

# **Education Amendment Bill**

Government Bill

As reported from the Education and Science  
Committee

## **Commentary**

### **Recommendation**

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

### **Introduction**

This bill is intended to amend the Education Act 1989 in two principal ways; by setting out the legal framework for a new type of school, to be known as partnership schools kura hourua; and by establishing powers regarding surrender and retention of property. The bill would make a number of miscellaneous amendments to other parts of the Act.

This commentary covers the major amendments that we recommend; it does not discuss minor or technical amendments.

### **Surrender and retention of property**

The bill as introduced includes a number of new sections intended to clarify the powers of the school to search and retain students' prop-

erty. There was some concern that these powers would be too restrictive on schools. The majority of us propose a number of amendments to this part of the bill, to clarify the provisions in the bill, and ensure that schools could exercise appropriate powers in respect of the properties they occupy.

### **Authorised staff**

The majority of us recommend amending clause 28, new section 139AAA, to create a power for school boards to authorise appropriate staff other than teachers to exercise the powers of surrender and retention of property. These powers would be restricted to persons in an employment relationship with the school board. The majority of us believe that some non-teaching staff members, such as guidance counsellors, might be suitable to exercise these powers. Where appropriate staff members were given authority, it would have to relate to a specific power or powers, and to be noted in writing; it could also be conditional.

### **Search and seizure**

The majority of us recommend inserting new section 139AAAB, in clause 28, to allow a teacher or staff member to require that a student remove their jacket or outer clothing so that it can be searched, and to require the search to comply with the safeguards detailed in new section 139AAAC. The removal of outer clothing would not be permitted if the student had no other clothing, or only underclothes, under the outer clothing. Students might be suspected of having harmful or illegal items in the pockets of their jackets or outerwear, and the new section proposed would make it clear for teachers how they would be permitted to search for such items.

The majority of us also recommend new section 139AAAB provide a power to require the removal of items such as head covering, gloves, footwear, or socks, (which does not include tights or stockings), which would not otherwise be classified as outer clothing.

The majority of us recommend amending section 139AAD to allow a teacher or an authorised staff member to take reasonable disciplinary steps if a student refuses to remove any outer clothing, head covering, gloves, footwear, or socks, or to surrender a bag or other container.

The recommended new section 139AAAB would allow a teacher or other staff member to require a student to hand over a bag or other container and allow it to be searched, if they believed the student is in possession of a harmful item. The majority of us are concerned that the legislation as introduced would prohibit a teacher from requiring a student to hand over a bag containing a harmful item, leaving the teacher unable to take this step to provide a safe learning environment.

The majority of us also recommend inserting new section 139AAC, to require that any search be carried out with sensitivity and so as to afford the student maximum privacy and decency; and that where possible the search be carried out by a teacher of the same sex as the student, in the presence of another teacher or authorised staff member of the same sex. The majority of us believe these restrictions would minimise the potentially invasive aspect of such searches.

None of the changes proposed to the Education Act would in any way affect police search powers or the use of dogs.

### **Bodily samples**

The majority of us recommend amending section 139AAB so that teachers or staff members could encourage a student to participate in a voluntary drug programme that involved testing of bodily samples. The bill as introduced would prohibit teachers from requiring students to provide a bodily sample, which might be interpreted as preventing school staff from suggesting students participate in voluntary drug programmes, since they may involve drug testing. School boards can already require that drug testing be an agreed condition of return to school after a suspension; but we hope that this amendment clarifies that schools may encourage students to enter programmes involving drug testing without the student having to undergo suspension.

### **Drug dogs**

The majority of us recommend amending clause 28, new section 139AAC, to allow a contractor to bring a suitably trained dog to a school to search school property. We heard that the use of drug dogs effectively deters students from bringing drugs to school. However, the majority of us believe because of potential New Zealand Bill of

Rights Act 1990 issues, among other reasons, dogs operated by contractors should not be used to detect drugs on students, but only to search school property, such as lockers or desks. Our amendment specifies what property the dogs could and could not search.

### **Rules and guidelines**

The majority of us recommend amending clause 28, new section 139AAF, to require the Secretary of Education to issue rules regarding the surrender and retention of property and searches by schools. The bill as introduced provides for the Secretary to issue such rules, but we believe that their issuance should be mandatory. The majority of us also recommend amending new subsection (2), and inserting new clause 40A, to reflect the passage of the Legislation Act 2012.

To ensure the appropriate application of these rules, we also recommend amending clause 28 to add new section 139AAG, making it mandatory for the Secretary for Education to issue guidelines about exercising the powers of searches and the surrender and retention of property. Guidelines can provide more explanation, examples, and description of best practice than is possible in rules. Boards, principals, teachers, and authorised staff members must have regard to these guidelines when setting their schools' policies and procedures. This should give schools the best possible assistance in managing this difficult area.

Some of us considered whether this clause should include a requirement for the Secretary to consult the sector before issuing guidelines; the majority of us believe this consultation is very important, but consider that it is standard practice so does not need to be mandated in legislation. The majority of us also note that if the legislation explicitly required consultation, this would unnecessarily restrict the Secretary when a minor technical change was involved, or when an immediate change was needed.

The majority of us believe the guidelines should address the rights of families when their child is subject to these provisions. We are aware that Community Law has produced a document, "Schools and the Right to Discipline", which outlines the rights of a parent, but we understand it has not been updated for several years. We have an expectation that it would be updated to reflect any changes resulting from the passage of this legislation.

The majority of us recommend amending clause 2 so that clauses 28 and 40A, which deal with surrender and retention and transitional provisions, would come into force on 1 January 2014. This would allow time for the Secretary to develop the necessary rules and guidelines, so that they could come into force at the same time as the relevant provisions in the legislation. The rest of this Act would come into force the day after the date on which it received the Royal assent.

### **Bags or containers in a student's control**

The bill makes a number of references to bags or containers that are in a student's control. We considered including a definition of "control" in this context. For example, if a student is made to leave a room without their bag, we considered whether the bag is still under their control and whether a teacher could then search the bag without their agreement. However, the majority of us feel such questions are better addressed in the guidelines than in legislation, as guidelines can provide examples and discussion of the appropriate application of these sections. When the Secretary of Education is developing the guidelines, the majority of us would expect to see consideration given to the issue of a manufactured loss of control, such as we have described above, and it should be clear that this does not imply relinquished control.

### **Partnership schools kura hourua**

We considered whether partnership schools should be subject to the same oversight as existing state schools, for example via the Ombudsman. On balance it is our view that the Ombudsmen Act 1975 should apply to the exercise of discipline powers relating to suspensions, expulsions, stand-downs, and exclusions, and we therefore recommend amending clause 31, new section 158X, and inserting new clause 43. This provision would have the effect of ensuring that all children and their families would have access to the Ombudsman. We also considered the possibility of independent dispute or complaints processes for schools. We note that currently, any board of trustees in New Zealand can initiate an independent review process, and that whether they choose to avail themselves of this right depends on an individual board's disciplinary policy.

We recommend amending clause 31, new section 158D(3), to require any contract between the Minister of Education and a partnership school sponsor to include a procedure for the independent review of complaints against the school. The independent entity conducting the review would make recommendations to the sponsor if an issue arose that was not resolved satisfactorily through a partnership school's internal processes. Such a review process is important since students are legally required to enrol in and attend school, and parents have no contractual relationship with the institution.

We recommend inserting new section 158DA in clause 31 to allow a person who refers a complaint about a sponsor to the Ombudsman to refer a complaint to an independent reviewer in respect of the same matter. We believe that it is important parents be able to access both review options. The independent reviewer would be able to review the complaint irrespective of whether or not the Ombudsman had completed its investigation, and irrespective of the outcome. We feel that including the Ombudsman in the review process would benefit students and their families in managing the practical aspects of complaints about disciplinary decisions. It would also allow the students and their families to benefit from the existing body of precedent relating to the disciplinary process.

We recommend the inclusion of new clauses 40B, 40D, 40E, 40F, and 42 to make consequential amendments to various Acts to reflect the introduction of partnership schools.

### **Other amendments**

We recommend amending clause 21 to prevent the Minister of Education from approving an alternative constitution for a board unless he or she has reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board. We are concerned that the bill as introduced implies that the Minister would not be required to take account of this consideration in some circumstances, and we believe dividing new subsection (1A) into new subsections (1AA) and (1A) would clarify the intention.

We considered recommending amending clause 21, new subsection (1B), to include an explicit requirement for the Minister to consult on whether the alternative constitution is in the best interests of the school. However, a legislated consultation requirement already ap-

plies where schools are being merged, a new school established, or school boards combined, and, as these are the circumstances where the provisions in new subsection (1B) would apply, a separate consultation requirement is unnecessary.

As it is proposed to amend the Education Act to allow the allocation of National Student Numbers to children not enrolled at an early childhood education centre, we recommend inserting a new clause 40C to make a consequential amendment to Schedule 1A of the Births, Deaths, Marriages, and Relationships Registration Act 1995. This is necessary, as Schedule 1A as introduced authorises the disclosure of certain information for the purposes of verifying and updating “student” information held on the National Student Index, a term that does not apply to children who are not enrolled.

## **Minority views**

### **New Zealand Labour Party**

The New Zealand Labour Party does not support the introduction of partnership schools. We believe that the Government should be focused on ensuring that every school in New Zealand is a great school, and that every student has access to a broad education that allows them to fulfil their individual potential. We are concerned that the Government is narrowing the focus of the education system, focusing on a small set of measurable targets to the exclusion of a broad and balanced curriculum. We recognise that schools are places where students develop communication, self-management, perseverance, curiosity, and social skills, and we need to value these too.

#### *The failed competitive model*

The introduction of partnership schools is based on the failed notion that increased competition will improve overall educational outcomes. Even the Treasury has argued that schooling systems that use highly competitive elements, including partnership schools, do not produce systematically better outcomes. The New Zealand Labour Party is concerned that in one of the areas the government has highlighted for partnership schools, Christchurch, existing schools are being closed or merged partly on the basis of existing over-provision. No partnership school should be allowed to operate in an area where state schools have been forced to close or merge.

*Quality teaching*

At a time when the Government claim they are focused on increasing the quality of teaching, and announced in Budget 2012 that they intended to introduce a postgraduate qualification as a requirement for all trainee teachers, this bill allows partnership schools to employ staff with no formal teaching qualifications at all. The bill does not even require the principal of a partnership school to be a qualified teacher. We note the comments of submitters who produced evidence to show that schooling systems with the highest rates of performance in the OECD also have some of the most stringent teacher registration requirements. The New Zealand Labour Party recognises that teaching requires a unique set of skills, and believes that all teachers should be appropriately qualified for the job and registered.

*Public scrutiny*

The New Zealand Labour Party is concerned that partnership schools will not be subject to the same level of public scrutiny as existing state schools. We were alarmed to learn that the government has ignored the concerns raised by the Ombudsman about the exemption of partnership schools from the Official Information Act. These schools will receive significant amounts of taxpayer funding and should be held accountable for how they use it.

*A broad and balanced curriculum*

All students in New Zealand schools should be taught a broad and balanced curriculum. The existing New Zealand Curriculum is recognised as one of the best in the world. We are concerned that partnership schools will not have to teach to the existing curriculum, and subjects such as science may be distorted to fit the beliefs of school owners, rather than ensuring that students gain a solid understanding of established scientific principles. It is still unclear who will approve the curriculum that a partnership school will teach to.

*The profit motive*

The New Zealand Labour Party does not believe that partnership schools should be allowed to operate as private, profit-making enterprises. Money withdrawn from the education system in the form of profits is money that is not going towards educating young New



Zealanders. The Government is placing an over-reliance on the “contract” with partnership school operators, and excluding partnership schools from many of the existing scrutiny and accountability mechanisms on that basis. Parents will be excluded from decisions affecting their child’s education because there will be no boards of trustees. There are no restrictions on who or what can be a partnership school sponsor, and no clear process is set out in the legislation for approving applications.

#### *Enrolment*

Partnership schools will not have an enrolment zone. There is nothing to prevent a partnership school from accepting the majority of their enrolments from outside the school’s immediate neighbourhood. The government claims that partnership schools will be targeted towards priority learners, yet there is nothing in legislation to ensure that this happens. We remain concerned that partnership schools will use under-hand methods to “cherry pick” students.

#### *Underachieving students*

We recognise that there are a number of learners who are currently struggling within the school system. Māori and Pasifika students often have lower rates of qualification attainment than their counterparts. The New Zealand Labour Party believes that the government should be focused on ensuring that all students, regardless of which school they attend, are supported to reach their full potential. The Government should be carefully reviewing the evidence about what works and extending programmes that have already been proven, rather than embarking on an ideological experiment that, even if successful, would only benefit a small number of students.

#### *Flexibility already exists*

A variety of different types of school already exist within legislation, for example special character schools can already be established within the existing public schooling framework. There is no need to create a new category of partnership schools in order to achieve the flexibility that the Government claims it seeks.

*No mandate for partnership schools*

The New Zealand National Party government began working on proposals for partnership schools before the 2011 general election, yet it appeared nowhere in their manifesto. Before this bill has even progressed through Parliament, the Government have already begun the process of establishing partnership schools. We believe that this shows absolute contempt for those who took the time to make submissions, including those who submitted in favour of partnership schools but suggested amendments to the bill as drafted. At the very least the commencement of this bill should be delayed until after the next general election, so that voters can have their say on it.

*The future of partnership schools*

On-going funding and support for partnership schools will not be guaranteed under a future New Zealand Labour Party government. We will not guarantee any partnership schools established during the term of the present Government the right to integrate into the state school system. We reserve the right to impose additional contractual obligations on any partnership schools established, such as a requirement to employ registered teachers and the removal of exemption from the Official Information Act 1982. No further partnership schools will be established under a New Zealand Labour Party government and legislation allowing for their establishment will be repealed.

*Other provisions*

The New Zealand Labour Party opposes the proposal in the bill that would allow property developers to derive a profit from the use of Crown land for the building and leasing of early childhood education facilities on school sites. Community-owned and -operated early childhood education facilities can already be built and provided on land designated for state education and the New Zealand Labour Party believes this approach should be encouraged, rather than the privatisation of a community asset proposed by this bill.

**Green Party of Aotearoa New Zealand**

The Green Party of Aotearoa New Zealand opposes this legislation almost in its entirety. While some aspects of the Education Act might

be better clarified by some provisions of this bill, its primary purpose is to establish partnership schools to the detriment of a strong high-quality public education system. We also disagree with the provision of more stringent and in our view unjustified search powers by schools of children and young people.

*Partnership schools kura hourua*

We consider that the establishment of this new class of publicly funded but unaccountable school is a deliberate attempt to extend the privatisation of the public school system into the primary sector. New Zealand's education system scores extremely well in OECD comparisons and this new model of corporate schooling is a direct import from countries who score well below New Zealand's ranking. We cannot see how importing a failed model of privatised yet publicly funded schools from lower ranked nations could advance New Zealand's educational reputation nor the educational achievement of New Zealand's children.

The bill provides these schools with a high level of discretion and control but with very little regulatory oversight of their operations. We agree with the new provision that allows for application of the Ombudsmen Act to these schools but remain concerned that the Official Information Act provisions do not apply to organisations who receive public funding. While we were told that contractual arrangements between the government and the school would be publicly available, we know from other similar public service privatisation examples, such as private prisons, that crucial financial information is kept from the public on the grounds of commercial sensitivity. That concern has not been allayed during the consideration of this bill.

Neither are we convinced by any evidence presented during the select committee hearings that these new partnership schools will provide any better education to the children with the greatest educational need. Again we were assured that the contracts between these schools and the government will be focused on these learners, but overseas evidence shows clearly that these schools tend to cherry-pick the more successful students from the vulnerable learning population and leave the genuinely vulnerable students without the education support they need. This risk is exacerbated by the absence of a requirement that teachers at these schools be registered teachers. While described by some submitters as a necessary alternative, we

consider that these schools are a dangerous experiment on the children who are the most in need of the highest quality best practice learning environment.

We believe that the New Zealand public education system has all the best practice models and flexibility needed to deliver for the so-called tail of underachievement but that as a result of a political deal between the New Zealand National Party and ACT New Zealand parties, those demonstrably effective opportunities are being ignored in favour of this political experiment.

#### *Search and surrender*

While we agree that a school must be a safe place for students and teachers we do not believe the additional powers in the bill can be justified. We were dismayed that committee members suggested wording for the legislation which was contrary to the expert advice that we received from submitters who were experts in human rights, teaching, and safety. The provisions to search, including under head wear and in socks, are unnecessary and are more rightly the search powers that are exercised by the police. In addition the legislation does not make clear that teachers have no authority to engage in police-like searches and that students can refuse to be searched. The rules and guidelines are yet to be developed that will give teachers clear boundaries on what they can lawfully require of a student or what searches families can expressly refuse to allow. Too many of the boundaries of the search powers are left to the Ministry to develop and this makes the law unclear and in our view unworkable.

#### **The New Zealand First Party**

The New Zealand First Party wishes to acknowledge the 2,193 submitters on this Amendment Bill. The New Zealand First Party also acknowledges that of these submitters 2,100 were opposed to the creation of partnership schools kura hourua, 62 were in support of partnership schools, and approximately 31 remained silent on this specific issue inside their submissions.

The committee heard or were provided with several examples, from submitters both supporting and opposing the creation of partnership schools, of how provisions currently available inside the Education

Act 1989 can and do provide the suggested flexibility and innovation required for a successful partnership school.

For example, Mai I Te Maru o Nga Kura-a-Iwi o Aotearoa is a group of 23 iwi or tribal schools. According to their in-favour submission they are high performing schools in terms of literacy, numeracy, Ngā Whanaketanga Rūmaki Māori-Māori-medium National Standards and NCEA and they are rightly proud of that record. However the committee also heard that they were created, are currently operating and have achieved their success under the flexible provisions of the existing Education Act.

The committee heard that inside mainstream schools there are classes or units being run under alternative educational philosophical guidelines, for example Montessori Units. The School Trustees Association confirmed that under current legislation the board of trustees of any state school can open a unit of special character should they believe there is a demand for such a unit or classroom from their school community. We heard that under the current legislation the board of trustees of any state school already has the ability to set the time of the school day as long as it does not contravene the minimum requirement of attendance inside Part 7, section 65B(3)(b) of the Education Act.

The New Zealand First Party remains disappointed that while it was never denied by advisors or the Partnership Schools Working Party that this flexibility already exists, that a predetermined view was developed to ignore this reality so as to “create the environment” which allows the sponsors of partnership schools to take advantage of other amendments in the bill. We understand from advisors that these amendments will see partnership schools bulk funded to the level of a Decile 3 state school. This will be inclusive of the property dollar, targeted education grant, and teacher salaries, but without any requirement to spend those monies on modern learning environments, qualified and registered teachers, or the delivery of the full New Zealand Curriculum.

The Partnership Schools/Kura Hourua Working Group informed us that the motivation for these schools is “to lift educational achievement amongst our most disadvantaged students.” The New Zealand First Party has been unable to establish how partnership schools will be able to target these specific students, particularly those whose academic performance has them sitting at stanine one to stanine

three—referred to as the tail of the bell curve—when the bill itself directs partnership schools to have an open door enrolment policy without zone restrictions. The New Zealand First Party believes it is worthy of note that while two submitters spoke in general defence of profit motive no arguments were forwarded by any submitters in support of a “for profit” industry around partnership schools.

The New Zealand First Party also notes that many submitters held current or past teaching qualifications and that they came to the committee in good faith with a strong belief in teaching as a profession. They also came with an expectation that the members of Parliament they addressed would hear their submissions with an open mind. We were disappointed that not only did some members of the committee suggest that a professional standing was not required as there was “an inherent ability” to teach in every human but that it was also suggested by some members that these submitters’ opinions and views be dismissed as having a vested interest as opposed to carrying any professional expertise.

The New Zealand First Party remains committed to the best individual educational outcomes possible for each and every New Zealand student. We do not believe that the application of partnership schools kura hourua as developed in this Amendment Bill will achieve this goal for either the suggested target student body or the country as a whole. As a consequence, while good work has been done around amendments to the surrender and retention provisions and with further policy work that saw the reinstatement of the Ombudsman around suspensions, stand-downs, exclusions, and expulsions, the New Zealand First Party will oppose the bill upon its return to the House.

## **Appendix**

### **Committee process**

The Education Amendment Bill was referred to the committee on 18 October 2012. The closing date for submissions was 24 January 2013. We received and considered 2,193 submissions from interested groups and individuals. We heard 99 submissions, at hearings in Christchurch and Auckland as well as Wellington.

We received advice from the Ministry of Education. The Regulations Review Committee reported to the committee on the powers contained in new sections 139AAA and 139AAF.

### **Committee membership**

Dr Cam Calder (Chairperson)

Carol Beaumont

Catherine Delahunty

Hon Jo Goodhew

Chris Hipkins

Colin King

Tim Macindoe

Tracey Martin

Simon O'Connor

Dr Megan Woods

Metiria Turei replaced Catherine Delahunty for this item of business.

---





Education Amendment Bill

---

**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted by a majority

~~text deleted by a majority~~

---



*Hon Hekia Parata*

## **Education Amendment Bill**

Government Bill

### **Contents**

		Page
1	Title	6
2	Commencement	6
3	Principal Act	6
<b>Part 1</b>		
<b>Amendments to principal Act</b>		
<i>Right to free primary and secondary education</i>		
4	Section 2 amended (Interpretation)	6
5	Section 3 amended (Right to free primary and secondary education)	7
6	Section 7A amended (Certain domestic students may be required to pay fees for tuition from correspondence schools)	7
<i>Expulsion and exclusion of students and attendance at school</i>		
7	Section 16 amended (Secretary's powers when excluded student younger than 16)	7
8	Section 17D amended (Re-enrolment of excluded or expelled student)	8
9	Section 25 amended (Students required to enrol must attend school)	8
10	Section 31 amended (Ensuring attendance of students)	9
<i>Secondary-tertiary programmes</i>		
11	Section 31B amended (Provider group for secondary-tertiary programme)	10

**Education Amendment Bill**

---

12	Section 31F amended (Recognition as lead provider of secondary-tertiary programme)	10
13	Section 31G amended (Lead provider to co-ordinate secondary-tertiary programme)	10
14	Section 31I amended (Entry into secondary-tertiary programme)	10
	<i>Multiple timetable arrangements</i>	
15	New section 65DA inserted (Multiple timetable arrangements)	11
	65DA Multiple timetable arrangements	11
	<i>Functions and powers of boards</i>	
16	Section 75 replaced (Boards to control management of schools)	11
	75 Functions and powers of boards	11
	<i>Enrolment records</i>	
17	Section 77A amended (Enrolment records)	12
	<i>Annual financial statements of boards</i>	
18	Section 87C amended (Annual financial statements of boards)	12
	<i>School boards</i>	
19	Section 98 replaced (Boards of newly established schools)	12
	98 Boards of newly established schools	12
20	Section 101 amended (Elections of trustees)	13
21	Section 105A amended (Minister may approve alternative constitution in certain cases)	13
22	Section 110 amended (Boards may combine)	14
	<i>Teacher registration</i>	
23	Section 120 amended (Interpretation)	15
24	Section 120A amended (Restrictions on appointment of teachers)	15
25	Section 120B amended (Restrictions on continued employment of teachers)	15
26	Section 137 amended (Offences)	15
	<i>Corporal punishment</i>	
27	Section 139A amended (No corporal punishment in early childhood services or registered schools)	16

**Education Amendment Bill**

---

	<i>Surrender and retention of property and searches</i>	
28	New sections 139AAA to 139AAG inserted	16
	139AAA Surrender and retention of property	16
	139AAAB Searches of clothing and bags or other containers	17
	139AAAC Restrictions on searches under section 139AAAB	18
	139AAB Limitations on sections 139AAA and 139AAAB	19
	139AAC Prohibitions on searches by contractors	20
	139AAD Refusal to reveal, produce, or surrender item	21
	139AAE Power to search storage containers not affected	21
	139AAF Rules about surrender and retention of property and searches	21
	139AAG Guidelines about surrender and retention of property and searches	22
	<i>Secretary may require information for proper administration of Act</i>	
29	Section 144A amended (Secretary may require information for proper administration of Act)	22
	<i>Merging schools</i>	
30	Section 156A replaced (Minister may merge schools)	22
	156A Minister may merge schools	22
	156AB Election or appointment of boards of continuing schools	24
	156AC Alternative constitutions for continuing schools	25
	<i>Partnership schools kura hourua</i>	
31	New Part 12A inserted	25
	<b>Part 12A</b>	
	<b>Partnership schools kura hourua</b>	
	158A Interpretation	25
	<i>Approval and operation of partnership schools kura hourua</i>	
	158B Minister may approve sponsors	26
	158C Minister must appoint advisory group	27
	158D Partnership school contracts	27
	158DA Complaints	28
	158E Prohibitions on operation of partnership schools kura hourua	29

**Education Amendment Bill**

---

158F	Sponsor's duties	29
158G	Sponsor to control management of partnership school kura hourua	30
158H	School rules	30
158I	Sponsor's power to delegate	30
158J	Annual financial statements of partnership schools kura hourua	32
158K	Partnership school kura hourua may participate in school risk management scheme	32
158L	Intervention in partnership school kura hourua by Secretary	32
	<i>Enrolment in partnership schools kura hourua</i>	
158M	Enrolment in partnership schools kura hourua	33
158N	Equal rights to primary and secondary education in partnership schools kura hourua	34
158O	Special education in partnership schools kura hourua	34
	<i>Multiple timetable arrangements</i>	
158P	Multiple timetable arrangements in partnership schools kura hourua	35
	<i>Exclusions</i>	
158Q	Secretary's powers when student younger than 16 is excluded from partnership school kura hourua	35
158R	Re-enrolment by partnership school kura hourua of student excluded or expelled	36
	<i>Courses and visits</i>	
158S	Courses and visits outside partnership school kura hourua premises	37
	<i>Application of Act to partnership schools kura hourua</i>	
158T	Application of this Act to partnership schools kura hourua	38
158U	Application of Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 to partnership schools kura hourua	39
	<i>Application of other Acts to partnership schools kura hourua</i>	
158V	Application of New Zealand Bill of Rights Act 1990 to partnership schools kura hourua	39

**Education Amendment Bill**

---

158W	Application of Privacy Act 1993 to partnership schools kura hourua	40
158X	Official Information Act 1982 not to apply to partnership schools kura hourua	40
	<i>New Zealand Qualifications Authority</i>	
32	Section 246 amended (Interpretation)	40
33	Section 246A amended (Functions of Authority)	40
	<i>Early childhood education and care centres</i>	
34	Section 319J replaced (Centres situated on property owned by the Crown)	41
	319J Centres situated on property owned by, or leased to, the Crown	41
	<i>National student numbers</i>	
35	Section 342 amended (Interpretation)	42
36	Section 343 amended (Assigning national student numbers)	42
37	Section 344 amended (Use of national student numbers)	42
38	Section 345 amended (Student may use or disclose own national student number)	42
39	Section 346 amended (Offences)	42
	<b>Part 2</b>	
	<b>Transitional provisions and consequential amendments</b>	
	<i>Transitional provisions</i>	
40	Transitional provision relating to Criminal Procedure Act 2011	43
40A	Transitional provision relating to Legislation Act 2012	43
	<i>Consequential amendments</i>	
40B	Amendment to Accident Compensation Act 2001	43
40C	Amendment to Births, Deaths, Marriages, and Relationships Registration Act 1995	44
40D	Amendments to Health Act 1956	44
40E	Amendments to Immigration Act 2009	44
40F	Amendment to Income Tax Act 2007	44
41	Amendment to Local Government (Rating) Act 2002	44
42	Amendment to Official Information Act 1982	45
43	Amendments to Ombudsmen Act 1975	45

---

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

**1 Title**

This Act is the Education Amendment Act **2012**.

**2 Commencement**

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

(1) **Sections 28 and 40A** come into force on 1 January 2014.

(2) **The rest of this Act comes into force on the day after the date on which it receives the Royal assent.**

**3 Principal Act** 10

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

**Part 1**

**Amendments to principal Act**

*Right to free primary and secondary education*

**4 Section 2 amended (Interpretation)** 15

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

“**partnership school contract** means a contract for the operation of a partnership school kura hourua entered into under **section 158D** and, in relation to a sponsor, means the partnership school contract to which the sponsor is a party 20

“**partnership school kura hourua** means a school in respect of which—

“(a) the Minister has approved a sponsor under **section 158B**; and

“(b) a partnership school contract is in force 25

“**primary partnership school kura hourua** means a partnership school kura hourua designated as a primary partnership school kura hourua by notice under **section 158B**

“**sponsor** means a body approved by the Minister under **section 158B** to operate a partnership school kura hourua”. 30

(2) In section 2(1), replace the definition of **principal** with:



- “**principal** means the chief executive of a State school; and, in relation to a school, a person enrolled at the school, or the enrolment of a person at a school, means the principal of the school”.
- (3) In section 2(1), replace the definition of **registered school** with: 5  
 “**registered school** means a school that is a State school, a partnership school kura hourua, or a school registered under section 35A”.
- 5 Section 3 amended (Right to free primary and secondary education)** 10  
 In section 3, after “State school”, insert “or partnership school kura hourua”.
- 6 Section 7A amended (Certain domestic students may be required to pay fees for tuition from correspondence schools)** 15  
 Replace section 7A(1)(ab) with:  
 “(ab) domestic student enrolled at a school registered under section 35A; or”.
- Expulsion and exclusion of students and attendance at school* 20
- 7 Section 16 amended (Secretary’s powers when excluded student younger than 16)**
- (1) After section 16(1)(b), insert: 25  
 “(ba) arrange for and, if necessary, direct the sponsor of a partnership school kura hourua to enrol the student at the partnership school kura hourua; or”.
- (2) After section 16(2), insert:  
 “(2A) The Secretary may not give a direction under **subsection (1)(ba)** unless— 30  
 “(a) the student’s parents agree to the direction; and  
 “(b) the Secretary has made all reasonable attempts to consult the student, the sponsor, and any other person or organisation that, in the opinion of the Secretary, may

be interested in, or be able to advise on or help with, the student's education or welfare."

(3) After section 16(4), insert:

"(5) A sponsor must comply with a direction under **subsection (1)(ba)**, and the direction overrides any enrolment process the partnership school kura hourua may have in place." 5

### **8 Section 17D amended (Re-enrolment of excluded or expelled student)**

(1) Replace section 17D(2) with:

"(2) Subject to sections 16(1)(b) and **158Q(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 17) from another State school or a partnership school kura hourua." 10

(2) In section 17D(3)(a), after "expelled", insert "from a State school". 15

(3) After section 17D(3), insert:

"(3A) The Secretary may, in the case of a student who has turned 16, direct the sponsor of a partnership school kura hourua to enrol the student at the school if— 20

"(a) the student has been expelled from a State school under section 17; and

"(b) the student's parents agree to the enrolment; and

"(c) the Secretary has made all reasonable attempts to consult the student, the sponsor, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or be able to advise on or help with, the student's education or welfare." 25

(4) After section 17D(4), insert:

"(5) A sponsor must comply with a direction under **subsection (3A)**, and the direction overrides any enrolment process the partnership school kura hourua may have in place." 30

### **9 Section 25 amended (Students required to enrol must attend school)**

(1) In section 25(2), after "board", insert "and every sponsor of a partnership school kura hourua". 35

- (2) After section 25(4), insert:
- “(5) Nothing in subsections (1) to (3) applies to an affected student.
- “(6) An affected student must attend school for the whole of the time period (or periods) each day during which the student’s timetable is running. 5
- “(7) A board or a sponsor that is running a multiple timetable arrangement must take all reasonable steps to ensure that an affected student attends the school for the whole of the time period (or periods) each day during which the student’s timetable is running. 10
- “(8) In this section,—
- “**affected student** means a student who is required to attend school in accordance with a multiple timetable arrangement
- “**multiple timetable arrangement** means an arrangement under which more than 1 timetable is run on the same day (whether consecutively or concurrently).” 15

## 10 Section 31 amended (Ensuring attendance of students)

- (1) After section 31(1), insert:
- “(1A) A sponsor of a partnership school kura hourua may appoint any person to be an attendance officer for the school.” 20
- (2) In section 31(2), after “boards”, insert “or sponsors, or a board and a sponsor jointly”.
- (3) After section 31(3), insert:
- “(3A) Every sponsor must, by any means the sponsor thinks appropriate, take all reasonable steps to ensure the attendance of students enrolled at its school.” 25
- (4) In section 31(7),—
- (a) after “officer,”, insert “a sponsor,”; and
- (b) after “board”, insert “, a sponsor,”.
- (5) After section 31(8), insert: 30
- “(8A) A certificate signed on behalf of a sponsor showing that a person named in it is appointed for any purpose under this section is sufficient evidence of the matters specified in the certificate; and the authenticity or authority of any signature on behalf of a sponsor may not in any proceedings under this Part of this Act be inquired into or disputed.” 35

- (6) After section 31(9), insert:  
 “(10) This section applies to an affected student (within the meaning of **section 25(8)**) only in relation to the time period (or periods) each day during which his or her timetable is running.” 5

*Secondary-tertiary programmes*

- 11 Section 31B amended (Provider group for secondary-tertiary programme)**  
 After section 31B(1)(a)(i), insert:  
 “(ia) a sponsor of a partnership school kura hourua, other than a partnership school kura hourua that is only a primary partnership school kura hourua.”. 10
- 12 Section 31F amended (Recognition as lead provider of secondary-tertiary programme)** 15  
 After section 31F(a), insert:  
 “(ab) a sponsor of a partnership school kura hourua, other than a partnership school kura hourua that is only a primary partnership school kura hourua.”.
- 13 Section 31G amended (Lead provider to co-ordinate secondary-tertiary programme)** 20  
 After section 31G(2)(a), insert:  
 “(ab) a sponsor of a partnership school kura hourua, other than a partnership school kura hourua that is only a primary partnership school kura hourua.”. 25
- 14 Section 31I amended (Entry into secondary-tertiary programme)**  
 After section 31I(1)(b), insert:  
 “(ba) a partnership school kura hourua, other than a partnership school kura hourua that is only a primary partnership school kura hourua.”. 30

*Multiple timetable arrangements***15 New section 65DA inserted (Multiple timetable arrangements)**

After section 65D, insert:

- “65DA Multiple timetable arrangements** 5
- “(1) The Minister may authorise a board to run a multiple timetable arrangement for a specified period at a specified school if—
- “(a) the Minister is satisfied that the board has adequately consulted parents, staff, and the local community about the proposed multiple timetable arrangement; and 10
- “(b) the Minister considers that the proposed multiple timetable arrangement is appropriate in the circumstances.
- “(2) An authorisation under **subsection (1)** must be given either unconditionally or subject to any conditions that the Minister 15 considers appropriate.
- “(3) A board must take all reasonable steps to notify every affected student and his or her parents in writing of—
- “(a) a multiple timetable arrangement authorised under **subsection (1)**; and 20
- “(b) the time periods for each day during which the affected student’s timetable will run.
- “(4) In this section, **affected student** and **multiple timetable arrangement** have the meanings given by **section 25(8)**.”

*Functions and powers of boards*

25

**16 Section 75 replaced (Boards to control management of schools)**

Replace section 75 with:

- “75 Functions and powers of boards** 30
- “(1) A school’s board must perform its functions and exercise its powers in such a way as to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement.
- “(2) Except to the extent that any enactment or the general law of New Zealand provides otherwise, a school’s board has complete discretion to control the management of the school as it 35 thinks fit.”

*Enrolment records***17 Section 77A amended (Enrolment records)**

After section 77A(4), insert:

- “(5) In this section, **principal**, in relation to a partnership school kura hourua, means the person to whom the sponsor of the school has assigned the role of managing enrolment records. 5
- “(6) In **subsection (5)**, **partnership school kura hourua** and **sponsor** have the meanings given by section 2(1).”

*Annual financial statements of boards***18 Section 87C amended (Annual financial statements of boards) 10**

Replace section 87(2) and (3) with:

- “(2) The Minister must make available (including, without limitation, by electronic means) to a member of Parliament on request from that member of Parliament any statement provided to the Secretary under subsection (1). 15
- “(3) The statement must be made available not later than 1 month after the request was received by the Minister.”

*School boards***19 Section 98 replaced (Boards of newly established schools) 20**

Replace section 98 with:

**“98 Boards of newly established schools**

- “(1) Despite section 94, the trustees of the board of a newly established State school are,—
- “(a) at the option of the Minister,— 25
- “(i) 5 people appointed by the Minister; or
- “(ii) 5 people elected by the parents of students (other than adult students) likely to be enrolled at the school in the year it opens or the next year; and
- “(b) the principal or principal designate (if any); and 30
- “(c) not more than 4 people co-opted by the board.
- “(2) **Subsection (1)** continues to apply to the membership of the board until the trustees go out of office under **subsection (3)**.
- “(3) A trustee appointed, elected, or co-opted under **subsection (1)** goes out of office— 35

- “(a) at the close of the day before the date on which the trustees who have been elected under section 101 take office under section 102; or
- “(b) at the close of the day before the date on which the trustees who have been elected, appointed, or co-opted in accordance with a notice issued under section 105A take office. 5
- “(4) Subject to section 103, any trustee appointed, elected, or co-opted under **subsection (1)** is eligible to be appointed, elected, or co-opted as a trustee.” 10
- 20 Section 101 amended (Elections of trustees)**
- (1) In section 101(7), replace “subsection (8)” with “subsections (8) and **(8A)**”.
- (2) After section 101(8), insert:
- “(8A) If the Minister approves an alternative constitution for a newly established school under section 105A, subsection (7) does not apply and the first elections (if any) for, and the first meeting of, the board of such a school must be held in accordance with a notice under section 105A.” 15
- 21 Section 105A amended (Minister may approve alternative constitution in certain cases)** 20
- Replace section 105A(1) with:
- “(1) The Minister may from time to time, by notice in the *Gazette*, approve an alternative constitution under this section for the board of a State school, or a combined board of State schools. 25
- “(1AA) The Minister may not approve an alternative constitution for a board unless the Minister has reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board.
- ~~“(1A) Subject to **subsection (1B)**, the Minister may not approve an alternative constitution for a board unless—~~ 30
- ~~“(a) the Minister has reasonable cause to believe that an alternative constitution is in the best interests of the school or schools governed by the board, and—~~

- ~~“(i) the Chief Review Officer, in a written report, recommends that the Minister consider devising an alternative constitution; or~~  
~~“(ii) 20% or more of the parents of children enrolled at the school or schools have requested an alternative constitution; or~~ 5  
~~“(iii) the board has requested an alternative constitution; and~~  
~~“(b) the Minister has consulted such persons or organisations as the Minister considers appropriate about whether an alternative constitution is in the best interests of the school or schools.~~ 10
- “(1A) Subject to **subsections (1AA) and (1B)**, the Minister may not approve an alternative constitution unless—  
“(a) 1 of the following applies: 15  
    “(i) the Chief Review Officer, in a written report, recommends that the Minister consider devising an alternative constitution; or  
    “(ii) 20% or more of the parents of children enrolled at the school or schools have requested an alternative constitution; or 20  
    “(iii) the board has requested an alternative constitution; and  
“(b) the Minister has consulted such persons or organisations as the Minister considers appropriate. 25
- “(1B) **Subsection (1A)** does not apply if—  
“(a) the alternative constitution is the successor constitution for a board that was appointed or elected under **section 98(1)**; or  
“(b) the alternative constitution is approved for a combined board before the date specified in a notice under section 110(1); or 30  
“(c) the alternative constitution is for the board of a continuing school and the Minister has given notice under **section 156A(4)(b)**.” 35

## 22 Section 110 amended (Boards may combine)

Repeal section 110(1)(ba).



*Teacher registration*

- 23 Section 120 amended (Interpretation)**
- (1) In section 120, definition of **employer**, after paragraph (a), insert:  
 “(ab) the sponsor of a partnership school kura hourua.” 5
- (2) In section 120, definition of **professional leader**, paragraph (a), after “school”, insert “other than a partnership school kura hourua”.
- (3) In section 120, definition of **professional leader**, after paragraph (a), insert: 10  
 “(ab) in the case of a partnership school kura hourua, the person to whom the sponsor has assigned the role of supervising teaching practice.”
- (4) In section 120, insert in their appropriate alphabetical order:  
 “**partnership school kura hourua** has the meaning given by section 2(1) 15  
 “**sponsor** has the meaning given by section 2(1)”.
- 24 Section 120A amended (Restrictions on appointment of teachers)**  
 In section 120A(2), after “employer”, insert “, other than a sponsor,”. 20
- 25 Section 120B amended (Restrictions on continued employment of teachers)**
- (1) In section 120B(2), after “employer”, insert “, other than a sponsor,”. 25
- (2) In section 120B(3), after “No employer”, insert “, other than a sponsor,”.
- 26 Section 137 amended (Offences)**
- (1) In section 137(1)(fb), delete “and the board of a State school, the managers of a school registered under section 35A, or the person or body who appoints staff at an early childhood education and care service,”. 30
- (2) In section 137(1)(h), after “an employer”, insert “other than a sponsor”.

*Corporal punishment***27 Section 139A amended (No corporal punishment in early childhood services or registered schools)**

- (1) After section 139A(1)(b), insert:  
 “(ba) is employed by the sponsor of a partnership school kura hourua at or in respect of the school; or”.
- (2) After section 139A(2)(b), insert:  
 “(ba) on behalf of a sponsor of a partnership school kura hourua any student enrolled at or attending the school; or”.

*Surrender and retention of property and searches* 10**28 New sections 139AAA to ~~139AAF~~ 139AAG inserted**

After section 139A, insert:

**“139AAA Surrender and retention of property**

- “**(1)** This section applies if a teacher or an authorised staff member has reasonable grounds to believe that a student has hidden or in clear view on or about the student’s person, or in any bag or other container under the student’s control, an item that is likely to— 15
- “**(a)** endanger the safety of any person; or 20  
 “**(b)** detrimentally affect the learning environment.
- “**(2)** If this section applies, the teacher or authorised staff member may require the student to produce and surrender the item.
- “**(3)** If the item is stored on a computer or other electronic device, the teacher or authorised staff member may require the student— 25
- “**(a)** to reveal the item:  
 “**(b)** to surrender the computer or other electronic device on which the item is stored.
- “**(4)** A teacher or an authorised staff member may do either or both of the following to an item surrendered under this section: 30
- “**(a)** retain the item for a reasonable period:  
 “**(b)** dispose of the item (if appropriate).
- “**(5)** A teacher or an authorised staff member may retain a computer or other electronic device surrendered under **subsection (3)(b)** for a reasonable period. 35

- “(6) If an item or a computer or other electronic device is retained under this section, it must be stored in an appropriate manner.
- “(7) At the end of any period of retention, any computer or other electronic device, or any item that is not disposed of under **subsection (4)(b)**, must be— 5
- “(a) returned to the student; or
- “(b) passed to another person or agency, as appropriate.
- “(8) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under **section 139AAF**. 10
- “(9) In this section and **sections 139AAB to 139AAF sections 139AAAB to 139AAG**, unless the context otherwise requires,—
- “**authorised staff member** means an employee of a board who is authorised by that board,— 15
- “(a) when used in this section, to exercise powers under this section; and
- “(b) when used in **section 139AAAB**, to exercise powers under that section
- “**item** includes information stored in electronic form 20
- “**student** includes a person under the supervision of a teacher, whether or not the person is enrolled at the school at which the teacher is employed
- “**teacher** means a person employed at a State school in a teaching position (within the meaning of section 120). 25
- “(10) An authorisation referred to in the definition of authorised staff member in **subsection (9)** must be in writing and may be subject to conditions.
- “**139AAAB Searches of clothing and bags or other containers**
- “(1) This section applies if— 30
- “(a) a teacher or an authorised staff member has reasonable grounds to believe that a student has on or about the student’s person, or in any bag or other container under the student’s control, a harmful item; and
- “(b) the teacher or authorised staff member has required the student to produce and surrender the harmful item under 35

- section 139AAA** and the student has refused to produce and surrender it.
- “(2) If this section applies, the teacher or authorised staff member may do any of the following:
- “(a) require the student to remove any outer clothing, except where the student has no other clothing, or only under-clothing, under that outer clothing: 5
- “(b) require the student to remove any head covering, gloves, footwear, or socks:
- “(c) require the student to surrender the bag or other container. 10
- “(3) The teacher or authorised staff member may search any clothing or footwear removed, and any bag or other container surrendered, under **subsection (2)**.
- “(4) If, during a search under this section, the teacher or authorised staff member finds a harmful item or an item that is likely to detrimentally affect the learning environment, the item may be seized by the teacher or authorised staff member and **section 139AAA(4) to (7)** apply with any necessary modifications. 15
- “(5) A teacher or an authorised staff member who exercises a power under this section must comply with any rules made under **section 139AAF**. 20
- “(6) In this section, **section 139AAB, and section 139AAD**,—
- “**harmful item** means an item that a teacher or an authorised staff member has reasonable grounds to believe poses an immediate threat to the physical or emotional safety of any person 25
- “**outer clothing** includes, without limitation, any coat, jacket, jumper, or cardigan
- “**socks** does not include tights or stockings. 30
- “**139AAAC Restrictions on searches under section 139AAAB**
- “(1) A teacher or an authorised staff member who carries out a search under **section 139AAAB** must carry out the search with decency and sensitivity and in a manner that affords the student the greatest degree of privacy and dignity consistent with the purpose of the search. 35

- “(2) Unless impracticable, a search under **section 139AAAB** must be carried out—
- “(a) by a teacher or an authorised staff member who is of the same sex as the student; and
- “(b) in the presence of the student and another teacher or authorised staff member who is of the same sex as the student. 5
- “(3) Unless impracticable, a search under **section 139AAAB** must not be carried out in the view of any person other than the person carrying out the search, the student, and another teacher or authorised staff member. 10
- “(4) A teacher or an authorised staff member who carries out a search under **section 139AAAB** must—
- “(a) return any clothing or footwear removed and any bag or other container surrendered as soon as the search is completed; and 15
- “(b) keep a written record of any items seized under **section 139AAAB(4)**.
- “**139AAB Limitations on ~~section 139AAA~~ sections 139AAA and 139AAAB** 20
- “(1) Nothing in **section 139AAA or 139AAAB** permits a teacher or staff member—
- “(a) to search any student; or
- ~~“(b) to search any bag in a student’s control; or~~
- “(c) to use physical force against a student; or 25
- “(d) to require a student to provide a bodily sample (but a teacher or staff member may encourage a student to participate in a voluntary drug treatment programme that involves testing of bodily samples).
- “(2) Nothing in **section 139AAA or 139AAAB** permits a teacher or an authorised staff member to have a dog with him or her for the purpose of exercising a power under that section. 30
- “(3) The powers set out in **section ~~139AAA~~ sections 139AAA and 139AAAB** may not be exercised in relation to 2 or more students together unless the teacher or authorised staff member has reasonable grounds to believe that each student has an item specified in **section 139AAA(1)** or a harmful item on or about 35

- his or her person, or in any bag or other container under his or her control.
- “(4) Nothing in **subsection (1)** limits or affects sections 15 and 17 of this Act or sections 41, 48, and 59 of the Crimes Act 1961.
- “(5) In this section,— 5
- “**rub-down search** means a search in which the person conducting the search—
- “(a) runs or pats his or her hand over the body of the person being searched, whether outside or inside the clothing of the person being searched: 10
- “(b) inserts his or her hand inside any pocket or pouch in the clothing of the person being searched
- “**search**, in relation to a student, includes—
- “(a) a strip search; and
- “(b) a rub-down search 15
- “**strip search** means a search where the person conducting the search requires the person being searched to ~~remove, raise, lower, or open all or any part of the latter person’s clothing.~~—
- “(a) remove any of the latter person’s clothing other than outer clothing, head covering, gloves, footwear, or socks; or 20
- “(b) raise, lower, or open all or any part of the latter person’s clothing.
- “**139AAC Prohibitions on searches by contractors**
- “(1) A contractor may not— 25
- “(a) exercise any power in **section 139AAA or 139AAB;**  
or
- “(b) search a student.
- “(1A) However, a contractor may bring a dog that is trained for the purpose of searching to a school and use the dog for the purpose of searching school property (including lockers, desks, or other receptacles provided to students for storage purposes). 30
- “(2) In this section, **contractor** has the meaning given by section 78CA(2).

“**139AAD ~~Refusal to produce or surrender item~~ Refusal to reveal, produce, or surrender item**

“(1) If a student refuses to reveal, produce, or surrender an item or computer or other electronic device under **section 139AAA(2) or (3)**, a teacher or an authorised staff member may take any disciplinary steps, or steps to manage the student’s behaviour, that the teacher or authorised staff member considers reasonable. 5

“(2) If a student refuses to remove any outer clothing, head covering, gloves, footwear, or socks or to surrender a bag or other container under **section 139AAB(2)**, a teacher or an authorised staff member may take any disciplinary steps, or steps to manage the student’s behaviour, that the teacher or authorised staff member considers reasonable. 10

“**139AAE Power to search storage containers not affected** 15  
Nothing in **section 139AAA or 139AAB** limits or affects any power to search any locker, desk, or other receptacle provided to students for storage purposes.

“**139AAF Rules about surrender and retention of property and searches** 20

“(1) The Secretary ~~may from time to time~~ must make rules (which must be consistent with this Act) regulating the practice and procedure to be followed by boards, principals, ~~and teachers~~ teachers, and authorised staff members under **sections 139AAA to 139AAD**, including, without limitation, rules— 25

“(a) providing for the keeping of written records relating to the use of the powers under **section 139AAA**; and

“(aa) prescribing requirements relating to the keeping of written records under **section 139AAB**; and

“(ab) prescribing the procedure for authorising staff members to exercise powers or carry out functions under **sections 139AAA to 139AAG**; and 30

“(b) specifying the circumstances in which items may be disposed of under **section 139AAA(4)(b)**; and

“(c) setting out requirements for the storage of items and computers and other electronic devices under **section 139AAA(6)**; and 35

“(d) making provision for the return of items and computers and other electronic devices under **section 139AAA(7)(a)**.

~~“(2) Rules made under this section are regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.”~~ 5

“(2) Rules made under this section are a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.” 10

**“139AAG Guidelines about surrender and retention of property and searches**

“(1) The Secretary must issue guidelines for the exercise of powers and carrying out of functions under **sections 139AAA to 139AAF**.” 15

“(2) Boards, principals, teachers, and authorised staff members must have regard to guidelines issued under **subsection (1)**.”

*Secretary may require information for proper administration of Act*

**29 Section 144A amended (Secretary may require information for proper administration of Act)** 20

(1) After section 144A(1)(a), insert:

“(ab) the sponsor of any partnership school kura hourua; or”.

(2) In section 144A(1), after “the board,”, insert “sponsor,” in each place. 25

*Merging schools*

**30 Section 156A replaced (Minister may merge schools)**

Replace section 156A with:

**“156A Minister may merge schools**

“(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 the Minister is satisfied that— 30



- “(a) each board of a school concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at the school about the proposed merger; and
- “(b) the consultation that has taken place has been adequate in all the circumstances; and 5
- “(c) 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 (not 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: 10
- “(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,— 15
- “(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: 20
- “(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. 25
- “(4) Before a notice under **subsection (1)** takes effect, the Minister must give notice in the *Gazette* of whether—
- “(a) during the period between a date specified in the notice and the date on which new trustees take office following an election (the **interim period**), the board of the continuing school is to be— 30
- “(i) the board of the continuing school plus co-opted trustees representing each merging school (a **continuing board**); or
- “(ii) a board appointed by the Minister (an **appointed board**); or 35
- “(b) the board of the continuing school is to have an alternative constitution approved under section 105A.

**“156AB Election or appointment of boards of continuing schools**

- “(1) If the notice under **section 156A(4)** provides that the board of the continuing school is to be a continuing board,—
- “(a) the board of the continuing school must, within 28 days after the date of that notice, co-opt at least 1 trustee in respect of each of the merging schools so that each merging school is represented on the continuing board; and
- “(b) each of those co-opted trustees holds office until the end of the interim period (unless replaced earlier); and
- “(c) section 94C (which limits the co-option and appointment of trustees) does not apply to trustees co-opted for an interim period.
- “(2) If the notice under **section 156A(4)** provides that the board of the continuing school is to be an appointed board,—
- “(a) the notice must specify the constitution of the appointed board during the interim period, including how many trustees (if any) the board may co-opt; and
- “(b) the Minister is not bound by section 94 in determining the constitution of the appointed board.
- “(3) When a board is appointed by the Minister,—
- “(a) the trustees of the continuing school go out of office at the close of the day before the start of the interim period; and
- “(b) the trustees of the appointed board take office on the date of the start of the interim period.
- “(4) A continuing board or an appointed board may make decisions and exercise powers during the interim period both for the purposes of the continuing school before the merger and for the purpose of providing and preparing for the continuing school after the merger has taken effect.
- “(5) Unless the board of the continuing school was (immediately before the merger took effect) a combined board established under section 110, an appointed board or a continuing board that replaces it must hold elections for a new board on a day that is not later than 3 months after the date the merger takes effect.

- “(6) If an appointed board or a continuing board is required by **subsection (5)** 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 date on which the newly elected trustees are to take office. 5
- “(7) If the merger takes effect after 31 October in the year before an election year and before 31 December in that election year, a board that is required to hold an election under **subsection (5)** does not have to hold the election until the next election year. 10
- “**156AC Alternative constitutions for continuing schools**
- “(1) If a notice under **section 156A(4)** provides that the board of the continuing school is to have an alternative constitution approved under section 105A, the notice must specify the date on which the alternative constitution is to take effect. 15
- “(2) The date in **subsection (1)** must be before the date that the notice under **section 156A(1)** takes effect.
- “(3) The trustees of the continuing school go out of office at the close of the day before the date specified under **subsection (1)**. 20
- “(4) A board established under section 105A may make decisions and exercise powers both for the purposes of the continuing school before the merger and for the purpose of providing and preparing for the continuing school after the merger has taken effect.” 25

*Partnership schools kura hourua*

**31 New Part 12A inserted**

After section 158, insert:

**“Part 12A**

30

**“Partnership schools kura hourua**

**“158A Interpretation**

In this Part, unless the context otherwise requires,—

“**body** means a body corporate, corporation sole, or limited partnership 35

“**composite partnership school kura hourua** means a partnership school kura hourua designated as a composite partnership school kura hourua by notice under **section 158B**

“**partnership school contract** has the meaning given by section 2(1) 5

“**primary partnership school kura hourua** has the meaning given by section 2(1)

“**secondary partnership school kura hourua** means a partnership school kura hourua designated as a secondary partnership school kura hourua by notice under **section 158B** 10

“**sponsor** has the meaning given by section 2(1).

*“Approval and operation of partnership schools  
kura hourua*

“**158B Minister may approve sponsors**

“(1) The Minister may by notice in the *Gazette* approve a body to be a sponsor of a partnership school kura hourua. 15

“(2) The Minister has absolute discretion to refuse to approve a body to be a sponsor under **subsection (1)**.

“(3) A notice under **subsection (1)** must include—

“(a) the name of the sponsor; and 20

“(b) the place where the school is to be located; and

“(c) the name of the school; and

“(d) whether the school is to be a primary, secondary, or composite partnership school kura hourua; and

“(e) the class levels for which education may be given at the school; and 25

“(f) any religious, philosophical, or other distinguishing characteristic of the school; and

“(g) whether all or any (and if so, which) class levels of the school are to be single-sex. 30

“(4) A notice under **subsection (1)** may provide for different class levels to be phased in over a specified period or specified periods.

**“158C Minister must appoint advisory group**

“(1) The Minister must appoint an advisory group, consisting of 1 or more members, for the purpose of advising the Minister in relation to—

“(a) the approval of sponsors under **section 158B**; and 5

“(b) the educational performance of partnership schools kura hourua.

“(2) The members of the advisory group must be appointed by the Minister, on terms and conditions to be determined by the Minister, by written notice to each member. 10

“(3) The Minister may define and vary the terms of reference of the advisory group as the Minister thinks fit.

“(4) The advisory group must comply with any terms of reference determined by the Minister under **subsection (3)**.

“(5) The advisory group may determine its own procedure. 15

“(6) Every member of an advisory group appointed under **subsection (1)** is entitled—

“(a) to receive remuneration not within paragraph (b) for services as a member of the advisory group at a rate and of a kind determined by the Minister in accordance with the fees framework; and 20

“(b) in accordance with the fees framework, to be reimbursed for actual and reasonable travelling and other expenses incurred in carrying out his or her duties as a member of the advisory group. 25

“(7) For the purposes of **subsection (6)**, **fees framework** means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest.

**“158D Partnership school contracts 30**

“(1) The Minister may from time to time, in the name and on behalf of the Crown, enter into a contract with a sponsor for the operation, by that sponsor, of a partnership school kura hourua.

“(2) A partnership school contract must be for a fixed term.

“(3) A partnership school contract must provide for— 35

“(a) objectives and performance standards for the sponsor in relation to the operation of the school; and

- “(b) reporting requirements of the sponsor in relation to—
- “(i) the objectives and performance standards of the sponsor under the contract; and
- “(ii) any relevant national standards published under section 60A(1)(ba); and 5
- “(c) the maximum roll of the school; and
- “(d) the number or percentage of teaching positions (within the meaning of section 120) that must be filled by registered teachers or holders of limited authority to teach; and 10
- “(e) the curriculum to be taught at the school; and
- “(f) the qualifications to be offered by the school (if it is a secondary or composite partnership school kura hou-rua); and
- “(fa) a procedure for the independent review of complaints against the school; and 15
- “(g) powers of intervention in the school by the Minister and the Secretary; and
- “(h) the termination of the contract for breach of contract; and 20
- “(i) the obligations of the sponsor, in the event of the termination or expiry of the contract, to co-operate with the Minister and to comply with any instructions issued by the Minister in order to ensure the orderly and efficient transfer of the operation of the school. 25
- “(4) A partnership school contract may contain other provisions, as agreed between the Minister and the sponsor, that are not inconsistent with—
- “(a) this Act; or
- “(b) any regulations made under this Act. 30

**“158DA Complaints**

- “(1) A person who refers a complaint about a sponsor to the Ombudsman may refer a complaint to a reviewer in respect of the same matter.
- “(2) **Subsection (1)** applies— 35
- “(a) irrespective of whether or not the Ombudsman’s investigation is complete at the time of the referral to the reviewer; and

- “(b) if that investigation is complete at the time of the referral to the reviewer, irrespective of the outcome of that investigation.
- “(3) A person who refers a complaint to a reviewer about a matter that is within the jurisdiction of the Ombudsman may refer a complaint to the Ombudsman in respect of the same matter. 5
- “(4) **Subsection (3)** applies—
- “(a) irrespective of whether or not the reviewer’s investigation is complete at the time of the referral to the Ombudsman; and 10
- “(b) if that investigation is complete at the time of the referral to the Ombudsman, irrespective of the outcome of that investigation.
- “(5) **Subsection (3)** is subject to section 17 of the Ombudsmen Act 1975. 15
- “(6) In this section,—
- “**Ombudsman** means an Ombudsman appointed under the Ombudsmen Act 1975
- “**reviewer** means the person or body responsible under a partnership school contract for the independent review of complaints against a partnership school kura hourua. 20
- “158E Prohibitions on operation of partnership schools kura hourua**
- “(1) A body that is not approved to be a sponsor under **section 158B** may not operate or purport to operate a partnership school kura hourua. 25
- “(2) A sponsor may not operate a partnership school kura hourua unless there is in place a partnership school contract between the Minister and the sponsor.
- “158F Sponsor’s duties** 30
- A sponsor of a partnership school kura hourua must—
- “(a) provide a safe physical and emotional environment for students; and
- “(b) ensure that the school delivers a curriculum that is in line with any foundation curriculum policy statements published under section 60A(1)(aa); and 35

- “(c) assign the functions of the principal under the sections specified in **section 158T(1)** to an appropriately qualified person or to appropriately qualified persons; and
- “(d) assign the role of supervising teaching practice to an appropriately qualified person; and 5
- “(e) at intervals specified in the partnership school contract, inform parents of—
- “(i) the progress of their children at the school; and
- “(ii) any barriers to progress.
- “**158G Sponsor to control management of partnership school kura hourua** 10
- “(1) A sponsor of a partnership school kura hourua must perform the sponsor’s functions and exercise the sponsor’s powers in such a way as to ensure that every student at the school is able to attain his or her highest possible standard in educational achievement. 15
- “(2) A sponsor of a partnership school kura hourua has complete discretion to control the management of the school as the sponsor thinks fit.
- “(3) **Subsection (2)** is subject to any enactment, the general law of New Zealand, and the partnership school contract. 20
- “**158H School rules**
- “(1) A sponsor of a partnership school kura hourua may make any rules the sponsor thinks necessary or desirable for the control and management of the school. 25
- “(2) **Subsection (1)** is subject to any enactment, the general law of New Zealand, and the partnership school contract.
- “**158I Sponsor’s power to delegate**
- “(1) A sponsor may delegate any of the functions or powers of the sponsor under this Act, either generally or specifically, to any person or group of persons. 30
- “(2) A delegation under this section must be in writing.
- “(3) The sponsor must not delegate the general power of delegation.



- “(4) The sponsor must not delegate the functions of the sponsor in sections 13 to 18 (as applied by **section 158T**, with the exception of sections 16 and 17D) and any rules made under section 18AA (as applied by **section 158U**) to the person to whom the sponsor has assigned the functions of the principal in those sections and rules. 5
- “(5) A delegate to whom any functions or powers of a sponsor are delegated may,—
- “(a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were the sponsor; and 10
  - “(b) delegate the function or power only—
    - “(i) with the prior written consent of the sponsor; and
    - “(ii) subject to the same restrictions and with the same effect as if the subdelegate were the delegate. 15
- “(6) A delegate who purports to perform a function or exercise a power under a delegation—
- “(a) is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation; and 20
  - “(b) must produce evidence of his or her authority to do so, if reasonably requested to do so.
- “(7) No delegation in accordance with this Act—
- “(a) affects or prevents the performance of any function or the exercise of any power by the sponsor; or 25
  - “(b) affects the responsibility of the sponsor for the actions of any delegate acting under the delegation; or
  - “(c) is affected by any change in the constitution of the sponsor. 30
- “(8) A delegation may be revoked at will by written notice to the delegate.
- “(9) A delegation under **subsection (5(b))** may be revoked at will by written notice of the delegate to the subdelegate.

**“158J Annual financial statements of partnership schools kura hourua**

- “(1) On a date specified in the partnership school contract, a sponsor of a partnership school kura hourua must give to the Secretary annual financial statements relating to the school for the year ending on a date specified in the contract. 5
- “(2) The financial statements must be prepared in accordance with the partnership school contract.
- “(3) The financial statements must have been audited by a chartered accountant. 10

**“158K Partnership school kura hourua may participate in school risk management scheme**

- “(1) A sponsor may, with the consent of the Secretary, participate in a school risk management scheme established under section 78D(2). 15
- “(2) Sections 78D to 78G, any regulations made under section 78F, and any legal instrument by which a school risk management scheme is established apply to any sponsor that participates in the scheme as if it were a participating school board.

**“158L Intervention in partnership school kura hourua by Secretary 20**

- “(1) This section applies if the Secretary has reasonable grounds to believe—
- “(a) that—
- “(i) there exists in respect of a partnership school kura hourua an emergency affecting the education or welfare of its students; or 25
- “(ii) there is an imminent threat of such an emergency; and
- “(b) that the sponsor of the school is unwilling or unable to immediately deal with that emergency or, as the case requires, that threat to the satisfaction of the Secretary. 30
- “(2) If this section applies, the Secretary may take over the management of the school from the sponsor for any period that the Secretary considers necessary in order to deal with the emer- 35

- gency or threatened emergency, and for that purpose the Secretary—
- “(a) has and may exercise and perform, in respect of the school, all of the powers and functions that would otherwise be exercisable or performed by the sponsor: 5
- “(b) has all other powers necessary or desirable.
- “(3) If the Secretary takes over the management of a school under this section, the Secretary must immediately give written notice to the sponsor of that action, and of the reasons for that action. 10
- “(4) This section applies despite anything in any partnership school contract, and nothing in this section limits or affects—
- “(a) any other right or remedy available to the Secretary or the Crown, whether under any partnership school contract or otherwise; or 15
- “(b) any liability of the sponsor under the partnership school contract or otherwise.
- “(5) Neither the Secretary, nor the Crown, nor any other person acting by or under the authority of the Secretary is under any civil or criminal liability for anything the Secretary or any such person may do or fail to do in the course of the exercise or performance or intended exercise or performance of any powers or functions under this section, unless it is shown that the Secretary or that other person acted, or failed to act, in bad faith. 20
- “*Enrolment in partnership schools kura hourua* 25
- “158M Enrolment in partnership schools kura hourua**
- “(1) If a partnership school kura hourua receives more applications than there are places at the school, the order of priority in which applicants are to be offered places at the school is as follows: 30
- “(a) first priority must be given to any applicant who is the sibling of a current student of the school:
- “(b) second priority must be given to any student who is the sibling of a former student of the school:
- “(c) third priority must be given to all other applicants. 35

- “(2) If there are more applicants in any of the priority groups than there are places available, selection within the priority group must be by ballot.
- “(3) If 2 or more siblings apply for places at the school at the same time, the applications of those siblings must be dealt with as a single application for the purposes of the ballot. 5
- “(4) In this section, **sibling** has the meaning given by section 11F(3).
- “**158N Equal rights to primary and secondary education in partnership schools kura hourua** 10
- “(1) People who have special educational needs (whether because of disability or otherwise) have the same rights to enrol and receive education at partnership schools kura hourua as people who do not.
- “(2) Nothing in **subsection (1)** affects or limits— 15
- “(a) those provisions of Part 2 and this Part that relate to the suspension, expulsion, and exclusion of students from partnership schools kura hourua; and
- “(b) **section 158M** (enrolment in partnership schools kura hourua). 20
- “**158O Special education in partnership schools kura hourua**
- Despite sections 5 and 6 (as applied by **section 158T**), if the Secretary and the person’s parents agree,—
- “(a) a person with special educational needs who is under 21 and who turns 14 in any year may, in any later year, be or continue to be enrolled at a primary partnership school kura hourua, or in a class below form 3 at a composite partnership school kura hourua; and 25
- “(b) a person under 21 with special educational needs may be or continue to be enrolled at a secondary partnership school kura hourua, or in a class above form 2 at a composite partnership school kura hourua, who, in the opinion of the Secretary,— 30
- “(i) has not completed the work of form 2; and
- “(ii) has not completed work equivalent to the work of form 2; and 35

- “(c) a person under 21 with special educational needs may be or continue to be enrolled at a secondary partnership school kura hourua, or in a class above form 2 at a composite partnership school kura hourua, on or after 1 January after the person’s 19th birthday. 5

*“Multiple timetable arrangements*

**“158P Multiple timetable arrangements in partnership schools kura hourua**

- “(1) A sponsor may run a multiple timetable arrangement at a partnership school kura hourua for a specified period if the sponsor is satisfied that the arrangement is appropriate in the circumstances. 10
- “(2) A sponsor must take all reasonable steps to notify every affected student and his or her parents in writing of—
- “(a) the multiple timetable arrangement; and 15
- “(b) the time periods for each day during which the affected student’s timetable will run.
- “(3) In this section, **affected student** and **multiple timetable arrangement** have the meanings given by **section 25(8)**.

*“Exclusions 20*

**“158Q Secretary’s powers when student younger than 16 is excluded from partnership school kura hourua**

- “(1) If the Secretary is satisfied that the sponsor of a partnership school kura hourua has excluded a student who is younger than 16 from the school under section 15(1)(c) (as applied by **section 158T**), and that no person to whom the sponsor has assigned the functions of the principal under section 15(5) (as so applied) has arranged for the student to attend another school, the Secretary must,— 25
- “(a) if satisfied that it is appropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or 30
- “(b) arrange for and, if necessary, direct the board of a State school (that is not an integrated school) to enrol the student at the State school; or 35

- “(c) arrange for and, if necessary, direct a sponsor of another partnership school kura hourua to enrol the student at the other school; or
- “(d) direct a parent of the student to enrol the student at a correspondence school. 5
- “(2) The Secretary may not give a direction under **subsection (1)(b)**, or lift an exclusion under **subsection (1)(a)**, 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 be able to advise on or help with, the student’s education or welfare. 10
- “(3) The Secretary may not give a direction under **subsection (1)(c)** unless—
- “(a) the student’s parents agree; and 15
- “(b) the Secretary has made all reasonable attempts to consult the student, the sponsor, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or be able to advise on or help with, the student’s education or welfare. 20
- “(4) If the sponsor of the school from which the student has been excluded is also the sponsor of another school, the Secretary (in exercising the power conferred by **subsection (1)(c)**) may direct the sponsor to enrol the student at that other school.
- “(5) A board must comply with a direction under **subsection (1)(b)**, and the direction overrides the provisions of any enrolment scheme the school may have in place. 25
- “(6) A sponsor must comply with a direction under **subsection (1)(c)**, and the direction overrides the provisions of any enrolment scheme the school may have in place. 30
- “**158R Re-enrolment by partnership school kura hourua of student excluded or expelled**
- “(1) The sponsor of a partnership school kura hourua from which a student has ever been excluded or expelled (whether under section 15 or 17 as applied by **section 158T**) may refuse to enrol the student at the school (unless, in the case of an ex-

clusion, the Secretary has lifted the exclusion under **section 158Q(1)(a)**.

- “(2) Subject to **sections 16(1)(ba) and 158Q(1)(c)**~~Bill 77-1~~, the sponsor of a partnership school kura hourua may refuse to enrol a student who is for the time being excluded or expelled (whether under section 15 or 17 as applied by **section 158T**) from a State school or another partnership school kura hourua. 5
- “(3) The Secretary may, in the case of a student who has turned 16, direct the sponsor of another partnership school kura hourua to enrol the student at the school if— 10
- “(a) the student has been expelled from a partnership school kura hourua under section 17 (as so applied); and
  - “(b) the student’s parents agree to the enrolment; and
  - “(c) the Secretary has made all reasonable attempts to consult the student, the sponsor, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or be able to advise on or help with, the student’s education or welfare. 15
- “(4) The Secretary may, in the case of a student who has turned 16, direct the board of a State school to enrol the student at the school if— 20
- “(a) the student has been expelled from a partnership school kura hourua under section 17 (as so applied); and
  - “(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 be able to advise on or help with, the student’s education or welfare. 25

*“Courses and visits*

- “**158S Courses and visits outside partnership school kura hourua premises** 30
- A sponsor of a partnership school kura hourua may authorise any students to do any of the following outside the school premises:
- “(a) undertake courses of education; or 35
  - “(b) obtain work experience; or
  - “(c) make visits.

*“Application of Act to partnership schools kura  
hourua*

**“158T Application of this Act to partnership schools kura  
hourua**

- “(1) Sections 4 to 6, 13 to 15, 17 to 17C, 18 to 19, 25A (except sub- 5  
section (1B)), 25AA, 25B, 27, 33, 78C to 78CD, and **139AAA  
to ~~139AAF~~ 139AAG** (except **section 139AAC(1)(a)**) apply  
to partnership schools kura hourua with any necessary modi-  
fications.
- “(2) In their application to partnership schools kura hourua under 10  
**subsection (1)**, sections 4 to 6, 13 to 15, 17 to 17C, 18 to  
19, 25A (except subsection (1B)), 25AA, 25B, 27, 33, 78C  
to 78CD, and **139AAA to ~~139AAF~~ 139AAG** (except **section  
139AAC(1)(a)**) must be read as if—
- “(a) any references to a State school were references to a 15  
partnership school kura hourua; and
- “(b) any references to a board or a board of a State school  
were references to a sponsor; and
- “(c) any references to a principal were references to the per- 20  
son or persons to whom a sponsor has assigned the func-  
tion or functions of the principal under the section in  
question; and
- “(d) any references to a primary school were references to a  
primary partnership school kura hourua; and
- “(e) any references to a secondary school were references to 25  
a secondary partnership school kura hourua; and
- “(f) any references to a composite school were references to  
a composite partnership school kura hourua.
- “(3) In its application to partnership schools kura hourua under 30  
**subsection (1)**, section 17B must also be read as if the refer-  
ence to a meeting of the board were a reference to a meeting  
with the sponsor.
- “(4) In its application to partnership schools kura hourua under 35  
**subsection (1)**, section 25AA must also be read as if refer-  
ences to the health curriculum were references to the health  
curriculum delivered by a partnership school kura hourua.
- “(5) In their application to partnership schools kura hourua under  
**subsection (1)**, **sections 139AAA to ~~139AAF~~ 139AAG**



must also be read as if the definition of **teacher** in **section 139AAA(9)** were replaced with the following definition:

“**teacher** means—

- “(a) a person holding a teaching position (within the meaning of section 120) at a partnership school kura hourua; 5  
or
- “(b) a person to whom the sponsor of the partnership school kura hourua has assigned any of the functions of the principal.

“**158U Application of Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 to partnership schools kura hourua** 10

“(1) The Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 (except rule 3) apply to partnership schools kura hourua with any necessary modifications. 15

“(2) In their application to partnership schools kura hourua under **subsection (1)**, the Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 must be read as if—

- “(a) any references to a State school were references to a partnership school kura hourua; and 20
- “(b) any references to a board or a board of a State school were references to a sponsor; and
- “(c) any references to a principal were references to the person to whom a sponsor has assigned the function or functions of the principal under the rules. 25

*“Application of other Acts to partnership schools kura hourua*

“**158V Application of New Zealand Bill of Rights Act 1990 to partnership schools kura hourua**

Section 3(b) of the New Zealand Bill of Rights Act 1990 30 applies to the following persons when performing functions under this Act or in relation to a partnership school contract:

- “(a) a sponsor of a partnership school kura hourua:
- “(b) a person employed by a sponsor of a partnership school kura hourua in a position at the school: 35

“(c) a person who works at a partnership school kura hourua under contract.

**“158W Application of Privacy Act 1993 to partnership schools kura hourua**

When performing functions under this Act or a partnership school contract, a sponsor of a partnership school kura hourua is to be treated as a public sector agency for the purposes of sections 35 and 36 of the Privacy Act 1993. 5

~~**“158X Ombudsmen Act 1975 and Official Information Act 1982 not to apply to partnership schools kura hourua**~~ 10

~~The Ombudsmen Act 1975 and Official Information Act 1982 do not apply to a sponsor of a partnership school kura hourua when the sponsor is performing functions under this Act or a partnership school contract.~~

**“158X Official Information Act 1982 not to apply to partnership schools kura hourua** 15

The Official Information Act 1982 does not apply to a sponsor of a partnership school kura hourua when the sponsor is performing functions under this Act or a partnership school contract.” 20

*New Zealand Qualifications Authority*

**32 Section 246 amended (Interpretation)**

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

“(ba) a partnership school kura hourua (as that term is defined in section 2(1)), other than a partnership school kura hourua that is only a primary partnership school kura hourua (as that term is defined in section 2(1)); or” 25

**33 Section 246A amended (Functions of Authority)**

In section 246A(1)(f), replace “secondary schools” with “relevant schools”. 30

*Early childhood education and care centres***34 Section 319J replaced (Centres situated on property owned by the Crown)**

Replace section 319J with:

**“319J Centres situated on property owned by, or leased to, the Crown** 5

- “(1) The continued operation of an early childhood education and care centre on land owned by, or leased to, the Crown, and the occupation by an early childhood education and care centre of any building on any such land, may be governed by— 10
- “(a) a lease or tenancy or licence between the Crown and the service provider who operates the centre under section 45 of the Public Works Act 1981; or
- “(b) a lease or licence between a board and the service provider under section 70B of the Education Act 1989; 15  
or
- “(c) a lease between a third party (to whom a lease has been granted by the Crown) and the service provider; or
- “(d) an occupancy document notified to the service provider who operates the centre by the Secretary. 20
- “(2) If **subsection (1)(d)** applies to an early childhood education and care centre, the following provisions also apply:
- “(a) the Secretary may direct the building of any capital works on that land that are intended for the centre’s use:
- “(b) the service provider who operates the centre must— 25
- “(i) pay to the Secretary the rent for the time being charged by the Secretary; and
- “(ii) comply with standards of maintenance and capital works as determined by the Secretary:
- “(c) the service provider who operates the centre must not, 30  
without the Secretary’s approval,—
- “(i) carry out any capital works on the land; or
- “(ii) grant any lease or sublease of, or grant any licence or permit in respect of, or assign any rights in respect of, or part with possession or control 35  
of, or allow any other person to share possession, control, or use of, the land or any other property of the Crown.

“(3) The Secretary may from time to time amend an occupancy document by written notice to the service provider who operates the early childhood education and care centre.

“(4) In this section, **lease** includes a sublease.”

*National student numbers*

5

**35 Section 342 amended (Interpretation)**

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

“**early childhood service** means a licensed early childhood service (as defined in section 309)”.

(2) In section 342, definition of **education provider**, paragraph (a), delete “as defined in section 120”.

10

**36 Section 343 amended (Assigning national student numbers)**

After section 343(1), insert:

“(1A) The Secretary may also assign a national student number to any child under the age of 6 years if the Secretary has reasonable grounds to believe that—

15

“(a) the child is unlikely to attend an early childhood service; and

“(b) the child is likely to benefit from attending such a service.”

20

**37 Section 344 amended (Use of national student numbers)**

After section 344(2)(a), insert:

“(ab) encouraging attendance at early childhood services:”.

**38 Section 345 amended (Student may use or disclose own national student number)**

25

(1) In the heading to section 345, replace “**Student**” with “**Person**”.

(2) In section 345, replace “a student” with “a person”.

**39 Section 346 amended (Offences)**

30

Replace section 346(2) with:

- “(2) A person (**person A**) who is not an authorised user commits an offence, and is liable on conviction to a fine not exceeding \$15,000, who, without reasonable excuse, keeps a record of, or requires the disclosure of, the national student number of another person (**person B**) if the number is, or is capable by person A of being, linked to any information that may lead person A to the identification of person B.”

## Part 2

### **Transitional ~~provision~~ provisions and consequential ~~amendment~~ amendments**

#### *Transitional ~~provision~~ provisions*

#### **40** **Transitional provision relating to Criminal Procedure Act 2011**

Until the commencement date of the Criminal Procedure Act 2011 (within the meaning of section 394 of that Act), **section 346(2)** of the principal Act (as replaced by this Act) must be read as if the offence prescribed in that subsection were punishable on summary conviction.

#### **40A** **Transitional provision relating to Legislation Act 2012**

Until the commencement of section 77(2) of the Legislation Act 2012, **section 139AAF(2)** must be read as if it declared rules made under **section 139AAF** to be regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989.

#### *Consequential ~~amendment~~ amendments*

#### **40B** **Amendment to Accident Compensation Act 2001**

**(1)** This section amends the Accident Compensation Act 2001.

**(2)** In section 6(1), definition of **place of education**, replace paragraph (a)(i) with:

**“(i)** a composite school or a secondary school as defined by section 2(1) of the Education Act 1989, or a secondary school registered under section 35A of the Education Act 1989, or a secondary partnership school kura hourua or compos-

ite partnership school kura hourua (within the meaning of **section 158A** of the Education Act 1989); and”.

- 40C** **Amendment to Births, Deaths, Marriages, and Relationships Registration Act 1995** 5
- (1) This section amends the Births, Deaths, Marriages, and Relationships Registration Act 1995.
- (2) In Schedule 1A, item relating to the Ministry of Education, replace “student information” with “information”.
- 40D** **Amendments to Health Act 1956** 10
- (1) This section amends the Health Act 1956.
- (2) In section 125(1), insert in its appropriate alphabetical order: “**partnership school kura hourua** has the meaning given by section 2(1) of the Education Act 1989”.
- (3) In section 125(2), after “public school”, insert “, partnership school kura hourua,”. 15
- 40E** **Amendments to Immigration Act 2009**
- (1) This section amends the Immigration Act 2009.
- (2) In section 4, definition of **compulsory education**, paragraph (a), after “integrated”, insert “, or at a partnership school kura hourua (within the meaning of section 2(1) of that Act)”. 20
- (3) In section 4, definition of **course of study**, paragraph (a)(i), after “integrated”, insert “, or by a partnership school kura hourua (within the meaning of section 2(1) of that Act)”.
- 40F** **Amendment to Income Tax Act 2007** 25
- (1) This section amends the Income Tax Act 2007.
- (2) After section CW 55BB(1)(b)(i), insert:
- “(ia) a partnership school kura hourua (within the meaning of section 2(1) of the Education Act 1989):”. 30
- 41** **Amendment to Local Government (Rating) Act 2002**
- (1) This section amends the Local Government (Rating) Act 2002.

- (2) In Schedule 1, after clause 6(b)(v), insert:  
 “(vi) a partnership school kura hourua (within the meaning of section 2(1) of the Education Act 1989), excluding any partnership school kura hourua that operates for profit: ”. 5

**42 Amendment to Official Information Act 1982**

(1) This section amends the Official Information Act 1982

(2) In section 2, definition of **organisation**, paragraph (a), replace “Parliamentary Service or mortality review committees” with “Parliamentary Service, mortality review committees, or sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing functions under the Education Act 1989 or a partnership school contract (within the meaning of section 2(1) of the Education Act 1989)”. 10

**43 Amendments to Ombudsmen Act 1975** 15

(1) This section amends the Ombudsmen Act 1975.

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

“(5) For the purposes of Part 2 of Schedule 1, a sponsor performs a standing-down, suspension, exclusion, or expulsion function if the sponsor performs a function under any of sections 14, 15, **16(1)(ba), and (5)**, 17 to 17C, **17D(3A), and (5)**, 18, **158Q(1)(c), (4), and (6)**, and **158R(1) to (3)** of the Education Act 1989 or under rules made under section 18AA of that Act.” 20

(3) In Schedule 1, Part 2, insert the following in its appropriate alphabetical order: 25  
“sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing a standing-down, suspension, exclusion, or expulsion function”.

---

**Education Amendment Bill**

---

**Legislative history**

15 October 2012  
18 October 2012

Introduction (Bill 77-1)  
First reading and referral to Education and Science  
Committee

---