

# **Regulatory Systems (Education) Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

The Regulatory Systems (Education) Amendment Bill is an omnibus Bill. It contains amendments to legislation administered by the Ministry of Education, the Ministry of Business, Innovation, and Employment, and jointly administered by the Ministry for Culture and Heritage and the Ministry of Justice. The policy objective of the Bill is to maintain the effectiveness and efficiency of the regulatory systems established by the principal Acts that it amends.

The amendments in the Bill will achieve this by—

- clarifying and updating statutory provisions to give effect to the intended purposes of the Acts and their provisions, and to keep the regulatory system up to date and relevant:
- addressing regulatory duplication, gaps, errors, and inconsistencies within and between different pieces of legislation:
- removing unnecessary compliance costs.

The education legislative framework is a complex arrangement of multiple Acts and regulations. Over time, amendments to education legislation have introduced errors and inconsistencies into the regulatory system. In addition, the regulatory system should be flexible to reflect the changing demography of our education system and communities.

The Bill is an opportunity for minor and technical amendments to be implemented across the education legislative regime. The Bill includes the following amendments.

### **Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945**

The Bill amends the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945 (the **Ngarimu Act**) to—

- modify the functions of the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board (the **Board**) to recognise it as the successor of the 28th Maori Battalion (NZ) Association Incorporated for the purposes of authorising the use of words and emblems relating to the 28th Māori Battalion and the Association under the Flags, Emblems, and Names Protection Act 1981; and
- continue the legacy of the 28th (Māori) Battalion by creating a new national Māori representative position on the Board. This position would be held by a person of Māori descent who has served or is currently serving in the New Zealand Defence Force. The intention of this amendment is to continue the mana and legacy of the 28th (Māori) Battalion by ensuring that there is a new national Māori representative position on the Board.

### **Pacific Education Foundation Act 1972**

The Bill amends the Pacific Education Foundation Act 1972 (the **principal Act**) to enable the Pacific Education Foundation (the **Foundation**) to better support Pacific learners and their families. The amendments—

- replace the current definition of Pacific person with a new definition of Aotearoa Pacific person, which has the effect of expanding the list of people who can benefit from the Foundation, so it continues to be representative of Pacific people in New Zealand. The expanded list includes people with indigenous Pacific cultural heritage from American Samoa, Federated States of Micronesia, French Polynesia, Hawaii, Nauru, Papua New Guinea, Pitcarin Island, Rabi, Rotuma, Solomon Islands, Vanuatu, and Wallis and Futuna:
- move the list of places from which a person may have indigenous Pacific cultural heritage from the interpretation section of the principal Act into a schedule so that it can be updated by Order in Council. This will ensure that the list of places can be updated more easily to reflect the diversity of Pacific peoples in Aotearoa New Zealand:
- update the purpose, makeup, and constitution of the Foundation's board to enable it to function more effectively and to provide advice to the Minister of Education, the Ministry of Education, and other education agencies:
- recognise the unique relationship the Crown has with New Zealand Realm countries and, through the Treaty of Friendship, with Samoa:
- update the authorised expenditure of the Foundation.

### **Amendments to secondary legislation**

The Bill also amends—

- the Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015 to include an additional reference to the Kiwi Access card to reflect the name change of the 18+ card:

- the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 to ensure that Police vets for workers at limited attendance child-care centres are obtained before the worker begins work, and that the relevant PCBU considers the Police vet once it is received to assess any risks to the safety of children if the worker were to carry out work at the centre. This will create consistency with the Police vetting provisions in the Education and Training Act 2020 and the safety checking requirements in the Children's Act 2014.

### Regulatory impact statement

A regulatory impact statement is not required for this Bill.

### Departmental disclosure statement

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2023&no=240>

### Clause by clause analysis

*Clause 1* is the Title clause.

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

## Part 1

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

*Clause 3* provides that *Part 1* amends the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945.

*Clause 4* amends section 4, which establishes the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board (the **Board**). The amendments—

- insert *new section 4(2)(h)*, which provides for a person who is Māori and has served or is currently serving in the New Zealand Defence Force to be an additional member of the Board;
- insert *new section 4(3A)*, which confirms the status of the Board as the successor of the 28th Maori Battalion (NZ) Association Incorporated, as provided for in the deed of assignment dated 14 April 2016.

*Clause 5* amends section 7, which relates to the functions of the Board, by replacing subsection (1) with *new subsections (1) and (1A)*. The amendments—

- clarify that the Board's general functions are to administer the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund established by section 3 and to perform or exercise any other function, duty, or power conferred on it by or under other legislation; and
- reference the Board's function of approving persons, classes of persons, or associations who may use any emblem, words, name, title, style, or designation relating to the 28th Māori Battalion or the 28th Maori Battalion (NZ) Association under section 18A(3)(b)(iv) of the Flags, Emblems, and Names Protection Act 1981.

*Consequential amendment to Flags, Emblems, and Names Protection Act 1981*  
*Clauses 6 and 7 and Schedule 1* consequentially amend Schedule 2A of the Flags, Emblems, and Names Protection Act 1981 to update the schedule heading and to insert an emblem relating to the 28th Māori Battalion.

## Part 2

### Amendments to Pacific Education Foundation Act 1972

*Clause 8* provides that *Part 2* amends the Pacific Education Foundation Act 1972 (the **principal Act**).

*Clause 9* amends section 2, which defines terms used in the principal Act. The amendments insert several new definitions, including a definition of the term Aotearoa Pacific person, which replaces the existing term Pacific person. The effect of the new definition of Aotearoa Pacific person is to enable a person living in New Zealand and who is a New Zealand citizen, has been granted permanent residence, or has been permitted to enter New Zealand with the intention of gaining permanent residence and who has indigenous Pacific cultural heritage from a place listed in *Schedule 3* to be eligible for assistance from the Pacific Education Foundation (the **Foundation**).

*Clause 10* amends section 4, which relates to the establishment and continuation of the Foundation. The amendment inserts *new section 4(4)*, which provides that by establishing and continuing the Foundation, the principal Act recognises the unique relationship that the Crown has with the Cook Islands, Niue, and Tokelau and, through the Treaty of Friendship, with Samoa.

*Clause 11* replaces section 5, which sets out the general purpose of the Foundation, to better reflect its role in promoting and encouraging the better education of Aotearoa Pacific people.

*Clause 12* amends section 8, which relates to the constitution and membership of the Board of the Foundation (the **Board**). The amendments update section 8 by—

- removing from membership of the Board the manager at the Ministry of Education (the **Ministry**) who has responsibility for the education of Pacific peoples:

- increasing from 5 to 6 the number of members jointly appointed by the Minister of Education (the **Minister**) and the Minister for Pacific Peoples after consultation with Pacific communities;
- requiring Board members appointed under section 8(2)(d) to be resident in New Zealand during their term of office;
- removing the ability of Board members appointed jointly by the Minister and the Minister for Pacific Peoples to authorise another person to attend a meeting of the Board in their place;
- increasing the term of office of Board members from 3 years to up to 4 years.

*Clause 13* replaces section 8A with *new sections 8A and 8B*. The amendments provide that the Minister and the Minister for Pacific Peoples, acting jointly, may—

- appoint the chairperson and deputy chairperson of the Board; and
- provide a letter of expectations to the Board.

*Clause 14* replaces section 10(1), which requires the Board to hold a meeting at least once a year. *New section 10(1)* increases the minimum number of meetings of the Board to at least 3 each year.

*Clause 15* amends section 24, which authorises expenditure of the Board's income. The amendments update terminology and increase the maximum amount that the Board may spend on matters not specifically listed in the principal Act from \$500 to \$10,000 each financial year.

*Clause 16* replaces section 30, which requires the Board to provide the Minister and the Minister for Pacific Peoples with an annual report on its proceedings and operations in the previous financial year. *New section 30* updates the reporting requirement so that the report must include information about the advice the Foundation has provided to, or interactions it has had with, the Ministry and other education agencies in that financial year.

*Clause 17* inserts *new section 35*, which provides for the places of indigenous Pacific cultural heritage listed in *new Schedule 2* to be updated by Order in Council.

*Clause 18* and *Schedule 2* amend Schedule 1, which sets out transitional, savings, and related provisions for the principal Act by making a drafting amendment and inserting a *new Part 2* into the schedule. *New Part 2* sets out a transitional provision that applies to a member of the Board holding office under section 8(2)(d) immediately before commencement of the Bill and provides that—

- the member continues in office but only for the remainder of the term for which they were originally appointed; and
- nothing in *new section 8(2A)* (which requires Board members appointed under section 8(2)(d) to be resident in New Zealand during their term of office) applies to the member during the remainder of that term.

*Clause 19* and *Schedule 3* insert *new Schedule 2*, which sets out a list of places from which a person may have indigenous Pacific cultural heritage for the purposes of the new definition of Aotearoa Pacific person.

### **Part 3**

#### **Amendments to secondary legislation**

*Part 3* amends secondary legislation.

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

*Clause 20* provides that *clause 21* amends the Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015.

*Clause 21* amends Part 2 of the Schedule, which lists secondary identity documents that may be produced by a person in respect of whom a specified organisation is undertaking a safety check, to replace the reference to 18+ card with a reference to Kiwi Access card (18+ card).

##### *Amendment to Health and Safety at Work (General Risk and Workplace Management) Regulations 2016*

*Clause 22* provides that *clause 23* amends the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.

*Clause 23* amends regulation 51, which currently requires a person conducting a business or undertaking (a PCBU) who operates a limited-attendance child-care centre to apply for a Police vet of every worker they employ or engage, or intend to employ or engage, no later than 2 weeks after the worker begins working at the centre. The amendments adjust the heading to the provision and replace regulation 51(1) to require the PCBU to obtain the Police vet before the person begins working at the centre and to consider the Police vet to assess whether the person would pose a risk to the safety of children if they were to carry out work at the centre.

*Hon Jan Tinetti*

## **Regulatory Systems (Education) Amendment Bill**

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### Part 3

#### Amendments to secondary legislation

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

20	Principal regulations	7
21	Schedule amended	7

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

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

#### Schedule 1

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

8

#### Schedule 2

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

9

#### Schedule 3

##### **New Schedule 2 inserted into Pacific Education Foundation Act 1972**

10

#### The Parliament of New Zealand enacts as follows:

##### 1 Title

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

##### 2 Commencement

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



## Part 1

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

#### 3 Principal Act

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

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

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

(h) 1 Māori who has served or is currently serving in the New Zealand Defence Force. 10

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

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

#### 5 Section 7 amended (Functions of Board)

Replace section 7(1) with: 15

(1) The general functions of the Board are—

(a) to administer the Fund in accordance with the provisions of this Act for the purpose of granting assistance for the education of any Māori, or for the purpose of promoting the study and encouraging the maintenance of the Māori language and of Māori history, tradition, and culture; and 20

(b) to perform or exercise any other function, duty, or power conferred on it by or under other legislation.

(1A) *See* section 18A(3)(b)(iv) of the Flags, Emblems, and Names Protection Act 1981, which sets out the function of the Board to approve persons, classes of persons, or associations who may use any emblem, words, name, title, style, or designation relating to the 28th Māori Battalion or the 28th Maori Battalion (NZ) Association Incorporated. 25

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

#### 6 Principal Act

**Section 7** amends the Flags, Emblems, and Names Protection Act 1981. 30

#### 7 Schedule 2A amended

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

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

## Part 2

### Amendments to Pacific Education Foundation Act 1972

#### 8 Principal Act

This Part amends the Pacific Education Foundation Act 1972.

#### 9 Section 2 amended (Interpretation) 5

(1) In section 2, repeal the definition of **Pacific person**.

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

**Aotearoa Pacific person** means a person who is living in New Zealand and who—

- (a) is a New Zealand citizen or has been granted permanent residence or has been permitted to enter New Zealand with the intention of gaining permanent residence; and 10
- (b) has indigenous Pacific cultural heritage from a place listed in **Schedule 2**

**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 15

**other education agencies** means the following agencies:

- (a) the Education Review Office:
- (b) NZQA:
- (c) TEC: 20
- (d) the Teaching Council:
- (e) the Ministry for Pacific Peoples

**Treaty of Friendship** means the Treaty of Friendship between the Government of New Zealand and the Government of Western Samoa done at Apia on 1 August 1962 25

(3) In section 2, insert as subsection (2):

(2) In this Act, **NZQA**, **TEC**, and **Teaching Council** have the same meaning as in section 10(1) of the Education and Training Act 2020.

#### 10 Section 4 amended (Foundation established) 30

After section 4(3), insert:

(4) In establishing and continuing the Foundation, this Act recognises the Crown's unique relationship with the Cook Islands, Niue, and Tokelau and, through the Treaty of Friendship, with Samoa.

#### 11 Section 5 replaced (Purpose of Foundation) 35

Replace section 5 with:

<b>5</b>	<b>Purpose of Foundation</b>	
	The general purpose of the Foundation is to promote and encourage the better education of Aotearoa Pacific people by—	
	(a) providing information and advice to the Minister, the Ministry, and other education agencies on matters relating to the educational success of Aotearoa Pacific people; and	5
	(b) providing financial assistance for that purpose, including the administration and award of Tūlī Takes Flight scholarships that are part of the goodwill gesture of reconciliation that accompanied the New Zealand Government’s apology to Pacific families and communities impacted by the Dawn Raids.	10
<b>12</b>	<b>Section 8 amended (Constitution of Board)</b>	
	(1) Repeal section 8(2)(c).	
	(2) In section 8(2)(d), replace “5” with “6”.	
	(3) After section 8(2), insert:	15
	(2A) A member appointed under subsection (2)(d) must be resident in New Zealand during their term of office.	
	(4) Repeal section 8(4).	
	(5) Replace section 8(5)(a) and (b) with:	
	(a) holds office for a term of up to 4 years; and	20
	(b) may be reappointed; and	
<b>13</b>	<b>Section 8A replaced (Board to elect chairperson and deputy chairperson)</b>	
	Replace section 8A with:	
<b>8A</b>	<b>Chairperson and deputy chairperson</b>	
	The Minister and the Minister for Pacific Peoples, acting jointly, may appoint—	25
	(a) 1 member to be chairperson of the Board; and	
	(b) 1 member to be deputy chairperson of the Board.	
<b>8B</b>	<b>Letter of expectations</b>	
	The Minister and the Minister for Pacific Peoples, acting jointly, may provide a letter of expectations to the Board that sets out the Ministers’ expectations regarding the Foundation’s strategic direction and specific priorities, and that may require the Board to have regard to specific education policies in its advice to the Minister, the Ministry, and other education agencies.	30
<b>14</b>	<b>Section 10 amended (Meetings of Board)</b>	35
	Replace section 10(1) with:	

- (1) Meetings of the Board must be held at least 3 times a year at the times and places that the Board determines.
- 15 Section 24 amended (Authorised expenditure)**
- (1) In section 24, replace “Pacific” with “Aotearoa Pacific” in each place.
- (2) In section 24(1)(r), replace “\$500” with “\$10,000”. 5
- 16 Section 30 replaced (Annual report)**
- Replace section 30 with:
- 30 Annual report**
- (1) The Board must, no later than 31 December in each year, provide the Minister and the Minister for Pacific Peoples with an annual report on its operations and proceedings during the previous financial year, together with a copy of the financial statements of the Foundation for that year and an audit report on those statements. 10
- (2) The annual report must include information about the advice the Foundation has provided to, or interactions the Foundation has had with, the Ministry and other education agencies in that financial year. 15
- (3) The Minister must present a copy of the annual report and the financial statements (along with the audit report) to the House of Representatives as soon as practicable after receiving them.
- 17 New section 35 inserted (Amendments to Schedule 2)** 20
- After section 34, insert:
- 35 Amendments to Schedule 2**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, amend **Schedule 2** to add, delete, or amend the name of a place listed in that schedule. 25
- (2) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 18 Schedule 1 amended**
- (1) In Schedule 1, clause 1, replace “schedule” with “Part”.
- (2) In Schedule 1,— 30
- (a) insert the Part set out in **Schedule 2** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- 19 New Schedule 2 inserted**
- After Schedule 1, insert the **Schedule 2** set out in **Schedule 3** of this Act.

### Part 3 Amendments to secondary legislation

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

- 20 Principal regulations** 5
- Section 21** amends the Children’s (Requirements for Safety Checks of Children’s Workers) Regulations 2015.
- 21 Schedule amended**
- In the Schedule, Part 2, replace “18+ card” with “Kiwi Access card (18+ card)”. 10

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

- 22 Principal regulations**
- Section 23** amends the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016. 15
- 23 Regulation 51 amended (Duty to ensure Police vet obtained before worker has unsupervised access to children)**
- (1) In the heading to regulation 51, replace “**has unsupervised access to children**” with “**begins work at centre**”.
- (2) Replace regulation 51(1) with: 20
- (1) A PCBU who is required to obtain a Police vet of a person under regulation 50 must—
- (a) obtain the Police vet before the person begins working at the limited-attendance child-care centre; and
- (b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children if they were to carry out work at the centre during normal opening hours. 25

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

**s 7**



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

s 18

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

**Schedule 3**  
**New Schedule 2 inserted into Pacific Education Foundation Act 1972**

s 19

<b>Schedule 2</b>		
<b>Places of indigenous Pacific cultural heritage</b>		5
		<b>ss 2(1), 35</b>
American Samoa		
Cook Islands		
Federated States of Micronesia		
Fiji		10
French Polynesia		
Hawaii		
Kiribati		
Nauru		
Niue		15
Papua New Guinea		
Pitcairn Island		
Rabi		
Rotuma		
Samoa		20
Solomon Islands		
Tokelau		
Tonga		
Tuvalu		
Vanuatu		25
Wallis and Futuna		