

EDUCATION AMENDMENT BILL (NO. 2)

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

This bill was formerly part of the Education Legislation Amendment Bill as reported from the Education and Science Committee. The Committee of the whole House has divided the bill into the following 3 bills:

- This bill, comprising Part 1
 - The Private Schools Conditional Integration Amendment Bill, comprising Part 2
 - The Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Amendment Bill, comprising Part 3.
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KEY TO SYMBOLS USED IN REPRINTED BILL
AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Majority)

Subject to this Act,

Text struck out by a majority

New (Majority)

Subject to this Act,

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE

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Text inserted

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Words struck out

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Words inserted

Hon Wyatt Creech

EDUCATION AMENDMENT (NO. 2)

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A BILL INTITULED

An Act to amend the Education Act 1989

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Education Amendment Act (No. 2) 1998, and is part of the Education Act 1989 (“the principal Act”).

(2) Except as provided in **subsection (3)**, this Act comes into force on the day after the date on which it receives the Royal assent.

10 (3) **Sections 13 and 66** come into force on a date to be appointed by the Governor-General by Order in Council.

Struck Out

15 **2A. Interpretation**—Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “principal”, the following definition:

20 “ ‘Reasonably convenient state school’, for the purpose of the provisions of this Act relating to enrolment schemes, means a state school that the Board or Secretary (as the case may be) considers meets the criteria set out for the purpose in **section 11AA (2)**.”

New

25 **2A. Interpretation**—Section 2 (1) of the principal Act is amended by repealing the definition of the term “enrolment scheme”, and substituting the following definition:

30 “ ‘Enrolment scheme’ means a scheme adopted (and not since abandoned) under **section 11G**; and includes any amendments to the scheme that have been adopted under **section 11K**.”

30 **2AA. Special education**—Section 9 (2) of the principal Act is amended by omitting the expression “section 11J”, and substituting the expression “**section 11M**”.

New (Majority)

2B. Right of reconsideration—(1) Section 10 (6) of the principal Act is amended by inserting, after paragraph (m), the following paragraph:

“(ma) If, at the hearing, the parent of the person concerned produces evidence about the person that was not available to the Secretary when the Secretary reconsidered the relevant direction or refusal to come to an agreement under section 9 (1),—

“(i) The arbitrator may not consider that evidence and must refer the case back to the Secretary:

“(ii) The Secretary must reconsider the decision that was the subject of the arbitration, and subsection (4) applies to the Secretary’s decision under this subparagraph with any necessary modifications:”.

(2) Section 10 (6) (n) of the principal Act is amended by omitting the words “After the hearing;”, and substituting the words “Subject to **paragraph (ma)**, after the hearing”.

Struck Out

3. New heading and section inserted—The principal Act is amended by inserting, before section 11A, the following heading and section:

“Enrolment Schemes

“11AA. **Purpose**—(1) The purpose of the provisions of this Act relating to enrolment schemes is—

“(a) To avoid overcrowding or the likelihood of overcrowding at schools; and

“(b) To exclude from schools no more prospective students than is necessary to avoid overcrowding or the likelihood of overcrowding at schools; and

“(c) To ensure that in the development and approval of enrolment schemes, in addition to other matters Boards consider relevant, schemes take into account—

“(i) The capacity of the existing network of schools; and

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- “(ii) The desirability of ensuring that students can attend a reasonably convenient state school (that is not an integrated school); and
- 5 “(d) To enable Boards to put in place enrolment schemes that are appropriate for their schools and are based on the purposes set out in paragraphs (a) to (c).

New (Majority)

- 10 “(2) In the course of preparing or approving an enrolment scheme for a state school under this Part, the Board or Secretary (as the case may be) must take into account the following criteria for the purposes of determining whether any school is a reasonably convenient state school (other than an integrated school) in relation to any students:
- 15 “(a) The standards of the locality that are relevant to—
- “ (i) The distance to be travelled by students to the school; and
- “ (ii) The mode by which the students have to travel to the school:
- 20 “(b) The time likely to be spent by the students in travelling to the school:
- “ (c) The exposure of the students to traffic hazards in the course of their travel to the school:
- “ (d) The ages of the students:
- 25 “(e) Any other factors the Board or Secretary (as the case may be) considers to be relevant.”

4. Boards may put enrolment schemes in place—

- (1) Section 11A (2) of the principal Act is amended by adding the expression “; and”, and the following paragraphs:
- 30 “(d) It has considered the capacity of the existing network of schools; and
- “ (e) It has considered whether students can attend a reasonably convenient state school (that is not an integrated school); and
- 35 “(f) It has considered any other factors the Board thinks relevant.”

Struck Out

(2) Section 11A (3) of the principal Act is amended by omitting the expression “subsection (4) of this section and to section 11C of this Act”, and substituting the expression “**subsections (4) and (5) and to sections 11BC and 11C**”.

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New (Majority)

(2A) Section 11A (4) of the principal Act is amended by omitting the expression “2 months”, and substituting the expression “3 months”.

(3) Section 11A of the principal Act is amended by adding the following *<subsection>* *<subsections>*: 10

“(5) The Board must not resolve to adopt the scheme unless the Secretary has approved the scheme.

New (Majority)

“(6) If there is any disagreement between the Board and the Secretary about whether any school is a reasonably convenient state school in relation to any students, the Secretary must decide the matter and the Secretary’s decision is final.” 15

5. Amendment of enrolment schemes—(1) Section 11B (3) of the principal Act is amended by omitting the expression “subsection (4) of this section and to section 11C of this Act”, and substituting the expression “**subsections (4) and (4A) and to sections 11BC and 11C**”. 20

New (Majority)

(1A) Section 11B (4) of the principal Act is amended by omitting the expression “2 months”, and substituting the expression “3 months”. 25

(2) Section 11B of the principal Act is amended by inserting, after *<subsection (4A)>* *<subsection (4)>*, the following subsection: 30
 “(4A) The Board must not resolve to adopt the amendment unless the Secretary has approved the amendment.”

Struck Out

6. New sections inserted—The principal Act is amended by inserting, after section 11B, the following sections:

5 “11BA. **Content of enrolment schemes**—An enrolment scheme—

“(a) Must set out rules and procedures for pre-enrolment and enrolment; and

“(b) May contain such other provisions concerning enrolment as the Board thinks fit.

10 “11BB. **Matters to which Secretary must have regard in approving enrolment scheme or amendment**—In approving an enrolment scheme or an amendment to an enrolment scheme, the Secretary must—

“(a) Have regard to—

15 “(i) The capacity of the existing network of schools; and

“(ii) Whether students can attend a reasonably convenient state school (that is not an integrated school); and

20 “(b) Be satisfied that the Board, in preparing the scheme or amendment, complied with **section 11BC**.

25 “11BC. **Board to discover and consider views of persons affected by enrolment scheme**—(1) When preparing an enrolment scheme or an amendment to an enrolment scheme, and when conducting an annual review of an enrolment scheme under **section 11K**, the Board must take all reasonable steps to discover and consider the views of—

Struck Out (Majority)

30 “(a) The school community of the students attending the school concerned; and

New (Majority)

“(a) The parents of the students attending the school and the school’s community; and

Struck Out

“(b) The people living in the geographical area in which the school is located; and

“(c) The Boards of other schools that the Board reasonably thinks may be affected by the scheme. 5

“(2) The Board must not resolve to adopt an enrolment scheme or an amendment to an enrolment scheme unless the Board has complied with this section.”

7. Notice—~~“(1) Section 11C of the principal Act is amended by omitting the expression “14”, and substituting the expression “7”. >~~ 10

(2) Section 11C(a) of the principal Act is amended by inserting, after the word “daily”, the words “or community”.

8. Abandonment of enrolment schemes—Section 11D(b) of the principal Act is amended by inserting, after the word “daily”, the words “or community”. 15

9. Repeal of section 11E—Section 11E of the principal Act (which relates to notices concerning enrolment schemes which Boards must give the Secretary) is repealed.

10. Secretary may authorise early commencement of enrolment scheme or amendment—(1) Section 11I(3) of the principal Act is amended by omitting the expression “subsection (4) of this section”, and substituting the expression “subsections (4) and (4A)”. 20

(2) Section 11I of the principal Act is amended by inserting, after subsection (4), the following subsection: 25

“(4A) The Secretary may not give the Board authority unless satisfied that the Board has complied with section 11Bc.”

11. New sections substituted—The principal Act is amended by repealing section 11K, and substituting the following sections: 30

“11K. Boards to review threat of overcrowding and enrolment scheme—(1) If, on 1 ~~June~~ ~~April~~ in any year, an enrolment scheme for a school has been in force for more than 3 months, the Board, before the following 1 ~~July~~ ~~May~~, must— 35

Struck Out

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- 5 “(a) Review both—
- “(i) Whether or not there is likely to be overcrowding at the school if the scheme is abandoned; and
 - “(ii) The operation of the existing provisions of the enrolment scheme having regard to the purpose stated in **section 11AA**; and
- 10 “(b) Ask the Secretary whether he or she agrees with the Board’s view about overcrowding or the likelihood of overcrowding.
- “(2) The Board must abandon the scheme if—
- “(a) It is not satisfied that there is likely to be overcrowding at the school if the scheme is abandoned; or
 - 15 “(b) The Secretary tells the Board that he or she does not agree that there is likely to be overcrowding.
- “(3) The Board must amend the scheme if in its existing form the scheme has the effect of excluding more prospective students than is necessary to exclude to avoid overcrowding at the school.
- 20 “(4) A Board need not comply with **section 11BC** in the case of an annual review of an enrolment scheme if—
- “(a) The Board has reconsidered the issue of overcrowding, reconsidered its enrolment scheme, and decided to continue with the existing scheme or a scheme having substantially the same effect; and
 - 25 “(b) The Secretary waives compliance with **section 11BC** in that case.
- 30 “(5) A Board need not review its enrolment scheme under this section if the Secretary waives compliance with that requirement, in which case the following provisions apply to the waiver:
- “(a) If satisfied that an enrolment scheme is necessary, the Secretary may grant the waiver for a period not exceeding 3 years;
 - 35 “(b) If the Secretary considers the enrolment scheme has substantially changed at any time after the exemption comes into force, the waiver ceases to have effect on a date specified by the Secretary.
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11KA. Board must give reasons if it declines enrolment application—If a Board decides not to accept a person’s application for enrolment, the Board must give the person’s parents and (to the extent, if any, that the person’s age and maturity make it appropriate) the person a written statement setting out the reasons for the decision.” 5

12. Exemptions from enrolment schemes in exceptional cases—Section 12B (2) (a) of the principal Act is amended by omitting the words “reasonably practicably to attend any” and substituting the words “to attend any reasonably convenient”. 10

New

3. New heading and sections substituted—The principal Act is amended by repealing sections 11A to 11K, and section 12B, and substituting the following heading and sections: 15

“Enrolment Schemes

11A. Purpose of enrolment scheme—The purpose of an enrolment scheme is—

- “(a) To avoid overcrowding, or the likelihood of overcrowding, at the school to which it applies; and 20
- “(b) To enable the Secretary to make reasonable use of the existing network of schools.

11B. Principles governing content and implementation of enrolment schemes—(1) When developing, adopting, amending, and implementing an enrolment scheme, a Board must, as far as it can, ensure that the enrolment scheme— 25

- “(a) Excludes from the school no more prospective students than is necessary to avoid overcrowding or the likelihood of overcrowding at the school: 30
- “(b) Reflects the desirability of students being able to attend a reasonably convenient school:
- “(c) Enables the Secretary to make reasonable use of the existing network of schools, by taking into account 35

New

the location and capacity of other schools that are reasonably convenient schools for students in the general area served by the school.

5 “(2) When developing, adopting, amending, and implementing an enrolment scheme, a Board must, to the extent that it is reasonable and practicable to do so without derogating from the principles in subsection (1), ensure that students can attend a school of their choice.

10 “11C. **Meaning of ‘reasonably convenient school’**—
(1) In section 11B, the term ‘reasonably convenient school’ means a school that a reasonable person living in the area in which the school is situated would judge to be reasonably convenient for a particular student, taking into account such factors as—

15 “(a) The distance, time likely to be spent in travel, reasonably available modes of travel, common public transport routes, and relevant traffic hazards; and

“(b) The age of the student.

20 “(2) The meaning of ‘reasonably convenient school’ may vary as between different schools, depending on such matters as—

“(a) Whether the school is a single sex or co-educational school; and

25 “(b) Whether the school is an ordinary state school, a Kura Kaupapa Maori, a designated character school, a special school, or an integrated school; and

“(c) Whether the school is a primary, intermediate, secondary, composite, or area school.

30 “11D. **Secretary to issue guidelines**—The Secretary must from time to time issue guidelines to Boards that—

“(a) Will assist Boards in the development and implementation of enrolment schemes; and

“(b) Describe the basis on which the Secretary’s powers in relation to enrolment schemes will be exercised.

35 “11E. **Secretary’s powers in relation to adoption of enrolment scheme**—(1) A Board must not start developing an enrolment scheme until the Secretary has given written notice that there is, or is likely to be, overcrowding at the school unless an enrolment scheme applies.

New

“(2) A Board must not adopt an enrolment scheme unless the Secretary has given written approval of the enrolment scheme.

“(3) Before approving an enrolment scheme, the Secretary must be satisfied that—

“(a) The scheme complies with the purpose of enrolment schemes as set out in **section 11A** and with the principles governing the content and implementation of enrolment schemes as set out in **section 11B**; and

“(b) The Board has complied with the consultation requirements in **section 11G (2)**.

“(4) The Secretary may at any time, by notice in writing, require a Board to abandon its enrolment scheme on the grounds that the Secretary is satisfied that there is not, or is not likely to be, overcrowding at the school if the enrolment scheme is abandoned; and the Board must resolve at its next meeting to abandon the scheme.

“**11F. Secretary’s powers in relation to dispute resolution**—(1) If the Secretary becomes aware of a dispute between 2 or more Boards over an enrolment scheme or proposed enrolment scheme, the Secretary may appoint a facilitator to assist in resolving the dispute.

“(2) If the facilitator reports to the Secretary that the parties appear unable to reach an agreement, the Secretary may require one or more of the Boards in dispute to amend its enrolment scheme or proposed enrolment scheme in the manner required by the Secretary.

“(3) If a Board and the Secretary are unable to reach agreement about the content of an enrolment scheme or proposed enrolment scheme, the Secretary may require the Board to amend the scheme or proposed scheme in the manner required by the Secretary.

“(4) A Board that receives a requirement under **subsection (2) or subsection (3)** must comply with it by giving effect to the Secretary’s requirements in its enrolment scheme or proposed enrolment scheme as soon as practicable.

“(5) **Sections 11E and 11G** do not apply to an amendment to an enrolment scheme or proposed enrolment scheme that is made as a result of a requirement by the Secretary under this section.

New

5 “11G. **Board develops and adopts proposed enrolment scheme**—(1) A notice given by the Secretary under **section 11E (1)** (stating that there is, or is likely to be, overcrowding at the school unless an enrolment scheme applies) lapses if the Board to which it is addressed does not begin developing an enrolment scheme within 2 months of receiving the notice.

10 “(2) When developing a proposed enrolment scheme, Boards must take all reasonable steps to discover and consider the views of whatever persons and organisations it considers appropriate, and, in particular, must discover and consider the views of—

- 15 “(a) The parents of students at the school; and
 “(b) The community in the general area served by the school; and
 “(c) The Boards of other schools that could be affected by the proposed enrolment scheme.

20 “(3) When developing a proposed enrolment scheme, Boards must make provision for likely population movements in the general area served by the school that occur during the school year or after the end of the pre-enrolment period.

25 “(4) An approval by the Secretary under **section 11E (2)** of a proposed enrolment scheme lapses if the Board to which it is addressed does not adopt the approved scheme within 2 months of the date of the approval.

“(5) A proposed enrolment scheme is adopted by a resolution of the Board to that effect.

30 “(6) As soon as practicable after adopting an enrolment scheme the Board must publish, in a daily or community newspaper that circulates in the area served by the school, a notice of the nature and effect of the enrolment scheme.

35 “11H. **Availability of enrolment scheme**—A Board that has adopted an enrolment scheme must ensure that a copy of the enrolment scheme is available for inspection at the school at all reasonable times.

“11I. **Commencement of enrolment scheme**—(1) Unless **subsection (3)** applies, an enrolment scheme for a primary school commences on the day 3 months after the day of its adoption, or on a later day specified in the scheme.

New

“(2) Unless **subsection (3)** applies, an enrolment scheme for a secondary or composite school commences on 1 January in the year following the year in which it was adopted, or on a later day specified in the scheme and agreed to by the Secretary. 5

“(3) The Secretary may, on application by a Board, authorise the early commencement of an enrolment scheme if he or she considers that early commencement is appropriate.

“(4) If authorisation for early commencement is given after the enrolment scheme has been notified under **section 11G (6)**, the Board must publish, in a daily or community newspaper that circulates in the area served by the school, a notice of the date on which the scheme will commence. 10

“**11J. End of enrolment scheme**—(1) An enrolment scheme may be abandoned by resolution of the Board, and the scheme ends on the day specified in the resolution as the end of the scheme. 15

“(2) When a Board abandons an enrolment scheme under **subsection (1)**, it must—

“(a) Notify the Secretary of the date on which the enrolment scheme ended or will end; and 20

“(b) Publish in a daily or community newspaper that circulates in the area served by the school, a notice of the date on which the scheme ended or will end.

“(3) If a Board replaces an enrolment scheme, the existing scheme ends on the day the new scheme commences. 25

“**11K. Amendment of enrolment scheme**—(1) A Board that has adopted an enrolment scheme may from time to time amend it.

“(2) A Board must not amend a scheme unless it is satisfied that an enrolment scheme is still necessary in order to avoid overcrowding, or the likelihood of overcrowding, at the school. 30

“(3) **Sections 11A to 11J** apply to an amendment and a proposed amendment to an enrolment scheme as if it were an enrolment scheme or a proposed enrolment scheme (as the case may be). 35

“**11L. Pre-enrolment**—A Board may apply the pre-enrolment procedures contained in an enrolment scheme at any time after the scheme has been notified in accordance with **section 11G (6)**, even if the scheme has not yet commenced.

New

“11M. **Effect of enrolment schemes**—(1) Despite section 3 (which provides that domestic students of certain ages have the right to free enrolment and attendance at any state school), a person may be denied enrolment and attendance at a particular school if the school has an enrolment scheme and the person’s application for enrolment is declined in accordance with that scheme.

“(2) A Board may reject an application for pre-enrolment only in accordance with an enrolment scheme that is notified in accordance with section 11G (6) before the date of receipt of the pre-enrolment application.

“(3) A Board may reject an application for enrolment at the school only in accordance with an enrolment scheme that commenced on or before the date of receipt of the application.

“(4) If a Board declines an application for enrolment or pre-enrolment, the Board must give written notice of the decision to the parents of the applicant, and (if appropriate, having regard to the age and maturity of the applicant) to the applicant.

“11N. **Exemption from enrolment scheme**—(1) Where the interests of a particular student justify such action, the Secretary may direct a Board to enrol a person to whom this section applies in accordance with this section, and the Board must comply with that direction.

“(2) This section applies to a person whose application for enrolment at a school where an enrolment scheme is in place has been declined.

“(3) The Secretary must not give a direction under subsection (1) unless he or she is satisfied that the consequences of not giving the direction (or a similar direction to another Board)—

“(a) Would be that the person would not be able to attend any reasonably convenient school of the appropriate class; or

“(b) Would be so disadvantageous to the person that overriding the enrolment scheme in this case is justified.

“(4) The Secretary must not give a direction under this section unless he or she has taken all reasonable steps to consult the person’s parents, the relevant Board, and (if

New

appropriate, having regard to the age and maturity of the person) the person.

“(5) The Secretary may not direct the Board of a Kura Kaupapa Maori, a designated character school, or an integrated school to enrol a person under this section unless the parents of the person agree, and the person is suitable for enrolment at a school with the special character of that school. 5

“110. **Annual review of enrolment scheme**—(1) The Board of a school that has an enrolment scheme in place on 1 February in any year must, before 1 May of that year,— 10

“(a) Review the operation of the enrolment scheme, having regard to the need to comply, as far as the Board can, with the purpose of enrolment schemes as set out in **section 11A** and with the principles governing the content and implementation of enrolment schemes as set out in **section 11B**; and 15

“(b) Ask the Secretary whether he or she agrees with the Board’s view about the continuing need for a scheme to prevent overcrowding, or the likelihood of overcrowding, at the school. 20

“(2) The Secretary may exempt a Board for any period not exceeding 3 years from the obligation to conduct an annual review if the Secretary considers that compliance is unnecessary. 25

“(3) The Secretary may at any time rescind an exemption given under **subsection (2)**, and may require the Board to conduct a review of its enrolment scheme within a period specified by the Secretary.

“11P. **Application of sections relating to enrolment schemes**—(1) **Sections 11A to 110** apply to enrolment schemes and proposed enrolment schemes adopted or developed (as the case may be) by the Board of any state school (including an integrated school), other than a state school of a type specified from time to time by the Secretary by notice in the *Gazette*. 30 35

“(2) In applying **sections 11A to 110** to Kura Kaupapa Maori, designated character schools, and integrated schools, those sections must be read subject to the following modifications:

“(a) All references (except in **section 11A**) to overcrowding, or the likelihood of overcrowding, must be read as if 40

New

they were references to a demand for places at the school which exceeds the number of places available under the school's maximum roll:

5 “(b) Nothing in **section 11B** (relating to the principles governing the content and implementation of enrolment schemes), or **sections 11E and 11F** (relating to the Secretary's powers) may be applied in a way that results in an enrolment scheme being inconsistent with,—

10 “(i) In the case of a Kura Kaupapa Maori, its charter and section 155; and

“(ii) In the case of a designated character school, its charter and section 156; and

15 “(iii) In the case of an integrated school, its integration agreement and the Private Schools Conditional Integration Act 1975.

“(3) In addition to the consultation required by **section 11G (2)**,—

20 “(a) The Board of a Kura Kaupapa Maori must consult with those persons and organisations whom the Board believes have an interest in fostering the aims, purposes, and objectives that constitute the Kura Kaupapa Maori's different character:

25 “(b) The Board of a designated character school must consult with those persons and organisations whom the Board believes have an interest in fostering the aims, purposes, and objectives that constitute the school's different character:

30 “(c) The Board of an integrated school must consult with the school's proprietors.

“11Q. **Obligation to report to Parliament on enrolment schemes**—(1) The annual report on the schools sector which is laid before the House of Representatives by the Minister of Education in accordance with section 44B of the Public Finance Act 1989 must include a statement signed by the Secretary that—

35 “(a) Lists the schools that have an enrolment scheme in place; and

40 “(b) States the period for which each scheme has been in place; and

New

“(c) Notes the schools where adjacent schools have schemes in place; and

“(d) Outlines any plans included in the Ministry’s property development or other programmes to address the pressures on capacity in areas where a number of adjacent schools have enrolment schemes in place, including development plans to manage school population changes to maximise (to the extent it is reasonable and practicable to do so) the opportunity for students to attend a reasonably convenient state school.”

“(2) In this section, an enrolment scheme is ‘in place’ once it has been notified in accordance with **section 11G (6)**.”

4. Consequential amendments and repeals—(1) Section 18A (2) of the principal Act is consequentially amended by omitting the expression “section 11J”, and substituting the expression “**section 11M**”.

(2) Section 155 of the principal Act is consequentially amended by—

(a) Omitting from subsection (9) the words “A Kura Kaupapa Maori shall not”, and substituting the words “A Kura Kaupapa Maori may”; and

(b) Inserting in subsection (11), after the words “in this section”, the words “**and section 11P**”.

(3) Section 156 of the principal Act is consequentially amended by—

(a) Repealing subsection (7), and substituting the following subsection:

“(7) The Secretary must from time to time, by written notice to the designated character school, fix a maximum roll of the school, and—

“(a) The Board must ensure that the number of students enrolled at the school is not more than the maximum roll; and

“(b) The Board may refuse the enrolments of people whose parents do not accept the aims, purposes, and objectives that constitute the school’s designated character.”; and

New

(b) Inserting in subsection (8), after the words “in this section”, the words “and section 11P”.

5 (4) Sections 3 (2) and 5 of the Education Amendment Act 1991 are consequentially repealed.

13. New heading and sections substituted—The principal Act is amended by repealing sections 13 to 18, and substituting the following heading and sections:

“Standing-down, Suspension, Exclusion, and Expulsion of Students

10 **“13. Purpose**—The purpose of the provisions of this Act concerning the standing-down, suspension, exclusion, or expulsion of a student from a state school is to—

Struck Out (Majority)

15 “(a) Provide flexibility in the responses available to principals and Boards when considering individual cases, while minimising the disruption to a student’s attendance at school and facilitating the return of the student to school where that is appropriate; and

20 “(b) Ensure that individual cases are dealt with in accordance with the principles of natural justice.

New (Majority)

“(a) Provide a range of responses for cases of varying degrees of seriousness; and

25 “(b) Minimise the disruption to a student’s attendance at school and facilitate the return of the student to school when that is appropriate; and

“(c) Ensure that individual cases are dealt with in accordance with the principles of natural justice.

“14. Principal may stand-down or suspend students—

30 (1) The principal of a state school may stand-down *<a student from the school, or suspend a student for an unspecified period>* *<or suspend a student>* if satisfied on reasonable grounds that—

“(a) The student’s gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or

“(b) Because of the student’s behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood-down or suspended for an unspecified period. 5

“(2) A stand-down may be for 1 or more specified periods, and—

“(a) The period or periods may not exceed 5 school days in any 1 term: 10

“(b) A student may be stood-down more than once in the same year but for not more than 10 <school> days in total in that year:

“(c) In calculating the period of a stand-down, the day on which the student was stood-down, and any day on which the student would not have had to attend school in any event, must not be counted: 15

“(d) The principal may lift the stand-down at any time before it is due to expire. 20

Struck Out (Majority)

“(3) A student who has been stood-down from a state school or suspended for an unspecified period does not have to, and is not permitted to, attend the school while stood-down or suspended. 25

New (Majority)

“(3) If a student has been stood-down or suspended, the following provisions apply in relation to the student’s attendance at the school:

“(a) The principal may require the student to attend the school if the principal reasonably considers the student’s attendance is appropriate for the purposes of **section 17A**: 30

“(b) The principal must allow the student to attend the school if the student’s parents request that the student be permitted to attend the school and the principal considers the request is reasonable: 35

New (Majority)

“(c) Otherwise the student does not have to, and is not permitted to, attend the school while stood-down or suspended.

5 “15. **Board’s powers when suspended student younger than 16**—(1) If a student younger than 16 has been suspended from a state school, the school’s Board may—

10 “(a) Lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions the Board wants to make:

“(b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case **subsection (2)** applies:

15 “(c) If the circumstances of the case justify the most serious response, exclude the student from the school by extending the suspension and requiring the student to be enrolled at another school.

20 “(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school and must take appropriate steps to facilitate the return of the student to school.

New (Majority)

25 “(2A) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of his or her suspension, the principal may request the Board to reconsider the action it took under this section in that case and the Board may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of **paragraphs (a) to (c)** of **subsection (1)**.

30 “(3) If the Board has not sooner lifted or extended it or excluded the student under **subsection (1) (c)**, the suspension of a student younger than 16 ceases to have effect—

“(a) At the close of the 7th school day after the day of the suspension; or

35 “(b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.

“(4) If the Board of a state school excludes the student under **subsection (1) (c)**, the principal must try to arrange for the student to attend another school (which school is a suitable school that the student can reasonably conveniently attend).

“(5) If the principal is unable, by the 10th school day after the day of the Board’s decision to exclude a student, to arrange for the student to attend another school, the principal must tell the Secretary what steps the principal took in trying to do so. 5

“16. **Secretary’s powers when excluded student younger than 16**—(1) If the Secretary is satisfied that the Board of a state school has excluded a student who is younger than 16 from the school under **section 15 (1) (c)**, and that the principal has not arranged for the student to attend another school, the Secretary must either,— 10

Struck Out (Majority)

15

“(a) Arrange for and, if necessary, direct the Board of any other state school (that is not an integrated school) to enrol the student at the other school; or

“(b) If satisfied that it is not inappropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or 20

New (Majority)

“(a) If satisfied that it is not inappropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or 25

“(b) Arrange for and, if necessary, direct the Board of any other state school (that is not an integrated school) to enrol the student at the other school; or

“(c) Direct a parent of the student to enrol the student at a correspondence school. 30

“(2) The Secretary may not give a direction under **subsection (1) (a)** or lift an exclusion under **subsection (1) (b)** unless the Secretary has also 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. 35

“(3) If the Board of the school from which the student has been excluded also controls another school, the Secretary (in exercising the power conferred by **subsection (1) (a)**) may direct the Board to enrol the student at that other school.

5

Struck Out

“(4) A Board must comply with a direction under **subsection (1)** and the direction overrides section 11j and also overrides section 5 of the Education Amendment Act 1991.

New

10 “(4) A Board must comply with a direction under **subsection (1) (a)**, and the direction overrides the provisions of any enrolment scheme the school may have in place.

15 “17. **Board’s powers when suspended student 16 or older**—(1) If a student who is 16 or older has been suspended from a state school, the Board may—

“(a) Lift the suspension at any time before it expires, either unconditionally or subject to any reasonable conditions it wants to make; or

20 “(b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case **subsection (2)** applies; or

“(c) Expel the student.

25 “(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school, and must take steps to facilitate the return of the student to school.

New (Majority)

30 “(2A) If a student fails to comply with any condition imposed under this section in respect of the lifting or extension of his or her suspension, the principal may request the Board to reconsider the action it took under this section in that case and the Board may confirm or reverse its earlier decisions or may modify its earlier decisions by taking any action specified in any of **paragraphs (a) to (c)** of **subsection (1)**.

“(3) If the Board has not sooner lifted or extended it or expelled the student under **subsection (1) (c)**, the suspension of a student who is 16 or older ceases to have effect—

“(a) At the close of the 7th school day after the day of the suspension; or

“(b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.

“**17A. Duties of principal when student stood-down or suspended**—(1) When a student is stood-down or suspended from a state school, the principal must take all reasonable steps to ensure that the student has the guidance and counselling that are reasonable and practicable in all the circumstances of the stand-down or suspension.

“(2) If a *⟨student is suspended⟩* *⟨student’s suspension is⟩* subject to conditions (whether under **section 15 or section 17**), the principal must take all reasonable steps to ensure that an appropriate educational programme is provided to the student.

“(3) The purpose of the programme referred to in **subsection (2)** is to facilitate the return of a student to school and to minimise the educational disadvantages that occur from absence from school.

“**17B. Who may attend Board meeting concerning suspensions**—If a student has been suspended, the student, the student’s parents, and their representatives are entitled to attend at least 1 meeting of the Board and speak at that meeting, and to have their views considered by the Board before it decides whether to lift or extend the suspension or exclude or expel the student (whether under **section 15 or section 17**).

“**17C. Effect of suspension on school register**—(1) The name of a student younger than 16 who has been suspended from a school under **section 14** or excluded from a school under **section 15 (1) (c)** must stay on the school’s register until the earliest of the following days:

“(a) The day the student is enrolled at another registered school:

“(b) The day the student is given an exemption under section 21 or section 22.

“(2) The name of a student who has turned 16 and is suspended from a school under **section 14** must stay on the register of the school until the earliest of the following days:

“(a) The day on which the student is enrolled at another registered school:

“(b) The day on which the student is expelled from the school:

“(c) The day on which the student leaves school:

“(d) The 1 January after the student’s 19th birthday.

5 “(3) **Subsection (2)** applies to a student who is younger than 16 when suspended from a school under **section 14** or excluded from a school under **section 15 (1) (c)**, and turns 16 while subject to the suspension or exclusion.

“17D. **Re-enrolment of excluded or expelled student—**

10 (1) The Board of a state school from which a student has ever been excluded or expelled (whether under **section 15** or **section 17**) may refuse to enrol the student at the school (unless, in the case of an exclusion, the Secretary has lifted the exclusion under ~~((**section 16 (1) (b)**))~~ **section 16 (1) (a)**).

15 “(2) Subject to ~~((**section 16 (1) (a)**))~~ **section 16 (1) (b)**, the Board of a state school may refuse to enrol a student who is for the time being excluded or expelled (whether under **section 15** or **section 17**) from another state school.

20 “(3) The Secretary may, in the case of a student who has turned 16, direct the Board of another state school ~~<(that is not an integrated school)>~~ to enrol a student at the school if—

“~~(a)~~ The student has been expelled under **section 17**; and

25 “~~(b)~~ The Secretary 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.

Struck Out

30 “(4) A Board must comply with a direction under **subsection (3)**, and the direction overrides **subsection (2)** and also overrides section 11j of this Act and section 5 of the Education Amendment Act 1991.

New

35 “(4) A Board must comply with a direction under **subsection (3)**, and the direction overrides the provisions of any enrolment scheme the school may have in place.

- “18. Notice requirements for stand-downs, suspensions, exclusions, and expulsions—**(1) Immediately after a student is stood-down under **section 14**, the principal must tell the Secretary and (except in the case of a student who has turned 20) a parent of the student— 5
- “(a) That the student has been stood-down; and
 - “(b) The reasons for the principal’s decision; and
 - “(c) The period for which the student has been stood-down.
- “(2) Immediately after a student is suspended under **section 14**, the principal must tell the Board, the Secretary, and (except in the case of a student who has turned 20) a parent of the student— 10
- “(a) That the student has been suspended; and
 - “(b) The reasons for the principal’s decision.
- “(3) Immediately after a Board lifts a suspension, extends a suspension, excludes a student, or expels a student (whether under **section 15** or **section 17**), the *<principal>* *<Board>* must tell the Secretary and (except in the case of a student who has turned 20) a parent of the student— 15
- “(a) That the suspension has been lifted or extended, and the period of the extension (if any), or that the student has been excluded or expelled; and 20
 - “(b) The reasons for the Board’s decision.”
- 14. Secretary may make rules—**The principal Act is amended by inserting, before section 18A, the following section: 25
- “18AA. (1) The Secretary may from time to time, by notice in the *Gazette*, make rules (which must not be inconsistent with this Act) regulating the practice and procedure to be followed by Boards, principals, students, parents of students, and other persons under **sections 14 to 18**, including (without limitation) rules— 30
- “(a) Setting out procedural requirements to be followed when a proposed stand-down, suspension, exclusion, or expulsion is to be considered or decided: 35
 - “(b) Specifying who should be consulted about the circumstances of a stand-down, suspension, exclusion, or expulsion:
 - “(c) Setting out the steps to be taken by the principal and Board, respectively, when a student has been stood-down, suspended, excluded, or expelled: 40
 - “(d) Specifying the notices to be given when a decision not to lift a suspension, or a decision to extend a suspension or expel a student, is made; and

specifying the particulars to be set out in each notice:

- 5 “(e) Specifying time limits within which specified things are to be done, and the reports that are to be produced and the persons who are to produce them:
- “(f) Providing reasonable measures (which must not be inconsistent with the Privacy Act 1993) to protect the privacy of individuals:
- 10 “(g) Providing for such other matters as the Secretary considers desirable in the interests of natural justice.
- “(2) Before making any rules under this section, the Secretary must—
- 15 “(a) Publish in the *Gazette*, and in such newspapers as the Secretary considers appropriate, a notice of his or her intention to make the rules; and
- “ (b) Give interested persons a reasonable time to make representations about the proposed rules; and
- “ (c) Consult such persons and groups as the Secretary considers appropriate.
- 20 “(3) If there is any conflict between rules made under this section and the provisions of clause 8 of the Sixth Schedule, the rules override clause 8.
- “ (4) Rules made under this section are regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.”
- 25

15. Principal may preclude student for health reasons—Section 19 of the principal Act is amended—

- (a) By omitting from subsection (1) the word “exclude”, and substituting the word <“suspend”> <“preclude”>:
- 30 (b) By omitting from subsection (2) the word “excluding”, and substituting the word <“suspending”> <“precluding”>:
- (c) By omitting from subsections (2), (3), (4), and (5) the word “excluded” wherever it occurs, and substituting in each case the word <“suspended”> <“precluded”>:
- 35 (d) By omitting from subsections (3), (4), and (5) the word “exclusion”, and substituting in each case the word <“suspension”> <“preclusion”>.

16. Long term exemptions from enrolment—

- 40 (1) Section 21 (2) of the principal Act is amended by omitting the word “revoked”, and substituting the words “it is revoked or expires”.

(2) Section 21 of the principal Act is amended by inserting, after subsection (8), the following subsection:

“(8A) A certificate for the time being in force under subsection (1) or subsection (3) expires when the person to whom it applies turns 16 or enrolls at a registered school, whichever happens first.” 5

17. Secretary may exempt from enrolment persons placed in residence or programme under Children, Young Persons, and Their Families Act 1989—The principal Act is amended by inserting, after section 22, the following section: 10

“22A. (1) On an application from the Director-General of Social Welfare, the Secretary may, by a certificate given to the Director-General, exempt a person from the requirements of section 20 if satisfied that the person— 15

“(a) Has been placed—

“(i) In a residence established under section 364 of the Children, Young Persons, and Their Families Act 1989; or

“(ii) In a residential programme instituted by, and operated under contract with, the Director-General of Social Welfare where the person would otherwise be in a residence established under section 364 of that Act; and 20

“(b) Will receive education services appropriate to the person’s needs. 25

“(2) The Secretary may at any time revoke a certificate granted under **subsection (1)**—

“(a) On notification by the Director-General of Social Welfare that the person exempted has been released from a residence other than for a temporary period; or 30

“(b) If the Secretary is no longer satisfied that the person exempted meets the requirements of **subsection (1)**; or

“(c) At the request of the Director-General of Social Welfare and if satisfied that an exemption from section 20 is no longer required. 35

“(3) A certificate under **subsection (1)** continues in force until revoked under this section.”

18. Registration and inspection of private schools—Section 35A (1) of the principal Act is amended omitting from paragraph (b) of the definition of the term “efficient” the figure “15”, and substituting the figure “16”. 40

19. Suspensions and expulsions of students from private schools to be notified to Secretary—The principal Act is amended by inserting, after section 35A (as inserted by section 9 of the Education Amendment Act 1989), the following section:

5 “35AA. (1) Immediately after a student has been *<expelled, or suspended for an indefinite period, or suspended for a period of more than 5 days>* <suspended from attendance at, or expelled> from a school registered under section 35A, the school’s principal or
10 head teacher must give the Secretary—

“(a) Written notice of—

“(i) The student’s name and last known address;
and

15 “(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 (if applicable)); and

20 “(b) A written statement of the reasons for the student’s suspension or expulsion.

“(2) Unless the student is within a reasonable time reinstated at the school or enrolled at some other registered school, the Secretary must (if the student is younger than 16) and may (if the student is 16 or older)—

25 “(a) Arrange for the student to be enrolled at some other reasonably convenient registered school that the student can attend; or

30 “(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 a correspondence school.

35 “(3) The Secretary may not give a direction under **subsection (2)** unless the Secretary has also 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.

40 “(4) A direction under **subsection (2) (b)** overrides section 11J and overrides section 5 of the Education Amendment Act 1991.”

Special Education Service

20. Interpretation—Section 36 of the principal Act is amended by repealing the definition of the term “Board”, and substituting the following definition:

“ ‘Board’ means the Board continued by **section 37 (1)**.”

21. New sections substituted—(1) The principal Act is amended by repealing sections 37 and 38, and substituting the following sections:

“**37. Board continued for purposes of this Part**— 5
(1) There is to continue to be a Board for the purposes of this Part and the Board is to be known by the name for the time being specified for the purpose of this section under **section 301A**.

“(2) The Second Schedule (which sets out administrative provisions applying to the Board) applies for the purposes of this Part. 10

“(3) Until a new name is specified for the Board under **section 301A**, the Board is to continue to be called the Special Education Service Board; and the Board is the same body as the Board that existed under this section immediately before the commencement of **section 21 of the Education Legislation Amendment Act 1997**. 15

“**38. Membership of Board**—(1) The Board comprises—

“(a) A chairperson appointed by the Minister; and

“(b) Five members appointed by the Minister; and 20

“(c) If the Minister approves, the chief executive of the Board.

“(2) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently. 25

“(3) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

“(4) When the position of chairperson becomes vacant, the Minister may— 30

“(a) Appoint a successor to the chairperson; or

“(b) Appoint an existing member to be chairperson and fill the consequential vacancy.”

(2) The Second Schedule of the principal Act is consequentially amended— 35

(a) By omitting from the heading the words “SPECIAL EDUCATION SERVICE BOARD”, and substituting the words “BOARD CONTINUED BY **SECTION 37**”:

(b) By omitting from clauses 3, 4 (1), 4 (3) (a), and 4 (3) (b) (ii) the words “member appointed by the Minister to preside at meetings”, and substituting in each case the word “chairperson”. 40

(3) The member who was, immediately before the date of commencement of this section, the member appointed by the Minister to preside at meetings of the Board is on that date to be treated as the chairperson appointed under **section 38** of the principal Act.

Early Childhood Development Unit

22. Interpretation—Section 42 of the principal Act is amended by repealing the definition of the term “Board”, and substituting the following definition:

10 “‘Board’ means the Board continued by **section 43 (1)**.”

23. New sections substituted—(1) The principal Act is amended by repealing sections 43 and 44, and substituting the following sections:

15 “**43. Board continued for purposes of this Part**—
(1) There is to continue to be a Board for the purposes of this Part and the Board is to be known by the name for the time being specified for the purpose of this section under **section 301A**.

20 “(2) The Third Schedule (which sets out administrative provisions applying to the Board) applies for the purposes of this Part.

25 “(3) Until a new name is specified for the Board under **section 301A**, the Board is to continue to be called the Early Childhood Development Unit Board; and the Board is the same body as the Board that existed under this section immediately before the commencement of **section 23 of the Education Legislation Amendment Act 1997**.

“**44. Membership of Board**—(1) The Board comprises—

“(a) A chairperson appointed by the Minister; and

“(b) Five members appointed by the Minister; and

30 “(c) If the Minister approves, the chief executive of the Board.

35 “(2) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.

“(3) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

40 “(4) When the position of chairperson becomes vacant, the Minister may—

“(a) Appoint a successor to the chairperson; or

“(b) Appoint an existing member to be chairperson and fill the consequential vacancy.”

(2) The Third Schedule of the principal Act is consequentially amended—

(a) By omitting from the heading the words “EARLY CHILDHOOD DEVELOPMENT UNIT BOARD”, and substituting the words “BOARD CONTINUED BY SECTION 43”:

(b) By omitting from clauses 3, 4 (1), 4 (3) (a), and 4 (3) (b) (ii) the words “member appointed by the Minister to preside at meetings”, and substituting in each case the word “chairperson”.

(3) The member who was, immediately before the date of commencement of this section, the member appointed by the Minister to preside at meetings of the Board is on that date to be treated as the chairperson appointed under **section 44** of the principal Act.

Curriculum

24. Interpretation—Section 60 of the principal Act is amended by inserting in the definition of the term “national education guidelines”, after the words “national education goals,”, the words “foundation curriculum policy statements,”.

25. National education guidelines—(1) Section 60A of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

“(aa) Foundation curriculum policy statements, which are statements of policy concerning teaching, learning, and assessment that are made for the purposes of underpinning and giving direction to—
 “(i) The way in which curriculum and assessment responsibilities are to be managed in schools:
 “(ii) National curriculum statements and locally developed curriculum.”.

(2) Section 60A of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) Without limiting the generality of subsection (1), a notice relating to a national curriculum statement may—

“(a) Specify different commencement dates for different provisions or different purposes, which dates may differ according to the class or designation of a school, the group or year level of students attending a school, or any combination of such classes, designations, groups, or levels:

- 5 “(b) Specify a transitional period during which a Board may elect to comply with an existing curriculum statement or the new curriculum statement, and specify a date on which a Board must begin complying with the new curriculum statement:
- “(c) Revoke any curriculum statement issued under this section, and revoke any corresponding statement (such as a syllabus) issued in the form of a notice and having effect under the Education Act 1964.”
- 10 (3) The following enactments are repealed:
 (a) Sections 75 and 84 of the Education Act 1964:
 (b) Section 5 of the Education Amendment Act (No. 2) 1982.
 (4) The following regulations are revoked:
 (a) The Education (Secondary Instruction) Regulations 1975
 15 (S.R. 1975/72):
 (b) The Education (Secondary Instruction) Regulations 1975, Amendment No. 1 (S.R. 1976/33):
 (c) The Education (Secondary Instruction) Regulations 1975, Amendment No. 3 (S.R. 1977/147):
 20 (d) The Education (Secondary Instruction) Regulations 1975, Amendment No. 4 (S.R. 1977/211):
 (e) The Education (Secondary Instruction) Regulations 1975, Amendment No. 7 (S.R. 1980/118):
 (f) The Education (Secondary Instruction) Regulations 1975, Amendment No. 10 (S.R. 1986/169):
 25 (g) The Education (Secondary Instruction) Regulations 1975, Amendment No. 11 (S.R. 1986/376):
 (h) The Education (Secondary Instruction) Regulations 1975, Amendment No. 14 (S.R. 1990/168).

30 *Assistance for Boards*

26. Secretary may require Board to get specialist support—The principal Act is amended by inserting, after section 64, the following section:

- 35 “64A. (1) If at any time the Secretary is satisfied that a Board is not meeting or is not likely to meet its statutory obligations (including the aims, purposes, and objectives of its charter), the Secretary may, by written notice to the Board, direct the Board to engage for a specified period a specified number of persons or organisations who are acceptable to the Secretary and can
 40 provide the Board with appropriate assistance.

“(2) A Board must comply with all directions given to it under subsection (1) and must pay the fees and reasonable expenses of the persons or organisations engaged to provide assistance to it under that subsection.

“(3) Nothing in any of sections 64, 81B, and 107, or in any other provision of this Act, limits or affects the circumstances in which the power conferred on the Secretary by this section may be exercised (or limits or affects that power in any other way) or is to be read as requiring that action be taken under this section before action may be taken under any other provision of this Act. 5

“(4) If, after giving a written direction to a Board under this section, the Secretary becomes satisfied that the Board is still not meeting or is still not likely to meet its statutory obligations, the fact that the direction has been given does not prevent the Secretary or any other person from taking further action under any other provision of this Act to rectify the Board’s non-compliance.” 10

Meaning of School Day 15

27. Exceptions in particular cases—Section 65D of the principal Act is amended by adding the following subsections:

“(3) The Minister may authorise a Board to apply a meaning of ‘half day’ that differs from the meaning it has in section 65B (3), if the Minister is satisfied that— 20

Struck Out (Majority)

“(a) The Board has adequately consulted parents, staff, and the local community about the proposal; and

“(b) The proposal is generally acceptable to the families of students at the school and the rest of the school’s community; and 25

New (Majority)

“(a) The Board has adequately consulted parents, staff, and the local community about the proposal and it is generally acceptable; and 30

“(c) The adoption of the proposal will not result in the students of the school spending less time in school than other students in comparable schools; and

“(d) The Minister considers that such a variation is appropriate in the circumstances. 35

“(4) An authorisation under **subsection (3)** must be given either unconditionally or subject to such conditions as the Minister considers appropriate.

“(5) A student enrolled at a state school must comply with section 25 (3) even if the school’s Board varies the meaning of ‘half day’ under **subsection (3)**.”

Struck Out (Majority)

5 “(6) **Subsection (3)** overrides section 77 of the Education Act 1964.”

New (Majority)

10 “(6) **Subsection (3)** overrides the provisions in section 77 of the Education Act 1964 concerning the times at which state primary schools are to be kept open.”

School Property

28. Occupancy of property and buildings—(1) Section 70 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

15 “(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
20 Board.

“(1A) A notice under **subsection (1)**—

“(a) May apply to any land and buildings occupied by a Board (regardless of who owns the property); but

25 “(b) To the extent that it applies to the Board of an integrated school, is subject to the Private Schools Conditional Integration Act 1975 and to the integration agreement for the time being in force between the Minister and the Proprietor of the school.”

30 (2) Section 70 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:

“(5) A notice published in the *Gazette* under **subsection (1)** may publish the terms and conditions in their entirety, or by way of a general description and an indication of where the full text
35 can be obtained.

“(6) Terms and conditions specified under **subsection (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
 “(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.”

5

School Records

29. Enrolment records—The principal Act is amended by inserting, after section 77, the following section:

“77A. (1) The principal of a registered school must ensure that an enrolment record in such form and containing such information as may be specified under **subsection (3)** is kept for each student (*younger than 16*) who is enrolled at the school.

10

Struck Out

“(2) A student’s enrolment record must be kept by a school until the student turns 16 or the principal has, in accordance with rules under **subsection (3)**, taken reasonable steps to send the enrolment record to the principal of some other registered school at which the student has enrolled, whichever happens first.

15

New

“(2) When a student moves from one registered school to another registered school, the principal of the first school must take reasonable steps to send the student’s enrolment record to the principal of the second school.

20

“(3) The Secretary may from time to time, by notice in the *Gazette*, make rules setting out administrative and procedural requirements relating to enrolment records, including (without limitation) rules—

25

“(a) Setting out the duties of principals concerning enrolment records and the information contained in enrolment records:

30

“(b) Requiring principals to inform students and parents about enrolment records and the use and distribution of enrolment records, and specifying the particulars about which students and parents are to be informed:

35

“(c) Specifying the form and content of enrolment records:

“(d) Specifying exceptions to particular requirements of the rules.

5 “(4) A principal of a registered school must comply with rules for the time being in force under **subsection (3)**.”

Entry and Inspection of Schools

30. Powers of entry and inspection—(1) Section 78A of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

10 “(1) Any person holding an authorisation under **subsection (2)** may, at any reasonable time,—

“(a) Enter and inspect any registered school:

“(b) Inspect, photocopy, print out, or copy onto disk any documents (whether held in electronic or paper form) that the person believes on reasonable grounds to be those of the Board of the school:

15 “(c) Remove any document described in **paragraph (b)**, whether in its original form or as an electronic or paper copy.

20 “(1A) If any original documents are removed from a school under **subsection (1) (c)**, the person who removes the documents must—

“(a) Leave at the school a list of the documents removed; and

“(b) Return the documents, or a copy of them, to the school as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the Ministry.

“(2) The Secretary may authorise in writing any person to exercise the powers in **subsection (1)**.”

(2) Section 78A (4) of the principal Act is amended—

30 (a) By omitting the words “of entry or inspection under this section”, and substituting the words “under **subsection (1)**”:

(b) By omitting the words “(where applicable)”.

31. Entry where school suspected of being unregistered—The principal Act is amended by inserting in Part VII, after section 78A, the following section:

35 “78B. (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 school in contravention of section 35A (12), may apply for a warrant to enter the premises.

40

“(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 school in contravention of section 35A (12). 5

“(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 10

“(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 school in contravention of section 35A (12). 15

“(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— 20

“(a) On first entering the premises; and

“(b) Whenever subsequently reasonably required to do so by that occupier.”

*Provisions Concerning Boards, Commissioners,
and Establishment of Schools* 25

32. Proprietors of integrated schools may vary number of trustees they appoint—Section 94A of the principal Act is amended—

(a) By omitting from subsection (2) the words “; and, subject to subsections (3) and (4) of this section, every notice shall have effect according to its tenor”: 30

(b) By omitting from subsection (4) the words “; and, subject to subsection (5) of this section, every notice shall have effect according to its tenor”. 35

33. Boards of newly established schools—Section 98 (2) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) Goes out of office at the close of the day before the day on which the trustees who have been elected under section 101 take office under section 102; but”. 40

34. When casual vacancies arise—Section 104 (6) of the principal Act is amended by omitting the words “on the day of the election”, and substituting the words “on the day on which the elected trustees take office”.

5 **35. Commissioners**—(1) Section 109 of the principal Act is amended by inserting, after subsection (7), the following subsections:

10 “(7A) If the Board comprises only members who are to be appointed or comprises both members to be appointed and members to be elected, the commissioner is to go out of office,—

15 “(a) In the case of a Board comprising only members to be appointed, on a date appointed by the Minister by notice in the *Gazette*:

20 “(b) In the case of a Board comprising both members to be appointed and members to be elected, in accordance with subsection (5) or subsection (6) or subsection (7) (as the case may be).

25 “(7B) Despite anything in section 101 or any other provision of this section, if the Secretary is satisfied that it is in the interests of a school that the election of its Board should be postponed, the Secretary may, by notice in the *Gazette*, set the date for the election and extend the commissioner’s term of office.”

30 (2) Section 109 of the principal Act is amended by adding the following subsection:

“ (9) No commissioner is personally liable for—

“ (a) Any act done or omitted by the commissioner; or

35 “ (b) Any loss arising out of any act done or omitted by the commissioner,—

if the act or omission was (so far as the commissioner’s involvement is concerned) in good faith and occurred in the course of carrying out the commissioner’s functions.”

New (Majority)

35 **35A. Boards may combine**—Section 110 (1) of the principal Act is amended by repealing paragraphs (c) and (d).

40 **36. Each school to be represented on combined Board**—(1) Section 116 (1) (a) of the principal Act is amended by omitting the words “(being a school in respect of which the candidate is a parent or adult student)”.

(2) Section 116 (2) of the principal Act is repealed.

37. Repeal of spent section—Section 140 of the principal Act (which relates to the initial appointment of teachers to certain positions) is repealed.

38. Interpretation—Section 145 (1) of the principal Act is amended by inserting, after the definition of the term “composite school”, the following definition: 5

“‘Correspondence school’ means a school for the time being designated under section 152 (1) as a correspondence school.” 10

39. Minister may establish schools—Section 146 of the principal Act is amended by adding the following subsections:

“(3) A notice under subsection (1) establishing a new school may specify the class levels for which education may be given at the school and may provide for different class levels to be phased in over a specified period or periods. 15

“(4) A notice under subsection (1) establishing a new primary school may designate the school as a contributing school.”

New (Majority)

<p>39A. Normal schools, etc—Section 148 (1) of the principal Act is amended by omitting the words “a specified college of education” in both places where they appear, and substituting in each case the words “providers of pre-service teacher education”.</p>	20
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40. Contributing schools—Section 150 of the principal Act is amended by adding the following subsections: 25

“(6) This section applies to a school designated as a contributing school under section 146 (4) as if the school had become a contributing school under subsection (1) of this section and the Minister had given the school’s Board the appropriate notice under subsection (2) of this section. 30

“(7) In determining that a school should be or should cease to be a contributing school, the Minister may provide for the provision of education at specified class levels to be phased in or phased out (as the case may require) over a specified period or periods.” 35

41. Provision of education at composite schools—The principal Act is amended by repealing section 151, and substituting the following section:

5 “151. Subject to section 157 of this Act, and to section 33 of the Private Schools Conditional Integration Act 1975, the Minister may from time to time, by written notice to the Board of a composite school, require the Board to provide education for the class levels specified in the notice; and the Board must provide education at the school accordingly.”

10 **42. Minister may change class of school**—(1) Section 153 of the principal Act is amended by inserting, after subsection (1), the following subsection:

15 “(1A) The Minister may, by notice in the *Gazette*, specify the class levels for which education must be given at a school (whether it is an existing school or a school whose class has been changed under subsection (1)) and provide for class levels to be phased in over a specified period or periods.”

20 (2) Section 153 (4) of the principal Act is amended by omitting the words “day before”, and substituting the words “close of”.

43. Closure of schools—(1) Section 154 of the principal Act is amended by inserting, after subsection (2), the following subsection:

25 “(2A) If the Board of a state school at any time advises or indicates to the Minister in writing that it agrees to or does not oppose the proposed closure of the school, the Minister may (despite anything in subsection (1) or subsection (2) and regardless of whether the Minister has formally begun or completed the necessary consultation under subsection (1))
30 close the school by notice under subsection (2) at any time on or after receiving the Board’s written advice.”

(2) Section 154 of the principal Act is amended by inserting, after subsection (3), the following subsection:

35 “(3A) Without limiting the rights or privileges conferred on the Minister by subsection (3) (b), the following provisions apply to property that was, immediately before dissolution, held by the Board in trust for the benefit of the school:

40 “(a) The Minister may at any time apply to the Public Trustee to devise a scheme to modify the trust for the benefit of another school:

“(b) If the Minister applies under paragraph (a) to the Public Trustee, subsections (2) to (7) of section 156C apply

with any necessary modifications (as if the property were property to which that section applies).”

44. Minister may merge schools—The principal Act is amended by repealing section 156A, and substituting the following section: 5

“156A. (1) Subject to sections 156B and 157, the Minister may, by notice in the *Gazette*, merge 1 or more state schools (merging schools) that are not integrated schools with another state school (the continuing school) that is not an integrated school, if satisfied that— 10

“(a) Each Board of a school concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at the school about the proposed merger; and

“(b) The consultation that has in fact taken place has been adequate in all the circumstances; and 15

Struck Out (Majority)

“(c) In the case of each school, most parents favour the proposed merger; and

“(d) Each Board of a school concerned has joined in making a written application to the Minister to merge the schools; and 20

“(e) The creation of a single school by the proposed merger is appropriate in the circumstances.

“(2) A notice under **subsection (1)** takes effect on a day (no earlier than the end of the term after the term during which the notice is published) specified in the notice, and has effect as follows: 25

“(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,— 30

“(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: 35

“(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.

“(3) A notice under **subsection (1)** does not affect the name of the continuing school. 40

“(4) Unless it was (immediately before the merger took effect) a combined Board established under section 110 and subject to **subsection (6)**, the Board of the continuing school must hold elections for a new Board and the following provisions apply:

5

“(a) If, not later than 5 months after the day on which the merger took effect, the Board fixes as its election day a day that is not later than 6 months after the day on which the merger took effect, the election must be held on that election day:

10

“(b) If **paragraph (a)** does not apply, the election must be held on the first Tuesday after the day that is 6 months after the day on which the merger took effect.

15

“(5) If the Board of the continuing school is required by **subsection (4)** to hold elections for a new Board, all its elected, appointed, and co-opted trustees holding office immediately before the election day go out of office on the close of the day before the day on which the newly elected trustees are to take office.

20

“(6) If the merger takes effect after 31 October in the year before an election year and before 31 December in that election year, the Board of the continuing school does not have to hold an election until the next election year.”

New (Majority)

25

44A. Provision by one Board of tuition for students enrolled at school administered by another—
(1) Section 158 of the principal Act is amended by repealing subsection (4).

30

(2) Section 32 of the Education Amendment Act 1990 is consequentially repealed.

Fee Disclosure by Institutions

45. Tertiary institutions to give prospective students information about fees—The principal Act is amended by inserting, after section 228, the following section:

35

“228A. An institution (as defined in section 159 (1)) must ensure that prospective students receive, before enrolment is completed, full written details of—

“(a) All fees associated with their courses; and

40

“(b) The class or lecture materials, books, special clothing, safety equipment, tools, and other items that are or

may be required by the establishment to be bought or provided by students enrolled for each course of study or training.”

46. Grants to private training establishments—

Section 238A (8) (a) of the principal Act is amended by omitting the words “financial practice”, and substituting the words “accounting practice (as defined in section 2 (1) of the Public Finance Act 1989)”. 5

Education and Training Support

47. Interpretation—Section 269 of the principal Act is amended by repealing the definition of the term “Agency”, and substituting the following definition: 10

“‘Agency’ means the Agency continued by **section 270**:”.

48. New sections substituted—(1) The principal Act is amended by repealing sections 270 to 272, and substituting the following sections: 15

“270. Agency continued for purposes of this Part—

(1) There is to continue to be an Agency for the purposes of this Part and the Agency is to be known by the name for the time being specified for the purpose of this section under **section 301A**. 20

“(2) The Agency is a body corporate with perpetual succession and a common seal; and is capable of—

“(a) Holding real and personal property; and

“(b) Suing and being sued; and

“(c) Otherwise doing and suffering all that bodies corporate may lawfully do and suffer. 25

“(3) The Agency is a Crown entity for the purposes of the Public Finance Act 1989.

“(4) The Board must submit to the Secretary, not later than such date as the Secretary directs,— 30

“(a) The statement of objectives for a financial year referred to in section 41 (2) (d) of the Public Finance Act 1989 as that section applies to the Agency by virtue of **subsection (3)**; and

“(b) A list of the performance indicators that the Board considers will enable the preparation of a statement of service performance for the purposes of section 41 (2) (e) of the Public Finance Act 1989. 35

“(5) The Sixteenth Schedule (which sets out administrative provisions applying to the Agency) applies for the purposes of this Part. 40

5 “(6) Until a new name is specified for the Agency under section 301A, the Agency is to continue to be called the Education and Training Support Agency; and the Agency is the same body as the Agency that existed under this section immediately before the commencement of section 48 of the Education Legislation Amendment Act 1997.

10 “271. **Function of Agency**—The function of the Agency is to administer, in accordance with its document of accountability, activities and programmes relating to education or training for the time being directed (after consulting any persons and organisations the Minister thinks appropriate) by the Minister.

15 “272. **Continuation of Board**—(1) A Board will continue to manage the affairs of the Agency and the Board is to be constituted in accordance with this section.

“(2) The Board comprises—

“(a) A chairperson appointed by the Minister; and

“(b) Six members appointed by the Minister; and

“(c) If the Minister approves, the general manager.

20 “(3) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.

25 “(4) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

“(5) When the position of chairperson becomes vacant, the Minister may—

“(a) Appoint a successor to the chairperson; or

30 “(b) Appoint an existing member to be chairperson and fill the consequential vacancy.”

(2) Section 253 (c) (i) of the principal Act is consequentially amended by omitting the words “(including pre-vocational courses provided under the Access Training Scheme)”.

35 (3) The Sixteenth Schedule of the principal Act is consequentially amended—

(a) By omitting from the heading the words “EDUCATION AND TRAINING SUPPORT AGENCY”, and substituting the words “AGENCY CONTINUED BY SECTION 270”:

40 (b) By omitting from clause 4 (2) the figure “4”, and substituting the figure “3”.

(4) Even though the term for which a member was appointed may not have expired, each appointed member holding office immediately before the commencement of this section must, if

the member's office has not earlier become vacant under clause 2 (2) of the Sixteenth Schedule of the principal Act, go out of office on the earlier of the following days:

(a) The day on which the appointment of a successor takes effect: 5

(b) The day on which the ~~ninth~~ sixth member to be appointed after that commencement takes office.

(5) Despite clause 1 (1) of the Sixteenth Schedule of the principal Act, of the 6 members other than the chairperson first appointed after the commencement of this section, 4 are to be appointed for a term of 18 months only. 10

49. Powers of Board—Section 276 of the principal Act is amended—

(a) By repealing subsection (2) (a):

(b) By omitting from subsection (2) (b) the words “Regional Employment and Access Council, New Zealand Apprenticeship Committee, or other” and the words “Council, committee,”: 15

(c) By omitting from subsection (3) the words “Council to which a direction is given under subsection (2) (a) of this section or a Council, committee, or other”. 20

50. Term of office—Clause 1 (1) of the Sixteenth Schedule of the principal Act is amended by omitting the expression “1 further term”, and substituting the expression “2 further terms”. 25

Careers Service

51. Interpretation—Section 278 of the principal Act is amended by repealing the definition of the term “Service”, and substituting the following definition:

“‘Service’ means the Service continued by **section 279**.”. 30

52. Service continued for purposes of Part XXII—

(1) The principal Act is amended by repealing section 279, and substituting the following section:

“279. (1) There is to continue to be a Service for the purposes of this Part and the Service is to be known by the name for the time being specified under **section 301A**. 35

“(2) The Service is a body corporate with perpetual succession and a common seal; and is capable of—

“(a) Holding real and personal property; and

“(b) Suing and being sued; and 40

“(c) Otherwise doing and suffering all that bodies corporate may lawfully do and suffer.

“(3) The Service is a Crown entity for the purposes of the Public Finance Act 1989.

5 “(4) The Board must submit to the Secretary, not later than such date as the Secretary directs,—

“(a) The statement of objectives for a financial year referred to in section 41 (2) (d) of the Public Finance Act 1989 as that section applies to the Service by virtue of
10 **subsection (3)** of this section; and

“(b) A list of the performance indicators that the Board considers will enable the preparation of a statement of service performance for the purposes of section 41 (2) (e) of the Public Finance Act 1989.

15 “(5) The Seventeenth Schedule (which sets out administrative provisions applying to the Service) applies for the purposes of this Part.

“(6) Until a new name is specified for the Service under **section 301A**, the Service is to continue to be called the Careers Service; and the Service is the same body as the Service that existed under this section immediately before the commencement of **section 52 of the Education Legislation Amendment Act 1997**.”

25 (2) The Seventeenth Schedule of the principal Act is consequentially amended by omitting from the heading the words “CAREERS SERVICE”, and substituting the words “SERVICE CONTINUED BY **SECTION 279**”.

53. Continuation of Board—The principal Act is amended by repealing section 281, and substituting the following section.

30 “281. (1) A Board will continue to manage the affairs of the Service and the Board is to be constituted in accordance with this section.

“(2) The Board comprises—

35 “(a) A chairperson appointed by the Minister; and

“(b) Six members appointed by the Minister; and

“(c) If the Minister approves, the general manager.

40 “(3) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.

“(4) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

“(5) When the position of chairperson becomes vacant, the Minister may—

“(a) Appoint a successor to the chairperson; or

“(b) Appoint an existing member to be chairperson and fill the consequential vacancy.”

5

54. Term of office—Clause 1(1) of the Seventeenth Schedule of the principal Act is amended by omitting the expression “1 further term”, and substituting the expression “2 further terms”.

Miscellaneous Provisions

10

55. Change of names of education entities—The principal Act is amended by inserting in Part XXIV, after section 301, the following section:

“301A. (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, do either or both of the following:

15

“(a) Specify or change the name of any education entity whose name is to be specified under this section:

“(b) Amend any enactment by omitting from it the name of any such education entity and substituting some other name.

20

“(2) An education entity established or continued by this Act does not cease to be such an entity merely because its name is changed under this section.”

56. New sections substituted—The principal Act is amended by repealing section 307, and substituting the following sections:

25

“307. Recipients of allowances may be required to provide information—(1) In this section,—

“‘Recipient’ means a person who holds, has at any time held, or has at any time applied for, a statutory allowance:

30

“‘Statutory allowance’ means an allowance established by regulations under section 303.

“(2) Regulations under section 303 may require officials of institutions at which any statutory allowance established by the regulations is or has at any time been tenable to give the Secretary either or both of the following:

35

“(a) Information about payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution:

40

- 5 “(b) Statistical or other information relating to payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution, whether—
- “(i) In general; or
 - “(ii) In relation to recipients of a particular class or description; or
 - “(iii) In relation to a particular recipient or particular recipients.
- 10 “(3) The Secretary (or any person authorised for the purpose by the Secretary) may, by written notice to any recipient, require the recipient to do all or any of the following things:
- 15 “(a) Produce to the Secretary (or authorised person) any papers, documents, records, or other things, relevant to the recipient’s entitlement at any time—
 - “(i) To a statutory allowance; or
 - “(ii) To be paid a statutory allowance at a particular rate,—that are in the person’s possession or under the person’s control:
 - 20 “(b) Allow copies of any such papers, documents, or records to be made:
 - “(c) Give the Secretary (or authorised person) any information or particulars relevant to the recipient’s
 - 25 entitlement at any time—
 - “(i) To a statutory allowance; or
 - “(ii) To be paid a statutory allowance at a particular rate,—that is required by the Secretary (or the authorised
 - 30 person).
- “(4) The Secretary (or any person authorised for the purpose by the Secretary) may investigate the circumstances at any time of any recipient so far as they may relate to the recipient’s entitlement at any time—
- 35 “(a) To a statutory allowance; or
 - “(b) To be paid a statutory allowance at a particular rate.
 - “(5) A recipient who is asked questions under **subsection (4)** must answer them.
 - “(6) If satisfied that a person has without reasonable cause
 - 40 failed or refused to comply with a requirement under **subsection (3)** or to comply with **subsection (5)**, the Secretary may, as the case requires,—
 - “(a) Suspend any statutory allowance held by the recipient
 - 45 (whether granted before or after the failure or refusal concerned); or

“(b) Refuse to grant any statutory allowance to the recipient (whether or not the recipient might appear to be entitled to be granted it).

“(7) While a statutory allowance is suspended under subsection (6), no payments may be made under it. 5

“307AA. **Offences concerning allowances**—(1) A person commits an offence against this Act, and is liable on summary conviction to a fine not exceeding \$2,000, who, in response to a requirement under subsection (3) or a question asked under subsection (4) of section 307, knowingly— 10

“(a) Makes a false or misleading statement; or

“(b) Makes a statement from which any material matter has been omitted; or

“(c) Provides any false or misleading paper, document, or record; or 15

“(d) Provides a paper, document, or record from which any material matter has been omitted.

“(2) A recipient must notify the Secretary or the institution concerned, as soon as practicable, of any change in the recipient’s circumstances that materially affects his or her entitlement at any time— 20

“(a) To a statutory allowance; or

“(b) To be paid a statutory allowance at a particular rate,— and the recipient commits an offence and is liable on summary conviction to ~~⟨a fine not exceeding \$2,000⟩~~ ⟨imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000⟩ if he or she wilfully fails to comply with this subsection for the purpose of receiving or continuing to receive a statutory allowance, or a statutory allowance at a particular rate, other than that to which the recipient is entitled. 25 30

“(3) Despite section 14 of the Summary Proceedings Act 1957, an information for an offence against this section may be laid at any time within ~~⟨2 years after the end of the year in which the offence was committed⟩~~ ⟨12 months after the offence was brought to the Ministry’s attention⟩.” 35

57. Powers of entry and inspection of early childhood centres—(1) Section 318 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) Any person holding an authorisation under subsection (2) may, at any reasonable time,— 40

“(a) Enter and inspect any premises that are or contain a licensed early childhood centre:

“(b) Inspect, photocopy, print out, or copy onto disk any documents (whether held in electronic or paper form) that the person believes on reasonable grounds to be those of the licensed service:

5 “(c) Remove any document described in **paragraph (b)**, whether in its original form or as an electronic or paper copy.

“(1A) If any document is removed from premises under **subsection (1) (c)**, the person who removes it must—

10 “(a) Leave at the premises a list of the documents removed; and

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

15 “(2) The Secretary may authorise in writing any person to exercise the powers in **subsection (1)**.”

(2) Subsection 318 (4) of the principal Act is amended by—

20 (a) Omitting the words “of entry or inspection under this section”, and substituting the words “under **subsection (1)**”:

(b) Omitting the words “(where applicable)”.

58. Centres situated on property owned by the Crown—(1) Section 319 of the principal Act is amended by repealing paragraphs (d) and (e).

25 (2) Section 319 of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) The continued operation of an early childhood centre on land owned by the Crown, and the occupation by an early childhood centre of any building on land owned by the Crown, may be governed by—

30 “(a) A lease or tenancy or licence under section 45 of the Public Works Act 1981; or

“(b) A lease or licence under section 6 (1c) of the Education Lands Act 1949; or

35 “(c) An occupancy document notified to the management by the Secretary.

“(3) The Secretary may from time to time amend an occupancy document by written notice to the management.”

*Review of Educational Services**New (Majority)*

58A. Interpretation—(1) Section 323 of the principal Act is amended by omitting from the definition of the term “applicable service” the words “this Part of this Act applies”, and substituting the words “section 324 (1) and sections 325 to 328 apply”.

(2) Section 323 of the principal Act is amended by inserting, after the definition of the term “Minister”, the following definition:

“ ‘Parent’ , in sections 328A to 328D, means the mother, father, or guardian of a person who has been exempted from the requirements of section 20:”.

59. Educational services to which this Part applies—Section 324 of the principal Act is amended by adding, as subsection (2), the following subsection:

Struck Out (Majority)

“(2) This Part also applies to educational services provided to a student who has an enrolment exemption under section 21.”

New (Majority)

“(2) Sections 328A to 328D apply in relation to educational services provided to persons who are exempted from the requirements of section 20; and, for the purposes of this subsection and sections 328A to 328D, ‘educational service’ is to be construed in that context and the meaning it has in the definition of the term ‘applicable service’ in section 323 does not apply.”

Struck Out (Majority)

60. Powers concerning education services provided to persons with enrolment exemption—The principal Act is amended by inserting, after section 327, the following section:

“327A. (1) Sections 325, 326, and 328 apply to educational services provided to a person who has an enrolment exemption

Struck Out (Majority)

under section 21 as if the person providing the services were an applicable organisation.

- 5 “(2) For the purposes of enabling any functions of the Chief Review Officer to be performed in relation to an educational service provided to a person who has an enrolment exemption under section 21, a review officer may, at any reasonable time and having given reasonable notice, do all or any of the following:
- 10 “(a) Conduct inspections or inquiries:
 “(b) Require any person to produce documents or information relating to—
 “(i) The service that the person provides; or
 “(ii) People to whom the service is (or has been)
 15 provided,—
 and permit the review officer to make copies or extracts of the documents or information:
 “(c) Require any person to make or provide statements, in any form and manner the review officer specifies, about any matters relating to the service:
 20 “(d) Inspect the work of any person to whom the service is (or has been) provided:
 “(e) Meet and talk with any person to whom the service is being provided.
 25 “(3) Nothing in **subsection (2)** confers on a review officer the power of entry referred to in section 327.”

New (Majority)

30 **60. New sections inserted**—The principal Act is amended by inserting, after section 328, the following heading and sections:

Provisions Concerning Students With Enrolment Exemption

“328A. **Functions of Chief Review Officer**—The Chief Review Officer—

- 35 “(a) May carry out reviews (which may be general or in relation to particular matters) of the educational services provided to persons exempted from the requirements of section 20 and must carry out such reviews when directed by the Minister to do so; and

New (Majority)

- “(b) Must administer the preparation of reports to the Minister on the undertaking and results of such reviews; and
- “(c) Must give the Minister such other assistance and advice on the educational services provided to persons exempted from the requirements of section 20 as the Minister from time to time requires. 5
- “328B. **Review officers**—Review officers designated under section 326 are also review officers for the purposes of section 328A, and sections 328c and 328d apply to them accordingly. 10
- “328C. **Powers of review officers for purposes of sections 328A to 328D**—(1) For the purposes of enabling any functions of the Chief Review Officer to be performed for the purposes of section 328A, any review officer may, at any reasonable time and having given reasonable notice,— 15
- “(a) Conduct inspections or inquiries:
- “(b) Require any parent or other person to produce documents or information relating to— 20
- “(i) The educational service the parent or other person provides; or
- “(ii) People to whom such educational service is (or has been) provided,—
- and permit the review officer to make copies or extracts of the documents or information: 25
- “(c) Require any parent or other person to make or provide statements, in *(any form and manner the review officer specifies)* such form and manner as is reasonable in the circumstances, about any matters relating to provision of the educational service provided by that parent or person: 30
- “(d) Inspect the work of any person to whom the educational service concerned is (or has been) provided:
- “(e) Meet and talk with any person to whom the educational service concerned is being provided. 35
- “(2) Nothing in this section confers on a review officer the power to enter any dwelling house without consent of the owner or occupier.
- “328D. **Review officers to prove identity before acting under section 328c**—Every review officer who exercises any power under section 328c must, before exercising that power and, 40

New (Majority)

if requested, at any later time, produce to the parent or other person providing the educational service concerned the review officer's certificate of designation."

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Election Irregularities

61. Validation and invalidation of elections of Boards—Clause 9 of the Sixth Schedule of the principal Act is amended by repealing subclause (3), and substituting the following subclauses:

10 “(3) **Subclause (3A)** 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 clause, but which the Minister thinks would be improper or undesirable to validate; or

15 “(b) Any other irregularity that the Minister thinks could materially have affected the result of the election.

“**(3A)** If this subclause applies to an election, the Minister may at any time within 60 days of the election, by notice in the

20 *Gazette*,—

“(a) Declare the election invalid; and

“(b) Require a new election to be held on a day specified in

the notice; and

25 “(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.”

Repeals, Amendments, and Transitional and Savings Provisions

30 **62. Consequential repeals**—The following enactments are consequentially repealed:

(a) Section 130F of the Education Act 1964:

(b) So much of the Ninth Schedule of the principal Act as relates to section 130F of the Education Act 1964:

(c) Sections 8 and 9 of the Education Amendment Act 1990:

35 (d) Section 6 (2) (b) of the Education Amendment Act 1991:

(e) Section 18 of the Education Amendment Act 1993.

63. Amendment to Education Lands Act 1949—

(1) Section 6 (1c) of the Education Lands Act 1949 (as substituted by section 4 (1) of the Education Lands Amendment

Act 1991) is amended by adding the words “; and any letting or licence under this subsection may be on such terms as the Minister thinks fit.”

(2) Section 6 of the Education Lands Act 1949 is amended by repealing *<subsection (4)>* *<subsections (3) and (4)>*.

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New (Majority)

(3) Section 6 (6) of the Education Lands Act 1949 is amended by inserting, after the words “for the purposes of sport”, the words “, or for cultural purposes,”.

64. Transitional provisions relating to enrolment schemes—(1) Despite anything in the principal Act or in the enrolment schemes concerned, every enrolment scheme in place under the principal Act when this section comes into force (“an old scheme”) continues in force and ceases to have effect on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made under this subsection appointing different dates for different classes of schools or different locations.

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(2) A new enrolment scheme (whether or not it is to have effect in place of an old scheme) may be prepared in accordance with *((sections 11A to 11K))* Part II of the principal Act (as amended by sections 4 to 11 of this Act) at any time after this section comes into force.

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65. Saving of syllabuses in force under Education Act 1964—Every statement (such as a syllabus) corresponding to a national curriculum statement under section 60A of the principal Act that was issued in the form of a notice and was, immediately before the commencement of this section, in force under the Education Act 1964 continues in force until revoked under **section 60A (2)** of the principal Act.

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66. Transitional provision relating to suspension of students from state schools—(1) Despite the repeal of sections 13 to 18 of the principal Act by **section 13** of this Act, those sections 13 to 18 are to continue to apply (as if those sections had not been repealed) to every student of a state school who was, immediately before the date of the repeal of those sections, subject to a suspension under any of those sections 13 to 18.

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(2) Sections 13 to 18 of the principal Act continue to apply to a student to whom **subsection (1)** applies until the suspension is lifted or otherwise ceases to have effect under those sections.

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