

Education (Update) Amendment Bill

Government Bill

As reported from the Education and Science Committee

Commentary

Recommendation

The Education and Science Committee has examined the Education (Update) Amendment Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The Education (Update) Amendment Bill seeks to amend the Education Act 1989. It would insert several new parts into the Act. As introduced, the main provisions would:

- provide for the Minister of Education to issue a statement of National Education and Learning Priorities (NELP), setting out the Government’s priorities for education
- enable education providers, including schools, to provide distance or “correspondence” education (called “online learning”) through the establishment of communities of online learning (COOLs)
- enable a new entrant to be enrolled in a school on the first day of a term closest to the child’s fifth birthday, called “cohort entry”
- make changes to the roles and responsibilities of school boards and to ministerial powers, and introduce new planning and reporting processes for schools with the aim of strengthening efficiency, accountability, and collaboration within the schooling network
- strengthen the legal framework for managing teacher competency
- repeal the Private Schools Conditional Integration Act 1975 and transfer its provisions to the Act in a modernised form, with some changes
- disestablish Careers New Zealand and transfer its functions to the Tertiary Education Commission.

Supplementary Order Paper 250

We received Supplementary Order Paper (SOP) 250 from the Minister of Education on 29 November 2016. The SOP contains amendments that would prohibit seclusion of a student or child attending a registered school or early childhood centre and would regulate the use of physical restraint.

We support the intent of the SOP and are satisfied that the amendments it proposes are consistent with the bill's original policy intent.

By majority we recommend the proposals in the SOP as amendments to the bill, with two changes to the proposed limits on the use of physical restraint, which we discuss later in this commentary.

Proposed amendments

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

Commencement clauses

By majority we recommend amending clause 2(6) to provide for the bill's provisions to come into force on 28 April 2017, except where a later commencement date is provided for.

Cohort entry and compulsory attendance

By majority we recommend inserting clause 2(1A) to delay the commencement date for cohort entry to 3 July 2017. This would allow for system changes that are needed to support its introduction.

We consider it desirable for the compulsory attendance requirements (clause 30, new section 25(1)) to come into force at the same time as the cohort entry policy. The proposed clause 2(1A) would provide for this.

With the proposed commencement date of 3 July 2017, a transitional provision would be needed to allow the Minister to set mid-term dates for 2018. Therefore the majority recommends inserting into clause 145, new Schedule 1, the ability for the Minister to prescribe mid-term dates for 2018 before 1 August 2017.

Merging Careers New Zealand into the Tertiary Education Commission

By majority we recommend amending clause 2(1) so that the provisions disestablishing Careers New Zealand (CNZ) and transferring its functions, staff, and resources to the Tertiary Education Commission (TEC) would take effect on 1 July 2017. This new date would allow for greater certainty in the transition process and would be in line with the financial year.

As a result, the majority also recommends amending the commencement date provided for in clause 2(2) to 1 January 2018. This would preserve the six-month period for TEC to deliver its new career functions.

Consequentially, by majority we recommend amending the dates for the offer and acceptance of employment in clause 123, new section 159FA(1), to 1 June 2017 and 30 June 2017.

Communities of online learning

To allow time for the full legal regime and funding arrangements to be set up for communities of online learning, the majority recommends amending clause 2(3) to change the latest possible commencement date of the relevant provisions from 31 December 2017 to 31 December 2019.

Statement of National Education and Learning Priorities

Clause 4 of the bill would insert new Part 1AA in the principal Act. This would provide for a statement of National Education and Learning Priorities (NELP) setting out the priorities for early childhood education and schooling. The Minister would set the NELP after consulting the education sector. It would replace the National Education Goals. The statement would reflect objectives for the system of education and learning provided for in various Parts of the principal Act, and give strategic direction to both early childhood education and schooling. It would be linked to the roles and responsibilities of school boards.

A NELP would be in effect for a period of five years to ensure the statement remained fit for purpose. The bill provides for only one NELP at any time.

As a consequential amendment, the majority recommends inserting clause 148A to amend regulation 47(1) of the Education (Early Childhood Services) Regulations 2008. This would require early childhood services to have regard to the NELP.

Cohort entry

Clause 10 would insert new sections 5A to 5C to allow schools to operate a cohort entry policy. This means schools could require children to start school as a group at the beginning of a term, instead of on their fifth birthday as they currently do.

By majority, we recommend amending clause 10, new section 5A(1), to specify that it applies to a State school, a State integrated school, or a partnership school kura hōrua instead of “a registered school”. This would make it clear that the entitlement to free enrolment and education would not extend to new entrant students under age 5 starting at a private school.

By majority we also recommend amending new section 5C(1) to specify that a board must take all reasonable steps to discover and consider the views of specified persons not just about the proposed cohort entry policy, but also whether they find it generally acceptable.

Attending board meetings about suspensions

Clause 22 would insert new section 17B to allow parents, students, and students’ representatives to attend board meetings about suspension through a telephone conference or video link.

By majority, we recommend an amendment to ensure that parents and students could still appear in person if they wished. The proposed subsection (3) would provide that only a student and his or her parents may request attendance through a telephone conference or video link.

Communities of online learning

Clause 38 would insert new Part 3A into the Act (new sections 35T to 35ZO) to update “correspondence” education. At present Te Aho o Te Kura Pounamu, the Correspondence School, is the only correspondence school in New Zealand. However, the bill would enable the Minister to accredit other providers to offer online learning to students. They would be known as communities of online learning (COOLs), and Te Aho o Te Kura Pounamu would become a COOL.

By majority, we recommend amending the term “full community of online learning” to “enrolling community of online learning” throughout the bill. The word “full” with respect to COOLs is used in two different ways in the bill. This change would avoid confusion.

The majority also recommends merging new sections 35U and 35Y. This would streamline the approach to setting conditions on the accreditation of a COOL. It would also enable the Minister to set, vary, or revoke conditions.

Proposed new section 35ZE outlines the obligations of a COOL. The majority recommends an amendment to specify the extent to which entities operating a COOL must have regard to the statement of National Education and Learning Priorities (NELP). While a COOL run by a partnership school kura hourua, a private school, a body corporate, or a tertiary education provider “must have regard” to the NELP, State schools would need to have “particular regard” to it. This would be consistent with the education system where State schools have greater obligations than other types of schools.

Communities of learning

The bill as introduced contains amendments relating to communities of learning. These are groups of education and training providers that work together with the aim of improving student achievement.

The amendments would allow communities of learning to voluntarily enter into a formal agreement with the Secretary for Education. It would cover such matters as the activities the community would undertake, the commitments of individual members, and the delivery of joint services. The amendments would not affect current communities of learning that operate under an informal arrangement, or new communities of learning that did not want to enter into a formal arrangement.

Clause 48, new section 75A, would allow the Minister to approve a community of learning. For clarity, the majority recommends amending it to specify that a community of learning must comprise, as a minimum, a group of two or more State or State integrated schools.

Also for clarity, the majority recommends amending new section 75A(1) so that it would only apply for the purposes of entering a statutory agreement under new section 75B.

By majority, we also recommend amending new section 75B to require a school board to give notice to the Secretary for Education in writing, if it wants to withdraw from a communities of learning agreement.

For consistency with clause 5(2)(b) of new Schedule 6, the majority recommends amending new section 75C(2) to state that a plan developed by a community of learning with an agreement must have “particular” regard to the NELP. This would avoid confusion for those school boards that are also members of a community of learning.

Strategic planning and reporting

The bill would establish new planning and reporting processes for schools in clauses 43, 67, 68, 96, and 147. They include separating current planning documents into strategic and annual implementation plans.

As introduced, clause 67 of the bill would remove the requirement, in section 87(2)(e) of the Act, for a school to provide a statement analysing any variance between its performance and the targets set in the school charter. By majority we recommend amending clause 67 to retain the intent of section 87(2)(e). This would ensure that the requirement for a school to include a statement of variance in their annual report is clear in the statute. Also, the words “school charter” would need to be replaced with the words “strategic plan and annual implementation plan”.

The majority also recommends amending clause 67, new section 87(1), which would enable the statement of variance to be sent to the Secretary for Education at a different time from the rest of the annual report.

Clause 96, new section 118A, would enable the creation of new regulation-making powers for planning, implementation, monitoring, and reporting.

By majority we recommend several changes to clause 96, new section 118A. First, the majority recommends deleting new section 118A(2)(d) because the procedures for developing plans are already set out in the bill in clause 147(2). Also, the requirement for such procedures would be covered by our proposed amendment to new section 118A(1)(a).

The majority recommends including a reference to new section 60A(1)(c) in new section 118A(2)(j). This would ensure that the requirement for school boards to report on their performance against the national performance measures in their annual reports is clear in statute.

The majority recommends inserting new section 118A(1)(d) to include a regulation-making power for the preparation and delivery of statements of variance and annual reports under new section 87.

Finally, the majority recommends inserting new sections 118A(2)(ea) and (eb). This would allow regulations to be made covering information that must be included in the statement of variance and the form of that statement.

Clause 147 would insert a new Schedule 6 relating to boards of trustees. Clause 8 of new Schedule 6 covers the preparation of a draft strategic plan. By majority we recommend inserting clause 8(4) to enable a board to consult any person, group, or organisation it considers should be consulted when preparing the plan.

The majority also recommends two amendments to clause 8(3) specifying what a board must do when preparing a draft strategic plan:

- in the case of a State integrated school, it must ensure that the draft reflects the school's special character
- in the case of a designated character school, the board must ensure that the draft reflects the school's special character, including, in the case of a Kura Kaupapa Māori, its special characteristics.

Interventions

Clauses 55 to 64 of the bill would introduce changes to the interventions regime in Part 7A of the Act. The aim of the changes is to create a graduated range of interventions that would address the operation of individual schools, or the welfare or educational performance of the students.

For consistency, the majority recommends amending the term “chairperson” in clauses 56 and 60 to “presiding trustee”. This would be consistent with the term used in new Schedule 6.

To allow flexibility for boards, the majority recommends amending clause 57(4), section 78J(3)(a), to replace the term “at the time or times, or intervals, or both” with “by the time or times, or at the intervals, or both”. The majority recommends a similar amendment in clause 58, section 78K(2A). These changes would enable school boards to provide information or a report earlier than specified.

We have noted an incorrect cross-reference in clause 56(3), which would have the effect of applying a legal test to section 78N(3) of the Act (where the Secretary for Education sought to dissolve a school board and appoint a commissioner in its place). As this was not the intention, the majority recommends amending clause 56(3) to retain the current legal position.

Combined school boards of trustees

Clause 90 would amend section 110 to enable the Minister to require two or more boards to combine in situations where there are serious problems with the governance of one or more of the schools concerned, and only after consultation with the boards.

By majority, we recommend amending clause 90, section 110(1A)(b), to include a requirement that the Minister must consult the proprietor of a State integrated school. This would accord with the consultation requirements in section 105A of the Act.

The majority also recommends amending clause 92, new section 111, to include two restrictions. First, the board administering a designated character school could be combined with the board of another designated school only if both schools have substantially the same aims, purposes, and objectives.

Second, the majority recommends that the board of a Kura Kaupapa Māori could only be combined with a board of another Kura Kaupapa Māori.

These changes would accord with the restrictions on merging schools in section 156B of the Act.

Alternative constitutions for combined school boards of trustees

Clause 81 would replace existing sections 98A to 98C of the Act to allow the Minister to require a combined board to have an alternative constitution. Clause 91 would also allow the Minister to require a combined board covering more than four schools to have an alternative constitution.

By majority, we recommend amending clause 81, new section 98B, to ensure that only one notice would be needed. This could cover approval of the alternative constitution, establishment of the board, and associated administrative procedures. This would retain current law which requires only a single notice.

Restrictions on seclusion and physical restraint

As proposed in Supplementary Order Paper (SOP) 250, the majority recommends including clause 96A in the bill to insert new sections 139AB to 139AE into the Act. These provisions would prohibit seclusion of a student or child attending a registered school or early childhood centre, and would regulate the use of physical restraint.

By majority, we recommend the following two changes to the SOP's proposed limits on the use of physical restraint.

The majority recommends amending section 139AC(2), as proposed in the SOP, to ensure that the limits on the use of physical restraint would also apply to private schools. This would ensure a consistent approach across all educational settings. This amendment would also affect new sections 139AD and 139AE.

We agree with submitters that it must be made clear that physical restraint, to be acceptable, must be proportionate in the circumstances as well as reasonable. To emphasise this, the majority recommends amending proposed section 139AC(1)(b) to state that "the physical restraint is reasonable and proportionate in the circumstances."

We encourage the Ministry of Education to create clear guidelines for schools on the use of alternative behaviour management strategies.

Purpose provision for the establishment of schools

Clause 98, new section 145AAA, would insert a new purpose section for Part 12 which relates to the establishment of schools.

By majority, we recommend one change to the wording of new section 145AAA(c), from "recognise the desirability of diversity" to "recognise the role of diversity". The term "desirability" could create unintended ambiguity in the purpose provision.

Establishing designated character schools

Clauses 108 and 109 would replace sections 155 and 156 of the Act, respectively. New section 155 would clarify that, when establishing a State school as a designated character school, the Minister may also designate the school as a Kura Kaupapa Māori. New sections 156 and 156AA would enable the Minister to establish a designated character school and set out the process the Minister must follow.

For clarity, the majority recommends moving the description of Kura Kaupapa Māori into new section 156, which describes designated character schools.

By majority, we recommend inserting new section 156(3)(ba) to retain an existing requirement to be met by the Minister when establishing a school as a designated character school. We propose that the Minister must be satisfied that it is desirable for students to get such an education.

The majority recommends amending clause 109 to ensure that all process requirements for establishing designated character schools are included in new section 156AA.

By majority, we recommend retaining the requirement that the notice establishing a designated character school as a Kura Kaupapa Māori summarises any special characteristics of the school (section 156AA(5)(a)(iii)). The majority further recommends retaining the ability of the Minister to amend the special characteristics of the Kura Kaupapa Māori, after consulting the board, through a notice in the *Gazette* (section 156AA(6)(a)(ii)).

Consultation requirements

Under section 157(2) of the Act, the Minister must consult boards of State schools whose rolls might be affected by a school closure or merger. Clause 113 would amend section 157 to limit this requirement where the relevant boards have already been consulted as part of a review of the provision of schooling in a particular area.

By majority we recommend amending new section 157(3A) to remove the words “board or” to ensure consistency with section 157(3) of the Act.

State integrated schools

Clause 144 of the bill would insert new Part 33, incorporating the Private Schools Conditional Integration Act 1975 (the PSCI Act) into the Act. This would update and streamline the legislative framework for State integrated schools.

New section 416 would preserve the special character of State integrated schools. By majority, we recommend amending proposed new section 416(2) to state that integration must not (rather than simply “does not”) jeopardise the special character of a State integrated school. This would be consistent with the equivalent provision in the PSCI Act, which states that integration “shall not jeopardise the special character of an integrated school”.

We note that the proposed revisions to modernise new section 422(1)(d) unintentionally omitted reference to schools with a philosophical special character. The majority therefore recommends an amendment to correct this.

The majority recommends deleting proposed section 442(2). Several submitters expressed concern that the narrow wording of this section could mean that a State integrated school could refuse to enrol a student with a disability. Because the Human Rights Act 1993 applies to schools, the bill could cause confusion if it referred to some unacceptable grounds for discrimination, such as race and religion, but not others.

New Zealand Labour Party minority view

The Labour Party is opposed to the Education (Update) Amendment Bill. The case has not been made for many of the changes that have been proposed, and the majority of feedback we heard from the 216 submissions received on the bill has been ignored.

Whilst many submitters welcomed the bill's intention to modernise education legislation and provide a more coherent framework for the delivery of education, they also expressed concern that a bill purporting to place the child at the centre of the education system was being progressed through a process in which the voices of those children have barely been heard. We share that concern.

The Education (Update) Amendment Bill refines an education system that was well suited for the 20th century, and does little to bring the system into the 21st. The overwhelming focus continues to be on standardisation and accountability, rather than diversity and creativity.

We believe that the Government should be focused on ensuring that every school in New Zealand is a great school, and that every student has access to a broad education that allows them to fulfil their individual potential and even discover potential they did not know they had. We are concerned that the Government is narrowing the focus of the education system, focusing on a small set of measurable targets to the exclusion of a broad and balanced curriculum.

The Labour Party believes that this bill represents a missed opportunity to engage the whole community in meaningful educational reform.

Objectives and goals for the education system

The Labour Party welcomes the opportunity to discuss the overall objectives of our education system. We are concerned, however, that the considerable feedback received during the select committee process has not resulted in any changes being proposed to the objectives as drafted. For the objectives to have real meaning, a process of discussing and reconciling differing views needs to be undertaken. We are concerned that this does not appear to be happening.

We also welcome the replacement of the current national education goals with a new statement of National Education and Learning Priorities (NELP). The new statement will be subject to greater consultation and have an expiry date, both of which are welcome developments. However, we share submitters' concern that the relationship be-

tween the NELP and the New Zealand Curriculum has not been adequately reconciled. We are also concerned that the looseness of the consultation process could result in a statement of priorities that further narrows the focus of our education system, to the detriment of the diversity of learners within it.

National performance measures

The Labour Party is concerned that the introduction of national performance measures could narrow the focus of the whole education system to a small group of targets that are easily measured. We share the concern of the Children's Commissioner that national performance measures need to be wider than solely academic performance, and there are potentially negative consequences of narrowly measuring achievement. We also agree with the New Zealand Council for Educational Research who have argued that the main purpose of an accountability system should be to encourage continual improvement, rather than comparison between schools. Research in New Zealand clearly shows that the biggest variance in student achievement, once external factors have been taken into account, is within schools, not between schools. Continually ranking schools based on a narrow set of performance measures will not improve student achievement; it will only lead to stigma and unwarranted labelling.

Communities of learning

The Labour Party welcomes any useful move to improve collaboration between schools and lessen the damaging effect of the competitive model of educational provision. However, we are unclear what the Government is trying to achieve in legislating for communities of learning (CoLs), given there is nothing to stop them being established now and the new legislative provisions will have only minimal legal impact. Current Government policy on CoLs is managerially focussed and the achievement challenges approved to date have been narrowly focused on a small range of targets to the detriment of wider considerations such as student wellbeing.

Cohort entry

The Labour Party is concerned that the introduction of cohort entry policies are being driven by administrative convenience rather than the needs of the child. Many other countries have children starting school much later, some at 7 years old, while the New Zealand Government seeks to, in effect, allow 4 year olds to start school. When asked to explain why the Government had decided not to require any cohort entry to allow a child to start school at the beginning of the closest term after their birthday, officials provided detailed advice as to the likely cost to the education system, including the cost of children remaining in early childhood education longer. This suggests the policy of allowing children to start school before their fifth birthday is being driven by a desire to cut costs, rather than a desire to do what is in the best interests of the child.

The ability of New Zealand new entrant teachers to cater for individual children's needs as they arrive at school after their fifth birthday is internationally admired. Allowing tailored support around this critical transition has also been supported by the

Education Review Office. We share many submitters' concerns that a poorly designed cohort entry system could result in less-confident children being "lost" in the process.

All of the official advice to the select committee on cohort entry focussed on how the policy would work, not whether or not it was desirable. No research was presented to demonstrate that cohort entry would be better for the child. No submitters argued in favour of 4 year olds being allowed to enrol in school. Significant amounts of information were presented to demonstrate cohort entry would be better for education administrators.

Communities of online learning

The case for allowing students to enrol directly with an online learning provider, rather than at a school, has not been made. A wide range of objections to the introduction of communities of online learning (COOLs) were canvassed during the select committee process, including the potential for online learning to be used as a dumping ground for at-risk learners, the variable nature of student achievement through online learning providers in other jurisdictions, and the lack of detail around the accountability framework that COOLs would operate under.

A compelling submission from Michael Barbour of Touro University, California summarised findings from multiple research studies into direct online learning in other jurisdictions. That research highlighted lower achievement rates from online learning when compared to conventional learning, higher drop-out rates from online learning, and significant disparities in who was enrolling in online learning in the first place.

Green Party of Aotearoa / New Zealand minority view

The Green Party opposes the Education (Update) Amendment Bill for multiple reasons. It is an opportunity lost as well as a contribution to the ongoing privatisation of the public education system.

Consult children

The failure to consult children and young people on the issues raised in the bill represents an outdated approach to education. The bill was promoted as a comprehensive update and the people who are at the centre of the system have much to contribute. The bill should be stopped so that their central voices can be heard. We were offered advice on how to conduct authentic consultation by peak children's advocacy groups. This has been ignored.

Child rights

The bill also ignores international best practice and international conventions pertaining to the right to education for all children. The United Nations (UN) Conventions on the Rights of the Child, the Rights of Persons with Disabilities, and the UN Declaration on the Rights of Indigenous People should have been included in the bill. This is a grave omission which weakens the bill and indicates the Government's lack of willingness to honour these Conventions in practical terms in relevant domestic legislation.

National Education Learning Priorities

The concept may have merit, but the NELPs, which are intended to replace the national guidelines, needed a clear explanation and context. We need to understand how they relate to the New Zealand Curriculum document. They also fail as a high-level statement of priorities. This failure is due to the narrow process followed in their development, hence a list with some good ideas but without a visionary statement based on a consensus of educators, whanau, children, and communities.

The omissions include no priority for education to be equitable and to seek equity, no recognition of lifelong learning and adult education, no requirement for inclusion and the rights of students with disabilities to equitable education, no mention of critical thinking and the need for education to be broad, life enhancing and based on a pedagogy of learning and teaching that is robust, modern, and creative. A wide and deep discussion was required to create these priorities; this did not happen.

National performance measures

The performances measures are a step backwards and represent an entrenchment of the competitive model. This contradicts the holistic and modern approach to learning in the New Zealand Curriculum and will do nothing to help children flourish at school.

Te reo Māori

The bill fails to advance te reo Māori in schools and despite references to te reo in the NELPs, the Education Act will still leave the language as a “choice” without any progress towards te reo as a core subject available to all. There is no commitment to developing the capacity to teach this subject properly.

School starting age by cohort

The Green Party is not convinced by this proposal, particularly the possibility of children under 5 years starting school. It is a contradiction of the recognition that each child is an individual and we heard no good child-centred arguments in its favour. It may have administrative appeal but it is not supported by parents and teachers.

Communities of learning

This policy is in its early stages and early reports of its value are mixed. This bill removes the flexibility and autonomy of communities of learning (CoLs) by giving the Minister power to determine the priorities set. This was not part of the original model and undermines the self determination of it. It is also noted that the Government relies on CoLs to be the silver bullet for many educational issues, such as inclusion challenges, without any justification.

Communities of online learning

The complete absence of engagement with the education sector at any meaningful level has led to widespread suspicion and distaste for this policy. The policy itself is also distasteful in the sense that it has not been developed from research, demand, or

educational necessity. It allows fully online schools, including primary level, without fully qualified teachers, and for profit. As the Ombudsman told us, there are serious risks of dumping students with learning needs that are complex and expensive for schools to manage, into communities of online learning (COOLs). Pastoral care and educational quality are huge issues. Overseas experiences of this model show the schools can be poor quality with poor results for students. The need for better support and recognition for blended learning based in schools, such as that offered by the Virtual Learning Network, is very real but this bill is not focussed on that. Like charters, COOLs are an opportunity for education to be further commercialised, and the Green Party rejects the model. We support digital learning that is integrated with the New Zealand Curriculum and for the public good.

Combining boards

The bill proposes the option of combining up to four school boards. This is unnecessary and unhelpful, and the flexibility is already in the system and the law.

The distancing of boards from ministerial powers

The term “absolute discretion of the Minister” has raised some concerns. Even though it has precedent in other legislation, it is not a collaborative approach with the education sector.

Supplementary Order Paper – Seclusion

The Green Party supports the intent of the Supplementary Order Paper which will ban seclusion rooms and the setting of clear rules around the use of physical restraint. The Green Party has no dispute with this intent and wants these issues addressed in law. However, we agree with some submitters who have little faith that the banning of seclusion with no additional training and support for teachers and schools’ support staff will result in better practice. Additional reporting of incidents is an example of increased bureaucracy without the professional development to ensure a culture change. We still have grave concerns about child rights in some of the 36 schools which were found to be using seclusion rooms.

Conclusion

The bill is an opportunity lost. We are disappointed that a genuine broad discussion on education was not held and this update has emerged with so little mandate and so little vision.

New Zealand First minority view

New Zealand First is unable to support many of the amendments incorporated into this legislation. There are numerous areas of concern; we have outlined a few in details below.

New Zealand First agrees with the Children’s Commissioner and other submitters who called for this bill to be removed from Parliament and sent back to the Ministry of Education for full and authentic consultation, including students which this Act di-

rectly affects. It is our view that only cursory and narrow “consultation” has been taken to date which inadequately provides for New Zealand children and young people with the education system they deserve.

While the Government has recognised that there are areas within the current Act that require updating they have, in our view, used these required minor amendments as an excuse to make sweeping changes that further privatise the provision of education in New Zealand. At the same time the Government has chosen to ignore the glaring omission from the Act which pertain to the right to education for all children as committed to by New Zealand in signing and ratifying the United Nations Conventions of the Rights of the Child and the Rights of Persons with Disabilities.

New Zealand First notes that almost no submissions were lodged in favour of lowering the school entry age from the current allowable 5 year threshold to 4 years 10 months. There was no evidence produced to show any benefits to children at this younger age and so this amendment appears to be to the benefit of administrators and funding equations, not the children our schools are there to serve. New Zealand First believes that a simple amendment to the proposed bill which would allow cohort entry of students after their fifth birthday would avoid the concerns raised by some submitters.

New Zealand First acknowledges the difficulties currently being experienced by Te Aho o Te Kura Pounamu (Te Kura) but does not accept that the solution to these issues is to open up a new market of private provision under the umbrella of “communities of online learning”. The reasons Te Kura has found itself providing services to a large number of students outside of its original brief has never been explained to the committee. We are of the opinion that lack of funding in other areas of the education system has resulted in these challenges for Te Kura, for example the underfunding of alternative schools. It is also our view that, as blended learning and e-learning are very much part of the current New Zealand education system, what the sector was looking for from central Government was the structure and resourcing to support greater implementation and spread of best practice across the country. We believe this can best be achieved working within the State education system to expand on best practice, develop curriculum and e-learning courses that support the outcomes desired in the New Zealand Curriculum delivered or mentored by fully qualified and registered teachers.

New Zealand First strongly opposes the new measures that allow the Minister of Education to appoint a member to the board of trustees and to make that member the chair of that board. It has been suggested during these hearings that allowing the Minister to appoint a member to a board of trustees experiencing difficulties as an advisor would be acceptable, but to allow the Minister to make the decision on their appointee holding the pivotal position of chair is an unnecessary and undesirable step.

New Zealand First opposes the new measures allowing the Minister of Education to combine four or more boards of trustees and the suggested prescription of the makeup of these boards. It is our view that this is a direct attack on Tomorrow's Schools and the autonomy of each community to elect their parent trustees who will work with the

principal as the educational leader of that school and the staff trustee who represents other groups of professionals inside each school. We note that there is no measure inside the legislation to “undo” a combined board once implemented.

New Zealand First expresses concern regarding the subsuming of the Private Schools Conditional Integration Act into the Education Act 1989. In particular, we have serious reservations around the trade-off negotiated between the Government, Association of Proprietors of Integrated Schools, and the New Zealand Catholic Education Office, where taxpayers have been committed to funding 85 percent of all property-related costs where there is a demonstrated need but removes the discretionary nature regarding this funding currently in place. We also have concerns regarding the behind-door conversations between the Minister and this specific sector of education provision. It is our view that any conversation regarding the use of taxpayers’ money should be open and transparent.

We also have extreme concern regarding the removal of new section 442(2) which previously read:

Subject to subsection (1), no prospective student may be refused enrolment at a State integrated school on the grounds of:

- (a) Religion, race, or socio economic background; or
- (b) Lack of willingness of the parent to make financial contributions to the school.

This new section was removed via an arrangement between these specific groups and the Government after the closing of submissions.

New Zealand First opposes the removal of the statutory requirement for a subsequent round of consultation to take place with a community once the Minister has made and publicised a decision to merge or close schools. We understand that the Minister of Education is required to consult on all possible options with the school community before putting forward their recommendation to the Minister but do not think it reasonable that, once the preferred option has been articulated, the community should not have the ability to have their say on the single option placed before them.

New Zealand First vigorously opposes the absorption of Careers New Zealand into the Tertiary Education Commission (TEC). When multiple pieces of research and anecdotal evidence are telling us that careers advice in our compulsory school sector is lacking and that at post-secondary level is often non-existent, now is not the time to do away with the single government organisation charged with leading the work on this topic. We also note that in evidence provided to the committee neither the Ministry of Education nor TEC was able to articulate how they would improve and enhance careers advice both inside and outside the compulsory education system.

New Zealand First is not opposed to the development of a series of National Education Learning Priorities (NELPs) but is opposed to the ability for a Minister of the day to alter these as they see fit without a nationwide conversation that includes student voice, parental voice, education sector voice and business voice. It is our view that such a conversation must take place to set the NELPs, similar to that taken in Finland

some years ago, so that the success markers for our young people are agreed upon by the majority and are not vulnerable to subsequent changes of Minister.

We also wish to express our concern regarding the development of “enduring goals or objectives for education for children and young persons age 0 to 18”. We see this as an opportunity by Government to push down the requirement of National Standards onto younger and younger children and we cannot support this possibility.

New Zealand First agrees with those submitters that expressed their frustration at the length of time currently taken to deal with complaints against a board of trustee’s decision and we acknowledge the submission by the Office of the Ombudsman. It is our view that a mediating body where parents and students can gain more efficient low-level advice and mediation should be established. This is not restricted, but is of special interest, to those parents with students who face educational challenges due to physical, mental, or psychological heightened needs.

Appendix

Committee process

The Education (Update) Amendment Bill was referred to the committee on 13 September 2016. The closing date for submissions was 11 November 2016. We received and considered 216 submissions from interested groups and individuals. We heard oral evidence from 84 submitters at hearings in Auckland and Wellington. Supplementary Order Paper 250 was referred to the committee on 29 November 2016.

We received advice from the Ministry of Education.

Committee membership

Dr Jian Yang (Chairperson)

Todd Barclay

Catherine Delahunty

Hon Jo Goodhew

Chris Hipkins

Hon Peseta Sam Lotu-liga

Tracey Martin

Todd Muller

Adrian Rurawhe

Jenny Salesa

Hon Maurice Williamson

Key to symbols used in reprinted bill

As reported from a select committee

text inserted by a majority

~~text deleted by a majority~~

Hon Hekia Parata

Education (Update) Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education (Update) Amendment Act **2016**.

2 Commencement

- (1) **Sections 117, 119, 120, 121(1), 122(1), 128, 145(2), and 149(2)** come into force on **48 April 1 July 2017**. 5
- (1A) **Sections 9, 10, 30(1) and (3), and 145(2A)** come into force on **3 July 2017**.
- (2) **Sections 121(2) and 122(2)** come into force on **48 October 2017 1 January 2018**. 10
- (3) **Sections 5(4) to (6), 11, 20(2) and (3), 22, 25 to 29, 30(2), 32 to 34, 36(2), 38, ~~39(2)~~, 39(2A), 51A, 66, 70, 71, 72(1), (3), and (4), 97A, 99(1), 105, 114, 116(2), 118, 124 to ~~427~~ 127A, 130, 131, 131B, 145(3) and 149(3)** come into force on the earlier of—
 - (a) a date appointed by the Governor-General by Order in Council; or 15
 - (b) **31 December 2017 2019**.
- (4) **Sections 39(3), 41(2) and (5), 43, 59, 67, 96, and 147(2)** come into force on the earlier of—
 - (a) a date appointed by the Governor-General by Order in Council; or
 - (b) **1 January 2019**. 20
- (5) One or more orders ~~maybe~~ may be made under **subsections (3) and (4)** bringing different provisions into force on different dates.
- (6) The rest of this Act comes into force on **48 March 2017 28 April 2017**.

Part 1 Amendments to Education Act 1989

3 ~~Education Act 1989 amended~~ Principal Act

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

4 New Part 1AA inserted

5

After section 1, insert:

Part 1AA Early childhood and compulsory education: ~~statements~~ statement of National Education and Learning Priorities

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

10

(1) The Minister may, by notice in the *Gazette*, issue a statement of National Education and Learning Priorities for the early childhood and compulsory education sectors.

(2) A statement issued under this section—

15

(a) must be consistent with the objectives set out in **subsection (3)**; and

(b) may include statements of the diversity of education provision; and

(c) must specify the date on which it comes into effect; and

(d) remains in effect for a period of 5 years unless earlier withdrawn or replaced by notice in the *Gazette*; and

20

(e) must be published on an Internet site maintained by the Ministry.

(3) The objectives of the system for education and learning that is provided for in the specified Parts (that is, early childhood and compulsory education) are—

(a) to focus on helping each child and young person to attain educational achievement to the best of his or her potential; and

25

(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:

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(iii) participation in community life and fulfilment of civic and social responsibilities:

(iv) preparedness for work; and

(c) to instil in each child and young person an appreciation of the importance of the following:

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- (i) the inclusion within society of different groups and persons with different personal characteristics:
 - (ii) the diversity of society:
 - (iii) cultural knowledge, identity, and the different official languages:
 - (iv) the Treaty of Waitangi and te reo ~~Maori~~ Māori.
- (4) Before issuing a statement under this section, the Minister must consult with those stakeholders in the early childhood and compulsory education sectors that he or she considers ought to be consulted.
- (5) Minor changes to a statement issued under this section—
 - (a) may be made without fulfilling the consultation requirements in **subsection (4)**; and
 - (b) do not, for the purposes of **subsection (2)(d)**, constitute a withdrawal or replacement of the statement being changed.
- (6) A statement issued under this section is neither a legislative instrument nor a disallowable instrument for the purposes of the Legislation Act 2012, and does not have to be presented to the House of Representatives under section 41 of that Act.
- (7) Except as provided in **subsection (2)(a)**, the objectives in **subsection (3)** do not affect or limit the way in which any person is required to exercise a power or perform a function under a specified Part.
- (8) In this section, **specified Parts** means this Part, Parts 2 to ~~3~~ **3A**, Parts 7 to 9, Parts 11 to 12A, Part 26, and **Part 33**.

5 Section 2 amended (Interpretation)

- (1) In section 2(1), insert in their appropriate alphabetical order:
 - integration** means the conditions and procedures on and by which a private school may become established as part of the State system of education, and remain part of that system, on a basis that preserves and safeguards the special character of the education that the school provides, and **integrated** has a corresponding meaning
 - State integrated school** means a school that—
 - (a) provides education with a special character; and
 - (b) has been established as a State integrated school under **section 421**
- (2) In section 2(1), definition of **enrolment scheme**, after “under section 11H”, insert “or developed under **section 111A**”.
- (3) In section 2(1), definition of **registered school**, after “State school,”, insert “a State integrated school.”.
- (4) In section 2(1), after “Parts 2, 3,”, insert “**3A**.”.
- (5) In section 2(1), repeal the definition of **correspondence school**.

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

community of online learning means—

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

full-enrolling community of online learning means a registered school or other body corporate that has been accredited to enrol students in full-time on-line education 5

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

supplementary community of online learning means a registered school or other body corporate that has been accredited to provide online education to students enrolled at another school or ~~a full~~ an enrolling community of online learning 10

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

- 6 **New section 2A inserted (Transitional, savings, and related provisions)** 15

After section 2, insert:

2A Transitional, savings, and related provisions

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

- 7 **Section 3 amended (Right to free primary and secondary education)** 20

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

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

In section 4D(3A), replace “an integrated school” with “a State integrated school”. 25

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

Replace section 5 with:

5 Restrictions on enrolment at primary school

- (1) The following persons must not be enrolled or continue to be enrolled at a primary school or in a class below form 3 at a composite school: 30

- (a) a child under 5, unless **subsection (2)** applies:
- (b) a child who turned 14 in a previous year:
- (c) a child who, in the opinion of the Secretary,—
 - (i) has completed the work of form 2; or
 - (ii) has completed the work equivalent to form 2. 35

- (2) A child under 5 may be enrolled or continue to be enrolled at a primary school or in a class below form 3 at a composite school if—
- (a) the school has adopted a cohort entry policy; and
 - (b) the child is enrolled or continues to be enrolled according to that policy.
- (3) A child under 5 who is enrolled under **subsection (2)** is entitled to free enrolment and free education in accordance with section 3. 5

10 New sections 5A to 5C inserted

After section 5, insert:

5A Cohort entry policy

- (1) ~~A registered school~~ State school, State integrated school, or partnership school kura hourua may adopt or revoke a cohort entry policy if the school consults and gives notice in accordance with **section 5C**. 10
- (2) A cohort entry policy must—
- (a) apply to all children aged 4 or 5 who have not previously enrolled in a registered school or ~~a full~~ an enrolling community of online learning; 15
 - and
 - (b) provide that a child may only be enrolled on a term start date determined in accordance with **section 5B**.
- (3) Despite a school having a cohort entry policy in place, a child may be enrolled on a date that is later than the date determined under the policy if the later date— 20
- (a) is a term start date; and
 - (b) otherwise complies with this Act.
- (4) In this section and **section 5B**, a **term start date** for a school means, in relation to a term, the first day in that term that the school is open for instruction. 25

5B Determining term start dates under cohort entry policy

- (1) If a school has a cohort entry policy in place, the term start date on which a child may be enrolled in the school must be determined in accordance with this section.
- (2) A child whose fifth birthday is on or after a mid-term and before the next mid-term, may not be enrolled until the term start date of that next term. 30
- (3) The Minister may, before 1 July in any year, prescribe the mid-term dates for the next year.
- (4) If the Minister has not prescribed mid-term dates for a year, the same mid-term dates as the year before will apply. 35

5C	Adoption or revocation of cohort entry policy	
(1)	When developing a proposed cohort entry policy for a school, a board must take all reasonable steps to discover and consider the views of the following persons about the policy <u>and whether it is generally acceptable</u> :	
(a)	parents of students at the school:	5
(b)	employees of the board at the school:	
(c)	early childhood services in the local community:	
(d)	parents of prospective students of the school.	
(2)	When considering whether to revoke a cohort entry policy, a board must take all reasonable steps to discover and consider the views of the persons described in subsection (1) as to whether the policy should be revoked.	10
(3)	A board must take all reasonable steps to give notice of at least 1 term to the Secretary and the persons described in subsection (1) before a cohort entry policy takes effect or ceases to have effect.	
11	Sections 7 and 7A repealed	15
	Repeal sections 7 and 7A.	
12	Section 11B amended (Interpretation)	
	In section 11B, definition of reasonably convenient school , paragraph (b), replace “an integrated school” with “a State integrated school”.	
13	Section 11H amended (Process for developing and adopting enrolment scheme)	20
	In section 11H(4)(c), replace “an integrated school” with “a State integrated school”.	
14	New section 11IA inserted (Development of enrolment scheme by Secretary)	25
	After section 11I, insert:	
11IA	Development of enrolment scheme by Secretary	
(1)	If a board receives a notice under section 11H(1) and if an enrolment scheme is not developed by it within a reasonable period, the Secretary may develop an enrolment scheme for the school.	30
(2)	In developing an enrolment scheme, the Secretary must—	
(a)	follow the process set out in section 11H(3) and (4) as if he or she was the board; and	
(b)	be satisfied of the matters listed in section 11I(1).	
(3)	A board must implement an enrolment scheme developed under this section.	35

- (4) The Secretary must specify, in the enrolment scheme, the date on which the scheme commences.
- (5) Section 11K(1) and (2) does not apply to an enrolment scheme made under this section.
- 15 Section 11J amended (Information about school's enrolment scheme) 5**
In section 11J(1), after “adopts an enrolment scheme”, insert “or implements an enrolment scheme developed under **section 11IA**”.
- 16 Section 11K amended (Commencement of enrolment scheme)**
After section 11K(2), insert:
- (2A) An enrolment scheme developed under **section 11IA** commences on the date specified in the scheme. 10
- 17 Section 11M amended (Amendment of enrolment scheme)**
In section 11M(1), after “adopted an enrolment scheme”, insert “or implemented an enrolment scheme under **section 11IA**”.
- 18 Section 11P amended (Secretary may direct board to enrol applicant) 15**
(1) Replace section 11P(2) with:
- (2) The Secretary may direct the board of a State school to enrol an applicant whose application for enrolment it has declined if he or she is satisfied that—
- (a) the board has declined the application on the ground that the applicant is not living in the school's home zone, but in fact he or she is living in the zone; or
- (b) not giving a direction would be so disadvantageous to the applicant that overriding the enrolment scheme is justified. 20
- (2A) The power in **subsection (2)(b)** may only be exercised in exceptional circumstances. 25
- (2) In section 11P(4), replace “an integrated school” with “a State integrated school”.
- 19 Section 11PB amended (Enrolment schemes of certain State schools)**
(1) In section 11PB(1), replace “integrated schools,” with “State integrated schools, State schools that are accredited as enrolling communities of online learning,”. 30
- (1A) After section 11PB(1)(c), insert:
- (ca) in the case of an enrolling community of online learning operated by a State school, the application of the sections must not result in inconsistency with conditions set by the Minister under **section 35Y**; and 35
- (1B) In section 11PB(1)(d), replace “section 155” with “**section 156**”.

- (2) In section 11PB(1)(f),—
- (a) replace “an integrated school” with “a State integrated school”; and
 - (b) replace “the Private Schools Conditional Integration Act 1975” with “**Part 33**”.
- 20 Section 16 amended (Secretary’s powers when excluded student younger than 16)** 5
- (1) In section 16(1)(b), replace “an integrated school” with “a State integrated school”.
 - (2) In section 16(1)(ba), delete “; or”.
 - (3) Repeal section 16(1)(c). 10
- 21 Section 17 amended (~~Re-enrolment of excluded or expelled student~~)
(Board’s powers when suspended student 16 or older)**
- In section 17(3), replace “any of paragraphs (a) to (c) of subsection (1)” with “subsection (1)(a) to (c)”.
- 22 Section 17B amended (Who may attend board meeting concerning suspensions)** 15
- In section 17B, insert as ~~subsection (2)~~ subsections (2) and (3):
- (2) Instead of attending and speaking at a meeting of the board in person, the student, the student’s parents, and their representatives may attend and speak by way of telephone conference or video link. 20
 - (3) A telephone conference or video link may be used only if the student and his or her parents have requested the use of a telephone conference or video link (as the case may be).
- 23 Section 17D amended (Re-enrolment of excluded or expelled student)**
- In section 17D(3), replace “an integrated school” with “a State integrated school”. 25
- 24 Section 18AA amended (Secretary may make rules)**
- In section 18AA(3), replace “clause 8” with “~~clause 42~~ **40**” in each place.
- 25 Section 20 replaced (New Zealand citizens and residents between 6 and 16 to go to school)** 30
- Replace section 20 with:
- 20 New Zealand citizens and residents between 6 and 16 must be enrolled at registered school or ~~full~~ enrolling community of online learning**
- (1) Every person who is a New Zealand citizen or resident must, during the period beginning on the person’s sixth birthday and ending on the person’s 16th birthday, be enrolled at— 35

- (a) a registered school; or
- (b) ~~a full~~ an enrolling community of online learning.
- (2) Before a child's seventh birthday, the child is not required to be enrolled at any school more than 3 kilometres walking distance from the child's residence.
- (3) **Subsections (1) and (2)** do not apply to international students. 5
- (4) This section is subject to anything else in this Act.
- 26 Section 21 amended (Long term exemptions from enrolment)**
- (1) In section 21(1)(b)(i), after "registered school", insert "~~or full~~ enrolling community of online learning".
- (2) Replace section 21(8A) and (9) with: 10
- (8A) A certificate in force under subsection (1) or (3) expires when whichever of the following happens first:
- (a) the person to whom it applies turns 16:
- (b) the person to whom it applies enrolls in a registered school:
- (c) the person to whom it applies enrolls in ~~a full~~ an enrolling community of online learning. 15
- (9) A certificate in force under subsection (1) or (3) does not expire when the person to whom it applies receives tuition from a supplementary community of online learning.
- 27 Section 22 amended (Secretary may exempt from enrolment)** 20
- In section 22(1)(b)(iii), after "schools", insert "~~or full~~ enrolling communities of online learning".
- 28 Section 23 amended (Effect of exemption)**
- (1) In section 23(a), after "school", insert "~~or full~~ enrolling community of online learning". 25
- (2) In section 23(b), after "school", insert "~~or full~~ enrolling community of online learning".
- 29 Section 24 amended (Penalty for failure to enrol)**
- Replace section 24(1) with:
- (1) The parent of a person required by this Act to be enrolled at a registered school or ~~full~~ enrolling community of online learning who fails or refuses to ensure that the person is enrolled at a registered school or ~~full~~ enrolling community of online learning— 30
- (a) commits an offence; and
- (b) is liable on conviction to a fine not exceeding \$3,000. 35

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

(1) Replace section 25(1) with:

(1) Except as provided in this Act, every student of a registered school who fits into either or both of the following categories is required to attend the school whenever it is open:

5

(a) a student who is required by **section 20** to be enrolled at a registered school:

(b) a student who is aged 4 or 5 and is enrolled at a registered school.

(2) Replace section 25(1) with:

(1) Except as provided in this Act, every student of a registered school (other than a student enrolled in ~~a full~~ an enrolling community of online learning) who fits into either or both of the following categories is required to attend the school whenever it is open:

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(a) a student who is required by **section 20** to be enrolled at a registered school:

15

(b) a student who is aged 4 or 5 and is enrolled at a registered school.

(1A) Every student enrolled in, or receiving tuition from, a community of online learning must meet the attendance requirements prescribed in regulations made under **section 35Z0**.

(3) After section 25(3), insert:

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(3A) Despite subsections **(1)** to (3), if a child is aged 4 or 5 and is enrolled at a registered school,—

(a) the child's parents, the principal, and the Secretary may agree a plan to help the transition of the child to school, depending on the particular needs of the child; and

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(b) the child is required to attend school in accordance with the plan.

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

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

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

Replace section 28 with:

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

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(1) The Secretary, by notice in writing to the parent of a student who has a certificate of exemption under section 26(1)(b)(i) or (ii), may call on the parent to—

	(a) have the student enrolled at a full <u>an enrolling</u> community of online learning specified in the notice; and (b) ensure that the student meets the attendance requirements prescribed in regulations made under section 35Z0.	
(2)	Enrolment under subsection (1) must be—	5
	(a) for the period of exemption, in the case of a student exempted under section 26(1)(b); and (b) until the student turns 16, or for a shorter period specified in the notice, in every other case.	
(3)	A parent who fails to comply with a notice under subsection (1) to have a student enrolled at a full <u>an enrolling</u> community of online learning—	10
	(a) commits an offence; and (b) is liable on conviction to a fine not exceeding \$3,000.	
33	Section 29 amended (Penalty for irregular attendance)	
	Replace section 29(1)(b) with:	15
	(b) while enrolled at a full <u>an enrolling</u> community of online learning, does not meet the attendance requirements prescribed in regulations made under section 35Z0,—	
34	Section 30 amended (Employment of school-age children)	
(1)	In section 30(1)(b), replace “ <u>a</u> correspondence school” with “ full <u>an enrolling</u> community of online learning”.	20
(2)	In section 30(1)(d)(ii), replace “ <u>a</u> correspondence school” with “ full <u>an enrolling</u> community of online learning”.	
35	New section 35GA and cross-heading inserted	
	After section 35G, insert:	25
	<i>Statement of National Education and Learning Priorities</i>	
35GA	Manager must have regard to statement of National Education and Learning Priorities	
	The manager of a school registered under section 35A must,—	
(a)	in operating the school, have regard to any statement of National Education and Learning Priorities; and	30
(b)	ensure that, in developing and delivering the curriculum, the school’s principal and staff have regard to any statement of National Education and Learning Priorities.	

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

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

37 New section 35S and cross-heading inserted

After section 35R, insert:

Powers of entry and inspection

35S Entry where private school suspected of being unregistered

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

Compare: 1989 No 80 s 78B

38 New Part 3A inserted

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

Part 3A

Communities of online learning

Accreditation and review of communities of online learning

35T Provisional accreditation of communities of online learning

- (1) Any of the following bodies may apply to the Minister for provisional accreditation as ~~a full~~ an enrolling community of online learning or a supplementary community of online learning: 5
- (a) a registered school:
 - (b) a body corporate:
 - (c) a tertiary education provider. 10
- (2) The Minister may, by written notice to the applicant, provisionally accredit ~~it~~ the body as a community of online learning if the Minister is satisfied that it meets ~~the criteria in subsection (3), or is likely to meet, the criteria in section 35X(2).~~ 15
- (3) ~~For a body to be provisionally accredited as a community of online learning, it must have or be likely to have—~~ 15
- (a) ~~a learning environment and processes that are safe and secure for its students; and~~
 - (b) ~~an appropriate curriculum for teaching, learning, and assessment and a tuition standard that are suitable to the age range and level of its students; and~~ 20
 - (c) ~~the capacity to meet its pastoral care and student well-being responsibilities; and~~
 - (d) ~~a system for ensuring that information about a student's performance is given to the student's parents in a timely manner and in a form that is readily understandable; and~~ 25
 - (e) ~~equipment that is suitable for the curriculum being delivered, or to be delivered, and for the mode of online education delivery; and~~
 - (f) ~~directors or managers who are fit and proper persons; and~~
 - (g) ~~sound financial practices; and~~ 30
 - (h) ~~premises, whether owned or leased, that are suitable for a community of online learning of its type.~~
- (3) The Minister may set conditions on provisional accreditation under **section 35Y.**
- (4) The Minister has absolute discretion to refuse to provisionally accredit any body ~~as a community of online learning.~~ 35

~~35U~~ Conditions on provisional accreditation of communities of online learning

~~(1) The Minister may set conditions on the provisional accreditation of communities of online learning, including conditions that—~~

- ~~(a) specify who may be enrolled at the community of online learning and the enrolment process; and~~
- ~~(b) specify the outcomes for student achievement that must be met; and~~
- ~~(c) set a maximum roll; and~~
- ~~(d) specify the year levels that may be taught; and~~
- ~~(e) specify, for full communities of online learning that are not registered schools or partnership schools kura hourua, the number or percentage of teaching positions that must be filled by people holding a practising certificate or limited authority to teach.~~

~~(2) Conditions set by the Minister may be in respect of any or all of the following:~~

- ~~(a) provisional accreditation of all communities of online learning;~~
- ~~(b) provisional accreditation of a type of community of online learning;~~
- ~~(c) provisional accreditation of a particular community of online learning.~~

35V Duration of provisional accreditation of communities of online learning and renewal of accreditation

(1) Provisional accreditation of a community of online learning continues—

- (a) for 12 months (unless it is cancelled earlier under **section 35ZC**); or
- (b) until the expiry of any period specified by the Minister under **subsection (2)**.

(2) The Minister may renew the provisional accreditation ~~of a community of online learning~~ only once, for a period specified by the Minister, if he or she is satisfied that—

- (a) exceptional circumstances exist in relation to the community of online learning; and
- (b) ~~the school or body~~ community is likely to meet the criteria for full accreditation ~~as a community of online learning~~ during that period.

(3) Renewal of provisional accreditation may be made subject to conditions under ~~**section 35U**~~ **section 35Y**.

35W Review of provisionally accredited communities of online learning

(1) As soon as practicable after the Minister provisionally accredits a community of online learning, the Secretary must inform the Chief Review Officer of the provisional accreditation.

(2) The Chief Review Officer must ensure that a review officer reviews any community of online learning that is provisionally accredited either—

- (a) between 6 and 12 months after the provisional accreditation ~~of the community of online learning~~; or
- (b) earlier, by agreement with the community of online learning.
- (3) The Minister may request a further review of a community of online learning that has its provisional registration renewed under **section 35V(2)**. 5
- (4) The Chief Review Officer must ensure that a review officer who conducts a review under this section prepares a written report in relation to the review and gives copies of it to the Secretary and the community of online learning.
- (5) A review officer's written report on a review under this section must include the following information: 10
- (a) whether the community ~~of online learning~~ meets the criteria for full accreditation as ~~a full an enrolling~~ or a supplementary community of online learning, as the case may be:
- (b) if it does not meet the criteria, the areas in which improvement is required: 15
- (c) whether the community ~~of online learning~~ is complying with conditions imposed on its provisional accreditation.
- (6) In addition to the requirements of this section, the Chief Review Officer must ensure that a provisionally accredited community of online learning is reviewed in accordance with Part 28. 20
- 35X Full accreditation of communities of online learning**
- (1) The Minister may, by written notice to a provisionally accredited community of online learning, fully accredit the community if he or she is satisfied, having considered any report under **section 35W(4)** and any other information, that the community meets the criteria for full accreditation as ~~a full an enrolling~~ or a supplementary community of online learning in **subsection (2)**. 25
- (2) ~~For a body to be fully accredited as a community of online learning, it must have—~~ A community of online learning must have—
- (a) a learning environment and processes that are safe and secure for its students; and 30
- (b) an appropriate curriculum for teaching, learning, and assessment, and a tuition standard, suitable to the age range and level of its students; and
- (c) the capacity to meet its pastoral care and student well-being responsibilities; and
- ~~(d) a system for ensuring that information about a student's performance is given to the student's parents in a timely manner and in a form that is readily understandable; and~~ 35

	(d) <u>a system and processes to safely and securely collect, manage, and store student information, including achievement and enrolment information; and</u> (e) equipment that is suitable for the curriculum being delivered, or to be delivered, and for the mode of online education delivery; and (f) directors or managers who are fit and proper persons; and (g) sound financial practices; and (h) premises, whether owned or leased, that are suitable for a community of online learning of its type.	5
35Y	Conditions on full accreditation of communities of online learning	10
(1) (a) (b) (c) (d) (e)	The Minister may set conditions on the <u>provisional or</u> full accreditation of a community of online learning, including conditions that— specify who may be enrolled at the community of online learning and the enrolment process; and specify the outcomes for student achievement that must be met; and set a maximum roll; and specify the year levels that may be taught; and specify, for full enrolling communities of online learning that are not registered schools or partnership schools kura hōrua, the number or percentage of teaching positions that must be filled by people holding a practising certificate or limited authority to teach.	15
(2) (a) (b) (c)	Conditions set by the Minister may be in respect of <u>may be set for</u> any or all of the following: full accreditation of all communities of online learning; full accreditation of a type of community of online learning; full accreditation of a particular community of online learning.	25
(3)	<u>The Minister may amend or revoke conditions or impose new conditions, with the agreement of the community of online learning.</u>	
(4) (a) (b) (c) (5)	<u>The Minister may amend or revoke conditions or impose new conditions, without the agreement of the community of online learning only if the Minister has first—</u> <u>given written notice to the community of the Minister’s intention; and</u> <u>given the community a reasonable opportunity to respond to the notice; and</u> <u>considered any submissions made by the community in response to the notice.</u> <u>The Minister must give written notice to the community of online learning of any changes to conditions made under subsection (4).</u>	30

35Z Review of accredited communities of online learning

- (1) The Chief Review Officer must ensure that a review officer reviews any community of online learning that is accredited under **section 35X**, in accordance with this section.
- (2) The Chief Review Officer must ensure that a review officer who conducts a review under this section prepares a written report in relation to the review and gives copies of it to the Secretary and the community of online learning. 5
- (3) The report must include the following information:
 - (a) whether the community ~~of online learning~~ meets the criteria for full accreditation ~~as a community of online learning~~: 10
 - (b) if it does not meet the criteria, the areas in which improvement is required:
 - (c) whether the community ~~of online learning~~ is complying with conditions imposed on its accreditation.
- (4) In addition to the requirements of this section, the Chief Review Officer must ensure that a community ~~of online learning~~ accredited under **section 35X** is reviewed in accordance with Part 28. 15

*Actions by Minister or Secretary in respect of communities of online learning***35ZA Application of interventions in communities of online learning**

- (1) The following interventions ~~in communities~~ are available in respect of a community of online learning ~~that are available~~ are as follows: 20
 - (a) ~~a requirement by the Minister for~~ the Minister may require information:
 - (b) ~~a requirement by the Minister that a community of online learning engage the Minister~~ may require that the community engage specialist help: 25
 - (c) ~~a requirement by the Minister for a community of online learning to prepare and carry~~ the Minister may require that the community prepare and carry out an action plan:
 - (d) ~~a requirement that a community of online learning comply~~ the Minister may require that the community comply with a performance notice issued by the ~~Secretary~~ Minister. 30
- (2) The Minister may apply any of the interventions described in **subsection (1)** ~~to a community of learning~~ if he or she has reasonable grounds to believe that there is a risk to the operation of the community of online learning, or to the welfare or educational performance of its students. 35
- (3) When applying an intervention, the Minister must apply whichever intervention he or she considers is reasonable to deal with the risk without intervening more than necessary ~~in the affairs of the community of online learning~~.

- (4) The application of any intervention does not preclude the application of any other intervention, either simultaneously or at any other time.
- (5) The interventions in this section are in addition to any other interventions available under this Act ~~if a community of online learning is also a registered school.~~

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

- (1) The Minister may take action in regard to a provisionally or fully accredited community of online learning if—
- (a) the Minister considers that the community ~~of online learning~~ is not meeting all or any of the criteria for provisional or full accreditation, as the case may be; or
 - (b) a review conducted under **section 35W or 35Z** indicates that the community ~~of online learning~~ does not, or is likely not to, meet all or any of the criteria for its accreditation; or
 - (c) the community ~~of online learning~~ has breached or is breaching its statutory duties in relation to the community ~~of online learning~~ under this or any other enactment; or
 - (d) the Minister has reasonable grounds to believe that unlawful activity is occurring in the community of online learning.
- (2) If the Minister decides to take action, the Minister may do 1 or more of the following:
- (a) issue the community of online learning with a notice to comply;
 - (b) require the community ~~of online learning~~ to inform parents of the community's students that it is not meeting the criteria for accreditation as a community of online learning;
 - (c) impose conditions on the provisional or full accreditation of the community ~~of online learning~~;
 - (d) cancel the provisional or full accreditation of the community ~~of online learning~~.
- (3) Any action taken by the Minister under **subsection (2)** must be proportionate to the seriousness of the situation of the community of online learning.

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35ZC Cancellation of accreditation in particular cases

- (1) The Minister may cancel the provisional or full accreditation of a community of online learning if he or she has reasonable grounds to believe that it is necessary to do so because—
- (a) the community ~~of online learning~~ no longer meets 1 or more of the criteria for provisional or full accreditation, as the case may be; or

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- (b) the community ~~of online learning~~ is not complying with 1 or more of the conditions of its provisional or full accreditation, is not performing any relevant duties, or is not fulfilling its obligations under this Act; or
 - (c) there is a risk to the operation of the community ~~of online learning~~ or the educational performance or welfare of the students. 5
- (2) The Minister must, before cancelling accreditation under **subsection (1)**, by written notice to the community ~~of online learning~~, give 28 days' notice of the cancellation and set out the reasons for the cancellation.
- (3) Before cancelling the accreditation, the Minister must consider any responses received from the community ~~of online learning~~ within the 28-day notice period. 10

35ZD Suspension of accreditation if welfare of students may be at risk

The Secretary may suspend the provisional or full accreditation of a community of online learning if he or she has reasonable grounds to believe that the welfare of the students of the community of online learning is at risk, and— 15

- (a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the accreditation; or
- (b) that, although the risk could be managed by means other than by suspension of the accreditation, the amount of time necessary to do so is likely, in the opinion of the Secretary, to be excessive. 20

Operation of communities of online learning

35ZE Duties of communities of online learning

- (1) ~~The A~~ community of online learning must perform its functions and exercise its powers in such a way as to ensure that every student at the community ~~of online learning~~ is able to attain his or her highest possible standard in educational achievement. 25
- (2) ~~The An enrolling~~ community of online learning must also take all reasonable steps to ensure that—
- (a) students get good guidance and counselling, ~~including career advice~~; and
 - (ab) students in form 1 and above are provided with appropriate career education and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave secondary education; and 30
 - (b) a student's parents are told of matters that, ~~in the principal's opinion, in the opinion of the leader of the community of online learning,~~— 35
 - (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~~ within the community of online learning; and
- (c) it provides a safe emotional learning environment for its students.
- (3) ~~A full~~ An enrolling community of online learning has overall responsibility for the programmes for its students and the students' progress. 5
- (4) A community of online learning operated by—
- (a) a State school must, when complying with **subsection (1)**, have particular regard to any statement of National Education and Learning Priorities issued under **section 1A**;
- (b) a partnership school kura hourua, a school registered under section 35A, a body corporate, or a tertiary education provider must, when complying with **subsection (1)**, have regard to any statement of National Education and Learning Priorities issued under **section 1A**. 10
- (5) In **subsection (2)**, leader has the meaning given to professional leader in section 348 and, in respect of a community of online learning not covered by that definition, means the person appointed by the community of online learning to undertake the responsibilities in **subsection (2)(b)**. 15
- 35ZF Enrolment at ~~full~~ enrolling communities of online learning**
- (1) A person must not be enrolled at ~~a full~~ an enrolling community of online learning unless the person's enrolment is in accordance with any conditions set by the Minister on accreditation of the community ~~of online learning~~. 20
- (2) A person who is enrolled at an enrolling community of online learning that is operated by a tertiary education provider is not, by reason only of the person's enrolment in the community, also enrolled in the tertiary education provider.
- 35ZG Fees for enrolment or tuition at communities of online learning** 25
- A community of online learning may charge fees to the categories of students specified in regulations made under **section 35ZO**.
- 35ZH Suspensions and expulsions of students from ~~full~~ enrolling communities of online learning to be notified to Secretary**
- (1) As soon as practicable after a student has been suspended from attendance at, or expelled from, ~~a full~~ an enrolling community of online learning that is not a registered school, the community must give the Secretary— 30
- (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 35

- (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 community of online learning~~ or enrolled at another community of online learning or a registered school, the Secretary must (if the student is younger than 16) and may (if the student is 16 or older)—
- (a) arrange for the student to be enrolled at some other reasonably convenient registered school that the student can attend; or
 - (b) direct the board of a State school that is not an integrated school to enrol the student at the school; and, in that case, the board must do so; or
 - (c) direct a parent of the student to have the student enrolled at another community of online learning.
- (3) The Secretary must not give a direction under **subsection (2)** unless he or she has made all reasonable attempts to consult the student, the student's parents, the board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- (4) A direction under **subsection (2)(b)** overrides section ~~11M~~ 11P and the provisions of any enrolment scheme the school may have in place.
- 35ZI Provision by community of online learning for students enrolled at ~~full~~ enrolling community of online learning or State school**
- (1) Subject to **subsections (2) to (4)** of this section,—
- (a) students may,—
 - (i) if enrolled at ~~a~~ an enrolling community of online learning, receive tuition from another community of online learning or from, or at, a State school; or
 - (ii) if enrolled at a State school, receive tuition from a community of online learning; and
 - (b) the enrolling community of online learning or the board of the State school at which the students are enrolled may pay ~~the community or the board of the school giving that tuition for that~~ for the tuition.
- (2) The arrangements described in **subsection (1)**—
- (a) may be entered into only by agreement between the communities of online learning involved or the community of online learning and the school involved, as the case may be; and
 - (b) are subject to any conditions on the accreditation of the communities of online learning concerned.

- (3) A community of online learning that is delivering tuition to a student enrolled at another community of learning or a State school may terminate that delivery before the end of the programme only if the student—
- (a) commits a serious breach of behaviour standards specified in the community's conditions of accreditation; or 5
 - (b) significantly fails to meet the course requirements specified in the community's conditions of accreditation.
- (4) Before a community of online learning terminates the tuition it must—
- (a) provide the parents and student (if applicable) with the reasons for the proposed action and provide a reasonable opportunity for them to respond; and 10
 - (b) inform the enrolling school or ~~full~~ enrolling community of online learning.

Grants, record keeping, and provision of accounts

35ZJ Grants for communities of online learning 15

- (1) The Minister may make grants to fully and provisionally accredited communities of online learning out of money appropriated by Parliament for the purpose.
- (2) The Minister must determine the amount of each grant made.
- (3) A grant may be made unconditionally or subject to conditions determined by the Minister. 20
- (4) A community of online learning to which a grant is made subject to conditions must take all reasonable steps to ensure that the conditions are complied with.

35ZK Record keeping in relation to grants made to communities of online learning 25

- (1) This section applies to a community of online learning that is not a State school or a tertiary education provider.
- (2) A community of online learning to which this section applies and to which a grant has been made under **section 35ZJ** must ensure that records are kept—
 - (a) in respect of the year in which the grant was made and the year after; and 30
 - (b) in a manner approved by the Minister.
- (3) The records must—
 - (a) show fully and correctly all the financial transactions, assets, liabilities, and funds of the community of online learning; and 35
 - (b) show that the conditions of the grant (if any) have been complied with; and

- (c) be available for inspection at all reasonable times by any employee of the Ministry approved by the Secretary for the purpose.
- (4) For the purposes of this section and **section 35ZL**, the financial year of a community of learning ends—
 - (a) at the close of the day specified by the Minister for the purpose; or
 - (b) at the close of 30 June, if the Minister has not specified a day for the purpose.

35ZL Providing accounts for communities of online learning to Secretary

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

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

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

35ZM Secretary must publish register of accredited communities of online learning

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

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

35ZN Communities of online learning must advise Secretary if ceasing operation

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

- (a) that it will cease to operate ~~as a community of online learning~~; and
- (b) of the date on which it will cease to operate ~~as a community of online learning~~.

35ZO Regulations relating to communities of online learning

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

- (a) ~~the accreditation process for provisional and full accreditation for communities of online learning, which may be different for different types of body that apply:~~ 5
- (a) details about the application of the accreditation criteria, and the process for the application of the criteria, for provisional and full accreditation, which may be different for different types of body that apply and for enrolling and supplementary communities of online learning: 10
- (b) ~~the criteria for enrolment at a full community of online learning an enrolling community, and different criteria may be fixed for all or any of the following:~~
 - (i) ~~different communities of online learning:~~ 15
 - (ii) ~~communities of online learning~~ of different classes or descriptions:
 - (iii) ~~early childhood, primary, and secondary classes at communities of online learning:~~
- (c) the categories of communities of online learning that may charge, and the categories of students that may be charged, fees for enrolment and tuition at a community of online learning: 20
- (d) ~~the requirements for attendance in sections 20 and 25:~~
- (e) ~~the planning and reporting requirements for communities of online learning:~~ 25
- (f) any other matters contemplated by, or necessary for giving full effect to, the provisions of **this Part**.

39 Section 60 amended (Interpretation)

- (1) In section 60, repeal the definitions of **board staff**, **Chief Review Officer**, **domestic student**, **international student**, **national education guidelines**, **review officer**, and **Teachers Council**. 30
- (2) In section 60, insert in its appropriate alphabetical order:
community of learning means a community of learning approved by the ~~Secretary~~ Minister in accordance with ~~section 73A~~ **75A**
- (2A) In section 60, insert in its appropriate alphabetical order: 35
community of online learning has the meaning given in section 2(1)
- (3) In section 60, repeal the definition of **charter**.

40 New cross-heading above section 60A inserted

After section 60, insert:

Curriculum and performance

41 Section 60A amended (National education guidelines)

- (1) Replace the heading to section 60A with “**Curriculum statements and national performance measures**”. 5
- (2) Repeal section 60A(1)(a).
- (3) In section 60A(1)(b), replace “(that is to say” with “, which are”.
- (4) In section 60A(1)(b), replace “schooling:” with “schooling.”.
- (5) Replace section 60A(1)(c) with: 10
 - (c) **national performance measures**, which are targets against which the performance of boards can be measured.
- (6) Repeal section 60A(2)(c).

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

In section 60B(2), definition of **school community**, paragraph (a), replace “an integrated school” with “a State integrated school”. 15

43 Sections 61 to 63B replaced

Replace sections 61 to 63B with:

61 Teaching and learning programmes

The board of a school must ensure that the school’s principal and staff develop and implement teaching and learning programmes that— 20

- (a) give effect to any foundation curriculum policy statements and national curriculum statements in force under section 60A; and
- (b) give effect to any national standards in force under section 60A; and
- (c) give the school’s students access to a nationally and internationally recognised qualifications system. 25

62 Monitoring of and reporting on student performance

- (1) The board of a school must ensure that the school’s principal and staff monitor and evaluate the performance of the school’s students.
- (2) Monitoring and evaluating must include, but is not limited to, monitoring and evaluating the performance of the students in relation to— 30
 - (a) any national standards in force under section 60A; and
 - (b) any qualification systems referred to in **section 61(c)** that are offered at the school.

- (3) The board must ensure that information about a student's performance is given to the student's parents in a timely manner and in a form that is readily understandable.
- (4) The board must report to the Secretary, to its school community, and to parents on the performance of the school's students in accordance with any regulations made under **section 118A**. 5

School year, terms, and holidays, etc

44 Section 65 repealed (Staff)

Repeal section 65.

45 Sections 65H to 70C repealed 10

Repeal sections 65H to 70C.

46 Section 71 amended (Courses and visits)

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

47 New section 71A inserted (Off-site locations for schools) 15

After section 71, insert:

71A Off-site locations for schools

- (1) This section applies to the use of off-site locations by schools to provide education to 1 or more students on a long-term or full-time basis.
- (2) The Minister may, by written notice to the board of a school, approve the use of an off-site location by the school. 20
- (3) The Minister may issue a notice under **subsection (2)** only if he or she is satisfied that the board and the owner or occupier of the off-site location have both agreed to that use and the terms of that use.
- (4) Except as provided in **subsection (2)**, a school must not— 25
- (a) use an off-site location; or
 - (b) host an off-site location for another school.
- (5) In any case, following notice of approval being given and before any use is made of the off-site location, the board must enter into a written agreement with the Secretary that sets out— 30
- (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. 35

- (6) **Off-site location** means any premises outside the premises of the school that is to use the off-site location for the purpose described in **subsection (1)**.

48 Sections 72 to 75 replaced

Replace sections 72 to 75 with:

Land no longer needed for educational purposes

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75 Minister may declare land to be no longer needed for educational purposes

- (1) The Minister may, by notice in the *Gazette*, declare any land of the Crown to be no longer needed for educational purposes.

- (2) On publication of a notice under **subsection (1)**, any land referred to in the notice that was, immediately before publication of the notice, held for a purpose set out in **subsection (3)**, ceases to be held and may be disposed of as land no longer required for a public work.

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- (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.

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Communities of learning

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75A Community of learning approved by Minister

- (1) The Minister may approve a community of learning for the purpose of the community entering an agreement under **section 75B**.

- (2) A community of learning must consist of a group of 2 or more State or State integrated schools but may also include 1 or more of the following:

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- (a) licensed early childhood services (as defined in section 309);
- (b) certificated playgroups;
- (c) tertiary education organisations (which has the same meaning as **organisation** in section 159B(1)).

- (3) The Minister may approve a community of learning only if the Minister is satisfied that—

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

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75B Secretary may enter agreement with community of learning

(1) The Secretary and the members of a community of learning approved by the Minister may enter a community of learning agreement.

(2) The matters that a community of learning agreement may provide for include (without limitation) any or all of the following: 5

(a) the activities that the community of learning will undertake:

(b) the commitments of individual members of the group in carrying out the activities:

(c) any resources that may be provided to carry out the activities:

(d) any data collection requirements related to the activities: 10

(e) the format and content of the plans and annual reports required under **sections 73C and 73D 75C and 75D.**

(3) Each member is jointly and severally liable for the obligations and responsibilities of the community of learning set out in the agreement.

(3A) A member that proposes to withdraw from a community of learning agreement must give the Secretary notice in writing of the withdrawal. 15

(4) 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. 20

75C 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 25

(b) provide the Secretary with a copy of the plan.

(2) The plan must have particular regard to ~~the~~ any statement of National Education and Learning Priorities ~~(if any)~~ issued under section 1A.

(3) A community of learning that changes a plan provided to the Secretary must provide the Secretary with a copy of the changed plan as soon as practicable. 30

75D 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 35

(b) the use of any resources provided to or by the community of learning in accordance with the agreement to carry out the activities.

75E	Performance review of community of learning	
	The Chief Review Officer may review the performance of a community of learning under Part 28.	
	<i>Powers and functions of principals</i>	
49	Section 77 amended (Guidance and counselling)	5
	After section 77(a), insert:	
	(ab) students receiving secondary education in form 1 and above are provided with appropriate career information <u>education</u> and guidance that is designed to prepare them to join the workforce or undertake further education or training when they leave school; and	10
50	New cross-heading above section 78 inserted	
	After section 77A, insert:	
	<i>Regulations</i>	
51	New cross-heading above section 78A inserted	
	After section 78, insert:	15
	<i>Powers of entry and inspection</i>	
51A	<u>Section 78A amended (Powers of entry and inspection)</u>	
(1)	<u>In section 78A(1)(a), after “school”, insert “or community of online learning”.</u>	
(2)	<u>In section 78A(1)(b), after “school”, insert “or community”.</u>	
(3)	<u>In section 78A(1A), after “school”, insert “or community” in each place.</u>	20
(4)	<u>In section 78A(5), after “school”, insert “or community of online learning”.</u>	
52	Section 78B repealed (Entry where private school suspected of being unregistered)	
	Repeal section 78B.	
53	New cross-heading above section 78C inserted	25
	After section 78B, insert:	
	<i>Police vetting of non-teaching staff</i>	
54	New cross-heading above section 78D inserted	
	After section 78CD, insert:	
	<i>Risk management schemes</i>	30

55 Section 78H amended (Purpose of Part)

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

56 Section 78I amended (Application of interventions)

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

(ca) a requirement by the Secretary that the board attend a case conference to enable a particular issue or issues to be discussed and actions to be agreed: 5

(cb) a requirement by the Secretary that the board engage an appropriately qualified person to undertake a specialist audit of any aspect of the school’s affairs: 10

(cc) the issuing by the Secretary to the board of a performance notice requiring the board to carry out a specified action by a specified date:

(cd) the appointment by the Minister of a trustee (who may be the ~~chair person~~ person presiding trustee) to the board for a specified period of time: 15

(2) After section 78I(1), insert: 15

(1A) The Secretary may apply any of the interventions described in subsection (1)(a) to **(cc)** to a school if he or she has reasonable grounds for concern about the operation of the school, or the welfare, or educational performance of its students. 20

(3) In section 78I(2), replace “subsection (1)(b) to (e)” with “**subsection (1)(cd)** to ~~(f)~~ **(e)**”. 20

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

57 Section 78J amended (Requirement to provide information)

(1) In section 78J(1)(a), after “time”, insert “or times”. 25

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

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

(3) Repeal section 78J(2).

(4) Replace section 78J(3) with: 30

(3) A board that receives a notice under subsection (1) must provide the Secretary with the information required and an analysis of the information (if this has been sought)—

(a) ~~at the time or times, or intervals, or both~~ by the time or times, or at the intervals, or both, as specified in the notice; and 35

(b) in the form (if any) required by the Secretary.

(5) Repeal section 78J(4).

58 Section 78K amended (Specialist help)

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

(2A) The Secretary may also require, in the notice, that the board provide to him or her a report or reports (for example, a progress report and a final report) on the specialist help—

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- (a) ~~as at a given~~ by the specified time or times; or
- (b) at the specified intervals; or
- (c) both.

(2) Replace section 78K(3) with:

(3) A board that receives a notice under subsection (1) must—

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- (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.

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(3) Repeal section 78K(4).

59 Section 78L amended (Action plans)

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

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60 New sections 78LA to 78LE inserted

After section 78L, insert:

78LA Case conference

(1) The Secretary may, by written notice to the board of a school, require the board to attend a case conference on a specified date.

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(2) The notice must ~~particularise~~ 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.

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(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,—

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- (a) require it to take a particular action or actions; and
 - (b) require it to provide to him or her a report or reports (for example, a progress report and a final report) on the action or actions taken—
 - (i) as at a given time or times; or
 - (ii) at specified intervals; or
 - (iii) both.
- (7) A board that receives a notice under **subsection (6)** must,—
- (a) in relation to a requirement to take a particular action or actions, take the action or actions as soon as practicable; and
 - (b) if the notice includes a requirement to report to the Secretary, provide a report or reports at the time or times, or intervals, specified in the notice.

78LB Specialist audit

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

78LC Performance notice

- (1) The Secretary may, by written notice to the board of a school, issue a performance notice requiring the board to carry out a specified action by a specified date.
- (2) The Secretary may also require, in the notice, that the board provide to him or her a report or reports (for example, a progress report and a final report) on the action taken—

- (a) as at a given time or times; or
 (b) at specified intervals; or
 (c) both.
- (3) A board that receives a notice under **subsection (1)** must—
- (a) take the action by the date specified in the notice; and 5
 (b) provide a report or reports to the Secretary at the time or times, or intervals, specified in the notice.
- 78LD Appointment of additional trustee by Minister**
- (1) The Minister may, by written notice to the board of a school, appoint an additional trustee of the board, and the Minister may also appoint that trustee as the ~~chairperson~~ presiding trustee. 10
 (2) The notice must specify a period of time for which the appointment is made.
 (3) A person who is ineligible to be a trustee under section 103 may not be appointed under this section.
- 78LE Amendment and revocation of notices** 15
- (1) The Secretary may at any time, by giving written notice to a board, amend or revoke a notice given by him or her under this Part.
 (2) The amendment or revocation takes effect on the date specified in the notice.
- 61 Section 78M amended (Limited statutory manager)**
- In section 78M(5), after “it”, insert “, unless the Secretary determines otherwise”. 20
- 62 Section 78O amended (Commissioners)**
- In section 78O(3), after “the board”, insert “, unless the Secretary determines otherwise”.
- 63 Section 78R amended (Annual review of interventions)** 25
- In section 78R, replace “sections 78J(1), 78K(1), 78L(1), 78M(1), or 78N(1) or (3)” with “sections 78J(1), 78K(1), 78L(1), **78LA, 78LB, 78LC, 78LD,** 78M(1), or 78N(1) or (3)”.
- 64 Section 78S amended (Application of interventions to integrated schools)**
- (1) In the heading to section 78S, replace “**integrated schools**” with “**State integrated schools**”. 30
 (2) In section 78S(1), replace “an integrated school” with “a State integrated school”.

65 Part 8 heading amended

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

66 Section 81A repealed (Grants for correspondence schools)

Repeal section 81A.

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67 Section 87 ~~amended~~ replaced (Annual reports)

Replace section 87~~(2)~~ with:

87 Statements of variance and annual reports**(1) A board must give the Secretary—**

(a) a statement of variance by a date fixed by the Secretary each year; and

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(b) an annual report as soon as practicable after the end of each financial year, and no later than a date fixed by the Secretary.

(2) The annual report must contain the following:

(a) the information required by the regulations made under section 118A:

(b) the board’s annual financial statements:

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(c) the auditor’s report provided under section 87A:

(d) in respect of the board or, in the case of a Crown entity group, each Crown entity in the group,—

(i) the total value of the remuneration (other than compensation and other benefits referred to in **subparagraph (v)) paid or payable to the trustees in their capacity as trustees by the board (or entities in the group, as the case may be) during the financial year; and**

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(ii) the total value of the remuneration (other than compensation and other benefits referred to in **subparagraph (v)) paid or payable to the committee members in their capacity as committee members by the board (or entities in the group, as the case may be) during the financial year (except that this subparagraph does not apply to trustees whose remuneration is disclosed under **subparagraph (i)**); and**

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(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**

30

(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

35

	any other consideration paid or payable in the school principal's capacity as an employee) paid to a principal of the school; and	
	(v) the total value of any compensation or other benefits paid or payable to persons who ceased to be trustees, committee members, or employees during the financial year in relation to that cessation and the number of persons to whom all or part of that total was payable;	5
	(e) <u>the statement of variance.</u>	
(3)	<u>In this section, statement of variance means a statement that details—</u>	10
	(a) <u>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</u>	
	(b) <u>any matters required by the regulations made under section 118A.</u>	
68	New section 87AB inserted (Annual report to be made available)	
	After section 87A, insert:	15
87AB	Annual report to be made available	
	A board must ensure that its annual report is available to the public on an Internet site maintained by or on behalf of the board.	
69	Part 8A heading amended	
	In the Part 8A heading, replace "Payment of teacher salaries" with "Employment of teachers".	20
70	Section 91A amended (Interpretation)	
	In section 91A(1), insert in its appropriate alphabetical order:	
	full-enrolling community of online learning has the same meaning as in section 2(1)	25
71	Section 91B replaced (Application)	
	Replace section 91B with	
91B	Application	
	Section 91C applies to every State school other than a full <u>an enrolling</u> community of online learning.	30
72	Section 92 amended (Interpretation)	
(1)	In section 92(1), repeal the definition of correspondence school .	
(2)	In section 92(1), repeal the definition of integrated .	
(3)	In section 92(1), definition of special institution , repeal paragraph (b).	
(4)	In section 92(1), insert in their appropriate alphabetical order:	35

- community of online learning** has the same meaning as in section 2(1)
- ~~full-enrolling~~ community of online learning** has the same meaning as in section 2(1)
- online education** has the same meaning as in section 2(1)
- supplementary community of online learning** has the same meaning as in section 2(1) 5
- (5) In section 92(1), insert in its appropriate alphabetical order:
integrated has the same meaning as in section 2(1)
- 73 New cross-heading above section 93 inserted** 10
 After section 92, insert:
- Requirement for board of trustees*
- 74 Section 93 amended (Schools and special institutions to have boards of trustees)**
 In the heading to section 93, replace “**Schools**” with “**State schools**”.
- 75 New cross-heading above section 94 inserted** 15
 Above section 94, insert:
- Constitution of boards*
- 76 Section 94 amended (Constitution of boards of State schools)**
- (1) In section 94(1), replace “94C, and 95(1)” with “95(1), and **100**”.
- (2) In section 94(1)(e), replace “any integrated school” with “any State integrated school”. 20
- 77 Section 94A amended (Proprietors of integrated schools may vary number of trustees they appoint)**
- (1) In the heading to section 94A, replace “**integrated schools**” with “**State integrated schools**”. 25
- (2) In section 94A(1), replace “any integrated school shall” with “any State integrated school must”.
- (3) In section 94A(2), replace “an integrated school” with “a State integrated school”.
- (4) In section 94A(4), replace “an integrated school” with “a State integrated school”. 30
- 78 Section 94C repealed (Limitations on co-option and appointment of trustees)**
 Repeal section 94C.

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

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

80 Section 98 amended (Boards of newly established schools)

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

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

After section 98, insert:

98A Minister may approve alternative constitution in certain cases

- (1) The Minister may from time to time, by notice in the *Gazette*, approve an alternative constitution under this section for the board of a State school, or a combined board of State schools. 10
- (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. 15
- (3) Subject to **subsections (2) and (4)**, the Minister may not approve an alternative constitution unless—
 - (a) 1 of the following applies:
 - (i) the Chief Review Officer (as defined in section 2(1)), in a written report, recommends that the Minister consider devising an alternative constitution; or 20
 - (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 25
 - (iv) the Minister has required the board to have an alternative constitution under **section 110(1D) or 110A(3)**; and
 - (b) the Minister has consulted such persons or organisations as the Minister considers appropriate.
- (4) **Subsection (3)** does not apply if— 30
 - (a) the alternative constitution is the successor constitution for a board that was appointed or elected under section 98(1); or
 - (b) the alternative constitution is approved for a combined board before the date specified in a notice under section 110(1); or
 - (c) the alternative constitution is for the board of a continuing school and the Minister has given notice under section 156A(4)(b). 35

(5) In the case of a State integrated school, the Minister must consult ~~with~~ the proprietor of the school when conducting the consultation required under **subsection (3)(b)**.

(6) A constitution approved under this section applies instead of a constitution under section 94.

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98B Consequences of approval of alternative constitution

(1) If an alternative constitution is approved under **section 98A(1)**, ~~the Minister must issue a notice under this section establishing~~ the notice made under that section must establish a board comprising 1 or more persons who are to be elected or appointed as trustees in the manner specified in the notice, and the notice may (without limitation)—

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(a) set out a procedure for any election, appointment, or co-option of trustees:

(b) set out the manner in which vacancies are to be filled:

(c) provide for the appointment of returning officers and set out their functions:

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(d) set out other formal and procedural provisions for the purposes of any election, appointment, or co-option of trustees.

(2) While a notice under **section 98A(1)** that approves an alternative constitution is in force, sections 94, 94A, 94B, 95, 96, 97, 98, 99, 101, 102, 104, and 105 do not apply in respect of the board concerned and the schools governed by it.

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(3) In their application to a board that has an alternative constitution under **section 98A**, the other sections and any schedules of this Act relating to boards must be read subject to (and subject also to all modifications necessary to give effect to) **section 98A** and to this section.

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

The powers of a board are not affected by—

(a) any vacancy in its membership; or

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

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(c) the fact that any elected, appointed, or co-opted trustee acted as a trustee while he or she was a person who may not (under section 103(1)) become an elected, appointed, or co-opted trustee; or

(d) the fact that a person continued acting as a trustee after the person's office as a trustee became vacant or (in the case of a person whose election as a trustee has been declared invalid under **section 101D** or by a court) before the person's election was declared invalid.

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Co-opted and appointed trustees

82 Section 100 replaced (Availability of annual report)

Replace section 100 with:

100 Limitations on co-option and appointment of trustees

- (1) A board must not co-opt a trustee if the effect of the co-option would be that the total number of trustees co-opted by the board or appointed was equal to or greater than the total number of parent representatives. 5
- (2) A board must not exercise its powers under section 94B(1)(c) or (d) if doing so could result in the board having a number of parent representatives that was not greater than the total number of trustees co-opted by the board or appointed.
- (3) No more than 1 non-permanently appointed member of the board staff may be co-opted to the board at any one time. 10

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

- (1) In section 101(5), replace “31 October” with “30 April”.
- (2) In section 101(8A), replace “section 105A” with “**section 98A**” in each place. 15

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

After section 101B, insert:

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

- (1) This section applies if a commissioner has been appointed in place of a board that has, or has decided to have, a staggered election cycle, and the commissioner has appointed a date under section 78P for the holding of elections of trustees for a new board. 20
- (2) Despite anything in section 102, the nomination forms and voting forms for the election must show which nominees are standing only until the next election, and which are standing until the election after the next election. 25
- (3) Despite anything in section 102, trustees who are elected only until the next election go out of office at the close of the day before the day on which the successor takes office following the election.
- (4) If the date that the commissioner has appointed under section 78P is a date that is within 6 months before the date on which an election is due to be held, the board does not have to hold an election on that date and this section applies as if that election were not due to be held. 30

101D Validation and invalidation of elections of boards

- (1) **Subsection (2)** applies if— 35

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

Term of office of trustees

85 New cross-heading above section 103 inserted

After section 102, insert:

Eligibility to be trustee

86 Section 103B amended (Requirements before appointment)

In section 103B, delete “governing”.

87 New cross-heading above section 104 inserted

After section 103B, insert:

*Casual vacancies on boards***88 Section 104 amended (When casual vacancies arise)**

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

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

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(1) Repeal sections 105A and 109A.

(2) Above section 110, insert:

*Combining and splitting boards***90 Section 110 amended (Boards may combine)**

Replace section 110(1) with:

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(1) The Minister may, by notice in the *Gazette*, establish a single board (a **combined board**) to administer a number of schools or institutions, with effect from a date specified in the notice.

(1A) The Minister may establish a combined board if the restrictions in section 111 are ~~complied with~~ met and the Minister—

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(a) is satisfied of the matters in **subsection (1B)**; or

~~(b) has reasonable cause to believe the circumstances in **subsection (1C)** exist and has consulted the boards concerned.~~

(b) has reasonable cause to believe the circumstances in **subsection (1C)** exist and has consulted—

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(i) the boards concerned; and

(ii) in the case of a State integrated school, the proprietor of that school.

(1B) For the purposes of **subsection (1A)(a)**, the matters are that—

(a) each of the boards concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at its schools or institutions about combining with the other boards; and

25

(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.

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(1C) For the purposes of **subsection (1A)(b)**, the circumstances are that the Minister must have reasonable cause to believe that—

(a) there are serious problems with the governance of 1 or more of the schools or institutions concerned; and

(b) those problems could be addressed by the combined board.

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- (1D) When establishing a combined board for 4 or more schools, the Minister may require the combined board to have an alternative constitution.

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

After section 110A(2), insert:

- (3) When establishing a combined board of 4 or more schools, the Minister may require the combined board to have an alternative constitution. 5

92 Section 111 amended (Restrictions on combining)

- (1) In section 111(3), replace “an integrated school” with “a State integrated school”.
 (2) In section 111(4), replace “an integrated school” with “a State integrated school”. 10

(3) After section 111(4), insert:

- (5) A board of a designated character school may only combine with a board of another designated character school and only if both schools have substantially the same aims, purposes, and objectives (that are required to be specified under section 156). 15

- (6) A board of a Kura Kaupapa Māori may only combine with another board of a Kura Kaupapa Māori.

93 ~~Section 116A amended (Appointment of principal of combined board)~~

~~In section 116A, replace “section 65” with “**clause 6 of Schedule 6**”.~~ 20

94 New cross-heading above 117 inserted

After section 116A, insert:

Miscellaneous provisions

95 Section 118 amended (Regulations)

Replace the heading to section 118 with “**Regulations about board elections**”. 25

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

After section 118, insert:

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

- (1) The Governor-General may, by Order in Council, make regulations that make provision for 1 or more of the following: 30
- (a) the development of school strategic plans and annual implementation plans under **clauses 7 to 10 of Schedule 6**; and
 - (b) the monitoring of and reporting of a board’s performance under **clause 11 of Schedule 6**; and 35

- (c) the monitoring of and reporting on the performance of a school's students under **section 62**; and
- (d) the preparation and delivery of statements of variance and annual reports under **section 87**.
- (2) Without limiting **subsection (1)**, the regulations may make provision in relation to 1 or more of the following: 5
- (a) the form of plans:
- (b) matters that must be dealt with in plans:
- (c) when plans must be prepared, submitted, or updated:
- ~~(d) procedures for developing plans:~~ 10
- (e) requirements for consultation in the development and implementation of plans:
- (ea) the information that must be included in a statement of variance under **section 87(1)(a)**:
- (eb) the form of statements of variance: 15
- (f) the information that must be included in an annual report under **section 87(2)(a)**:
- (g) the form of annual reports:
- (h) the form of reports on the performance of a school's students:
- (i) the information that must be included in reports on the performance of a school's students: 20
- (j) any other matters contemplated by, or necessary for giving full effect to, any of the following provisions:
- (iaa) **section 60A(1)(c)**:
- (i) **section 62**: 25
- (ii) sections 87 to **87AB**:
- (iii) **clauses 7 to 11 of Schedule 6**.

96A New sections 139AB to 139AE inserted

After section 139A, insert:

- 139AB No seclusion at or on behalf of registered school or early childhood service** 30
- (1) A person to whom this section applies must not seclude any student or child who is enrolled at or attending a registered school or an early childhood service.
- (2) This section applies to a teacher or any other person who is— 35
- (a) employed by a board; or

	(b) <u>employed by the managers of a school registered under section 35A; or</u>	
	(c) <u>employed by the sponsor of a partnership school kura hourua; or</u>	
	(d) <u>employed or engaged by the service provider of an early childhood service; or</u>	
	(e) <u>providing education or care to children attending an early childhood service; or</u>	5
	(f) <u>supervising or controlling any student or child on behalf of—</u>	
	(i) <u>a board; or</u>	
	(ii) <u>the managers of a school registered under section 35A; or</u>	
	(iii) <u>the sponsor of a partnership school kura hourua; or</u>	10
	(iv) <u>the service provider of an early childhood service.</u>	
	(3) <u>In this section,—</u>	
	<u>early childhood service has the meaning given to it by section 309</u>	
	<u>seclude, in relation to a student or child, means to place the student or child involuntarily alone in a room from which he or she cannot freely exit or from which the student or child believes that he or she cannot freely exit</u>	15
	<u>service provider has the meaning given to it by section 309.</u>	
	139AC Limits on use of physical restraint in schools	
	(1) <u>A teacher or authorised staff member must not physically restrain a student unless—</u>	20
	(a) <u>the teacher or staff member reasonably believes that the safety of the student or of any other person is at serious and imminent risk; and</u>	
	(b) <u>the physical restraint is reasonable and proportionate in the circumstances.</u>	
	(2) <u>In this section and in sections 139AD and 139AE,—</u>	25
	<u>authorised staff member means an employee of a registered school who is authorised by the employer to use physical restraint in accordance with this section</u>	
	<u>employer means—</u>	
	(a) <u>a board;</u>	30
	(b) <u>the managers of a school registered under section 35A;</u>	
	(c) <u>the sponsor of a partnership school kura hourua</u>	
	<u>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</u>	35
	<u>teacher means a person who holds a teaching position (as defined in section 348) at a registered school.</u>	

139AD Rules on physical restraint

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

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139AE Guidelines on physical restraint

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

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

Repeal section 141.

97A Section 144A amended (Secretary may require information for proper administration of Act)

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- (1) Replace section 144A(1) with—

(1AAA) The Secretary may, by written notice that complies with **subsection 1AAB**, require any of the following individuals or bodies to provide information:

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- (a) the board of any State school (within the meaning of section 2(1));
- (b) the sponsor of any partnership school kura hourua;
- (c) a community of online learning;
- (d) the service provider who operates any licensed early childhood service (within the meaning of section 309) or any certificated playgroup;
- (e) the managers of any school registered under section 35A.

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

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

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

98 New section 145AAA inserted (Purpose of Part)

Before section 145, insert:

145AAA Purpose of Part

The purpose of this Part is to—

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

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99 Section 145 amended (Interpretation)

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

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

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

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

100 Section 146 amended (Minister may establish schools)

After section 146(1), insert:

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

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100A Section 147 amended (Names of State schools)

In section 147(4), replace “section 155(6)” with “**section 156AA(5)(a)(i)**”.

101 Section 148 amended (Normal schools, etc)

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

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102 Section 149 amended (Intermediate departments)

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

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

103 Section 150 amended (Contributing schools)

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

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104 Section 151 amended (Provision of education at composite schools)

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

105 Section 152 repealed (Correspondence schools)

Repeal section 152.

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106 Section 153 amended (Minister may change class of school)

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

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

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

107 Section 154 amended (Closure of schools)

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

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

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

107A Section 154A amended (Minister may redesignate, or remove designation from, schools)

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

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

108 Section 155 replaced (Kura Kaupapa Maori)

Replace section 155 with:

155 Kura Kaupapa Māori

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

- (2) ~~A Kura Kaupapa Māori is a particular type of designated character school~~

- ~~(a) in which te reo Māori is the principal language of instruction; and~~
- ~~(b) that must operate in accordance with Te Aho Matua (as defined in section 155A); and~~
- ~~(c) that may have other special characteristics that give it a particular character.~~

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108A Section 155D amended (Provisions applying to Kura Kaupapa Maori established before commencement of Education (Te Aho Matua) Amendment Act 1999)

In section 155D(3), replace “Subsections (6), (7)(a), and (9) of new section 155 apply” with “**Section 156(4)(a)(i), (5), and (7)** applies”.

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108B Section 155E amended (Acknowledgment of adoption of Te Aho Matua)

(1) In section 155E(1)(a), replace “new section 155(4)(b)” with “**section 156AA(5)(a)(ii)**”.

(2) In section 155E(1)(b), replace “new section 155(4)(c)” with “**section 156AA(5)(a)(iii)**”.

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(3) In section 155E(2), replace “new section 155” with “**section 156**”.

108C Section 155F amended (Protection of term Kura Kaupapa Maori)

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

109 Section 156 replaced (Designated character schools)

Replace section 156 with:

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156 Designated character schools

(1) When establishing a State school, the Minister may designate the school as a designated character school.

(2) The Minister must do so in accordance with ~~subsection (3)~~ this section and **section 156AA**.

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(2A) 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) for a school that will also be designated a Kura Kaupapa Māori, ~~the school will meet the requirements of section 155(2)(a) and (b)~~ under section 155,—

30

(i) te reo Māori will be the principal language of instruction at the school; and

(ii) the school will operate in accordance with Te Aho Matua (as defined in section 155A);

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- (b) for any other type of designated character school, the school will have a character that is in some specific way or ways different from the character of ordinary State schools (its ~~particular~~ **different** character):
- (ba) for any designated character school, it is desirable for students whose parents want them to do so to get such an education: 5
- (c) for any designated character school, students at the school will get an education of a kind that differs significantly from the education they would get at an ordinary State school.
- (3A) The Minister may not also designate a designated character school as a Kura Kaupapa Māori unless he or she has first consulted te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua. 10
- (4) The board of a designated character school must ensure,—
- (a) for a Kura Kaupapa Māori, that—
- (i) te reo Māori is the principal language of instruction at the school; and 15
- (ii) the school operates in accordance with Te Aho Matua ~~(as defined in section 155A)~~:
- (b) for any other type of designated character school, that—
- (i) the aims, purposes, and objectives of the school's ~~particular~~ **different** character are set out in the school's strategic plan under **Schedule 6**; and 20
- (ii) the school operates consistently with its ~~particular~~ **different** character.
- (4A) A designated character school that is a Kura Kaupapa Māori may have other special characteristics that give it a particular character (its **special characteristics**). 25
- (5) The Secretary must from time to time, by written notice to a designated character school, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.
- (6) A board of a designated character school may refuse to enrol students whose parents do not accept,— 30
- (a) for a Kura Kaupapa Māori, that the school operates in accordance with Te Aho Matua:
- (b) for any other type of designated character school, that the school operates consistently with its ~~particular~~ **different** character. 35
- (7) Except as provided in this section and section 11PB, this Act and the Education Act 1964 apply to every designated character school as if it were not a designated character school.

156AA Process for establishing designated character schools

- (1) The Minister may, by notice in the *Gazette* when establishing a State school, designate the school as a designated character school (*see* **section 156**) and (if applicable) also designate a school as a Kura Kaupapa Māori (*see* **section 155**). 5
- (2) Before doing so, the Minister must be satisfied of the matters in **section 156(3)** and have undertaken consultation under **section 156(3A)** (as relevant in each case).
- ~~(3) The Minister may not also designate a designated character school as a Kura Kaupapa Māori unless he or she has first consulted with te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua (as defined in section 155A).~~ 10
- ~~(4) The Minister has an absolute discretion to refuse to establish a designated character school.~~
- (5) The notice establishing a designated character school must,— 15
 - (a) for a Kura Kaupapa Māori,—
 - (i) specify the name of the school, which must at all times begin with the words “Te Kura Kaupapa Māori o”; and
 - (ii) state that the school will operate in accordance with Te Aho Matua; and 20
 - (iii) summarise any other special characteristics of the school:
 - (b) for any other type of designated character school, describe the ~~particular~~ different character of the school (as defined in **section 156(3)(b)**);
 - (c) for any designated character school, state the constitution of the school’s board. 25
- (6) The Minister may from time to time, after consultation with the board of a designated character school, by notice in the *Gazette*,—
 - ~~(a) for a Kura Kaupapa Māori, amend the name of the school (but not so as to omit the words “Te Kura Kaupapa Māori o”);~~
 - (a) for a Kura Kaupapa Māori,— 30
 - (i) amend the name of the school (but not so as to omit the words “Te Kura Kaupapa Māori o”);
 - (ii) amend the summary of special characteristics of the school:
 - (b) for any other type of designated character school, amend the description of the ~~particular~~ different character of the school: 35
 - (c) for any designated character school, amend the statement of the constitution of the board.

110 Section 156A amended (Minister may merge schools)

- (1) In section 156A(1),—
- (a) replace “integrated schools” with “State integrated schools”; and
 - (b) replace “an integrated school” with “a State integrated school”.
- (2) After section 156A(1), insert: 5
- (1A) A decision to merge a school under subsection (1) is in the Minister’s absolute discretion.
- (3) In section 156A(4)(b), replace “section 105A” with “**section 98A**”.

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

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

112 Section 156AC amended (Alternative constitutions for continuing schools)

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

113 Section 157 amended (Consultations)

- (1) In section 157(3), replace “without first consulting” with “unless **subsection (3A)** applies, without first consulting”. 15
- (2) After section 157(3), insert:
- (3A) Subsection (3)(f) and (g) does not apply if the relevant ~~board or~~ 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. 20

114 Section 158A amended (Interpretation)

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

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

115 Section 158G amended (Sponsor’s duties)

After section 158G(b), insert:

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

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

- (1) In section 158R(1)(b), replace “an integrated school” with “a State integrated school”.
- (2) In section 158R(1)(d), replace “a correspondence school” with “~~full~~ **an enrolling** community of online learning”. 35

- 116A Section 158U amended (Application of this Act to partnership schools kura hourua)**
- (1) In section 158U(1), after “78CD,”, insert “**139AC to 139AE**.”
 - (2) In section 158U(2), after “78CD,”, insert “**139AC to 139AE**.”
 - (3) In section 158U(5), definition of teacher, paragraph (a), replace “section 120” with “section 348”. 5
- 117 Section 159AAA amended (Object of provisions relating to tertiary education)**
- In section 159AAA(2), replace “the Commission, the Qualifications Authority, and Careers New Zealand” with “the Commission, and the Qualifications Authority”. 10
- 118 Section 159 amended (Interpretation)**
- (1) In section 159(1), insert in its appropriate alphabetical order:
~~full-enrolling~~ **community of online learning** has the same meaning as in section 2(1) 15
 - (2) In section 159(1), replace the definition of **private training establishment** with:
private training establishment means an establishment, other than an institution, that provides post-school education or vocational training and includes an establishment that is accredited as a community of online learning 20
- 119 Section 159AB amended (Importance of tertiary education strategy)**
- In section 159AB, replace “the Commission, the Qualifications Authority, and Careers New Zealand” with “the Commission, and the Qualifications Authority”.
- 120 Section 159AE amended (Ministry may hold and disseminate information)** 25
- In section 159AE, replace “the Commission, the Qualifications Authority, or Careers New Zealand” with “the Commission, or the Qualifications Authority”.
- 121 Section 159E replaced (Charging)**
- (1) Replace section 159E with: 30
- 159E Charging**
- (1) The Commission may charge a commercial rate for any goods and services that it provides under **section 159F(1)(bc) to (bg)**.
 - (2) However, the Commission may not charge a commercial rate for any other goods and services that it provides unless the Minister approves. 35
 - (2) Replace section 159E(1) with:

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

122 Section 159F amended (Functions of Commission)

- (1) After section 159F(1)(bb), insert:
- (bc) to establish and maintain a database of information about occupations and about post-compulsory education and training: 5
 - (bd) to make that information available to the public and to institutions, private training establishments, students, and other interested bodies and persons: 10
 - (be) to provide— 10
 - (i) training and assistance to persons who advise about occupations; and
 - (ii) career advice and associated counselling relating to post-compulsory education and training:
 - (bf) to liaise with, and monitor the needs of, institutions, private training establishments, students and other bodies and persons with respect to— 15
 - (i) information, training, and advice relating to occupations; and
 - (ii) career advice and associated counselling relating to post-compulsory education and training:
 - (bg) to provide support services for the purpose of promoting transition education that prepares students for employment, or further education and training, or both: 20
- (2) Replace section 159F(1)(bc) to (bg) with:
- (bc) to provide a publicly available careers information service that includes a database of information about occupations and tertiary education and training: 25
 - (bd) to facilitate and strengthen the connections between schools, employers, and tertiary education organisations to ensure students are better prepared for employment and further education and training, or both:

123 New sections 159FA to 159FD inserted 30

After section 159F, insert:

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

- (1) During the period beginning on ~~18 March 2017~~ **1 June 2017** and ending with the close of ~~18 April 2017~~ **30 June 2017**, the Commission must offer 35 employment in an equivalent position to every person who is an employee of Careers New Zealand (other than the chief executive) immediately before the commencement of this section.

- (2) The terms and conditions of an offer must be equivalent to those applying to the relevant employee immediately before the offer.
- (3) In this section, **employment in an equivalent position** means employment that is—
- (a) in substantially the same position; and 5
 - (b) in the same general locality; and
 - (c) on terms and conditions that are no less favourable than those applying to the employee immediately before the date the offer of employment is made to that employee; and
 - (d) on terms that treat the period of service with Careers New Zealand (and every other period of service recognised by Careers New Zealand as continuous service) as if it were continuous service with the Commission. 10

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

159FB Effect of offers on certain agreements and entitlements

15

- (1) If a person accepts an offer,—
- (a) nothing in this Act or any other enactment—
 - (i) binds the person to a collective agreement; or
 - (ii) entitles the person to be bound by or enforce a collective agreement; 20
 - (b) the change of employer does not constitute new employment for the purposes of—
 - (i) enrolling in a KiwiSaver scheme under the KiwiSaver Act 2006;
 - (ii) determining any entitlements under the Holidays Act 2003.
- (2) **Subsection (1)(a)** does not apply to a collective agreement to the extent that the parties agree otherwise. 25

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

- (1) An employee of Careers New Zealand is not entitled to receive any payment or other benefit on the ground that— 30
- (a) the employee's position in Careers New Zealand has ceased to exist; or
 - (b) the employee declines to accept an offer of employment in an equivalent position.
- (2) This section overrides— 35
- (a) Part 6A of the Employment Relations Act 2000; and
 - (b) any employee protection provision in any relevant employment agreement.

159FD Repeal of sections 159FA to 159FD

- (1) **Sections 159FA to 159FC** are repealed on ~~18 October 2017~~ **1 January 2018**.
- (2) This section is repealed on ~~19 October 2017~~ **2 January 2018**.

124 Section 192 amended (Powers of institutions)

5

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

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

125 Section 238D amended (Interpretation)

10

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

(aa) ~~a full~~ an enrolling community of online learning; or

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

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

15

(2) ~~In section 238I(1A)(b), after “establishment”, insert “or full community of online learning”.~~

(3) ~~In section 238I(1A)(b), after “establishment”, insert “or full community of online learning”.~~

20

(4) ~~In section 238I(1B)(a), after “establishment”, insert “or full community of online learning”.~~

(5) ~~In section 238I(1B)(a)(i), after “establishment”, insert “or full community of online learning”.~~

(6) ~~In section 238I(1B)(b), after “establishment”, insert “or full community of online learning”.~~

25

(7) ~~In section 238I(1B)(b)(i), after “establishment”, insert “or full community of online learning”.~~

(8) ~~In section 238I(1B)(c)(ii), after “establishment”, insert “or full community of online learning”.~~

30

127 Section 246 amended (Interpretation)

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

(ca) a community of online learning; or

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

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

35

127A Section 253 amended (Rules)

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

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

128 Part 22 repealed

5

Repeal Part 22.

128A Section 317 amended (Regulations relating to licensing)

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

128B Section 319 amended (Regulations relating to certification of playgroups)

10

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

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

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

15

130 Section 342 amended (Interpretation)

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

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

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

20

(ba) a community of online learning; and

~~131 Section 348 amended (Interpretation)~~

~~In section 348, definition of **professional leader**, replace paragraph (a) with:~~

~~(a) in the case of a school (other than a partnership school kura hourua and the full enrolling community of online learning that was a correspondence school before the commencement of **Part 3A**), the principal:~~

25

131A New section 350A inserted (Special provision for chief executive of correspondence school)

After section 350, insert:

350A Special provision for chief executive of correspondence school

30

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

(2) This section overrides sections 349 and 350.

131B Section 350A replaced (Special provision for chief executive of correspondence school)

Replace **section 350A** with:

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

5

(1) The chief executive of the enrolling community of online learning that was a correspondence school immediately before the commencement of this section is not required to be registered.

(2) This section overrides sections 349 and 350.

132 Section 357 amended (Cancellation of registration as a teacher)

10

(1) In section 357(1)(c), after “cancelled”, insert “; or”.

(2) After section 357(1)(c), insert:

(d) the Competence Authority has ordered, under **section 412(b)**, that the registration be cancelled.

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

15

Replace section 359(3)(b) with:

(b) an action by a disciplinary body under section 401 or 404; or

(c) an action by the Competence Authority under **section 412**.

134 Section 362 amended (Cancellation of practising certificate)

20

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

135 Section 367 amended (Cancellation of limited authority to teach)

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

25

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

Replace section 371(3)(b) with:

(b) an action by a disciplinary body under section 401 or 404; or

(c) an action by the Competence Authority under **section 412**.

30

137 Section 378 amended (Interpretation)

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

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

138 Section 388 amended (Education Council to make rules)

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

139 Section 409 amended (Appeals)

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

140 New section 410AA inserted (Competence Authority)

Before section 410, insert:

410AA Competence Authority

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

141 Section 410 amended (Complaints about competence)

After section 410(3), insert:

- (3A) The Education Council may, after any investigation it decides to make, refer to the Competence Authority a complaint or other matter that relates to competence for a decision as to whether the required level of competence has been attained. 5

142 Section 411 amended (Investigation of mandatory reports about competence)

- (1) Replace the heading to section 411 with “**Investigation by Education Council of mandatory reports relating to competence and referral to Competence Authority for decision**”. 10

- (2) Before section 411(1), insert:

- (1AA) The Education Council may, after any investigation it decides to make, refer to the Competence Authority a report received by it under section 392, 393, or 395 that relates to competence. 15

- (3) In section 411(1), after “investigating a report”, insert ~~with~~ “that relates to competence”.

- (4) In section 411(2), after “When a report”, insert “that relates to competence”.

143 Section 412 replaced (Powers of Education Council after finding required level of competence not attained) 20

Replace section 412 with:

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

Following any investigation of a complaint or other matter by the Education Council under section 410, or of a report by the Education Council under section 411, and referral to the Competence Authority, the Competence Authority may, if satisfied that a teacher has not attained the required level of competence,— 25

- (a) do any 1 or more of the following:
- (i) impose conditions on the teacher’s practising certificate or authority: 30
 - (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: 35
 - (iii) annotate the register or the list of authorised persons in a specified manner, in relation to any action taken under **subparagraph (i)**:

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

412A Appeals from decisions of Competence Authority

5

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

10

144 New Part 33 inserted

After Part 32, insert:

Part 33
State integrated schools

15

414 Interpretation

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

20

25

30

35

(a)	every reference in this Part to a State school is to be treated as excluding a State integrated school:	
(b)	every reference <u>in the other Parts of this Act and</u> 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:	5
(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
	Compare: 1975 No 129 s 2	
415	Part to bind the Crown	
	This Part binds the Crown.	
	Compare: 1975 No 129 s 2A	
	<i>Conditional integration</i>	15
416	Preservation of special character of State integrated schools	
(1)	A State integrated school must on integration continue to have the right to reflect, through its teaching and conduct, the education with a special character provided by it.	
(2)	Integration does <u>must</u> not jeopardise the special character of a State integrated school.	20
(3)	The proprietor of a State integrated school must, subject to the provisions of the integration agreement,—	
(a)	continue to have the responsibility to supervise the maintenance and preservation of the education with a special character provided by the school:	25
(b)	continue to have the right to determine what is necessary to preserve and safeguard the special character of the education provided by the school and described in the integration agreement.	
(4)	If, in the opinion of a proprietor, the special character of the school <u>as</u> defined and described in the integration agreement has been or is likely to be jeopardised, or the education with a special character provided by the school as defined and described in the integration agreement is no longer preserved and safeguarded, the proprietor may invoke the powers conferred on the proprietor by this Part.	30
	Compare: 1975 No 129 s 3	35
417	State integrated schools part of State system	
(1)	Subject to subsection (2) ,—	

- (a) on integration, a State integrated school becomes part of the State system of education in New Zealand; and
 - (b) a State integrated school is subject to all the provisions of this Act and of all regulations made under this Act; and
 - (c) a State integrated school is subject to all the provisions of the State Sector Act 1988 as if service in the employment of the board of the school were education service within the meaning of that Act. 5
- (2) In their application to State integrated schools, the enactments applied to State integrated schools by **subsection (1)** are subject to **sections 416 and 475**, and to the other provisions of this Part that relate to State integrated schools. 10
- Compare: 1975 No 129 s 4

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

418 Application to negotiate integration

- (1) The proprietor of a school that is registered under section 35A, and any person who proposes to establish a school with the intention that it become a State integrated school, may apply to the Minister to enter into negotiations for integration under this Part. 15
- (2) If the Minister accepts an application to negotiate, the applicant and the Minister may enter into negotiations for an integration agreement under **section 421**. 20
- (3) If the Minister declines the application, the applicant may make a fresh application at any time.
- (4) Without limiting the factors that the Minister may consider, the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools. 25
- (5) The Minister may, in the Minister's absolute discretion,—
 - (a) ~~may~~ accept applications to enter into negotiations for integration under this Part; and
 - (b) ~~may~~, after giving any public notice that the Minister considers appropriate, decide not to consider applications from particular areas. 30

Compare: 1975 No 129 s 5

419 Applications relating to proposed schools

- If a person who proposes to establish a school with the intention that it become a State integrated school makes an application under **section 418**, this Part applies to the application and to any subsequent negotiations and agreements prior to integration as if— 35
- (a) the applicant were a proprietor; and

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

Compare: 1975 No 129 s 6

420 Negotiation of integration agreements

(1) The Minister and an applicant may commence negotiations for an integration agreement under **section 421** at any time after the Minister has accepted an application under **section 418**. 5

(2) During the course of negotiations, the Minister may consult any interested persons or groups that the Minister considers appropriate.

Compare: 1975 No 129 s 6A

421 Integration agreements 10

(1) The Minister (and only the Minister) may approve the establishment of a private school as a State integrated school.

(2) The Minister must signify his or her approval by entering into an integration agreement with the proprietor.

(3) No proprietor is competent to execute an integration agreement unless the proprietor is constituted as a body corporate. 15

(4) Every integration agreement must record the agreement of the proprietor that no persons employed at the school and paid for their services in whole or in part out of money appropriated by Parliament may be—

(a) paid by the proprietor or the proprietor's agents any remuneration additional to that provided for by this Act; or 20

(b) granted or permitted any condition of service more favourable than that permitted in the case of a person employed in a State school.

Compare: 1975 No 129 s 7(1)–(5)

422 Other matters that may be included in integration agreements 25

(1) Without restricting the provisions that may be included in an integration agreement, any integration agreement may include provisions for all or any of the following matters:

(a) specifying the land and buildings that constitute the school to which the integration agreement refers: 30

(b) specifying any part of the land or buildings owned or leased by the proprietor and used in conjunction with the school before integration that do not constitute part of the school:

(c) describing the education with a special character for which the school is or was originally established: 35

(d) prescribing the religious or philosophical instruction and observances that are to form part of the school programme after integration:

	(e) providing for the determination of the maximum number of students who may be enrolled in the school:	
	(f) permitting limitation of the number of children not given preference of enrolment under the provisions of section 442 who are required to be enrolled if places are available:	
	(g) any other particular matter that is relevant to the education with a special character for which the school was originally established:	5
	(h) any other matter that is not contrary to the provisions of this Part.	
	(2) Despite anything in subsection (1)(e) , when determining the basis of the limitation under subsection (1)(f) , regard must be had only to the necessity of preserving and safeguarding the education with a special character that the school provides.	10
	Compare: 1975 No 129 s 7(6)	
	423 Integration agreements: machinery matters	
	(1) Any proprietor may enter into integration agreements for the integration of more than 1 school.	15
	(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.	20
	(4) Despite section 422(4) 421 , the Minister's power to enter into a supplementary agreement may be delegated under section 28 of the State Sector Act 1988.	
	(5) An integration agreement is, for all purposes, a binding agreement between the proprietor and the Crown.	
	Compare: 1975 No 129 s 7(7)–(10)	25
	424 Effective date of integration agreement	
	(1) Every integration agreement must specify an effective date.	
	(2) A State integrated school's board must take office on the effective date.	
	(3) In any case where the requirements of this section are not met, the Minister may give notice to the proprietor of a new effective date as the Minister thinks fit, and the integration agreement must be interpreted accordingly.	30
	Compare: 1975 No 129 s 8	
	425 Notification of integration agreement	
	Every integration agreement must be notified in the <i>Gazette</i> , and a copy of every integration agreement must be retained by the Secretary and must be available for inspection without charge by any member of the public on an Internet site maintained by the Secretary.	35
	Compare: 1975 No 129 s 10	

426 Minister may require information to be provided

- (1) This section applies in any of the following situations:
- (a) a proprietor or a potential proprietor has applied to integrate a school:
 - (b) the Minister holds reasonable concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part: 5
 - (c) a proprietor or potential proprietor has submitted a specific funding request to the Minister or the Secretary.
- (2) If this section applies, the Minister may require the relevant proprietor or potential proprietor to provide all or any of the following: 10
- (a) all of the information needed to assess the financial and managerial capacity of the proprietor or potential proprietor:
 - (b) any other information that the Minister considers relevant to assessing—
 - (i) an application to integrate a school:
 - (ii) any concerns about the ability of a proprietor or potential proprietor to meet any obligation under an integration agreement or under this Part: 15
 - (iii) any funding request that a proprietor or potential proprietor has submitted.

427 Cancellation of integration agreement

- (1) An integration agreement may be cancelled— 20
- (a) by the Minister, in which case **section 428** applies; or
 - (b) by the proprietor, in which case **section 429** applies; or
 - (c) by agreement between the Minister and the proprietor, in which case **section 430** applies. 25
- (2) On the cancellation of an integration agreement,—
- (a) the school ceases to be a State integrated school; and
 - (b) the respective rights and obligations of the parties that arise by virtue of the integration agreement cease to have effect; and
 - (c) in the absence of an agreement to the contrary, the school is to be treated as provisionally registered as a school under section 35A. 30

Compare: 1975 No 129 s 11

428 Cancellation by Minister

The Minister may cancel an integration agreement under **section 427(1)(a)** if— 35

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

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

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

Compare: 1975 No 129 s 11A

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429 Cancellation by proprietor

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

- (a) it appears to the proprietor on reasonable grounds that—

- (i) the special character of the State integrated school has been or is likely to be jeopardised; or

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- (ii) the Minister or any board is not carrying out the functions and obligations accepted by the Minister or the board under this Act or the integration agreement; and

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

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

Compare: 1975 No 129 s 11B

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430 Cancellation by agreement between parties

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

Compare: 1975 No 129 s 11C

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431 Mergers

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

- (a) each school has the same proprietor; and

- (b) each school has the same or a similar special character; and

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- (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—

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

432 Closure of State integrated school

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

Compare: 1975 No 129 s 12

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433 Notification of cancellation or of closing of State integrated school

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

Compare: 1975 No 129 s 15

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

(1) This section applies if expenses or capital expenditure appropriated by Parliament has been used to meet all or part of the cost of supplying a State integrated school with furniture, or equipment, or other chattels, and the integration agreement for that school is cancelled, or the school is closed.

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(2) If this section applies, the furniture, equipment, or chattels may be disposed of by the Secretary at his or her sole discretion, whether by sale or otherwise, and the disposition has effect as if the Secretary were the owner.

(3) However, any sale must be by way of public auction or public tender.

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Compare: 1975 No 129 s 16(1)

435 Repayment of moneys advanced

(1) This section applies if—

(a) expenses or capital expenditure appropriated by Parliament has been advanced otherwise than by way of loan to be used to meet all or part of the cost of erecting any building or supplying or installing any fixture as part of a State integrated school; and

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(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.

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(3) The amount assessed is to be treated as a debt due by the proprietor to the Crown, and is to be treated as a charge on the land of the State integrated school.

(4) That charge may be registered without the payment of a fee against the land under the provisions of the Statutory Land Charges Registration Act 1928.

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(5) However, the Minister may, with the agreement of the Minister of Finance, approve the writing off of all or part of the debt.

(6)	For the purposes of the Statutory Land Charges Registration Act 1928, notice of any charge under subsection (3) , and any certificate releasing the charge, may be signed by the Secretary.	
Compare: 1975 No 129 s 16(2), (3)		
436	Moneys to be paid into Crown Bank Account	5
(1)	In the case of any sale made under section 434(2) , the money received must be credited to a Crown Bank Account.	
(2)	In the event of the cancellation of an integration agreement, or the closing of a State integrated school, any unspent money granted to the board of that school for that school under this Act or under regulations made under this Act or under any other Act must be credited to a Crown Bank Account.	10
Compare: 1975 No 129 s 16(4), (5)		
437	Certain assets remain vested in proprietors	
Subject to sections 434 to 436 , if an integration agreement is cancelled, or a State integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the proprietor remain vested in the proprietor.		15
Compare: 1975 No 129 s 16(8)		
438	Restriction on cancellation of integration agreement or closure of State integrated schools	20
No integration agreement may be cancelled in accordance with section 427 , and (despite anything in section 154) no State integrated school may be closed under section 432 , solely on the ground that adequate accommodation for the students exists in an adjacent State school.		
Compare: 1975 No 129 s 17		25
439	Compensation	
If an integration agreement is cancelled, or a State integrated school is closed, no compensation of any kind is due or payable to the proprietor.		
Compare: 1975 No 129 s 18		
<i>Administration</i>		30
440	Administration of State integrated schools	
(1)	Except as provided in this Part, all the provisions of this Act and of any other enactment relating to the education of the people of New Zealand in State schools apply to a State integrated school.	
(2)	Subject to sections 416 and 417 , when a private school is integrated it must be controlled and managed and operate in all respects as if it were a State school.	35

(3) The powers of control and management of the board of a State integrated school must be exercised subject to the provisions of **sections 416 and 417**.

(4) To give effect to **subsection (3)**, the board of ~~any State integrated school that is a primary school, a composite school, or a special school~~ a State integrated school must make provision for adequate consultation between the board and the proprietor of that school.

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

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

441 Free education

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

Compare: 1975 No 129 s 35(1)

442 Preference of enrolment

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

~~(2) Subject to **subsection (1)**, no prospective student may be refused enrolment at a State integrated school on the grounds of —~~

~~(a) religion, race, or socio-economic background; or~~

~~(b) lack of willingness of the parent to make financial contributions to the school.~~

Compare: 1975 No 129 s 29

443 Participation in general school programmes

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

Compare: 1975 No 129 s 30

444 Instruction of students

(1) Each State integrated school must instruct its students in accordance with the curricula and syllabuses prescribed under this Act or any regulations made under this Act.

(2) However, the general school programme ~~may~~ must reflect the education with a special character provided by the State integrated school, and religious and other examples may be used to reinforce teaching throughout the school day.

Compare: 1975 No 129 s 31

445 Religious observances and religious instruction

(1) Subject to the provisions of **section 444**, if religious observances and religious instruction form part of the education with a special character provided by a State integrated school, these ~~may~~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.

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(2) If religious observances and religious instruction form part of the education with a special character provided by a State integrated school, that school—

(a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and

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(b) may not require ~~any~~a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction concerned with particular observances if the parents of the student state at any time that they do not wish that student to participate.

Compare: 1975 No 129 s 32

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446 School transport assistance

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

Compare: 1975 No 129 s 34

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447 Attendance dues

(1) The proprietor of a State integrated school may, if the integration agreement for the school so provides, enter into an agreement with the parents or other persons accepting responsibility for the education of a child providing that the parents or other persons must pay attendance dues as a condition of the child's enrolment at the school.

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(2) The dues must be established for the State integrated school or group of State integrated schools at the rates, and subject to the conditions, that are approved by the Minister by notice in the *Gazette*.

(3) Revenue received by the proprietor from attendance dues must be used solely for the following:

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(a) paying, in respect of the school or group of schools in respect of which it is received, for improvements to the State integrated school or schools' buildings and associated facilities that are required by any integration agreement or integration agreements under **section 456(2)(c)**:

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(b) any capital works that may be required by the Minister under **section 456(2)(d)**:

(c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the State integrated school or schools.

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- (4) No revenue received by the proprietor from attendance dues may be used to provide or improve the State integrated school buildings and associated facilities to a standard higher than that approved by the Secretary as appropriate for a comparable State school.

Compare: 1975 No 129 s 36(1)–(4)

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448 Withdrawal and reinstatement of right to charge attendance dues

- (1) Should any proprietor use any revenue from attendance dues for any purpose other than one permitted by **section 447**, the Minister may, despite anything in the integration agreement, by notice in the *Gazette*, withdraw the right to charge attendance dues, and the board must, while the withdrawal continues, permit the attendance of children without the payment of attendance dues.

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- (2) The Minister may, by notice in the *Gazette*, cancel any withdrawal at any time.

Compare: 1975 No 129 s 36(5)

449 Consequences of failure to pay attendance dues

- (1) If a parent, or other person who has accepted the responsibility for the education of a child, has entered into an agreement to pay attendance dues and fails to make a payment, the payment not made may be recoverable from that parent or person in any court of competent jurisdiction as a debt due to the proprietor.

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- (2) Any failure to make payment constitutes grounds for the principal of the State integrated school to suspend the child from attendance at that school and to remove the child's name from the school register.

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- (3) However, no child may be suspended and have his or her name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the child to be enrolled at some other school.

Compare: 1975 No 129 s 36(6), (7)

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450 Accounts for attendance dues

- (1) Each proprietor who is permitted to charge attendance dues must keep accounts in a manner approved by the Secretary showing—

- (a) the total amount of attendance dues received; and
- (b) how the attendance dues have been spent.

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- (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.

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Compare: 1975 No 129 s 36(8)

451 Financial contributions

- (1) In addition to the power to collect attendance dues under **section 447**, the proprietor of a State integrated school may—
- (a) conduct fund-raising activities within the school; and
 - (b) inform the parents of the financial obligations of the proprietor in the prospectus and in other ways; and 5
 - (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 debts, mortgage, lien, and other charges associated with the land and buildings that constitute the school premises or are associated with the school. 10
- (2) Financial contributions other than attendance dues must be made on a voluntary basis and no student may be refused enrolment because of the unwillingness of the parents to contribute in this way.
- Compare: 1975 No 129 s 37(1), (2) 15

452 Restrictions on fund-raising

No board of any State integrated school, nor the principal nor any member of the staff (whether employed or retained as a teacher or in any other capacity), nor any student of the school may take part during normal school hours in any school activity directed to raising funds for the benefit of the proprietor in meeting any debts, mortgage, lien, or other charge associated with the land and buildings that constitute the school premises or are associated with the school. 20

Compare: 1975 No 129 s 37(3)

453 Accounts of money raised under section 451

The proprietor must— 25

- (a) keep accounts of money raised by it and by a board, principal, staff member, or student under this section; and
- (b) have the accounts audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013) at least once in every period of 12 months; and 30
- (c) make a copy of the accounts and of the auditor's report on them available on request to the parents of students attending the State integrated school and to other contributors.

Compare: 1975 No 129 s 37(4)

454 Fund-raising

Subject to the provisions of **section 451**, the board, the principal, staff members, and students of a State integrated school may take part in fund-raising ac- 35

tivities in the same manner and for the same purposes for the benefit of the students of the school that are permitted in the case of State schools.

Compare: 1975 No 129 s 38

455 Use of school office

The school office of a State integrated school may be used for the purpose of communication between the proprietor of the school and the parents of students enrolled at the school, and for other purposes related to the benefit of the school and the students.

Compare: 1975 No 129 s 39

Proprietors of State integrated schools

456 Powers and responsibilities of proprietors

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

	(h) must arrange with its insurers that the policy of the insurance is endorsed to the effect that the benefit of the indemnity provided by the policy extends to the Minister for the buildings, chattels, and other assets paid for in whole or in part by a loan or grant made out of money appropriated by Parliament; and (i) must, together with the proprietor's agents and licensees, have at all reasonable times access to the school to ensure that the special character of the school is being maintained.	5
	Compare: 1975 No 129 s 40	
457	Decision-making criteria for proprietors	10
(1) (a) (b) (c) (d) (2) (3) (4) (a) (b)	When making a decision under a provision of this Part, a proprietor must take into account— the ability of the proprietor's State integrated school or schools to continue to provide the level of education required; and 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 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 the ability of the proprietor to meet any obligations regarding the proprietor's State integrated school or schools over the next 7 years. A proprietor must assess the proprietor's compliance with subsection (1) at least once every 5 years. However, the Secretary may direct a proprietor to carry out an assessment at any time if the Secretary considers it appropriate in the circumstances. The proprietor must, as soon as practicable,— complete any assessment begun under subsection (2) or (3); and provide the Secretary with a copy of the assessment.	15 20 25
458	Consequences of failure to arrange insurance	
	Despite section 456(2)(h), in any case where the proprietor has not arranged with the proprietor's insurers for the benefit of any policy of insurance to extend to the Minister,— (a) no money appropriated by Parliament may be used to pay any part of the cost of repairing or replacing any buildings, chattels, or other assets that have been destroyed or damaged from any cause whatsoever; and (b) any additional charges by way of premium made by the insurer for the extension of the benefit of any policy of insurance to the Minister may not be met out of money appropriated by Parliament.	30 35
	Compare: 1975 No 129 s 40(2)(h)	

459 Proprietors not to question curriculum or teaching methods

The right of access specified in **section 456(2)(i)** does not give a proprietor the right to question the curriculum or the teaching methods adopted by the teachers, both of which are, subject to the provisions of this Act, controlled by the principal of the State integrated school.

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

460 Leases of land

(1) The proprietor of a State integrated school must obtain the prior consent of the Minister before entering into a lease relating to land that is used, or to be used, for the school.

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(2) If the proprietor fails to obtain the prior consent of the Minister to a lease, the lease is not affected, but the Minister may cancel the integration agreement under **section 427**.

Compare: 1975 No 129 s 40A

461 Assistance to proprietors

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(1) The Minister may, with the concurrence of the Minister of Finance, approve the granting of loans from capital expenditure that may be appropriated by Parliament for the purpose to the proprietor of any State integrated school.

(2) The loans are to be made for the purposes and subject to the terms and conditions, including the writing off of any amount repayable, that the Minister, with the concurrence of the Minister of Finance, determines.

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Compare: 1975 No 129 s 42

462 Proprietors unable to meet obligations

(1) In the event of the proprietor of a State integrated school becoming unable to meet the financial or other commitments accepted by them under the integration agreement, they must notify the Minister.

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(2) If the Minister is notified, the Minister may, after any consultation with the proprietor that the Minister thinks necessary,—

(a) cancel the integration agreement in accordance with **section 427**; or

(b) close the State integrated school under **section 432**; or

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(c) arrange for the acquisition by the Crown, in accordance with the Public Works Act 1981, of any land, buildings, and chattels relating to the State integrated school that are owned or leased by the proprietor and that the Minister considers appropriate for the purpose of establishing a State school.

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(3) When the Minister acts in accordance with **subsection (2)(a) or (b)**, the provisions of this Act relating to the cancellation of an integration agreement or to the closure of a State integrated school apply.

Compare: 1975 No 129 s 44

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

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

Compare: 1975 No 129 s 63

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

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

- (a) if provided for by the integration agreement, an advertisement for the position of principal of that school must state that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment: 15
- (b) if provided for by the integration agreement, the board of that school must—
 - (i) designate a position at that school as director of religious studies; and 20
 - (ii) state in any advertisement for that position that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment (a director of religious studies must be a member of the normal staffing entitlement of the school, as established by regulations made under this Act; and 25
 - (iii) carry out the teaching duties, if any, that may be provided for in the integration agreement):
- (c) the board must—
 - (i) designate any other proportion of teaching positions in that school that may be provided for in the integration agreement as positions of importance carrying a responsibility for religious instruction; and 30
 - (ii) state in advertisements for the positions that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment: 35
- (d) the board must state in any advertisement for a position at that school that a willingness and an ability to take part in religious instruction appropriate to that school is a condition of appointment if—
 - (i) that school is a primary school; and

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

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Compare: 1975 No 129 s 65(1)

465 Effect of religious instruction requirements in advertisements

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

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Compare: 1975 No 129 s 65(2)

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

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

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Compare: 1975 No 129 s 65(3)

467 Other special positions

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- (1) If an integration agreement records that any teaching position in the State integrated school concerned is a special position that requires particular capabilities on the part of the teacher holding it, an advertisement for that position must require an appointee to possess those capabilities as a condition of appointment to that position.

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- (2) Without limiting the generality of **subsection (1)**, if any integration agreement relating to a State integrated primary school requires the person holding a position as assistant principal at that school (being a position the holder of which has responsibility for supervising senior classes at that school) to maintain programmes and activities that reflect the special character of that school, an advertisement for that position must require an appointee to maintain those programmes and activities as a condition of appointment to that position.

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- (3) If, in accordance with **subsection (1) or (2)**, an advertisement for a position makes any requirement a condition of appointment to that position, any person appointed to that position must accept that requirement as a condition of the person's appointment to it.

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Compare: 1975 No 129 s 66

468 Selection for appointment

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

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Compare: 1975 No 129 s 67

469 Requirements in respect of appointments

(1) Before appointing any person to a position in a State integrated primary school, being a position specified in **section 464 or 467**, the board must consult the proprietor, who must report to the board the names of those applicants (if any) who, in terms of the special character of the school or in terms of the advertisement calling for applicants with particular capabilities, are acceptable for appointment.

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(2) On receipt of the report required by **subsection (1)**, the board may consider for appointment only those applicants who are stated in the report to be acceptable for appointment.

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Compare: 1975 No 129 s 68

470 Employment for special purposes

(1) With the consent of the board, any retired teacher may undertake, in any State integrated school, voluntary tasks relating to the beliefs and instruction that are the foundation of that school's special character.

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(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.

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(3) The salary of a person employed under **subsection (2)** must not be paid by the board or be in any way a charge on money appropriated by Parliament.

(4) The proprietor must notify the board of the name of any person employed under **subsection (2)**.

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Compare: 1975 No 129 s 69

471 Appointment of teachers on integration

(1) If, in accordance with **sections 421 and 424**, an integration agreement is implemented in respect of any private school,—

(a) the contract of service of every teacher at that school is to be treated as being determined from the effective date of integration; and

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(b) each of those teachers, if the teacher so wishes, is to be treated as being in the employment of the board of the State integrated school until the teacher is formally appointed to a teaching position under **subsection**

(4), and the provisions of **subsection (6)** apply accordingly from the effective date of integration; and

- (c) each teaching position at that school must, within 60 days after the effective date of integration, be advertised as required by the State Sector Act 1988. 5
- (2) Every advertisement must state that the teacher appointed to the position as at the effective date of integration, if the teacher so wishes, has an absolute right of appointment to that position irrespective of the qualifications of any other applicant.
- (3) The teacher previously appointed to the position advertised under **subsection (1)** must, if the teacher wishes to continue in that appointment, apply in the manner prescribed by the State Sector Act 1988 for appointment to that position. 10
- (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. 15
- (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 20
 - (b) continue to be paid no less than the same salary, and to be accorded the same status, as the teacher received or was accorded on the day before the effective date of integration.

Compare: 1975 No 129 s 71

472 Other employees 25

- (1) The contract of service of every person employed in ~~an~~ a State integrated school in a capacity other than that as a teacher, is to be treated as being determined from the effective date of integration.
- (2) If the position in which that person was employed has a parallel or close parallel in a State school, that person may— 30
 - (a) be re-employed by the board in such parallel position; and
 - (b) be paid out of expenses appropriated by Parliament for the purpose the same salary as that person would be paid for comparable service in a State school.

Compare: 1975 No 129 s 72

473 No compensation for determination of employment 35

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

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

Compare: 1975 No 129 s 73

General provisions

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474 Grants to private schools before integration

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

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Compare: 1975 No 129 s 78

475 Relationship between this Part and other Parts and other enactments

(1) If this Part deals with the same or a similar subject matter as other Parts of this Act, the State Sector Act 1988, or any regulations made under any of those Acts or under any enactment repealed by any of those Acts,—

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- (a) express provisions in this Part prevail in respect of State integrated schools; but
- (b) this Part must be interpreted in a way that is consistent with the other Parts of this Act or any other enactments concerned whenever this construction is appropriate and reasonable.

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(2) Subject to **sections 416 and 417**, where any matter concerning State integrated schools is not dealt with by express provision in this Part, the appropriate provisions of other Parts of this Act, the State Sector Act 1988, and all regulations made under any of those Parts or Acts or under any enactment repealed by any of those Acts apply.

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Compare: 1975 No 129 s 80

476 Regulations relating to State integrated schools

(1) The Governor-General may, by Order in Council, make regulations for the following purposes:

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- (a) prescribing a form of integration agreement:
- (b) providing for the control, management, organisation, finance, and conduct of State integrated schools.

(2) Where there is a conflict between regulations made under this section and regulations made under another section of this Act or under the Education Act 1964 or any enactment repealed by this Act or the Education Act 1964, the regulations made under this section apply.

35

Compare: 1975 No 129 s 82

145 New Schedule 1 inserted

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

Part 4

5

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

In this schedule, unless the context otherwise requires,—

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

Careers New Zealand means the Service that was continued under section 279 (as it read immediately before the commencement of this clause) 10

Commission means the Tertiary Education Commission established under section 159C

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

5 Dissolution

15

Careers New Zealand is dissolved.

6 Assets and liabilities

- (1) The assets and liabilities of Careers New Zealand vest in the Commission.
- (2) All money payable to or by Careers New Zealand becomes payable to or by the Commission. 20
- (3) Anything done, omitted to be done, or to be done by, or in relation to, Careers New Zealand is to be treated as having been done, having been omitted to be done, or having to be done by, or in relation to, the Commission.
- (4) However, any individual or collective employment agreement with Careers New Zealand ceases to apply. 25

7 Transfer of information

- (1) All information held by Careers New Zealand is transferred to the Commission.
- (2) The transfer does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993. 30

8 Proceedings

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

	sions of this Act as in force immediately before the commencement of this clause as if the Commission were Careers New Zealand.	
(2)	No action may be taken in relation to any breach of contract, lease, or licence arrangement arising from—	
	(a) the vesting of assets or liabilities in the Commission:	5
	(b) the cessation of any individual or collective employment agreement.	
9	References to Careers New Zealand	
(1)	This clause applies to—	
	(a) things that are in force or existing immediately before the commencement of this clause; and	10
	(b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, proceedings, instruments, documents, and notices.	
(2)	If this clause applies, every reference in any thing specified in subclause (1) to Careers New Zealand is, on or after the commencement of this clause, to be treated as a reference to the Commission unless the context otherwise requires.	15
(3)	This clause does not apply to any collective employment agreement with Careers New Zealand.	
10	Repeal of clauses 6 to 9 and this clause	
(1)	Clauses 1 to 4 are repealed on 18 October 2017 January 2018 .	20
(2)	This clause is repealed on 19 October 2017 January 2018 .	
(2A)	<u>In Schedule 1, after Part 4, insert:</u>	
<u>Part 4A</u>		
<u>Provision relating to cohort entry</u>		
10A	<u>Determining mid-term dates under cohort entry policy for 2018</u>	25
(1)	<u>This clause applies for the 2018 school year.</u>	
(2)	<u>The Minister may, before 1 August 2017, prescribe the mid-term dates for 2018.</u>	
(3)	<u>This clause overrides section 5B(3) and (4).</u>	
(3)	After Part 4 4A of Schedule 1, insert:	30

Part 5

Provisions relating to communities of online learning

11 Transitional provisions relating to communities of online learning

- (1) A school that was, immediately before the commencement of this clause, a correspondence school is to be treated as fully accredited as ~~a full~~ an enrolling community of online learning. 5
- (1A) A school that was, immediately before the commencement of this clause, a correspondence school offering early childhood education classes may continue to offer such classes.
- (2) Every person who is lawfully enrolled at a correspondence school immediately before the commencement of this clause and who is entitled under section 3 to a free education at a State school is to be treated as having been enrolled at that school. 10
- (3) In this clause, ~~full-enrolling~~ community of online learning has the same meaning as in **section 2(1)**. 15

146 Schedule 5A amended

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

147 Schedule 6 replaced

- (1) Replace Schedule 6 with the **Schedule 6** set out in **Schedule 2** of this Act.
- (2) In Schedule 6, after clause 6, insert: 20

Strategic planning and reporting

7 School strategic plan and annual implementation plan

- (1) A board must have the following strategic planning documents for its school:
- (a) a **strategic plan** for each 4-year period that sets out the board’s strategy for achieving (or making progress towards achieving) its objectives (as set out in **clause 5**) during that period; and 25
 - (b) an annual implementation plan for each year that sets out how the board intends to implement that strategy during the year.
- (2) A board must prepare its first strategic plan and annual implementation plan when required by regulations made under **section 118A** to do so. 30
- (3) A board that has been accredited as a community of online learning must fulfil any requirements specified in regulations made under **section 35Z0**.

8 Preparing draft strategic plan

- (1) A board must prepare a draft strategic plan for every 4-year period and submit it to the Secretary in accordance with regulations made under **section 118A**. 35

- (2) The draft strategic plan must comply with any regulations made under **section 118A** relating to the form and content of strategic plans.
- (3) In preparing a draft strategic plan, the board must—
- (a) consult—
 - (i) the school community; and
 - (ii) the school's staff; and
 - (iii) where appropriate, the school's students; and
 - (iv) any other persons required by the regulations; and
 - (b) comply with any other regulations relating to the development of strategic plans; and
 - (c) in the case of a State integrated school, ensure that the draft reflects the school's special character; and
 - (d) in the case of a designated character school, ensure that the draft reflects the school's different character or, in the case of a Kura Kaupapa Māori, its special characteristics.
- (4) In preparing a draft strategic plan, the board may consult any person, group, or organisation that it considers ought to be consulted.
- 9 Secretary to review and approve draft strategic plan**
- (1) On receiving a draft strategic plan, the Secretary must review it in accordance with regulations made under **section 118A** (the **regulations**).
- (2) After reviewing the draft strategic plan, the Secretary must—
- (a) confirm that it meets the requirements of this Act and the regulations by giving written notice to the board; or
 - (b) return it to the board with directions that the board—
 - (i) consider, or further consider, any matter and revise the plan in the light of that consideration; or
 - (ii) revise the plan as directed by the Secretary.
- (3) If the draft strategic plan is returned to the board, the board must comply with the Secretary's directions and then resubmit a revised plan.
- (4) The Secretary must confirm a draft strategic plan unless satisfied that it does not meet the requirements of the Act and the regulations.
- (5) If a board fails to comply with the Secretary's directions, or resubmits a revised draft strategic plan that still does not meet the requirements of the Act or the regulations, the Secretary may revise the plan and confirm it by giving written notice to the board.
- 10 Preparing annual implementation plan**
- (1) A board must prepare an annual implementation plan.

(2)	The plan must—	
(a)	contain the information required by the regulations; and	
(b)	be prepared in accordance with regulations made under section 118A .	
11	Board to monitor performance against strategic planning documents	
(1)	A board must monitor and evaluate its performance—	5
(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 <u>annual</u> implementation plan.	
(2)	The monitoring and evaluation must be carried out in accordance with regulations made under section 118A .	10
(3)	The board must report on its performance in the annual report, in accordance with regulations made under section 118A .	
12	Strategic planning documents to be on Internet site	
	A board must ensure that its strategic plan and <u>annual</u> implementation plan are available to the public on an Internet site maintained by or on behalf of the board.	15

Part 2

Repeal of Private Schools Conditional Integration Act 1975 and amendments to other enactments 20

148 Repeal

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

148A Education (Early Childhood Services) Regulations 2008 amended

- | | | |
|------|---|----|
| (1) | <u>This section amends the Education (Early Childhood Services) Regulations 2008.</u> | 25 |
| (2) | <u>Before regulation 47(1)(a), insert:</u> | |
| (aa) | <u>the service has regard to any statement of National Education and Learning Priorities; and</u> | |

149 Consequential amendments to other enactments 30

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

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

Schedule 1

New Schedule 1 inserted

s 145

Schedule 1

Transitional, savings, and related provisions

5

s 2A

Part 1

Provision relating to use of off-site locations by schools

1 Off-site locations for schools

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

10

Part 2

Provisions relating to Competence Authority

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2 Transitional provision relating to Competence Authority

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

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

Part 3

Provisions relating to integration agreements

3 Treatment of certain integration agreements

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(1) The integration agreement between Her Majesty the Queen and Te Aute Trust Board Incorporated and any integration agreement that was made under the Private Schools Conditional Integration Act 1975 and that is in force immediately before the commencement of this clause is to be treated as having been made under **Part 33** of this Act.

10

(2) However, all proceedings or any other matters that involve an integration agreement made under the Private Schools Conditional Integration Act 1975 and that are yet to be determined or completed on the commencement of this clause are to be determined or completed in accordance with the provisions of the Private Schools Conditional Integration Act 1975 that are in force immediately before the commencement of this clause.

15

Schedule 2

Schedule 6 of principal Act replaced

s 147

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1 Interpretation

In this schedule, unless the context otherwise requires,—

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

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

school community, ~~for~~ in relation to a school, means—

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

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

Part 1

Status and name of board

2 Status of board

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

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

3 Names of boards

5

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

Part 2

Powers and functions of boards

Functions of board

10

4 Board is governing body of school

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

15

5 Board’s objectives in governing school

- (1) A board’s primary objective in governing the school is to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.
- (2) To meet the primary objective, the board must—
 - (a) ensure that the school—
 - (i) is a physically and emotionally safe place for all students and staff; and
 - (ii) is inclusive of and caters for students with differing needs; and
 - (b) have particular regard to any statement of National Education and Learning Priorities issued under **section 1A**; and
 - (c) comply with its obligations under **sections 60A** (in relation to curriculum statements and national performance measures), **61** (in relation to teaching and learning programmes) and **62** (in relation to monitoring of student performance); and
 - (d) if the school is a member of a community of learning that has a community of learning agreement under **~~section 73B~~ 75B**, comply with its obligations under that agreement as a member of that community; and
 - (e) comply with all of its other obligations under this or any other Act.

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6	Staff	
	Subject to Parts 8A and 31, a board may, in accordance with the State Sector Act 1988, appoint, suspend, or dismiss school staff.	
	<i>Functions and powers generally</i>	
13	Board has complete discretion	5
	A board has complete discretion to perform its functions and exercise its powers as it thinks fit, subject to this and any other enactment and the general law of New Zealand.	
14	Things board can do	
(1)	A board may do anything that it is authorised to do by this Act.	10
(2)	A board may do anything that a natural person of full age and capacity may do.	
(3)	Subclause (2) applies except as provided in this Act or another enactment or rule of law.	
(4)	A board may do an act under this clause only for the purpose of performing its functions.	15
(5)	References in this clause to this Act include the provisions of the Crown Entities Act 2004 that are applied by Schedule 5A of this Act.	
15	Work for other boards or educational or social services	
(1)	Two boards may agree in writing—	
(a)	for one of them (board A) to do either or both of the following:	20
(i)	acquire materials for, and supply them to, the other:	
(ii)	do work for the other; and	
(b)	for the other board to pay board A for doing so.	
(2)	An agreement under subclause (1) does not absolve a board from any responsibilities imposed by this Act.	25
(3)	A board may resolve to do work for other educational services and social services if—	
(a)	the board is a member of a community of learning; and	
(b)	the other members of the community of learning agree that the work will benefit—	30
(i)	the members of the community of learning; or	
(ii)	the children or young people who are enrolled at a member of the community of learning.	

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

- (1) A board must take all reasonable steps to ensure that the policies and practices for its school reflect New Zealand's cultural diversity and the unique position of the Māori culture.
- (2) In performing its functions and exercising its powers, a board must take all reasonable steps to act in a manner that is consistent with the principles of the Treaty of Waitangi. 5
- (3) Without limiting **subclauses (1) and (2)**, a board must take all reasonable steps to provide instruction in tikanga Māori (Māori culture) and te reo Māori (the Māori language) for full-time students whose parents ask for it. 10

17 Delegations

- (1) A board may delegate any of the functions or powers of the board or the trustees, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons: 15
- (a) a trustee or trustees:
 - (b) the principal or any other employee or employees, or office holder or holders of the board:
 - (c) a committee consisting of at least 2 persons at least 1 of whom is a trustee:
 - (d) any other person or persons approved by the Minister: 20
 - (e) any class of persons that comprises any of the persons listed in **paragraphs (a) to (d)**.
- (2) **Subclause (1)** does not apply to any functions or powers specified in this Act as not being capable of delegation.
- (3) The board must not delegate the general power of delegation. 25
- (4) A delegate to whom any function or power is delegated may,—
- (a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the board or the trustees; and
 - (b) delegate the function or power only— 30
 - (i) with the prior written consent of the board; and
 - (ii) subject to the same restrictions, and with the same effect, as if the subdelegate were the delegate.
- (5) A delegate who purports to perform a function or exercise a power under a delegation— 35
- (a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and

	(b) must produce evidence of his or her authority to do so if reasonably requested to do so.	
(6)	No delegation in accordance with this Act—	
	(a) affects or prevents the performance of any function or the exercise of any power by the board or the trustees; or	5
	(b) affects the responsibility of the board for the actions of any delegate acting under the delegation; or	
	(c) is affected by any change in the membership of the board or of any committee or class of persons.	
(7)	A delegation may be revoked at will by—	10
	(a) resolution of the board and written notice to the delegate; or	
	(b) any other method provided for in the delegation.	
(8)	A delegation under subclause (4)(b) may be revoked at will by written notice of the delegate to the subdelegate.	
(9)	The board may, by resolution, appoint committees—	15
	(a) to advise it on any matters relating to the board's functions and powers that are referred to the committee by the board; or	
	(b) to perform or exercise any of the board's functions and powers that are delegated to the committee.	
(10)	A person must not be appointed as a member of a committee unless, before appointment, he or she discloses to the board the details of any financial interest that would disqualify the person from being a trustee under section 103A.	20
(11)	This clause applies to each member of a committee who is not a trustee with any necessary modifications.	
18	Bylaws	25
	A board may make bylaws that the board thinks necessary or desirable for the control and management of the school.	
	<i>Validity of acts and liability</i>	
19	Interpretation	
	In this clause and clauses 20 to 24 , unless the context otherwise requires,—	30
	act includes a transfer of property, rights, or interests to or by a board	
	do includes—	
	(a) to do an act; and	
	(b) to have a capacity; and	
	(c) to have or exercise a power, right, or privilege	35
	person dealing —	

	(a) means the other party to the transaction, if the act of the board is a transaction; and (b) includes a person who has acquired property, rights, or interests from a board.	
20	Acts in breach of statute are invalid	5
(1)	An act of a board is invalid, unless clause 21 applies, if it is—	
	(a) an act that is contrary to, or outside the authority of, an Act; or (b) an act that is done otherwise than for the purpose of performing its functions.	
(2)	Subclause (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.	10
21	Some natural person acts protected	
(1)	Clause 20 , or any rule of law to similar effect, does not prevent a person dealing with a board from enforcing a transaction that is a natural person act unless the person dealing with the board knew, or ought reasonably to have known,—	15
	(a) that an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or (b) that the act was done otherwise than for the purpose of performing the board's functions.	
(2)	In this clause, natural person act —	20
	(a) means an act that a natural person of full age and capacity can do (whether or not the act is something that is also authorised by an Act); and	
	(b) includes entry into a contract for, or relating to,—	
	(i) acquisition of financial products (within the meaning of section 7 of the Financial Markets Conduct Act 2013) or borrowing of money; or	25
	(ii) the purchase, leasing, or sale of, or other dealings with, property; or	
	(iii) the employment, or engagement of the services, of a person.	30
(3)	A person who relies on subclause (1) has the onus of proving that that person did not have, and ought not reasonably to have had, the knowledge referred to in that subclause.	
(4)	A board must report, in its annual report, each transaction that the board has performed in the year to which the report relates that was invalid under clause 20 but enforced in reliance on subclause (1) .	35
(5)	To avoid doubt, this clause does not affect any person's remedies (for example, remedies in contract) under the general law.	

22 Acts that are not in best interests of board

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

23 Dealings between boards and other persons

- (1) A board may not assert against a person dealing with the board that— 5
- (a) a person held out by the board to be a member, office holder, chief executive, employee, or agent of the board (as the case may be)—
 - (i) has not been duly appointed in that capacity or has ceased to be appointed in that capacity; or
 - (ii) does not have the authority to exercise a power that, given the nature of the board, a person appointed to that capacity customarily has authority to exercise; or 10
 - (iii) does not have the authority to exercise a power that the board holds him or her out as having; or
 - (b) a document issued on behalf of the board by a member, office holder, chief executive, employee, or agent of the board who has actual or usual authority to issue the document is not valid or genuine. 15
- (2) However, a board may assert any of those matters if the person dealing with the board has, or ought reasonably to have had, knowledge of the matter.
- (3) Nothing in this clause affects a person's right to apply, in accordance with the law, for judicial review. 20

24 Trustees not personally liable

- (1) A trustee is not personally liable for—
- (a) any act done or omitted by the board; or
 - (b) any loss to the board arising out of any act done or omitted by the trustee. 25
- (2) However, **subclause (1)** applies only if the act or omission was (so far as the trustee's involvement is concerned) in good faith in carrying out or intending to carry out the functions of the board.

Part 3

30

Financial and property matters and application of Crown Entities Act 2004

25 Board to be financially responsible

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

35

26 Application of Crown Entities Act 2004

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

27 Directions under section 107 of Crown Entities Act 2004

- (1) A board must comply with any direction given under section 107 of the Crown Entities Act 2004. 10
- (2) If the board does not comply with a direction, it may be dissolved under section 78I(1)(e).

28 Restrictions on acquisition of securities

- (1) Sections 160 and 161 of the Crown Entities Act 2004 apply. 15
- (2) Under section 161 of that Act, a board must not acquire securities—
 - (a) other than—
 - (i) a debt security denominated in New Zealand dollars that is issued by a registered bank, or by any other entity, that satisfies a credit-rating test that is specified in either regulations made under Part 4 of that Act or a notice in the *Gazette* published by the Minister of Finance; or 20
 - (ii) a public security; or
 - (b) otherwise than as provided in—
 - (i) any regulations made under Part 4 of that Act; or 25
 - (ii) any approval given jointly by the Minister of Education and the Minister of Finance; or
 - (iii) this Act.

29 Restrictions on borrowing

- (1) Sections 160 and 162 of the Crown Entities Act 2004 apply. 30
- (2) Under sections 160 and 162 of that Act, a board must not borrow from any person, or amend the terms of any borrowing, otherwise than as provided in—
 - (a) any regulations made under Part 4 of that Act; or
 - (b) any approval given jointly by the Minister of Education and the Minister of Finance; or 35
 - (c) this Act.

30	No delegation of power to borrow	
	A board must not delegate any power to borrow money that it may have under section 160 or 162 of the Crown Entities Act 2004.	
31	Restrictions on giving of guarantees and indemnities	
(1)	Sections 160 and 163 of the Crown Entities Act 2004 apply.	5
(2)	Under sections 160 and 163 of that Act, a board must not, with or without security, give a guarantee to, or indemnify, another person otherwise than as provided in—	
	(a) any regulations made under Part 4 of that Act; or	
	(b) any approval given jointly by the Minister of Education and the Minister of Finance; or	10
	(c) this Act.	
32	Restrictions on use of derivatives	
(1)	Sections 160 and 164 of the Crown Entities Act 2004 apply.	
(2)	Under sections 160 and 164 of that Act, a board must not enter into an agreement constituting a derivative, or amend the terms of that agreement, otherwise than as provided in—	15
	(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	20
	(c) this Act.	
33	Gifts	
(1)	Any money or property that is gifted to a school may be accepted or disclaimed by the board in accordance with section 167 of the Crown Entities Act 2004.	
(2)	A limitation that is provided in this Act or that applies under the Crown Entities Act 2004 (such as a limitation on the form in which property may be held) does not apply during a period that is reasonable in the circumstances.	25
(3)	Subclauses (1) and (2) apply to any gift that is received by the board for funding scholarships or bursaries, or for other educational purposes in connection with a school.	30
(4)	A board must hold every such gift for the specific purpose declared by the giver.	
(5)	Unless the giver has created a special trust, scholarships and bursaries from a gift must be open to every student at the school.	
(6)	If the school for which a gift was given closes, the Minister must direct that the gift should apply to another school.	35

34 Real property

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

35 Occupancy of property and buildings

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(1) The Secretary may from time to time, by notice in the *Gazette*, specify terms and conditions applying generally to land and buildings occupied by boards, and may from time to time, by written notice to a particular board, specify terms and conditions applying to land and buildings occupied by that board.

(2) A notice under **subclause (1)**—

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(a) may apply to any land and buildings occupied by a board (regardless of who owns the property); but

(b) to the extent that it applies to the board of a State integrated school, is subject to **Part 33** and to the integration agreement for the time being in force between the Minister and the proprietor of the school.

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(3) Terms and conditions under **subclause (1)** may include such matters as standards of maintenance, standards of capital works, and minimum safety and health requirements.

(4) **Subclause (3)** does not limit the generality of **subclause (1)**.

(5) Terms and conditions may be specified under **subclause (1)** in respect of—

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(a) a particular school or institution or particular schools or institutions; or

(b) schools or institutions of particular classes or descriptions; or

(c) all schools and institutions.

(6) A notice published in the *Gazette* under **subclause (1)** may contain the terms and conditions in their entirety or provide a general description of those terms and conditions and indicate where the full text can be obtained.

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(7) Terms and conditions specified under **subclause (1)** apply to boards or a board (as the case may be) as if—

(a) the land and buildings were owned by the Crown and the Crown has leased them to the board; and

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(b) the terms and conditions were part of the lease; and

(c) the Crown had empowered the Secretary to exercise the Crown's powers concerning the lease.

36 Leases and licences granted by boards

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

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- (2) The Secretary may agree to the grant of a lease or a licence by the board only if satisfied that—
- (a) the land, building, or facilities are not needed or used for the purposes of the school during the time covered by the lease or licence; and
 - (b) the lease or licence is in the public interest; and
 - (c) the lease or licence—
 - (i) is for a purpose associated with educational outcomes and will bring educational benefit to the school or its community, or to any other school; or
 - (ii) is for a community purpose, and will bring no educational disadvantage to the school.
- (3) The Secretary must determine the terms and conditions of any lease or licence granted by a board by doing either or both of the following:
- (a) publishing a notice in the *Gazette* that specifies the general terms and conditions that apply to all, or specified classes of, leases or licences:
 - (b) giving written notice to the board.
- (4) **Clause 35(6)** applies to a *Gazette* notice under **subclause (3)(a)**.
- (5) In relation to a State integrated school, this clause applies subject to **Part 33** and to any integration agreement in force between the Minister and the proprietor of the school.
- 37 Other agreements to occupy school land or buildings**
- (1) In this clause, **agreement** means an agreement, other than a lease or a licence to occupy under **clause 36**, between a board and any other person for the use of land, buildings, or facilities occupied by the board.
- (2) A board may not enter into an agreement unless—
- (a) the agreement is of a type permitted by *Gazette* notice under **subclause (5)**; and
 - (b) the agreement is consistent with this clause and any conditions specified by *Gazette* notice under **subclause (5)**.
- (3) It is a condition of every agreement that the board has the right to enter, at any time, the land, buildings, or facilities that are the subject of the agreement.
- (4) No person has the right under an agreement to use or occupy any land, buildings, or facilities in such a way as to unduly interfere with the use, by the board for school purposes, of that land or those buildings or facilities, or any other land, buildings, or facilities of the school.
- (5) The Secretary may, by notice in the *Gazette*,—
- (a) identify the kinds of agreements (for example, agreements for the use of playing fields) that boards may enter into; and

- (b) specify conditions to which agreements, or specified types of agreements, are subject.
- (6) **Clause 35(6)** applies to a *Gazette* notice under **subclause (5)(b)**.
- (7) In relation to a State integrated school, this clause applies subject to **Part 33** and to any integration agreement in force between the Minister and the proprietor of the school. 5
- 38 Boards exempt from taxation**
- (1) Every board is taken to be the agent of the Crown in respect of its property and the exercise of its functions, and is accordingly entitled to all the privileges the Crown enjoys in respect of exemption from taxation and the payment of fees or charges, and from other obligations. 10
- (2) Nothing in **subclause (1)** exempts a board from—
- (a) the payment of goods and services tax under the Goods and Services Tax Act 1985; or
- (b) any obligation imposed by that Act. 15

Part 4

Meetings and procedure

- 39 Affixing of board's seal**
- (1) A board's common seal must not be affixed to a document except pursuant to a resolution of the board. 20
- (2) The affixing of a board's common seal to a document must be countersigned by at least 2 trustees.
- 40 Meetings**
- (1) A board must hold a meeting not later than 3 months after its previous meeting, at a time and place determined at the previous meeting. 25
- (2) If, at any meeting of the board, the board does not determine a time and place for its next meeting, the time and place of its next meeting must be determined—
- (a) by the presiding trustee for the time being appointed under **clause 41**; or
- (b) if no trustee is for the time being appointed to preside and a trustee who presided at the board's previous meeting is still a trustee, by that trustee; and
- ~~(c) by the principal, if no trustee is for the time being appointed to preside and—~~ 30
- ~~(i) a trustee who was at the time of the board's last meeting appointed to preside presided at that meeting; or~~ 35

- (ii) ~~the trustee who presided at the board's last meeting is no longer a trustee.~~
- (c) in any other case, by the principal.
- (3) When a casual vacancy occurs, the person for the time being appointed under **clause 41**, or, where there is no such person, the principal, must fix a place for a meeting of the board to deal with the vacancy on a day that is— 5
- (a) within 28 days of the vacancy occurring, if it occurs during any period of 6 months commencing on 1 October in a year before an election year; or
- (b) within 8 weeks of the vacancy occurring, if it occurs at any other time.
- (4) No business may be transacted at any meeting of the board unless more than half the trustees then holding office are present. 10
- (5) At a meeting of the board,—
- (a) the person for the time being appointed under **clause 41** must preside if present; or
- (b) if that person is not present, a trustee (not being the principal or a staff or student representative) appointed by the board at the meeting must preside. 15
- (6) Every question before a board must be decided by a majority of the votes cast on it by the trustees who are present.
- (7) At a meeting of the board, the person presiding has a deliberative vote on every question and, on any question where deliberative votes for and against are equal, also has a casting vote. 20
- (8) Subject to **subclause (11)**, a trustee who has a pecuniary interest in any matter or any interest that may reasonably be regarded as likely to influence a trustee in carrying out his or her duties and responsibilities as a trustee must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides the matter. 25
- (9) Subject to **subclause (11)**, a trustee who is a member of the board staff must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to the trustee's employment by the board, or to the course of action to be taken following the hearing of a complaint against the trustee (being a complaint against the trustee in the trustee's capacity as a member of the board staff). 30
- (10) Subject to **subclause (11)**, a trustee who is a student enrolled at the school or institution must be excluded from any meeting of the board while it discusses, considers, considers anything relating to, or decides any matter relating to the trustee as an individual student. 35
- (11) A trustee may attend any meeting of the board to give evidence, make submissions, or answer questions.
- (12) A meeting of the board may be held— 40

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

Schedule 3

Consequential amendments to other enactments

s 149

Part 1

Education Act 1964 (1964 No 135) 5

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

Repeal section 96.

Repeal section 98(1)(c).

Education Amendment Act 2010 (2010 No 25) 10

Repeal section 77.

Human Rights Act 1993 (1993 No 82)

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

State Sector Act 1988 (1988 No 20) 15

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

Part 2

Crown Entities Act 2004 (2004 No 115) 20

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

Government Superannuation Fund Act 1956 (1956 No 47)

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

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, delete “Careers New Zealand”. 25

Part 3

Crown Entities Act 2004 (2004 No 115)

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

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

~~Repeal section 77.~~ 30

Social Security Act 1964 (1964 No 136)

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

Taranaki Scholarships Trust Board Act 1957 (1957 No 108)

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In section 2, insert in its appropriate alphabetic order:

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

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

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

Vulnerable Children Act 2014 (2014 No 40)

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

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

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Legislative history

22 August 2016
13 September 2016

Introduction (Bill 160–1)
First reading and referral to Education and Science Committee