 1989 No 80 s 319H

664 Offence relating to inspection of hostels

A person in charge (or apparently in charge) of a hostel commits an offence, and is liable on conviction to a fine not exceeding $5,000, if the person fails, without reasonable excuse, to comply with section 631(3).

Compare: 1989 No 80 s 144D(3)

665 Offence relating to powers of entry and inspection

A person commits an offence, and is liable on conviction to a fine not exceeding $10,000, if the person obstructs, hinders, resists, or deceives any person exercising or attempting to exercise a power of entry conferred by section 634(1) or section 634A(1).

Compare: 1989 No 80 s 255A(4)

Section 665: amended, on 1 August 2022, by section 66 of the Education and Training Amendment Act 2022 (2022 No 38).

666 Offence relating to breach of order of Student Allowance Appeal Authority

A person who breaches an order that a Student Allowance Appeal Authority makes under clause 5(8) of Schedule 10 is liable on conviction to a fine not exceeding $3,000.

Compare: 1989 No 80 s 305(8)

Subpart 9—Consequential amendments, repeals, and revocations

667 Consequential amendments to this Act

(1) *[Repealed]*

(2) *[Repealed]*

(3) On 1 December 2020,—

(a) in section 89(1)(f), replace "1993" with "2020":

(b) in Schedule 3, clause 9(2), replace "1993" with "2020":

(c) in Schedule 3, clause 9(3), replace "1993" with "2020".

(4) On 1 December 2020, in Schedule 3, after clause 9(3), insert:

(4) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(5) On 1 December 2020, in Schedule 9, clause 7, insert as subclause (2):

(2) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(6) On 1 December 2020,—

(a) in Schedule 9, clause 8(2), replace "may, in accordance with arrangements under the Privacy Act 1993 previously agreed between the chief executive and any institution or, if they are unable to agree, settled by the Privacy Commissioner, by notice in writing or electronically" with "may, by notice in writing or electronically,":

(b) in Schedule 9, clause 8(7), after "chief executive", insert "under the Privacy Act 2020":

(c) in Schedule 9, clause 8(8),—

(i) replace "Section 104 of the Privacy Act 1993" with "Section 182 of the Privacy Act 2020"; and

(ii) replace "section 104(2)(a), (d), or (e) of the Privacy Act 1993" with "section 182(2)(a), (d), or (e) of the Privacy Act 2020".

(7) On 1 December 2020, in Schedule 9, after clause 8(8), insert:

(9) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

(8) On 1 December 2020,—

(a) in Schedule 9, clause 9(2), replace "may, in accordance with arrangements under the Privacy Act 1993 previously agreed between the chief executive and any institution or, if they are unable to agree, settled by the Privacy Commissioner, by notice in writing or electronically" with "may, by notice in writing or electronically,":

(b) in Schedule 9, clause 9(7), after "chief executive", insert "under the Privacy Act 2020":

(c) in Schedule 9, clause 9(8),—

(i) replace "Section 104 of the Privacy Act 1993" with "Section 182 of the Privacy Act 2020"; and

(ii) replace "section 104(2)(a), (d), or (e) of the Privacy Act 1993" with "section 182(2)(a), (d), or (e) of the Privacy Act 2020".

(9) On 1 December 2020, in Schedule 9, after clause 9(8), insert:

(9) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Section 667(1): repealed, on 16 December 2021, by section 10 of the Education and Training Amendment Act 2021 (2021 No 58).

Section 667(2): repealed, on 16 December 2021, by section 10 of the Education and Training Amendment Act 2021 (2021 No 58).

668 Consequential amendments to other enactments

Amend the enactments specified in Parts 1 to 3 of Schedule 26 as set out in that schedule.

669 Repeals and revocations

(1) The following provisions of this Act are repealed on 1 January 2023:

(a) section 654(3) (which relates to Schedule 25):

(b) *[Repealed]*

(c) Schedule 21 (which relates to when State schools must be open):

(d) *[Repealed]*

(e) Schedule 25 (which relates to directions in relation to COVID-19).

(2) *[Repealed]*

(3) The following are repealed:

(a) Education Act 1964 (1964 No 135):

(b) Education Act 1989 (1989 No 80):

(c) Education Law Amendment Act 1933 (1933 No 37):

(d) Education Legislation Act 2016 (2016 No 72):

(e) Education Standards Act 2001 (2001 No 88):

(f) Education (Update) Amendment Act 2017 (2017 No 20):

(g) Parts 7, 7A, and 7B of the State Sector Act 1988.

(4) The legislative instruments specified in Part 4 of Schedule 26 are revoked.

Section 669(1)(b): repealed, on 16 December 2021, by section 11(1) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 669(1)(d): repealed, on 16 December 2021, by section 11(1) of the Education and Training Amendment Act 2021 (2021 No 58).

Section 669(2): repealed, on 16 December 2021, by section 11(2) of the Education and Training Amendment Act 2021 (2021 No 58).

Schedule 1
Transitional, savings, and related provisions

ss 11, 363(2)(b)(ii)

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Part 1
Provisions relating to Act as enacted

Subpart 1—General transitional provisions

1 Interpretation

In this schedule, unless the context otherwise requires,—

1964 Act means the Education Act 1964

1989 Act means the Education Act 1989

former enactment means 1 or more of the following:

(a) the 1964 Act:

(b) the 1989 Act:

(c) Parts 7, 7A, and 7B of the State Sector Act 1988

matter includes any action undertaken, any decision taken, any notice given, any proceedings commenced, any applications made, any agreement entered into, or any requirements imposed.

2 Matters initiated under former enactments

(1) This clause applies to any matter initiated under a former enactment before the commencement of this clause.

(2) If this clause applies, the provisions of the former enactment, as they read immediately before the commencement of this clause, continue to apply to the matter as if they had not been repealed or replaced by this Act.

(3) However, for the purposes of making amendments to a matter initiated under a provision of a former enactment, the matter may be amended under a corresponding provision in this Act (if any) as if the matter had been initiated under the corresponding provision.

3 References to former enactments

(1) A reference in an enactment or a document to a former enactment, or to 1 or more of its provisions, must be interpreted as a reference to this Act, or to the corresponding provision of this Act, to the extent necessary to reflect sensibly the intent of the enactment or document.

(2) Subclause (1) is subject to the consequential amendments in Schedule 26.

Compare: 2018 No 32 s 9(1)

4 Legislative instruments continued

(1) The following legislative instruments made under the 1989 Act and the Education Standards Act 2001 continue in force and must be treated as if they were made under the corresponding provisions of this Act:

(a) Education (Early Childhood Services) Regulations 2008 (SR 2008/204):

(b) Education (Education Review Office Authorised to Use National Student Numbers) Regulations 2019 (LI 2019/20):

(c) Education (Export Education Levy) Regulations 2011 (SR 2011/383):

(d) Education (Hostels) Regulations 2005 (SR 2005/332):

(e) Education (Ministry of Social Development Authorised to Use National Student Numbers) Regulations 2012 (SR 2012/338):

(f) Education (Playgroups) Regulations 2008 (SR 2008/205):

(g) Education (Pastoral Care of International Students) Code of Practice 2016 (LI 2016/57):

(h) Education (Payment of Relieving Teachers) Order 2012 (SR 2012/221):

(i) Education (Refund Requirements for International Students) Notice 2012 (SR 2012/312):

(j) Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236):

(k) Education (School Risk Management Scheme) Regulations 2003 (SR 2003/39):

(l) Education (2020 School Staffing) Order 2019 (LI 2019/180):

(m) Education (School Trustee Elections) Regulations 2000 (SR 2000/195):

(n) Education (Stand-down, Suspension, Exclusion, and Expulsion) Rules 1999 (SR 1999/202):

(o) Education (Statistics New Zealand Authorised to Use National Student Numbers) Regulations 2008 (SR 2008/134):

(p) Education (Surrender, Retention, and Search) Rules 2013 (SR 2013/469):

(q) Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016 (LI 2016/212):

(r) International Student Contract Dispute Resolution Scheme Rules 2016 (LI 2016/42):

(s) Student Allowances Regulations 1998 (SR 1998/277):

(t) Teaching Council of Aotearoa New Zealand Election Rules 2018 (LI 2018/234):

(u) Teaching Council Rules 2016 (LI 2016/122).

(2) The legislative instruments continued in force by this clause may be amended, revoked, or replaced under the corresponding provisions of this Act.

5 Title of legislative instrument changed

(1) In the Education (School Trustee Elections) Regulations 2000, replace regulation 1 with:

1 Title

These regulations are the Education (Board Elections) Regulations 2000.

(2) Unless the context otherwise requires, every reference to the Education (School Trustee Elections) Regulations 2000 in any enactment and any document must, after the commencement of this clause, be read as a reference to the Education (Board Elections) Regulations 2000.

6 Regulations for transitional and savings purposes

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing transitional or savings provisions for either or both of the following purposes:

(a) facilitating or ensuring the orderliness of the transition to this Act from a former enactment:

(b) ensuring that existing rights or obligations continue as part of, or despite, that transition.

(2) The Minister may not recommend the making of regulations unless satisfied that they—

(a) are reasonably necessary for either or both of the purposes in subclause (1)(a) and (b); and

(b) are consistent with the purposes of this Act.

(3) The transitional provisions or savings provisions prescribed by regulations made under subclause (1) may be provisions in addition to or instead of all other provisions of this schedule, and may—

(a) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions

(including definitions) of this Act do not apply, or apply with modifications or additions:

(b) provide that, for a transitional period, in any circumstances, or subject to any conditions, specified in the regulations, 1 or more provisions repealed, amended, or revoked by this Act are to continue to apply, or apply with modifications or additions, as if they had not been repealed, amended, or revoked:

(c) provide for any other matter necessary for either or both of the purposes in subclause (1)(a) and (b).

(4) No regulations may be made under this clause on or after 1 January 2023.

(5) Any regulations made under this clause before 1 January 2023 are revoked on 1 January 2023.

(6) Regulations under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 Schedule 1 cl 73; 2018 No 4 Schedule 1 cl 37; 2018 No 32 cl 68

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 6(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

7 Saving provisions

(1) Despite any other provision in this Act, the following provisions of the 1989 Act, as they read immediately before the commencement of this clause, continue to apply until 1 January 2023 as if they had not been repealed or replaced by this Act:

(a) section 60A (curriculum statements and national performance measures):

(b) section 61 (school charter):

(c) section 62 (procedural requirements of preparing or updating school charter):

(d) section 63 (effect of school charter):

(e) section 63A (when school charter or updated charter takes effect):

(f) section 63B (board must make copies of school charter available):

(g) section 78L (action plans):

(h) section 87 (annual reports).

(2) *[Repealed]*

(3) *[Repealed]*

(4) The following instruments are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a curriculum statement under section 60A of the 1989 Act:

(b) national performance measures under section 60A of the 1989 Act:

(c) a notice under section 88 of the 1989 Act.

Legislation Act 2019 requirements for secondary legislation referred to in subclause (4)		
Publication	The maker must: • publish it in the *Gazette*; or • notify it in the *Gazette* giving a general description and indicating where the full text can be obtained	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 7(2): repealed, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Schedule 1 clause 7(3): repealed, on 1 August 2022, by section 67(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 1 clause 7(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 2—Provisions for Part 2 (early childhood education)

[Repealed]

Schedule 1 Part 1 subpart 2: repealed, on 1 October 2024, by section 63(1) of the Education and Training Amendment Act 2024 (2024 No 40).

8 Applications for licence to operate early childhood education and care centre

[Repealed]

Schedule 1 clause 8: repealed, on 1 October 2024, by section 63(1) of the Education and Training Amendment Act 2024 (2024 No 40).

9 Review of section 17B

[Repealed]

Schedule 1 clause 9: repealed, on 1 October 2024, by section 63(1) of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 3—Provisions for Part 3 (primary and secondary education)

10 Enrolment schemes

An enrolment scheme that complies with section 71 (regardless of whether that section has commenced) may be established, amended, or abandoned in accordance with the 1989 Act as if sections 11A to 11Q of that Act were still

in force if the process of establishing, amending, or abandoning the enrolment scheme is initiated in the period beginning on the commencement of this clause and ending with the close of 31 December 2020.

11 Temporary power of Minister to approve provision of education outside New Zealand

(1) The Minister may, on a case-by-case basis, grant approval to a State school to provide education in the 2020 calendar year to students outside New Zealand who, on or before 3 July 2020, were enrolled at the school for that year.

(2) A State school granted approval under subclause (1) may continue to provide education in the 2021 and 2022 calendar years to the students described in subclause (1).

(3) An approval granted to a State school under subclause (1) expires with the close of 31 December 2022.

12 Temporary power of NZQA to approve provision of NCEA outside New Zealand

(1) Despite section 455, NZQA may, in accordance with any rules made under subclause (6), grant approval to a registered school to provide assessment for an NCEA qualification in the 2020 calendar year to students outside New Zealand who, on or before 3 July 2020, were enrolled at the school for that year.

(2) NZQA may specify the standards against which a registered school may or may not assess students—

(a) as part of an approval granted under subclause (1); or

(b) in a direction given to the school after approval is granted under subclause (1).

(3) NZQA may impose conditions on an approval granted under subclause (1), and, for that purpose, section 442(2) to (5) applies as if—

(a) each reference to accreditation or accreditation to provide an approved programme were a reference to approval under subclause (1); and

(b) each reference to an institution were a reference to a registered school.

(4) NZQA may withdraw an approval granted under subclause (1), and, for that purpose, section 444(1) to (4) applies as if—

(a) each reference to accreditation or accreditation to provide an approved programme were a reference to approval under subclause (1); and

(b) each reference to an institution were a reference to a registered school.

(5) A registered school that is granted approval under subclause (1) may continue to provide assessment for an NCEA qualification in the 2021 and 2022 calendar years to students described in subclause (1).

(6) NZQA may, for the purposes of subclause (1), make rules, in addition to any relevant requirements set out in rules made under section 452, prescribing—

(a) the process for an application for approval:

(b) the information required in an application for approval:

(c) the criteria that NZQA must apply when considering an application for approval:

(d) the requirements that the applicant must meet to maintain an approval.

(7) NZQA may, in accordance with section 457, charge fees to any registered school for an application for approval under subclause (1).

(8) Any rules made under subclause (6)—

(a) must comply with the process set out in section 452(4) and (5); and

(b) expire with the close of 31 December 2022; and

(c) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	The maker must: • publish it on an Internet site maintained by, or on behalf of, NZQA • make it available in printed form for purchase at a reasonable price on request by members of the public	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 12(3)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 1 clause 12(4)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 1 clause 12(8)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 12(8)(c): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 4—General provisions for Part 4 (tertiary education and vocational education and training)

Tertiary education strategy

13 Tertiary education strategy

(1) This clause applies to the tertiary education strategy issued by the Minister under section 159AA of the 1989 Act and in force immediately before the commencement of this clause.

(2) The strategy continues in force as if it were issued under section 7.

Institutions

14 Institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology or Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary)

(1) This clause applies to an institution (other than Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary) in existence immediately before the commencement of this clause.

(2) The institution must be treated as having been established under section 268.

(3) A reference in any other Act to an institution established under this Act must be read as including a reference to a body specified in the definition of institution in section 10(1).

Compare: 1989 No 80 s 162(1)

Schedule 1 clause 14 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 14(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Ministerial directions

15 Ministerial direction relating to compulsory student services fees

(1) This clause applies to the direction relating to compulsory student services fees given by the Minister under section 227A of the 1989 Act and in force immediately before the commencement of this clause.

(2) The direction continues in force as if it were issued under section 257.

16 Ministerial direction relating to programmes

(1) This clause applies to the direction relating to a programme of study or training given by the Minister under section 223(2) of the 1989 Act and in force immediately before the commencement of this clause.

(2) The direction continues in force as if it were issued under section 260.

Staff

17 Transitional provisions for employment of staff

(1) A person who was a member of the staff of an institution immediately before the commencement of this clause must, after that commencement, unless the employment of the person would, apart from this Act, have ended on that commencement, be, under this subclause, in the employment of the chief executive of the institution, on the same terms and conditions as those on which the person was employed immediately before that commencement, until the person's employment terminates or is terminated in accordance with those terms and conditions.

(2) The terms and conditions of employment of a person to whom subclause (1) applies must remain in force until varied either individually or through a collective agreement.

(3) This clause applies subject to the Employment Relations Act 2000 and the Public Service Act 2020.

Compare: 1989 No 80 s 198

Schedule 1 clause 17(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Subpart 5—Specific provisions for Part 4 (Te Pūkenga—New Zealand Institute of Skills and Technology and work-based training)

Schedule 1 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

18 Purpose

(1) The purpose of this subpart is to re-enact the provisions set out in Part 10 of Schedule 1 of the 1989 Act relating to Te Pūkenga—New Zealand Institute of Skills and Technology and workforce development councils that came into force on 1 April 2020 and are operative on and after that date in order to continue their legal effect.

(2) Anything done under Part 10 of Schedule 1 of the 1989 Act before the commencement of this subpart is to be treated as having been done under this subpart.

Schedule 1 clause 18(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

19 Interpretation

In this subpart, unless the context otherwise requires,—

corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, in relation to an existing polytechnic, means the Crown entity subsidiary specified in the second column of the table in clause 20(3) opposite the name of the existing polytechnic specified in the first column of the table

existing polytechnic or **polytechnic** means each polytechnic that is listed in the first column of the table in clause 20(3) and that was established or treated as having been established under section 268 before 1 April 2020 and in existence immediately before that date.

Schedule 1 clause 19 **corresponding NZIST subsidiary**: repealed, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 19 **corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary**: inserted, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Conversion of polytechnics to corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

Schedule 1 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

20 Polytechnics converted to corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

(1) On and after 1 April 2020, an existing polytechnic is a Crown entity subsidiary of Te Pūkenga—New Zealand Institute of Skills and Technology and the following provisions apply for that purpose:

(a) the polytechnic is to be treated as a company registered under the Companies Act 1993 with the name specified in the second column of the table in subclause (3) opposite the name of the polytechnic specified in the first column of that table; and

(b) the Registrar of Companies must issue a certificate of incorporation for the company; and

(c) 100 shares must be treated as having been issued to Te Pūkenga—New Zealand Institute of Skills and Technology.

(2) The certificate of incorporation is conclusive evidence that the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary was, on and after 1 April 2020, registered as a company under the Companies Act 1993.

(3) For the purposes of subclause (1)(a), the name of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is:

Name of existing polytechnic	Name of corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary
Ara Institute of Canterbury	Ara Institute of Canterbury Limited
Eastern Institute of Technology	Eastern Institute of Technology Limited
Manukau Institute of Technology	Manukau Institute of Technology Limited
Nelson Marlborough Institute of Technology	Nelson Marlborough Institute of Technology Limited
Northland Polytechnic	Northland Polytechnic Limited
Otago Polytechnic	Otago Polytechnic Limited
Southern Institute of Technology	Southern Institute of Technology Limited
Tai Poutini Polytechnic	Tai Poutini Polytechnic Limited
The Open Polytechnic of New Zealand	The Open Polytechnic of New Zealand Limited
Toi Ohomai Institute of Technology	Toi Ohomai Institute of Technology Limited
Unitec Institute of Technology	Unitec New Zealand Limited
Universal College of Learning	Universal College of Learning Limited
Waikato Institute of Technology	Waikato Institute of Technology Limited
Wellington Institute of Technology	Wellington Institute of Technology Limited
Western Institute of Technology at Taranaki	Western Institute of Technology at Taranaki Limited

Whitireia Community Polytechnic	Whitireia Community Polytechnic Limited

Compare: 1989 No 80 Schedule 1 cl 29

Schedule 1 clause 20 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 20(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 20(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 20(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 20(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Duration of corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

Schedule 1 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

21 Duration of corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

(1) Each corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary continues in existence until the close of 31 December 2022.

(2) However, the Governor-General may, by Order in Council made on the recommendation of the Minister, extend the period that any particular corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary may continue to exist to a date specified in the order.

(3) Before making a recommendation under subclause (2), the Minister must consult Te Pūkenga—New Zealand Institute of Skills and Technology on the proposed extension and take into account Te Pūkenga—New Zealand Institute of Skills and Technology's views.

(4) The Minister must not recommend an extension under subclause (2) unless the Minister is satisfied on reasonable grounds that the extension is—

(a) consistent with Te Pūkenga—New Zealand Institute of Skills and Technology's responsibilities under the charter set out in Schedule 13; and

(b) in the interests of the tertiary education system and the nation as a whole.

(5) An order under subclause (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 Schedule 1 cl 30

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Schedule 1 clause 21 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 21(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 21(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 21(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 21(4)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 21(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

22 Te Pūkenga—New Zealand Institute of Skills and Technology's council may dissolve corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

Te Pūkenga—New Zealand Institute of Skills and Technology's council may, by resolution, at any time before the date specified in clause 21(1) or by Order in Council under clause 21(2), dissolve a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary and transfer some or all of the rights, assets, and liabilities of that subsidiary to Te Pūkenga—New Zealand Institute of Skills and Technology or another Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary (whether established under clause 20(1) or formed by Te Pūkenga—New Zealand Institute of Skills and Technology under section 340).

Compare: 1989 No 80 Schedule 1 cl 31

Schedule 1 clause 22 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 22: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Consequences of conversion of polytechnics to corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

Schedule 1 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

23 Directors of corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) The directors of each corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must comprise at least 4, but not more than 8, directors.

(2) In appointing directors under subclause (1), Te Pūkenga—New Zealand Institute of Skills and Technology must ensure that at least half of the initial

directors reside in the region in which the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary mainly operates.

Compare: 1989 No 80 Schedule 1 cl 32

Schedule 1 clause 23 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 23(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 23(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

24 Application of this Act to corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

The provisions of this Act, as far as they relate to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary that provides education or training (or both) apply, with any necessary modifications, to each corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary during the period that the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary exists in accordance with clause 21 or 22.

Compare: 1989 No 80 Schedule 1 cl 33

Schedule 1 clause 24 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 24: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

25 Corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is tertiary education organisation, provider, and institution for purposes of this Act

(1) On and after 1 April 2020, each Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is to be treated,—

(a) until 31 December 2022, as a tertiary education organisation within the meaning of section 10(1), and the provisions of this Act relating to tertiary education organisations apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(b) as a provider within the meaning of section 10(1), and the provisions of this Act relating to providers apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(c) as a specified user within the meaning of section 10(1), and the provisions of this Act or any regulations made under this Act relating to national student numbers apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(d) as an institution within the meaning of section 10(1), and the provisions referred to in subclause (3) apply to it accordingly as if—

(i) those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; and

(ii) any reference in those provisions to the council of an institution were a reference to the board of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) For the purposes of subclause (1)(a), TEC may consider a proposed plan of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary and fund that subsidiary for an academic year beginning on or after 1 January 2021 but only if requested by Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) For the purposes of subclause (1)(d), the provisions are—

(a) sections 284, 309, 310, 386, 525, and 526:

(b) subparts 1 and 2 of Part 4:

(c) subpart 2 of Part 5:

(d) clauses 1, 5, and 6 of Schedule 8.

Compare: 1989 No 80 Schedule 1 cl 34

Schedule 1 clause 25 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1)(d)(i): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(1)(d)(ii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 25(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

26 Members of existing polytechnic council cease to hold office

(1) Every member of an existing polytechnic council holding office immediately before 1 April 2020 ceases to hold office on the close of the day before that date.

(2) Neither the Crown nor any existing polytechnic council is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) in respect of the loss of office.

Compare: 1989 No 80 Schedule 1 cl 35

27 Rights, assets, and liabilities of existing polytechnics

(1) This clause applies to all rights, assets, and liabilities that an existing polytechnic had immediately before 1 April 2020.

(2) On and after 1 April 2020,—

(a) the rights, assets, and liabilities of the existing polytechnic vest in the existing polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; and

(b) unless the context otherwise requires, every reference to the existing polytechnic in any enactment (other than this Act), instrument, agreement, deed, lease, application, notice, or other document before that date must be read as a reference to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) In this clause, **assets**, **liabilities**, and **rights** have the same meanings as in section 10(6).

Compare: 1989 No 80 Schedule 1 cl 36

Schedule 1 clause 27(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 27(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

28 Same person for purposes of Inland Revenue Acts

For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must be treated as the same person as the existing polytechnic.

Compare: 1989 No 80 Schedule 1 cl 37

Schedule 1 clause 28: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

29 Employees of existing polytechnics

(1) On and after 1 April 2020, every employee of an existing polytechnic becomes an employee of the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary on the same terms and conditions that applied to the person immediately before they became an employee of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of that employee,—

(a) the employee's employment agreement of that employee is to be treated as unbroken; and

(b) the employee's period of service with the existing polytechnic, and every other period of service of the employee that is recognised by the poly-

technic as continuous service, is to be treated as a period of service with the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) To avoid doubt, the employment of an employee to whom this clause applies by a polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary does not constitute new employment for the purposes of any service-related benefits, whether legislative or otherwise.

(4) An employee to whom this clause applies is not entitled to receive any payment or benefit from an existing polytechnic or its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary on the grounds that the person's position in the polytechnic has ceased to exist or the person has ceased to be an employee of the polytechnic as a result of the transfer to its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(5) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employment protection provision in any relevant employment agreement.

Compare: 1989 No 80 Schedule 1 cl 38

Schedule 1 clause 29(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 29(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 29(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 29(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

30 Government Superannuation Fund

(1) This clause applies to a person who, immediately before becoming an employee of a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.

(2) For the purposes of the Government Superannuation Fund Act 1956, the person is treated as being employed in the Government service as long as the person continues to be an employee of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary were Government service.

(4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is the controlling authority.

Compare: 1989 No 80 Schedule 1 cl 39

Schedule 1 clause 30(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 30(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 30(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 30(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

31 Students of existing polytechnics

(1) This clause applies to every student enrolled at an existing polytechnic immediately before 1 April 2020.

(2) On and after 1 April 2020, the student must be treated as having been enrolled at the existing polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) A student who would, but for the conversion of the existing polytechnic into its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, have been entitled to be granted an award of the existing polytechnic is entitled to be granted a like award of the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

Compare: 1989 No 80 Schedule 1 cl 40

Schedule 1 clause 31(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 31(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

32 Visas granted under Immigration Act 2009

(1) This clause applies to a visa granted under the Immigration Act 2009 in respect of—

(a) a student, for the purposes of enrolment at an existing polytechnic; or

(b) a staff member of an existing polytechnic.

(2) On and after 1 April 2020, any reference to the existing polytechnic in a condition imposed on the visa must be read as a reference to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

Compare: 1989 No 80 Schedule 1 cl 41

Schedule 1 clause 32(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

33 Existing NZQA approvals, accreditations, and consents

(1) This clause applies to the following granted to an existing polytechnic by NZQA under Part 20 of the 1989 Act before 1 April 2020 and in effect immediately before that date:

(a) an approval of a programme under section 439:

(b) an accreditation to provide all or part of a programme under section 441:

(c) an approval to provide a training scheme under section 445:

(d) a consent to assess against the standards listed in the Directory of Assessment and Skill Standards under section 449:

(e) a consent to award a degree or a postgraduate qualification under section 454.

(2) On and after 1 April 2020,—

(a) except as provided in subclause (3), the approval, accreditation, or consent (including any conditions imposed on an approval, an accreditation, or a consent) must be treated as if it were granted to the existing polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; and

(b) unless the context otherwise requires, every reference to the existing polytechnic in the approval, accreditation, or consent must be read as a reference to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) On and after 1 January 2023, the approval of a programme under section 439 and the consent to award a degree or a postgraduate qualification under section 454 must be treated as if they were granted to Te Pūkenga—New Zealand Institute of Skills and Technology.

Compare: 1989 No 80 Schedule 1 cl 42

Schedule 1 clause 33(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 1 clause 33(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 33(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 33(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

34 Existing funding paid by TEC under funding mechanism

(1) This clause applies to funding (including any conditions imposed on the funding) payable by the Commission to an existing polytechnic—

(a) in accordance with an approval granted under section 425(2); or

(b) other than via a plan under section 428.

(2) On and after 1 April 2020,—

(a) the Commission must treat the funding as if it were payable to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary until the close of 31 December 2020, unless that funding is earlier suspended, revoked, or withdrawn under clause 16 or 26 of Schedule 18 or the subsidiary is earlier dissolved in accordance with clause 22; and

(b) for the purposes of paragraph (a), every reference to the existing polytechnic in an approval granted under section 425(2) must, unless the context otherwise requires, be read as a reference to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

Compare: 1989 No 80 Schedule 1 cl 43

Schedule 1 clause 34(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 34(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

35 Other references to existing polytechnics

On and after 1 April 2020, every reference to an existing polytechnic in any enactment (other than this Act) or document must, unless the context otherwise requires, be read as a reference to the polytechnic's corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

Compare: 1989 No 80 Schedule 1 cl 44

Schedule 1 clause 35: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

36 Existing proceedings and other matters

(1) On and after 1 April 2020,—

(a) any proceedings by or against an existing polytechnic may be continued or enforced by or against its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary without amendment to the proceedings; and

(b) a matter or thing that would, but for this clause, have been completed by the existing polytechnic may be completed by its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; and

(c) anything done, or omitted to be done, or that is to be done, by or in relation to the existing polytechnic is to be treated as having been done, or having been omitted to be done, or to be done, by or in relation to its corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) In subclause (1)(a), **proceedings**—

(a) means civil and criminal proceedings; and

(b) includes any enforcement or compliance action by TEC or NZQA.

Compare: 1989 No 80 Schedule 1 cl 45

Schedule 1 clause 36(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 36(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 36(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

37 Final report of existing polytechnics

(1) Each corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must provide a final report to the Minister in relation to the polytechnic from which the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary was formed in accordance with clause 20.

(2) For the purposes of section 45L of the Public Finance Act 1989, an existing polytechnic that is converted into a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must be treated as if it were disestablished and its operations were transferred to the corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) Despite subpart 1 of Part 5 of the Public Finance Act 1989, the Minister may specify the contents of the final report and the date or dates by which the contents of the report must be provided.

(4) The Minister must present a copy of the final report to the House of Representatives as soon as practicable after receiving it.

Compare: 1989 No 80 Schedule 1 cl 46

Schedule 1 clause 37(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 37(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Te Pūkenga—New Zealand Institute of Skills and Technology

Schedule 1 heading: replaced, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

38 Validation of pre-commencement actions and processes relating to ministerial appointments to Te Pūkenga—New Zealand Institute of Skills and Technology's council

(1) This clause applies to any action or process undertaken by the Minister before 1 April 2020 when appointing members to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

(2) An appointment is valid if the action or process substantially complies with this Act.

Compare: 1989 No 80 Schedule 1 cl 47

Schedule 1 clause 38 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 38(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

39 Membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council reduced until all appointments made

(1) The number of Te Pūkenga—New Zealand Institute of Skills and Technology council members is proportionately reduced until the date on which each member referred to in section 320(1)(a), (b), and (c) is appointed to the council.

(2) No action of Te Pūkenga—New Zealand Institute of Skills and Technology's council is invalid merely because any member referred to in subclause (1) has not been appointed to Te Pūkenga—New Zealand Institute of Skills and Technology's council on 1 April 2020.

Compare: 1989 No 80 Schedule 1 cl 49

Schedule 1 clause 39 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 39(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 39(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

40 Te Pūkenga—New Zealand Institute of Skills and Technology must obtain ministerial approval before forming new subsidiary

(1) Te Pūkenga—New Zealand Institute of Skills and Technology must obtain ministerial approval before forming a subsidiary under section 340(1).

(2) The requirement in subclause (1) ceases to apply on the close of 31 December 2024.

Compare: 1989 No 80 Schedule 1 cl 50

Schedule 1 clause 40 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 40(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

41 Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is tertiary education organisation, provider, and institution

(1) This clause applies to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary formed by Te Pūkenga—New Zealand Institute of Skills and Technology on or after 1 April 2020 under section 340 that provides education or training, or both.

(2) The Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary must be treated as—

(a) a tertiary education organisation within the meaning of section 10(1), and the provisions of this Act relating to tertiary education organisations

apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(b) a provider within the meaning of section 10(1), and the provisions of this Act relating to providers apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(c) a specified user within the meaning of section 10(1), and the provisions of this Act or any regulations made under this Act relating to national student numbers apply to it accordingly as if those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary:

(d) an institution within the meaning of section 10(1), and the provisions referred to in subclause (4) apply to it accordingly as if—

(i) those provisions included a reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; and

(ii) any reference in those provisions to the council of an institution were a reference to the board of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(3) For the purposes of subclause (2)(a), the Commission may consider a proposed plan of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary and fund that subsidiary for an academic year beginning on or after 1 January 2021 but only if requested by Te Pūkenga—New Zealand Institute of Skills and Technology.

(4) For the purposes of subclause (2)(d), the provisions are—

(a) sections 284, 309, 310, 386, 525, and 526:

(b) subparts 1 and 2 of Part 4:

(c) subpart 2 of Part 5:

(d) clauses 1, 5, and 6 of Schedule 8.

Compare: 1989 No 80 Schedule 1 cl 51

Schedule 1 clause 41 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2)(d)(i): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(2)(d)(ii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 41(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Work-based training

42 Interpretation

(1) In clauses 44 to 58, unless the context otherwise requires,—

1992 Act means the Industry Training and Apprenticeships Act 1992

assets has the same meaning as in section 10(6)

former ITO means an industry training organisation listed in clause 44(1)(a) that was recognised under Part 2 of the 1992 Act and whose recognition was in force immediately before that date

transition period means the period beginning on 1 April 2020 and ending with the close of 31 December 2022

transitional ITO means—

(a) a former ITO:

(b) a body corporate that is recognised by the Minister under clause 44(1)(b)

workforce development council means a workforce development council established under section 363.

(2) In clauses 44 to 58, unless the context otherwise requires, **provider**, **specified industries**, **trainee**, and **work-based training** have the same meanings as in section 10(1).

Compare: 1989 No 80 Schedule 1 cl 52

Schedule 1 clause 42 **former ITO**: amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 42 **transitional ITO** paragraph (b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

43 Application of clauses 44 to 58

Clauses 44 to 58 apply during the transition period.

Compare: 1989 No 80 Schedule 1 cl 53

44 Recognition of transitional ITOs

(1) The following are recognised as transitional ITOs for the purposes of clauses 45 to 58:

(a) each of the following former ITOs:

(i) Boating Industries Association of New Zealand Incorporated:

(ii) Building and Construction Industry Training Organisation Incorporated:

(iii) Community Support Services ITO Limited:

(iv) Competenz Trust:

(v) Infrastructure Industry Training Organisation Incorporated:

(vi) MITO New Zealand Incorporated:

(vii) New Zealand Hair and Beauty Industry Training Organisation Incorporated:

(viii) Primary Industry Training Organisation Incorporated:

(ix) Service Skills Institute Incorporated:

(x) Skills Active Aotearoa Limited:

(xi) The Skills Organisation Incorporated:

(b) any body corporate recognised by the Minister, by notice, as a transitional ITO for the purposes of clauses 45 to 58.

(2) A notice under subclause (1)(b) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 Schedule 1 cl 54

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 44(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 44(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

45 Effect of recognition

(1) A transitional ITO recognised under clause 44(1)(a)—

(a) is recognised for the 1 or more specified industries for which it was recognised under Part 2 of the 1992 Act immediately before 1 April 2020; and

(b) must carry out the 1 or more activities described in subclause (3) in relation to the specified industries for which it was previously recognised under the 1992 Act.

(2) A transitional ITO recognised under clause 44(1)(b)—

(a) is recognised for the 1 or more industries specified in the notice given by the Minister when recognising the transitional ITO; and

(b) must carry out the 1 or more activities described in subclause (3) and specified in the notice.

(3) For the purposes of this clause, the activities are—

(a) developing, setting, and maintaining skill standards to be listed on the Directory of Assessment and Skill Standards; and

(b) developing and maintaining arrangements for the delivery of work-based training that enable trainees to achieve the relevant skill standards; and

(c) the apprenticeship training activities described in section 376(2).

Compare: 1989 No 80 Schedule 1 cl 55

Schedule 1 clause 45(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 45(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 45(3)(a): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

46 Minister may impose conditions on recognition of transitional ITO

(1) The Minister may, by written notice to a transitional ITO, impose any conditions on that recognition that the Minister considers are reasonably necessary—

(a) to maintain the quality and effectiveness of vocational education and training in the transitional ITO's specified industries; and

(b) to ensure the success of the transfer of responsibility for the activities of the transitional ITO.

(2) The Minister may amend or revoke a condition imposed under subclause (1) by written notice to the transitional ITO.

(3) However, no condition may be imposed under subclause (1) that requires the assets of a transitional ITO to be allocated to a workforce development council under clause 57.

Compare: 1989 No 80 Schedule 1 cl 56

47 Minister may change specified industries or activities of transitional ITO

(1) The Minister may, by notice, change—

(a) the specified industries covered by a transitional ITO; or

(b) the activities that must be carried out by the transitional ITO in relation to those industries.

(2) A notice under subclause (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 Schedule 1 cl 57

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14

Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 47(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 47(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

48 Application of certain provisions of Industry Training and Apprenticeships Act 1992 to transitional ITO

(1) Despite the repeal of the Industry Training and Apprenticeships Act 1992 (the **1992 Act**) by section 75 of the Education (Vocational Education and Training Reform) Amendment Act 2020, the provisions of the 1992 Act listed in subclause (2) continue in force, with any necessary modifications, and apply to a transitional ITO during the period that the transitional ITO remains in existence as if—

(a) references in those provisions to an industry training organisation were references to the transitional ITO; and

(b) references in those provisions to industry training were references to work-based training.

(2) The provisions are—

(a) section 10 (industry training organisation's proposed plan must identify activities for which it seeks funding):

(b) section 10A (power to fund if employer switches industry training organisation):

(c) section 11 (matters to which TEC must have regard in determining whether to give funding approval to proposed plan):

(d) section 11B (obligations of industry training organisations):

(e) section 11C (NZQA may issue quality assurance improvement notice):

(f) section 11D (NZQA may issue compliance notice):

(g) section 11E (industry training organisation not to operate registered private training establishments):

(h) section 11F (annual fee):

(i) section 13A (additional functions of NZQA):

(j) section 13B (NZQA may prescribe quality assurance requirements):

(k) Part 2A (apprenticeship training):

(l) Part 5 and Schedule 4 (training levies).

(3) Despite subclause (1), section 11E of the 1992 Act (as applied by subclause (2)(g)) applies to a transitional ITO only while the transitional ITO continues to

exercise any standard-setting powers for the specified industries covered by the transitional ITO.

(4) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) an apprenticeship training code under section 13F of the 1992 Act:

(b) a levy order under section 26 of the 1992 Act.

(5) Despite the amendment of Schedule 2 of the Legislation Act 2012 and Schedule 4 of the Legislation Act 2019 by section 78(1) of the Education (Vocational Education and Training Reform) Amendment Act 2020,—

(a) subpart 1A of Part 3 of the Legislation Act 2012 continues to apply to a levy order under section 26 of the 1992 Act that is made before the main commencement date (*see also* clause 34 of Schedule 1 of the Legislation Act 2019):

(b) subpart 3 of Part 5 of the Legislation Act 2019 applies to a levy order under section 26 of the 1992 Act if it is made on or after the main commencement date.

(6) For the purposes of subclause (5), **main commencement date** has the meaning given in clause 2 of Schedule 1 of the Legislation Act 2019.

Compare: 1989 No 80 Schedule 1 cl 58

Legislation Act 2019 requirements for secondary legislation referred to in subclause (4)(a)		
Publication	The maker must: • publish it in the *Gazette*, or notify it in the *Gazette* giving enough information to identify it and stating where copies of it may be obtained • make it available at every office of the TEC • publish it on the TEC's Internet site	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subclause (4)(b)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 48(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 48(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 48(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

49 Existing approvals and consents granted to former ITO

(1) This clause applies to the following matters granted to a former ITO by NZQA under Part 20 of the 1989 Act before 1 April 2020 and in effect immediately before that date:

(a) an approval of a programme under section 439:

(b) an approval to provide a micro-credential under section 445:

(c) a consent to assess against the standards listed in the Directory of Assessment and Skill Standards under section 449.

(2) On and after 1 April 2020,—

(a) an approval or a consent (including any conditions imposed on the approval or consent) must be treated as if it were granted to the former ITO's corresponding transitional ITO; and

(b) unless the context otherwise requires, every reference in the approval or consent must be read as a reference to the corresponding transitional ITO.

Compare: 1989 No 80 Schedule 1 cl 59

Schedule 1 clause 49(1)(b): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 1 clause 49(1)(c): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

50 Transitional ITO is tertiary education organisation

A transitional ITO is to be treated as a tertiary education organisation within the meaning of section 10(1), and the provisions of this Act relating to tertiary education organisations apply to it accordingly.

Compare: 1989 No 80 Schedule 1 cl 60

51 Transitional ITO is approved standard-setting body

A transitional ITO is to be treated as an approved standard-setting body for the purposes of section 438 in relation to the specified industries for which it is recognised under clauses 44 to 58 until—

(a) a notice is given under clause 47 that removes the activity described in clause 45(3)(a) for a specified industry covered by the transitional ITO; or

(b) the recognition of the transitional ITO is cancelled under clause 55 or lapses under clause 56.

Compare: 1989 No 80 Schedule 1 cl 61

52 Transitional ITOs must develop transition plan

(1) As soon as practicable after 1 April 2020, every transitional ITO must—

(a) develop a transition plan for approval by TEC that provides for the transfer of—

(i) responsibility for the activity described in clause 45(3)(a) (or any part of that activity), or the activity described in clause 45(3)(b) to the extent that it relates to developing or maintaining qualifications, to any 1 or more workforce development councils:

(ii) responsibility for the activities described in clause 45(3)(b) and (c) (or any part of those activities) to any 1 or more providers specified by TEC:

(iii) responsibility for any of the activities described in clause 45(3) (or any part of those activities) to another transitional ITO:

(iv) the assets of the transitional ITO to any 1 or more providers, workforce development councils, or other transitional ITO; and

(b) implement and maintain that plan; and

(c) support providers specified by TEC when transferring the responsibility for the activities described in clause 45(3)(b) and (c).

(2) When approving a transition plan under subclause (1), TEC—

(a) may make any amendments to the plan that it considers necessary or desirable by giving written notice to the transitional ITO; but

(b) must not amend that part of the plan that relates to transfer of the assets to any 1 or more providers, workforce development councils, or other transitional ITOs.

(3) If a transitional ITO fails or refuses to comply with subclause (1), TEC may develop the transition plan for the transitional ITO and the transitional ITO must implement and maintain that plan.

Compare: 1989 No 80 Schedule 1 cl 62

53 TEC must issue guidance on transition plans

(1) TEC must issue guidance to transitional ITOs on what must be contained in a transition plan required by clause 52(1).

(2) TEC must consult transitional ITOs when developing guidance under subclause (1).

Compare: 1989 No 80 Schedule 1 cl 63

54 Minister may direct funding to provider for work-based training

Despite section 420(1), the Minister may direct that funding be provided to a provider to support work-based training on behalf of employers if the Minister believes it is reasonably necessary for facilitating or ensuring the successful transfer of responsibility for the activities referred to in clause 45(3)(b) and (c) of this schedule.

Compare: 1989 No 80 Schedule 1 cl 64

55 Cancellation of recognition of transitional ITO

(1) The Minister may, by notice, cancel the recognition of a transitional ITO—

(a) if it asks the Minister to cancel its recognition; or

(b) if the circumstances described in subclause (2) apply; or

(c) if it has breached the requirement set out in section 11E of the 1992 Act (as applied by clause 48(2)(g)); or

(d) if the Minister is satisfied that—

(i) the transitional ITO is no longer responsible for carrying out any of the activities referred to in clause 45(3); or

(ii) the body corporate recognised as the transitional ITO no longer exists.

(2) For the purpose of subclause (1)(b), the circumstances are that—

(a) the Minister has issued a notice to the transitional ITO stating that the Minister considers its performance is inadequate for any of the following reasons:

(i) it is not carrying out at least 1 of the activities for the specified industries for which it is recognised:

(ii) it is failing to comply with 1 or more conditions of its recognition:

(iii) it is failing to comply with a compliance notice issued by NZQA; and

(b) the period of time specified in the notice within which the transitional ITO must improve its performance has elapsed; and

(c) the Minister is satisfied that the transitional ITO's performance continues to be inadequate for the reason or reasons specified in the notice.

(3) For the purpose of subclause (2)(a), the notice must be in writing and state—

(a) the areas in which the Minister considers the transitional ITO's performance to be inadequate; and

(b) what actions the transitional ITO should take to improve its performance; and

(c) the period (which must be a reasonable period) within which the transitional ITO must improve its performance; and

(d) the fact that the Minister may cancel the recognition of the transitional ITO under subclause (1) if it fails to improve its performance within that period.

(4) If the recognition of a transitional ITO is cancelled under subclause (1), any approval or consent associated with that recognition is withdrawn on the date on which the recognition is cancelled.

(5) No notice is required to be given to a transitional ITO for a withdrawal under subclause (4).

(6) A notice under subclause (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 Schedule 1 cl 65

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 55(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 1 clause 55(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

56 Recognition lapses at end of transition period

(1) This clause applies to any transitional ITO in existence at the close of the day immediately before the end of the transition period.

(2) The recognition of the transitional ITO lapses at the end of the transition period.

(3) If the recognition of a transitional ITO lapses under subclause (2), any approval or consent associated with that recognition is withdrawn on the date on which the recognition lapses.

(4) No notice is required to be given to a transitional ITO for a withdrawal under subclause (3).

Compare: 1989 No 80 Schedule 1 cl 66

57 Allocation of assets of transitional ITO

(1) This clause applies to any assets of a transitional ITO during the transition period.

(2) Despite any enactment to the contrary or anything in the transitional ITO's founding document, those assets may be allocated to 1 or more providers, workforce development councils, or other transitional ITOs to which the activities of the transitional ITO have been transferred in accordance with the transition plan.

(3) In this clause, **founding document** means,—

(a) for a transitional ITO that is a company, the transitional ITO's constitution (if any):

(b) for a transitional ITO that is an incorporated society, the transitional ITO's rules:

(c) for a transitional ITO that is a charitable trust, the transitional ITO's trust deed.

Compare: 1989 No 80 Schedule 1 cl 67

58 Employment of transitional ITO employees by Te Pūkenga—New Zealand Institute of Skills and Technology, Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO

(1) This clause applies if the activities of a transitional ITO are transferred to Te Pūkenga—New Zealand Institute of Skills and Technology, an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, a wānanga, a workforce development council, or another transitional ITO in accordance with a transition plan developed under clause 52.

(2) The chief executive of Te Pūkenga—New Zealand Institute of Skills and Technology or the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO to which those activities are transferred must identify the employees of the transitional ITO—

(a) whose duties overall are required by Te Pūkenga—New Zealand Institute of Skills and Technology or that Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO to carry out its functions; and

(b) whose positions will cease to exist as a result of the transfer of responsibility of the transitional ITO's activities to Te Pūkenga—New Zealand Institute of Skills and Technology or the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO.

(3) An employee who is identified under subclause (2) may be offered equivalent employment by Te Pūkenga—New Zealand Institute of Skills and Technology or the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO, being employment that is—

(a) in substantially the same position; and

(b) in the same general locality; and

(c) on terms and conditions (including any terms and conditions relating to redundancy and superannuation) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and

(d) on terms that treat the period of service with the transitional ITO (and every other period of service recognised by the transitional ITO as continuous service) as if it were continuous service with Te Pūkenga—New Zealand Institute of Skills and Technology or the Te Pūkenga—New

Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO.

(4) If the employee accepts an offer of employment under subclause (3), the employee's employment by Te Pūkenga—New Zealand Institute of Skills and Technology or the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, wānanga, workforce development council, or other transitional ITO is to be treated as continuous employment, including for the purpose of service-related entitlements, whether legislative or otherwise.

(5) An employee of a transitional ITO that is offered employment under subclause (3) is not entitled to receive any payment or other benefit on the ground that the employee's position in the transitional ITO has ceased to exist, whether or not the employee accepts the offer.

(6) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employee protection provision in any relevant employment agreement.

(7) In this clause, **transitional ITO** has the same meaning as in clause 42.

Compare: 1989 No 80 Schedule 1 cl 68

Schedule 1 clause 58 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(3)(d): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 1 clause 58(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

59 Employment of NZQA employees by workforce development council

(1) This clause applies if the functions of NZQA in developing, setting, and maintaining skill standards in relation to 1 or more specified industries are to be transferred to a workforce development council that covers those industries in accordance with a transition plan developed by NZQA for the purpose of this clause.

(2) The chief executive of the workforce development council to which the functions of NZQA are transferred must identify the employees of NZQA—

(a) whose duties overall are required by the workforce development council to carry out its functions; and

(b) whose positions will cease to exist as a result of the transfer of responsibility of NZQA's functions to the workforce development council.

(3) An employee who is identified under subclause (2) may be offered equivalent employment by the workforce development council, being employment that is—

(a) in substantially the same position; and

(b) in the same general locality; and

(c) on terms and conditions (including any terms and conditions relating to redundancy and superannuation) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and

(d) on terms that treat the period of service with NZQA (and every other period of service recognised by NZQA as continuous service) as if it were continuous service with the workforce development council.

(4) If the employee accepts an offer of employment under subclause (3), the employee's employment by the workforce development council is to be treated as continuous employment, including for the purpose of service-related entitlements, whether legislative or otherwise.

(5) An employee of NZQA who is offered employment under subclause (3) is not entitled to receive any payment or other benefit on the ground that the employee's position in NZQA has ceased to exist, whether or not the employee accepts the offer.

(6) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employee protection provision in any relevant employment agreement.

Compare: 1989 No 80 Schedule 1 cl 69

60 Provider must not charge fee for compulsory student services during specified period

(1) A provider must not charge a trainee a compulsory student services fee during the specified period.

(2) The Minister may, by notice published on an Internet site maintained by or on behalf of the Ministry, specify any class of trainees to whom subclause (1) does not apply.

(3) In subclause (1),—

compulsory student services fee means a fee determined under section 256(1)(b) or as defined in section 360(6)

specified period means the period beginning on 1 April 2020 and ending with the close of 31 December 2022.

Compare: 1989 No 80 Schedule 1 cl 70

Schedule 1 clause 60(3) **specified period**: amended, on 16 December 2021, by section 12 of the Education and Training Amendment Act 2021 (2021 No 58).

61 Existing training contracts

(1) This clause applies to a training contract between an employer and employee that is in force immediately before 1 April 2020.

(2) On and after 1 April 2020, the training contract must be treated as if it were a training agreement for the purposes of section 362.

Compare: 1989 No 80 Schedule 1 cl 71

62 References to industry training organisation to be treated as references to transitional ITO

Despite the repeal of the 1989 Act, a reference to an industry training organisation in any enactment or document, as it read immediately before 1 April 2020, must, on and after that date, be read as a reference to a transitional ITO for the period that transitional ITOs remain in existence under this Act.

Compare: 1989 No 80 Schedule 1 cl 72

Subpart 6—Provisions for Part 5 (performance, funding, and support)

Superannuation

63 Superannuation relating to TEC

(1) Any person who, immediately before becoming an employee of TEC, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is to be treated, for the purpose of that Act, as employed in the Government service as long as the person continues to be an employee of TEC.

(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of TEC were Government service.

(3) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of TEC is the controlling authority.

Compare: 1989 No 80 s 159KD

64 Superannuation relating to NZQA

Employment in the service of NZQA is Government service within the meaning of the Government Superannuation Fund Act 1956.

Compare: 1989 No 80 s 256E

65 Superannuation relating to Teaching Council

(1) Any person who, immediately before becoming an employee of the Teaching Council, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 or to the State Sector Retirement Savings Scheme is to be treated, for the purpose of that Act, as being employed in the Government service as long as the person continues to be an employee of the Teaching Council.

(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the Teaching Council were government service.

(3) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund or to the State Sector Retirement Savings Scheme if the person has ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the Teaching Council is the controlling authority.

Compare: 1989 No 80 s 391

66 Superannuation relating to Education New Zealand

(1) Any person who, immediately before becoming an employee of Education New Zealand, is a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is to be treated, for the purpose of that Act, as being employed in the Government service so long as the person continues to be an employee of Education New Zealand.

(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of Education New Zealand were Government service.

(3) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of Education New Zealand is the controlling authority.

Compare: 1989 No 80 s 273B

Pastoral care

67 Transitional provision relating to code in respect of domestic tertiary students

[Repealed]

Schedule 1 clause 67: repealed, on 1 August 2022, by section 67(3) of the Education and Training Amendment Act 2022 (2022 No 38).

68 Transitional provision relating to code in respect of international students

(1) This clause—

(a) applies to signatory providers that enrol international students; and

(b) applies despite subpart 7 of Part 5 of this Act.

(2) Subpart 7 of Part 5 applies to any code in respect of international students issued under Part 18A of the 1989 Act, as it read immediately before the commencement of this clause, as if the code were made under subpart 7 of Part 5 of this Act.

(3) Despite subclause (2), Part 18A of the 1989 Act, as it read immediately before the commencement of this clause, continues to apply for the purposes of completing any proceedings commenced before the commencement of this clause.

69 Transitional provision relating to export education levy

[Repealed]

Schedule 1 clause 69: repealed, on 1 January 2022, by clause 69(3).

Subpart 7—Provisions for Part 6 (administration of education system)

70 Criteria relating to appointment of principals

The requirement for a person to meet criteria issued by the Minister under section 617 for appointment as a principal does not take effect until the day that is 6 months after the date on which the criteria are first issued.

71 National student numbers

(1) This clause applies to a national student number assigned to a person under section 343 of the 1989 Act before the commencement of this clause.

(2) The national student number continues to apply in respect of the person as if it were assigned under clause 3 of Schedule 24.

Compare: 1989 No 80 s 343(2)

Part 2
Provision relating to Education and Training (Grants—Budget Measures) Amendment Act 2021

Schedule 1 Part 2: inserted, on 13 July 2021, by section 5(a) of the Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28).

72 Application of section 548(5A) to (5C)

Section 548(5A) to (5C) (as inserted by section 4 of the Education and Training (Grants—Budget Measures) Amendment Act 2021) applies to a grant paid under section 548, and to a condition or purpose specified under section 548(5)(a) or (b) for that grant, after the commencement of that Act (whether that grant was determined before or after that commencement).

Schedule 1 clause 72: inserted, on 13 July 2021, by section 5(a) of the Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28).

Part 3
Provisions relating to Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021

Schedule 1 Part 3: inserted, on 20 November 2021, by section 7(a) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

73 Interpretation

In this Part,—

2015 fees means fees fixed or purportedly fixed by the Education Council of Aotearoa New Zealand Fees for Registration, Practising Certificates and Limited Authorities to Teach notice published in the *Gazette* on 25 June 2015, 2015-gs3644

2020 fee means a fee fixed or purportedly fixed by the Teaching Council of Aotearoa New Zealand Fees for Registration, Practising Certificates, and Limited Authorities to Teach notice published in the *Gazette* on 22 May 2020, 2020-gs2144

commencement means the commencement of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021

former Council means any predecessor of the Teaching Council.

Schedule 1 clause 73: inserted, on 20 November 2021, by section 7(a) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

74 Validation of specified fees

(1) This clause applies to the 2015 fees and any previous fees fixed by a former Council for registration as a teacher, the issuing of a practising certificate, or the granting of a limited authority to teach (**specified fees**).

(2) The specified fees, and all actions of a former Council in fixing the specified fees, are valid and declared to be and to always have been lawful.

(3) All money received by the Teaching Council or a former Council in payment of the specified fees is to be treated as having been lawfully paid to, and received by, the Teaching Council or the former Council.

Schedule 1 clause 74: inserted, on 20 November 2021, by section 7(a) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

75 Recovery of unpaid 2015 fees

Any 2015 fee, or part of a 2015 fee, that applies to a person and that has not been paid before commencement—

(a) is declared to be lawfully payable to the Teaching Council; and

(b) may be recovered by the Teaching Council on and after commencement as if the 2015 fee had always been lawfully payable by the person.

Schedule 1 clause 75: inserted, on 20 November 2021, by section 7(a) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

76 Payment of 2020 fees

(1) This clause applies to a person who has paid a 2020 fee to the Teaching Council on or after 1 February 2021.

(2) The payment must be treated on and after commencement as a part-payment of the appropriate 2015 fee payable by the person.

Schedule 1 clause 76: inserted, on 20 November 2021, by section 7(a) of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Part 4
Provisions relating to Education and Training Amendment Act 2022

Schedule 1 Part 4: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

General

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

77 Interpretation

In this Part—

1989 Act means the Education Act 1989

Amendment Act means the Education and Training Amendment Act 2022

commencement date means the date on which the Amendment Act (other than sections 44 and 45) comes into force

DRS means the student contract dispute resolution scheme established under section 536.

Schedule 1 clause 77: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Licensing of early childhood services

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

78 Transitional provision relating to applications for licences to operate early childhood services

Sections 17 to 18C do not apply to an application for a licence under the Education (Early Childhood Services) Regulations 2008 made before the date those sections come into force and to which the requirements for the provision of information and evidence relating to the application specified in regulations have been met.

Schedule 1 clause 78: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Compulsory student services fees

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

79 Ministerial direction relating to compulsory student services fees

(1) This clause applies to a direction relating to compulsory student services fees that was given by the Minister under section 227A of the 1989 Act, and that—

(a) was continued in force under clause 15; and

(b) is in force immediately before the commencement date.

(2) Despite the repeal of sections 257 and 360 by sections 15 and 18 of the Amendment Act, the direction continues in force until 1 January 2024 (unless it is revoked earlier by the Minister).

Schedule 1 clause 79: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Training schemes

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

80 Existing training scheme approval to become micro-credential approval and accreditation

(1) This clause applies to an institution that was granted approval to provide a training scheme under section 445 before the commencement date.

(2) On and after the commencement date,—

(a) the training scheme is to be treated as a micro-credential for the purposes of the Act; and

(b) the institution must be treated as if NZQA has—

(i) granted approval of the content of a micro-credential under section 445; and

(ii) granted accreditation to the institution to provide the micro-credential under section 446A.

Schedule 1 clause 80: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Notices published by NZQA

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

81 Publication of saved notices by NZQA

NZQA may publish the following under section 459A:

(a) a quality assurance improvement notice (or summary of a notice) issued under section 11C of the Industry Training and Apprenticeships Act 1992 and continued in force under clause 48:

(b) a compliance notice (or summary of a notice) issued under section 11D of the Industry Training and Apprenticeships Act 1992 and continued in force under clause 48.

Schedule 1 clause 81: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Disciplinary functions

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

82 Transitional provision relating to Complaints Assessment Committee investigation and Disciplinary Tribunal review

(1) The amendments made by sections 44 and 45 of the Amendment Act apply only to investigations commenced on or after the date on which those sections come into force.

(2) Investigations commenced, and not finally determined before that date, continue as if those amendments had not been enacted.

Schedule 1 clause 82: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Dispute resolution

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

83 Transitional provision relating to application of DRS to domestic tertiary students' contractual and financial disputes lodged before commencement date

(1) Sections 536 to 538 as in force immediately before the Amendment Act apply to a relevant dispute but only if the dispute—

(a) relates to circumstances, or an issue or event, that arose or occurred on or after 1 January 2022; and

(b) is lodged on or after 1 January 2022 and before the commencement date.

(2) In subclause (1), **relevant dispute** means a dispute between a domestic tertiary student (or a former or prospective domestic tertiary student) and a provider to which the DRS applied under section 536(2) prior to the commencement date.

Schedule 1 clause 83: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

84 Transitional provision relating to application of DRS to domestic tertiary students' contractual and financial disputes lodged after commencement date

(1) Sections 536 to 538 (as amended by the Amendment Act) apply to a relevant dispute that—

(a) relates to circumstances, or an issue or event, that arose or occurred on or after 1 January 2022; and

(b) is lodged on or after the commencement date.

(2) In subclause (1), **relevant dispute** means a dispute between a domestic tertiary student (or a former or prospective domestic tertiary student) and a provider to which the DRS applies under section 536(2)(a) (as inserted by the Amendment Act).

Schedule 1 clause 84: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

85 Transitional provision relating to application of DRS to disputes about breach of code after commencement date

Sections 536 to 538 (as amended by the Amendment Act) apply to the dispute if—

(a) it is a dispute to which the DRS applies under section 536(2)(b) (as inserted by the Amendment Act); and

(b) it relates to circumstances, or an issue or event, that arose or occurred on or after the commencement date.

Schedule 1 clause 85: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Student accommodation

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

86 Transitional provision relating to good character assessment of employees in student accommodation

(1) This clause applies in respect of every person who at the commencement date was an employee in student accommodation.

(2) The provider or signatory provider that operates that student accommodation must ensure, within 3 years of the commencement date, that the provider or signatory provider has made an assessment in accordance with section 540A(3) of whether the person is of good character if the provider or signatory provider continues to employ the person.

Schedule 1 clause 86: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Regulations relating to early childhood services

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

87 Notices recognising qualifications made under regulations relating to early childhood services validly issued

(1) This clause applies to a notice issued by the Secretary under—

(a) regulations made under section 636(2)(h) made before the commencement date; or

(b) regulations made under section 317 of the 1989 Act that are continued in force under clause 4(1).

(2) A notice to which this clause applies is to be treated as being and having always been validly issued.

Schedule 1 clause 87: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Police vetting

Heading: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

88 Transitional provision relating to Police vetting

(1) Subclauses (2) and (3) apply in respect of any person—

(a) for whom a Police vet must be obtained by the service provider of a licensed early childhood service under clause 1 of Schedule 4; and

(b) who has been appointed to a position, or has begun working, at the service concerned; and

(c) for whom, at the commencement date, no Police vet had yet been obtained by the service provider.

(2) The Police vet must be obtained in respect of a person to whom this clause applies before the person has, or is likely to have, unsupervised access to children at the service during normal opening hours.

(3) The service provider must apply for the Police vet no later than 2 weeks after the person begins work at the service.

(4) Subclauses (5) and (6) apply in respect of any person—

(a) for whom a Police vet must be obtained by the board of a State school or the managers of a private school under clause 9 of Schedule 4; and

(b) who has been appointed to a position, or has begun working, at the school concerned; and

(c) for whom, at the commencement date, no Police vet had yet been obtained by the board or the managers.

(5) The Police vet must be obtained in respect of a person to whom this clause applies before the person has, or is likely to have, unsupervised access to students at the school during normal school hours.

(6) The board or managers must apply for the Police vet no later than 2 weeks after the person begins work at the school.

Schedule 1 clause 88: inserted, on 1 August 2022, by section 67(4)(a) of the Education and Training Amendment Act 2022 (2022 No 38).

Part 5
Provisions relating to Education and Training Amendment Act 2023

Schedule 1 Part 5: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 1—Provisions for Part 4A (wānanga)

Schedule 1 Part 5 subpart 1: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

89 Wānanga

(1) Wānanga established under section 268—

(a) are Crown entities for the purposes of section 7 of the Crown Entities Act 2004 and their councils are boards for the purposes of that Act; and

(b) are to be treated as if they were established as Crown entities under section 398E.

(2) A wānanga that is reconstituted under clause 90(1) is to be treated as if it were established under section 398E as a category A wānanga.

(3) A wānanga that is converted under clause 94(2) is to be treated as if it were established under section 398I as a category B wānanga.

(4) The Crown Entities Act 2004—

(a) applies to those wānanga except to the extent that this Act expressly provides otherwise; and

(b) ceases to apply to those wānanga that are—

(i) converted to category B wānanga under clause 94(2):

(ii) established as category B wānanga under section 398I.

(5) The Governor-General may, by Order in Council made on the recommendation of the Minister given after receiving a recommendation from Te Tauihu o Ngā Wānanga, amend this Act or any other enactment by—

(a) omitting from it the term "category A wānanga" and substituting some other term:

(b) omitting from it the term "category B wānanga" and substituting some other term:

(c) omitting from it the term "category C wānanga" and substituting some other term.

(6) To avoid doubt, a wānanga does not cease to be an institution merely because a term used to refer to it is changed under subsection (5).

(7) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 89: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

Reconstitution of wānanga council

Heading: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

90 Wānanga council may be reconstituted

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, reconstitute the council of a wānanga established under section 268.

(2) Before making a recommendation to reconstitute the council of a wānanga under subclause (1), the Minister must—

(a) consult the council of the wānanga being considered for reconstitution; and

(b) consult iwi or Māori instrumental in the establishment of the wānanga; and

(c) consult any other persons or bodies that the Minister thinks fit; and

(d) be satisfied that any additional functions and purposes of the wānanga that are specified under subclause (4)(a) are consistent with the characteristics of a wānanga set out in section 398D.

(3) An order made under subclause (1) must—

(a) revoke and replace any previous order determining the constitution of the council of the wānanga; and

(b) state the name of the wānanga as reconstituted; and

(c) make provision for determining the people who are to constitute the wānanga; and

(d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and the arrangements for the appointment, suspension, and removal of its members; and

(e) set out the arrangements for conducting meetings of the council; and

(f) specify the manner in which the policies of the wānanga are to be determined; and

(g) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters; and

(h) provide for any other matters that are necessary or desirable—

(i) for good governance of the wānanga:

(ii) to clarify the arrangements for the administration of the wānanga; and

(i) specify how the council is to engage with the Public Service Commissioner on the conditions of employment of the chief executive.

(4) An order made under subclause (1) may—

(a) specify any functions and purposes of the wānanga and the council that are in addition to any functions and purposes of an institution or its council set out in this Act:

(b) impose conditions on the performance or exercise of the powers of the wānanga.

(5) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 90: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

91 Initial membership of council of reconstituted wānanga

(1) Before the date of reconstitution of the council of a wānanga, each person or body responsible for appointing or electing members to the reconstituted

wānanga council may appoint or elect the number of members of the reconstituted wānanga council required by its constitution to be appointed or elected by that person or body.

(2) The appointment or election of a member to a reconstituted wānanga council under subclause (1) takes effect on the later of—

(a) the date on which the appointment or election occurs; and

(b) the date of reconstitution.

(3) If on the date of reconstitution a vacancy in the council of the wānanga as reconstituted exists, the person or body responsible for appointing or electing a person to that vacancy—

(a) may, by written notice to any person who was a member of the council immediately before that day, authorise that person to act as a member of the council until the vacancy is filled; and

(b) must appoint or elect a person to the vacancy within 3 months after the date of reconstitution.

(4) The person or body responsible for appointing or electing a person to the vacancy must give a copy of every notice under subclause (3)(a) to the council of the wānanga as reconstituted.

(5) A person authorised under subclause (3)(a) must for all purposes be treated as a member of the council concerned until the vacancy concerned is filled.

(6) A council may, before the date of reconstitution, make the statutes under section 398H for the purpose of making appointments or conducting elections of members to the council of the wānanga as reconstituted.

Compare: 2009 No 70 s 19

Schedule 1 clause 91: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

92 Members of existing council go out of office

(1) On the date of reconstitution of the council of a wānanga,—

(a) all members of the council of the wānanga immediately before that date go out of office; and

(b) all the people appointed or elected as members of the council before that date under clause 91 take up office.

(2) Neither the Crown, the wānanga, nor the council of the wānanga is liable to make a payment to, or otherwise compensate, a person in respect of the person's going out of office as a member of the council under this clause.

Compare: 2009 No 70 s 20

Schedule 1 clause 92: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

93 Reconstituted wānanga and council is same institution and council

On and after the date of reconstitution of the council of a wānanga,—

(a) the wānanga is the same institution and Crown entity that existed immediately before that date; and

(b) the council of the wānanga as reconstituted—

(i) is the same body as the council of the wānanga concerned that existed immediately before that date; and

(ii) has the same rights, duties, and obligations it then had under this Act together with any rights, duties, and obligations conferred in the order reconstituting the wānanga.

Compare: 2009 No 70 s 21

Schedule 1 clause 93: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

Conversion of wānanga

Heading: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

94 Category A wānanga or category C wānanga may convert to category B wānanga

(1) This clause applies to an institution that is—

(a) a category A wānanga; or

(b) a category C wānanga.

(2) If this clause applies, the Governor-General may, by Order in Council made on the recommendation of the Minister, convert the institution to a category B wānanga.

(3) Before making a recommendation to convert an institution to a category B wānanga, the Minister must—

(a) consult the council of the wānanga being considered for conversion; and

(b) consult iwi or Māori instrumental in the establishment of the institution; and

(c) consult other persons or bodies that the Minister thinks fit; and

(d) be satisfied that the functions and purposes of the wānanga that are specified under subclause (4)(e) are consistent with the characteristics of a wānanga set out in section 398D; and

(e) be satisfied that the accountability arrangements set out in subclause (4)(h) and (i) are sufficient for the effective governance and administration of the wānanga; and

(f) be satisfied that iwi or Māori specified under subclause (4)(h) as the iwi or Māori to whom the wānanga is accountable—

(i) accept responsibility for ensuring accountability of the wānanga and its council; and

(ii) have access to the skills and resources reasonably necessary to ensure accountability of the wānanga and its council.

(4) An order made under subclause (2) must—

(a) revoke and replace any order establishing the wānanga; and

(b) state the name of the wānanga; and

(c) provide for determining the people who are to constitute the wānanga; and

(d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and the arrangements for the appointment, suspension, and removal of members; and

(e) specify the functions, duties, and purposes of the wānanga and its council; and

(f) set out the procedures for conducting the meetings of the council; and

(g) specify the collective and individual duties of the members of the council and the manner in which members will be accountable for the performance of their duties; and

(h) specify the iwi or Māori to whom the wānanga is accountable for the effective governance and administration of the wānanga, and the things for which the wānanga is accountable (for example, the progress made towards achieving the purposes of the wānanga); and

(i) set out what the wānanga must do to ensure adequate accountability for the effective governance and administration of the wānanga, including—

(i) requirements for the efficient and prudent financial management of the wānanga; and

(ii) requirements for financial reporting and reporting on other matters, including (without limitation) requiring wānanga to prepare, in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013),—

(A) a statement of service performance; and

(B) annual financial statements; and

(iii) the means by which risk to the operation and long-term viability of the wānanga will be managed, including the range or type of interventions available to address risk; and

(iv) requirements for planning the long-term strategic direction and objectives of the wānanga in the performance of its functions; and

(j) provide for the appointment of a chief executive, including—

(i) the functions and duties of the chief executive; and

(ii) the delegation of any functions or duties of the chief executive; and

(k) set out any requirements relating to the appointment of employees of the wānanga; and

(l) set out the things that the wānanga must do to ensure the fair and proper treatment of employees in all aspects of their employment; and

(m) require the wānanga to publish an annual report on an Internet site maintained by or on behalf of the wānanga; and

(n) require the annual report of the wānanga to include (without limitation) a statement of—

(i) the number of employees or former employees of the wānanga who, in their capacity as employees, received remuneration of $100,000 or more (including compensation or other benefits) in the year to which the report relates; and

(ii) the number of those employees or former employees in each bracket of remuneration in $10,000 increments.

(5) An order made under subclause (2) may—

(a) set out, by way of preamble, the contextual background for the conversion of the institution to a category B wānanga, including any acknowledgements by the Crown:

(b) specify the means by which the council of the wānanga is to engage with the people who constitute the wānanga, and the iwi or Māori that the wānanga is accountable to for its effective governance and administration:

(c) impose conditions on the performance or exercise of the functions, duties, or powers of the wānanga or its council:

(d) specify limits on the number of times that people may be appointed to the council:

(e) specify the term of office of members of the council:

(f) specify the manner in which policies of the wānanga are to be determined:

(g) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters:

(h) provide for any other matters that are necessary or desirable to—

(i) provide for good governance of the wānanga; or

(ii) clarify the arrangements for the administration of the wānanga.

(6) For the purposes of subclause (4)(n), **employees** includes the chief executive appointed by the council of the wānanga.

(7) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 1 clause 94: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

95 Members of council cease to hold office on close of day before date of conversion

(1) If an order is made under clause 94(2), every member of the council of the relevant wānanga that is holding office immediately before the date of conversion ceases to hold office on the close of the day before that date.

(2) Neither the Crown, the wānanga, nor the council of the wānanga is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) in respect of the loss of office.

Schedule 1 clause 95: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

96 Rights, assets, and liabilities of converted wānanga

(1) This clause applies to all rights, assets, and liabilities that belong to a wānanga immediately before its date of conversion.

(2) On and after the date of conversion,—

(a) the rights, assets, and liabilities of the wānanga that was a category A wānanga or category C wānanga vest in the category B wānanga; and

(b) unless the context otherwise requires, every reference to the wānanga that was a category A wānanga or category C wānanga in any enactment (other than this Act), instrument, agreement, deed, lease, application, notice, or other document before that date must be read as a reference to the category B wānanga.

(3) In this clause, **assets**, **liabilities**, and **rights** have the same meanings as in section 10(6).

Schedule 1 clause 96: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

97 Same person for purposes of Inland Revenue Acts

For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), a wānanga that is a category B wānanga must, on and from the date of conversion, be treated as the same person as the wānanga it replaces.

Schedule 1 clause 97: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

98 Employees of converted wānanga

(1) On and after the date of conversion, every employee of the wānanga that was a category A wānanga or category C wānanga becomes an employee of the category B wānanga on the same terms and conditions that applied to the person immediately before they became an employee of the category B wānanga.

(2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of that employee,—

(a) the employee's employment agreement is to be treated as unbroken; and

(b) the employee's period of service with the wānanga that was a category A wānanga or category C wānanga, and every other period of service of the employee that is recognised by that wānanga as continuous service, is to be treated as a period of service with the category B wānanga.

(3) To avoid doubt, the employment by a category B wānanga of an employee to whom this clause applies does not constitute new employment for the purposes of any service-related benefits, whether legislative or otherwise.

(4) An employee to whom this clause applies is not entitled to receive any payment or benefit from the wānanga that was a category A wānanga or category C wānanga or the category B wānanga on the grounds that—

(a) the person's position in the wānanga that was a category A wānanga or category C wānanga has ceased to exist; or

(b) the person has ceased to be an employee of that wānanga because of the transfer to the category B wānanga.

(5) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employment protection provision in any relevant employment agreement.

Schedule 1 clause 98: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

99 Superannuation schemes

(1) This clause applies to a person who, immediately before becoming an employee of a category B wānanga, was—

(a) an employee of a category A wānanga or category C wānanga; and

(b) a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.

(2) For the purposes of the Government Superannuation Fund Act 1956, the person is to be treated as being employed in the Government service as long as the person continues to be an employee of the category B wānanga.

(3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the category B wānanga were Government service.

(4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the category B wānanga is the controlling authority.

(6) On and after the date of conversion, every reference to the wānanga that was a category A wānanga or category C wānanga as the employer in relation to any superannuation scheme must, unless the context otherwise requires, be read as a reference to the category B wānanga.

Schedule 1 clause 99: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

100 Students of converted wānanga

(1) This clause applies to every student enrolled at a wānanga that was a category A wānanga or category C wānanga immediately before its date of conversion to a category B wānanga.

(2) On and after the date of conversion, the student must be treated as having been enrolled at the category B wānanga.

(3) A student who would, but for the conversion, have been entitled to be granted an award of the wānanga that was a category A wānanga or category C wānanga is entitled to be granted a like award of the category B wānanga.

Schedule 1 clause 100: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

101 Visas granted under Immigration Act 2009

(1) This clause applies to a visa granted under the Immigration Act 2009 in respect of—

(a) a student, for the purposes of enrolment at a wānanga that was a category A wānanga or category C wānanga; or

(b) a staff member of a wānanga that was a category A wānanga or category C wānanga.

(2) On and after the date of conversion, any reference to the wānanga that was a category A wānanga or category C wānanga in a condition imposed on the visa must be read as a reference to the category B wānanga.

Schedule 1 clause 101: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

102 Existing NZQA approvals, accreditations, and consents

(1) This clause applies to the following that were granted to a wānanga that was a category A wānanga or category C wānanga by NZQA under this Act and in effect immediately before its date of conversion to a category B wānanga:

(a) an approval of a programme under section 439:

(b) an accreditation to provide all or part of a programme under section 441:

(c) an approval to provide a micro-credential under section 445:

(d) a consent to assess against the standards listed in the Directory of Assessment and Skill Standards under section 449:

(e) a consent to award a degree or a postgraduate qualification under section 454.

(2) On and after the date of conversion,—

(a) the approval, accreditation, or consent (including any conditions imposed on an approval, an accreditation, or a consent) must be treated as if it were granted to the category B wānanga; and

(b) unless the context otherwise requires, every reference to the wānanga that was a category A wānanga or category C wānanga in the approval, accreditation, or consent must be read as a reference to the category B wānanga.

Schedule 1 clause 102: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

103 Existing funding paid by TEC under funding mechanism

(1) This clause applies to funding (including any conditions imposed on the funding) payable by TEC to a wānanga—

(a) in accordance with an approval granted under section 425(2); or

(b) other than via a plan under section 428.

(2) On and after the date of conversion,—

(a) TEC must treat the funding for a wānanga that was a category A wānanga or category C wānanga as if it were payable to the category B wānanga unless that funding is earlier suspended, revoked, or withdrawn under clause 16 or 26 of Schedule 18; and

(b) for the purposes of paragraph (a), every reference to the wānanga that was a category A wānanga or category C wānanga in an approval granted under section 425(2) must, unless the context otherwise requires, be read as a reference to the category B wānanga.

Schedule 1 clause 103: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

104 Other references to converted wānanga that were category A wānanga or category C wānanga

On and after the date of conversion, every reference to a wānanga that was a category A wānanga or category C wānanga in any enactment (other than this Act) or document must, unless the context otherwise requires, be read as a reference to the category B wānanga.

Schedule 1 clause 104: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

105 Existing proceedings and other matters

(1) On and after the date of conversion,—

(a) any proceedings by or against the wānanga that was a category A wānanga or category C wānanga may be continued or enforced by or against the category B wānanga without amendment to the proceedings; and

(b) a matter or thing that would, but for this clause, have been completed by the wānanga that was a category A wānanga or category C wānanga may be completed by the category B wānanga; and

(c) anything done, omitted to be done, or to be done, by or in relation to the wānanga that was a category A wānanga or category C wānanga is to be treated as having been done, omitted to be done, or to be done by or in relation to the category B wānanga.

(2) In this clause, **proceedings**—

(a) means civil and criminal proceedings; and

(b) includes any enforcement or compliance action by TEC or NZQA.

Schedule 1 clause 105: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

106 Converted wānanga must provide final report to Minister

(1) Despite section 45J of the Public Finance Act 1989,—

(a) a wānanga that is a category B wānanga and that is converted from a wānanga that was a category A wānanga or category C wānanga must provide a final report to the Minister in relation to the wānanga that was a category A wānanga or category C wānanga in accordance with section 45J(1) of that Act; and

(b) the Minister may specify the contents of the final report and the date or dates by which the contents of the report must be provided.

(2) Section 45L of the Public Finance Act 1989 does not apply to a wānanga that was a category A wānanga or category C wānanga and that is converted into a category B wānanga under clause 94(2).

(3) The Minister must present a copy of the final report to the House of Representatives as soon as practicable after receiving it.

(4) In this clause, **Minister** means the Minister responsible for the time being for administering this Part of this schedule.

Schedule 1 clause 106: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

107 Validation of pre-commencement actions and processes for appointments to councils of converted wānanga

(1) This clause applies to any action or process undertaken by a wānanga that was a category A wānanga or category C wānanga before the date of conversion when appointing members to the council of the category B wānanga.

(2) An appointment is valid if the action or process substantially complies with this Act and the provisions of the relevant Order in Council establishing the category B wānanga.

Schedule 1 clause 107: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

108 Membership of councils of category B wānanga reduced

(1) The number of members of the council of a category B wānanga is reduced until the date on which each member referred to in the membership provisions of the relevant Order in Council is appointed to the council.

(2) No action of the council of a category B wānanga is invalid just because any member referred to in subclause (1) has not been appointed to that council on the date of conversion.

Schedule 1 clause 108: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

Subpart 2—Provision relating to election of board members who are parent representatives

Schedule 1 Part 5 subpart 2: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

109 Timing of mid-term elections of board members who are parent representatives

(1) This clause applies to a board that has decided under clause 4 of Schedule 23 to adopt a staggered election cycle in relation to the election of board members who are parent representatives.

(2) Despite clause 4(3) of Schedule 23, the board must hold the next mid-term election of those board members that falls due after the commencement of this clause in November 2023.

Schedule 1 clause 109: inserted, on 23 August 2023, by section 37(a) of the Education and Training Amendment Act 2023 (2023 No 45).

Part 6
Provisions relating to Education and Training Amendment Act 2024

Schedule 1 Part 6: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 1—Transitional provisions relating to repeal of network approval requirements

Schedule 1 Part 6 subpart 1: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

110 Interpretation

In this subpart,—

amendment Act means the Education and Training Amendment Act 2024

commencement means the date on which the amendment Act comes into force.

Schedule 1 clause 110: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

111 Approval conditions need not be met

(1) This clause applies to an approval to apply for a licence granted under section 17 to which conditions imposed under section 17A apply (as those provisions read immediately before commencement).

(2) The conditions no longer apply in relation to the approval on and after commencement.

Schedule 1 clause 111: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

112 Licence no longer subject to certain special conditions

(1) This clause applies to a licence for an early childhood service to which 1 or more of the following special conditions imposed by the Secretary under regulation 22(5) of the Education (Early Childhood Services) Regulations 2008 apply (as it read immediately before commencement):

(a) conditions that are a continuation of any conditions on the approval to apply for a licence imposed under section 17A:

(b) conditions that are consistent with the approval to apply for a licence granted under section 17:

(c) conditions imposed on an excluded early childhood service that relate to the type of excluded early childhood service.

(2) The special conditions are treated as revoked on and after commencement.

Schedule 1 clause 112: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

113 Pending applications for approval

(1) This clause applies to an application for approval to apply for a licence under section 17 made, but not determined, before commencement.

(2) The Secretary must—

(a) treat the application as if it had been withdrawn; and

(b) refund to the applicant the prescribed fee paid in respect of the application.

Schedule 1 clause 113: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Subpart 2—Transitional provisions relating to converted schools

Schedule 1 Part 6 subpart 2: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

114 Interpretation

In this subpart,—

conversion date, in relation to a converted school, means the date on which the State school became a charter school

converted school means a former State school that has become a charter school in accordance with an approval granted to a sponsor under section 212I

sponsor has the meaning given in section 10(1).

Schedule 1 clause 114: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

115 Board dissolved

(1) On the conversion date, the board of the converted school is dissolved.

(2) Every member of the board of the converted school that is holding office immediately before the conversion date goes out of office on the close of the day before that date.

Schedule 1 clause 115: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

116 Integration agreement for State integrated school cancelled

(1) This clause applies if a converted school was a State integrated school immediately before its conversion date.

(2) On the conversion date, the integration agreement between the proprietor and the Crown relating to the State integrated school must be treated as if it were cancelled under clause 11 of Schedule 6.

Schedule 1 clause 116: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Rights, assets, and liabilities of converted school

Heading: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

117 Rights, assets, and liabilities of converted school

(1) This clause applies to all rights, assets, and liabilities that belong to a converted school immediately before its conversion date.

(2) On the conversion date, all rights, assets, and liabilities of the converted school vest in the Minister on behalf of the Crown.

(3) Subclause (2) is subject to clauses 121 to 123.

(4) In this clause, **assets**, **liabilities**, and **rights** have the same meanings as in section 10(6).

Schedule 1 clause 117: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

118 Property held in trust

(1) This section applies to any property of a converted school that, immediately before the conversion date, was held in trust—

(a) by the board of the State school; or

(b) by any other person or body for the benefit of—

(i) the converted school; or

(ii) the students or former students of the converted school.

(2) The property continues to be subject to the trust concerned, but the person or body in whom it is vested may apply to Public Trust to devise a scheme to modify the trust in light of the conversion of the State school concerned.

(3) If satisfied that adequate arrangements have been made to meet the costs of doing so, Public Trust must, in consultation with the sponsor concerned, devise a scheme to modify any trust in respect of which Public Trust has received an application under this clause and notify the Solicitor-General of the scheme.

(4) If Public Trust notifies the Solicitor-General of a scheme, the Solicitor-General may, by written notice to Public Trust,—

(a) approve the scheme (as originally notified or with any amendments agreed by Public Trust after consultation with the board concerned); or

(b) suggest amendments to it; or

(c) direct that it should not proceed.

(5) If the Solicitor-General directs that it should not proceed, the matter may be dealt with under the Charitable Trusts Act 1957.

(6) If, within 90 days of being notified of a scheme, the Solicitor-General does not suggest amendments to it or direct that it should not proceed, the Solicitor-General is to be treated as having approved the scheme.

(7) If the Solicitor-General approves a scheme notified under this clause, the trust concerned has effect accordingly.

(8) The Solicitor-General may not approve a scheme under this clause unless satisfied that—

(a) it modifies the trust concerned so as best to give effect to the intentions of the testator, settlor, or other person or body by whom or which the trust was established; and

(b) subject to paragraph (a), it effects the minimum change necessary to enable the trust to operate successfully in light of conversion of the school concerned.

Compare: 1989 No 80 s 156C

Schedule 1 clause 118: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Transfer of employees of converted school

Heading: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

119 Transfer of employees of converted school to charter school

(1) On the conversion date, every employee of a converted school becomes an employee of the sponsor (a **transferred employee**)—

(a) on terms and conditions of employment that are no less favourable overall to those that applied to the person immediately before they became an employee of the sponsor; and

(b) as if those terms and conditions of employment were contained in an individual employment agreement agreed between the transferred employee and the sponsor.

(2) The terms and conditions of employment referred to in subclause (1)(a) continue to apply in relation to the transferred employee until—

(a) they are varied by agreement between the transferred employee and the sponsor; or

(b) the transferred employee becomes bound by a collective agreement agreed between the sponsor and the union of which the transferred employee is a member.

(3) A transferred employee is not entitled to receive any contractual notice or any payment, benefit, or compensation from the board of the converted school on the grounds that—

(a) the person's position in the converted school has ceased to exist; or

(b) the person has ceased to be an employee of the board as a result of the person's transfer to the charter school.

(4) To avoid doubt, the employment of a transferred employee by the sponsor does not—

(a) constitute new employment, including for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006 or any service-related entitlements or benefits (whether legislative or otherwise); or

(b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000.

(5) In this clause, **terms and conditions of employment that are no less favourable overall**, in relation to the transferred employee's employment at the converted school, is employment at a charter school that—

(a) is in substantially the same position; and

(b) is in the same general locality; and

(c) is on terms that treat the period of service with the converted school (and any other period of service recognised by the converted school as continuous service) as if it were continuous service with the charter school; and

(d) is on terms and conditions of employment that are no less favourable overall than those that applied to the transferred employee immediately before the person became an employee of the sponsor, including (without limitation) in relation to the employee's overall remuneration and any service-related, redundancy, or superannuation conditions; and

(e) is subject to any other modifications that are necessary to reflect—

(i) the transferred employee's terms and conditions of employment being treated as if they were contained in an individual employment agreement; and

(ii) the transfer of employment from a State school to a charter school, for example, in relation to—

(A) funding and payment of the transferred employee's remuneration:

(B) the eligibility of a transferred employee who holds a teaching position for any awards, grants, or associated leave:

(C) a sponsor not being required to advertise any vacancy at the charter school in the *Education Gazette*.

(6) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employment protection provision in any relevant employment agreement.

Schedule 1 clause 119: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

120 Transfer of employment information

(1) This clause applies to information held by the board of a converted school, the Ministry, or Education Payroll Limited relating to a transferred employee's employment with the converted school.

(2) The information is to be treated as if it were held by the sponsor on and from the later of the following dates:

(a) the date on which the charter school contract is entered into under section 212L; and

(b) the date that is 3 months before the conversion date.

(3) The transfer of information under subclause (2) does not constitute an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020.

Schedule 1 clause 120: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

121 Transfer of rights, duties, and obligations relating to existing pay equity claims and settlements

(1) This clause applies to any rights, duties, or obligations of the Secretary (acting under delegation from the Public Service Commissioner) or the board of a converted school in relation to—

(a) any pay equity claims relating to the work of a transferred employee raised before the conversion date but not settled before that date:

(b) any existing pay equity claim settlements entered into before the conversion date.

(2) On and after the conversion date,—

(a) the rights, duties, and obligations referred to in subclause (1) vest in the sponsor; and

(b) the existing pay equity claim settlement in respect of teacher aides recorded in the Teacher Aide Pay Equity Settlement Agreement dated 12 February 2020 is to be treated as binding on the sponsor as if—

(i) the sponsor were a party to the agreement; and

(ii) all references in the agreement to the Secretary were references to the sponsor; and

(c) every other existing pay equity claim settlement to which the board of the converted school was a party before the conversion date is to be treated as binding on the sponsor as if—

(i) the sponsor were a party to the agreement; and

(ii) all references in the agreement to the board were references to the sponsor.

(3) In this clause, **pay equity claim** and **pay equity claim settlement** have the same meanings as in section 2(1) of the Equal Pay Act 1972.

Schedule 1 clause 121: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

122 Transfer of liabilities for holidays and leave taken before conversion date

(1) This clause applies in relation to any holiday, sick leave, bereavement leave, or family violence leave—

(a) provided under the Holidays Act 2003; and

(b) taken by a transferred employee before the conversion date.

(2) On and after the conversion date, any liabilities of the board of the converted school for holiday pay or leave pay in relation to the holidays and leave referred to in subclause (1) vest in the Minister on behalf of the Crown.

(3) In this clause, **holiday**, **holiday pay**, and **leave pay** have the same meanings as in section 5(1) of the Holidays Act 2003.

Schedule 1 clause 122: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

123 Transfer of other rights, duties, liabilities, or obligations of board relating to transferred employees

(1) This clause applies to any other rights, duties, liabilities, or obligations of the board of a converted school relating to a transferred employee that were in existence immediately before the conversion date.

(2) On the conversion date, those rights, duties, liabilities, and obligations vest in the sponsor.

Schedule 1 clause 123: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Superannuation

Heading: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

124 Government Superannuation Fund

(1) Any person who, immediately before becoming an employee of a sponsor, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service as long as the person continues to be employed at a charter school.

(2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the sponsor were Government service.

(3) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(4) For the purpose of applying the Government Superannuation Fund Act 1956, the sponsor is the controlling authority.

Schedule 1 clause 124: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Shared education services

Heading: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

125 Arrangements between State schools for shared education services

(1) This clause applies if the board of a converted school was, before its conversion, a party to a written arrangement (for example, a memorandum of understanding), whether legally binding or not, with the boards of 1 or more other State schools regarding the sharing of education services, employees, or students.

(2) On and after the conversion date,—

(a) the sponsor is to be treated as if it were a party to the arrangement; and

(b) all references in the arrangement to the board of the converted school must be treated as if they were references to the sponsor.

Schedule 1 clause 125: inserted, on 1 October 2024, by section 63(2)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 2
Special institutions

s 10(1), (10)

Blind and Low Vision Education Network NZ

Central Regional Health School

Halswell Residential College

Kimi Ora School

Ko Taku Reo—Deaf Education New Zealand

Northern Health School

Salisbury School

Southern Health School

Westbridge Residential School

Schedule 2: amended, on 1 August 2022, by section 68 of the Education and Training Amendment Act 2022 (2022 No 38).

Compare: 1989 No 80 Schedule 5

Schedule 2A
Free kindergarten associations

s 10(1), (10A)

Schedule 2A: inserted, on 1 August 2022, by section 69 of the Education and Training Amendment Act 2022 (2022 No 38).

Ashburton Kindergarten Association Incorporated

Auckland Kindergarten Association

Canterbury Westland Kindergarten Association Incorporated

Central North Island Kindergarten Trust

Counties Manukau Kindergarten Association Incorporated

Dannevirke Kindergarten Association Incorporated

Dunedin Kindergartens Incorporated

Geraldine District Free Kindergarten Association Incorporated

Gisborne Free Kindergarten Association Incorporated

He Whanau Manaaki o Tararua Free Kindergarten Association Incorporated

Heretaunga Free Kindergarten Association Incorporated

Hutt City Kindergartens Association Incorporated

Marlborough Free Kindergarten Association Incorporated

Napier Free Kindergarten Association Incorporated

Nelson District Free Kindergarten Association Incorporated

Northern Auckland Free Kindergarten Association Incorporated

Northland Kindergarten Association Incorporated

Oamaru Free Kindergarten Association Incorporated

Ruahine Kindergarten Association Incorporated

South Canterbury Free Kindergarten Association Incorporated

South Otago Free Kindergarten Association Incorporated

Southland Free Kindergarten Association Incorporated

Taranaki Free Kindergarten Association Incorporated

Tauranga Regional Free Kindergarten Association Incorporated

Te Aroha Free Kindergarten Association Incorporated

Waikato Kindergarten Association

Waimate Free Kindergarten Association Incorporated

Westport Kindergarten Association Incorporated

Schedule 3
Teacher registration, practising certificates, and other matters

ss 10(1), 96, 479(1)(d), (e), (l), 481(1), 486(1)(h), 499(6), 504(4), 509(3), 614(3)

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1 Applications for registration as teachers

Any person may apply to the Teaching Council for registration as a teacher.

Compare: 1989 No 80 s 352

2 Registration of applicants as teachers

The Teaching Council must register an applicant under clause 1 if satisfied that the applicant—

(a) is of good character; and

(b) is fit to be a teacher; and

(c) is satisfactorily trained to teach; and

(d) meets the criteria for teacher registration established under section 479(1)(e); and

(e) either—

(i) has not been convicted of a specified offence as defined in section 23(1) of the Children's Act 2014; or

(ii) has been granted an exemption under section 35 of the Children's Act 2014 in respect of every conviction for a specified offence as defined in section 23(1) of that Act.

Compare: 1989 No 80 s 353

3 Determining whether training satisfactory

(1) In determining whether a person is satisfactorily trained to teach, the Teaching Council may take into account any relevant matters.

(2) In determining whether a person is satisfactorily trained to teach, the Teaching Council must take into account—

(a) the person's qualifications; and

(b) whether the person has satisfactorily completed training recognised by the Teaching Council as suitable for people who want to teach.

(3) Subclause (2) does not limit subclause (1).

Compare: 1989 No 80 s 354

4 Determining good character and fitness to be teacher

(1) For the purpose of determining whether a person is of good character and fit to be a teacher, the Teaching Council must obtain a Police vet of the person.

(2) Subclause (1) does not limit any other matters that the Teaching Council may take into account in determining character and fitness to be a teacher.

Compare: 1989 No 80 s 355

5 Appeals against decisions of Teaching Council

(1) A person who is dissatisfied with all or any part of a decision of the Teaching Council under clause 2, 6, or 10 (whether a decision to act or a decision to refuse to act) may, within 28 days after receiving notice of the decision from the Teaching Council or any longer period the court, on application made

before or after the end of the period, allows, appeal to the District Court against the decision.

(2) The court must hear the appeal as soon as practicable, and may confirm, reverse, or modify the decision concerned, or may refer the matter back to the Teaching Council in accordance with rules of court, or may give any decision that the Teaching Council could have given.

(3) Nothing in this clause gives the court power to review any part of the Teaching Council's decision that the appellant has not appealed against.

(4) Subject to any order of the court, every decision of the Teaching Council continues in force and has effect pending the determination of an appeal against it.

(5) On any appeal under this clause, the court may order the Teaching Council or the appellant to pay the costs incurred by the other party in respect of the appeal.

(6) The Teaching Council or the appellant may, with the leave of the High Court or the Court of Appeal, appeal to the Court of Appeal on a question of law against any decision made by the District Court on an appeal under this clause.

Compare: 1989 No 80 s 356

6 Cancellation of registration as teacher

(1) The Teaching Council must cancel a person's registration if—

(a) the Teaching Council is satisfied on reasonable grounds that the person no longer satisfies the requirements for registration as a teacher (as set out in clause 2); or

(b) the Teaching Council is satisfied on reasonable grounds that the registration was granted by mistake or obtained by fraud; or

(c) the Disciplinary Tribunal has ordered, under section 500, that the registration be cancelled; or

(d) the Competence Authority has ordered, under section 508, that the registration be cancelled.

(2) The Teaching Council may not cancel a person's registration under subclause (1)(a) or (b) without first—

(a) taking all reasonable steps to ensure that the person is given notice of the reasons for the proposed cancellation; and

(b) giving the person a reasonable opportunity to make submissions and be heard, either in person or by counsel or other representative, on the proposed cancellation.

(3) The fact that a person's registration has been cancelled does not prevent the person from again being registered.

(4) The Teaching Council must take all reasonable steps to ensure that employers are informed of, and may make public on an Internet site maintained by or on

behalf of the Teaching Council, the name of every person whose registration is cancelled under this clause.

Compare: 1989 No 80 s 357

7 Voluntary deregistration

The Teaching Council must deregister a person if—

(a) the Teaching Council receives a written request from the person seeking deregistration; and

(b) the Teaching Council is satisfied that the person is not the subject of an investigation under subpart 4 of Part 5.

Compare: 1989 No 80 s 358

8 Teaching Council to keep register of people registered as teachers

(1) The Teaching Council must keep a register of people who are registered as teachers.

(2) If the Teaching Council is satisfied that any of the information contained in the register is incorrect, the Teaching Council must ensure that the information is corrected.

(3) The Teaching Council may annotate the register following—

(a) an interim suspension under section 498; or

(b) an action by a disciplinary body under section 497 or 500; or

(c) an action by the Competence Authority under section 508.

(4) In the case where the register is annotated following an interim suspension, the annotation must be removed or corrected as soon as practicable after the matter is concluded (as specified in section 499(6)).

Compare: 1989 No 80 s 359

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

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

(a) the Teaching Council, in relation to any person employed in a teaching position, to identify—

(i) the person's employer; and

(ii) the person's registration status; and

(iii) the status and currency of the person's practising certificate; and

(b) the Ministry, in relation to regular teachers and relieving teachers in receipt of salaries at payrolled schools, to identify their salary entitlement or eligibility (if any) for an allowance on the basis of their registration or practising certificate (if any).

(2) For the purpose set out in subclause (1)(a), the Teaching Council may, in accordance with arrangements under the Privacy Act 2020 previously agreed between the Secretary and the Teaching Council,—

(a) require the Secretary to supply any or all of the following information about any or all regular teachers and relieving teachers in receipt of salaries at payrolled schools:

(i) surname:

(ii) first name:

(iii) date of birth:

(iv) gender:

(v) address:

(vi) the school at which a teacher is employed:

(vii) payroll number:

(viii) registration number:

(ix) number of half-days employed in a teaching position in any calendar year; and

(b) compare the information supplied under paragraph (a) with the information contained in the register.

(3) For the purpose set out in subclause (1)(b), the Secretary may, in accordance with arrangements under the Privacy Act 2020 previously agreed between the Secretary and the Teaching Council,—

(a) require the Teaching Council to supply any or all of the following information about any or all people registered as teachers:

(i) surname:

(ii) first name:

(iii) date of birth:

(iv) gender:

(v) address:

(vi) the school at which a teacher is employed:

(vii) registration number:

(viii) registration or practising certificate expiry date:

(ix) registration or practising certificate classification; and

(b) compare the information supplied under paragraph (a) with the information held by the Ministry about regular teachers and relieving teachers in receipt of salaries at payrolled schools.

(4) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Compare: 1989 No 80 s 360

Schedule 3 clause 9(2): amended, on 1 December 2020, by section 667(3)(b).

Schedule 3 clause 9(3): amended, on 1 December 2020, by section 667(3)(c).

Schedule 3 clause 9(4): inserted, on 1 December 2020, by section 667(4).

10 Practising certificates

(1) Any person may apply to the Teaching Council, on a form provided by the Teaching Council, for a practising certificate.

(2) The Teaching Council must issue a practising certificate to every applicant who—

(a) is registered as a teacher; and

(b) has had a satisfactory Police vet within the past 3 years; and

(c) meets the standards and criteria for the issue of practising certificates maintained by the Teaching Council under section 479(1)(j).

(3) A teacher's practising certificate must show clearly that the teacher is registered.

(4) Unless it is sooner cancelled or expires,—

(a) a practising certificate issued to a teacher who already holds a current practising certificate expires—

(i) on the third anniversary of the day on which the certificate already held expires; or

(ii) at any earlier time that the Teaching Council specifies, by notice, in respect of any or all kinds of practising certificate (*see* subclause (8A):

(b) a practising certificate issued to a teacher who does not already hold a current practising certificate expires—

(i) on the third anniversary of the day it is issued; or

(ii) at any earlier time that the Teaching Council decides in accordance with the standards and criteria maintained under section 479(1)(j).

(5) A practising certificate expires when its holder's registration is cancelled.

(6) If a teacher applies to renew their practising certificate, the Teaching Council may issue a renewed practising certificate—

(a) if it is satisfied that the teacher—

(i) has satisfactory recent teaching experience; and

(ii) has had a satisfactory Police vet within the past 3 years; and

(iii) has completed satisfactory professional development during the past 3 years; and

(iv) meets the standards and criteria maintained under section 479(1)(j); or

(b) if it is satisfied that the teacher—

(i) has met the requirements for a refresh process specified under rules made under section 486; and

(ii) has had a satisfactory Police vet within the past 3 years; and

(iii) meets the standards and criteria maintained under section 479(1)(j).

(7) This subclause applies to a renewed practising certificate issued to a person if—

(a) the practising certificate the person already holds when the renewed certificate is issued is suspended under section 498; or

(b) the person does not already hold a practising certificate when the renewed certificate is issued, but—

(i) the practising certificate the person last held was suspended under section 498 when it expired; and

(ii) the suspension was not due to expire until a time after the issue of the renewed certificate.

(8) A renewed practising certificate to which subclause (7) applies must be treated as being suspended under section 498, and its suspension expires when the suspension of the previous practising certificate held by its holder would have expired.

(8A) A notice under subclause (4)(a)(ii) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(9) In this clause, **satisfactory recent teaching experience**, in relation to any person at any time, means either of the following, satisfactorily completed by the person during the 5 years before that time:

(a) an uninterrupted period of employment of 2 years (or some shorter period or periods approved by the Teaching Council for the person) in a teaching position or teaching positions; or

(b) a period of employment of 2 years (or some shorter period or periods approved by the Teaching Council for the person) in a position (or positions) that (or each of which) in the Teaching Council's opinion was equivalent to a teaching position in an educational institution in

New Zealand approved by the Teaching Council for the purposes of this schedule.

Compare: 1989 No 80 s 361

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 3 clause 10(4)(a)(ii): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 3 clause 10(8A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

11 Cancellation of practising certificate

(1) The Teaching Council must cancel a person's practising certificate if—

(a) the Teaching Council is satisfied on reasonable grounds that the person no longer satisfies the requirements for holding a practising certificate (as set out in clause 10(2)); or

(b) the Teaching Council is satisfied on reasonable grounds that the practising certificate was issued by mistake or obtained by fraud; or

(c) the Disciplinary Tribunal has ordered, under section 500(1)(g), that the practising certificate be cancelled; or

(d) the Competence Authority has ordered, under section 508, that the practising certificate be cancelled.

(2) The Teaching Council may not cancel a person's practising certificate under subclause (1)(a) or (b) without first—

(a) taking all reasonable steps to ensure that the person is given notice of the reasons for the proposed cancellation; and

(b) giving the person a reasonable opportunity to make submissions and be heard, either in person or by counsel or other representative, on the proposed cancellation.

(3) The fact that a person's practising certificate has been cancelled does not prevent the person from again holding a practising certificate.

(4) The Teaching Council must take all reasonable steps to ensure that employers are informed of, and may make public on an Internet site maintained by or on behalf of the Teaching Council, the name of every person whose practising certificate is cancelled under this clause.

Compare: 1989 No 80 s 362

12 Determining whether employment satisfactorily completed

(1) In determining whether a period of employment was satisfactorily completed by a person, the Teaching Council may take into account any relevant matters.

(2) In determining whether a period of employment at a school, early childhood service, or other educational institution in New Zealand was satisfactorily completed by a person, the Teaching Council may take into account—

(a) the views of the professional leader of the school, early childhood service, or other educational institution; or

(b) if the person was the professional leader of a school, early childhood service, or other educational institution, the views of the person's employer.

(3) Subclause (2) does not limit subclause (1).

Compare: 1989 No 80 s 363

13 Fees and costs for registration and practising certificates

[Repealed]

Schedule 3 clause 13: repealed, on 20 November 2021, by section 6 of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Limited authority to teach

14 Purpose of limited authority to teach

(1) The purpose of granting a limited authority to teach is to enable employers to have access to skills that are in short supply and to enable those with specialist skills but who may not have a teaching qualification to teach.

(2) Despite subclause (1), a sponsor may employ a person in a charter school who has been granted a limited authority to teach under clause 16(1A).

Compare: 1989 No 80 s 365

Schedule 3 clause 14(2): inserted, on 1 October 2024, by section 64(1) of the Education and Training Amendment Act 2024 (2024 No 40).

15 Applications for limited authority to teach

Any person may apply to the Teaching Council for a limited authority to teach.

Compare: 1989 No 80 s 366(1)

16 Limited authority to teach

(1) The Teaching Council must grant a limited authority to teach if it considers that the applicant is of a suitable disposition and—

(a) the applicant has the skills and experience appropriate to advance the learning of a student or group of students; or

(b) the applicant has skills that are in short supply.

(1A) Despite subclause (1), the Teaching Council must grant a limited authority to teach if—

(a) the application relates to teaching in 1 or more charter schools; and

(b) the Teaching Council considers that the applicant—

(i) is of a suitable disposition: and

(ii) has the skills and experience appropriate to advance the learning of a student or group of students.

(2) A person who has previously been authorised may be authorised again, whether before or after the expiry or cancellation of the previous authorisation.

(3) In this clause, **suitable disposition**, in relation to an applicant, means the applicant—

(a) is of good character and fit to hold a limited authority to teach; and

(b) either—

(i) has not been convicted of a specified offence as defined in section 23(1) of the Children's Act 2014; or

(ii) has been granted an exemption under section 35 of the Children's Act 2014 in respect of every conviction for a specified offence as defined in section 23(1) of that Act.

Compare: 1989 No 80 s 366

Schedule 3 clause 16(1A): inserted, on 1 October 2024, by section 64(2) of the Education and Training Amendment Act 2024 (2024 No 40).

17 Cancellation of limited authority to teach

(1) The Teaching Council must cancel a person's limited authority to teach if—

(a) the Teaching Council is satisfied on reasonable grounds that the person no longer satisfies the requirements for holding a limited authority to teach (as set out in clause 16(1) or (1A)); or

(b) the Teaching Council is satisfied on reasonable grounds that the authorisation was granted by mistake or obtained by fraud; or

(c) the Disciplinary Tribunal has ordered, under section 500(1)(g), that the limited authority to teach be cancelled; or

(d) the Competence Authority has ordered, under section 508, that the limited authority to teach be cancelled.

(2) The Teaching Council may not cancel a person's limited authority to teach under subclause (1)(a) or (b) without first—

(a) taking all reasonable steps to ensure that the person is given notice of the reasons for the proposed cancellation; and

(b) giving the person a reasonable opportunity to make submissions and be heard, either in person or by counsel or other representative, on the proposed cancellation.

(3) The fact that a person's limited authority to teach has been cancelled does not prevent the person from again being given a limited authority to teach.

(4) The Teaching Council must take all reasonable steps to ensure that employers are informed of, and may make public on an Internet site maintained by or on behalf of the Teaching Council, the name of every person whose limited authority to teach is cancelled—

(a) under this clause; or

(b) as a result of the Teaching Council refusing to grant a limited authority to teach on the ground that the person is not of good character or is not fit to hold a limited authority to teach.

Compare: 1989 No 80 s 367

Schedule 3 clause 17(1)(a): amended, on 1 October 2024, by section 64(3) of the Education and Training Amendment Act 2024 (2024 No 40).

18 Determining character or fitness to hold limited authority to teach

(1) In determining whether a person is of good character or is fit to hold a limited authority to teach, the Teaching Council—

(a) must take into account and give due weight to—

(i) any relevant skills and experience of the applicant; and

(ii) any other relevant matters; and

(b) if the applicant is currently employed as the professional leader of a school, early childhood service, or other educational institution, must take into account and give due weight to the views of the applicant's employer; and

(c) if the applicant is currently employed at a school, early childhood service, or other educational institution, but not as its professional leader, must take into account and give due weight to the views of the professional leader of the school, service, or institution.

(2) For the purpose of determining whether a person is of good character and fit to hold a limited authority to teach, the Teaching Council must obtain a Police vet of the person.

(3) Subclause (1) does not limit any other matters that the Teaching Council may take into account in determining good character and fitness to hold a limited authority to teach.

Compare: 1989 No 80 s 368

19 Appeals against decisions

(1) Any person who is dissatisfied with all or any part of a decision of the Teaching Council under clause 18 (whether a decision to act or a decision to refuse to act) may, within 28 days of receiving notice of the decision from the Teaching Council or any longer period the court (on application made before or after the end of the period) allows, appeal against the decision to the District Court.

(2) Clause 5(2) to (6) applies to every appeal under subclause (1) of this clause as if it were an appeal under clause 5(1).

Compare: 1989 No 80 s 369

20 Period of authorisation

(1) A person's authorisation expires after 3 years.

(2) Despite subclause (1), the Teaching Council may grant the authorisation for a period of less than 3 years.

Compare: 1989 No 80 s 370

21 Teaching Council to keep list of persons who have limited authority to teach

(1) For the purposes of this schedule, the Teaching Council must keep a list of persons who have a limited authority to teach.

(2) If the Teaching Council is satisfied that any of the information contained in the list is incorrect, the Teaching Council must ensure that the information is corrected.

(3) The Teaching Council may annotate the list following—

(a) an interim suspension under section 498(2); or

(b) an action by a disciplinary body under section 497 or 500; or

(c) an action by the Competence Authority under section 508.

(4) In the case where the list is annotated following an interim suspension, the annotation must be removed or corrected as soon as practicable after the matter is concluded (as specified in section 499(6)).

Compare: 1989 No 80 s 371

22 Fees and costs for granting limited authority to teach

[Repealed]

Schedule 3 clause 22: repealed, on 20 November 2021, by section 6 of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47).

Miscellaneous provisions

23 Teaching Council may disclose certain information

If the management of an early childhood service that is not an early childhood education and care service asks the Teaching Council for information about a person who is a prospective employee, the Teaching Council may—

(a) make any inquiry about the person that it might have made if the person had applied for registration as a teacher; and

(b) disclose to the management any information it holds or has obtained about the person.

Compare: 1989 No 80 s 373

Schedule 4
Police vetting

ss 25, 104

Preliminary

Heading: inserted, on 16 December 2021, by section 13 of the Education and Training Amendment Act 2021 (2021 No 58).

1AAA Application of certain provisions

(1) The Police vetting requirements in clauses 1, 2, 9, and 10 apply in respect of a person who, in the course of their work for the service provider or school, does not fall within the definition of a children's worker in section 23(1) of the Children's Act 2014 and, as a result, is not required to be safety checked under Part 3 of that Act.

(2) To avoid doubt, nothing in this schedule limits Part 3 of the Children's Act 2014 or regulations made under that Act in relation to the safety checking of children's workers.

Schedule 4 clause 1AAA: inserted, on 16 December 2021, by section 13 of the Education and Training Amendment Act 2021 (2021 No 58).

Police vetting in respect of licensed early childhood services

Heading: inserted, on 16 December 2021, by section 13 of the Education and Training Amendment Act 2021 (2021 No 58).

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

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

(a) whom the service provider appoints, or intends to appoint, to a position at the early childhood service; and

(b) who is to work at the service during normal opening hours; and

(c) who is not—

(i) a registered teacher who holds a current practising certificate; or

(ii) a holder of a limited authority to teach.

(2) The service provider must—

(a) obtain the Police vet required by subclause (1) before the person begins work at the early childhood service; and

(b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children if the person were to carry out work at the service.

(3) In carrying out an assessment under subclause (2)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.

Compare: 1989 No 80 s 319D

Schedule 4 clause 1(1)(c): replaced, on 1 August 2022, by section 70(1) of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 4 clause 1(2): replaced, on 23 August 2023, by section 38(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 1(3): inserted, on 23 August 2023, by section 38(1) of the Education and Training Amendment Act 2023 (2023 No 45).

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

(1) The service provider of a licensed early childhood service must obtain a Police vet of every contractor, or employee of a contractor, who has, or is likely to have, unsupervised access to children at the service during normal opening hours.

(1A) The service provider must—

(a) obtain the Police vet required by subclause (1) before the contractor, or employee of a contractor, has, or is likely to have, unsupervised access to children at the service; and

(b) consider the information contained in the Police vet to assess whether the contractor, or employee of a contractor, would pose a risk to the safety of children if they had unsupervised access to children at the service.

(1B) In carrying out an assessment under subclause (1A)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.

(2) In this clause, **contractor** means a person who works at a licensed early childhood service under a contract for services.

Compare: 1989 No 80 s 319E

Schedule 4 clause 2(1A): replaced, on 23 August 2023, by section 38(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 2(1B): inserted, on 23 August 2023, by section 38(2) of the Education and Training Amendment Act 2023 (2023 No 45).

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

[Repealed]

Schedule 4 clause 3: repealed, on 1 August 2022, by section 70(4) of the Education and Training Amendment Act 2022 (2022 No 38).

4 Procedures relating to Police vets under clause 1 or 2

The service provider of a licensed early childhood service that applies for a Police vet of a person under clause 1 or 2—

(a) must ensure that strict confidentiality is observed for Police vets; and

(b) may not take adverse action in relation to the person who is the subject of a Police vet until—

(i) the person has validated the information contained in the vet; or

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

Compare: 1989 No 80 s 319FA

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

(1) The service provider of a licensed home-based education and care service must obtain a Police vet of every adult who lives in a home—

(a) where the service is being provided; and

(b) where at least 1 child to whom the service is being provided does not live in the home.

(2) In this clause, **adult** means a person who is aged 17 years or over.

Compare: 1989 No 80 s 319FB

6 When Police vet under clause 5 must be obtained

(1) The service provider must—

(a) obtain the Police vet required by clause 5,—

(i) in the case of a home to be used as a licensed home-based education and care service, before the home is used as a licensed home-based education and care service:

(ii) in the case of a home that is being used as a licensed home-based education and care service, before the adult begins to live in the home; and

(b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children to whom the service is provided.

(1A) In carrying out an assessment under subclause (1)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.

(2) The Police vet must be obtained even if the person is unlikely to be present when the licensed home-based education and care service is provided.

Compare: 1989 No 80 s 319FC

Schedule 4 clause 6(1): replaced, on 23 August 2023, by section 38(3) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 6(1A): inserted, on 23 August 2023, by section 38(3) of the Education and Training Amendment Act 2023 (2023 No 45).

7 Procedures relating to Police vets under clause 5

The service provider of a licensed home-based education and care service that applies for a Police vet of a person under clause 5—

(a) must ensure that strict confidentiality is observed for Police vets; and

(b) may not take adverse action in relation to the person who is the subject of a Police vet until—

(i) the person has validated the information contained in the vet; or

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

Compare: 1989 No 80 s 319FD

8 Further Police vets to be obtained every 3 years

(1) The service provider of a licensed early childhood service must obtain a further Police vet of every person—

(a) on whom a Police vet has already been obtained under clause 1, 2, or 5 by that service provider; and

(b) who still works at the service or lives in the home.

(2) A further Police vet required under subclause (1) must be obtained on or about every third anniversary of any Police vet that has been previously conducted on the person.

(3) The requirement for a further Police vet under this clause does not apply to a person on whom a Police vet under clause 1 or 2 would not be required if the person were about to be appointed to a position at the licensed early childhood service or to work at the service at the time that the further Police vet would otherwise be required.

Compare: 1989 No 80 s 319FE

Schedule 4 clause 8(1)(a): amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Police vetting in respect of primary and secondary schools

9 Police vetting of non-teaching and unregistered employees at schools

(1) The board of a State school, the sponsor, and the managers of a private school must obtain a Police vet of every person—

(a) whom the board, the sponsor, or the managers appoints, or intends to appoint, to a position at the school; and

(b) who is to work at the school during normal school hours; and

(c) who is not—

(i) a registered teacher who holds a current practising certificate; or

(ii) a holder of a limited authority to teach.

(2) The board, the sponsor, or managers must—

(a) obtain the Police vet required by subclause (1) before the person begins work at the school; and

(b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children if the person were to carry out work at the school.

(3) In carrying out an assessment under subclause (2)(b), the board, the sponsor, or managers must take into account any guidelines on risk assessments issued by the Ministry.

Compare: 1989 No 80 s 78C

Schedule 4 clause 9(1): amended, on 1 October 2024, by section 65(1)(a) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 9(1)(a): amended, on 1 October 2024, by section 65(1)(b) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 9(1)(c): replaced, on 1 August 2022, by section 70(5) of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 4 clause 9(2): replaced, on 23 August 2023, by section 38(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 9(2): amended, on 1 October 2024, by section 65(2) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 9(3): inserted, on 23 August 2023, by section 38(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 9(3): amended, on 1 October 2024, by section 65(2) of the Education and Training Amendment Act 2024 (2024 No 40).

10 Police vetting of contractors and their employees who work at schools

(1) The board of a State school, the sponsor, and the managers of a private school must obtain a Police vet of every contractor, or employee of a contractor, who has, or is likely to have, unsupervised access to students at the school during normal school hours.

(1A) The board, the sponsor, or managers must—

(a) obtain the Police vet required by subclause (1) before the contractor, or employee of a contractor, has, or is likely to have, unsupervised access to children at the school; and

(b) consider the information contained in the Police vet to assess whether the contractor, or employee of a contractor, would pose a risk to the safety of children if they had unsupervised access to children at the school.

(1B) In carrying out an assessment under subclause (1A)(b), the board, the sponsor, or managers must take into account any guidelines on risk assessments issued by the Ministry.

(2) In this clause, **contractor** means a person who works at a school under a contract for services.

Compare: 1989 No 80 s 78CA

Schedule 4 clause 10(1): amended, on 1 October 2024, by section 65(3) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 10(1A): replaced, on 23 August 2023, by section 38(5) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 10(1A): amended, on 1 October 2024, by section 65(4) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 10(1B): inserted, on 23 August 2023, by section 38(5) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 4 clause 10(1B): amended, on 1 October 2024, by section 65(4) of the Education and Training Amendment Act 2024 (2024 No 40).

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

[Repealed]

Schedule 4 clause 11: repealed, on 1 August 2022, by section 70(8) of the Education and Training Amendment Act 2022 (2022 No 38).

12 Further Police vets to be obtained every 3 years

(1) The board of a State school, the sponsor, and the managers of a private school must obtain a further Police vet of every person on whom a Police vet has already been obtained under clause 9 or 10 by that board or management and who still works at the school.

(2) A further Police vet required under subclause (1) must be obtained on or about every third anniversary of any Police vet that has been previously conducted on the person.

(3) The requirement for a further Police vet under this clause does not apply to a person on whom a Police vet under clause 9 or 10 would not be required if the person were about to be appointed to a position at the school or to work at the school at the time that the further Police vet would otherwise be required.

Compare: 1989 No 80 s 78CC

Schedule 4 clause 12(1): amended, on 1 October 2024, by section 65(5) of the Education and Training Amendment Act 2024 (2024 No 40).

13 Procedures relating to Police vets under clause 9 or 10

The board of a State school, the sponsor, or the managers of a private school that applies for a Police vet of a person under clause 9 or 10—

(a) must ensure that strict confidentiality is observed for Police vets; and

(b) may not take adverse action in relation to a person who is the subject of a Police vet until—

(i) the person has validated the information contained in the vet; or

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

Compare: 1989 No 80 s 78CD

Schedule 4 clause 13 heading: amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Schedule 4 clause 13: amended, on 1 October 2024, by section 65(5) of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 4 clause 13: amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Relationship with Children's Act 2014

[Repealed]

Heading: repealed, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

14 Relationship with Children's Act 2014

[Repealed]

Schedule 4 clause 14: repealed, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Schedule 5
Communities of learning for State schools

ss 116, 127(2)(d)

1 Community of learning approved by Minister

(1) The Minister may approve a community of learning for the purpose of the community entering into an agreement under clause 2.

(2) A community of learning must consist of a group of 2 or more State schools but may also include 1 or more of the following:

(a) licensed early childhood services:

(b) certified playgroups:

(c) tertiary education organisations:

(d) charter schools.

(3) The Minister may approve a community of learning only if the Minister is satisfied that—

(a) the purpose of the group is to come together for the purpose of raising achievement of children and young people; and

(b) the membership of the group that is to form the community is appropriate, having regard to that purpose.

Compare: 1989 No 80 s 71C

Schedule 5 clause 1(2)(d): inserted, on 1 October 2024, by section 66 of the Education and Training Amendment Act 2024 (2024 No 40).

2 Secretary may enter into agreement with community of learning

(1) The Secretary and the members of a community of learning approved by the Minister may enter into a community of learning agreement.

(2) The matters that a community of learning agreement may provide for include (without limitation) 1 or more of the following:

(a) the activities that the community of learning is to undertake:

(b) the commitments of individual members of the group in carrying out the activities:

(c) any resources that may be provided to carry out the activities:

(d) any data collection requirements related to the activities:

(e) the format and content of the plans and annual reports required under clauses 3 and 4.

(3) Each member is jointly and severally liable for the obligations and responsibilities of the community of learning set out in the agreement.

(4) A member that proposes to withdraw from a community of learning agreement must give the Secretary notice in writing of the withdrawal.

(5) The Secretary must, by notice in the *Gazette*, list the members of each community of learning that have entered into a community of learning agreement with the Secretary and update the list to record any changes to membership of the community.

Compare: 1989 No 80 s 72

3 Community of learning that has agreement with Secretary must also prepare plan

(1) A community of learning that has a community of learning agreement with the Secretary must—

(a) prepare and maintain a plan to cover a period agreed to by the Secretary; and

(b) provide the Secretary with a copy of the plan.

(2) The plan must have particular regard to any statement of national education and learning priorities issued under section 5.

(3) A community of learning that changes a plan provided to the Secretary must provide the Secretary with a copy of the changed plan as soon as practicable.

Compare: 1989 No 80 s 73

4 Report to Secretary by community of learning

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

(a) its performance and progress in relation to the activities it has agreed to undertake; and

(b) the use of any resources provided to or by the community of learning in accordance with the agreement to carry out the activities.

Compare: 1989 No 80 s 74

5 Performance review of community of learning

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

Compare: 1989 No 80 s 75

Schedule 6
State integrated schools

ss 10(1), (9)(a), 161(2)(b), 162(5), 163(6), 199(9), 211(2), 212

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Conditional integration

1 Preservation of special character of State integrated schools

(1) A State integrated school on integration continues to have the right to reflect, through its teaching and conduct, the education with a special character provided by it.

(2) Integration must not jeopardise the special character of a State integrated school.

(3) Subject to the integration agreement, the proprietor of a State integrated school—

(a) continues to have the responsibility of supervising the maintenance and preservation of the education with a special character provided by the school:

(b) continues to have the right to determine what is necessary to preserve and safeguard the special character of the education provided by the school and described in the integration agreement.

(4) If, in the proprietor's opinion, the special character of the school as defined and described in the integration agreement has been or is likely to be jeopardised, or the education with a special character provided by the school as defined and described in the integration agreement is no longer preserved and safeguarded, the proprietor may invoke the powers conferred on the proprietor by this schedule.

Compare: 1989 No 80 s 416

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

2 Application to negotiate integration

(1) If the Minister accepts an application to negotiate integration, the applicant and the Minister may enter into negotiations for an integration agreement under clause 5.

(2) If the Minister declines the application, the applicant may make a fresh application.

(3) Without limiting the factors that the Minister may consider, the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools.

(4) The Minister may, in the Minister's absolute discretion,—

(a) accept applications to enter into negotiations for integration under this schedule; and

(b) after giving any notice to the public that the Minister thinks fit, decide not to consider applications from particular areas.

Compare: 1989 No 80 s 418

3 Applications relating to proposed schools

If a person who proposes to establish a school with the intention that it become a State integrated school makes an application under clause 2, this schedule applies to the application and to any subsequent negotiations and agreements before integration as if—

(a) the applicant were a proprietor; and

(b) the school were a private school.

Compare: 1989 No 80 s 419

4 Negotiation of integration agreements

(1) The Minister and an applicant may begin negotiations for an integration agreement under clause 5 after the Minister has accepted an application under clause 2.

(2) During the negotiations, the Minister may consult any interested persons or groups that the Minister thinks fit.

Compare: 1989 No 80 s 420

5 Integration agreements

(1) The Minister may approve the establishment of a private school as a State integrated school.

(2) The Minister must signify their approval by entering into an integration agreement with the proprietor.

(3) No proprietor is competent to execute an integration agreement unless the proprietor is constituted as a body corporate.

(4) It is a condition of every integration agreement that no person employed at the school and paid for their services in whole or in part out of money appropriated by Parliament may be—

(a) paid by the proprietor or the proprietor's agents any remuneration additional to that provided for by this Act; or

(b) granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a State school.

(5) The Minister's power to enter into integration agreements may not be delegated.

Compare: 1989 No 80 s 421

6 Other matters that may be included in integration agreements

(1) Without restricting the provisions that may be included in an integration agreement, an integration agreement may include provisions for 1 or more of the following matters:

(a) specifying the land and buildings that constitute the school to which the integration agreement refers:

(b) specifying any part of the land or buildings owned or leased by the proprietor and used by the school before integration that do not constitute part of the school:

(c) describing the education with a special character for which the school is or was originally established:

(d) prescribing the religious or philosophical instruction and observances that are to form part of the school programme after integration:

(e) providing for the determination of the maximum number of students who may be enrolled at the school:

(f) permitting limitation of the number of children not given preference of enrolment under clause 26 who are required to be enrolled if places are available:

(g) any other particular matter that is relevant to the education with a special character for which the school was originally established:

(h) any other matter that is not contrary to this schedule.

(2) Despite anything in subclause (1)(e), when determining the basis of the limitation under subclause (1)(f), regard must be had only to the necessity of preserving and safeguarding the education with a special character that the school provides.

Compare: 1989 No 80 s 422

7 Integration agreements: machinery matters

(1) Any proprietor may enter into integration agreements for the integration of more than 1 school.

(2) There must be a separate integration agreement for each school that is to become a State integrated school.

(3) If the Minister and the proprietor agree, the terms of an integration agreement may be varied by a supplementary agreement.

(4) Despite clause 5(5), the Minister's power to enter into a supplementary agreement may be delegated under clause 5 of Schedule 6 of the Public Service Act 2020.

(5) An integration agreement is, for all purposes, a binding agreement between the proprietor and the Crown.

Compare: 1989 No 80 s 423

Schedule 6 clause 7(4): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

8 Effective date of integration agreement

(1) Every integration agreement must specify an effective date.

(2) A State integrated school's board must take office on the effective date.

(3) If the requirements of this clause are not met, the Minister may give notice to the proprietor of a new effective date as the Minister thinks fit, and the integration agreement must be interpreted accordingly.

Compare: 1989 No 80 s 424

9 Notification of integration agreement

The Minister must give notice in the *Gazette* of an integration agreement, and the Secretary must retain a copy of every integration agreement and make it available for inspection without charge by any member of the public on an Internet site maintained by or on behalf of the Secretary.

Compare: 1989 No 80 s 425

10 Minister may require information to be provided

(1) This clause applies if—

(a) a proprietor or a potential proprietor has applied to integrate a school; or

(b) the Minister holds reasonable concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this schedule; or

(c) a proprietor or potential proprietor has submitted a specific funding request to the Minister or the Secretary.

(2) If this clause applies, the Minister may require the relevant proprietor or potential proprietor to provide 1 or more of the following:

(a) all of the information needed to assess the financial and managerial capacity of the proprietor or potential proprietor:

(b) any other information that the Minister considers relevant to assessing—

(i) an application to integrate a school; or

(ii) any concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this schedule; or

(iii) any funding request that a proprietor or potential proprietor has submitted.

Compare: 1989 No 80 s 426

11 Cancellation of integration agreement

(1) An integration agreement may be cancelled—

(a) by the Minister, in which case clause 12 applies; or

(b) by the proprietor, in which case clause 13 applies; or

(c) by agreement between the Minister and the proprietor, in which case clause 14 applies.

(2) On the cancellation of an integration agreement,—

(a) the school ceases to be a State integrated school; and

(b) the respective rights and obligations of the parties that arise owing to the integration agreement cease to have effect; and

(c) in the absence of an agreement to the contrary, the school is to be treated as provisionally registered as a private school.

Compare: 1989 No 80 s 427

12 Cancellation by Minister

The Minister may cancel an integration agreement under clause 11(1)(a) if—

(a) it appears to the Minister on reasonable grounds that the proprietor or the board of the State integrated school is not sufficiently carrying out its functions and obligations under this Act or under the integration agreement; and

(b) the Minister has consulted the proprietor, the board, and other interested persons or groups as the Minister thinks fit.

Compare: 1989 No 80 s 428

13 Cancellation by proprietor

(1) A proprietor may give notice to the Minister of an intention to cancel an integration agreement under clause 11(1)(b) if—

(a) it appears to the proprietor on reasonable grounds that—

(i) the special character of the State integrated school has been or is likely to be jeopardised; or

(ii) the Minister or any board is not carrying out their functions and obligations under this Act or the integration agreement; and

(b) the proprietor has consulted the Minister, the board, and any other interested persons or groups as the proprietor thinks fit.

(2) The notice of intention to cancel takes effect as a cancellation of the integration agreement under clause 11(1)(b) on the date that is 4 months after the date of the notice.

Compare: 1989 No 80 s 429

14 Cancellation by agreement between parties

The Minister and the proprietor may cancel an integration agreement under clause 11(1)(c) by mutual agreement, after consultation with other interested persons or groups as they think fit.

Compare: 1989 No 80 s 430

15 Mergers

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

(a) each school has the same proprietor; and

(b) each school has the same or a similar special character; and

(c) the proprietor has consulted the Minister; and

(d) the Minister determines that the schools may merge.

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

(a) be satisfied that—

(i) the proprietor has made reasonable efforts to consult its adult students or the parents of its full-time students (other than adult students) about the proposed merger; and

(ii) the consultation that has taken place for each school is adequate in the circumstances; and

(iii) the creation of a single school by the proposed merger (the **continuing school**) is appropriate in the circumstances; and

(b) consult the boards of all the other schools whose rolls might, in the Minister's opinion, be affected by the proposed merger.

(3) If the Minister determines that the State integrated schools may merge, the proprietor must apply under clause 2 to negotiate an integration agreement for the school that is to be created by the merger.

(4) If an integration agreement is negotiated, the Minister must give notice of the merger in the *Gazette*.

(5) The notice takes effect on a day specified in the notice and has effect as follows:

(a) the merging schools are part of the continuing school:

(b) if the continuing school and each merging school are not already administered by a single board,—

(i) the board of each merging school is dissolved; and

(ii) all rights, assets, liabilities, and debts of each merging school are vested in the board of the continuing school:

(c) the continuing school is a school of the classification specified in the notice and provides education for the student year levels specified in the notice.

(6) The notice does not affect the name of the continuing school.

(7) Before a notice given under subclause (4) takes effect, the Minister must give notice in the *Gazette* of whether,—

(a) during the period between a date specified in the notice and the date on which new board members take office, the board of the continuing school is to be—

(i) the board of the continuing school plus at least 1 co-opted board member representing each of the merging schools; or

(ii) a board appointed by the Minister; or

(b) the board of the continuing school is to have an alternative constitution approved under clause 4 of Schedule 22.

(8) The board of the continuing school must have no more than 4 members appointed by the proprietor.

Compare: 1989 No 80 s 431

16 Closure of State integrated school

If it appears to the Minister that for the reason set out in clause 12(a) a State integrated school should be closed, the Minister may, after the consultation referred to in clause 12(b), disestablish and close the school.

Compare: 1989 No 80 s 432

17 Notification of cancellation or of closing of State integrated school

When an integration agreement is cancelled under clause 12 or 13, or when a State integrated school is closed under clause 16, the Minister must give notice of the cancellation or closure in the *Gazette*.

Compare: 1989 No 80 s 433

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

(1) This clause applies if capital expenditure or expenses appropriated by Parliament have been used to meet all or part of the cost of supplying a State integrated school with furniture, equipment, or other chattels and the integration agreement for that school is cancelled or the school is closed.

(2) The Secretary may dispose of the furniture, equipment, or other chattels at the Secretary's sole discretion, whether by sale or otherwise, and the disposition has effect as if the Secretary were the owner.

(3) However, any sale must be by way of public auction or public tender.

Compare: 1989 No 80 s 434

19 Repayment of moneys advanced

(1) This clause applies if—

(a) capital expenditure or expenses appropriated by Parliament have been advanced otherwise than by way of loan to be used to meet all or part of the cost of erecting any building or supplying or installing any fixture as part of a State integrated school; and

(b) the integration agreement for that school is cancelled, or the school is closed.

(2) The current value of the contribution to the building or fixture from the money appropriated must be assessed by the Minister.

(3) The amount assessed is to be treated as a debt due by the proprietor to the Crown and is a charge on the land of the State integrated school.

(4) That charge may be registered without the payment of a fee against the land under any enactment.

(5) However, the Minister may, with the agreement of the Minister of Finance, approve the writing off of all or part of the debt.

(6) For the purposes of registration under any other enactment, the Secretary may sign the notice of the charge and the release of the charge.

Compare: 1989 No 80 s 435

20 Moneys to be paid into Crown Bank Account

(1) In the case of any sale made under clause 18(2), the money received must be paid into a Crown Bank Account.

(2) In the event of the cancellation of an integration agreement, or the closing of a State integrated school, any unspent money granted to the school's board under this Act or regulations made under this Act or under any other Act must be paid into a Crown Bank Account.

Compare: 1989 No 80 s 436

21 Certain assets remain vested in proprietors

(1) If an integration agreement is cancelled, or a State integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the proprietor remain vested in the proprietor.

(2) This clause is subject to clauses 18 to 20.

Compare: 1989 No 80 s 437

22 Restriction on cancellation of integration agreement or closure of State integrated schools

No integration agreement may be cancelled in accordance with clause 11, and (despite anything in section 199) no State integrated school may be closed

under clause 16, solely on the ground that adequate capacity for the students exists in an adjacent State school.

Compare: 1989 No 80 s 438

23 Compensation

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

Compare: 1989 No 80 s 439

Administration

24 Administration of State integrated schools

(1) Except as provided in this schedule, this Act and every other enactment relating to the education of the people of New Zealand in State schools apply to a State integrated school.

(2) Subject to clauses 1 and 2, when a private school is integrated it must be controlled and managed and operate in all respects as if it were a State school.

(3) The powers of control and management of the board of a State integrated school are subject to clauses 1 and 2.

(4) To give effect to subclause (3), the board of a State integrated school must provide for adequate consultation between the board and the proprietor of that school.

Compare: 1989 No 80 s 440

25 Free education

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

Compare: 1989 No 80 s 441

26 Preference of enrolment

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

Compare: 1989 No 80 s 442

27 Participation in general school programmes

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

Compare: 1989 No 80 s 443

28 Instruction of students

(1) Each State integrated school must instruct its students in accordance with the curricula and syllabuses prescribed under this Act or any regulations made under this Act.

(2) However, the general school programme must reflect the education with a special character provided by the State integrated school, and religious and other examples may be used to reinforce teaching throughout the school day.

Compare: 1989 No 80 s 444

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

29 Religious instruction and observances

(1) Subject to clause 28, if religious instruction and observances form part of the education with a special character provided by a State integrated school, these must continue to form part of the general school programme in accordance with the terms and conditions prescribed in the integration agreement relating to that school.

(2) If religious instruction and observances form part of the education with a special character provided by a State integrated school, that school—

(a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and

(b) may not require a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction concerned with particular observances if a parent of the student states that they do not wish that student to participate.

Compare: 1989 No 80 s 445

30 Attendance dues

(1) The proprietor of a State integrated school may, if the integration agreement for the school provides, enter into an agreement with the parents or other persons accepting responsibility for the education of a child that provides that the parents or other persons must pay attendance dues as a condition of the child's enrolment at the school.

(2) The dues must be established for the State integrated school or group of State integrated schools at the rates, and subject to any conditions, approved by the Minister by notice.

(3) Revenue received by the proprietor from attendance dues must be used solely for the following:

(a) paying, in respect of the school or group of schools in respect of which it is received, for improvements to the State integrated school or schools'

buildings and associated facilities that are required by any integration agreement or integration agreements under clause 39(2)(c):

(b) any capital works that may be required by the Minister under clause 39(2)(d):

(c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the State integrated school or schools.

(4) No revenue received by the proprietor from attendance dues may be used to provide or improve the State integrated school buildings and associated facilities to a standard higher than that approved by the Secretary as appropriate for a comparable State school.

(5) A notice approved by the Minister under subclause (2) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named State integrated schools.

(6) If a notice is not secondary legislation, the Minister must publish it in the *Gazette*.

Compare: 1989 No 80 s 447

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 6 clause 30(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 6 clause 30(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 6 clause 30(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

31 Withdrawal and reinstatement of right to charge attendance dues

(1) Should any proprietor use any revenue from attendance dues for any purpose other than one permitted by clause 30, the Minister may, despite anything in the integration agreement, by notice in the *Gazette*, withdraw the right to charge attendance dues, and while the withdrawal continues, the board must permit the attendance of children without the payment of attendance dues.

(2) The Minister may, by notice in the *Gazette*, cancel any withdrawal.

Compare: 1989 No 80 s 448

32 Failure to pay attendance dues

(1) If a parent, or other person who has accepted the responsibility for the education of a child, has entered into an agreement to pay attendance dues and fails to make a payment, the payment is recoverable from the parent or other person in any court of competent jurisdiction as a debt due to the proprietor.

(2) In addition, a failure to make payment constitutes grounds for the principal of the State integrated school to suspend the child from attendance at that school and to remove the child's name from the school register.

(3) However, no child may be suspended and have their name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the child to be enrolled at some other school.

Compare: 1989 No 80 s 449

33 Accounts for attendance dues

(1) Each proprietor who is permitted to charge attendance dues must keep accounts in a manner approved by the Secretary showing—

(a) the total amount of attendance dues received; and

(b) how the attendance dues have been spent.

(2) The accounts must be—

(a) balanced at a date each year approved by the Secretary; and

(b) audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

(3) The proprietor must send a copy of the accounts, together with the auditor's report on them, to the Secretary by a date to be approved by the Secretary.

Compare: 1989 No 80 s 450

34 Financial contributions

(1) In addition to the power to collect attendance dues under clause 30, the proprietor of a State integrated school may—

(a) conduct fund-raising activities within the school; and

(b) inform the parents of the financial obligations of the proprietor in the prospectus and in other ways; and

(c) request the parents of students attending the school to make regular financial contributions to the proprietor for the benefit of the proprietor in meeting any debt, mortgage, lien, or other charge associated with the land and buildings that constitute the school premises or are associated with the school.

(2) Financial contributions other than attendance dues must be made on a voluntary basis, and no student may be refused enrolment because of the unwillingness of the parents to contribute in this way.

Compare: 1989 No 80 s 451

35 Restrictions on fund-raising

None of the following may take part during normal school hours in a school activity directed to raising funds for the benefit of the proprietor in meeting any debt, mortgage, lien, or other charge associated with the land and buildings that constitute the school premises or are associated with the school:

(a) a board of a State integrated school:

(b) the principal or a member of the staff (whether employed or retained as a teacher or in any other capacity):

(c) a student of the school.

Compare: 1989 No 80 s 452

36 Accounts of money raised under clause 34

The proprietor must—

(a) keep accounts of money raised by it and by a board, principal, staff member, or student under clause 34; and

(b) have the accounts audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) at least once in every period of 12 months; and

(c) make a copy of the accounts and of the auditor's report on them available on request to the parents of students attending the State integrated school and to other contributors.

Compare: 1989 No 80 s 453

37 Fund-raising

(1) The board, the principal, staff members, and students of a State integrated school may take part in fund-raising activities in the same manner and for the same purposes for the benefit of the students of the school that are permitted in the case of State schools.

(2) This clause is subject to clause 34.

Compare: 1989 No 80 s 454

38 Use of school office

The school office of a State integrated school may be used for the purpose of communication between the proprietor of the school and the parents of students enrolled at the school, and for other purposes related to the benefit of the school and the students.

Compare: 1989 No 80 s 455

39 Powers and responsibilities of proprietors

(1) The proprietor of a State integrated school must exercise its powers under an integration agreement in a manner that is consistent with clause 1.

(2) Subject to subclause (1), the proprietor of a State integrated school—

(a) owns, holds upon trust, or leases the land and buildings that are specified in the integration agreement as constituting the school premises; and

(b) must accept and meet the liability for all mortgages, liens, and other charges upon the land and buildings; and

(c) must plan, pay for, and implement, over the period that may be specified in the integration agreement, the improvements to the school buildings and associated facilities that are required in accordance with the integration agreement to bring the buildings and associated facilities up to the minimum standard laid down by the Secretary for State schools; and

(d) must plan, implement, and pay for the capital works that are approved or required by the Minister, with a view to replacing, improving, or enlarging the school, its buildings, and its associated facilities to maintain the school, its buildings, and its associated facilities at the minimum standard laid down by the Secretary for comparable State schools; and

(e) may own, hold on trust, or lease and control, and may maintain, any land, buildings, and associated facilities that, although not part of the school in terms of the integration agreement, are regarded by the proprietor as appropriate to maintain the special character of the school; and

(f) may, in conjunction with the board, provide for the accommodation of students living away from home; and

(g) must insure all the buildings, chattels, and other assets owned, held on trust, or leased by the proprietor for the purposes of the school against risks normally insured against; and

(h) must arrange with its insurers that the benefit of the indemnity under the insurance policy extends to the Minister for the buildings, chattels, and other assets paid for in whole or in part by a loan or grant made out of money appropriated by Parliament; and

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

Compare: 1989 No 80 s 456

40 Decision-making criteria for proprietors

(1) When making a decision under this schedule, a proprietor must take into account—

(a) the ability of the proprietor's State integrated school or schools to continue to provide the level of education required; and

(b) the average per student cost of the continued operation of the proprietor's State integrated school or schools relative to the average per student cost for other State schools; and

(c) the extent to which the proprietor's State integrated school or schools provide for students whose needs are not met by other State schools; and

(d) the ability of the proprietor to meet any obligations regarding the proprietor's State integrated school or schools over the next 7 years.

(2) A proprietor must assess the proprietor's compliance with subclause (1) at intervals of no more than 5 years.

(3) However, the Secretary may direct a proprietor to carry out an assessment if the Secretary considers it appropriate in the circumstances.

(4) The proprietor must, as soon as practicable,—

(a) complete any assessment begun under subclause (2) or (3); and

(b) provide the Secretary with a copy of the assessment.

Compare: 1989 No 80 s 457

41 Consequences of failure to arrange insurance

Despite clause 39(2)(h), if the proprietor has not arranged with the proprietor's insurers for the benefit of any insurance policy to extend to the Minister,—

(a) no money appropriated by Parliament may be used to pay any part of the cost of repairing or replacing any buildings, chattels, or other assets that have been destroyed or damaged from any cause whatsoever; and

(b) any additional charges by way of premium made by the insurer for the extension of the benefit of any insurance policy to the Minister may not be met out of money appropriated by Parliament.

Compare: 1989 No 80 s 458

42 Proprietors not to question curriculum or teaching methods

The right of access specified in clause 39(2)(i) does not give a proprietor the right to question the curriculum or the teaching methods adopted by the teachers, both of which are, subject to this Act, controlled by the principal of the State integrated school.

Compare: 1989 No 80 s 459

43 Leases of land

(1) The proprietor of a State integrated school must obtain the prior consent of the Minister before entering into a lease relating to land that is used, or to be used, for the school.

(2) If the proprietor fails to obtain the prior consent of the Minister to a lease, the lease is not affected but the Minister may cancel the integration agreement under clause 12.

Compare: 1989 No 80 s 460

44 Assistance to proprietors

(1) The Minister may, with the concurrence of the Minister of Finance, approve the granting of loans from capital expenditure that may be appropriated by Parliament for the purpose to the proprietor of a State integrated school.

(2) The loans are to be made for the purposes and subject to the terms and conditions, including the writing off of any amount repayable, that the Minister, with the concurrence of the Minister of Finance, determines.

Compare: 1989 No 80 s 461

45 Proprietors unable to meet obligations

(1) If the proprietor of a State integrated school is unable to meet its financial or other commitments under the integration agreement, the proprietor must notify the Minister.

(2) If the Minister is notified, the Minister may, after any consultation with the proprietor that the Minister thinks necessary,—

(a) cancel the integration agreement in accordance with clause 12; or

(b) close the State integrated school under clause 16; or

(c) arrange for the acquisition by the Crown, in accordance with the Public Works Act 1981, of any land, buildings, and chattels relating to the State integrated school that are owned or leased by the proprietor and that the Minister thinks fit for the purpose of establishing a State school.

(3) When the Minister acts in accordance with subclause (2)(a) or (b), the provisions of this Act relating to the cancellation of an integration agreement or to the closure of a State integrated school apply.

Compare: 1989 No 80 s 462

Appointment and employment of teachers

46 Requirements in respect of appointments of teachers

(1) The board of a State integrated school must appoint teachers in that school in accordance with the Public Service Act 2020.

(2) When a board delegates to a committee the power to appoint a teacher or to recommend the appointment of a teacher, that committee must contain at least 1 of the persons appointed to the board by the proprietor.

Compare: 1989 No 80 s 463

Schedule 6 clause 46(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

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

Where religious instruction forms part of the special character of a State integrated school,—

(a) if provided for by the integration agreement, an advertisement for the position of principal of that school must state that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment:

(b) if provided for by the integration agreement, the board must—

(i) designate a position at that school as director of religious studies; and

(ii) state in any advertisement for that position that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment (a director of religious studies must be a member of the normal staffing entitlement of the school, as established by regulations made under this Act); and

(iii) ensure the carrying out of the teaching duties, if any, that may be provided for in the integration agreement:

(c) the board must—

(i) designate any other proportion of teaching positions in that school that may be provided for in the integration agreement as positions of importance carrying a responsibility for religious instruction; and

(ii) state in advertisements for the positions that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment:

(d) the board must state in any advertisement for a position at that school that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment if—

(i) that school is a primary school; and

(ii) the person holding the position of deputy principal of that school or a position of assistant principal at that school has responsibility for supervising the junior classes at that school; and

(iii) the terms of the integration agreement of that school specify those conditions of appointment.

Compare: 1989 No 80 s 464

48 Effect of religious instruction requirements in advertisements

If, in accordance with clause 47, an advertisement for a position states a requirement that a willingness and an ability to take part in religious instruction

are conditions of appointment, any person appointed to that position must accept that requirement as a condition of appointment.

Compare: 1989 No 80 s 465

49 Restrictions on requirement for teacher to take part in religious instruction

(1) The appointment of a teacher to a position in a State integrated school may not be conditional on the willingness and ability of that teacher to take part in religious instruction, and no appointed teacher may be required to take part.

(2) Subclause (1) is subject to clause 47.

Compare: 1989 No 80 s 466

50 Other special positions

(1) If an integration agreement records that any teaching position in the State integrated school concerned is a special position that requires particular capabilities on the part of the teacher holding it, an advertisement for that position must require an appointee to possess those capabilities as a condition of appointment.

(2) Without limiting subclause (1), if any integration agreement relating to a State integrated primary school requires the person holding a position as assistant principal at that school (being a position with responsibility for supervising senior classes at that school) to maintain programmes and activities that reflect the special character of that school, an advertisement for that position must require an appointee to maintain those programmes and activities as a condition of appointment.

(3) If, in accordance with subclause (1) or (2), an advertisement for a position makes any requirement a condition of appointment to that position, any person appointed to that position must accept that requirement as a condition of appointment.

Compare: 1989 No 80 s 467

51 Selection for appointment

In the case of a State integrated primary school, the person to be appointed to any position specified in clause 47 or 50 must be selected in accordance with clause 52.

Compare: 1989 No 80 s 468

52 Requirements in respect of appointments

(1) Before appointing any person to a position in a State integrated primary school specified in clause 47 or 50, the board must consult the proprietor, who must report to the board the names of those applicants (if any) who, in terms of the special character of the school or in terms of the advertisement calling for applicants with particular capabilities, are acceptable for appointment.

(2) On receipt of the report under subclause (1), the board may consider for appointment only those applicants who are stated in the report to be acceptable for appointment.

Compare: 1989 No 80 s 469

53 Employment for special purposes

(1) With the consent of the board, a retired teacher may undertake, in a State integrated school, voluntary tasks relating to the beliefs and instruction that are the foundation of that school's special character.

(2) If religious instruction forms part of the education with a special character provided by a State integrated school, the proprietor of that school may employ any person, whether as a chaplain or otherwise, for duties relating to that instruction.

(3) The salary of a person employed under subclause (2) may not be paid by the board or be in any way a charge on money appropriated by Parliament.

(4) The proprietor must notify the board of the name of any person employed under subclause (2).

Compare: 1989 No 80 s 470

54 Appointment of teachers on integration

(1) If an integration agreement is implemented in respect of a private school in accordance with clauses 5 and 8,—

(a) the contract of service of every teacher at that school is to be treated as being terminated from the effective date of integration; and

(b) each of those teachers, if the teacher so wishes, is to be treated as being in the employment of the board of the State integrated school until the teacher is formally appointed to a teaching position under subclause (4), and subclause (6) applies accordingly from the effective date of integration; and

(c) each teaching position at that school must, within 60 days after the effective date of integration, be advertised as required by the Public Service Act 2020.

(2) The advertisement must state that the teacher appointed to the position as at the effective date of integration, if the teacher so wishes, has an absolute right of appointment to that position irrespective of the qualifications of any other applicant.

(3) The teacher previously appointed to the position advertised under subclause (1) must, if the teacher wishes to continue in that appointment, apply in the manner prescribed by the Public Service Act 2020 for appointment to that position.

(4) A teacher who applies must be appointed to the position.

(5) A teacher who does not so apply is to be treated as having relinquished the position.

(6) A teacher who is appointed to a teaching position must—

(a) be paid out of expenses appropriated by Parliament for the purpose the same salary that a teacher with comparable service and qualifications would be paid for a comparable teaching position in a State school; and

(b) continue to be paid no less than the same salary, and to be accorded the same status, as the teacher received or was accorded on the day before the effective date of integration.

Compare: 1989 No 80 s 471

Schedule 6 clause 54(1)(c): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 6 clause 54(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

55 Other employees

(1) The contract of service of every person employed in a State integrated school other than as a teacher is to be treated as being terminated from the effective date of integration.

(2) If the position in which that person was employed has a parallel or close parallel in a State school, that person may—

(a) be re-employed by the board in a parallel position; and

(b) be paid out of expenses appropriated by Parliament for the purpose the same salary as that person would be paid for comparable service in a State school.

Compare: 1989 No 80 s 472

56 No compensation for termination of employment

When a contract of employment of a teacher is treated as being terminated under clause 54(1)(a), or when the contract of employment of a person other than a teacher is treated as being terminated under clause 55, no compensation of any kind is payable to the teacher or to any person employed otherwise than as a teacher in respect of the termination of the contract of employment.

Compare: 1989 No 80 s 473

General provisions

57 Grants to private schools before integration

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

Compare: 1989 No 80 s 474

58 Relationship between this schedule and other Parts of Act and other enactments

(1) If this schedule deals with the same subject matter as, or similar subject matter to, any other provisions of this Act, the Public Service Act 2020, or any regulations made under either of those Acts or under any enactment repealed by either of those Acts,—

(a) express provisions in this schedule prevail in respect of State integrated schools; but

(b) this schedule must be interpreted in a way that is consistent with the provisions of this Act or any other enactments concerned whenever this construction is appropriate and reasonable.

(2) Subject to clauses 1 and 2, if any matter concerning State integrated schools is not dealt with by express provision in this schedule, the appropriate provisions of this Act, the Public Service Act 2020, and any regulations made under any of those provisions or under any enactment repealed by this Act or the Public Service Act 2020 apply.

Compare: 1989 No 80 s 475

Schedule 6 clause 58(1): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 6 clause 58(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Schedule 6A
Further provisions applying to Authorisation Board

s 212C(3)

Schedule 6A: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

1 Resignation or discharge of members

(1) A member of the Authorisation Board may resign by giving written notice to the Minister and to the Authorisation Board.

(2) The Minister may, at the Minister's discretion, discharge the member by giving written notice to the member and to the Authorisation Board.

Schedule 6A clause 1: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

2 Actions of Authorisation Board not affected by informality in membership

The powers of the Authorisation Board are not affected by—

(a) any vacancy in its membership; or

(b) the discovery of any error or defect in appointment of a member; or

(c) the fact that a person continued to act as a board member after the person's office as a member became vacant.

Schedule 6A clause 2: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

3 Delegations

(1) The Authorisation Board may, either generally or specifically, delegate any of its functions, duties, or powers under this Act to a public service chief executive.

(2) A delegation—

(a) must be in writing; and

(b) may be revoked at will in writing; and

(c) may be subject to instructions or conditions.

(3) Despite subclause (1), the Authorisation Board must not delegate the general power of delegation.

(4) A public service chief executive to whom any functions, duties, or powers are delegated under this clause may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act (subject to any general or special instructions given or conditions imposed by the Authorisation Board).

(5) A public service chief executive purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.

(6) A delegation continues in force until revoked.

Subdelegation

(7) If the Authorisation Board has delegated any functions, duties, or powers to a public service chief executive, that public service chief executive may, with the written approval of the Authorisation Board, subdelegate those functions, duties, or powers in accordance with clause 2 of Schedule 6 of the Public Service Act 2020.

(8) In this clause, **public service chief executive** has the meaning given in section 5 of the Public Service Act 2020.

Schedule 6A clause 3: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

4 Personal liability of members

A member of the Authorisation Board is not personally liable for an act the member has done or omitted to do, or for any loss arising from that act or omission, if the member was acting—

(a) in good faith; and

(b) in the course of performing or exercising the member's functions, duties, or powers.

Schedule 6A clause 4: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

5 Annual report

(1) As soon as practicable after the end of each financial year, the Authorisation Board must prepare and provide the Minister with an annual report on its operations during that year.

(2) The annual report must include information on the number of new and converted charter schools approved by the Authorisation Board in that year.

(3) The Minister must present the annual report to the House of Representatives within 5 working days after receiving the report or, if Parliament is not in session, as soon as practicable after the commencement of the next session of Parliament.

Schedule 6A clause 5: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

6 Procedures

The Authorisation Board may determine its own procedures.

Schedule 6A clause 6: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

Schedule 6B
Provisions of Crown Entities Act 2004 that apply to Authorisation Board

s 212E

Schedule 6B: inserted, on 1 October 2024, by section 67 of the Education and Training Amendment Act 2024 (2024 No 40).

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Section 26	Accountability of members to responsible Minister
Section 28	Method of appointment of members
Section 30	Qualifications of members
Section 31	Requirements before appointment
Section 32	Term of office of members
Section 34	Validity of members' acts
Section 35	Validity of appointments
Section 36	Removal of members of Crown agents
Section 41	Process for removal
Section 43	No compensation for loss of office
Section 44	Resignation of members
Sections 47–48	Remuneration and expenses
Section 49	Entity must act consistently with objectives, functions, statement of intent, and statement of performance expectations
Section 50	Manner in which functions must be performed
Section 53	Duty to comply with this Act and entity's Act
Section 54	Duty to act with honesty and integrity
Section 55	Duty to act in good faith and not at expense of entity's interests
Section 56	Duty to act with reasonable care, diligence, and skill
Section 57	Duty not to disclose information
Sections 62–67	Conflict of interest disclosure rules
Section 103	Power to direct Crown agents to give effect to government policy
Section 113	Safeguarding independence of Crown entities
Section 115	Procedure for ministerial directions on government policy
Section 135	Members, office holders, and employees are officials
Section 152	Disclosure of payments in respect of members, committee members, and employees

Schedule 7
Private schools

s 214(3)

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1 Provisional and full registration of private schools

(1) If the Secretary is satisfied that a school meets or is likely to meet the criteria for registration as a private school, the Secretary must provisionally register the school as a private school of the description or descriptions concerned.

(2) Provisional registration of the school continues—

(a) for 12 months (unless it is revoked earlier); or

(b) until the expiry of any period specified by the Secretary under subclause (3).

(3) The Secretary may renew the provisional registration of the school only once, for a period specified by the Secretary, if satisfied that—

(a) exceptional circumstances exist in relation to the school; and

(b) the school is likely to meet the criteria for registration as a private school in that period.

(4) The Secretary may request a further review, in addition to the review under clause 9(2), of a school that has its provisional registration renewed under subclause (3).

(5) The Secretary must fully register a school as a private school of the description or descriptions concerned if the Secretary is satisfied, having considered any report under clause 9(4) in relation to a review under clause 9(2) or (3), that a provisionally registered school meets the criteria for registration as a private school.

Compare: 1989 No 80 s 35A(2)–(6)

2 Criteria for registration as private school

The criteria for registration as a private school are that the school—

(a) has premises that are suitable, as described in clause 3; and

(b) usually provides tuition for 9 or more students aged 5 years or over but under 16 years; and

(c) has staffing that is suitable to the age range and level of its students, the curriculum taught at the school, and the size of the school; and

(d) has equipment that is suitable for the curriculum being delivered or to be delivered at the school; and

(e) has a curriculum for teaching, learning, and assessment and makes details of the curriculum and its programme for delivery available for parents; and

(f) has suitable tuition standards, as described in clause 5; and

(g) has managers who are fit and proper persons (as described in clause 6) to be managers of a private school; and

(h) is a physically and emotionally safe place for students.

Compare: 1989 No 80 s 35C

3 Suitable premises

(1) Suitable premises for a private school are premises that are suitable for a school of its description and the number of students at the school.

(2) Subclause (1) applies to all premises used by the private school for the regular delivery of courses, whether the managers of the school own or lease the premises for the school.

Compare: 1989 No 80 s 35D

4 Additional and substituted premises to be approved

(1) The managers of a private school must, in the circumstances set out in subclause (2), notify the Secretary and obtain the Secretary's approval before using new premises for the regular delivery of courses.

(2) The circumstances are that the managers of the private school propose that the school is to occupy—

(a) premises that are in addition to its current premises; or

(b) different premises that are to replace the premises currently occupied by the school.

(3) When considering whether to grant approval of premises under subclause (1), the Secretary must consider whether the premises are suitable, as described in clause 3.

Compare: 1989 No 80 s 35E

5 Tuition standards

(1) Tuition of a suitable standard at a private school must include giving students tuition of a standard no lower than that of the tuition given to students enrolled at State schools of the same year levels.

(2) In assessing the standard of tuition, the mode of curriculum delivery and the regularity of instruction must be considered.

Compare: 1989 No 80 s 35F

6 Managers to be fit and proper persons

(1) In assessing whether a person who is a manager of a private school is a fit and proper person to be a manager of the school, the Secretary must take the following matters into account:

(a) whether the person has been convicted of serious criminal activity:

(b) whether the person has any health problems that may affect their ability to comply with their obligations towards the school and its students:

(c) whether the person has been—

(i) adjudicated bankrupt under the Insolvency Act 2006 or the Insolvency Act 1967:

(ii) prohibited from being a director or promoter of, or being concerned or taking part in the management of,—

(A) a company under the Companies Act 1993; or

(B) any other body corporate:

(d) any previous cancellation under this Act of the registration of a school of which the person was a manager:

(e) any serious breach of the person's statutory duties as a manager of a private school:

(f) whether the person has been convicted of an offence against section 249:

(g) all other relevant matters.

(2) If the manager of a private school is—

(a) a company, the assessment under subclause (1) applies to its directors:

(b) an incorporated society or an incorporated trust board, the assessment under subclause (1) applies to its members.

(3) If the management of a private school changes in its entirety or is transferred to a new entity, the new managers must give notice to the Secretary and an assessment under subclause (1) must be made of the new managers of the school.

Compare: 1989 No 80 s 35G

7 Manager must have regard to statement of national education and learning priorities

The manager of a private school must,—

(a) in operating the school, have regard to any statement of national education and learning priorities; and

(b) ensure that, in developing and delivering the curriculum, the school's principal and staff have regard to any statement of national education and learning priorities.

Compare: 1989 No 80 s 35GA

Managers to advise Secretary of private school ceasing operation

8 Managers must advise Secretary of school ceasing operation

The managers of a private school that is about to cease to operate as a school must inform the Secretary of—

(a) the fact that the school is to cease to operate as a school; and

(b) the date on which the school is to cease to operate.

Compare: 1989 No 80 s 35H

Review of private schools

9 Review of private schools

(1) As soon as practicable after provisionally registering an existing school or a proposed school under clause 1(2), the Secretary must inform the Chief Review Officer of the provisional registration.

(2) The Chief Review Officer must ensure that a review officer reviews a school that is provisionally registered under clause 1(2)—

(a) between 6 and 12 months after the provisional registration of the school; or

(b) earlier, by agreement with its managers.

(3) The Chief Review Officer must ensure that a review officer conducts a further review of a school that has had its provisional registration renewed under clause 1(3), if the further review is requested by the Secretary under clause 1(4).

(4) The Chief Review Officer must ensure that a review officer who conducts a review under subclause (2) or (3) prepares a written report in relation to the review and gives copies of it to the Secretary and the school's manager.

(5) The Chief Review Officer must ensure that a school, while registered under clause 1(5), is reviewed in accordance with subpart 3 of Part 5.

(6) The Chief Review Officer must also ensure that the review officer who conducts a review under subclause (5)—

(a) prepares a written report on the review; and

(b) gives copies of it to the Secretary and the school's principal (or other chief executive) and managers.

(7) A review officer's written report on a review under this clause must also include—

(a) information about whether the school meets the criteria for registration as a private school; and

(b) information about the areas in which improvement is required, if the school does not meet the criteria.

Compare: 1989 No 80 s 35I

Actions by Secretary in relation to private schools

10 Secretary's actions in relation to private schools

(1) The Secretary may take action in relation to a private school if—

(a) the Secretary considers that the school is not meeting any or all of the criteria for registration as a private school; or

(b) a review conducted under clause 9 indicates that the school does not, or is not likely to, meet any or all of the criteria for registration as a private school; or

(c) the managers of the school have breached or are breaching their statutory duties in relation to the school under this or any other enactment; or

(d) the Secretary has reasonable grounds to believe that serious criminal activity is occurring in the school.

(2) If the Secretary is satisfied that any 1 or more of the grounds set out in subclause (1) exist in relation to a private school, the Secretary may do any 1 or more of the following:

(a) issue the school's managers with a notice to comply:

(b) require the managers of the school to inform parents of the students at the school that the school is not meeting the criteria for registration as a private school:

(c) impose conditions on the school's registration:

(d) impose a requirement or requirements under any 1 or more of paragraphs (a) to (c) and suspend the school's registration:

(e) cancel the school's registration under clause 12.

(3) Any action taken by the Secretary under subclause (2)—

(a) must be proportionate to the seriousness of the private school's situation; and

(b) is in addition to any fine incurred or other penalty imposed under section 249 or under any other enactment.

Compare: 1989 No 80 s 35J

11 Duration of suspension

Suspension under clause 10(2)(d) continues until the Secretary—

(a) is satisfied that the managers of the private school have complied with all requirements imposed by the Secretary under any of clause 10(2)(a) to (c); or

(b) cancels the private school's registration under clause 12.

Compare: 1989 No 80 s 35L

12 Process for cancellation of registration

(1) The Secretary may cancel the registration of a private school if, following an action by the Secretary taken under clause 10(2)(a) to (d),—

(a) the school—

(i) does not improve sufficiently to meet the criteria for registration as a private school; and

(ii) is not likely to do so, in the Secretary's opinion, within a further reasonable time; or

(b) the managers of the school are continuing in breach of their statutory duties in relation to the school; or

(c) serious criminal activity continues to occur in the school.

(2) Before cancelling a school's registration under subclause (1), the Secretary must—

(a) take reasonable steps to obtain and consider any relevant information, including any report by a review officer; and

(b) give written notice to the managers of the school that the Secretary is considering cancelling the school's registration, and give reasons; and

(c) give the managers of the school a reasonable opportunity to respond to the notice.

Compare: 1989 No 80 s 35M

Grants for private schools

13 Grants for private schools

(1) The Minister may make grants to the managers of private schools out of money appropriated by Parliament for the purpose.

(2) The Minister must determine the amount of each grant made under subclause (1).

(3) A grant may be made unconditionally, or subject to conditions determined by the Minister.

(4) The managers of a private school to which a grant is made subject to conditions must take all reasonable steps to ensure that the conditions are complied with.

Compare: 1989 No 80 s 35N

14 Record-keeping in relation to grants to private schools

(1) The managers of a private school to which a grant has been made unconditionally under clause 13 must ensure that records are kept—

(a) in respect of the year in which the grant was made and the year after; and

(b) in a manner approved by the Minister.

(2) The records must—

(a) show fully and fairly all the managers' financial transactions, assets, liabilities, and funds; and

(b) be available for inspection at all reasonable times by any employee of the Ministry approved by the Secretary for the purpose.

(3) The managers of a private school to which a grant under clause 13 has been made subject to conditions must ensure that all necessary records are kept—

(a) in respect of the year in which the grant was made and the year after; and

(b) in a manner approved by the Minister.

(4) The records must—

(a) show fully and fairly—

(i) any of the managers' financial transactions, assets, liabilities, and funds that relate to or are or were affected by the making of the grants; and

(ii) that the conditions have been complied with; and

(b) be available for inspection at all reasonable times by any employee of the Ministry approved by the Secretary for the purpose.

(5) For the purposes of this clause and clause 15, the financial year of a school's managers ends—

(a) at the close of the day specified by the Minister for the purpose; or

(b) at the close of 30 June, if the Minister has not specified a day for the purpose.

Compare: 1989 No 80 s 35O

15 Providing accounts to Secretary

As soon as practicable after the end of each financial year during which a school's managers are required by clause 14 to keep records, they must—

(a) have prepared an income and expenditure account that shows all financial transactions for the year for which records are required to be kept; and

(b) have the account audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013); and

(c) give the Secretary copies of the account and the audit report on it.

Compare: 1989 No 80 s 35P

Suspensions and expulsions from private schools

16 Suspensions and expulsions from private schools to be notified to Secretary

(1) Immediately after a student has been suspended or expelled from a private school, the school's principal or head teacher must give the Secretary—

(a) written notice of—

(i) the student's name and last known address; and

(ii) the day on which the student was suspended or expelled or, if the student was first suspended and later expelled, the days on which the student was suspended and expelled, and the length of the suspension; and

(b) a written statement of the reasons for the student's suspension or expulsion.

(2) Unless the student is within a reasonable time reinstated at the school or enrolled at some other registered school, the Secretary must (if the student is under the age of 16 years) and may (if the student is aged 16 years or over)—

(a) arrange for the student to be enrolled at some other reasonably convenient registered school that the student can attend; or

(b) direct the board of a State school that is not a State integrated school to enrol the student at the school, and, in that case, the board must do so; or

(c) direct a parent of the student to have the student enrolled at a distance school.

(3) The Secretary may not give a direction under subclause (2) unless the Secretary has also made all reasonable attempts to consult—

(a) the student; and

(b) a parent of the student; and

(c) the board; and

(d) any other person or organisation that, in the Secretary's opinion, may be interested in, or able to advise on or help with, the student's education or welfare.

(4) A direction under subclause (2)(b) overrides the requirements of enrolment schemes specified in this Act or in any regulations made under this Act.

(5) To the extent that there is any inconsistency between this clause and a student's contract of enrolment at the school, this clause prevails.

Compare: 1989 No 80 s 35Q

Schedule 8
Secondary–tertiary programmes

ss 10(1), 43(1), 49(6)(a), 215

1 Provider group for secondary–tertiary programme

(1) The Minister may, by notice in the *Gazette*, recognise as a provider group of secondary–tertiary programmes a group of organisations that consists of—

(a) any 1 or more of the following:

(i) a board of a secondary school, a composite school, or a specialist school that is a relevant school:

(ia) a sponsor of a secondary school or a composite school:

(ii) a body corporate that is the manager of a private school, other than a school registered only as a primary school; and

(b) any 1 or more of the following:

(i) a government training establishment:

(ii) an institution:

(iii) a registered establishment.

(2) Each member of a provider group is jointly and severally liable with the other members of the group in respect of the group's obligations and responsibilities.

(3) Each member of a provider group must take all reasonable steps to work in a co-operative manner with the other members of the group.

Compare: 1989 No 80 s 31B

Schedule 8 clause 1(1)(a)(ia): inserted, on 1 October 2024, by section 68(1) of the Education and Training Amendment Act 2024 (2024 No 40).

2 Secretary may enter into agreement with provider group

(1) A provider group may co-ordinate a secondary–tertiary programme if the provider group has entered into a written agreement with the Secretary in relation to the programme.

(2) The matters that an agreement under subclause (1) may provide for, in relation to a secondary–tertiary programme, include (without limitation) any 1 or more of the following:

(a) its organisation and operation:

(b) its curriculum, its courses, and any resulting qualification:

(c) selection of students to participate in it:

(d) clarification of responsibility for the welfare and educational performance of participating students:

(e) pastoral care and career guidance for participating students:

(f) its funding, and the responsibility of specific members of the provider group in relation to that funding:

(g) the maximum number of students that may participate in it.

(3) The Secretary and the provider group may agree to cancel or vary an agreement under subclause (1).

(4) The Secretary or the provider group may cancel an agreement under subclause (1) by giving at least 6 months' notice in writing to the other party.

Compare: 1989 No 80 s 31C

3 Provider group plan for secondary–tertiary programme

(1) A provider group must—

(a) prepare and maintain a plan that contains short-term and long-term goals for each secondary–tertiary programme that it co-ordinates; and

(b) provide the Secretary with a copy of the plan.

(2) A provider group that alters any plan provided to the Secretary under subclause (1)(b) must provide the Secretary with a copy of the altered plan as soon as practicable.

Compare: 1989 No 80 s 31D

4 Report to Secretary by provider group

(1) A provider group must report at least annually to the Secretary regarding its performance and progress.

(2) The Secretary may, by notice in the *Gazette*, specify the format or content, or both, required for reports that are to be made under subclause (1).

Compare: 1989 No 80 s 31E

5 Recognition as lead provider of secondary–tertiary programme

The Minister may, by notice in the *Gazette*, recognise as a lead provider of secondary–tertiary programmes any of the following:

(a) a board of a secondary school, a composite school, or a specialist school that is a relevant school:

(aa) a sponsor of a secondary school or a composite school:

(b) a body corporate that is the manager of a private school, other than a school registered only as a primary school:

(c) a government training establishment:

(d) an institution:

(e) a registered establishment.

Compare: 1989 No 80 s 31F

Schedule 8 clause 5(aa): inserted, on 1 October 2024, by section 68(2) of the Education and Training Amendment Act 2024 (2024 No 40).

6 Lead provider to co-ordinate secondary–tertiary programme

(1) A lead provider may co-ordinate a secondary–tertiary programme if the lead provider has made an arrangement for the safety, welfare, and educational programmes of participating students that is—

(a) agreed to by the Secretary; or

(b) in a form approved by the Secretary.

(2) Any of the following may provide a secondary component or a tertiary component of a secondary–tertiary programme, after making an arrangement as specified in subclause (1) with the lead provider of the programme:

(a) a board of a secondary school, a composite school, or a specialist school that is a relevant school:

(aa) a sponsor of a secondary school or a composite school:

(b) the managers of a private school, other than a school registered only as a primary school:

(c) a government training establishment:

(d) an institution:

(e) a registered establishment:

(f) an employer providing work experience under the programme.

(3) The Secretary may withdraw their agreement under subclause (1)(a) or approval under subclause (1)(b) by giving at least 6 months' notice in writing to the lead provider.

Compare: 1989 No 80 s 31G

Schedule 8 clause 6(2)(aa): inserted, on 1 October 2024, by section 68(3) of the Education and Training Amendment Act 2024 (2024 No 40).

7 Government policies or priorities

(1) The Minister may, by notice in the *Gazette*, publish government policies or priorities, or both, that apply in relation to any 1 or more of the following:

(a) secondary–tertiary programmes:

(b) provider groups, or specified types of provider groups:

(c) lead providers, or specified types of lead providers.

(2) The Minister may, by written notice to a provider group or lead provider, issue a government policy or priority that applies in relation to the group or provider.

(3) A provider group or lead provider must take all reasonable steps to comply with any government policy or priority—

(a) published under subclause (1); or

(b) notified under subclause (2).

(4) In this section, **comply** means to give effect to the government policy or priority or to have regard to the government policy or priority, as the context requires.

Compare: 1989 No 80 s 31H

8 Entry into secondary–tertiary programme

(1) A student who is enrolled at any of the following may apply to a provider group or lead provider for entry into a secondary–tertiary programme:

(a) a secondary school:

(b) a composite school:

(c) a private school, other than a school registered only as a primary school:

(d) a specialist school that is a relevant school.

(2) Approval for a student's entry into a secondary–tertiary programme is at the discretion of the provider group or lead provider.

Compare: 1989 No 80 s 31I

9 Provider group or lead provider to notify student and parents about any school attendance requirement

The provider group or lead provider co-ordinating a participating student's secondary–tertiary programme must take all reasonable steps to notify the student and a parent of the student in writing about any portion of the programme during which the student's participation in the programme requires the student's attendance at school.

Compare: 1989 No 80 s 31J

10 Withdrawal from secondary–tertiary programme

(1) A participating student may withdraw from their secondary–tertiary programme.

(2) A provider group or lead provider may withdraw its approval for a student's participation in a secondary–tertiary programme after consulting the student.

Compare: 1989 No 80 s 31K

11 International students and secondary–tertiary programmes

A provider group or lead provider may not approve the entry of an international student into a secondary–tertiary programme if doing so would result in the provider excluding from entry to the programme any domestic student who has applied for entry into the programme and is otherwise eligible to participate in the programme.

Compare: 1989 No 80 s 31L

Schedule 9
Student allowances and administration of student loans

ss 259(1), (2), 284(1)(c), (d), 386(1), (2), 387(1), (2), 396(1), (2), (3)(c), 414(1), 645(1)

1 Interpretation

In this schedule, unless the context otherwise requires,—

allowance means—

(a) a bursary, grant, or scholarship:

(b) an allowance established by regulations made under section 645, or identified by *Gazette* notice under clause 10

allowance information means any information that MSD holds about a person who has applied for or has been granted an allowance

beneficiary means any person who is receiving, or has received, any benefit and includes an applicant for a benefit

beneficiary information means information held by MSD about a beneficiary

benefit means any of the following:

(a) a jobseeker support under the Social Security Act 2018:

(b) a benefit as defined in Schedule 2 of the Social Security Act 2018:

(c) a funeral grant lump sum payable under section 90 of that Act:

(d) any special assistance payable under a programme approved or established under section 100 or 101 of that Act

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

(a) the recipient knows about; and

(b) the recipient knows materially affects the recipient's entitlement to a statutory allowance or student loan, or a particular rate of statutory allowance or a particular amount of a student loan

chief executive has the same meaning as in Schedule 2 of the Social Security Act 2018

non-recipient, in relation to an allowance, means a person who is not a recipient and—

(a) includes a person who is acting in their official capacity as an officer or employee of a department of State or public body; but

(b) excludes a person who is acting in their capacity as an officer of a court

recipient, in relation to an allowance, means a person who holds, has held, or has applied for a statutory allowance or a student loan

social housing information means information collected under Part 9 of the Public and Community Housing Management Act 1992

specified period means any period specified in a notice under clause 8 or 9

statutory allowance means an allowance established by regulations made under section 645

student loan has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011

student loan information means information held by MSD for the purposes of the administration of the student loan scheme under the Student Loan Scheme Act 2011

student loan scheme has the same meaning as in section 4(1) of the Student Loan Scheme Act 2011

tax file number has the same meaning as in section YA 1 of the Income Tax Act 2007.

Compare: 1989 No 80 ss 226A, 235F, 302, 307

2 Disclosure of enrolment information by secondary schools

Clause 8 applies to a secondary school as if the school were an institution within the meaning of that clause.

Compare: 1989 No 80 s 306A

3 Recipients of allowances or student loans, and other persons, may be required to provide information

(1) The chief executive may, by written notice to any recipient, require the recipient to do 1 or more of the following:

(a) produce to the chief executive any papers, documents, records, or other things that are in the person's possession or under the person's control and that are relevant to the recipient's entitlement—

(i) to a statutory allowance or student loan; or

(ii) to be paid a statutory allowance at a particular rate or any amount of a student loan:

(b) allow copies of the papers, documents, or records to be made:

(c) give the chief executive any information or particulars that are required by the chief executive and that are relevant to the recipient's entitlement—

(i) to a statutory allowance or student loan; or

(ii) to be paid a statutory allowance at a particular rate or any amount of a student loan.

(2) The chief executive may investigate the circumstances of any recipient so far as they may relate to the recipient's entitlement—

(a) to a statutory allowance or student loan; or

(b) to be paid a statutory allowance at a particular rate or any amount of a student loan.

(3) A recipient or non-recipient who is asked questions during an investigation must answer the questions.

(4) A recipient must notify the chief executive, as soon as practicable, of any change in the recipient's circumstances that materially affects the recipient's entitlement—

(a) to a statutory allowance or student loan; or

(b) to be paid a statutory allowance at a particular rate or a particular amount of a student loan.

Compare: 1989 No 80 s 307

4 Suspension or refusal for not providing information

(1) This clause applies if the chief executive is satisfied that—

(a) a recipient or non-recipient has, without reasonable cause, failed or refused to comply with a requirement under clause 3(3) or to comply with clause 3(1); or

(b) a recipient has been warned of the consequence of the failure or refusal and has been given the opportunity to show reasonable cause or answer the question.

(2) If this clause applies, the chief executive may do whichever of the following the case requires:

(a) suspend any statutory allowance held by the recipient, whether granted before or after the failure or refusal:

(b) refuse to grant any statutory allowance, or refuse to advance any student loan, to the recipient, whether or not the recipient may appear to be entitled to be granted the allowance or advanced the loan.

(3) However, if the failure or refusal to comply is by a non-recipient, the recipient must be given an opportunity to provide the information sought before any action is taken against them.

(4) Payments may not be made under a statutory allowance while it is suspended.

Compare: 1989 No 80 s 307AAA

5 Use of information held by MSD

MSD may use the following information as specified:

(a) allowance information, beneficiary information, social housing information, and student loan information may be held on the same system or systems within that agency:

(b) allowance information about any person and beneficiary information, social housing information, and student loan information about the same person may be held on the same file within that agency:

(c) allowance information about any person may be used by that agency for the purposes of verifying—

(i) the entitlement or eligibility of any person to or for any benefit, student loan, or social housing subsidy; or

(ii) the amount of any benefit, any amount of a student loan, or any amount of social housing subsidy, to which any person is or was entitled or for which any person is or was eligible:

(d) beneficiary information about any person may be used by that agency for the purposes of verifying—

(i) the entitlement or eligibility of any person to or for any allowance, student loan, or social housing subsidy; or

(ii) the amount of any allowance, student loan, or social housing subsidy to which any person is or was entitled or for which any person is or was eligible:

(e) student loan information about any person may be used by that agency for the purposes of verifying—

(i) the entitlement or eligibility of any person to or for any allowance, benefit, or social housing subsidy; or

(ii) the amount of any allowance, benefit, or social housing subsidy to which any person is or was entitled or for which any person is or was eligible:

(f) allowance information, beneficiary information, social housing information, and student loan information about any person may be used by that agency—

(i) for the purpose of recovering from that person any amount for which that person is indebted to the Crown; or

(ii) for the purpose of prosecuting that person for any offence; or

(iii) for the purpose of imposing any pecuniary penalty:

(g) social housing information about any person may be used by that agency for the purposes of verifying—

(i) the entitlement or eligibility of any person to or for any benefit, student loan, or student allowance; or

(ii) the amount of any benefit, student loan, or student allowance to which any person is or was entitled or for which any person is or was eligible.

Compare: 1989 No 80 s 307A

6 Recovery of debts

(1) This section applies to a person who is indebted to the Crown in relation to the payment to the person of—

(a) an allowance, or a rate of allowance, to which the person was not or is no longer entitled:

(b) an amount of a student loan or other money to which the person was not or is no longer entitled.

(2) The chief executive is entitled to recover the amount of the debt,—

(a) in the case of an allowance debt, by deduction from—

(i) any allowance; or

(ii) any benefit to which the person may become subsequently entitled; or

(b) in the case of a student loan debt, by deduction from—

(i) any allowance (including any case where the living costs have already been paid under the loan for the period to which the debt relates); or

(ii) any benefit under the Social Security Act 2018 to which the person may become subsequently entitled; or

(c) in the case of a debt described in regulations made under section 444 of the Social Security Act 2018 (which includes a debt referred to in section 128 of the Public and Community Housing Management Act 1992), by deduction from any allowance; or

(d) at the suit of the chief executive; or

(e) by deduction notice under regulations made under section 444 of the Social Security Act 2018 (which apply with any necessary modifications).

Compare: 1989 No 80 s 307B

7 Details of academic performance

(1) The Ministry may, on request by MSD, supply details of the academic performance of any person for the purpose of verifying—

(a) the entitlement or eligibility of the person to or for any benefit, allowance, or student loan; or

(b) the amount of any benefit, allowance, or student loan to which any person is or was entitled or for which any person is or was eligible.

(2) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Compare: 1989 No 80 s 307D

Schedule 9 clause 7(2): inserted, on 1 December 2020, by section 667(5).

8 Disclosure of enrolment information by institutions

(1) The purpose of this clause is to enable institutions to disclose information to MSD to verify—

(a) the entitlement or eligibility of any person to or for any benefit or allowance or student loan; or

(b) the amount of any benefit or allowance or student loan to which any person is or was entitled or for which any person is or was eligible.

(2) For the purpose of this clause, the chief executive may, by notice in writing or electronically, require the institution to supply any or all of the information set out in subclause (5) in respect of people—

(a) who are (or were in any specified period) enrolled as students at the institution; or

(b) whose name and date of birth (being the name and date of birth of any person who is, or was during any specified period, receiving a benefit or allowance or student loan) is supplied to the institution by the chief executive, together with the notice.

(3) A notice under subclause (2)—

(a) may require the institution to supply the information specified in the notice either immediately or at specified times during the academic year (or both); and

(b) may require the institution to supply only the details of any changes to the information that the institution has previously supplied under this clause if supplied at specified times during the academic year.

(4) A notice under subclause (2) may include—

(a) an identification number assigned by the chief executive to any person who is referred to in the notice; or

(b) an identification number assigned by the institution to any person who is referred to in the notice; or

(c) both.

(5) The information referred to in subclause (2) is—

(a) their—

(i) full names and addresses; and

(ii) dates of birth:

(b) their identification numbers (being either or both of the identification numbers referred to in subclause (4)):

(c) details of the education or training in which they are enrolled, and details of the fees for that education or training:

(d) if, during the specified period, they are enrolled for the education or training or ceased to be so enrolled or ceased to be enrolled as students, the details of each event and the dates on which each event occurred:

(e) details of their academic performance in the education or training:

(f) details of their citizenship or residency status in New Zealand:

(g) details of any allowances granted to the person by the institution on behalf of the Secretary in any academic year before the 1999 academic year:

(h) details reasonably required by the chief executive for the administration of the student loan scheme or for the determination or provision of an allowance or a benefit.

(6) As soon as possible after the time or times specified in a requirement under subclause (3), an institution must supply the information required to the chief executive or any employee or agent of MSD authorised by the chief executive to receive the information.

(7) Information supplied by an institution under subclause (6) must be in a form previously agreed between the institution and the chief executive under the Privacy Act 2020, or, if they are unable to agree, settled by the Privacy Commissioner, and may include coded information.

(8) Section 182 of the Privacy Act 2020 applies as if subsection (1) of that section also provided that, in relation to the information matching programme in this section, the Privacy Commissioner, before seeking a report on any of the matters in section 182(2)(a), (d), or (e) of the Privacy Act 2020 from an institution, must first seek a report on the matter from MSD.

(9) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Compare: 1989 No 80 s 226A

Schedule 9 clause 8(2): amended, on 1 December 2020, by section 667(6)(a).

Schedule 9 clause 8(7): amended, on 1 December 2020, by section 667(6)(b).

Schedule 9 clause 8(8): amended, on 1 December 2020, by section 667(6)(c)(i).

Schedule 9 clause 8(8): amended, on 1 December 2020, by section 667(6)(c)(ii).

Schedule 9 clause 8(9): inserted, on 1 December 2020, by section 667(7).

9 Disclosure of enrolment information by private training establishments

(1) The purpose of this clause is to enable governing bodies of private training establishments to disclose information to MSD to verify—

(a) the entitlement or eligibility of any person to or for any benefit or allowance or student loan; or

(b) the amount of any benefit or allowance or student loan to which any person is or was entitled or for which any person is or was eligible.

(2) For the purpose of this clause, the chief executive may, by notice in writing or electronically, require the private training establishment to supply any or all of the information set out in subclause (5) in respect of people—

(a) who are (or were in any specified period) enrolled as students at the private training establishment; or

(b) whose name and date of birth (being the name and date of birth of any person who is, or was during any specified period, receiving a benefit or allowance or student loan) is supplied to the private training establishment by the chief executive, together with the notice.

(3) A notice under subclause (2)—

(a) may require the private training establishment to supply the information specified in the notice either immediately or at specified times during the academic year (or both); and

(b) may require the private training establishment to supply only the details of any changes to the information that the private training establishment has previously supplied under this clause if supplied at specified times during the academic year.

(4) A notice under subclause (2) may include an identification number assigned by—

(a) the chief executive to a person who is referred to in the notice; or

(b) the private training establishment to a person who is referred to in the notice; or

(c) both.

(5) The information referred to in subclause (2) is—

(a) their—

(i) full names and addresses; and

(ii) dates of birth:

(b) their identification numbers (being either or both of the identification numbers referred to in subclause (4)):

(c) details of the education or training in which they are enrolled, and details of the fees for that education or training:

(d) if, during the specified period, they enrolled for any education or training or ceased to be so enrolled or ceased to be enrolled as a student, the details of each event and the dates on which each event occurred:

(e) details of their academic performance in any education or training:

(f) details of their citizenship or residency status in New Zealand:

(g) details of any allowances granted to them by the private training establishment on behalf of the Secretary in any academic year before the 1999 academic year:

(h) details reasonably required by the chief executive for the administration of the student loan scheme or for the provision or determination of a benefit or allowance.

(6) As soon as possible after the time or times specified in a requirement under subclause (2), a private training establishment must supply the information required to the chief executive or any employee or agent of MSD authorised by the chief executive to receive the information.

(7) Information supplied by a private training establishment under subclause (6) must be in a form previously agreed between the private training establishment and the chief executive under the Privacy Act 2020 or, if they are unable to agree, settled by the Privacy Commissioner, and may include coded information.

(8) Section 182 of the Privacy Act 2020 applies as if subsection (1) of that section also provided that, in relation to the information matching programme in clause 8, the Privacy Commissioner, before seeking a report on any of the matters in section 182(2)(a), (d), or (e) of the Privacy Act 2020 from a private training establishment, must first seek a report on the matter from MSD.

(9) On or after 1 December 2020, no information may be supplied under this clause except under—

(a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or

(b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020.

Compare: 1989 No 80 s 235F

Schedule 9 clause 9(2): amended, on 1 December 2020, by section 667(8)(a).

Schedule 9 clause 9(7): amended, on 1 December 2020, by section 667(8)(b).

Schedule 9 clause 9(8): amended, on 1 December 2020, by section 667(8)(c)(i).

Schedule 9 clause 9(8): amended, on 1 December 2020, by section 667(8)(c)(ii).

Schedule 9 clause 9(9): inserted, on 1 December 2020, by section 667(9).

10 Allowances identified by *Gazette* notice

(1) The Minister may, by notice in the *Gazette*, identify either or both of the following as an allowance to which this clause applies:

(a) any allowance paid to students otherwise than under an enactment:

(b) any money paid under any agreement entered into under section 616 (which relates to bonds for trainee teachers).

(2) This clause applies whether the allowance or money first became payable before or after 17 May 2006.

Compare: 1989 No 80 s 307AB

11 Bonded scholarships

(1) The Minister may, by notice in the *Gazette*, declare that any allowance to which clause 10 applies is a bonded scholarship.

(2) The effect of declaring an allowance to be a bonded scholarship is that, under section 7 of the Student Loan Scheme Act 2011, that Act applies to enable the recovery of money in accordance with the terms of the scholarship.

Compare: 1989 No 80 s 307AC

Schedule 10
Composition and operation of Student Allowance Appeal Authorities

ss 259(3), 646(1), (2)(b), 666

1 Student Allowance Appeal Authorities

(1) The Minister may—

(a) appoint 1 or more Student Allowance Appeal Authorities:

(b) give the Authorities distinctive designations:

(c) change any designation.

(2) The function of a Student Allowance Appeal Authority is to hear appeals in accordance with clause 5.

(3) A Student Allowance Appeal Authority comprises a person appointed by the Minister for a term of up to 5 years from the date of the person's appointment, and the person may be reappointed.

(4) A Student Allowance Appeal Authority continues in office despite the expiry of the Authority's term of office until—

(a) the Authority is reappointed; or

(b) the Authority's successor is appointed; or

(c) the Authority is notified that a replacement Authority is not to be appointed; or

(d) the Authority vacates or is removed from office.

(5) A Student Allowance Appeal Authority who continues in office for any period under subclause (4), unless the Authority is removed from office, may act as an Authority during that period for the purpose of—

(a) completing any appeal partly or wholly heard by the Authority before the expiry of the Authority's term of office:

(b) hearing any other appeal.

(6) A Student Allowance Appeal Authority who resigns, or whose successor is appointed or who is not to be replaced, may (unless the Authority is removed from office) continue in office for the purpose of completing any appeal that is partly or wholly heard.

Compare: 1989 No 80 s 304

2 Other provisions relating to Student Allowance Appeal Authorities

(1) A Student Allowance Appeal Authority may—

(a) be removed from office by the Minister by notice in the *Gazette* for inability to adequately perform the duties of office, bankruptcy, neglect of duty, or misconduct, proved to the Minister's satisfaction; and

(b) resign by written notice to the Minister.

(2) A Student Allowance Appeal Authority is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(3) A person is entitled to receive—

(a) remuneration by way of fees, salary, or allowances, for the person's services as a Student Allowance Appeal Authority:

(b) payment of travelling allowances or expenses in respect of time spent travelling, or in connection with the person's function, as a Student Allowance Appeal Authority.

(4) A Student Allowance Appeal Authority is not personally liable for any act done or omitted to be done by the Authority—

(a) in good faith; and

(b) in the performance or exercise, or intended performance or exercise, of the Authority's functions, duties, or powers under this Act.

Compare: 1989 No 80 s 304A

3 Appointment of temporary acting Student Allowance Appeal Authority

(1) If a Student Allowance Appeal Authority becomes incapable of acting by reason of illness, absence, or other sufficient cause, or if an Authority considers it is not proper or not desirable that the Authority should adjudicate on a specified matter, the Minister may appoint an acting Student Allowance Appeal Authority for the period or purpose stated in the appointment.

(2) The acting Student Allowance Appeal Authority must be eligible for appointment as a Student Allowance Appeal Authority.

(3) An acting Student Allowance Appeal Authority is, while acting in the position, to be treated as a Student Allowance Appeal Authority.

(4) No appointment of an acting Student Allowance Appeal Authority and no act done by an acting Student Allowance Appeal Authority may be questioned in any proceedings on the ground that the occasion for the appointment had not arisen or had ceased.

Compare: 1989 No 80 s 304B

4 Orderly and efficient operation

A Student Allowance Appeal Authority is responsible for making any arrangements that are practicable to ensure that the Authority performs the Authority's functions—

(a) in an orderly and efficient manner; and

(b) in a way that achieves the purposes of this Act.

Compare: 1989 No 80 s 304C

5 Appeals

(1) This clause applies to every decision under this Act—

(a) fixing the amount of an allowance; or

(b) declining to award an allowance to a person; or

(c) approving as a full-time programme for a person in any year a specified part of a course of study; or

(d) refusing to approve as a full-time programme in any year a part of a course of study for a person; or

(e) refusing to extend the period for which a person may receive payments under an allowance; or

(f) refusing to recognise the amount of work passed in any year by a person as being sufficient to entitle the person to the reinstatement of an allowance; or

(g) refusing to recognise any qualification or amount of work gained or passed by a person as being equivalent to any other qualification or amount of work.

(2) If this clause applies and a delegate of the chief executive of MSD made the decision,—

(a) a person aggrieved by the decision may apply to the chief executive to review the decision if the person is enrolled or intending to enrol at a secondary school or an institution; and

(b) if an application is made, the chief executive must—

(i) review the decision; and

(ii) confirm it or substitute for it any other decision that the person or body may have made.

(3) An application to review a decision must be lodged—

(a) within 3 months after the person receives notice of the decision; or

(b) if the chief executive of MSD considers there is a good reason for the delay, within a further period that the chief executive allows on application made either before or after the expiry of the period specified in paragraph (a).

(4) A person aggrieved by a decision of the chief executive of MSD may appeal to a Student Allowance Appeal Authority, and the Authority must—

(a) review the decision; and

(b) confirm it or substitute for it any other decision that the chief executive may have made.

(5) A Student Allowance Appeal Authority may strike out, in whole or in part, an appeal if satisfied that it—

(a) discloses no reasonable cause of action; or

(b) is likely to cause prejudice or delay; or

(c) is frivolous or vexatious; or

(d) is otherwise an abuse of process.

(6) Every decision of a Student Allowance Appeal Authority must be accompanied by written reasons for it.

(7) When substituting a decision of the chief executive of MSD, a Student Allowance Appeal Authority may (if it thinks that in the circumstances it would be appropriate) require the chief executive to pay all or part of the costs incurred by the Authority in hearing the appeal to the chief executive of the Ministry of Justice.

(8) A Student Allowance Appeal Authority may order that any part of the evidence given or the name of any witness not be published.

(9) An order may be made subject to any conditions that the Tribunal thinks fit.

Compare: 1989 No 80 s 305

6 Practice notes

(1) All Student Allowance Appeal Authorities acting together may issue practice notes, to apply to all of them, as they think fit.

(2) The practice notes must not be inconsistent with this Act or any regulations made under it and are for the guidance of a Student Allowance Appeal Authority, officers of an Authority, and parties before an Authority.

Compare: 1989 No 80 s 306AA

7 Online publication of information about procedures, time frames, and progress of decisions

The following information must be published on an Internet site maintained by or on behalf of the chief executive of the Ministry of Justice:

(a) information about the purpose of the Authorities and how to commence an appeal:

(b) any requirements that must be met for an appeal:

(c) guidelines on how and when parties may obtain information on the progress of their case and when a decision may be expected.

Compare: 1989 No 80 s 306AB

8 Online publication of written decisions

(1) Every written decision of an Authority must be published on an Internet site as soon as practicable unless there is good reason not to publish it.

(2) A written decision may be published in part if there is good reason for not publishing the full decision.

(3) Subclauses (1) and (2) are subject to clause 5(8).

(4) Good reason not to publish a decision, or part of it, includes the following:

(a) non-publication is necessary because of a suppression order or statutory requirement that affects publication or continued publication:

(b) the decision falls into a category of decisions that are of limited public value:

(c) taking into account the presumption in subclause (1) in favour of publication, an Authority nevertheless determines that the decision or any part of it should not be published because publication or the effect of publication would be contrary to the interests of justice.

(5) In this clause, **written decision** means a written decision that determines, or substantially determines, the outcome of proceedings in an Authority.

Compare: 1989 No 80 s 306AC

Schedule 11
Councils

ss 271(8), 285(5)

Schedule 11 heading: amended, on 23 August 2023, by section 17(1) of the Education and Training Amendment Act 2023 (2023 No 45).

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1 Constitutions of councils of new institutions

(1) The Minister must appoint a committee consisting of 3 persons (an **establishment committee**) for the purpose of advising the Minister regarding the constitution for the council of a body that is, or is to be, established under section 268(1) or under section 398E.

(2) The establishment committee must recommend to the Minister a constitution for the council that is, in the committee's opinion, appropriate for the institution and complies with the requirements of section 276 or under section 398E.

(3) When the establishment committee has recommended a constitution for the council in accordance with subclause (2), the Minister must, by notice published in the *Gazette*, determine the constitution of the council in accordance with the recommendation.

(4) This section does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 169

Schedule 11 clause 1(1): amended, on 23 August 2023, by section 17(2) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 11 clause 1(2): amended, on 23 August 2023, by section 17(3) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 11 clause 1(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

2 Amendment of constitution

(1) If, after the constitution of a council has been determined, the council recommends to the Minister that the constitution be amended in a manner that complies with the requirements of section 276 or the requirements of an Order in Council made under section 398E in relation to the constitution of the council of a wānanga, the Minister must, by notice published in the *Gazette*, amend the constitution in accordance with the recommendation.

(2) Subclause (1) does not apply to the membership of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 320 provides).

Compare: 1989 No 80 s 170

Schedule 11 clause 2(1): amended, on 23 August 2023, by section 17(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 11 clause 2(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

3 Limit on number of occasions on which people may be appointed as council members

(1) A council's constitution must contain a provision limiting the number of occasions on which a person may be appointed as a council member.

(2) A person may not be appointed as a council member if the person has previously been appointed as a council member on the number of occasions, or more than the number of occasions, stated in the provision described in subclause (1).

(3) Except as provided in subclause (2), a person is not ineligible for appointment as a council member just because the person has previously been a council member.

(4) For the purposes of subclause (2), **appointed** means—

(a) appointed, elected, or co-opted before 13 February 2015 (otherwise than to fill a casual vacancy); or

(b) appointed on or after that commencement.

(5) This clause does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 171D

Schedule 11 clause 3(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

4 Membership of more than 1 council

A person who is a council member of an institution may be appointed as a council member of another institution (whether or not they are institutions of the same kind).

Compare: 1989 No 80 s 171E

5 Certain acts and proceedings not invalidated by defects

(1) No act or proceeding of an institution's council or any council committee is invalidated by—

(a) a defect in the appointment of a council member or the committee; or

(b) a defect in the nomination of a council member or committee for appointment as a council member; or

(c) a defect in the election of a council member or committee for appointment as a council member; or

(d) a disqualification of a council member or committee; or

(e) a vacancy in the membership of the council or committee; or

(f) a defect in the convening of any meeting.

(2) This clause does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 320(3) provides).

Compare: 1989 No 80 s 171F

Schedule 11 clause 5(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

6 Term of office

(1) When appointing a council member, the Minister or council—

(a) may appoint the member for a period not exceeding 4 years; and

(b) must state in the notice or resolution appointing the member—

(i) the day on which the member's appointment takes effect; and

(ii) the term for which the member is appointed.

(2) If a council member's term of office expires before their successor is appointed, the member continues in office until their successor's appointment takes effect.

(3) This clause does not apply to appointments to Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 323 provides).

Compare: 1989 No 80 s 173

Schedule 11 clause 6(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

7 Vacation of office

(1) A council member may resign by giving written notice signed by the member to the chief executive.

(2) Subclause (1) does not apply to the chief executive of an institution who has been appointed by its council under a statute requiring it to appoint the chief executive as a council member.

(3) The council may, by resolution, dismiss a council member (other than the chief executive) if the member—

(a) has, after 13 February 2015, been removed as a council member of some other institution; or

(b) is adjudicated bankrupt; or

(c) becomes subject to a property order under the Protection of Personal and Property Rights Act 1988 (other than an order under section 30 of that Act); or

(d) becomes subject to a personal order under that Act that reflects adversely on their—

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or

(e) fails to attend 3 consecutive meetings of the council without having given to the chief executive prior notice of the member's inability to attend the meeting concerned; or

(f) without reasonable excuse, fails to comply with clause 8.

(4) The council may, by resolution, suspend a council member (other than the chief executive) if the member becomes subject to a property order made under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders).

(5) If a council member is suspended under subclause (4),—

(a) the suspension has effect as if the member had been granted leave of absence; and

(b) the member is not capable of acting as a member during the period of suspension; and

(c) the suspension continues until the property order made under section 30 of the Protection of Personal and Property Rights Act 1988 ceases to be in force (but this does not affect any powers of the council under subclause (3) in respect of the member).

(6) The chief executive must send the council member a letter setting out the terms of the resolution dismissing or suspending the member.

(7) This clause does not apply to a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 174

Schedule 11 clause 7(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

8 Disclosure of interest

(1) A council member or a council committee member who has an interest in a matter being considered or about to be considered by the council or the committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the council or the committee.

(2) A disclosure under subclause (1) must be recorded in the minutes of the meeting of the council or committee, and the member may not, unless the council decides otherwise,—

(a) be present during any deliberation of the council or the committee with respect to that matter; or

(b) take part in any decision of the council or the committee with respect to that matter.

(3) For the purposes of this clause, a person **has an interest in a matter** if, and only if, the matter relates to the conditions of service of the person as the chief executive or a member of the staff of the institution concerned or the person has any other direct or indirect pecuniary interest in the matter.

Compare: 1989 No 80 s 175

9 Casual vacancies

(1) If the office of a council member of an institution becomes vacant before the end of the member's term of office, another person must be appointed to the office by the procedure by which the council member became a member.

(2) However, if the procedure is no longer available or applicable to the vacant position, the council must consider whether it is necessary to appoint another person under its constitution and, if so,—

(a) determine the appropriate procedure for appointment of another person; and

(b) appoint another person using it.

(3) If the office becomes vacant within 6 months before the end of the member's term of office, the Minister or council may decide that the vacancy does not need to be filled under this clause.

(4) Clauses 6 and 7 apply to an appointment under this clause.

(5) This clause does not apply to appointments to Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 176

Schedule 11 clause 9(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

10 Individual duties of council members

(1) A council member, when acting as a council member in any circumstances,—

(a) must—

(i) act with honesty and integrity; and

(ii) act in the interests of the institution as a whole; and

(iii) act in a manner that promotes the performance of the functions characteristic of an institution of the kind to which the member belongs, and the duties of the council; and

(iv) act in good faith, and not pursue the member's own interests at the expense of the council's interests; and

(b) must exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account—

(i) the nature of the institution; and

(ii) the nature of the action; and

(iii) the position of the person as a council member, and the nature of the responsibilities undertaken by the council member; and

(c) may not disclose any information to which subclause (3) applies to any person, or make use of, or act on, that information, except—

(i) in the performance of the council's functions; or

(ii) as required or permitted by law; or

(iii) if the member has earlier been authorised to do so by the council; or

(iv) if disclosing, making use of, or acting on it does not, or is unlikely to, prejudice the council or the institution; or

(v) in complying with requirements for members to disclose interests.

(2) The fact that a council member was appointed by the council in accordance with a statute providing for the appointment of a member (or 2 or more members) to represent the interests of a stated institution or of people or institutions of a stated description does not limit or affect the council member's duty under subclause (1)(a)(ii) to act in the interests of the institution as a whole.

(3) This subclause applies to information that—

(a) a council member has in their capacity as a council member; and

(b) would not otherwise be available to the member.

(4) This clause does not apply to a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 176A

Schedule 11 clause 10(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

11 Accountability for individual duties

(1) The individual duties of a council member under clause 10 are owed to the Minister and the council.

(2) A council member who does not comply with their individual duties may be removed from office under clause 12.

(2A) Despite anything in subclause (2), a council member of a wānanga who does not comply with their individual duties may be removed from office under the provisions for removal of members set out in an Order in Council for the reconstitution or establishment of the wānanga.

(3) An institution's council may bring an action against a council member for breach of any individual duty.

(4) Except as provided in subclauses (2) and (3), a council member is not liable for a breach of an individual duty.

(5) However, subclause (4) does not limit or affect—

(a) anything for which a council member may be liable under any other Act or rule of law arising from the act or omission that constitutes the breach concerned; or

(b) anything for which a council member who is the chief executive of the institution concerned may, as chief executive, be liable under this Act or any other Act or rule of law, arising from the act or omission that constitutes the breach concerned.

(6) This clause does not affect any other ground for removing a council member from office.

(7) This clause does not apply to a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 176B

Schedule 11 clause 11(2A): inserted, on 23 August 2023, by section 17(5) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 11 clause 11(7): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

12 Removal of members

(1) If an institution's council believes that the actions of a council member may justify the member's removal from office, it must give the Minister a written report stating—

(a) its reasons for believing that the actions may justify the council member's removal; and

(b) the information or grounds in support of those reasons; and

(c) its recommendation as to whether the council member should be removed from office.

(2) After considering the report, the Minister may, if satisfied that there is just cause to do so, remove the council member from office.

(3) The removal must be made by written notice to the council member (with a copy to the council).

(4) The notice must state—

(a) the day on which the removal takes effect, which must be no earlier than the day on which the notice is received; and

(b) the reasons for the removal.

(5) The Minister must notify the removal in the *Gazette* as soon as practicable after giving the notice.

(6) This clause does not limit or affect clause 7.

(7) In this clause, **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the council or the individual duties of members (depending on the seriousness of the breach).

(8) This clause does not apply to the removal from office of a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 176C

Schedule 11 clause 12(8): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

13 Process for removal

The Minister may remove a council member under clause 12 with as little formality and technicality, and as much expedition, as is permitted by—

(a) the principles of natural justice; and

(b) a proper consideration of the matter; and

(c) the requirements of that clause.

Compare: 1989 No 80 s 176D

14 Application of Local Authorities (Members' Interests) Act 1968

To avoid doubt, an institution's council is not a local authority for the purposes of the Local Authorities (Members' Interests) Act 1968.

Compare: 1989 No 80 s 176E

15 Chairperson and deputy chairperson

(1) At the first meeting of an institution's council, the council must elect one of its members to be the chairperson of the council and another of its members to be the deputy chairperson of the council.

(2) Whenever a vacancy subsequently occurs in the office of chairperson or deputy chairperson of the council, the council must elect one of its members to fill the vacant office.

(3) The election of a member to fill the vacant office of chairperson or deputy chairperson of the council must be for a stated period (not exceeding the term of the member's current term as a council member).

(4) A council member who is the chief executive of the institution, a member of the staff of the institution, or a student enrolled at the institution is not eligible for election as the chairperson or deputy chairperson of the council.

(5) The chairperson or deputy chairperson of a council—

(a) holds office for the period for which the chairperson or deputy chairperson is elected; but

(b) is eligible for re-election.

(6) If the term of office of the chairperson or deputy chairperson of a council expires before a successor is elected, the chairperson or deputy chairperson continues in office until a successor is elected.

(7) Subclause (6) overrides subclause (5).

(8) The chairperson or deputy chairperson of a council—

(a) may resign as chairperson or deputy chairperson by giving written notice signed by them to the chief executive; and

(b) ceases to hold office as chairperson or deputy chairperson if—

(i) they cease to be a council member; or

(ii) they become the chief executive or a member of the staff or a student of the institution; or

(iii) the council passes a resolution to the effect that it has no confidence in the chairperson or deputy chairperson.

(9) Subclause (8) overrides subclauses (5) and (6).

(10) The chairperson of the council of a university may be referred to as the Chancellor or by any other title that the council determines, and the chairperson of the institution's council other than a university may be referred to by any title (other than Chancellor or another title that includes the word Chancellor) that the council determines.

(11) The deputy chairperson of the council of a university may be referred to as the Pro-Chancellor or by any other title that the council determines, and the deputy chairperson of a council other than a university may be referred to by any title

(other than Pro-Chancellor or another title that includes the word Chancellor) that the council determines.

(12) This clause does not apply to the chairperson or deputy chairperson of Te Pūkenga—New Zealand Institute of Skills and Technology's council (for which section 322 provides).

Compare: 1989 No 80 s 177

Schedule 11 clause 15(12): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

16 Meetings of councils

(1) The chairperson of a council may convene meetings to be held at the places and times that the chairperson determines.

(2) It is the duty of the chairperson of a council to convene the meetings that the chairperson thinks necessary for the efficient performance of the functions of the council.

(3) If requested by written notice by not fewer than 3 council members, the chairperson of the council must convene a meeting.

(4) If there is no chairperson of a council or for any reason the chairperson is not available, the deputy chairperson of the council has the powers and duties of the chairperson under subclauses (1) to (3), and references in those subclauses to the chairperson must be treated as references to the deputy chairperson.

(5) Meetings may be held by means of audio, audio and visual, or electronic communication if—

(a) each member who wishes to participate in the meeting has access to the technology needed to participate in the meeting; and

(b) a quorum of members can simultaneously communicate with each other throughout the meeting.

(6) If a meeting is held in accordance with subclause (5), each member who participates in the meeting by means of audio, audio and visual, or electronic communication is present at the meeting for the purposes of subclauses (7) to (11).

(7) No business may be transacted at a meeting unless a majority of the members then holding office are present.

(8) The chairperson must preside at all meetings at which the chairperson is present.

(9) If the chairperson is not present at a meeting but the deputy chairperson is present, the deputy chairperson must preside.

(10) If neither the chairperson nor the deputy chairperson is present at a meeting, the members present must appoint one of their number to preside.

(11) Every question before a meeting must be decided by a majority of the votes cast on it by the members present.

(12) At a meeting the member presiding has a deliberative vote on every question and also has a casting vote on any question where the deliberative votes for and against are equal.

(13) Subject to this clause, a council may determine its own procedures.

Compare: 1989 No 80 s 178

17 Fees and allowances

(1) A council member (other than the chief executive) may be paid fees at the rates, not exceeding maximum rates fixed by the Minister in accordance with the fees framework, that the council determines.

(2) A council member is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the entity, for actual and reasonable travelling and other expenses incurred in carrying out the member's office as a member.

(3) In this clause, **fees framework** means the framework determined by the Government for the classification and remuneration of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries and institutions.

(4) This clause does not apply to a member of Te Pūkenga—New Zealand Institute of Skills and Technology's council.

Compare: 1989 No 80 s 179

Schedule 11 clause 17(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

18 Determination of policy

(1) In determining the policy of an institution with respect to any matter relating to the institution, the institution's council must consult any board, committee, or other body established within the institution that has responsibility for giving advice in relation to, or for giving effect to, the policy of the institution with respect to that matter.

(2) For the purposes of subclause (1), the institution's council must establish an academic committee consisting of its chief executive and members of the staff and students of the institution to—

(a) advise the council on matters relating to courses of study or training, awards, and other academic matters; and

(b) exercise powers delegated to it by the council.

(3) The academic committee is, for the purposes of section 285, to be treated as a committee appointed by the council under section 283(2)(j).

(4) Without limiting subclause (1), the institution's council may not make any decision or statute in respect of any academic matter referred to in subclause (2) unless it has requested the advice of the academic committee and considered any advice given by the academic committee.

(5) However, a decision or statute made by the institution's council is not invalid merely because of a failure of the council to comply with subclause (1) or (4).

(6) This clause does not apply to Te Pūkenga—New Zealand Institute of Skills and Technology (for which section 324 provides).

Compare: 1989 No 80 s 182

Schedule 11 clause 18(6): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

19 Personal liability of council members

A council member is not personally liable for any act done or omitted by the council member or by the council—

(a) in good faith; and

(b) in performance or intended performance of the functions of the institution or of the council.

Compare: 1989 No 80 s 183

20 Trust property

Despite anything to the contrary in this Act or any other enactment relating to the institution (including Te Pūkenga—New Zealand Institute of Skills and Technology and its subsidiaries), any real or personal property held by the institution upon trust must be dealt with in accordance with the powers and duties of the institution as trustee.

Compare: 1989 No 80 s 195

Schedule 11 clause 20: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 12
Administrative provisions applying to Vice-Chancellors Committee

s 311(6)

1 Meetings of Vice-Chancellors Committee

(1) The Vice-Chancellors Committee may meet as and when the Vice-Chancellors think fit.

(2) If the Vice-Chancellor of a university is unable to attend a meeting, a person nominated by that Vice-Chancellor may attend in place of that Vice-Chancellor and, when so attending, is to be treated as the Vice-Chancellor of that university.

(3) The Vice-Chancellors Committee must appoint a member to be the chairperson of the Committee.

(4) Subject to this clause, the chairperson holds office for the period that the Vice-Chancellors Committee determines.

(5) The chairperson ceases to hold office if the chairperson—

(a) ceases to be a member; or

(b) tells the members at a meeting of the Vice-Chancellors Committee or otherwise that the chairperson resigns from office as chairperson.

(6) The chairperson must preside at all meetings at which the chairperson is present.

(7) If the chairperson is not present at a meeting, the members present must appoint one of their number to preside at that meeting.

(8) Subject to this clause, the Vice-Chancellors Committee may determine its own procedures.

Compare: 1989 No 80 Schedule 14 cl 1

2 Staff and expenses

The councils of the universities are responsible for providing a secretary and other staff to assist the Vice-Chancellors Committee in the performance of its functions and for paying the remuneration and allowances of those staff and meeting any other costs and expenses of the Committee.

Compare: 1989 No 80 Schedule 14 cl 2

3 Affixing of Vice-Chancellors Committee's common seal

(1) The Vice-Chancellors Committee may, in writing under its common seal, authorise any member or members, or any member or members of the staff of the Committee, to execute documents, or documents of a specified class or description, or specified documents, on the Committee's behalf.

(2) Subject to subclause (6), an authority under subclause (1) may be given unconditionally, or subject to any conditions the Vice-Chancellors Committee thinks fit.

(3) The Vice-Chancellors Committee's common seal may not be affixed to any document except—

(a) in accordance with a resolution of the Committee; or

(b) owing to, and in accordance with, an authority under subclause (1).

(4) The affixing of the Vice-Chancellors Committee's common seal in accordance with a resolution of the Committee must be countersigned by at least 2 members.

(5) The affixing of the Vice-Chancellors Committee's common seal owing to an authority under subclause (1) must be countersigned in accordance with the authority.

(6) An authority under subclause (1) must provide for the affixing of the Vice-Chancellors Committee's common seal to be countersigned by at least 2 people.

(7) The affixing of the Vice-Chancellors Committee's common seal on a document is conclusive proof of the authority of the people who affixed it to do so.

Compare: 1989 No 80 Schedule 14 cl 3

4 Personal liability of members or staff

A member, or member of the staff, of the Vice-Chancellors Committee is not personally liable for any act done or omitted by the member, or members of the staff, or by the Committee—

(a) in good faith; and

(b) in performance or intended performance of the Committee's functions.

Compare: 1989 No 80 Schedule 14 cl 4

5 Vice-Chancellors Committee may establish subcommittees

(1) The Vice-Chancellors Committee may establish and abolish subcommittees.

(2) A subcommittee may include people who are members of the Vice-Chancellors Committee, people who are not members of the Vice-Chancellors Committee, or both.

(3) A subcommittee must appoint a person to preside at its meetings (a **presiding officer**).

(4) If the presiding officer is not present at a meeting of the subcommittee, the members of the subcommittee present must appoint 1 of their number to preside at that meeting.

(5) Subject to this clause, a subcommittee may determine its own procedures.

Compare: 1989 No 80 Schedule 14 cl 5

6 Delegations

(1) The Vice-Chancellors Committee may, either generally or specifically, delegate any of its powers under this Act or any other enactment to any of its subcommittees or members, or any member of its staff.

(2) A delegation—

(a) must be in writing; and

(b) is revocable at will in writing; and

(c) may be made subject to instructions or conditions.

(3) A subcommittee or person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.

(4) A delegation does not affect or prevent the Vice-Chancellors Committee from exercising any power or affect the Vice-Chancellors Committee's responsibility for the actions of any subcommittee or person acting under it.

(5) A delegation continues in force until revoked.

Compare: 1989 No 80 Schedule 14 cl 6

7 Power to borrow money

The Vice-Chancellors Committee may borrow money only for the purposes of any trust of which the Committee is a board member of the trust.

Compare: 1989 No 80 Schedule 14 cl 7

8 Bank accounts

(1) The Vice-Chancellors Committee may establish, maintain, and operate bank accounts at a registered bank.

(2) As soon as practicable after receiving any money, the Vice-Chancellors Committee must pay it into one of its bank accounts.

(3) The Vice-Chancellors Committee must properly authorise every withdrawal and payment of money from any of its bank accounts.

Compare: 1989 No 80 Schedule 14 cl 8

9 Investment

Subject to any other enactment, the Vice-Chancellors Committee may invest any of its money in any manner in which the Treasury may invest public money under section 65I(1) and (2) of the Public Finance Act 1989.

Compare: 1989 No 80 Schedule 14 cl 9

10 Annual report

(1) As soon as practicable after the end of a financial year, the Vice-Chancellors Committee must give to the Minister a report on its operations for the year.

(2) The Vice-Chancellors Committee must include in every annual report of the Committee the financial statements and statement of service performance prepared by the Vice-Chancellors Committee, in accordance with sections 153 to 156 of the Crown Entities Act 2004, in respect of the financial year to which the report relates, together with the audit report and the statement of responsibility under section 155 of that Act relating to those financial statements.

(3) The Minister must present a copy of the report to the House of Representatives in accordance with section 150 of the Crown Entities Act 2004.

Compare: 1989 No 80 Schedule 14 cl 10

Schedule 13
Te Pūkenga—New Zealand Institute of Skills and Technology's charter

ss 9(1)(g), 316(1)

Schedule 13 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

1 Te Pūkenga—New Zealand Institute of Skills and Technology exists to perform the functions set out in section 315.

2 Te Pūkenga—New Zealand Institute of Skills and Technology is to be responsive to the needs of all regions of New Zealand and their learners, industries, employers, and communities.

3 To meet the needs of regions throughout New Zealand, Te Pūkenga—New Zealand Institute of Skills and Technology must—

(a) offer in each region a mix of education and training, including on-the-job, face-to-face, and distance delivery that is accessible to the learners of that region and meets the needs of its learners, industries, and communities; and

(b) operate in a manner that ensures its regional representatives are empowered to make decisions about delivery and operations that are informed by local relationships and to make decisions that meet the needs of their communities; and

(c) ensure that international learners are attracted to train and study in regions throughout New Zealand; and

(d) ensure that there is collaboration across its national network; and

(e) maintain a high-quality, coherent network of infrastructure that meets regional skills needs.

4 Te Pūkenga—New Zealand Institute of Skills and Technology must operate in a way that allows it to—

(a) empower students and staff on academic, non-academic, and well-being matters and matters relating to the organisation's practices and services; and

(b) develop meaningful partnerships with—

(i) industry across the country, including Māori and Pacific employers, smaller employers, and those operating in niche sectors; and

(ii) communities at a local level, including hapū and iwi, and Pacific communities; and

(c) use the insights gained through partnerships to—

(i) develop and provide vocational education and training that meets short-term and long-term skills needs; and

(ii) expand industry training into smaller employers and niche sectors; and

(iii) align education and training delivery to support the unique social and economic goals of local communities; and

(iv) work towards equity for learners and staff of different genders, ethnicities, cultures, and abilities; and

(d) reflect Māori-Crown partnerships in order to—

(i) ensure that its governance, management, and operations give effect to Te Tiriti o Waitangi; and

(ii) recognise that Māori are key actors in regional social, environmental, and economic development; and

(iii) respond to the needs of and improve outcomes for Māori learners, whānau, hapū and iwi, and employers; and

(e) hold inclusivity and equity as core principles, recognising and valuing the diversity of all of its learners, and providing the unique types of support different learners need to succeed; and

(f) meet the needs of all of its learners, in particular those who are underserved by the education system, including (without limitation) Māori, Pacific, and disabled learners; and

(g) promote equitable access to learning opportunities for learners across all regions; and

(h) have culturally responsive delivery approaches, whether on campus, in the workplace, online, or otherwise; and

(i) work collaboratively with schools, wānanga, and other tertiary education organisations (including workforce development councils) to improve the outcomes of the education system as a whole, including the transition of learners into employment.

5 In giving effect to clause 4, Te Pūkenga—New Zealand Institute of Skills and Technology must ensure that—

(a) students and employers can transition seamlessly between delivery sites and educational modes, including between workplaces and other forms and places of learning; and

(b) programmes of study and qualifications are portable and consistent, yet flexible enough to meet local needs; and

(c) the academic integrity of the education and training programmes it delivers is protected; and

(d) New Zealand's reputation as a quality study destination for international learners is sustained; and

(e) the range of education and training options available to learners and employers is appropriately broad and current; and

(f) future skill needs are anticipated and quickly responded to; and

(g) teaching and learning is supported by research, evidence, and best practice; and

(h) learning pathways provide learners with a range of opportunities to progress to higher levels of education and training, and also into employment; and

(i) the needs of adult and second-chance learners are afforded high priority.

Compare: 1989 No 80 Schedule 22

Schedule 13 item 2: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 13 item 3: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 13 item 4: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 13 item 5: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14
Provisions applying on dissolution of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

s 341

Schedule 14 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

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1 Interpretation

In this schedule, unless the context otherwise requires,—

dissolution date means,—

(a) in relation to a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary established under clause 20(1) of Schedule 1,—

(i) the date specified in clause 21(1) of that schedule:

(ii) the date specified by Order in Council under clause 21(2) of that schedule:

(iii) the date on which the subsidiary is dissolved in accordance with a resolution of Te Pūkenga—New Zealand Institute of Skills and Technology's council under clause 22 of that schedule:

(b) in relation to a subsidiary formed by Te Pūkenga—New Zealand Institute of Skills and Technology under section 340, the date on which the subsidiary is dissolved in accordance with a resolution of Te Pūkenga—New Zealand Institute of Skills and Technology's council

Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary means—

(a) a Crown entity subsidiary listed in the second column of the table in clause 20(3) of Schedule 1:

(b) a subsidiary formed by Te Pūkenga—New Zealand Institute of Skills and Technology under section 340(1).

Schedule 14 clause 1 **dissolution date** paragraph (a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 1 **dissolution date** paragraph (a)(iii): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 1 **dissolution date** paragraph (b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 1 **NZIST**: repealed, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 1 **NZIST subsidiary**: repealed, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 1 **Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary**: inserted, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Dissolution

2 Dissolution of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) An Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is dissolved on the dissolution date.

(2) As soon as practicable after the dissolution date, the Registrar of Companies must remove the Te Pūkenga—New Zealand Institute of Skills and Technology

subsidiary from the New Zealand register of companies kept under the Companies Act 1993.

Schedule 14 clause 2 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 2(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 2(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Consequences of dissolution

3 Members of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary board cease to hold office

(1) Every member of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary's board who holds office immediately before the dissolution date ceases to hold office on the close of the day before that date.

(2) Neither the Crown, Te Pūkenga—New Zealand Institute of Skills and Technology, nor the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) for the loss of office.

Schedule 14 clause 3 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 3(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 3(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

4 Transfer of rights, assets, and liabilities to Te Pūkenga—New Zealand Institute of Skills and Technology

(1) This clause applies to all rights, assets, and liabilities that an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary had immediately before the dissolution date.

(2) On and after the dissolution date,—

(a) all rights, assets, and liabilities of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary vest in Te Pūkenga—New Zealand Institute of Skills and Technology; and

(b) unless the context otherwise requires, every reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary in any enactment or any instrument, register, agreement, deed, lease, application, notice, or other document before the dissolution date must be read as a reference to Te Pūkenga—New Zealand Institute of Skills and Technology.

Schedule 14 clause 4 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 4(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 4(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 4(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

5 Employment of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary employees by Te Pūkenga—New Zealand Institute of Skills and Technology

(1) The chief executive of Te Pūkenga—New Zealand Institute of Skills and Technology must identify the employees of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary—

(a) whose duties overall are required by Te Pūkenga—New Zealand Institute of Skills and Technology to carry out its functions; and

(b) whose positions are to cease to exist as a result of the dissolution of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) An employee who is identified under subclause (1) must be offered equivalent employment by Te Pūkenga—New Zealand Institute of Skills and Technology, being employment that is—

(a) in substantially the same position; and

(b) in the same general locality; and

(c) on terms and conditions (including any terms and conditions relating to redundancy and superannuation) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and

(d) on terms that treat the period of service with the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary (and every other period of service recognised by the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary as continuous service) as if it were continuous service with Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) If the employee of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary accepts an offer of employment under subclause (2), the employee's employment by Te Pūkenga—New Zealand Institute of Skills and Technology is to be treated as continuous employment, including for the purpose of service-related entitlements, whether legislative or otherwise.

(4) An employee of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary who is offered employment under subclause (2) is not entitled to receive any payment or other benefit on the ground that the employee's

position in the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary has ceased to exist whether or not the employee accepts the offer.

(5) This clause overrides—

(a) Part 6A of the Employment Relations Act 2000; and

(b) any employee protection provision in any relevant employment agreement.

Schedule 14 clause 5 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(2)(d): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 5(4): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

6 Government Superannuation Fund

(1) This clause applies to a person who, immediately before becoming an employee of Te Pūkenga—New Zealand Institute of Skills and Technology, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.

(2) For the purposes of the Government Superannuation Fund Act 1956, the person is treated as being employed in the Government service as long as the person continues to be an employee of Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of Te Pūkenga—New Zealand Institute of Skills and Technology were Government service.

(4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.

(5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of Te Pūkenga—New Zealand Institute of Skills and Technology is the controlling authority.

Schedule 14 clause 6(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 6(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 6(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 6(5): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

7 Students of Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) This clause applies to every student enrolled at an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary immediately before the dissolution date.

(2) On and after the dissolution date, the student must be treated as having been enrolled at Te Pūkenga—New Zealand Institute of Skills and Technology.

(3) A student who would, but for the dissolution of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary, have been entitled to be granted an award of the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is entitled to be granted a like award of Te Pūkenga—New Zealand Institute of Skills and Technology.

Schedule 14 clause 7 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 7(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 7(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 7(3): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

8 Visas granted under Immigration Act 2009

(1) This clause applies to a visa granted under the Immigration Act 2009 in respect of—

(a) a student, for the purposes of enrolment at an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary; or

(b) a staff member of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary.

(2) On and after the dissolution date, any reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary in a condition imposed on the visa must be read as a reference to Te Pūkenga—New Zealand Institute of Skills and Technology.

Schedule 14 clause 8(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 8(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 8(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

9 Existing approvals, accreditations, and consents

(1) This clause applies to the following matters granted to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary or treated as having been granted to the subsidiary by NZQA under subpart 2 of Part 5 before the dissolution date and in effect immediately before that date:

(a) an approval of a programme under section 439:

(b) an accreditation to provide all or part of a programme under section 441:

(c) an approval of the content of a micro-credential under section 445:

(ca) an accreditation to provide a micro-credential under section 446A:

(d) a consent to assess against the standards listed on the Directory of Assessment and Skill Standards under section 449:

(e) a consent to award a degree or a postgraduate qualification under section 454.

(2) On and after the dissolution date,—

(a) the approval, accreditation, or consent (including any conditions imposed on an approval or accreditation) continues to apply and must be treated as if it were granted to Te Pūkenga—New Zealand Institute of Skills and Technology; and

(b) unless the context otherwise requires, every reference in the approval, accreditation, or consent must be read as a reference to Te Pūkenga—New Zealand Institute of Skills and Technology.

Schedule 14 clause 9(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 9(1)(c): replaced, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 14 clause 9(1)(ca): inserted, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 14 clause 9(1)(d): amended, on 1 August 2022, by section 73 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 14 clause 9(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 9(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

10 Existing funding paid by TEC under funding mechanism

(1) This clause applies to funding (including any conditions imposed on the funding) payable by TEC to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary or that is treated as being payable to the subsidiary under clause 65 of Schedule 1—

(a) in accordance with an approval granted under section 425(2); or

(b) other than via a plan under section 428.

(2) On and after the dissolution date,—

(a) TEC must treat the funding, unless it is earlier suspended, revoked, or withdrawn under clause 16 or 26 of Schedule 18, as if it were payable to Te Pūkenga—New Zealand Institute of Skills and Technology; and

(b) for the purposes of paragraph (a), every reference to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary in an approval granted under section 425(2) must, unless the context otherwise requires, be read as a reference to Te Pūkenga—New Zealand Institute of Skills and Technology.

Schedule 14 clause 10(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 10(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 10(2)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

11 Existing proceedings and other matters

(1) On and after the dissolution date,—

(a) proceedings continued or enforced by or against an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary may instead be continued or enforced by or against Te Pūkenga—New Zealand Institute of Skills and Technology without amendment to the proceedings; and

(b) a matter or thing that would, but for this clause, have been completed by the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary may instead be completed by Te Pūkenga—New Zealand Institute of Skills and Technology; and

(c) anything done, or omitted to be done, or that is to be done, by or in relation to the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary is to be treated as having been done, or having been omitted to be done, or to be done, by or in relation to Te Pūkenga—New Zealand Institute of Skills and Technology.

(2) In subclause (1)(a), **proceedings**—

(a) means civil and criminal proceedings; and

(b) includes any enforcement or compliance activities by TEC or NZQA.

Schedule 14 clause 11(1)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 11(1)(b): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 11(1)(c): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

12 Final report of dissolved Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) As soon as practicable after the dissolution date, Te Pūkenga—New Zealand Institute of Skills and Technology must prepare and forward to the Minister a final report on the dissolved Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary's operations.

(2) The final report must be for the period (the **report period**)—

(a) commencing at the start of the financial year in which the Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary was dissolved; and

(b) ending with the close of the day immediately before the date on which the subsidiary was dissolved.

(3) The final report must include audited financial statements for the report period.

(4) The Minister must present a copy of the final report to the House of Representatives as soon as practicable after receiving it.

Schedule 14 clause 12 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 12(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 12(2)(a): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

13 Transfer of contracts does not give rise to claims

No person may claim against Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary for breach of contract on the ground that the contract, or any benefit of the contract, is vested in Te Pūkenga—New Zealand Institute of Skills and Technology, whether or not the vesting involves Te Pūkenga—New Zealand Institute of Skills and Technology and its employees gaining access to any information, data, programme, intellectual property right, knowledge, chattel, equipment, transmission device, or facility of the claimant or any other person.

Schedule 14 clause 13: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

14 Provisions that apply if corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary dissolved and assets, etc, transferred to another Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary

(1) This clause applies if Te Pūkenga—New Zealand Institute of Skills and Technology's council dissolves a corresponding Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary under clause 22 of Schedule 1 and transfers some or all of the rights, assets, and liabilities of that subsidiary to

another Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary under that clause.

(2) Clauses 4 to 11 and 13 of this schedule apply, with any necessary modifications, as if a reference in those provisions to Te Pūkenga—New Zealand Institute of Skills and Technology were a reference to the other Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary to which those rights, assets, and liabilities are transferred.

Compare: 1989 No 80 Schedule 23

Schedule 14 clause 14 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 14(1): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 14 clause 14(2): amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 15
Further provisions of Act that apply and do not apply to Te Pūkenga—New Zealand Institute of Skills and Technology subsidiaries

ss 340(2), 341

Schedule 15 heading: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

The following provisions of this Act apply, with all necessary modifications, to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary that provides education or training, or both:

(a) section 299 (how institutions may use income and capital):

(b) section 300 (gifts):

(c) section 301 (council may establish common fund):

(d) section 302 (investment of funds held in common fund):

(e) section 304 (application of money):

(f) section 306 (annual report):

(g) section 308 (annual report to be available for inspection):

(h) section 569 (resumption of land on recommendations of Waitangi Tribunal):

(i) section 570 (resumption of land to be acquired under Public Works Act 1981):

(j) section 571 (resumption of wāhi tapu).

The following provisions of this Act do not apply to an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary that provides education or training, or both:

(a) section 294 (duties of chief executive):

(b) sections 295 and 296 (delegation by chief executive):

(c) section 297 (bank accounts):

(d) section 298 (proper accounts to be kept).

Compare: 1989 No 80 Schedule 25

Schedule 15: amended, on 25 September 2020, by clause 4(1) of the Education (Name Change for NZIST) Order 2020 (LI 2020/260).

Schedule 16
Provisions relating to training levy

ss 10(1), 381, 384(1)(a), 385

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1 Matters to be specified in levy orders

A levy order must specify the matters set out in Schedule 17.

Compare: 1989 No 80 s 503; 1992 No 55 s 28

2 Purposes for which levy may be required

(1) A levy order must specify the purposes for which levy funds are to be used.

(2) A levy order may also specify any purpose or purposes for which no amount of levy may be used.

(3) In specifying how levy funds are to be used, a levy order may specify 1 or more purposes that benefit the levy group as a whole and that are related to meeting the costs of the relevant workforce development council performing its functions under section 366.

(4) No levy order may specify a purpose for which levy funds may be used that is related to—

(a) meeting the costs of arranging delivery of work-based training; or

(b) undertaking any commercial or trading activity; or

(c) any matter that directly benefits 1 or more individual members of the levy group, as opposed to generally benefiting the relevant industry as a whole.

(5) Subclause (4)(b) does not prevent a workforce development council from—

(a) using any part of a levy to publish or sell any educational, informative, or promotional material (whether or not at a profit); or

(b) investing any part of a levy pending its expenditure.

Compare: 1989 No 80 s 504; 1992 No 55 s 29

3 Levy order may require provision of information

A levy order may require qualifying members of the levy group to provide information to the workforce development council, or some other person or body, for the purpose of enabling or assisting the determination of the amount of levy payable.

Compare: 1989 No 80 s 505; 1992 No 55 s 30

4 Expiry of levy orders

(1) A levy order expires 5 years after the day on which it was made unless it is sooner—

(a) revoked; or

(b) disallowed under subpart 2 of Part 5 of the Legislation Act 2019.

(2) A levy order is revoked if the workforce development council responsible for administering the levy is disestablished under section 364.

Compare: 1989 No 80 s 507; 1992 No 55 s 52

Schedule 16 clause 4(1)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5 Independent returning officer must conduct ballot

A ballot must be conducted by an independent returning officer appointed by the workforce development council and approved by the Minister.

Compare: 1989 No 80 s 508; 1992 No 55 s 31

6 Workforce development council must identify potential members of levy group

(1) A workforce development council that proposes to impose a levy must take reasonable steps to ensure that it identifies all potential members of the levy group, including—

(a) obtaining from that council's records, and from records that may be available from other workforce development councils, information that can be used to identify potential members; and

(b) giving notice of the ballot in public newspapers and industry-specific publications or on an Internet site maintained by or on behalf of the council and inviting members of the relevant industry to register to receive information about the ballot and ballot papers.

(2) After satisfying the requirements of subclause (1), the workforce development council must provide to the independent returning officer who is administering the ballot a list of all potential members of the levy group of whom it is aware.

Compare: 1989 No 80 s 509; 1992 No 55 s 32

7 Returning officer must notify potential members of levy group

(1) The returning officer must give notice of the ballot to—

(a) every person named on the list of potential members of the levy group provided by the workforce development council under clause 6(2); and

(b) any other person who the independent returning officer considers may be a member of the levy group.

(2) The notice under subclause (1) must advise the person about the ballot and must—

(a) describe the industry that is intended to be covered by the proposed levy order; and

(b) state that the returning officer considers that the person is or may be a member of that industry; and

(c) state that membership of the industry means that the person—

(i) is entitled to participate in the ballot; and

(ii) is required to pay the levy if there is sufficient support for it in the ballot and the levy order is made; and

(d) state that the person must notify the returning officer if the person disputes that the person is a member of the industry intended to be covered by the proposed levy order (a **coverage dispute**); and

(e) state the date by which that notification of a coverage dispute must be received.

Compare: 1989 No 80 s 510; 1992 No 55 s 33

8 TEC must resolve coverage disputes

If the returning officer receives a notice under clause 7(2)(d) that a person wishes to raise a coverage dispute, the returning officer must refer that issue to TEC for determination in accordance with clause 22.

Compare: 1989 No 80 s 511; 1992 No 55 s 34

9 Population to be balloted

As soon as practicable after all coverage disputes have been finally determined (including any appeals under clause 23(2)), the returning officer must send a ballot paper to each person in the levy group.

Compare: 1989 No 80 s 512; 1992 No 55 s 35

10 Requirements of ballot papers

A ballot paper must state—

(a) the address to which ballot papers must be returned; and

(b) the date by which ballot papers must be returned; and

(c) full information on the nature of the levy power being sought, including all the matters listed in Schedule 17.

Compare: 1989 No 80 s 513; 1992 No 55 s 36

11 Returning officer must count votes

The returning officer must collect all validly completed ballot papers received by the returning officer at the closing date and calculate—

(a) the proportion of the total number of ballot papers sent by the returning officer under clause 9 that have been validly completed and received by them at the closing date; and

(b) the proportion of the validly completed ballot papers received by the returning officer at the closing date that are in favour of the proposal to impose the levy; and

(c) the proportion of the validly completed ballot papers received by the returning officer at the closing date that are in favour of the proposal to impose the levy if the votes are weighted according to the size of the member of the industry that returned the ballot paper (calculated at the date on which the ballot closed and on the same basis as the levy is proposed to be charged as set out in the ballot paper).

Compare: 1989 No 80 s 514; 1992 No 55 s 37

12 Returning officer must keep ballot papers, etc

The returning officer must take all reasonable steps to ensure that all ballot papers, envelopes, lists, and other documents used in connection with a ballot

conducted under this schedule are preserved and kept for a period of 1 year after the completion of the ballot.

Compare: 1989 No 80 s 515; 1992 No 55 s 38

13 Levy is payable by qualifying members to workforce development council

If a levy order is made, the levy specified in the order is payable by every qualifying member of the levy group to the workforce development council named in the levy order.

Compare: 1989 No 80 s 516; 1992 No 55 s 39

14 Certificate of exemption

(1) The chief executive of TEC may issue a certificate of exemption from payment of a levy to a member of the relevant industry who—

(a) was a member of the industry at the time the ballot was held in relation to that levy; and

(b) was, through no fault or neglect on that person's part, not included in the ballot.

(2) The chief executive may revoke a certificate of exemption if—

(a) the person to whom it has been issued agrees; or

(b) it was issued in error.

Compare: 1989 No 80 s 517; 1992 No 55 s 40

15 Method of collecting levy

(1) A workforce development council may collect levies directly from qualifying members of the levy group or by using a collection agent specified in the levy order in accordance with clause 16.

(2) A workforce development council may recover levies due from any qualifying member of the levy group—

(a) by deducting the amount due from any amount the workforce development council owes that qualifying member; or

(b) as a debt due to the workforce development council in any court of competent jurisdiction.

Compare: 1989 No 80 s 518; 1992 No 55 s 41

16 Levy order may provide for collection by agent

(1) A levy order may specify persons, other than the persons who are primarily responsible for paying the levy, who must collect levy money due from qualifying members and pay it to the workforce development council.

(2) If a levy order specifies a person who must act as a collection agent under subclause (1), the levy order must also specify an amount from, or a percentage

of, the levy money collected that the person may retain as a fee for providing the collection service.

Compare: 1989 No 80 s 519; 1992 No 55 s 42

17 Levy funds must be kept in separate bank accounts and used only for authorised purposes

(1) A workforce development council that receives a levy under a levy order must open 1 or more bank accounts for the purpose of the levy and must use the account or those accounts for only the following purposes:

(a) depositing amounts of levy paid or recovered; and

(b) making payments out of levy funds.

(2) Only people expressly authorised by the workforce development council may operate the account or those accounts.

(3) No money may be paid out of the account or those accounts except for a purpose authorised in the levy order.

Compare: 1989 No 80 s 520; 1992 No 55 s 44

18 Duty to keep records

A workforce development council that receives a levy must ensure that accurate and up-to-date records are kept of—

(a) the names of all members of the levy group from whom the levy has been collected or recovered; and

(b) the amount of the levy collected or recovered from those members; and

(c) the names of all members of the levy group who are or may be liable to pay the levy but have not done so; and

(d) the use to which the levy funds have been put.

Compare: 1989 No 80 s 521; 1992 No 55 s 45

19 Duty to provide annual report

(1) As soon as practicable after the end of a financial year during which a levy has been paid to a workforce development council under a levy order, the workforce development council—

(a) must prepare, in respect of that year, financial statements in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013); and

(b) must include in the financial statements required by paragraph (a) all the necessary information to explain—

(i) the balance of the levy fund; and

(ii) the movements in the levy fund over the course of the year, including receipts of money collected and payments of money made under the levy order; and

(iii) the use of assets acquired or built up with or out of money received under the levy order.

(2) The workforce development council must ensure that the financial statements prepared under subclause (1) are audited within 90 days of the end of that financial year.

(3) Financial statements prepared under subclause (1) must be included in the workforce development council's annual report for that year.

(4) A workforce development council that is required by subclause (3) to include financial statements in its annual report must, as soon as that report has been completed, give a copy to the Minister, and the Minister must present a copy to the House of Representatives not later than 6 sitting days after receiving it.

(5) Despite subclause (4), if an enactment other than this Act requires a workforce development council to give a Minister a copy of its annual report and requires the Minister to present a copy to the House of Representatives, that organisation must, to the extent that the enactment and subclause (4) impose different requirements, comply with the enactment instead of subclause (4).

(6) A workforce development council that is required by subclause (3) to include financial statements in its annual report must take all reasonable steps to ensure that every person primarily liable for paying the levy that is reflected in those financial statements receives a copy of the annual report as soon as practicable after the report has been completed.

Compare: 1989 No 80 s 522; 1992 No 55 s 46

20 Duty to protect commercially sensitive information

A person who receives commercially sensitive information for the purposes of carrying out a function or an activity under this schedule, or under a levy order, must take reasonable steps to protect that information.

Compare: 1989 No 80 s 523; 1992 No 55 s 47

21 Arbitration or mediation system must be established

(1) A workforce development council that receives a levy under a levy order must establish a method of arbitration or mediation in the case of disputes regarding—

(a) whether a person was included in the ballot relating to that levy; and

(b) whether a person has paid the levy; and

(c) the amount of levy payable; and

(d) any other matter relating to the levy, except disputes about whether a person is within the levy group.

(2) Details of the arbitration or mediation system must be specified in the levy order, including—

(a) the method of appointment of arbitrators or mediators; and

(b) the procedures to be followed by arbitrators or mediators; and

(c) the remuneration of arbitrators or mediators; and

(d) the payment of costs in relation to arbitration or mediation; and

(e) any other matters relating to the resolution of disputes.

Compare: 1989 No 80 s 524; 1992 No 55 s 48

22 Disputes about coverage

(1) If a returning officer refers a dispute to TEC under clause 8, TEC must determine the matter.

(2) The workforce development council that is proposing to impose a levy or, if a levy order has been made, that is responsible for administering the levy must pay the reasonable costs of TEC for determining the dispute.

Compare: 1989 No 80 s 525; 1992 No 55 s 49

23 Appeal to District Court

(1) If a dispute is unresolved after arbitration or mediation in accordance with the method specified in the levy order, or if a party wishes to appeal against a decision of an arbitrator or mediator, the dispute may be referred, or the decision may be appealed, to the District Court.

(2) A determination by TEC under clause 22 may be appealed against on grounds of procedural error only.

(3) An appeal under subclause (2) may be made to the District Court by the person disputing membership of the levy group or by the workforce development council that is proposing to impose, or is responsible for administering, the levy.

Compare: 1989 No 80 s 526; 1992 No 55 s 50

Schedule 17
Matters to be specified in levy orders

ss 10(1), 381, 384(1)(a), 385

To whom levy is payable and who pays

1 The name of the workforce development council that is to receive the levy.

2 A description of the industry whose members are to be primarily liable to pay the levy.

Amount of levy

3 The basis on which the amount of the levy is to be calculated or ascertained.

4 How the size of a qualifying member of the levy group is to be calculated for the purposes of calculating the levy payable by that member, for example,—

(a) based on the number of employees of the member that work in the relevant industry; or

(b) based on the level of production of the member.

5 Whether the levy is to be payable at a single rate or 2 or more different rates and the basis on which any different rates apply.

6 How the rates of the levy are to be notified.

7 Maximum and minimum amounts of levy payable (if any).

8 The amount of any additional charges, or the percentage increase in the levy payable, if amounts of levy otherwise payable are paid late or not paid at all (if applicable).

Application of levy

9 Either—

(a) how the workforce development council is to spend the levy; or

(b) the means by which the organisation is to consult qualifying members of the levy group as to how the workforce development council is to spend it.

10 Whether the levy must be spent by the workforce development council or may be paid to, and spent by, branches or subsidiaries of the workforce development council.

Payment of levy

11 When and how the levy is to be payable, including—

(a) the period to which the levy applies (the **levy period**); and

(b) how often levy payments are required to be made; and

(c) the methods of payment of the levy that are to be available to qualifying members of the levy group.

12 How the amount of the levy payable is to be calculated when a person becomes a qualifying member of the levy group part way through a levy period.

13 How refunds of the levy are to be calculated, and when they are to be paid, if a qualifying member ceases to be a qualifying member of the levy group part way through a levy period.

14 What exemptions from payment of the levy are available.

15 The circumstances (if any) in which, and the conditions subject to which, qualifying members of the levy group may be allowed extensions of time for the payment of any amount of levy.

16 The enforcement mechanisms that the workforce development council receiving the levy may use to collect the levy.

Collection of levy by agent

17 The persons (if any), other than the industry members primarily responsible for paying the levy, who are responsible for collecting the levy in accordance with clause 16 of Schedule 16.

18 The amount of, or percentage of, the levy money collected that a collection agent may retain as a fee for providing the collection service.

Other matters

19 The records to be kept by—

(a) the workforce development council receiving the levy; and

(b) persons collecting the levy; and

(c) persons who are, or may be, liable to pay the levy.

20 The details of the method of arbitration or mediation to apply in the case of disputes, as required by clause 21 of Schedule 16.

Compare: 1989 No 80 Schedule 24

Schedule 18
TEC

ss 10(1), 375(3), 401(5), 423(5)(b), 425(2)(a), (b), 427(1), (2)

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1 Statement of intent

(1) TEC must include the following information in its statement of intent:

(a) a general description of the things that TEC proposes to do, achieve, or work towards during the period covered by the statement of intent, which—

(i) must be consistent with the tertiary education strategy and TEC's functions; and

(ii) must include a summary of the nature and scope of TEC's proposed operations; and

(iii) may cover both financial and non-financial matters; and

(b) a general description of TEC's proposed strategies and activities for giving effect to, or achieving, the things referred to in paragraph (a), including a list of the intended principal activities of TEC and how they relate to the things referred to in paragraph (a); and

(c) a general description of the manner in which TEC proposes to operate and, in particular,—

(i) which other persons or bodies engaged in similar or related work it proposes to liaise with, and how it proposes to liaise with them; and

(ii) what capability it needs to do its work, and how it is to develop that capability; and

(iii) how it proposes to manage its risks.

(2) TEC need not include in its statement of intent the information required in section 141(1) and (2)(a) to (c) of the Crown Entities Act 2004.

(3) The Minister may, in relation to TEC, exercise the Minister's powers under section 147(1) of the Crown Entities Act 2004 as if that section included a reference to subclause (1)(a), and that section applies accordingly.

Compare: 1989 No 80 s 159KE

2 Statement of performance expectations

(1) The statement of performance expectations that TEC is required to provide to its responsible Minister under section 149I of the Crown Entities Act 2004—

(a) must be consistent with the tertiary education strategy; and

(b) may relate to more than 1 financial year.

(2) The grouping of outputs in the statement of performance expectations must be done so that, in the case of outputs funded by appropriation, a group of outputs does not contain outputs funded from more than 1 appropriation in the Estimates.

Compare: 1989 No 80 s 159KEA

3 Annual report

(1) TEC must include in its annual report a description of how it is monitoring, and how it is to report on, progress in giving effect to the tertiary education strategy.

(2) This clause does not limit section 151 of the Crown Entities Act 2004.

Compare: 1989 No 80 s 159KF

Requirements for, and content of, proposed plans

4 Requirements for proposed plans

A proposed plan must—

(a) describe how an organisation is to give effect to the Government's current and medium-term priorities as described in the tertiary education strategy; and

(b) describe how an organisation is to address the needs of interested persons or bodies (including, without limitation, students enrolled at the organisation); and

(c) describe an organisation's mission and role for the term of the plan; and

(d) set out a description of all—

(i) tertiary education programmes run by the organisation for which the organisation is seeking funding under section 425 and specify the amount of funding sought in relation to those programmes; and

(ii) activities (including, without limitation, programmes and initiatives that are to be undertaken by the organisation in order to build its capability) for which the organisation is seeking funding under

section 425 and specify the amount of funding sought in relation to those activities; and

(e) describe an organisation's proposed outcomes (including, without limitation, in relation to the tertiary education programmes and activities described in paragraph (d)(i) and (ii) in relation to which funding is sought) and the performance indicators that the organisation is to use to measure whether those outcomes have been achieved; and

(f) set out a description of all tertiary education programmes run by the organisation other than those in relation to which funding is sought.

Compare: 1989 No 80 s 159P

5 Exemption from certain requirements for proposed plans

(1) TEC may, by notice in writing, exempt an organisation from having to comply with clause 4(f).

(2) TEC may not exercise the power in subclause (1) in relation to an institution.

(3) Before exempting an organisation under subclause (1), TEC must consider—

(a) the amount of funding sought by the organisation; and

(b) the amount of funding already received by the organisation; and

(c) the type and size of the organisation; and

(d) the effective operation of the tertiary education system; and

(e) the Government's current and medium-term priorities as described in the tertiary education strategy; and

(f) any other matters TEC considers relevant.

Compare: 1989 No 80 s 159Q

6 Content of, and processes for submitting, proposed plans prescribed by TEC

(1) TEC must prescribe—

(a) the content of organisations' proposed plans (being the particular matters that proposed plans must address or include in order to meet the requirements in clause 4); and

(b) the kinds of background or supplementary information that TEC requires an organisation to provide in relation to a proposed plan; and

(c) the timetable and process for the submission of proposed plans to TEC.

(2) When prescribing matters, TEC may include—

(a) standard content, as well as different content applying to different organisations, groups of organisations, or types of organisation; and

(b) different information, timetables, and processes for different organisations, groups of organisations, or types of organisation.

(3) Instruments by which matters are prescribed under subclause (1) are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) *[Repealed]*

Compare: 1989 No 80 s 159R

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must give public notice of it	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 6(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 18 clause 6(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 18 clause 6(4): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

7 TEC may exempt organisation from complying with certain matters

TEC may, by notice in writing, exempt an organisation from complying with any of the matters it has prescribed under clause 6(1).

Compare: 1989 No 80 s 159S

Submitting proposed plan

8 Who must submit proposed plan

(1) An organisation that is seeking funding from TEC under a funding mechanism that provides for funding via plans must submit a proposed plan.

(2) Subclause (1) does not apply to an organisation that is exempt under clause 9.

Compare: 1989 No 80 s 159T

9 Exemption from requirement to submit proposed plan

(1) TEC may, by notice in writing, exempt an organisation, a type of organisation, or a group of organisations that is seeking funding under a funding mechanism that provides for funding via plans from the requirement to submit a proposed plan under clause 8(1).

(2) TEC may not exercise the power in subclause (1) in relation to an institution.

(3) TEC may exempt an organisation, a type of organisation, or a group of organisations under subclause (1) for a specified period that TEC thinks fit.

(4) If TEC exempts an organisation under subclause (1), TEC may fund that organisation under section 428 as if it were an organisation for which a funding mechanism provides for funding other than via plans.

(5) A notice under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named organisations.

Compare: 1989 No 80 s 159U

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 9(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

10 Frequency of submitting proposed plans

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

(a) at least once every 3 years; or

(b) if TEC directs, at more frequent intervals specified by TEC.

Compare: 1989 No 80 s 159V

11 Submitting combined proposed plan

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

Compare: 1989 No 80 s 159W

Preparing and consulting on proposed plans

12 Preparing and consulting on proposed plans

(1) An organisation that is required to submit a proposed plan must prepare the proposed plan in accordance with this schedule (including, unless it is exempt under clause 7, complying with the matters prescribed by TEC under clause 6).

(2) A proposed plan must be prepared in consultation with—

(a) the persons or bodies that the organisation thinks fit to consult; and

(b) any other person or group of persons that TEC stipulates.

(3) An organisation must develop the content of its proposed plan in collaboration with TEC, including collaborating with TEC about ways in which the organisation can implement the matters prescribed by TEC under section 424.

(4) After completing the requirements in subclauses (1) to (3), an organisation must submit its proposed plan to TEC.

Compare: 1989 No 80 s 159X

Funding via plans

13 Accountability for funding received under section 425

(1) An organisation that receives funding under section 425 must ensure that—

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

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

(ii) whether any conditions on which the funding approval was given have been complied with; and

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

(2) As soon as practicable after the end of any year in which an organisation (other than an institution) receives funding under section 425, the organisation must provide TEC with—

(a) a financial report of the organisation for that year, including—

(i) a statement of financial performance; and

(ii) a statement of financial position; and

(iii) a statement of movements in equity; and

(iv) a statement of cash flows; and

(v) a statement of service performance that compares the performance of the organisation with the outcomes specified in the organisation's plan as measured by the performance indicators specified in the organisation's plan; and

(b) any financial reports, or statistical or other information, required by TEC; and

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

(3) A report required under subclause (2)(a) must be prepared in accordance with generally accepted accounting practice and must be audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

(4) TEC may exempt any organisation, group of organisations, or types of organisation from complying with 1 or more of the requirements set out in subclauses (2) and (3).

(5) In exercising the powers conferred on it by subclause (4), TEC must have regard to—

(a) the amount of funding sought by the organisation; and

(b) the amount of funding received by the organisation; and

(c) the type and size of the organisation; and

(d) any other matters that TEC considers relevant.

(6) Section 305 sets out the accountability requirements for institutions.

(7) An exemption under subclause (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named organisations.

Compare: 1989 No 80 s 159YD

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 13(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Expiry of funding approval

14 Expiry of funding approval

(1) Every plan that has funding approval must specify the date on which funding approval expires (the **expiry date**), which must be a date determined by TEC that is no later than 3 years after the date on which the funding approval takes effect.

(2) Funding approval expires on the expiry date, unless funding approval is earlier revoked or withdrawn under this schedule.

(3) Despite subclause (2), if, on the expiry date, an organisation is discussing a proposed plan with TEC or the proposed plan is awaiting funding approval under this schedule, the funding approval for the existing plan continues in effect until the earlier of the following dates:

(a) the date that is 6 months after the expiry date of the existing funding approval:

(b) the date that funding approval for the proposed plan comes into effect.

Compare: 1989 No 80 s 159YE

15 Effect of expiry of funding approval

The effect of the expiry of funding approval is that—

(a) the plan to which funding approval relates expires; and

(b) TEC must cease payment, or cease any or all further payments, of funding under section 425 in respect of that plan.

Compare: 1989 No 80 s 159YF

Suspension or revocation of funding given under section 425

16 TEC may suspend, revoke, or withdraw funding given under section 425

(1) TEC may suspend or revoke some or all funding given under section 425 if it is satisfied on reasonable grounds that—

(a) an organisation has not complied, or is not complying, with a condition on which funding has been given under section 425; or

(b) when measured against performance indicators, the organisation has not achieved, or is not achieving, an outcome anticipated in its plan for a tertiary education programme or activity in relation to which funding has been given under section 425; or

(c) the organisation has not provided, or is not providing, adequate and timely information required by TEC or the Ministry under section 426.

(2) Before deciding whether to suspend or revoke some or all funding given under section 425, TEC must—

(a) notify the organisation of the specific matters of concern; and

(b) give the organisation a reasonable opportunity to be heard.

(3) TEC must give its reasons to an organisation if it decides to suspend or revoke some or all funding given under section 425.

(4) TEC must advise an organisation of the following matters if it decides to suspend some or all funding given under section 425:

(a) the date on which the suspension is to end and, as a consequence, some or all funding is to be revoked; and

(b) what action the organisation must take in order to have the suspension lifted and avoid some or all funding being revoked.

(5) A suspension must be for a period that TEC considers reasonable, having considered—

(a) the specific matters referred to in subclause (2)(a); and

(b) the action referred to in subclause (4)(b).

(6) TEC may withdraw some or all funding given under section 425 at the written request of the organisation to which the funding has been given.

(7) If TEC withdraws some or all funding under subclause (6), it must advise the organisation of the date on which the funding is to be withdrawn.

Compare: 1989 No 80 s 159YG

17 Extending suspension of funding

(1) TEC may extend the date on which a suspension ends under clause 16(4)(a).

(2) TEC must advise an organisation of the following matters if it decides to extend the date on which a suspension is to end:

(a) the date on which the extended suspension is to end and, as a consequence, some or all funding for all or part of the plan is to be revoked; and

(b) what action the organisation must take in order to have the extended suspension lifted and avoid some or all funding for all or part of the plan being revoked.

(3) An extension of a suspension must be for a period that TEC considers reasonable, having considered—

(a) the specific matters referred to in clause 16(2)(a); and

(b) the action referred to in clause 16(4)(b).

Compare: 1989 No 80 s 159YH

18 Effect of suspending, revoking, or withdrawing funding given under section 425

(1) The effect of suspending funding given under section 425 is that TEC must cease payment, or cease any or all further payments, of funding given under section 425 in respect of the plan or part of the plan in relation to which funding has been suspended.

(2) The effect of revoking or withdrawing funding given under section 425 is that—

(a) the plan or part of the plan to which the funding relates is revoked; and

(b) TEC must cease payment, or cease any or all further payments, of funding under section 425 in respect of the plan or part of the plan in relation to which funding has been revoked or withdrawn.

Compare: 1989 No 80 s 159YI

19 Review of decision by delegate to suspend or revoke funding

(1) Subclause (2) applies to an organisation in relation to which a person has exercised 1 or more of the following powers under a delegation from TEC under section 73 of the Crown Entities Act 2004:

(a) suspending or revoking funding under clause 16:

(b) extending the suspension of funding under clause 17.

(2) An organisation to which this clause applies may ask TEC to review the decision of the delegate.

Compare: 1989 No 80 s 159YJ

Amending or replacing plans

20 Organisation may seek approval for significant amendment, or replacement, of plan

(1) In this clause and clauses 21 to 23, **significant amendment** means an amendment to a plan that relates to—

(a) a tertiary education programme or an activity in relation to which funding has been given under section 425; or

(b) any of the performance indicators that an organisation uses to measure whether proposed outcomes for tertiary education programmes or activities in relation to which funding has been given under section 425 are being or have been achieved.

(2) An organisation may ask TEC to approve a significant amendment to, or the replacement of, a plan if the organisation considers that the criteria for significant amendment to a plan or the criteria for replacement of a plan are satisfied.

(3) TEC must—

(a) set the criteria for significant amendment to a plan; and

(b) set the criteria for replacement of a plan.

(c) *[Repealed]*

(4) An organisation that proposes to make a significant amendment to, or to replace, a plan must consult—

(a) the persons or bodies that the organisation thinks fit to consult; and

(b) any other person or group that TEC stipulates.

(5) An organisation that proposes a significant amendment to, or replacement of, a plan must prepare the significant amendment or replacement in collaboration with TEC, including collaborating with TEC about ways in which the organisation can implement the matters prescribed by TEC under subclause (6).

(6) TEC may prescribe the requirements for the following in relation to a significant amendment to, or a replacement of, a plan:

(a) the content of the significant amendment or replacement (which may be the same as the matters prescribed by TEC under clause 6):

(b) criteria for assessing the significant amendment or replacement (which may be the same as those prescribed by TEC under section 424).

(7) In applying the requirements in subclause (6) in order to determine whether or not to approve a significant amendment to, or replacement of, a plan, TEC must take into account—

(a) the extent of the significant amendment or replacement; and

(b) the impact of the significant amendment or replacement on the needs of the interested persons or bodies and any other persons consulted by the organisation under subclause (4).

(8) TEC may require an organisation to review a plan with a view to amending or replacing it if TEC considers that the criteria for significant amendment to a plan or the criteria for replacement of a plan are satisfied.

(9) Nothing in this clause prohibits an organisation from making an amendment to a plan that is not a significant amendment.

(10) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) an instrument setting criteria under subclause (3):

(b) an instrument under subclause (6)(a) prescribing requirements for the content of a significant amendment or replacement.

Compare: 1989 No 80 s 159YK

Legislation Act 2019 requirements for secondary legislation referred to in subclause (10)(a)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subclause (10)(b)		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 20(3)(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 18 clause 20(10): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

21 Effect of significant amendment or replacement of plan under clause 20

(1) If TEC approves a significant amendment to a plan, the significant amendment—

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

(b) takes effect on the date specified by TEC.

(2) If TEC approves a replacement plan under clause 20, the replacement plan—

(a) takes effect on the date specified by TEC; and

(b) is treated as revoking the plan it replaces.

Compare: 1989 No 80 s 159YL

22 TEC may make significant amendment to plan

(1) TEC may propose a significant amendment to an organisation's plan if it is satisfied that the significant amendment is reasonably necessary to ensure accountability for public funding.

(2) If TEC proposes a significant amendment to an organisation's plan under subclause (1), it must prepare it in collaboration with the organisation (including giving the organisation a reasonable period to consult the persons or bodies it thinks fit to consult).

(3) After collaborating with the organisation on the proposed significant amendment, TEC must, if it decides to proceed with the significant amendment, determine the content of the significant amendment and give the organisation a reasonable opportunity to make submissions on it.

(4) After considering any submissions made by the organisation, TEC may—

(a) approve the proposed significant amendment (with further amendment if necessary); or

(b) abandon the proposed significant amendment.

Compare: 1989 No 80 s 159YM

23 Effect of significant amendment made to plan under clause 22

A significant amendment made to a plan under clause 22—

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

(b) takes effect on the date specified by TEC.

Compare: 1989 No 80 s 159YN

Plan summary

24 Summary of plans

(1) TEC must prescribe the matters that an organisation that has a plan must include in a plan summary.

(2) An organisation that has a plan must ensure that—

(a) a plan summary is available for inspection by the public; and

(b) copies of that plan summary may be obtained either at no cost or no more than a reasonable cost; and

(c) the plan summary contains the matters prescribed.

(3) Instruments by which matters are prescribed under this clause are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 159YO

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must: • give public notice of it • comply with subclause (2)	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 24(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 18 clause 24(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Funding other than via plans

25 Accountability for funding received under section 428

(1) An organisation that receives funding under section 428 must ensure that—

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

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

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

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

(2) As soon as practicable after the end of any year in which an organisation (other than an institution) receives funding under section 428, the organisation must provide TEC with—

(a) a financial report of the organisation for that year, including—

(i) a statement of financial performance; and

(ii) a statement of financial position; and

(iii) a statement of movements in equity; and

(iv) a statement of cash flows; and

(v) a statement of service performance that compares the performance of the organisation with the outcomes agreed with TEC as measured by any performance indicators agreed with TEC; and

(b) any financial reports, or statistical or other information, required by TEC; and

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

(3) A report required under subclause (2)(a) must be prepared in accordance with generally accepted accounting practice and must be audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).

(4) TEC may exempt any organisation, group of organisations, or type of organisation from complying with 1 or more of the requirements set out in subclauses (2) and (3).

(5) In exercising the powers conferred on it by subclause (4), TEC must have regard to—

(a) the amount of funding sought by the organisation; and

(b) the amount of funding received by the organisation; and

(c) the type and size of the organisation; and

(d) any other matters that TEC considers relevant.

(6) Section 305 sets out the accountability requirements for institutions.

(7) An exemption under subclause (4) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named organisations.

Compare: 1989 No 80 s 159ZE

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 18 clause 25(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

26 TEC may suspend, revoke, or withdraw funding given under section 428

(1) TEC may suspend or revoke payment, or any or all further payments, of any funding given to an organisation under section 428 if TEC is satisfied on reasonable grounds that the organisation—

(a) has not complied, or is not complying, with a condition on which the funding was given; or

(b) is not providing, or has not provided, adequate and timely information required by TEC or the Ministry under section 428.

(2) Before deciding whether to suspend or revoke payment under subclause (1), TEC must—

(a) notify the organisation of the specific matters of concern; and

(b) give the organisation a reasonable opportunity to be heard.

(3) TEC must give its reasons to an organisation if it decides to suspend or revoke the organisation's funding.

(4) TEC must specify the following matters if it decides to suspend funding under subclause (1):

(a) the date on which the suspension is to end and, as a consequence, the funding is to be revoked; and

(b) what action the organisation must take in order to have the suspension lifted and avoid funding being revoked.

(5) TEC may, at the written request of an organisation, withdraw some or all payment, or any or all further payments, of any funding given to the organisation under section 428.

(6) If TEC withdraws funding under subclause (5), it must advise the organisation of the date on which the funding is to be withdrawn.

Compare: 1989 No 80 s 159ZF

27 Extending suspension of funding

(1) TEC may extend the date on which a suspension ends under clause 26(4)(a).

(2) TEC must advise an organisation of the following matters if it decides to extend the date on which a suspension is to end:

(a) the date on which the extended suspension is to end and, as a consequence, funding is to be revoked; and

(b) what action the organisation must take in order to have the extended suspension lifted and avoid funding being revoked.

(3) An extension of a suspension must be for a period that TEC considers reasonable having considered—

(a) the specific matters referred to in clause 26(2)(a); and

(b) the action referred to in clause 26(4)(b).

Compare: 1989 No 80 s 159ZG

28 Review of decision made by delegate to suspend or revoke funding given under section 428

(1) Subclause (2) applies to an organisation in relation to which a person has exercised any of the following powers under a delegation from TEC under section 73 of the Crown Entities Act 2004:

(a) suspending the organisation's funding under clause 26; or

(b) revoking the organisation's funding under clause 26; or

(c) extending the suspension of the organisation's funding under clause 27.

(2) An organisation to which this subclause applies may ask TEC to review the decision of the delegate.

Compare: 1989 No 80 s 159ZH

Schedule 19
Teaching Council

ss 474(3), 614(3)

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1 Term of office

(1) The term of office of every member of the Teaching Council is 3 years and—

(a) an appointed member may be reappointed for 2 more terms; and

(b) an elected member may be re-elected for 2 more terms.

(2) The term of office of all members of the Teaching Council—

(a) begins at the same time (when the term of office of their immediate predecessors expires); and

(b) ends at the same time (when their term of office expires).

Compare: 1989 No 80 s 380A

2 Removal of members

(1) The Minister may remove an appointed member of the Teaching Council under clause 1(1).

(2) The Minister may remove an elected member of the Teaching Council under clause 1(2).

Compare: 1989 No 80 s 380B

3 Removal from office

(1) The Minister may revoke the appointment of a member of the Teaching Council for just cause.

(2) The Minister may, after consulting the Teaching Council, remove an elected member of the Teaching Council for just cause.

(3) The revocation or removal must be made by written notice to the member with a copy to the Teaching Council.

(4) The written notice must state—

(a) the date on which the removal takes effect, which must be no earlier than the date on which the notice is received; and

(b) the reasons for the removal.

(5) In this clause, **just cause**—

(a) includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Teaching Council or the individual duties of members (depending on the seriousness of the breach); and

(b) in the case of a member who held a practising certificate under clause 10 of Schedule 3 when appointed, includes—

(i) ceasing to hold the certificate; and

(ii) the suspension of the certificate.

(6) The Minister may remove a member with as little formality and technicality, and as much expedition, as is permitted by—

(a) the principles of natural justice; and

(b) a proper consideration of the matter.

(7) A Judge may be removed as a member in accordance with the removal provisions of this Act for a breach of the Teaching Council's collective duties, but only if all of the other members are being removed for the same breach at the same time (and the removal does not affect the Judge's tenure as a Judge).

(8) A member of the Teaching Council is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.

Compare: 1989 No 80 Schedule 21 cl 3

4 Continuation in office

(1) Each member of the Teaching Council continues in office (unless the member ceases to hold office under subclause (4)) until a successor is appointed or elected.

(2) A member may resign from office by written notice to the Minister (with a copy to the Teaching Council) signed by the member.

(3) The resignation is effective on receipt by the Minister of the notice or at any later time specified in the notice.

(4) A member of the Teaching Council ceases to hold office if the member—

(a) resigns; or

(b) is removed from office; or

(c) becomes disqualified from being a member.

Compare: 1989 No 80 Schedule 21 cl 4

5 Extraordinary vacancies

(1) An extraordinary vacancy occurs when a member dies or ceases to hold office.

(2) If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member's term,—

(a) the Minister, in the case of an appointed member, may—

(i) appoint a replacement; or

(ii) leave the vacancy open:

(b) the Teaching Council, in the case of an elected member, may—

(i) appoint a replacement; or

(ii) leave the vacancy open.

(3) If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member's term,—

(a) the Minister, in the case of an appointed member, must appoint a replacement:

(b) the Teaching Council, in the case of an elected member, must—

(i) appoint a replacement; or

(ii) hold an election for a replacement.

(4) A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member's term.

Compare: 1989 No 80 Schedule 21 cl 4A

6 Chairperson

(1) The Minister must appoint one of the members as chairperson by notice in writing stating the date on which the appointment takes effect.

(2) The chairperson holds that office until—

(a) the chairperson resigns from that office; or

(b) the chairperson is removed from it by the Minister; or

(c) the chairperson ceases to hold office as a member; or

(d) the term of office specified on appointment expires.

(3) A person may be reappointed as chairperson for a further term.

(4) The chairperson may, without resigning as a member, resign from that office by written notice to the Minister (with a copy to the Teaching Council).

(5) The notice of resignation must state the date on which the resignation takes effect.

(6) The Minister may, after consultation with the person concerned, remove a chairperson of the Teaching Council from that office by written notice to the person (with a copy to the Teaching Council).

(7) The notice of removal must state the date on which the removal takes effect.

Compare: 1989 No 80 Schedule 21 cl 5

7 Deputy chairperson

(1) The Minister may appoint one of the members as deputy chairperson by notice in writing stating the date on which the appointment takes effect.

(2) If the chairperson is absent, the deputy chairperson may exercise the powers of the chairperson.

(3) The deputy chairperson holds that office until—

(a) the deputy chairperson resigns from that office; or

(b) the deputy chairperson is removed from it by the Minister; or

(c) the deputy chairperson ceases to hold office as a member; or

(d) the term of office specified on appointment expires.

(4) A person may be reappointed as deputy chairperson for a further term.

(5) The deputy chairperson may, without resigning as a member, resign from that office by written notice to the Minister (with a copy to the Teaching Council).

(6) The notice of resignation must state the date on which the resignation takes effect.

(7) The Minister may, after consultation with the person concerned, remove a deputy chairperson of the Teaching Council from that office by written notice to the person (with a copy to the Teaching Council).

(8) The notice of removal must state the date on which the removal takes effect.

Compare: 1989 No 80 Schedule 21 cl 5

8 Administrative provisions

(1) The powers of the Teaching Council are not affected by any vacancy in its members.

(2) The Teaching Council may appoint committees to advise it on any matters relating to the Teaching Council's functions and powers.

(3) All questions arising at any meeting must be decided by a majority of those members present with the chairperson having a casting vote or, if the chairperson is absent, with the deputy chairperson having a casting vote.

(4) Except as otherwise provided under this or another Act, the members may regulate their own procedure.

Compare: 1989 No 80 Schedule 21 cl 6

9 Collective duties

(1) The Teaching Council must act in a manner consistent with its functions, duties, and powers.

(2) The Teaching Council must ensure that it performs or exercises its functions, duties, and powers efficiently and effectively.

(3) The Teaching Council must ensure that it operates in a financially responsible manner and, for this purpose, that it prudently manages its assets and liabilities.

Compare: 1989 No 80 Schedule 21 cl 7

10 Individual duties

(1) A member of the Teaching Council may not contravene, or cause the contravention of, or agree to the Teaching Council contravening, this Act.

(2) A member of the Teaching Council must, when acting as a member, act with honesty and integrity.

(3) A member of the Teaching Council must, when acting as a member, act in good faith and not pursue the member's own interests at the expense of the Teaching Council's interests.

(4) A member of the Teaching Council must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—

(a) the nature of the Teaching Council; and

(b) the nature of the action; and

(c) the position of the member and the nature of the responsibilities undertaken by the member.

(5) A member of the Teaching Council who has information in the member's capacity as a member that would not otherwise be available to the member may not disclose that information to any person, or make use of, or act on, that information, except—

(a) in the performance of the Teaching Council's functions; or

(b) as required or permitted by law; or

(c) when the member is first authorised to do so by the Teaching Council and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Teaching Council.

Compare: 1989 No 80 Schedule 21 cl 8

11 Personal liability of members

A member of the Teaching Council is not personally liable for any act done or omitted to be done by the Teaching Council or any loss to the Teaching Council 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)—

(a) in good faith; and

(b) in performance or intended performance of the functions of the Teaching Council.

Compare: 1989 No 80 Schedule 21 cl 9

12 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 or council or committee member 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 Teaching Council must disclose to the Teaching Council details of the interest as soon as practicable after the member becomes aware that the member is interested.

(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).

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

(a) may not vote or take part in any discussion or decision of the Teaching Council or any of its committees relating to the matter, or otherwise participate in any activity of the Teaching Council that relates to the matter; and

(b) may not sign any document relating to the entry into a transaction or the initiation of the matter.

(5) In this clause, **matter** means—

(a) the Teaching Council'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 made or entered into, by the Teaching Council.

Compare: 1989 No 80 Schedule 21 cl 10

Police vetting

13 Teaching Council must co-ordinate Police vetting

(1) The Teaching Council must establish a system for co-ordinating Police vetting for—

(a) teacher registration and the issue of practising certificates; and

(b) the granting of authorities to teach.

(2) A copy of the result of the Police vet of a person must be given to the person or body that requested it and the person who is the subject of the vet.

(3) The Teaching Council must establish internal procedures for dealing with Police vets requested for its own purposes and those procedures must—

(a) identify the person or office holder within the Teaching Council to whom the results of the Police vet must be sent; and

(b) ensure that strict confidentiality is observed for the Police vet.

Compare: 1989 No 80 s 413

Schedule 20
Enrolment schemes

ss 72(2), 74(2)(b), 204(9)

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1 Secretary must define school home zones

(1) The Secretary must define a State school's home zone by geographic boundaries, which must be described so that a given address is either within or outside the home zone.

(2) A school's home zone—

(a) must be an area for which the school is a reasonably convenient school for a student living in that area to attend; and

(b) may exclude any area for which another school is also a reasonably convenient school for a student living in that area to attend; and

(c) may exclude any area that it is desirable to exclude for the purpose of allowing the Secretary to make best use of the existing network of State schools in the area.

Compare: 1989 No 80 s 11E

2 How to select applicants who live outside home zone

(1) The order of priority in which applicants who live outside a school's home zone are to be offered places at the school is as follows:

(a) first priority must be given to any applicant who is accepted for enrolment in a special programme run by the school:

(b) second priority must be given to any applicant who is the sibling of a current student of the school:

(c) third priority must be given to any student who is the sibling of a former student of the school:

(d) fourth priority must be given to any applicant who is a child of a former student of the school:

(e) fifth priority must be given to any applicant who is a child of an employee of the school's board or a child of a member of the school's board:

(f) sixth priority must be given to all other applicants.

(2) If there are more applicants in the second, third, fourth, fifth, or sixth priority groups than there are places available, selection within the priority group must be by ballot conducted in accordance with instructions issued by the Secretary under clause 3.

(3) For the purposes of this clause, child A is the **sibling** of child B if—

(a) both children share a common parent; or

(b) a parent of child A is married to, or in a civil union with, a parent of child B; or

(c) a parent of child A was married to, or in a civil union with, a parent of child B at the time when child B's parent died; or

(d) a parent of child A is the de facto partner of a parent of child B; or

(e) both children live in the same household and, in recognition of family obligations, are treated by the adults of that household as if they were siblings; or

(f) the Secretary, by written notice to the school, advises that child A is to be treated as the sibling of child B.

(4) If 2 or more siblings apply for places at a school at the same level, the applications of those siblings must be dealt with as a single application for the purpose of the ballot.

(5) An application for enrolment at a school with an enrolment scheme must be processed by the school in accordance with the enrolment scheme, and may not be declined on technical grounds or on any other ground that would be inconsistent with the purpose and principles set out in section 71.

Compare: 1989 No 80 s 11F

3 Instructions and guidelines on operation of enrolment schemes

(1) The Secretary may issue instructions to State schools that have enrolment schemes about the following matters:

(a) the procedures for holding ballots:

(b) the dates on which ballots are to be held:

(c) the establishment and maintenance of waiting lists:

(d) the information to be given to applicants who live outside the school's home zone:

(e) any other matter that the Secretary considers necessary for ensuring the fair, transparent, and efficient operation of enrolment schemes.

(2) Instructions issued under subclause (1)—

(a) must be complied with by schools; and

(b) may apply to all or specified schools or classes of school.

(c) *[Repealed]*

(d) *[Repealed]*

(3) The Secretary may issue guidelines to State schools about either or both of the following matters:

(a) the basis on which the Secretary's powers in relation to enrolment schemes may be exercised (including, in particular, the power in clause 14(2)(a) relating to the determination of whether an applicant lives within a home zone or outside it):

(b) the manner in which schools must conduct reviews under clause 13 (which relates to the review of a student's enrolment).

(4) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) instructions under subclause (1):

(b) guidelines under subclause (3).

Compare: 1989 No 80 s 11G

Legislation Act 2019 requirements for secondary legislation made under subclause (1)

Publication	The maker must: • publish it, and the date on which it takes effect, in the *Gazette*; or • notify it in the *Gazette* outlining its content and stating where a copy of it can be obtained and the date on which it takes effect	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation made under subclause (3)		
Publication	It is not required to be published	LA19 s 73(2)
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 20 clause 3(2)(c): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 20 clause 3(2)(d): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 20 clause 3(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4 Process for establishing enrolment scheme

(1) When developing a proposed enrolment scheme, the Secretary must—

(a) consult the school's board on the development of the proposed scheme; and

(b) take reasonable steps to understand the views of the school's community.

(2) After the Secretary has developed a proposed enrolment scheme, the Secretary must—

(a) consult the persons and organisations the Secretary thinks fit and, in particular, must take all reasonable steps to discover and consider the views of—

(i) the parents of students at the school:

(ii) the people living in the area for which the school is a reasonably convenient school:

(iii) the students and prospective students of the school (depending on their age and maturity):

(iv) the boards of other schools that could be affected by the proposed enrolment scheme:

(v) in the case of a Kura Kaupapa Māori, the persons and organisations that the Secretary believes have an interest in fostering the school's adherence to Te Aho Matua and any special characteristics set out in its school charter:

(vi) in the case of the board of a designated character school, the persons and organisations that the Secretary believes have an interest in fostering the aims, purposes, and objectives that constitute the school's different character:

(vii) in the case of a State integrated school, the school's proprietors; and

(b) consult the school's board.

(3) If the Secretary has complied with subclause (2) and is satisfied that the proposed enrolment scheme meets the requirements of clause 5, the Secretary may finalise the enrolment scheme and provide it to the board.

(4) The school's board must implement the finalised enrolment scheme as soon as practicable.

Compare: 1989 No 80 s 11H

5 Requirements relating to proposed enrolment schemes

An enrolment scheme for a State school—

(a) must comply with the purpose and principles of enrolment schemes set out in section 71; and

(b) must define the school's home zone in the enrolment scheme in a way that ensures that students can attend a reasonably convenient school; and

(c) may have boundaries for its school's home zone that overlap or are contiguous with the boundaries of the home zone of any adjacent State school that has an enrolment scheme; and

(d) must promote the best use of the network of State schools in the area.

Compare: 1989 No 80 s 11I

6 Information about school's enrolment scheme

(1) This clause applies if the board of a State school implements an enrolment scheme under clause 4(4).

(2) The board must give notice that it has implemented an enrolment scheme, which must include—

(a) a general description of the school's home zone; and

(b) information about where copies of the enrolment scheme may be viewed and obtained.

(3) Each year, the board of a school that has an enrolment scheme must give notice of—

(a) the likely number of out-of-zone places; and

(b) the significant pre-enrolment dates and procedures; and

(c) the date or dates on which any ballot is to be held.

(4) The following must be available for inspection at the school at all reasonable times:

(a) a copy of the school's current enrolment scheme:

(b) a copy of the results of the most recent ballot for places at the school:

(c) a copy of the waiting list for places at the school:

(d) if it is available, information about the matters listed in subclause (3):

(e) a copy of any instructions issued under clause 3(1).

(5) For the purposes of subclauses (2) and (3), a board must give notice to its school community and any affected parties in the wider local community.

Compare: 1989 No 80 s 11J

7 Commencement of enrolment scheme

(1) An enrolment scheme for a primary school commences 3 months after the day of its implementation, or on a later date specified in the scheme by the Secretary.

(2) An enrolment scheme for a secondary or composite school commences on 1 January in the year following the year in which it was implemented, or on a later date specified in the scheme by the Secretary.

(3) However, the Secretary may specify a commencement date for an enrolment scheme that is earlier than a commencement date determined under subclause (1) or (2) if the Secretary considers that an early commencement is appropriate.

Compare: 1989 No 80 s 11K

8 End of enrolment scheme

(1) The Secretary may abandon an enrolment scheme if satisfied that overcrowding at the school is unlikely to result if the scheme is abandoned.

(2) If the Secretary decides to abandon an enrolment scheme,—

(a) the Secretary must give written notice to the school's board; and

(b) the school's board must abandon the scheme as soon as practicable unless the Secretary has specified a date on which the scheme is to be abandoned in the notice given under paragraph (a).

(3) A board may not abandon an enrolment scheme unless it has received written notice from the Secretary to do so.

Compare: 1989 No 80 s 11L

9 Amendment of enrolment schemes

(1) The Secretary may amend an enrolment scheme if satisfied that amendment is needed to avoid overcrowding, or the likelihood of overcrowding, at a State school.

(2) If the board of a State school (**school A**) implements an enrolment scheme, the Secretary may amend the enrolment scheme of any nearby State school to take into account the effect of school A's amended enrolment scheme.

(3) Section 71 and clauses 2 to 8 apply to an amendment or a proposed amendment to an enrolment scheme as if it were an enrolment scheme or a proposed enrolment scheme.

Compare: 1989 No 80 s 11M

10 Minor amendments to enrolment schemes

(1) The Secretary may make minor amendments to an enrolment scheme using the procedure set out in subclause (2) instead of going through the process set out in clauses 4 to 6.

(2) In order to make the amendment, the Secretary must—

(a) be satisfied that the proposed amendment is minor; and

(b) give notice of the proposed amendment; and

(c) consider any written comments or queries received from the relevant school regarding the proposed amendment.

(3) The board must implement any minor amendments as soon as practicable after the Secretary gives notice in writing of the Secretary's final decision (which decision may not be made final until at least 1 month after notice of the proposed amendment was given).

Compare: 1989 No 80 s 11MA

11 Pre-enrolment at schools with enrolment schemes

(1) The board of a State school may comply with the instructions and guidelines issued under clause 3 even if an enrolment scheme has not yet commenced.

(2) For applicants who are subject to a ballot, the board must notify each applicant, in writing, of—

(a) when and how the ballot is to be held; and

(b) when and how applicants are to be advised of the results of the ballot; and

(c) the rights and responsibilities of applicants after the ballot.

(3) The board must give written notice to every applicant whose application is declined of—

(a) the reason why the application has been declined; and

(b) the Secretary's powers under clause 14.

(4) The board must give written notice to every applicant whose name was included in a ballot of the outcome of the ballot as it relates to the applicant.

Compare: 1989 No 80 s 11N

12 Enrolment may be annulled if based on false information or temporary residence

(1) The board of a State school that has an enrolment scheme may annul the enrolment of a student if the board believes on reasonable grounds that the student's enrolment or pre-enrolment form falsely claimed, for the purpose of securing enrolment, that—

(a) the student was living in the school's home zone when the student enrolled at the school; or

(b) the student was entitled to a particular priority in the ballot for places (for example, by falsely claiming the applicant is the sibling (as defined in clause 2(3)) of an existing student).

(2) The board of a State school that has an enrolment scheme may annul the enrolment of a student if, following a review under clause 13, the board determines that the student has used a temporary residence for the purpose of gaining enrolment at the school.

(3) The address given in a student's pre-enrolment form as the address where the student lives is taken to be the address at which the student is living on enrolment, unless the board is notified otherwise.

(4) The board may annul the enrolment of any student, or may refuse an application for enrolment by any person, who claimed or claims priority in a ballot as a sibling of a student whose enrolment has been annulled under this clause.

(5) If the board annuls an enrolment under any of subclauses (1), (2), and (4), the annulment takes effect 1 month after the date on which the board decides to annul the enrolment.

(6) A board that annuls the enrolment of a student must immediately—

(a) advise a parent of the student, in writing, of the date of annulment and the date on which it takes effect; and

(b) advise the Secretary of the name of the student and the date of annulment.

Compare: 1989 No 80 s 11O

13 Review of student's enrolment

(1) The board of a State school that has an enrolment scheme may issue a parent of a student enrolled at the school with a review notice under this clause if—

(a) the student was enrolled at the school on the grounds that they lived in the school's home zone; and

(b) the student has, since enrolling at the school, moved out of the school's home zone; and

(c) the board believes on reasonable grounds that the student has used a temporary residence within the school's home zone for the purpose of gaining enrolment at the school.

(2) On receipt of a review notice, a parent who wishes to rebut the board's view may make submissions to the board in whatever manner the parent thinks fit, and the board must, in accordance with any guidelines issued under clause 3(3)(b), give the parent every reasonable opportunity to explain the situation.

(3) The board may exercise its power under clause 12(2) to annul the student's enrolment if, no earlier than 10 school days after the date on which the review notice was sent, the board determines that the student has used a temporary

residence within the school's home zone for the purpose of gaining enrolment at the school.

(4) A review notice must—

(a) be in writing; and

(b) be sent by post or email to a parent of the student; and

(c) advise the parent of the effect of the notice, and explain what the parent may do next.

Compare: 1989 No 80 s 11OA

14 Secretary may direct board to enrol applicant

(1) The Secretary may direct the board of a State school (including the board of the school at which the student was enrolled) to enrol a student whose enrolment has been annulled under clause 13.

(2) The Secretary may direct the board of a State school to enrol an applicant whose application for enrolment it has declined if the Secretary is satisfied that—

(a) the board has declined the application on the ground that the applicant is not living in the school's home zone, but in fact the applicant is living in the zone; or

(b) not giving a direction would be so disadvantageous to the applicant that overriding the enrolment scheme is justified.

(3) The power in subclause (2)(b) may only be exercised in exceptional circumstances.

(4) The Secretary may not give a direction about a person under subclause (1) or (2)(b) unless the Secretary has taken all reasonable steps to consult a parent of the person, the board of the proposed school, and (if appropriate, having regard to the age and maturity of the person) the person.

(5) The Secretary may not direct the board of a Kura Kaupapa Māori, a designated character school, or a State integrated school to enrol a person under this clause unless a parent of the person agrees and accepts the special character of that school.

(6) A board must comply with a direction under this clause, and the direction overrides any enrolment scheme the school may have in place.

Compare: 1989 No 80 s 11P

15 Review of enrolment scheme

The Secretary must, at least once every 3 years after the date on which an enrolment scheme is implemented by a State school,—

(a) review the operation of the enrolment scheme, having regard to the purpose and principles of enrolment schemes set out in section 71; and

(b) reach a view about the continuing need for a scheme to prevent overcrowding, or the likelihood of overcrowding, at the school.

Compare: 1989 No 80 s 11PA

16 Enrolment schemes of certain State schools

(1) Section 71 and clauses 2 to 15 apply to Kura Kaupapa Māori, designated character schools, State integrated schools, and specialist schools, and to their enrolment schemes, with the following modifications:

(a) all references to overcrowding or the likelihood of overcrowding must be read as if they were references to there being, or being likely to be, more applicants for enrolment at the school than there are places available; and

(b) the enrolment scheme need not define a home zone for the school, nor provide for balloting of applicants who live outside any home zone, but must accord priority to applicants for whom the school is a reasonably convenient school; and

(c) clause 6 is modified as follows:

(i) subclause (2) applies as if paragraph (a) read "a general description of the enrolment scheme"; and

(ii) subclause (3) applies as if paragraphs (a) to (c) were replaced with the words "the likely number of places available and the significant pre-enrolment dates and procedures that apply"; and

(iii) subclause (4)(b) does not apply; and

(d) in the case of a Kura Kaupapa Māori, the application of section 71 and clauses 2 to 15 must not result in inconsistency with section 204; and

(e) in the case of a designated character school, the application of section 71 and clauses 2 to 15 must not result in inconsistency with its school charter or section 204; and

(f) in the case of a State integrated school, the application of section 71 and clauses 2 to 15 must not result in inconsistency with the school's integration agreement or Schedule 6.

(2) Clauses 1 to 15 do not apply to any State school of a type specified by the Secretary by notice.

(3) A notice under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 s 11PB

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Schedule 20 clause 16(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 20 clause 16(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

17 Obligation to report to Parliament on enrolment schemes

(1) The annual report on the schools sector that is presented to the House of Representatives by the Minister of Education in accordance with section 620 must include a statement signed by the Secretary that—

(a) lists the schools that have an enrolment scheme in place; and

(b) states the period for which each scheme has been in place; and

(c) notes the schools near schools that have schemes in place; and

(d) outlines any plans included in the Ministry's property development programme or other programmes to address the pressures on capacity in areas where a number of adjacent schools have enrolment schemes in place, including development plans to manage school population changes to maximise (to the extent it is reasonable and practicable to do so) the opportunity for students to attend a reasonably convenient State school.

(2) For the purpose of this clause, an enrolment scheme is **in place** once it has been notified in accordance with clause 6.

Compare: 1989 No 80 s 11Q

Schedule 21
When State schools must be open

[Repealed]

ss 115, 659(1), (2)

Schedule 21: repealed, on 1 January 2023, by section 669(1)(c).

1 Length of school year

[Repealed]

Schedule 21 clause 1: repealed, on 1 January 2023, by section 669(1)(c).

2 Terms

[Repealed]

Schedule 21 clause 2: repealed, on 1 January 2023, by section 669(1)(c).

3 Holidays

[Repealed]

Schedule 21 clause 3: repealed, on 1 January 2023, by section 669(1)(c).

4 Exceptions in particular cases

[Repealed]

Schedule 21 clause 4: repealed, on 1 January 2023, by section 669(1)(c).

5 Multiple timetable arrangements

[Repealed]

Schedule 21 clause 5: repealed, on 1 January 2023, by section 669(1)(c).

6 Application of provisions

[Repealed]

Schedule 21 clause 6: repealed, on 1 January 2023, by section 669(1)(c).

7 Minister to act by means of instructions

[Repealed]

Schedule 21 clause 7: repealed, on 1 January 2023, by section 669(1)(c).

Schedule 22
Constitution of boards of State schools

ss 123(a), 190(6), 206(5)(b)

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1 Parent representatives

(1) The parent representatives on the lone board of an intermediate school must be elected by people who are—

(a) parents of students (other than adult students)—

(i) enrolled full-time at the school when the roll for the election (or, if there is a supplementary roll, the supplementary roll) closes; or

(ii) likely to be enrolled full-time at the school in the year after the year the election is held; or

(b) adult students (other than adult students who are also parents of students so enrolled) enrolled full-time at the school when the roll for the election (or, if there is a supplementary roll, the supplementary roll) closes.

(2) The parent representatives on the lone board of any other State school must be elected by people who are—

(a) parents of students (other than adult students) enrolled full-time at the school when the roll for the election (or, if there is a supplementary roll, the supplementary roll) closes; or

(b) adult students (other than adult students who are also parents of students so enrolled) enrolled full-time at the school when the roll for the election (or, if there is a supplementary roll, the supplementary roll) closes.

(3) The parent representatives on the combined board of 2 or more State schools must be elected by people who are—

(a) parents of students (other than adult students) enrolled full-time at a school that the board administers when the roll for the election (or, if there is a supplementary roll, the supplementary roll) closes; or

(b) parents of students (other than adult students) likely to be enrolled full-time at an intermediate school that the board administers in the year after the year the election is held; or

(c) adult students (other than adult students who are also parents of students so enrolled) enrolled full-time at a school administered by the board when the roll for the election closes.

Compare: 1989 No 80 s 96

2 Staff and student representatives

(1) A staff representative on a board must be a person (other than the principal) who, on the day on which the roll for the election (or, where there is a supplementary roll, the supplementary roll) closes, is a member of the board staff, and who is elected by people (other than principals) who are members of the board staff on that day.

(2) A student representative on a board must be a person who, on the day on which the roll for the election (or, where there is a supplementary roll, the supplementary roll) closes, is a student (other than an adult student) who is enrolled full-time in year 9 or above at a school or a special institution administered by the board, and who is elected by students (other than adult students) enrolled full-time in year 9 or above at a school or special institution administered by the board.

Compare: 1989 No 80 s 97

3 Boards of newly established schools

(1) Despite clause 1, the board members of the board of a newly established State school are,—

(a) at the option of the Minister,—

(i) 5 people appointed by the Minister; or

(ii) 5 people elected by the parents of students (other than adult students) likely to be enrolled at the school in the year it opens or the next year; and

(b) the principal or principal designate (if any); and

(c) not more than 4 people co-opted by the board.

(2) Subclause (1) continues to apply to the membership of the board until the board members go out of office under subclause (3).

(3) A board member appointed, elected, or co-opted under subclause (1) goes out of office—

(a) at the close of the day before the date on which the board members who have been elected under clause 3 of Schedule 23 or any regulations made under this Act take office under clause 8 of Schedule 23 or any regulations made under this Act; or

(b) at the close of the day before the date on which the board members who have been elected, appointed, or co-opted take office in accordance with a notice issued under clause 4 or any regulations made under this Act.

(4) A board member appointed, elected, or co-opted under subclause (1) is eligible to be appointed, elected, or co-opted as a board member unless they are ineligible to be a board member under this Act or any regulations made under this Act.

Compare: 1989 No 80 s 98

4 Minister may approve alternative constitution in certain cases

(1) The Minister may, by notice in the *Gazette*, approve an alternative constitution under this clause for the board of a State school or a combined board of State schools.

(2) The Minister may not approve an alternative constitution for a board unless the Minister has reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board.

(3) The Minister may not approve an alternative constitution unless—

(a) one of the following applies:

(i) the Chief Review Officer, in a written report, recommends that the Minister consider devising an alternative constitution; or

(ii) 20% or more of the parents of children enrolled at the school or schools have requested an alternative constitution; or

(iii) the board (or if a board has been replaced by a commissioner, that commissioner) has requested an alternative constitution; or

(iv) the Minister has required the board to have an alternative constitution under clause 7(5) or 8(3); and

(b) the Minister has consulted any persons or organisations as the Minister thinks fit.

(4) Subclause (3) does not apply if—

(a) the alternative constitution is the successor constitution for a board that was appointed or elected under clause 3(1); or

(b) the alternative constitution is approved for a combined board before the date specified in a notice under clause 7(1); or

(c) the alternative constitution is for the board of a continuing school and the Minister has given notice under section 206(5)(b).

(5) In the case of a State integrated school, the Minister must consult the proprietor of the school when conducting the consultation required under subclause (3)(b).

(6) A constitution approved under this clause applies instead of a constitution under section 119.

Compare: 1989 No 80 s 98A

5 Consequences of approval of alternative constitution

(1) If an alternative constitution is approved under clause 4(1), the notice made under that clause must establish a board comprising 1 or more persons who are to be elected or appointed as board members in the manner specified in the notice, and the notice may (without limitation)—

(a) set out a procedure for any election, appointment, or co-optation of board members:

(b) set out the manner in which vacancies are to be filled:

(c) provide for the appointment of returning officers and set out their functions:

(d) set out other formal and procedural provisions for the purposes of any election, appointment, or co-optation of board members.

(2) While a notice under clause 4(1) that approves an alternative constitution is in force, sections 119 to 122, clauses 1 to 3 of this schedule and clauses 1, 3, 8, 12, and 13 of Schedule 23 do not apply in respect of the board concerned and the schools governed by it.

(3) In their application to a board that has an alternative constitution under clause 4, the other clauses and any schedules of this Act relating to boards must be read subject to (and subject also to all modifications necessary to give effect to) clause 4 and to this clause.

Compare: 1989 No 80 s 98B

6 Actions of boards not affected by informality in membership

The powers of a board are not affected by—

(a) any vacancy in its membership; or

(b) the discovery of any error or defect in the election, appointment, or co-optation of any board member; or

(c) the fact that any elected, appointed, or co-opted board member acted as a board member while the board member was a person who may not

(under this Act or regulations made under this Act) become an elected, appointed, or co-opted board member; or

(d) the fact that a person continued acting as a board member after the person's office as a board member became vacant or (in the case of a person whose election as a board member has been declared invalid under section 170 or by a court) before the person's election was declared invalid.

Compare: 1989 No 80 s 98C

Combining and splitting boards

7 Boards may combine

(1) The Minister may, by notice in the *Gazette*, establish a single board (a **combined board**) to administer a number of schools or special institutions, with effect from a date specified in the notice.

(2) The Minister may establish a combined board if the restrictions in clause 9 are met and the Minister—

(a) is satisfied of the matters in subclause (3); or

(b) has reasonable cause to believe the circumstances in subclause (4) exist and has consulted—

(i) the boards concerned; and

(ii) for a State integrated school, the proprietor of that school.

(3) For the purposes of subclause (2)(a), the matters are that—

(a) each of the boards concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at its schools or special institutions about combining with the other boards; and

(b) the consultation that has taken place has been adequate in all the circumstances; and

(c) the proposed combined board is appropriate in all the circumstances.

(4) For the purposes of subclause (2)(b), the circumstances are that the Minister must have reasonable cause to believe that—

(a) there are serious problems with the governance of 1 or more of the schools or special institutions concerned; and

(b) those problems could be addressed by the combined board.

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

(6) Subject to subclause (7), this Act applies to a combined board as if—

(a) it had been in existence immediately before the day on which the notice establishing it was published; and

(b) every board member had resigned on that day.

(7) Until the day specified in the notice establishing a combined board,—

(a) the combined board has no powers, functions, duties, or rights; and

(b) the existing boards continue in existence as if the combined board had not been established.

(8) On the day specified in the notice establishing a combined board, all rights, assets, liabilities, and debts of the existing boards become rights, assets, liabilities, and debts of the combined board.

Compare: 1989 No 80 s 110

8 Minister may combine boards at establishment

(1) A Minister may, by notice in the *Gazette*, establish a combined board for 2 or more schools that are newly established under section 190.

(2) The combined board is the board of a newly established school for the purposes of clause 3.

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

Compare: 1989 No 80 s 110A

9 Restrictions on combining

(1) No board that administers a special institution may combine with a board that does not.

(2) No board that administers a State integrated school may combine with a board that does not.

(3) No board that administers a State integrated school may combine with any other board unless all the schools they administer have the same proprietors.

(4) A board of a designated character school may only combine with a board of another designated character school and only if both schools have substantially the same aims, purposes, and objectives.

(5) A board of a Kura Kaupapa Māori may only combine with another board of a Kura Kaupapa Māori.

Compare: 1989 No 80 s 111

10 Minister may split combined board

(1) If satisfied, after consulting the Education Review Office and the board concerned, that in all the circumstances it is appropriate for a combined board to be split, the Minister may, by notice in the *Gazette*, establish 2 or more boards for the schools or special institutions the combined board administers, with effect on a date specified in the notice.

(2) If any of the boards established by a notice under subclause (1) is a combined board, the notice must specify the schools or special institutions it is to administer.

(3) Subject to subclause (4) and clause 11, this Act applies to a board established by a notice under subclause (1) as if—

(a) the board had been in existence immediately before the day on which the notice was published; and

(b) every board member had resigned on that day.

(4) Until the day specified in a notice under subclause (1) establishing 2 or more boards,—

(a) the boards established have no powers, functions, duties, or rights; and

(b) the combined board they replace continues in existence as if they had not been established.

Compare: 1989 No 80 s 112

11 Splitting boards that were combined at establishment

(1) A Minister who, under clause 10(1), is splitting a board that was combined under clause 8 at establishment for 2 or more schools may designate 1 of the boards established under clause 10(1) as being identical to the board that was established under clause 8, except that it need not be a combined board.

(2) A board that is designated under subclause (1) is to be treated, for the purposes of clause 3, as if it were the board of a newly established school.

(3) This clause overrides clause 10(3)(b) and (4)(a).

Compare: 1989 No 80 s 112A

12 Property held in trust

(1) If any property is, on the day a notice under clause 10(1) is published, held in trust by the combined board of the schools or special institutions to which the notice relates, the following provisions apply:

(a) the board must, within 28 days of the day specified in the notice, notify Public Trust of the existence and nature of the trust and Public Trust must as soon as practicable notify the Secretary:

(b) Public Trust must take all reasonable steps to consult the board, within 70 days of the day specified in the notice, regarding—

(i) how the property should vest; and

(ii) the extent (if any) to which the trust should otherwise be modified:

(c) on the 70th day after the day specified in the notice, the property vests in Public Trust:

(d) as soon as practicable after becoming aware that the property has vested, Public Trust, after consulting the boards established by the notice, regarding how the property should vest and the extent (if any) to which the trust concerned should otherwise be modified, must devise and send to the Solicitor-General a scheme to modify the trust.

(2) If any property is, on the day a notice under clause 10(1) is published, held in trust for the combined board of the schools or special institutions to which the notice relates (otherwise than by the board), the following provisions apply:

(a) the person who holds the property must, within 28 days of the day specified in the notice, notify Public Trust of the existence and nature of the trust and Public Trust must as soon as practicable notify the Secretary:

(b) Public Trust must take all reasonable steps to consult the person, within 70 days of the day specified in the notice, regarding—

(i) which of the boards established by the notice the property (or any part of it) should be held for, and, if for more than 1, how; and

(ii) the extent (if any) to which the trust should otherwise be modified:

(c) on the 70th day after the day specified in the notice the property vests in Public Trust:

(d) as soon as practicable after becoming aware that the property has vested, Public Trust, after consulting the boards established by the notice, regarding—

(i) whether any or all of the property should be held for them and if so which of it, which of them, and in what proportions; and

(ii) the extent (if any) to which the trust should otherwise be modified,—

must devise and send to the Solicitor-General a scheme to modify the trust.

(3) If, on the day a notice under clause 10(1) is published, any trust (being a trust established by an enactment, instrument, or will, that requires or requests the board members to consult, notify, or act only with the approval or concurrence of a combined board of the schools or special institutions to which a notice under clause 10(1) relates) exists, the following provisions apply:

(a) the board members may apply to Public Trust for directions as to which boards established by the notice should act (jointly or severally) in place of the combined board and, if an application is received, Public Trust must devise and send to the Solicitor-General draft directions to the board members; and

(b) the board members may not take any action for which consultation, notification, approval, or concurrence is required or requested except in accordance with—

(i) directions approved under this clause; or

(ii) directions given by the Solicitor-General in circumstances that appear to constitute an emergency; or

(iii) the Charitable Trusts Act 1957.

(4) Within 90 days (or any longer period the Solicitor-General and Public Trust in any case, before the expiration of that period, agree) of being notified of a scheme or draft directions under this clause, the Solicitor-General may, by written notice to Public Trust,—

(a) approve the scheme or directions (as originally notified by Public Trust, or with amendments agreed by Public Trust); or

(b) suggest amendments to the scheme or directions; or

(c) direct that the scheme should not proceed, or that the directions should not be given and the matter should be dealt with under the Charitable Trusts Act 1957.

(5) If within 90 days (or any longer period agreed under subclause (4)) of being notified of a scheme or draft directions under this section, the Solicitor-General does not under that subclause approve the scheme or directions, or direct that the scheme or directions should not proceed, the Solicitor-General is to be treated as having approved the scheme or directions.

(6) If the Solicitor-General approves a scheme under this clause, Public Trust must, in accordance with it,—

(a) by notice in the *Gazette*, modify the trust concerned; and

(b) take all steps necessary to effect any necessary transfers of the property concerned.

(7) If the Solicitor-General approves any draft directions under this clause,—

(a) Public Trust must give them to the board members concerned; and

(b) the directions have effect according to their terms.

(8) Every scheme, draft direction, and suggested and agreed amendment under this clause must be in the form that, in the opinion of Public Trust or the Solicitor-General,—

(a) best gives effect to the intentions of the testator, settlor, or other person or body by whom or which the trust concerned was established; and

(b) subject to paragraph (a), effects the minimum change necessary to enable the trust concerned to operate satisfactorily in the light of—

(i) the splitting of the former combined board; and

(ii) the establishment of the new boards concerned; and

(iii) any transfers of property effected or to be effected.

(9) The reasonable costs of Public Trust in acting under this clause must be paid out of money appropriated by Parliament for the purpose.

Compare: 1989 No 80 s 113

13 Allocation of employees after combined board split

A notice under clause 10(1) must specify one of the boards it establishes as the residual employer of the employees of the combined board to which it relates, and—

(a) subject to paragraph (b), the people who were, immediately before the day specified in the notice, employees of the combined board on that day become employees of the board specified, and their service in the employment of the combined board is to be treated for all purposes as service in the employment of the board specified; and

(b) before that day, the Secretary may, by written notice to any employee of the combined board, specify one of the boards as the board by which the employee is to become employed, and in that case, if the employee is still employed by the combined board immediately before that day,—

(i) the employee on that day becomes an employee of the board specified; and

(ii) the employee's service in the employment of the combined board is to be treated for all purposes as service in the employment of the board specified.

Compare: 1989 No 80 s 114

14 Transfer of assets of split combined board

(1) Subject to clauses 12 and 13,—

(a) all rights, assets, liabilities, and debts that a combined board split by a notice under clause 10 had immediately before the day specified in the notice are to be treated as having become the rights, assets, liabilities, and debts of the boards established by the notice; and

(b) any property that, immediately before it became an asset of a board under this section, was subject to a trust, vests in the board subject to the trust.

(2) If any dispute arises as to whether any right, asset, liability, or debt has, under subclause (1), become a right, asset, liability, or debt of one board or another, the dispute must be referred to the Secretary, and—

(a) the Secretary must attempt by mediation to bring the parties to the dispute to an agreement; and

(b) if, in the Secretary's opinion, further mediation is unlikely to achieve agreement, the Secretary must determine the dispute, and the determination is to be final.

Compare: 1989 No 80 s 115

15 Each school must be represented on combined board

In an election for parent representatives on a combined board,—

(a) each candidate must be nominated in respect of 1 school or special institution the board administers; and

(b) the highest polling candidate nominated in respect of each school or special institution becomes a board member, regardless of the votes cast for the other candidates.

Compare: 1989 No 80 s 116

Schedule 23
Electing and co-opting board members to boards of State schools, term of office of board members, and eligibility

ss 123(b), 196(3), 198(6)

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1 Criteria for selecting co-opted and appointed board members

(1) For the purposes of subclause (2), it is desirable, as far as is reasonably practicable,—

(a) that every board should reflect—

(i) the ethnic diversity of the student body and the community of the school or special institution; and

(ii) the socio-economic diversity of the student body and the community of the school or special institution; and

(iii) the genders, sexualities, and sexes of the student body and the community of the school or special institution; and

(iv) the diversity of disabled students at the school and the school's or special institution's disability community; and

(v) the character of the school, or special institution, it administers; and

(vi) the character of the community of the school or special institution (whether geographical or otherwise) that the school or special institution serves; and

(b) that every board should have available from within its membership expertise and experience in management.

(2) A board or person, when co-opting or appointing board members, must have regard to subclause (1).

(3) For the purposes of subclause (1)(a)(i) to (iii) and (vi), **community of the school or special institution**—

(a) means—

(i) the parents, families, and whānau of the students of the school or special institution; and

(ii) the Māori community associated with the school or special institution; and

(b) includes any other person, or group of persons, whom the board considers is part of its community.

Compare: 1989 No 80 s 99

Schedule 23 clause 1(1)(a): replaced, on 23 August 2023, by section 39(1) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 23 clause 1(3): inserted, on 23 August 2023, by section 39(2) of the Education and Training Amendment Act 2023 (2023 No 45).

2 Limits on co-optation and appointment of board members

(1) A board may not co-opt a board member if the effect of the co-optation would be that the total number of board members co-opted by the board or appointed was equal to or greater than the total number of parent representatives.

(2) A board may not exercise its powers under section 121(1)(c) or (d) if doing so could result in the board having a number of parent representatives that was not greater than the total number of board members co-opted by the board or appointed.

(3) No more than 1 non-permanently appointed member of the board staff may be co-opted to the board at any one time.

Compare: 1989 No 80 s 100

Elections of board members

3 Elections of board members

(1) Before 1 September in every year, the board of a State school or of a special institution that is required to have a student representative must fix a day in September in that year for the holding of an election for a student representative.

(2) The board or institution to which subclause (1) applies must hold an election of any student representative on the day fixed for that purpose under subclause (1).

(3) In every election year, a board must hold 1 or more elections of other elected board members.

(4) Elections under subclause (3) must be held,—

(a) for a school that is not a distance school,—

(i) on a date fixed by the board that is within the range of dates for those elections in that election year that is specified by the Minister by notice in the *Gazette*; or

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

(b) for a distance school, on the second Tuesday in July, unless the board, before 1 April in that year, fixes an earlier date for the election (being a date after 1 April).

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

(6) Despite subclause (3), a board may not hold an election (or another election) under that subclause in the election year if—

(a) the first elections of board members for the board of a school established or integrated after the commencement of this clause are held after 30 April in the year before an election year and before 31 December in the election year; or

(b) elections under section 184 are held after 30 April in the year before an election year and before 31 December in the election year.

(7) Despite sections 119 to 122 and clauses 1 to 3 of Schedule 22, no person may both stand or vote in one of the elections and stand or vote in the other if there are to be held (under subclause (3) or section 184, or in respect of a newly established or integrated school or institution)—

(a) an election of 1 or more parent representatives on a board; and

(b) an election of 1 or more staff representatives on the board.

(8) The first elections for and first meetings of boards of schools and institutions established or integrated after the commencement of this Act must be held on days fixed by the Minister by notice in the *Gazette*.

(9) If the Minister approves an alternative constitution for a newly established school under clause 4 of Schedule 22, subclause (8) does not apply and the first elections (if any) for, and the first meeting of, the school's board must be held in accordance with a notice under that clause.

(10) The first elections (if any) for, and first meeting of, the board of a special institution (being a special institution that was established before the commencement of this clause but that had not had a first election or meeting before that commencement) must be held on a day or days specified by the Minister by notice in the *Gazette*.

(11) This clause is subject to clause 4 (which provides for the election of some parent representatives at the mid-point of an election cycle under this clause) and to clause 5 (which provides that elections are not to be held when a school is under notice of closure).

Compare: 1989 No 80 s 101

4 Staggered elections for parent representatives

(1) This clause and clause 6 apply to the election of board members who are parent representatives.

(2) A board may decide, in accordance with this clause, to adopt a staggered election cycle in which half the number of its parent representatives are elected at an election held at a mid-term election, and the remainder are elected at an election held in an election year.

(3) A board that has decided to adopt a staggered election cycle must—

(a) hold a mid-term election in the month that is 18 months after the month in which the election in the preceding election year was held; and

(b) conduct every mid-term election in accordance with this schedule and any regulations under this Act relating to the election of board members (modified as necessary to give effect to this clause and clause 6).

(4) If the board's decision under subclause (2) is made at a time when the next election due to be held is in an election year, the board must ensure that at that election the nomination forms and voting papers indicate which nominees are standing for 18 months and which are standing for 3 years.

(5) If the board's decision under subclause (2) is made within 18 months after an election in an election year, the board must decide which of its parent representatives is to stand down at the mid-term election; and that decision must be by consensus of the parent representatives or, if consensus cannot be reached, by ballot of all the parent representatives.

(6) A parent representative who, in accordance with subclause (5), is to stand down at a mid-term election goes out of office at the close of the day before the day on which the successor takes office following the election.

(7) A board that has a staggered election cycle may decide to revert to holding elections only in election years. In that case, at the next election held in an election year, all the parent representatives go out of office in accordance with clause 8(7).

(8) For the purposes of subclause (2), if there is an odd number of parent representatives on the board, **half the number of its parent representatives** means the highest whole number less than half the total number of parent representatives.

Compare: 1989 No 80 s 101A

5 Election not to be held when school under notice of closure

Nothing in this Act requires or permits a board or a special institution to hold an election for a student representative or other elected board member if the date for the election calculated in accordance with clause 3 or 4 is after the date of any notice in the *Gazette* that, in accordance with section 199(3), specifies a day for the school's closure.

Compare: 1989 No 80 s 101AB

6 Consultation requirements for staggered elections of parent representatives

(1) Every decision under clause 4(2) must be made by the board by resolution passed at a meeting of the board open to all parents of students enrolled at the school or schools administered by the board.

(2) Before making a decision under clause 4(2), a board must take reasonable steps to ensure that the parents of students enrolled at the school or schools administered by the board have reasonable notice of—

(a) the time, day, and place of the meeting of the board at which the decision is to be made; and

(b) the nature of the decision; and

(c) the fact that they have a right to attend the meeting.

Compare: 1989 No 80 s 101B

7 Provisions relating to board with staggered election cycle where commissioner appointed

(1) This clause applies if a commissioner has been appointed in place of a board that has, or has decided to have, a staggered election cycle, and the commissioner has appointed a date under section 184 for the holding of elections of board members for a new board.

(2) Despite clause 8, the nomination forms and voting forms for the election must show which nominees are standing only until the next election, and which are standing until the election after the next election.

(3) Despite clause 8, board members who are elected only until the next election go out of office at the close of the day before the day on which the successor takes office following the election.

(4) If the date that the commissioner has appointed under section 184 is a date that is within 6 months before the date on which an election is due to be held, the board does not have to hold an election on that date and this clause applies as if that election were not due to be held.

Compare: 1989 No 80 s 101C

Term of office of board members

8 Term of office

(1) Except as provided in this clause, elected board members take office 7 days after their election.

(2) Board members elected for a board replacing a commissioner take office when the commissioner's appointment ends.

(3) A board member may not be co-opted until the board has a vacancy for a co-opted board member; and a co-opted board member takes office when co-opted.

(4) A board member appointed when the board has a vacancy for a board member appointed by the body or person concerned takes office on appointment.

(5) Within 6 months before an appointed board member's term of office expires, the person or body by whom or which the board member was appointed (or the successor to that person or body) may appoint a board member to succeed that board member (or reappoint that board member), but—

(a) the newly appointed board member may not take office until the day on which elected board members take office under subclause (1); and

(b) if, on that day, the person or body concerned is no longer entitled to appoint a successor to the board member holding office when the newly appointed board member was appointed, the newly appointed board member's appointment is treated as void.

(6) A board member elected under clause 3(2) goes out of office 7 days after the day on which a further election under clause 3(2) is held at the school or schools concerned.

(7) All elected board members (other than a board member elected under clause 3(2)) holding office at the close of the day before the day on which board members take office under subclause (1) go out of office.

(8) The appointment or co-optation of a board member may be for a term not exceeding 3 years.

(9) If the first elections of board members for a board or elections under section 184 are held in an election year before 1 May, no board member goes out of office under subclause (6) or (7) in the election year.

(10) A board may, when co-opting a board member, specify a term of office for the board member, and if the board does so,—

(a) if the term expires before the board member goes out of office under subclause (7), the board member then goes out of office; but

(b) otherwise the board member goes out of office under that subclause.

(11) This clause is subject to clauses 4 and 12.

Compare: 1989 No 80 s 102

9 Certain persons ineligible to be board members

(1) The following persons may not become an elected, an appointed, or a co-opted board member:

(a) a person who is an undischarged bankrupt:

(b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body under the Companies Act 1993, or the Financial Markets Conduct Act 2013, or the Takeovers Act 1993:

(c) a person who is not capable of being a board member under clause 10(1):

(d) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:

(e) 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—

(i) competence to manage their own affairs in relation to their property; or

(ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare:

(f) 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:

(fa) a person who has been convicted of a specified offence identified in Schedule 2 of the Children's Act 2014, unless that person has obtained a pardon or been granted an exemption under subclause (5):

(g) a person who is not a New Zealand citizen and—

(i) to whom section 15 or 16 of the Immigration Act 2009 applies; or

(ii) who is obliged by or under that Act or any other enactment to leave New Zealand immediately by or within a specified time (being a time that, when specified, was less than 12 months); or

(iii) who is treated for the purposes of that Act as being unlawfully in New Zealand.

(2) Any permanently appointed member of the board staff may, if otherwise eligible for election, be elected as a staff representative, but no permanently appointed member of the board staff may be otherwise elected to the board or be appointed or co-opted onto the board.

(3) A non-permanently appointed member of the board staff may, if otherwise eligible, be elected, appointed, or co-opted onto the board.

(4) A person who has been appointed returning officer for an election of board members is not eligible to be nominated as a candidate in the election.

(5) The Secretary may, on application, grant an exemption under this subclause to a person described in subclause (1)(fa) that allows the person to serve as a board member if the Secretary is satisfied that the person would not pose an undue risk to the safety of children.

(6) The Secretary may, from time to time, audit an elected, appointed, or co-opted board member's continuing eligibility under subclause (1) to be a board member.

(7) For the purposes of subclause (6), the board member must permit the Secretary to obtain any relevant information to enable the Secretary to conduct the audit.

Compare: 1989 No 80 s 103

Schedule 23 clause 9(1)(fa): inserted, on 22 February 2024, by section 39(3) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 23 clause 9(5): inserted, on 22 February 2024, by section 39(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 23 clause 9(6): inserted, on 22 February 2024, by section 39(4) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 23 clause 9(7): inserted, on 22 February 2024, by section 39(4) of the Education and Training Amendment Act 2023 (2023 No 45).

10 Financial interests that disqualify persons from being board members

(1) A person is not capable of being a board member or a member of a committee of a board if the total of all payments made or to be made by or on behalf of the board in respect of all contracts made by it in which that person is concerned or interested exceeds in any financial year—

(a) the amount determined for the purpose by the Secretary, in consultation with the Auditor-General, *see* subclause (4A); or

(b) in the absence of an amount determined under paragraph (a), $25,000.

(2) For the purposes of subclause (1), a board member or a member of a committee of a board is to be treated as being concerned or interested in a contract made by a board with a company if—

(a) the board member owns, whether directly or through a nominee, 10% or more of the issued capital of the company or of any other company controlling that company; or

(b) the board member is the managing director or the general manager (by whatever names they are called) of the company.

(3) For the purposes of this clause, a company is to be treated as controlling another company if it owns 50% or more of the issued capital of that other company or is able to control the exercise of 50% or more of the total voting powers exercisable by all the members of that other company.

(4) Despite anything in this clause,—

(a) a person is not disqualified under this clause if the Secretary approves the contract at the request of the board, whether or not the contract is already entered into; and

(b) the Secretary may, by notice in the *Gazette*, issue guidelines setting out the basis on which applications for approval under paragraph (a) are to be considered.

(4A) A determination under subclause (1)(a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(5) In this clause,—

contract, in relation to a board,—

(a) means a contract made by any person directly with the board; and

(b) includes any relationship with the board that is intended to constitute a contract but is not an enforceable contract; but

(c) does not include any contract of service for the employment of any person as an officer or employee of the board

company means a company incorporated under the Companies Act 1993 or any former Companies Act or a society incorporated under the Industrial and Provident Societies Act 1908 or any former Industrial and Provident Societies Act

subcontract, in relation to any contract made by a board,—

(a) means a subcontract made with the contractor under that contract, or with another subcontractor, to do any act to which the head contract relates; and

(b) includes any subsidiary transaction relating to the contract or subcontract.

Compare: 1989 No 80 s 103A

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Schedule 23 clause 10(1)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 23 clause 10(4A): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

11 Requirements before appointment

Before a person is elected, co-opted, or appointed as a board member, the person must confirm to the board that the person is, to the best of their knowledge, eligible to be a board member, having regard to the grounds of ineligibility in clauses 9 and 10.

Compare: 1989 No 80 s 103B

Casual vacancies

12 When casual vacancies arise

(1) A board member's office becomes vacant when an elected, appointed, or co-opted board member—

(a) dies; or

(b) resigns by written notice to the board; or

(c) is absent from 3 consecutive board meetings without the prior leave of the board; or

(d) becomes a person who (in terms of clause 9(1)) may not become an elected, appointed, or co-opted board member; or

(e) is removed by the Minister under section 169(2); or

(f) fails to provide permission under clause 9(7) to enable the Secretary to obtain relevant information for the purpose of auditing the board member's continuing eligibility to be a board member.

(2) If a property order is made in respect of a board member under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders),—

(a) subclause (1)(d) does not apply to the board member owing only to the making of that order; but

(b) while the order remains in force, the board member is to be treated as having been granted leave of absence by the board and is not capable of acting as a board member during that period.

(3) When a board member elected by the board staff ceases to be a member of the board staff, the board member's office becomes vacant.

(4) A second board member's office becomes vacant on any day when—

(a) already 1 co-opted board member is a member of the board staff; and

(b) another co-opted board member becomes a member of the board staff.

(5) When the board of a State integrated school receives a written notice from the school's proprietors dismissing any board member appointed by them, the board member's office becomes vacant.

(6) When a board member elected by students ceases to be enrolled full-time at the school or special institution, the board member's office becomes vacant.

(7) An unfilled vacancy is a casual vacancy and is to be treated as having arisen on the day on which the elected board members take office if—

(a) at any election of board members fewer persons are elected than there are vacancies to be filled; and

(b) the board is not then dissolved.

Compare: 1989 No 80 s 104

Schedule 23 clause 12(1)(e): inserted, on 1 August 2022, by section 71 of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 23 clause 12(1)(f): inserted, on 22 February 2024, by section 39(5) of the Education and Training Amendment Act 2023 (2023 No 45).

13 Filling casual vacancies of elected board members

(1) Subject to subclauses (3) to (9), a casual vacancy for an elected board member must be filled by the election of a board member, in the same manner as that in which the vacating board member was elected, for the remainder of the vacating board member's term.

(2) *[Repealed]*

(3) Where a casual vacancy for an elected board member occurs during any period of 6 months commencing on 1 October in a year before an election year, a board may, not later than 28 days after it occurs, resolve not to fill it, and if it does so, the vacancy may not be filled.

(4) If a casual vacancy for an elected board member occurs at any other time, the board must resolve, within 8 weeks of the vacancy occurring, whether to—

(a) hold an election to fill the vacancy; or

(b) fill the vacancy by selection.

(5) If the board resolves to fill the vacancy by selection, it must, within 14 days of the resolution, give notice of the vacancy and of its proposal to fill the vacancy to its school community and the wider local community in the manner that best meets the needs of the school community and the wider community.

(6) A board may not resolve to fill a casual vacancy by selection if the effect would be that the number of elected parent representatives on the board is less than, or equal to, the number of parent representatives on the board who have not been elected.

(7) Despite resolving to fill a vacancy by selection, the board must hold an election to fill the vacancy if, within 28 days of the publication of the notice referred to in subclause (5), a total of at least 10% of the people entitled to vote in an election for board members advises the board, in writing, that they wish the vacancy to be filled by an election.

(8) An election to fill a casual vacancy for an elected board member must be held,—

(a) if the board resolved under subclause (4)(a) to hold an election, on the 15th Friday after the date on which the vacancy occurred, or on any earlier date fixed by the board at least 6 weeks before the election date; or

(b) if the board holds an election as a result of a request under subclause (7), on the tenth Friday after receiving the request, or on any earlier date fixed by the board at least 6 weeks before the election date.

(9) If the board resolved under subclause (4)(b) to fill a casual vacancy by selection and no request has been received under subclause (7) by the last date for lodging a request, the board must select a person within 6 weeks of that date, and the person selected takes office on the day of selection by the board.

(10) This Act applies to a board member selected under this clause to fill a casual vacancy of an elected board member as if the person had been elected, and every reference to an elected board member (except in subclause (6)) includes a reference to a board member so selected.

Compare: 1989 No 80 s 105

Schedule 23 clause 13(1): amended, on 23 August 2023, by section 39(6) of the Education and Training Amendment Act 2023 (2023 No 45).

Schedule 23 clause 13(2): repealed, on 23 August 2023, by section 39(7) of the Education and Training Amendment Act 2023 (2023 No 45).

14 Election or appointment of boards of continuing schools

(1) If a notice under section 206(5) provides that the board of the continuing school is to be a continuing board,—

(a) the board of the continuing school must, within 28 days after the date of that notice, co-opt at least 1 board member in respect of each of the merging schools so that each merging school is represented on the continuing board; and

(b) each of those co-opted board members holds office until the end of the interim period (unless replaced earlier); and

(c) clause 2 (which limits the co-optation and appointment of board members) does not apply to board members co-opted for an interim period.

(2) If a notice under section 206(5) provides that the board of the continuing school is to be an appointed board,—

(a) the notice must specify the constitution of the appointed board during the interim period, including how many board members (if any) the board may co-opt; and

(b) the Minister is not bound by section 119 in determining the constitution of the appointed board.

(3) When a board is appointed by the Minister,—

(a) the board members of the continuing school go out of office at the close of the day before the start of the interim period; and

(b) the board members of the appointed board take office on the date of the start of the interim period.

(4) A continuing board or an appointed board may make decisions and exercise powers during the interim period both for the purposes of the continuing school before the merger and for the purpose of providing and preparing for the continuing school after the merger has taken effect.

(5) Unless the board of the continuing school was (immediately before the merger took effect) a combined board established under clause 7 of Schedule 22, an appointed board or a continuing board that replaces it must hold elections for a new board on a day that is not later than 3 months after the date the merger takes effect.

(6) If an appointed board or a continuing board is required by subclause (5) to hold elections for a new board, all its elected, appointed, and co-opted board members holding office immediately before the election day go out of office on the close of the day before the date on which the newly elected board members are to take office.

(7) If the merger takes effect after 31 October in the year before an election year and before 31 December in that election year, a board that is required to hold an election under subclause (5) does not have to hold the election until the next election year.

Compare: 1989 No 80 s 156AB

15 Alternative constitutions for continuing schools

(1) If a notice under section 206(5) provides that the board of the continuing school is to have an alternative constitution approved under clause 4 of Schedule 22, the notice must specify the date on which the alternative constitution is to take effect.

(2) The date in subclause (1) must be before the date that the notice under section 206(1) takes effect.

(3) The board members of the continuing school go out of office at the close of the day before the date specified under subclause (1).

(4) A board established under clause 4 of Schedule 22 may make decisions and exercise powers both for the purposes of the continuing school before the merger and for the purpose of providing and preparing for the continuing school after the merger has taken effect.

Compare: 1989 No 80 s 156AC

Schedule 24
National student numbers

s 621

1 Interpretation

In this schedule, unless the context otherwise requires, **education provider** means—

(a) an early childhood service; and

(b) a registered school; and

(c) a tertiary education organisation; and

(d) an education provider that is in a jurisdiction described in section 455(2)(b) and that provides teaching and assessment of NCEA standards in that jurisdiction.

Schedule 24 clause 1(d): inserted, on 1 August 2022, by section 72(1) of the Education and Training Amendment Act 2022 (2022 No 38).

2 Purpose

The purpose of this schedule is to authorise the use by specified users of national student numbers for specific purposes, in order to facilitate the accurate use and transfer, by specified users, of information relating to individual students.

Compare: 1989 No 80 s 341

3 Assigning national student numbers

(1) The Secretary may cause to be assigned a national student number to—

(a) any student who—

(i) is enrolled with an education provider; or

(ii) has been granted an exemption under section 38 or 39:

(b) any child aged under 6 years if the Secretary has reasonable grounds to believe that the child—

(i) is unlikely to attend an early childhood service; and

(ii) is likely to benefit from attending the early childhood service.

(2) For the purposes of this clause, **student** includes a student who is studying in a jurisdiction described in section 455(2)(b) and who is receiving teaching and assessment of NCEA standards in that jurisdiction.

Compare: 1989 No 80 s 343(1), (1A)

Schedule 24 clause 3(2): inserted, on 1 August 2022, by section 72(2) of the Education and Training Amendment Act 2022 (2022 No 38).

4 Use of national student numbers

(1) The Secretary—

(a) may authorise or require a specified user to use national student numbers; and

(b) may subject an authorisation or requirement to any conditions that the Secretary thinks fit; and

(c) must restrict the use of national student numbers to 1 or more of the following purposes:

(i) monitoring and ensuring student enrolment and attendance:

(ii) encouraging attendance at early childhood services:

(iii) ensuring education providers and students receive appropriate resourcing:

(iiia) ensuring that employers and students receive appropriate resourcing and support for work-based training:

(iv) statistical purposes:

(v) research purposes:

(vi) ensuring that student educational records are accurately maintained:

(vii) establishing and maintaining student identities to support online learning.

(d) *[Repealed]*

(2) *[Repealed]*

(3) An authorisation, requirement, restriction, or condition may be made generally (by reference to a class of specified user) or specifically (by reference to a named specified user).

(4) A specified user must use national student numbers in accordance with the restrictions and conditions that apply.

(5) An authorisation, requirement, condition, or restriction under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named specified users.

(6) If an authorisation, requirement, condition, or restriction is not secondary legislation,—

(a) it must be made by notice in the *Gazette*; and

(b) it must take effect on the date specified in the notice, which date must be on or after the date on which the notice is gazetted.

Compare: 1989 No 80 s 344

Legislation Act 2019 requirements for secondary legislation made under this clause		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)

Disallowance It may be disallowed by the House of Representatives LA19 ss 115, 116
This note is not part of the Act.

Schedule 24 clause 4(1)(c)(iiia): inserted, on 1 August 2022, by section 72(3) of the Education and Training Amendment Act 2022 (2022 No 38).

Schedule 24 clause 4(1)(d): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 24 clause 4(2): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 24 clause 4(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Schedule 24 clause 4(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5 Person may use or disclose own national student number

Despite anything in this schedule, a person may use or disclose their own national student number for any purpose.

Compare: 1989 No 80 s 345

6 National student numbers may be provided to Government Statistician

Nothing in this schedule limits or prevents the provision of information (including national student numbers) to the Government Statistician for the production of official statistics or research under the Data and Statistics Act 2022.

Schedule 24 clause 6: inserted, on 1 September 2022, by section 107(1) of the Data and Statistics Act 2022 (2022 No 39).

Schedule 25
Directions relating to COVID-19

[Repealed]

s 654(3)

Schedule 25: repealed, on 1 January 2023, by section 669(1)(e).

1 Application and purpose of schedule

[Repealed]

Schedule 25 clause 1: repealed, on 1 January 2023, by section 669(1)(e).

2 Interpretation

[Repealed]

Schedule 25 clause 2: repealed, on 1 January 2023, by section 669(1)(e).

3 Power for Secretary to direct education entities in relation to COVID-19 measures

[Repealed]

Schedule 25 clause 3: repealed, on 1 January 2023, by section 669(1)(e).

4 Effect of directions

[Repealed]

Schedule 25 clause 4: repealed, on 1 January 2023, by section 669(1)(e).

5 Expiry of directions

[Repealed]

Schedule 25 clause 5: repealed, on 1 January 2023, by section 669(1)(e).

6 Academic freedom unaffected

[Repealed]

Schedule 25 clause 6: repealed, on 1 January 2023, by section 669(1)(e).

Schedule 26
Consequential amendments and revocations

ss 668, 669(4)

Part 1
Amendments to Acts that come into force on day after date of Royal assent

Schedule 26 Part 1 heading: amended, on 16 December 2021, by section 14 of the Education and Training Amendment Act 2021 (2021 No 58).

Accident Compensation Act 2001 (2001 No 49)

In section 6(1), definition of **place of education**, replace paragraph (a) with:

(a) means—

(i) a composite school or a secondary school as defined by section 10(1) of the Education and Training Act 2020 or a private school registered under section 214 of that Act; and

(ii) an institution as defined by section 10(1) of that Act; and

(iii) a registered establishment as defined by section 10(1) of that Act; and

In section 11(1)(b), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 281(1)(d), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In Schedule 1, clause 12, replace the definition of **educational participation** with:

educational participation means participation within the claimant's school day or period of attendance at an early childhood service by a claimant who is—

(a) entitled to free enrolment and free education under the Education and Training Act 2020 and is—

(i) enrolled at a registered school within the meaning of that Act; or

(ii) exempted under section 38 or 41 of that Act from the requirement to be enrolled; or

(iii) exempted under section 44 (but not section 44(1)(c)) of that Act from attending a school; or

(b) attending a licensed early childhood service within the meaning of section 10(1) of that Act; or

(c) enrolled at a State school or specialist school under an agreement to which section 37 of that Act applies

Affiliate Te Arawa Iwi and Hapu Claims Settlement Act 2008 (2008 No 98)

Replace section 16(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Building Act 2004 (2004 No 72)

Replace section 133AE(1)(d) with:

(d) a building that is regularly occupied by at least 20 people and that is used as any of the following:

(i) an early childhood education and care centre licensed under Part 2 of the Education and Training Act 2020:

(ii) a registered school or an integrated school (within the meaning of the Education and Training Act 2020):

(iii) a private training establishment registered under subpart 5 of Part 4 of the Education and Training Act 2020:

(iv) an institution established under section 268 of the Education and Training Act 2020:

Care and Support Workers (Pay Equity) Settlement Act 2017 (2017 No 24)

In section 5, definition of **level 2 qualification**, paragraph (b), definition of **level 3 qualification**, paragraph (b), and definition of **level 4 qualification**, paragraph (b), replace "(as that term is defined in section 477 of the Education Act 1989)" with "(as defined in section 10(1) of the Education and Training Act 2020)".

In section 5, definition of **NZQA**, replace "established under Part 20 of the Education Act 1989" with "continued by section 430 of the Education and Training Act 2020".

Central North Island Forests Land Collective Settlement Act 2008 (2008 No 99)

Replace section 30(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Child Support Act 1991 (1991 No 142)

In section 5(2)(a), replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Children's Act 2014 (2014 No 40)

In section 5(1), definition of **children's agencies**, paragraph (b), replace "Education Act 1989" with "Education and Training Act 2020".

In section 15(1), replace the definition of **school board** with:

school board means a board or body that is, or 1 or more managers who are,—

(a) a board as defined in section 10(1) of the Education and Training Act 2020; or

Children's Act 2014 (2014 No 40)—*continued*

(b) the manager or managers of a private school that is registered under section 214 of that Act.

In Schedule 1, items (25) and (31A), replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 1, items (26) and (30), replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 1, item (29), replace "sections 20 and 25 of the Education Act 1989" with "sections 35 and 36 of the Education and Training Act 2020".

Climate Change Response Act 2002 (2002 No 40)

In section 5ZW(8)(d), delete "of trustees".

Contract and Commercial Law Act 2017 (2017 No 5)

In Schedule 5, Part 4, paragraph (q), replace "established under the Education Act 1989" with "appointed under the Education and Training Act 2020".

Copyright Act 1994 (1994 No 143)

In section 2(1), replace the definition of **educational establishment** with:

educational establishment means—

(a) a school to which the Education and Training Act 2020 applies:

(b) a specialist school or special service established under section 197 of the Education and Training Act 2020:

(c) an early childhood service within the meaning of section 10(1) of the Education and Training Act 2020:

(d) any of the following within the meaning of section 10(1) of the Education and Training Act 2020 that is not conducted for profit:

(i) an institution:

(ii) a private training establishment:

(iii) a government training establishment:

(e) any body, or class of body, that is not conducted for profit and that is approved by the Minister of Education as an educational establishment for the purposes of this Act by notice published in the *Gazette*

In section 117(4), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Corrections Act 2004 (2004 No 50)

In section 78(2)(a), replace "Education Act 1989" with "Education and Training Act 2020".

Corrections Act 2004 (2004 No 50)—*continued*

In section 180(1)(c), replace "section 307B of the Education Act 1989" with "clause 6 of Schedule 9 of the Education and Training Act 2020".

In section 180(2)(b), replace "Part 25 of the Education Act 1989, in relation to information requested for the purposes of the operation of section 307B of that Act," with "Schedule 9 of the Education and Training Act 2020, in relation to information requested for the purposes of clause 6 of Schedule 9 of that Act,".

In section 180C(2), definition of **allowance**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Crimes Act 1961 (1961 No 43)

In section 99, definition of **official**, replace "the State Sector Act 1988" with "section 10(7) of the Education and Training Act 2020".

In section 307A(2)(c), delete "of trustees".

Crown Entities Act 2004 (2004 No 115)

Replace section 5 with:

5 Application of this Act to school boards

(1) Schedule 3 applies to school boards and their Crown entity subsidiaries.

(2) Otherwise this Act does not apply to school boards and their Crown entity subsidiaries.

In section 6(1), delete "of this Act and Schedule 13A of the Education Act 1989".

In section 6(1A), delete "of this Act and Part 2 of Schedule 13A of the Education Act 1989".

Replace section 7(1)(d) and (e) with:

(d) school boards:

What are they?	Definition
These are boards that are bodies corporate constituted under the Education and Training Act 2020 (including distance schools)	A body that is a board constituted under subpart 5 of Part 3 of the Education and Training Act 2020 and includes a board of a school designated as a distance school by the Minister of Education under section 196 of that Act

(e) tertiary education institutions:

What are they?	Definition
These are tertiary institutions (for example, universities, New Zealand Institute of Skills and Technology, or wānanga) that are bodies corporate established or continued under the Education and Training Act 2020	An institution established or continued under subparts 3 or 4 of Part 4 of the Education and Training Act 2020

In section 8(a) and 9(2), delete "of trustees".

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

In section 10(1), definition of **board**, paragraph (e), delete "of trustees".

In section 10(1), definition of **entity's Act**, replace paragraph (d) with:

(d) in relation to a school board or a tertiary education institution, the Education and Training Act 2020

In section 10(1), definition of **member**, replace paragraph (e) with:

(e) means, in relation to a school board, a member of the board; and

In section 10(1), replace the definition of **school board of trustees** with:

school board has the meaning set out in section 7(1)(d)

In sections 12(6), 107(2), and 135(1)(a)(iii), delete "of trustees".

In section 136(1), definition of **financial year**, replace paragraph (a) with:

(a) in relation to a school board or a tertiary education institution, an academic year as defined in section 10(1) of the Education and Training Act 2020; and

In the heading to section 157, delete "**of trustees**".

In section 157(1), delete "of trustees".

In the heading to Schedule 3, delete "**of trustees**".

In Schedule 4, item relating to section 154, replace ", as amended by the Education Act 1989 section 220(2)–(2B)" with ", as modified by the Education and Training Act 2020, section 306(2)–(5)".

In Schedule 4, item relating to section 155, replace "Education Act 1989, section 220(2AA)(a)" with "Education and Training Act 2020, section 306(3)(a)".

In Schedule 4, item relating to section 156, replace "Education Act 1989, section 220(2B)" with "Education and Training Act 2020, section 306(5)".

In Schedule 4, item relating to section 156A, replace "Education Act 1989, section 220(2AA)(b)" with "Education and Training Act 2020, section 306(3)(b)".

In Schedule 4, items relating to section 220, replace "Section 220 Education Act 1989" with "Section 306 Education and Training Act 2020".

Customs and Excise Act 2018 (2018 No 4)

In section 308(6), definition of **benefit**, paragraph (d), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 314(5), definition of **benefit**, paragraph (d), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Dilworth Trustees Empowering Act 1983 (1983 No 3 (P))

In section 3, replace "Education Act 1964" with "Education and Training Act 2020".

Electoral Act 1993 (1993 No 87)

In section 3(1), definition of **public servant**, paragraph (b)(i), replace "Education service as defined in the State Sector Act 1988" with "education service as defined in section 10(7) of the Education and Training Act 2020".

In section 52(5), replace "staff of a university or a university college, or the New Zealand Institute of Skills and Technology (**NZIST**) or an NZIST subsidiary that provides education or training (or both), or a wananga, community college, or teachers college may continue to teach or supervise the studies of students at that university, or university college, NZIST, an NZIST subsidiary, a wananga, a community college, or a teachers college" with "staff of an institution (as defined in the Education and Training Act 2020) may continue to teach or supervise the studies of students at that institution".

Employment Relations Act 2000 (2000 No 24)

In section 69L(2), replace "section 77HA of the State Sector Act 1988" with "section 605 of the Education and Training Act 2020".

In section 86A(4)(c), replace "section 74AC of the State Sector Act 1988" with "section 589 of the Education and Training Act 2020".

In section 137(1)(a)(v), replace ", 58, 77A, and 77D" with "and 58".

In section 137(1)(a)(vi), replace "Parts 6 and 7" with "Part 6".

After section 137(1)(a)(x), insert:

> (xi) Part 3 and sections 589 and 600 of the Education and Training Act 2020; or

In section 194(1), replace "Parts 5, 6, 7, or 7A of the State Sector Act 1988" with "Parts 5 and 6 of the State Sector Act 1988 or subpart 4 of Part 6 of the Education and Training Act 2020".

In section 194(3), after "State Sector Act 1988", insert "or the Education and Training Act 2020".

Equal Pay Act 1972 (1972 No 118)

In section 2(1), definition of **employee**, repeal paragraph (e).

Estate and Gift Duties Act 1968 (1968 No 35)

In section 73(2)(jb), replace "board of trustees that is constituted under Part 9 of the Education Act 1989" with "board that is constituted under subpart 5 of Part 3 of the Education and Training Act 2020".

In section 73(2)(jc), replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

Family Violence Act 2018 (2018 No 46)

In section 19, definition of **licensed early childhood service**, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 19, replace the definition of **school board** with:

> **school board** means a board or body that is, or 1 or more managers who are,—
>
> (a) a board as defined in section 10(1) of the Education and Training Act 2020; or
>
> (b) the manager or managers of a private school that is registered under section 214 of that Act

In section 19, definition of **social services practitioner**, paragraph (a), replace "Education Act 1989" with "Education and Training Act 2020".

Finance Act (No 2) 1992 (1992 No 127)

In section 5(1), definition of **the training Minister**, replace "Part 21 of the Education Act 1989" with "subpart 5 of Part 5 of the Education and Training Act 2020".

In section 5(7), replace "Part 21 of the Education Act 1989" with "subpart 5 of Part 5 of the Education and Training Act 2020".

Financial Advisers Act 2008 (2008 No 91)

In section 5, repeal the definition of **college of education**.

In section 5, repeal the definition of **general education system**.

In section 5, replace the definition of **lecturer** with:

> **lecturer** means a person who is employed by a university, the New Zealand Institute of Skills and Technology (**NZIST**), or an NZIST subsidiary to teach or instruct students of the university, NZIST, or NZIST subsidiary

In section 5, definition of **teaching position**, replace "section 120 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 5, definition of **NZIST**, replace "established by section 222A of the Education Act 1989" with "continued by section 314 of the Education and Training Act 2020".

In section 5, definition of **university**, replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Fire and Emergency New Zealand Act 2017 (2017 No 17)

In section 75(3), replace "section 310 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Food Act 2014 (2014 No 32)

In section 368(3)(g), replace "Education Act 1989" with "Education and Training Act 2020".

Goods and Services Tax Act 1985 (1985 No 141)

In section 78B(2A)(aa)(ia) and (b)(i), replace "section 236 of the Education Act 1989" with "section 387 of the Education and Training Act 2020".

In section 78B(2B)(a), replace "section 236 of the Education Act 1989" with "section 387 of the Education and Training Act 2020".

Government Superannuation Fund Act 1956 (1956 No 47)

In section 2(1), definition of **controlling authority**, paragraph (ca), replace "established under Part 20 of the Education Act 1989" with "continued by section 430 of the Education and Training Act 2020".

In section 2(1), definition of **controlling authority**, paragraph (cc), replace "established under Part 13A of the Education Act 1989" with "continued by section 401 of the Education and Training Act 2020,".

In section 2(1), definition of **education service**, replace "section 2 of the State Sector Act 1988" with "section 10(7) of the Education and Training Act 2020".

Harmful Digital Communications Act 2015 (2015 No 63)

In section 4, definition of **professional leader**, replace "section 120 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 4, definition of **registered school**, replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Health Act 1956 (1956 No 65)

In section 2(1), definition of **educational institution**, paragraph (b), replace "section 310(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Replace section 125(1) with:

(1) In this section,—

early childhood education and care centre and **State school** have the meanings given in section 10(1) of the Education and Training Act 2020

private school means a school registered under section 214 of the Education and Training Act 2020.

In section 125(2), replace "public school" with "State school".

Health and Safety at Work Act 2015 (2015 No 70)

Replace section 52(2)(d) with:

(d) a member of a school board appointed or elected under the Education and Training Act 2020.

In section 52(3), replace the definition of **board** and **trustee** with:

board, in relation to a school, has the same meaning as in section 10(1) of the Education and Training Act 2020

Heretaunga Tamatea Claims Settlement Act 2018 (2018 No 14)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 105(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Hineuru Claims Settlement Act 2016 (2016 No 33)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 115(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Human Rights Act 1993 (1993 No 82)

In section 28(2)(a) and (b), replace "section 464 of the Education Act 1989" with "clause 47 of Schedule 6 of the Education and Training Act 2020".

Immigration Act 2009 (2009 No 51)

In section 4, definition of **compulsory education**, replace paragraph (a) with:

(a) provided at any primary school, intermediate school, composite school, secondary school, or specialist school (within the meaning of the Education and Training Act 2020), whether at a State school, a private school, or an integrated school (within the meaning of section 10(1) of that Act); and

In section 4, definition of **course of study**, replace paragraph (a)(i) with:

(i) any course of tuition or instruction for people entitled to free enrolment and education under section 33 of the Education and Training Act 2020, conducted by any primary school, intermediate school, composite school, secondary school, or specialist school, whether at a State school, a private school, or an integrated school (within the meaning of section 10(1) of that Act); and

In section 4, definition of **education provider**, replace paragraphs (a) and (b) with:

(a) in relation to any institution controlled by a board constituted under subpart 5 of Part 3 of the Education and Training Act 2020, means that board:

(b) in relation to any institution controlled by the chief executive of the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Education and Training Act 2020, means that chief executive:

In section 21(b), replace "Education Act 1989" with "Education and Training Act 2020".

Income Tax Act 2007 (2007 No 97)

In section CF 1(2), definition of **education grant**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section CW 36, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Replace section CW 55BB(1)(b) with:

> (b) younger than 18, and attends a registered school as defined in section 10(1) of the Education and Training Act 2020.

In section LD 3(2)(bb), replace "Board of Trustees that is constituted under Part 9 of the Education Act 1989" with "board that is constituted under subpart 5 of Part 3 of the Education and Training Act 2020".

In section MA 8, definition of **social assistance payment**, paragraph (d), replace "section 193 of the Education Act 1964, section 303 of the Education Act 1989," with "section 645 of the Education and Training Act 2020".

Replace section MD 8(b) with:

> (b) a basic grant and an independent circumstances grant made under regulations made under section 645 of the Education and Training Act 2020 or an enactment substituted for that section; or

In section MX 2(c)(i), replace "Education Act 1989" with "Education and Training Act 2020".

In section RD 5(6)(c), replace "section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections" with "section 645 of the Education and Training Act 2020 or an enactment substituted for that section".

In section RD 11(3), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section YA 1, definition of **specified living allowance**, paragraph (d), replace "section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections" with "section 645 of the Education and Training Act 2020 or an enactment substituted for that section".

In section YA 1, definition of **tertiary education institution**, replace paragraph (a) with:

> (a) established or continued under subpart 3 or 4 of Part 4 of the Education and Training Act 2020 and has not been disestablished under that Act; and

Intelligence and Security Act 2017 (2017 No 10)

In section 135(b), replace "section 343 of the Education Act 1989" with "clause 3 of Schedule 24 of the Education and Training Act 2020".

Iwi and Hapū of Te Rohe o Te Wairoa Claims Settlement Act 2018 (2018 No 28)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 105(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Kitchener Memorial Scholarship Trust Act 1941 (1941 No 20)

In section 4(1), replace "(established by section 240(1) of the Education Act 1989)" with "(continued by section 311(1) of the Education and Training Act 2020)".

In section 7(3), replace "Education Act 1914" with "Education and Training Act 2020".

Legislation Act 2012 (2012 No 119)

In section 36C(2), definition of **central government entity**, paragraph (b), delete "of trustees".

In Schedule 2, replace the items relating to the Education Act 1989 with:

Education and Training Act 2020	10(2)
Education and Training Act 2020	382(1)

Legislation Act 2019 (2019 No 58)

In section 77, definition of **relevant central government entity**, paragraph (b), delete "of trustees".

In Schedule 4, replace the items relating to the Education Act 1989 with:

Education and Training Act 2020	10(2)
Education and Training Act 2020	382(1)

Lincoln University Act 1961 (1961 No 52)

In section 2(1), definition of **assisted student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **exempt student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **foreign student**.

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

Lincoln University Act 1961 (1961 No 52)—*continued*

international student means a person who is not a New Zealand citizen and is—

(a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or

(b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or

(c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(3), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

Local Authorities (Members' Interests) Act 1968 (1968 No 147)

In Schedule 1, Part 1, repeal the items relating to education boards, governing bodies of community colleges, governing bodies of teachers' colleges, and governing bodies of technical institutes.

In Schedule 1, Part 1, repeal the item relating to secondary schools councils.

In Schedule 1, Part 2, repeal the item relating to the University Grants Committee.

Local Government Act 2002 (2002 No 84)

In section 205(b), replace "Part 12 of the Education Act 1989" with "subpart 6 of Part 3 of the Education and Training Act 2020".

In section 205(b)(i), delete "or section 70B of the Education Act 1989".

Local Government Official Information and Meetings Act 1987 (1987 No 174)

Replace section 46(7) with:

(7) Nothing in subsections (1) to (6) applies to a board constituted under subpart 5 of Part 3 of the Education and Training Act 2020, but every board must take all reasonable steps to ensure that parents (within the meaning of that Act) of students enrolled at schools that the board administers can readily find out, within a reasonable time before those meetings, where and when meetings of the board are to be held.

In Schedule 2, Part 1, replace the item relating to boards of trustees with:

Boards constituted under subpart 5 of Part 3 of the Education and Training Act 2020

In Schedule 2, Part 1, item relating to councils of institutions, replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In Schedule 2, Part 2, item relating to New Zealand Institute of Skills and Technology, replace "established under Part 15A of the Education Act 1989" with "continued by section 314 of the Education and Training Act 2020".

Local Government (Rating) Act 2002 (2002 No 6)

In section 26(c)(i), replace "Part 8 of the Education Act 1989" with "Part 6 of the Education and Training Act 2020".

In Schedule 1, Part 1, replace clause 6 with:

6 Land owned or used by, and for the purposes of, any of the following as defined in section 10(1) of the Education and Training Act 2020:

(a) a State school:

(b) a State integrated school:

(c) a specialist school:

(d) a special institution:

(e) an early childhood education and care centre, except an early childhood education and care centre that operates for profit:

(f) a private school, except a registered school that operates for profit:

(g) an institution.

Maori Fisheries Act 2004 (2004 No 78)

In section 5, replace the definition of **wananga** with:

wānanga has the same meaning as in section 10(1) of the Education and Training Act 2020

In section 83(b)(iii)(A) and (B) and (iv), replace "wananga," with "wānanga,".

Maori Soldiers Trust Act 1957 (1957 No 29)

In section 8(5), replace "Director of Education" with "Secretary for Education".

Maraeroa A and B Blocks Claims Settlement Act 2012 (2012 No 52)

Replace section 16(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Massey University Act 1963 (1963 No 7)

In section 2(1), definition of **assisted student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **exempt student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **foreign student**.

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

Massey University Act 1963 (1963 No 7)—*continued*

international student means a person who is not a New Zealand citizen and is—

(a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or

(b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or

(c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(4), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

Maungaharuru-Tangitū Hapū Claims Settlement Act 2014 (2014 No 12)

Replace section 16(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 129(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Methodist Charitable and Educational Trusts Act 1911 (1911 No 1 (L))

In section 32(1), replace "the curricula and syllabuses prescribed by the Education Act 1964 and regulations made thereunder" with "the foundation curriculum policy statements and the national curriculum statements issued under section 90 of the Education and Training Act 2020".

Music Teachers Act 1981 (1981 No 3)

In section 2, repeal the definition of **Director-General**.

In section 2, insert in its appropriate alphabetical order:

Secretary has the same meaning as in section 10(1) of the Education and Training Act 2020

In section 30, replace "Director-General" with "Secretary".

New Zealand Superannuation and Veteran's Pension Legislation Amendment Act 2020 (2020 No 36)

In section 45(2), new section RD 11(3B) of the Income Tax Act 2007, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 48, new section 24B(3B) of the Tax Administration Act 1994, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (2014 No 52)

Replace section 13(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 117(2), definition of **tertiary education institution**, replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 117(2), replace the definition of **Unitec** with:

Unitec means Unitec New Zealand Limited.

In section 122(4)(a), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

In section 128(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngaa Rauru Kiitahi Claims Settlement Act 2005 (2005 No 84)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97)

In section 8, definition of **memorials**, replace "Education Act 1989" with "Education and Training Act 2020".

In section 48(1), definition of **relevant land**, paragraph (c)(iii), replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 50(c)(i), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

In section 54(a), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

Replace section 463(d) with:

(d) sections 568 to 570 of the Education and Training Act 2020:

Ngāi Tai ki Tāmaki Claims Settlement Act 2018 (2018 No 18)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 118(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55)

Replace section 15(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Ngai Tāmanuhiri Claims Settlement Act 2012 (2012 No 55)—*continued*

In section 94(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

NgāiTakoto Claims Settlement Act 2015 (2015 No 78)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 161(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāruahine Claims Settlement Act 2016 (2016 No 93)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 106(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 120(5)(a), replace "section 207(4)" with "section 564(3)".

In section 120(5)(a), replace "Education Act 1989" with "Education and Training Act 2020 in each place".

Ngāti Apa ki te Rā Tō, Ngāti Kuia, and Rangitāne o Wairau Claims Settlement Act 2014 (2014 No 19)

Replace section 24(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 169(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 182(4)(a), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

Ngāti Apa (North Island) Claims Settlement Act 2010 (2010 No 129)

Replace section 15(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Awa Claims Settlement Act 2005 (2005 No 28)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Hauā Claims Settlement Act 2014 (2014 No 75)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Hauā Claims Settlement Act 2014 (2014 No 75)—*continued*

In section 116(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Kōata, Ngāti Rārua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (2014 No 20)

Replace section 27(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 189(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 202(4)(a), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

Ngāti Koroki Kahukura Claims Settlement Act 2014 (2014 No 74)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 113(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Kuri Claims Settlement Act 2015 (2015 No 76)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 26(2) and (3), delete "of trustees".

In section 160(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Mākino Claims Settlement Act 2012 (2012 No 53)

Replace section 13(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 103(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Manawa Claims Settlement Act 2012 (2012 No 27)

Replace section 15(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90)

Replace section 16(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Manuhiri Claims Settlement Act 2012 (2012 No 90)—*continued*

In section 120(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Mutunga Claims Settlement Act 2006 (2006 No 61)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Pāhauwera Treaty Claims Settlement Act 2012 (2012 No 30)

Replace section 16(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 103(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngati Porou Claims Settlement Act 2012 (2012 No 31)

Replace section 15(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 106(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Pūkenga Claims Settlement Act 2017 (2017 No 39)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 95(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Rangi Claims Settlement Act 2019 (2019 No 40)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 156(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 171(5)(a), replace "section 207(4)" with "section 564(3)".

In section 171(5)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

Ngāti Rangiteaorere Claims Settlement Act 2014 (2014 No 13)

Replace section 18(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 70(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Rangiwewehi Claims Settlement Act 2014 (2014 No 14)

Replace section 18(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 113(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngati Ruanui Claims Settlement Act 2003 (2003 No 20)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngati Tama Claims Settlement Act 2003 (2003 No 126)

Replace section 14(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngati Tamaoho Claims Settlement Act 2018 (2018 No 19)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Ngati Toa Rangatira Claims Settlement Act 2014 (2014 No 17)

Replace section 18(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 191(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 206(4)(a), replace "section 207(4) of the Education Act 1989" with "section 564(3) of the Education and Training Act 2020".

Ngāti Tūrangitukua Claims Settlement Act 1999 (1999 No 118)

Replace section 11(1)(d) with:

(d) sections 568 to 570 of the Education and Training Act 2020; or

Ngāti Tuwharetoa (Bay of Plenty) Claims Settlement Act 2005 (2005 No 72)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 142(2)(c), replace "Wairiki Bay of Plenty Polytechnic Limited" with "Toi Ohomai Institute of Technology Limited".

Ngāti Tūwharetoa Claims Settlement Act 2018 (2018 No 55)—*continued*

In section 142(4), definition of **Part No 2 playing fields/Wairiki Bay of Plenty Polytechnic Campus, Horomatangi Street, Taupo**, replace "**Wairiki Bay of Plenty Polytechnic**" with "**Toi Ohomai Institute of Technology Limited**".

In section 149(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Ngāti Whare Claims Settlement Act 2012 (2012 No 28)

Replace section 15(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngāti Whātua o Kaipara Claims Settlement Act 2013 (2013 No 37)

Replace section 16(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 105(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 119(4)(a), replace "section 207(4)" with "section 564(3)".

In section 119(4)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

Ngāti Whātua Ōrākei Claims Settlement Act 2012 (2012 No 91)

Replace section 15(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Ngatikahu ki Whangaroa Claims Settlement Act 2017 (2017 No 41)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Official Information Act 1982 (1982 No 156)

In Schedule 1, replace the item relating to board of trustees with:

Boards constituted under subpart 5 of Part 3 of the Education and Training Act 2020

In Schedule 1, repeal the item relating to education authorities.

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, replace the item relating to boards of trustees with:

Boards constituted under subpart 5 of Part 3 of the Education and Training Act 2020

In Schedule 1, Part 2, item relating to institutions, replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In Schedule 1, Part 2, repeal the item relating to a workforce development council.

In Schedule 1, Part 2, insert in their appropriate alphabetical order:

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

Dispute resolution panels established under subpart 9 of Part 3 of the Education and Training Act 2020

New Zealand Institute of Skills and Technology

Workforce development councils established under section 363 of the Education and Training Act 2020

Oranga Tamariki Act 1989 (1989 No 24)

In section 2(1), definition of **child welfare and protection agency**, paragraph (l), replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 66Q(5), replace "section 344(2) of the Education Act 1989" with "clause 4(1)(c) of Schedule 24 of the Education and Training Act 2020".

Overseas Investment Act 2005 (2005 No 82)

In section 6(1), definition of **long-term accommodation facility**, paragraph (a)(ii), replace "section 2 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Parental Leave and Employment Protection Act 1987 (1987 No 129)

In section 2AC(1), replace "board of trustees" with "board".

Replace section 2AC(2) with:

(2) In subsection (1),—

board means a board constituted under subpart 5 of Part 3 of the Education and Training Act 2020

integrated school has the same meaning as State integrated school in section 10(1) of the Education and Training Act 2020

State school and **teacher** have the same meanings as in section 10(1) of the Education and Training Act 2020.

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)

In section 157(3), replace "section 479 of the Education Act 1989" with "section 363 of the Education and Training Act 2020".

Port Nicholson Block (Taranaki Whānui ki Te Upoko o Te Ika) Claims Settlement Act 2009 (2009 No 26)

Replace section 12(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 102(b), replace "section 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Pouakani Claims Settlement Act 2000 (2000 No 90)

Replace section 14(2)(d) with:

> (d) sections 568 to 570 of the Education and Training Act 2020:

Privacy Act 1993 (1993 No 28)

In section 97, definition of **specified agency**, replace paragraph (j) with:

> (j) a tertiary education organisation, a secondary school, or a private training establishment (as those terms are defined in section 10(1) of the Education and Training Act 2020) to which clause 8 of Schedule 9 of that Act applies, as notified to the Commissioner by the department for the time being responsible for the administration of the Social Security Act 2018:

In section 97, definition of **specified agency**, paragraph (l), replace "Part 32 of the Education Act 1989" with "section 474 of the Education and Training Act 2020".

In Schedule 3, replace the item relating to the Education Act 1989 with:

Education and Training Act 2020	clauses 7 and 8 of Schedule 9

Privacy Act 2020 (2020 No 31)

In Schedule 5, replace the item relating to the Education Act 1989 with:

Education and Training Act 2020	clause 9 of Schedule 3 and clauses 7, 8, and 9 of Schedule 9

In Schedule 7, repeal the items relating to the Education Act 1989.

In Schedule 9, Part 1, repeal the items relating to the Education Act 1989.

Prohibition of Gang Insignia in Government Premises Act 2013 (2013 No 56)

In section 4, replace the definition of **integrated school** with:

> **integrated school** has the same meaning as **State integrated school** in section 10(1) of the Education and Training Act 2020

In section 4, definition of **school**, paragraphs (d) and (e), replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 4, definition of **State school**, replace "section 145(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Public and Community Housing Management Act 1992 (1992 No 76)

In section 2(1), definition of **study grant**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 66, definition of **benefit**, paragraph (d), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Public Audit Act 2001 (2001 No 10)

In Schedule 1, item relating to educational bodies, replace "Education Act 1989" with "Education and Training Act 2020".

In Schedule 2, repeal the item relating to workforce development councils.

In Schedule 2, insert in its appropriate alphabetical order:

Workforce development councils established under section 363 of the Education and Training Act 2020

Public Bodies Contracts Act 1959 (1959 No 98)

In Schedule 1, Part 1, item relating to committees of management of secondary schools, replace "Education Act 1964 (1964 No 135)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to education boards, replace "Education Act 1914 (1914 No 56) (1931 Reprint, Vol 2, p 1007)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to governing bodies of community colleges, replace "Education Act 1964 (1964 No 135)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to governing bodies of teachers colleges, replace "Education Act 1964 (1964 No 135)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to governing bodies of technical institutes, replace "Education Act 1964 (1964 No 135)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to secondary schools councils, replace "Education Act 1964 (1964 No 135)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to secondary schools governing bodies, replace "Education Act 1914 (1914 No 56) (1931 Reprint, Vol 2, p 1007)" with "Education and Training Act 2020".

In Schedule 1, Part 1, item relating to secondary schools governing bodies, replace "Schedule 9" with "Schedule 9".

Public Works Act 1981 (1981 No 35)

In section 2, replace the definition of **local authority** with:

local authority means—

(a) any regional council, territorial authority, catchment authority or regional water board, harbour board, or electric power board:

(b) any of the following as constituted, established, or continued by the Education and Training Act 2020:

(i) a board:

(ii) the council of a university:

(iii) a wānanga:

Public Works Act 1981 (1981 No 35)—*continued*

(iv) the New Zealand Institute of Skills and Technology or any of its subsidiaries that provide education or training (or both):

(c) an airport authority:

(d) any other person or body (however designated) having authority, under any Act, to undertake the construction or execution of any public work

In section 2, definitions of **public work** and **work**, replace paragraphs (b) and (c) with:

(b) every Government work or local work constructed, undertaken, established, managed, operated, or maintained by any board (as defined in section 10(1) of the Education and Training Act 2020) and every use of land for any Government work or local work that the board constructs, undertakes, establishes, manages, operates, or maintains, and includes anything required (whether directly or indirectly) for any such Government work or local work or use:

(c) any Government work or local work that is, or is required, for—

(i) a university or wānanga as defined in section 10(1) of the Education and Training Act 2020; or

(ii) the New Zealand Institute of Skills and Technology (as continued by that Act) or any of its subsidiaries that provide education or training (or both)

Rangitāne o Manawatu Claims Settlement Act 2016 (2016 No 100)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 117(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Rangitāne Tū Mai Rā (Wairarapa Tamaki nui-ā-Rua) Claims Settlement Act 2017 (2017 No 38)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 106(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Raukawa Claims Settlement Act 2014 (2014 No 7)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 113(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Real Estate Agents Act 2008 (2008 No 66)

In section 12(3), replace "section 479 of the Education Act 1989" with "section 363 of the Education and Training Act 2020".

Reserves and Other Lands Disposal Act 1979 (1979 No 69)

In section 6(2), replace "Notwithstanding anything to the contrary in the Education Act 1964" with "Despite anything in the Education and Training Act 2020".

Reserves and Other Lands Disposal Act 1993 (1993 No 1)

In section 2, delete "and college of education" in each place.

In section 10(5), replace "the provisions of section 202 of the Education Act 1964" with "section 304 of the Education and Training Act 2020".

Reserves and Other Lands Disposal Act 1995 (1995 No 54)

In section 6(3)(c), (d), (e), (f), and (g), replace "Board of Trustees" with "Board".

Reserves, Endowments, and Crown and Maori Lands Exchange, Sale, Disposal, and Enabling Act 1898 (1898 No 39)

In section 11(2), replace "The Education Act 1877" with "the Education and Training Act 2020".

Residential Tenancies Act 1986 (1986 No 120)

In section 5(1)(h)(i), replace "section 2 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Replace section 5B(6) with:

(6) In this section, **tertiary education provider** has the same meaning as in section 10(1) of the Education and Training Act 2020.

In section 53A(1), replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Rongowhakaata Claims Settlement Act 2012 (2012 No 54)

Replace section 17(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

In section 76(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Rotorua High Schools Board Empowering Act 1979 (1979 No 19)

In the Preamble, replace "Education Act 1964" with "Education and Training Act 2020".

Smoke-free Environments Act 1990 (1990 No 108)

In section 2(1), definition of **early childhood education and care centre**, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 2(1), definition of **registered school**, replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Social Security Act 2018 (2018 No 32)

In section 67(b)(i), replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 133(2), replace "section 21, 22, or 22A of the Education Act 1989" with "section 38, 39, or 41 of the Education and Training Act 2020".

In section 162(3), definition of **full-time course**, paragraph (b), replace "sections 303, 306, and 307 of the Education Act 1989" with "sections 645 and 646 and clause 3 of Schedule 9 of the Education and Training Act 2020".

In section 163(3), replace "Education Act 1989" with "Education and Training Act 2020".

In the heading to section 243, replace "**Education Act 1989**" with "**Education and Training Act 2020**".

In section 243(a), replace "section 24(1) or 29(1) of the Education Act 1989" with "section 243(1) or 244(1) of the Education and Training Act 2020".

In Schedule 2, definition of **financially independent**, paragraph (b)(ii), replace "sections 303, 306, and 307 of the Education Act 1989" with "sections 645 and 646 and clause 3 of Schedule 9 of the Education and Training Act 2020".

In Schedule 2, definition of **full-time student**, paragraph (a)(ii), replace "sections 303, 306, and 307 of the Education Act 1989" with "sections 645 and 646 and clause 3 of Schedule 9 of the Education and Training Act 2020".

In Schedule 2, definition of **NCEA level 2**, replace "established under Part 20 of the Education Act 1989" with "continued by section 430 of the Education and Training Act 2020".

In Schedule 2, definition of **student allowance**, replace "section 303" with "section 645".

In Schedule 2, definition of **student allowance**, replace "sections 306 and 307) of the Education Act 1989" with "section 646 and clause 3 of Schedule 9) of the Education and Training Act 2020".

In Schedule 6, clause 16(1)(a), replace "section 2 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 6, clause 16(1)(b), replace "section 159B(1)" with "section 10(1)".

In Schedule 6, clause 16(3), replace "section 344(2) of the Education Act 1989" with "clause 4(1)(c) of Schedule 24 of the Education and Training Act 2020".

State Sector Act 1988 (1988 No 20)

In section 2, replace the definition of **education service** with:

> **education service** has the same meaning as in section 10(7) of the Education and Training Act 2020

In section 2, repeal the definition of **employer**.

In section 2, replace the definition of **tertiary education institution** with:

> **tertiary education institution** has the same meaning as **institution** in section 10(1) of the Education and Training Act 2020

In section 84, definition of **employer**, replace paragraph (b) with:

> (b) means the chief executive of the Ministry (as defined in section 10(1) of the Education and Training Act 2020), for the duration of the application period in that section, in relation to—
>
> (i) a State school (as defined in section 10(1) and (9)(b) of that Act); or
>
> (ii) a special institution (as defined in section 10(1) of that Act); or
>
> (iii) a free kindergarten (as defined in section 10(1) of that Act); and

Student Loan Scheme Act 2011 (2011 No 62)

In section 7(3), replace "section 307AC of the Education Act 1989" with "clause 11 of Schedule 9 of the Education and Training Act 2020".

In section 53, definition of **programme of study**, paragraph (a), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 53, definition of **programme of study**, paragraph (b), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 1, clause 1, definition of **ENZ**, replace "established under Part 21 of the Education Act 1989" with "continued by section 510 of the Education and Training Act 2020".

In Schedule 1, clause 1, definition of **NZQA**, replace "under Part 20 of the Education Act 1989" with "by section 430 of the Education and Training Act 2020".

In Schedule 1, clause 7(2), replace "section 253(1)(c) of the Education Act 1989" with "section 452(1)(c) of the Education and Training Act 2020".

In Schedule 1, clause 8(1)(a)(iii), replace "section 253(1)(c) of the Education Act 1989" with "section 452(1)(c) of the Education and Training Act 2020".

In Schedule 1, clause 9(a)(iii), replace "section 253(1)(c) of the Education Act 1989" with "section 452(1)(c) of the Education and Training Act 2020".

Summary Offences Act 1981 (1981 No 113)

In section 14A(2)(a)(i), replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 14A(2)(a)(ii), replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Tapuika Claims Settlement Act 2014 (2014 No 15)

Replace section 17(3)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 156(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Taranaki Iwi Claims Settlement Act 2016 (2016 No 95)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 126(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 140(5)(a), replace "section 207(4)" with "section 564(3)".

In section 140(5)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

Taranaki Scholarships Trust Board Act 1957 (1957 No 108)

In section 12(4), replace "correspondence school" with "distance school".

In section 12(5), replace "correspondence school" with "distance school".

In section 12(6)(a), replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 12(6)(b), replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Tax Administration Act 1994 (1994 No 166)

In section 3(1), definition of **student allowance**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

In section 32E(2)(kb), replace "a Board of Trustees that is constituted under Part 9 of the Education Act 1989" with "a board that is constituted under subpart 5 of Part 3 of the Education and Training Act 2020".

In section 32E(2)(kc), replace "Part 14 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

Te Atiawa Claims Settlement Act 2016 (2016 No 94)

Replace section 17(2)(b) with:

Te Atiawa Claims Settlement Act 2016 (2016 No 94)—*continued*

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 95(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 109(6)(a), replace "section 207(4)" with "section 564(3)".

In section 109(6)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

Te Aupouri Claims Settlement Act 2015 (2015 No 77)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 162(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (2017 No 7)

Replace section 89(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Te Kawerau ā Maki Claims Settlement Act 2015 (2015 No 75)

Replace section 16(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 120(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

In section 135(5)(a), replace "section 207(4)" with "section 564(3)".

In section 135(5)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

In section 136(4)(a), replace "section 207(4)" with "section 564(3)".

In section 136(4)(a), replace "Education Act 1989" with "Education and Training Act 2020" in each place.

Te Rarawa Claims Settlement Act 2015 (2015 No 79)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 30(2) and (3), delete "of trustees".

In section 190(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

Te Roroa Claims Settlement Act 2008 (2008 No 100)

Replace section 15(2)(c) with:

Te Roroa Claims Settlement Act 2008 (2008 No 100)—*continued*

(c) sections 568 to 570 of the Education and Training Act 2020:

Te Urewera Act 2014 (2014 No 51)

Replace section 90(1)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

Te Uri o Hau Claims Settlement Act 2002 (2002 No 36)

Replace section 19(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Thames Boys' and Girls' High School Act 1878 (1878 No 54)

In section 12, replace "Inspector appointed under the Education Act 1989" with "inspector appointed under the Education and Training Act 2020".

Treaty of Waitangi Act 1975 (1975 No 114)

In section 5(1)(aa), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8A(1)(b), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 8A(1)(b), replace "section 207" with "section 564".

In section 8A(1)(b), replace "section 215" with "section 572".

In section 8A(2)(b), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8A(2)(c), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8A(3), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 8A(6)(b), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In section 8A(6)(b), replace "section 207" with "section 564".

In section 8A(6)(b), replace "section 215" with "section 572".

In section 8D(1), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8E(1), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8E(3)(b), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

In section 8G(3)(c)(ii), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Treaty of Waitangi Act 1975 (1975 No 114)—*continued*

In section 8G(3)(c)(ii), replace "section 207" with "section 564".

In section 8G(3)(c)(ii), replace "section 215" with "section 572".

In section 8G(3)(f), replace "section 212 of the Education Act 1989" with "section 569 of the Education and Training Act 2020".

Trusts Act 2019 (2019 No 38)

In Schedule 4, Part 1, repeal the item relating to the Education Act 1989.

Tūhoe Claims Settlement Act 2014 (2014 No 50)

Replace section 17(2)(b) with:

(b) sections 568 to 570 of the Education and Training Act 2020:

In section 66(2), replace "section 143(5) or 206 of the Education Act 1989" with "section 563 of the Education and Training Act 2020".

University of Auckland Act 1961 (1961 No 50)

In section 2(1), definition of **assisted student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **exempt student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **foreign student**.

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

international student means a person who is not a New Zealand citizen and is—

(a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or

(b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or

(c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(6), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

University of Canterbury Act 1961 (1961 No 49)

In section 2(1), definition of **assisted student**, replace "a foreign student" with "an international student".

University of Canterbury Act 1961 (1961 No 49)—*continued*

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **exempt student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **foreign student**.

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

> **international student** means a person who is not a New Zealand citizen and is—
>
> (a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or
>
> (b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or
>
> (c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(5), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

University of Waikato Act 1963 (1963 No 8)

In section 2(1), definition of **assisted student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), definition of **exempt student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **foreign student**.

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

> **international student** means a person who is not a New Zealand citizen and is—
>
> (a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or
>
> (b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or
>
> (c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(3), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

Veterans' Support Act 2014 (2014 No 56)

In section 81(1)(b), replace "tertiary institution" with "tertiary education organisation".

Replace section 81(5) with:

(5) In this section, **secondary school** and **tertiary education organisation** have the same meanings as in section 10(1) of the Education and Training Act 2020.

Victoria University of Wellington Act 1961 (1961 No 51)

In section 2(1), repeal the definition of **assisted student**.

In section 2(1), definition of **the Council**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

In section 2(1), definition of **domestic student**, replace "a foreign student" with "an international student".

In section 2(1), repeal the definition of **exempt student**.

In section 2(1), repeal the definition of **foreign student**.

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

international student means a person who is not a New Zealand citizen and is—

(a) a person to whom section 15 or 16 of the Immigration Act 2009 applies; or

(b) a person obliged by or under that Act or any other enactment to leave New Zealand immediately or within a specified time; or

(c) treated for the purposes of that Act as being unlawfully in New Zealand

In section 4(5), replace "section 194 of the Education Act 1989" with "section 284 of the Education and Training Act 2020".

Waikato Raupatu Claims Settlement Act 1995 (1995 No 58)

Replace section 14(1)(e) with:

(e) sections 568 to 570 of the Education and Training Act 2020:

Waitaha Claims Settlement Act 2013 (2013 No 38)

Replace section 14(2)(c) with:

(c) sections 568 to 570 of the Education and Training Act 2020:

Wanganui High School Act 1878 (1878 No 42 (L))

In section 2, replace "The Education Act 1877" with "the Education and Training Act 2020".

Part 2
Amendments to Act that come into force on 1 January 2023

Crown Entities Act 2004 (2004 No 115)

In section 198(3)(a), replace "section 87(2)(ca)(iv) and (v) of the Education Act 1989" with "section 134(2)(d)(iv) and (v) of the Education and Training Act 2020".

In Schedule 3, item relating to section 155, replace "section 87(4) of the Education Act 1989" with "section 134(5) of the Education and Training Act 2020".

In Schedule 3, item relating to section 168(1) and (2), replace "section 87(3) of the Education Act 1989" with "section 134(3) of the Education and Training Act 2020".

Part 3
Amendments to legislative instruments

Accident Compensation (Experience Rating) Regulations 2019 (LI 2019/38)

In Schedule 1, item 801, replace "Special-school" with "Specialist school".

In Schedule 2, item 801, replace "Special-school" with "Specialist school".

In Schedule 3, item 801, replace "Special-school" with "Specialist school".

Accident Compensation (Work Account Levies) Regulations 2019 (LI 2019/37)

In Schedule 1, item relating to special-school education, replace "Special-school" with "Specialist school".

In Schedule 2, item relating to special-school education, replace "Special-school" with "Specialist school".

In Schedule 3, item relating to special-school education, replace "Special-school" with "Specialist school".

In Schedule 4, item relating to special-school education, replace "Special-school" with "Specialist school".

Accident Insurance ("Counsellor") Regulations 1999 (SR 1999/166)

In regulation 2, definition of **course of education**, replace paragraph (a) with:

(a) a university, the New Zealand Institute of Skills and Technology and its Crown entity subsidiaries, or a wānanga; or

Building (Accreditation of Building Consent Authorities) Regulations 2006 (SR 2006/399)

In regulation 3, definition of **specified New Zealand qualification**, paragraph (o)(i), replace "established under Part 20 of the Education Act 1989" with "continued by section 430 of the Education and Training Act 2020".

Courts Security Regulations 2019 (LI 2019/61)

In Schedule 2, item relating to Student Allowance Appeal Authorities, replace "Education Act 1989" with "Education and Training Act 2020".

Crown Entities (Financial Powers) Regulations 2005 (SR 2005/68)

In the heading to regulation 12, delete "**of trustees**".

In regulation 12(1) and (2), delete "of trustees" in each place.

Education (2019 School Staffing) Order 2018 (LI 2018/129)

Revoke.

Education (2020 School Staffing) Order 2019 (LI 2019/180)

In clause 4(1), replace "section 91H" with "section 582".

In clause 4(1), replace "section 91C" with "section 579".

In clause 6(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In clause 6(2), replace "section 2(1) or (2), 91A(1), or 145(1)" with "section 10(1)".

In clause 25(2), replace "section 110" with "clause 7 of Schedule 22".

Replace clause 63(a) and (b) with:

(a) is of a kind exempted (under a notice under section 522 of the Act) from paying all of the amount required to be paid by section 521 of the Act; or

(b) has been or is to be paid, by the Ministry of Foreign Affairs and Trade, all of the amount required to be paid by section 521 of the Act.

In clause 71, replace "Part 7A" with "subpart 5 of Part 3".

In clause 72, replace "section 91F(b)" with "section 580".

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

In regulation 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 3, definition of **centre**, replace "section 310" with "section 10(1)".

In regulation 3, definition of **early childhood service**, replace "section 309" with "section 10(1)".

In regulation 3, revoke the definition of **existing service**.

In regulation 3, definition of **licensed early childhood service**, replace "section 309" with "section 10(1)".

In regulation 3, definition of **licensed home-based education and care service**, replace "section 309" with "section 10(1)".

In regulation 3, definition of **licensed hospital-based education and care service**, replace "section 309" with "section 10(1)".

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

In regulation 3, definition of **Secretary**, replace "section 309" with "section 10(1)".

In regulation 3, definition of **service provider**, replace "section 309" with "section 10(1)".

Revoke regulation 4.

Revoke regulation 15(4).

Revoke regulation 19 and the cross-heading above regulation 19.

Revoke regulation 22(1)(d).

Revoke regulation 25(3).

Revoke regulation 32(4).

Revoke regulation 41(2).

In regulation 47(1)(c)(ii)(B), replace "Part 26" with "Part 2".

Education (Education Review Office Authorised to Use National Student Numbers) Regulations 2019 (LI 2019/20)

In regulation 3, replace "an authorised user for the purposes of Part 30 of the Education Act 1989" with "a specified user for the purposes of Schedule 24 of the Education and Training Act 2020".

Education (Export Education Levy) Regulations 2011 (SR 2011/383)

In regulation 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 3, definition of **provider**, replace "section 238D" with "section 10(1)".

Education (Hostels) Regulations 2005 (SR 2005/332)

In regulation 3, replace "section 144B" with "section 630".

In regulation 4, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 4, definition of **authority**, delete "of Parts 1 to 3 and 11".

In regulation 4, definition of **Board**, replace "section 2(1)" with "section 10(1)".

In regulation 4, definition of **Chief Review Officer**, replace "section 2(1)" with "section 10(1)".

In regulation 4, definition of **hostel**, replace "section 2(1)" with "section 10(1)" in each place.

In regulation 4, replace the definition of **parent** with:

> **parent**, in relation to an individual, means the mother, father, or guardian of the individual

In regulation 60(c), replace "section 144E" with "section 632".

Education (Hostels) Regulations 2005 (SR 2005/332)—*continued*

In regulation 60(c), replace "section 144D" with "section 631".

Education (Ministry of Social Development Authorised to Use National Student Numbers) Regulations 2012 (SR 2012/338)

In regulation 3, replace "an authorised user for the purposes of Part 30 of the Education Act 1989" with "a specified user for the purposes of Schedule 24 of the Education and Training Act 2020".

Education (Payment of Relieving Teachers) Order 2012 (SR 2012/221)

In clause 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In clause 3(1), definition of **staffing order**, replace "section 91H" with "section 582".

Replace clause 3(2) with:

(2) In this order, unless the context otherwise requires, terms defined in the Act and used, but not defined, in this order have the same meaning as in the Act.

In clause 4(1), replace "section 91G(2)" with "section 581(3)".

Education (Playgroups) Regulations 2008 (SR 2008/205)

In regulation 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 3, replace the definition of **certificated playgroup** with:

certified playgroup means a playgroup for which a current certificate is held

In regulation 3, definition of **playgroup**, replace "section 309" with "section 10(1)".

In regulation 3, definition of **Secretary**, replace "section 309" with "section 10(1)".

In regulation 3, definition of **service provider**, replace "section 309" with "section 10(1)".

In regulations 11(1), 13(1), 15(2), 16(1) and (2), 18 and 18(a), 19, 20(1), 21, and 22(1), replace "certificated" with "certified".

In regulation 22(2)(b), replace "Part 26" with "Part 2".

Education (Refund Requirements for International Students) Notice 2012 (SR 2012/312)

In clause 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In clause 3(2), replace "section 159" with "section 10(1)".

In clause 4(1), replace "section 235A" with "section 529".

Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)

Replace regulation 3 with:

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Education and Training Act 2020

declared early childhood service means an early childhood service (as defined in section 10(1) of the Act) that is declared by regulation 4(1) to be an early childhood education and care service for the purposes of the Act

teaching position has, for the purposes of the transition plan set out in these regulations, the meaning given in regulation 6.

(2) In these regulations, unless the context otherwise requires, terms defined in the Act and used, but not defined, in these regulations have the same meaning as in the Act.

Replace regulation 4(1) with:

(1) Every early childhood service within the meaning of the Act (other than an early childhood service that is specified in subclause (2)) is declared to be an early childhood education and care service for the purposes of the Act.

In regulation 5, replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

Replace regulation 6 with:

6 Meaning of person employed in teaching position

For the purposes of these regulations, **teaching position**, as defined in section 10(1) of the Act, is modified to mean,—

(a) in relation to an early childhood education and care centre, and to a licensed hospital-based education and care service, a person responsible (as defined in regulation 3 of the Education (Early Childhood Services) Regulations 2008); and

(b) in relation to a licensed home-based education and care service, a person responsible (as defined in regulation 3 of the Education (Early Childhood Services) Regulations 2008).

In regulation 7(1)(a), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

In regulation 7(1)(c), replace "Education Act 1989" with "Act" in each place.

In regulation 7(1)(d), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

In regulation 8(a), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)—*continued*

In regulation 8(b), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

In regulation 9(1)(c), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

In regulation 10(1)(a), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

In regulation 10(1)(b), replace "Part 10 of the Education Act 1989" with "Schedule 3 of the Act".

Education (School Attendance) Regulations 1951 (SR 1951/181)

In regulation 2, replace the definition of **school** with:

> **school** means a State primary school, an intermediate school, a secondary school, or a private school registered under the Education and Training Act 2020

In regulations 7 and 12, replace "Board of Trustees constituted under the School Trustees Act 1989 or any Act passed in substitution for that Act" with "board constituted under subpart 5 of Part 3 of the Education and Training Act 2020".

Education (School Risk Management Scheme) Regulations 2003 (SR 2003/39)

In regulation 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 3, definitions of **Minister** and **Ministry**, delete "of Part 7".

In regulation 3, replace the definition of **participating school Board** with:

> **participating school Board** has the same meaning as **participating board** in section 10(1) of the Act

In regulation 3, replace the definition of **scheme** with:

> **scheme** means a school risk management scheme as defined in section 10(1) of the Act

In regulation 5(3)(a), replace "section 78D(5)" with "section 576(4)".

In regulation 5(4), replace "section 78D(5)" with "section 576(4)".

In regulation 6(1), replace "section 78D(2)(a)" with "section 576(1)(a)".

In regulation 6(2), replace "section 78D(3)" with "section 576(2)".

Revoke regulation 6(3).

In the Schedule, clause 1.1, revoke the definition of **Commissioner**.

In the Schedule, clause 1.1, replace the definition of **participating school Board** with:

Education (School Risk Management Scheme) Regulations 2003 (SR 2003/39)—*continued*

> **participating school Board** has the same meaning as **participating board** in section 10(1) of the Education and Training Act 2020

In the Schedule, clause 1.1, definition of **state school**, replace "Education Act 1989" with "Education and Training Act 2020".

Education (School Trustee Elections) Regulations 2000 (SR 2000/195)

In regulation 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

Replace regulation 3(3) with:

> (3) In these regulations, unless the context otherwise requires, terms defined in the Act and used, but not defined, in these regulations have the same meaning as in the Act.

In regulation 4(2)(a), replace "correspondence school" with "distance school".

In regulation 4(3), replace "correspondence school" with "distance school".

In regulation 5(1), replace "trustee" with "board".

In regulation 8(1), replace "section 101(6)" with "clause 3(7) of Schedule 23".

In regulation 9(1), replace "correspondence schools" with "distance schools".

In regulation 9(2), replace "correspondence schools" with "distance schools".

In regulation 9(3), replace "correspondence school must call for nominations for the election of any trustee" with "distance school must call for nominations for the election of any board member".

In regulation 9(4)(b), replace "trustees" with "board members".

In regulation 13(1) and (2), replace "trustees" with "board members".

In regulation 15(2)(b), replace "trustees" with "board members".

Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 (SR 1999/202)

In rule 2(1), definition of **the Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In rule 2(1), definition of **Ministry**, replace "means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part 2" with "has the meaning given in section 10(1)".

In rule 2(1), definition of **reconsideration meeting**, replace "section 15 or section 17" with "section 81 or 83".

In rule 2(1), definition of **suspension meeting**, replace "section 17B" with "section 85".

Replace rule 3 with:

Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 (SR 1999/202)—*continued*

3 Board

In these rules, **board** means a board constituted under subpart 5 of Part 3 of the Act.

In rule 5(1), replace "sections 14 to 18" with "sections 80 to 88".

Revoke rule 5(2) and the box below rule 5(2).

In rule 6(1), replace "sections 14 to 18" with "sections 80 to 88".

In rule 6(1)(a), replace "sections 14, 17A(1), and 18(1)" with "sections 80, 84(1), and 88(1)".

In rule 6(1)(b), replace "sections 14(1) and (3), 15(1) to (4), 17(1)(a) and (b), 17(2) to (4), 17A, 17B, 17C, and 18(2) and (3)" with "sections 80(1) and (3), 81(1) to (5), 83(1)(a) and (b), 83(2) to (5), 84, 85, 86, and 88(2) and (3)".

In rule 6(1)(c), replace "sections 15(1)(c), (5) and (6), 16, 17C, 17D(1) and (2), and 18(3)" with "sections 81(1)(c), (6) and (7), 82, 86, 87(1) and (2), and 88(3)".

In clause 6(1)(d), replace "sections 17(1)(c), 17C(2)(b), 17D, and 18(3)" with "sections 83(1)(c), 86(2)(b), 87, and 88(3)".

In rule 7, replace "sections 14 to 18" with "sections 80 to 88".

Revoke the boxes below rule 7.

In rule 8, replace "section 14(1)" with "section 80(1)".

In rule 10, replace "section 18(1) or (2)" with "section 88(1) or (2)".

In rule 12, replace "section 14(1)" with "section 80(1)".

In rule 12(b), replace "section 18(1)" with "section 88(1)".

In rule 13, replace "section 14(3)(a)" with "section 80(3)(a)".

In rule 13, replace "sections 17A(2) and (3)" with "section 84(2) to (3)".

Revoke the box below rule 13.

Revoke the boxes below rule 17.

In the heading to rule 18, replace "sections 15(1)(b), 15(3), 17(1)(b), or 17(3)" with "sections 81(1)(b), 81(3), 83(1)(b), or 83(3)".

In rule 18(1), replace "sections 15(1)(b), 15(3), 17(1)(b), or 17(3)" with "sections 81(1)(b) or (3) or 83(1)(b) or (3)".

In rule 19(1), replace "section 15(3) or section 17(3)" with "section 81(3) or 83(3)".

In rule 21, replace "section 15(3) or section 17(3)" with "section 81(3) or 83(3)".

In rule 21, replace "section 18(3)" with "section 88(3)".

Revoke the boxes below rule 21 and the headings above each box.

Education (Statistics New Zealand Authorised to Use National Student Numbers) Regulations 2008 (SR 2008/134)

In regulation 3, replace "an authorised user for the purposes of Part 30 of the Education Act 1989" with "a specified user for the purposes of Schedule 24 of the Education and Training Act 2020".

Education (Surrender, Retention, and Search) Rules 2013 (SR 2013/469)

In rule 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In rule 3, definition of **authorised staff member**, replace "section 139AAA(9)" with "section 105".

In rule 3, replace the definition of **board** with:

> **board** means a board constituted under subpart 5 of Part 3 of the Act or a delegate of that board

In rule 3, replace the definition of **item** with:

> **item** means an item to which section 106 of the Act applies or that is a harmful item as defined in section 105(1) of the Act

In rule 3, replace the definition of **taken under the Act** or **taken** with:

> **taken under the Act** or **taken**, in relation to any item or device, means any item or device that has been surrendered under section 106(2) or (3) of the Act or seized under section 107(4) of the Act

In rule 3, revoke the definition of **teacher**.

In rule 4(a), replace "section 139AAI" with "section 114".

In rule 5(1), replace "section 139AAA" with "section 105".

In rule 5(2)(a), replace "section 139AAA" with "section 106".

In rule 5(2)(b), replace "section 139AAB" with "section 107".

In rule 5(2)(c), replace "sections 139AAA and 139AAB" with "sections 106 and 107".

In rule 11(1), replace "section 139AAB" with "section 107".

In rule 11(2)(d), replace "section 139AAC(2) and (3)" with "section 108(2) and (3)".

Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016 (LI 2016/212)

In regulation 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 3(1), replace the definition of **organisation** with:

> **organisation** has the same meaning as **tertiary education organisation** in section 10(1) of the Act

In regulation 3(2), replace "section 159(1)" with "section 10(1)".

Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016 (LI 2016/212)—*continued*

In regulation 5(1), replace "section 159(1)" with "section 10(1)".

Electronic Identity Verification Regulations 2013 (SR 2013/9)

In regulation 4(1)(j), replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Revoke regulation 4(1)(k).

Engine Drivers' Examination Regulations 1952 (SR 1952/149)

In regulation 2, definition of **prescribed fee**, replace "Part 15 of the Education Act 1989" with "subpart 3 of Part 4 of the Education and Training Act 2020".

Health and Safety at Work (Adventure Activities) Regulations 2016 (LI 2016/19)

In regulation 4(6), definition of **registered school**, replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 4(6), definition of **tertiary education provider**, replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Health and Safety at Work (Hazardous Substances) Regulations 2017 (LI 2017/131)

In regulation 3(1), definition of **vulnerable facility**, paragraph (c), replace "(as defined in section 310 of the Education Act 1989), or school (as established under section 146 of the Education Act 1989)" with "(as defined in section 10(1) of the Education and Training Act 2020), or school (as established under section 190 of that Act)".

Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016 (LI 2016/17)

In regulation 50(3), replace "section 252 of the Education Act 1989" with "section 449 of the Education and Training Act 2020".

Health Entitlement Cards Regulations 1993 (SR 1993/169)

In regulation 2(1), definition of **student**, paragraph (a)(i), replace "section 145(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 2(1), definition of **student**, paragraph (a)(ii), replace "Private Schools Conditional Integration Act 1975" with "Education and Training Act 2020".

In regulation 2(1), definition of **student**, paragraph (a)(iii), replace "section 35A of the Education Act 1989" with "section 214 of the Education and Training Act 2020".

Health Entitlement Cards Regulations 1993 (SR 1993/169)—*continued*

In regulation 2(1), definition of **student**, paragraph (b), replace "section 145(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Health (Immunisation) Regulations 1995 (SR 1995/304)

In regulation 2(1), definition of **controlling authority**, replace paragraph (b) with:

> (b) in relation to a primary school, means—
>
> (i) in the case of a primary school registered or deemed to be registered (including conditionally registered) under section 214 of the Education and Training Act 2020, the managers of that school:
>
> (ii) in the case of any other school, the board of that school constituted under subpart 5 of Part 3 of the Education and Training Act 2020

In regulation 2(1), definition of **early childhood education and care centre** or **centre**, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 2(1), replace the definition of **primary school** or **school** with:

> **primary school** or **school** means—
>
> (a) a school established or deemed to have been established under section 190 of the Education and Training Act 2020 as a primary school:
>
> (b) a school registered or deemed to be registered (including conditionally registered) under section 214 of that Act as a primary school:
>
> (c) a State integrated school as defined in section 10(1) of that Act

International Student Contract Dispute Resolution Scheme Rules 2016 (LI 2016/42)

In rule 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In rule 3(1), replace the definition of **code administrator** with:

> **code administrator** means a person or agency appointed under regulations made under section 648 of the Act

In rule 3(1), definition of **DRS operator**, replace "section 238J(4)(a)" with "section 536(4)(a)".

In rule 3(1), definition of **international student**, replace "section 238D" with "section 10(1)".

In rule 3(1), definition of **Minister**, replace "for Tertiary Education, Skills and Employment" with "of Education".

In rule 3(1), definition of **provider**, replace "section 238D" with "section 10(1)".

In rule 3(1), replace the definition of **scheme** with:

International Student Contract Dispute Resolution Scheme Rules 2016 (LI 2016/42)—*continued*

> **scheme** means the student contract dispute resolution scheme established by section 536 of the Act

In rule 20, replace "section 238L" with "section 538".

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)

In Schedule 1, item relating to Traffic Control Devices 2004 (54002), clause 13.4, replace "Boards of Trustees" with "school boards".

Lawyers and Conveyancers Act (Conveyancers: Registration and Practice) Regulations 2008 (SR 2008/189)

In regulation 3(1), definition of **tertiary education provider**, replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Legal Services Regulations 2011 (SR 2011/144)

In regulation 9B(3), definition of **residential special school**, replace "section 98(1) of the Education Act 1964" with "section 197 of the Education and Training Act 2020".

In regulation 9B(3), definition of **specified agency**, replace paragraph (c) with:

> (c) a board constituted under subpart 5 of Part 3 of the Education and Training Act 2020; and

Minimum Wage Order 2020 (LI 2020/9)

In clause 3(1), definition of **industry training programme**, replace "section 246A of the Education Act 1989" with "section 433 of the Education and Training Act 2020".

National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)

In the Schedule, clause 73(5)(c), delete "of trustees".

Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (LI 2018/111)

In regulation 36(1)(a), replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 36(1)(b), replace "certificated" with "certified".

In regulation 42(3)(e), replace "section 21 of the Education Act 1989" with "section 38 of the Education and Training Act 2020".

Oranga Tamariki (Residential Care) Regulations 1996 (SR 1996/354)

In regulation 2, definition of **school age**, replace "Education Act 1989" with "Education and Training Act 2020".

Outer Space and High-altitude Activities (Definition of High-altitude Vehicle) Regulations 2017 (LI 2017/251)

In regulation 5(2)(a)(i), replace "section 146 of the Education Act 1989" with "section 190 of the Education and Training Act 2020".

In regulation 5(2)(a)(i), replace "section 35A" with "section 214".

In regulation 5(2)(a)(ii), replace "section 159 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Privacy (Information Sharing Agreement between Inland Revenue and Ministry of Social Development) Order 2017 (LI 2017/176)

In clause 3(1), definition of **subsidies**, paragraph (d), replace "Education Act 1989" with "Education and Training Act 2020".

Privacy (Information Sharing Agreement between Ministry of Social Development and New Zealand Customs Service) Order 2019 (LI 2019/75)

In clause 3(1), definition of **student allowance**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

Privacy (Information Sharing Agreement between New Zealand Gang Intelligence Centre Agencies) Order 2018 (LI 2018/247)

In clause 3, definition of **subsidies**, paragraph (d), replace "Education Act 1989" with "Education and Training Act 2020".

Private Security Personnel and Private Investigators (Minimum Training) Regulations 2013 (SR 2013/321)

In clause 3, definition of **NZQA**, replace "established under Part 20 of the Education Act 1989" with "continued by section 430 of the Education and Training Act 2020".

Social Security Regulations 2018 (LI 2018/202)

In regulation 20(1), definition of **approved early childhood education programme**, paragraph (a), replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 20(1), definition of **approved early childhood education programme**, paragraph (a)(ii), replace "certificated" with "certified".

In regulation 20(1), definition of **cohort entry policy**, replace "section 5A of the Education Act 1989" with "section 63 of the Education and Training Act 2020".

In regulation 20(1), definition of **tertiary educational institution**, replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 30(1)(b), replace "section 5B(2) of the Education Act 1989" with "section 64(2) of the Education and Training Act 2020".

Social Security Regulations 2018 (LI 2018/202)—*continued*

In regulation 33(f), replace "section 145(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 40(d), replace "section 145(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 90, definition of **approved early childhood education programme**, paragraph (c), replace "section 152(1) of the Education Act 1989 as a correspondence school." with "section 196(1) of the Education and Training Act 2020 as a distance school".

In regulation 90, definition of **registered school**, replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In regulation 102(2)(d)(i), replace "section 21 or 22 of the Education Act 1989" with "section 38 or 39 of the Education and Training Act 2020".

In regulation 103(2)(b)(i), replace "section 21 or 22 of the Education Act 1989" with "section 38 or 39 of the Education and Training Act 2020".

In regulation 104(2)(d), replace "section 253(1)(c) of the Education Act 1989" with "section 452(1)(c) of the Education and Training Act 2020".

In regulation 273(3), definition of **registered school**, replace "section 2(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 7, replace the item relating to every organisation with:

Every tertiary education organisation within the meaning of section 10(1) of the Education and Training Act 2020

In Schedule 7, item relating to every private training establishment, replace "section 159(1) of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 7, item relating to every service provider, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 8, clause 17, definition of **home-based education and care service**, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

In Schedule 8, clause 17, definition of **service provider**, replace "section 309 of the Education Act 1989" with "section 10(1) of the Education and Training Act 2020".

Social Security (Support for Children in Hardship—Transitional Subsidy) Regulations 2016 (LI 2016/52)

In regulation 5(1), definition of **CPI increase**, paragraph (b)(ii), replace "section 303(3B) of the Education Act 1989" with "section 645(6) of the Education and Training Act 2020".

In regulation 5(1), definition of **student allowance**, replace "section 303 of the Education Act 1989" with "section 645 of the Education and Training Act 2020".

State Sector (Employees of Boards of Waihopai School and Ruru Special School) Order 2006 (SR 2006/307)

In the heading to clause 3, replace "**Boards of Trustees**" with "**Board**".

In clause 3(a) and (b), replace "Board of Trustees" with "board".

Student Allowances Regulations 1998 (SR 1998/277)

In regulation 2(1), definition of **the Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In regulation 2(1), definition of **appeal**, replace "section 305" with "clause 5 of Schedule 10".

In regulation 2(1), replace the definition of **Authority** with:

> **Authority** means a Student Allowance Appeal Authority appointed under clause 1 of Schedule 10 of the Act

In regulation 2(1), replace the definition of **chief executive** with:

> **chief executive** has the same meaning as in Schedule 2 of the Social Security Act 2018

In regulation 2(1), definition of **merit grant**, delete ", an A-Bursary, or a B-Bursary".

In regulation 2(1), replace the definition of **recognised programme** with:

> **recognised programme** means—
>
> (a) in relation to a tertiary provider, a programme approved by the Tertiary Education Commission, and approved—
>
> (i) by the New Zealand Qualifications Authority under section 439 of the Act; or
>
> (ii) by the New Zealand Vice-Chancellors Committee under section 453 of the Act; and
>
> (b) in relation to a secondary school, a programme determined by the chief executive of the Ministry of Education to be a full-time course of secondary instruction; and
>
> (c) in relation to any disabled student, a programme approved by the chief executive of the Ministry of Education

In regulation 2(1), replace the definition of **secondary school** with:

> **secondary school** means—
>
> (a) a secondary school established under Part 3 of the Act or registered under section 214 of the Act; or
>
> (b) a school that provides secondary instruction and is designated as a distance school under section 196 of the Act; or
>
> (c) a specialist school established under section 197 of the Act or a specified institution listed in Schedule 2 of the Act

Student Allowances Regulations 1998 (SR 1998/277)—*continued*

In regulation 2(1), definition of **tertiary provider**, replace "college of education, or wananga, a private training establishment continued by the Act," with "a wānanga, a private training establishment,".

In regulation 2(2), replace "section 302" with "clause 1 of Schedule 9".

In regulation 2A(4), replace "section 248 of the Education Act 1989" with "section 436 of the Act".

Revoke regulation 7(1A)(b)(i).

Teaching Council of Aotearoa New Zealand Election Rules 2018 (LI 2018/234)

In rule 3, definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In rule 3, definition of **currently authorised person**, replace "section 366" with "clause 16 of Schedule 3".

In rule 4(1), replace "clause 11H(2) of Schedule 1" with "clause 4(1) of Schedule 20".

In rule 5(1)(b), replace "clause 4A(3) of Schedule 21" with "clause 5(3) of Schedule 19".

In rule 9(7), replace "section 402" with "section 498".

In rule 16(2), replace "section 380" with "section 475".

Teaching Council Rules 2016 (LI 2016/122)

In the enacting statement, replace "Education Council of Aotearoa New Zealand" with "Teaching Council of Aotearoa New Zealand".

In rule 3(1), definition of **Act**, replace "Education Act 1989" with "Education and Training Act 2020".

In rule 3(1), definition of **Code of Professional Responsibility**, replace "section 387" with "section 485".

In rule 3(1), definition of **list of authorised persons**, replace "section 371" with "clause 21 of Schedule 3".

In rule 3(1), definition of **register**, replace "section 359" with "clause 8 of Schedule 3".

In rule 3(1), definition of **Registration Panel**, replace "section 389" with "section 487".

In rule 3(1), replace the definition of **Teaching Council** with:

> **Teaching Council** means the Teaching Council of Aotearoa New Zealand continued by section 474 of the Act.

In rule 7(1)(a), replace "section 392" with "section 489".

In rule 7(1)(b), replace "section 393" with "section 490".

In rule 7(1)(c), replace "section 394" with "section 491".

Teaching Council Rules 2016 (LI 2016/122)—*continued*

In rule 7(1)(d), replace "section 395" with "section 492".

In rule 7(1)(e), replace "section 397" with "section 493".

In rule 7(2)(a), replace "section 399" with "section 495".

In rule 7(2)(b), replace "section 410" with "section 506".

In rule 10(c), replace "section 400(2)" with "section 496(2)".

In rule 10(d), replace "section 410(3)" with "section 506(3)".

In rule 11(2), replace "section 400(2) and 410(3)" with "sections 496(2) and 506(3)".

In rule 11(3), replace "section 400(2) and 410(3)" with "sections 496(2) and 506(3)".

In rule 15(3), replace "section 400(4) and 401(6)" with "sections 496(4) and 497(7)".

In rule 17(3), replace "section 401" with "section 497".

In rule 29, replace "section 405(4)" with "section 501(4)".

In rule 30(1), replace "section 405(6)" with "section 501(6)".

In rule 34(2)(c), replace "section 405(6)" with "section 501(6)".

In rule 34(4), replace "section 405(6)" with "section 501(6)".

In rule 36, replace "section 402" with "section 498".

In rule 40(2)(e), replace "section 411" with "section 507".

In rule 41(3), replace "section 412" with "section 508".

In rule 48A(1)(a), replace "section 353(a)" with "clause 2(a) of Schedule 3".

In rule 48A(1)(b), replace "section 353(b)" with "clause 2(b) of Schedule 3".

In rule 48A(1)(d), replace "section 357" with "clause 6 of Schedule 3".

In rule 48A(1)(e), replace "section 362" with "clause 11 of Schedule 3".

In rule 48A(1)(f), replace "section 353" with "clause 2 of Schedule 3".

In rule 48C(1), replace "section 353" with "clause 2 of Schedule 3".

In rule 49(2), replace "section 398" with "section 494".

In rule 53(2), replace "section 398" with "section 494".

In rule 57(2), replace "section 410AA" with "section 505".

In rule 58(2), replace "section 410AA(3)" with "section 505(3)".

In rule 60B(1), replace "sections 352 to 355" with "clauses 1 to 4 of Schedule 3".

In Schedule 1, clause 3(1), replace "section 394" with "section 491".

United World Colleges Scholarships Regulations 1980 (SR 1980/102)

In regulation 2, definition of **school**, replace "section 186 of the Education Act 1964" with "section 214 of the Education and Training Act 2020".

Part 4
Revocations

Auckland Institute of Technology Disestablishment and Incorporation into Auckland University of Technology Order 1999 (SR 1999/333)

Central Institute of Technology Disestablishment and Incorporation into Wellington Institute of Technology Order 2001 (SR 2001/78)

Education Amendment Act 2015 Commencement Order 2015 (LI 2015/105)

Education Amendment Act 2015 Commencement Order 2016 (LI 2016/43)

Education (Date Members of Teaching Council Take Office) Order 2019 (LI 2019/142)

Education (Disestablishment of Auckland College of Education and Incorporation into University of Auckland) Order 2004 (SR 2004/222)

Education (Disestablishment of Christchurch College of Education and Incorporation into University of Canterbury) Order 2006 (SR 2006/214)

Education (Disestablishment of Dunedin College of Education and Incorporation into University of Otago) Order 2006 (SR 2006/215)

Education (Disestablishment of Telford Rural Polytechnic and Incorporation in Lincoln University) Order 2010 (SR 2010/428)

Education (Disestablishment of Wellington College of Education and Incorporation into Victoria University of Wellington) Order 2004 (SR 2004/407)

Education (Extension of Application Period) Order 2018 (LI 2018/128)

Wairarapa Community Polytechnic Disestablishment and Incorporation into Universal College of Learning Order 2000 (SR 2000/194)

Wanganui Regional Community Polytechnic Disestablishment and Incorporation into Universal College of Learning Order 2001 (SR 2001/406)

Notes

1 General

This is a consolidation of the Education and Training Act 2020 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Education and Training Amendment Act 2024 (2024 No 40)

Pae Ora (Disestablishment of Māori Health Authority) Amendment Act 2024 (2024 No 5): section 43

Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023 (2023 No 68): section 6

Education and Training Amendment Act 2023 (2023 No 45)

Data and Statistics Act 2022 (2022 No 39): section 107(1)

Education and Training Amendment Act 2022 (2022 No 38)

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Education and Training Amendment Act 2021 (2021 No 58)

Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act 2021 (2021 No 47)

Education and Training (Grants—Budget Measures) Amendment Act 2021 (2021 No 28)

Secondary Legislation Act 2021 (2021 No 7): section 3

Education (Name Change for NZIST) Order 2020 (LI 2020/260): clause 4(1)

Public Service Act 2020 (2020 No 40): section 135

Education and Training Act 2020 (2020 No 38): section 667(3)-(9), section 669(1), Schedule 1 clause 69(3)

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