

Regulatory Systems (Education) Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Regulatory Systems (Education) Amendment Bill and recommends unanimously that it be passed. We also recommend all amendments unanimously.

Introduction

The Regulatory Systems (Education) Amendment Bill is an omnibus bill. It would amend three Acts and two sets of regulations.

The bill would amend the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945. It would confirm the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board as the successor of the 28th Maori Battalion (NZ) Association Incorporated. It would also create a new position on the board for a person of Māori descent who has served, or is currently serving, in the New Zealand Defence Force. The bill would make consequential amendments to the Flags, Emblems, and Names Protection Act 1981.

The bill would also amend the Pacific Education Foundation Act 1972. It would replace the current definition of “Pacific person” with a definition of “Aotearoa Pacific person”. This would expand the list of people who can benefit from the Pacific Education Foundation. It would allow the list of places from which a person may have indigenous Pacific cultural heritage to be updated by Order in Council. It would also update the purpose and constitution of the Foundation’s board; recognise the unique relationship the Crown has with New Zealand Realm countries and Samoa; and update the authorised expenditure of the Foundation.

The bill would amend the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015 to refer to the Kiwi Access card, which was previously known as the 18+ card.

The bill would amend the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 so that a Police vet must be obtained, and a risk assessment undertaken, for workers at limited-attendance child-care centres before they begin work.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Amendments to Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act

Part 1 of the bill (clauses 3 to 7) would amend the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945.

Governor-General to appoint the additional board member

Section 4(2) of the Act lists the composition of the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board. Clause 4(1) of the bill as introduced would create a new position on the board for "1 Māori who has served or is currently serving in the New Zealand Defence Force".

We recommend amending clause 4(1) to specify that this additional board member would be appointed by the Governor-General. We believe the Governor-General is the appropriate person to make the appointment because she already appoints other individuals to the board. The Minister of Education is the chair of the board, so it would be more transparent for the Governor-General to make the appointment.

Use of the term "New Zealand Defence Force"

The use of the term "New Zealand Defence Force" in clause 4(1) would allow civilians who work in the New Zealand Defence Force to be eligible for the new position on the board. This is not the intent. We recommend replacing "New Zealand Defence Force" with "Armed Forces". This would limit eligibility to a Māori person serving in the Air Force, Army, or Navy, or a Māori veteran of those forces.

Amendments to Pacific Education Foundation Act

Part 2 of the bill (clauses 8 to 19) would amend the Pacific Education Foundation Act 1972.

Defining “Aotearoa Pacific person”

Clause 9(1) of the bill would repeal the Act’s definition of “Pacific person”. Instead, clause 9(2) would define “Aotearoa Pacific person” to mean “a person who is living in New Zealand and who:

- is a New Zealand citizen or has been granted permanent residence or has been permitted to enter New Zealand with the intention of gaining permanent residence; and
- has indigenous Pacific cultural heritage from a place listed in Schedule 2”.

Schedule 2 would be inserted into the Act by clause 19. It would list places of indigenous Pacific cultural heritage. Clause 17 would insert section 35 into the Act to allow the Governor-General, by Order in Council, to add, delete, or amend the name of a place listed in Schedule 2. This would allow the list to be updated more easily.

The Regulations Review Committee wrote to us expressing concern about a lack of parameters that would inform the Governor-General’s decision to amend the list. We agree with these concerns, and believe the bill should contain guidance.

We recommend amending clause 17 to specify matters that the Minister must take into account when making a recommendation to the Governor-General to add, delete, update or correct the name of a place listed in Schedule 2:

- the location of the place
- the number of people estimated to be living in New Zealand that have indigenous Pacific cultural heritage from the place
- any consultation undertaken with the population described
- any other matters that the Minister considers are relevant to the consideration of whether the place is a place of indigenous Pacific cultural heritage.

Unspecified expenditure by the Pacific Education Foundation

Section 24(1)(r) of the Act allows the Board of the Pacific Education Foundation to spend up to \$500 each financial year for purposes not specifically mentioned in the Act. Clause 15 of the bill would increase this amount to \$10,000. This would be the first increase since 1972. Examples of how this money might be spent include making grants for uniforms, books and other equipment to Pacific learners and their families who are not receiving specific scholarships or bursaries from the Foundation.

We note that section 24(1)(r) uses outdated terms, is unnecessarily long, and is difficult to understand. We recommend modernising the wording so it is clearer.

Appendix

Committee process

The Regulatory Systems (Education) Amendment Bill was referred to us on 28 March 2023. We called for submissions on the bill with a closing date of 1 May 2023.

We received and considered written submissions from 9 interested groups and individuals. We heard oral evidence from 3 submitters at hearings held via videoconference.

We received advice on the bill from the Ministry of Education. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting. The Regulations Review Committee wrote to us about clause 17 of the bill.

Committee membership

Camilla Belich (Chairperson)

Chris Baillie

Jan Logie

Ibrahim Omer

Angela Roberts

Dan Rosewarne (from 8 February to 3 May 2023)

Penny Simmonds

Lemauga Lydia Sosene (from 3 May 2023)

Erica Stanford

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Jan Tinetti

Regulatory Systems (Education) Amendment Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Amendments to Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945		
3	Principal Act	3
4	Section 4 amended (Establishment of Board to administer Fund)	3
5	Section 7 amended (Functions of Board)	3
<i>Consequential amendment to Flags, Emblems, and Names Protection Act 1981</i>		
6	Principal Act	3
7	Schedule 2A amended	3
Part 2		
Amendments to Pacific Education Foundation Act 1972		
8	Principal Act	4
9	Section 2 amended (Interpretation)	4
10	Section 4 amended (Foundation established)	4
11	Section 5 replaced (Purpose of Foundation)	5
5	Purpose of Foundation	5
12	Section 8 amended (Constitution of Board)	5
13	Section 8A replaced (Board to elect chairperson and deputy chairperson)	5
8A	Chairperson and deputy chairperson	5
8B	Letter of expectations	5
14	Section 10 amended (Meetings of Board)	6

15	Section 24 amended (Authorised expenditure)	6
16	Section 30 replaced (Annual report)	6
	30 Annual report	6
17	New section 35 inserted (Amendments to Schedule 2 by Order in Council)	6
	35 Amendments to Schedule 2 by Order in Council	6
18	Schedule 1 amended	7
19	New Schedule 2 inserted	7

Part 3

Amendments to secondary legislation

Amendment to Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015

20	Principal regulations	7
21	Schedule amended	7

Amendments to Health and Safety at Work (General Risk and Workplace Management) Regulations 2016

22	Principal regulations	7
23	Regulation 51 amended (Duty to ensure Police vet obtained before worker has unsupervised access to children)	8

Schedule 1 9

Schedule 2A of Flags, Emblems, and Names Protection Act 1981 amended

Schedule 2 10

New Part 2 inserted into Schedule 1 of Pacific Education Foundation Act 1972

Schedule 3 11

New Schedule 2 inserted into Pacific Education Foundation Act 1972

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Regulatory Systems (Education) Amendment Act **2023**.

2 Commencement

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

Part 1

Amendments to Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945

3 Principal Act

This Part amends the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945. 5

4 Section 4 amended (Establishment of Board to administer Fund)

(1) After section 4(2)(g), insert:

(h) 1 Māori who has served or is currently serving in the ~~New Zealand Defence Force~~ Armed Forces to be appointed by the Governor-General. 10

(2) After section 4(3), insert:

(3A) The Board is the successor to the 28th Māori Battalion (NZ) Association Incorporated.

(3) After section 4(4), insert:

(5) In this section, **Armed Forces** has the same meaning as in section 2(1) of the Defence Act 1990. 15

5 Section 7 amended (Functions of Board)

Replace section 7(1) with:

(1) The general functions of the Board are—

- (a) to administer the Fund in accordance with the provisions of this Act for the purpose of granting assistance for the education of any Māori, or for the purpose of promoting the study and encouraging the maintenance of the Māori language and of Māori history, tradition, and culture; and 20
- (b) to perform or exercise any other function, duty, or power conferred on it by or under other legislation. 25

(1A) *See* section 18A(3)(b)(iv) of the Flags, Emblems, and Names Protection Act 1981, which sets out the function of the Board to approve persons, classes of persons, or associations who may use any emblem, words, name, title, style, or designation relating to the 28th Māori Battalion or the 28th Maori Battalion (NZ) Association Incorporated. 30

Consequential amendment to Flags, Emblems, and Names Protection Act 1981

6 Principal Act

Section 7 amends the Flags, Emblems, and Names Protection Act 1981.

7 Schedule 2A amended

(1) In Schedule 2A, after “**Emblems of**”, insert “**28th Māori Battalion and**”. 35

- (2) In Schedule 2A, before the first emblem, insert the emblem set out in **Schedule 1** of this Act.

Part 2

Amendments to Pacific Education Foundation Act 1972

- 8 Principal Act** 5
- This Part amends the Pacific Education Foundation Act 1972.
- 9 Section 2 amended (Interpretation)**
- (1) In section 2, repeal the definition of **Pacific person**.
- (2) In section 2, insert in their appropriate alphabetical order:
- Aotearoa Pacific person** means a person who is living in New Zealand and who— 10
- (a) is a New Zealand citizen or has been granted permanent residence or has been permitted to enter New Zealand with the intention of gaining permanent residence; and
- (b) has indigenous Pacific cultural heritage from a place listed in **Schedule 2** 15
- 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
- other education agencies** means the following agencies: 20
- (a) the Education Review Office:
- (b) NZQA:
- (c) TEC:
- (d) the Teaching Council:
- (e) the Ministry for Pacific Peoples
- Treaty of Friendship** means the Treaty of Friendship between the Government of New Zealand and the Government of Western Samoa done at Apia on 1 August 1962 25
- (3) In section 2, insert as subsection (2):
- (2) In this Act, **NZQA**, **TEC**, and **Teaching Council** have the same meanings as in section 10(1) of the Education and Training Act 2020. 30
- 10 Section 4 amended (Foundation established)**
- After section 4(3), insert:
- (4) In establishing and continuing the Foundation, this Act recognises the Crown's unique relationship with the Cook Islands, Niue, and Tokelau and, through the Treaty of Friendship, with Samoa. 35

11 Section 5 replaced (Purpose of Foundation)

Replace section 5 with:

5 Purpose of Foundation

The general purpose of the Foundation is to promote and encourage the better education of Aotearoa Pacific people by—

- (a) providing information and advice to the Minister, the Ministry, and other education agencies on matters relating to the educational success of Aotearoa Pacific people; and
- (b) providing financial assistance for that purpose, including the administration and award of Tūlī Takes Flight scholarships that are part of the goodwill gesture of reconciliation that accompanied the New Zealand Government's apology to Pacific families and communities impacted by the Dawn Raids.

12 Section 8 amended (Constitution of Board)

- (1) Repeal section 8(2)(c).
- (2) In section 8(2)(d), replace “5” with “6”.
- (3) After section 8(2), insert:
- (2A) A member appointed under subsection (2)(d) must be resident in New Zealand during their term of office.
- (4) Repeal section 8(4).
- (5) Replace section 8(5)(a) and (b) with:
 - (a) holds office for a term of up to 4 years; and
 - (b) may be reappointed; and

13 Section 8A replaced (Board to elect chairperson and deputy chairperson)

Replace section 8A with:

8A Chairperson and deputy chairperson

The Minister and the Minister for Pacific Peoples, acting jointly, may appoint—

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

8B Letter of expectations

The Minister and the Minister for Pacific Peoples, acting jointly, may provide a letter of expectations to the Board that sets out the Ministers' expectations regarding the Foundation's strategic direction and specific priorities, and that may require the Board to have regard to specific education policies in its advice to the Minister, the Ministry, and other education agencies.

14 Section 10 amended (Meetings of Board)

Replace section 10(1) with:

- (1) Meetings of the Board must be held at least 3 times a year at the times and places that the Board determines.

15 Section 24 amended (Authorised expenditure)

5

- (1) In section 24, replace “Pacific” with “Aotearoa Pacific” in each place.

- (2) ~~In section 24(1)(r), replace “\$500” with “\$10,000”.~~

- (2) Replace section 24(1)(r) with:

(r) the making of a payment (or payments) not exceeding \$10,000 in any 1 financial year for any purposes not otherwise specified in this section or another provision of this Act.

10

16 Section 30 replaced (Annual report)

Replace section 30 with:

30 Annual report

- (1) The Board must, no later than 31 December in each year, provide the Minister and the Minister for Pacific Peoples with an annual report on its operations and proceedings during the previous financial year, together with a copy of the financial statements of the Foundation for that year and an audit report on those statements.

15

- (2) The annual report must include information about the advice the Foundation has provided to, or interactions the Foundation has had with, the Ministry and other education agencies in that financial year.

20

- (3) The Minister must present a copy of the annual report and the financial statements (along with the audit report) to the House of Representatives as soon as practicable after receiving them.

25

17 New section 35 inserted (Amendments to Schedule 2 by Order in Council)

After section 34, insert:

35 Amendments to Schedule 2 by Order in Council

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 2** to ~~add, delete, or amend the name of a place listed in that schedule.~~

30

(a) add the name of a place to the schedule:

(b) delete the name of a place listed in the schedule:

(c) update or correct the name of a place listed in the schedule to reflect the official name of the place.

35

- (1A) Before making a recommendation under **subsection (1)(a) or (b)**, the Minister must take into account the following matters:
- (a) the location of the place;
 - (b) the number of people estimated to be living in New Zealand that have indigenous Pacific cultural heritage from the place;
 - (c) the results of any consultation with the people described in **paragraph (b)**;
 - (d) any other matters that the Minister considers relevant to determining whether the place is a place of indigenous Pacific cultural heritage.
- (2) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

18 Schedule 1 amended

- (1) In Schedule 1, clause 1, replace “schedule” with “Part”.
- (2) In Schedule 1,—
 - (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.

19 New Schedule 2 inserted

After Schedule 1, insert the **Schedule 2** set out in **Schedule 3** of this Act.

Part 3

Amendments to secondary legislation 20

Amendment to Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015

20 Principal regulations

Section 21 amends the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015. 25

21 Schedule amended

In the Schedule, Part 2, replace “18+ card” with ““Kiwi Access card (18+ card)””.

Amendments to Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 30

22 Principal regulations

Section 23 amends the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.

23 Regulation 51 amended (Duty to ensure Police vet obtained before worker has unsupervised access to children)

(1) In the heading to regulation 51, replace “**has unsupervised access to children**” with “**begins work at centre**”.

(2) Replace regulation 51(1) with: 5

(1) A PCBU who is required to obtain a Police vet of a person under regulation 50 must—

(a) obtain the Police vet before the person begins working at the limited-attendance child-care centre; 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 they were to carry out work at the centre during normal opening hours. 10

Schedule 1
Schedule 2A of Flags, Emblems, and Names Protection Act 1981
amended

s 7



Schedule 2
New Part 2 inserted into Schedule 1 of Pacific Education Foundation
Act 1972

s 18

	Part 2	5
	Provisions relating to Regulatory Systems (Education) Amendment Act 2023	
4	Interpretation	
	In this Part,—	
	amendment Act means the Regulatory Systems (Education) Amendment Act 2023	10
	commencement means the date on which the amendment Act comes into force.	
5	Transitional provision for Board members holding office under section 8(2)(d) before commencement	15
(1)	This clause applies to a Board member holding office under section 8(2)(d) immediately before commencement.	
(2)	Despite section 12 of the amendment Act,—	
(a)	the Board member continues in office on and after commencement but only for the remainder of the term for which they were appointed under section 8(5)(a) (as it read immediately before commencement); and	20
(b)	nothing in section 8(2A) (as inserted by the amendment Act) applies to the Board member during the remainder of that term.	

Schedule 3**New Schedule 2 inserted into Pacific Education Foundation Act 1972****s 19****Schedule 2****Places of indigenous Pacific cultural heritage**

5

ss 2(1), 35

American Samoa

Cook Islands

Federated States of Micronesia

Fiji

10

French Polynesia

Hawaii

Kiribati

Nauru

Niue

15

Papua New Guinea

Pitcairn Island

Rabi

Rotuma

Samoa

20

Solomon Islands

Tokelau

Tonga

Tuvalu

Vanuatu

25

Wallis and Futuna

Legislative history

23 March 2023

Introduction (Bill 240–1)

28 March 2023

First reading and referral to Education and Workforce
Committee