

Education and Training Amendment Bill

Government Bill

Explanatory note

General policy Statement

The Education and Training Amendment Bill (the **Bill**) amends the Education and Training Act 2020 (the **principal Act**) to—

- repeal the early childhood education (**ECE**) network approval provisions; and
- provide for a new type of school, charter school/kura hourua, that provides increased flexibility and allows State schools to convert to charter schools; and
- enable the Secretary for Education (the **Secretary**) to make rules about the form and content of attendance data that schools are required to provide.

Charter schools/kura hourua

The New Zealand school system currently has 2 types of schools: State schools and private schools. The Bill establishes a third type of school, to be known as a charter school/kura hourua (**charter school**). Charter schools will be publicly funded and become part of the network of schools that offer free education and enrolment to students. The charter school model is aimed at helping to address the falling student achievement levels in New Zealand by giving charter schools greater autonomy and flexibility than State schools. In return for this increased flexibility, charter schools will be contracted to meet performance outcomes and other obligations.

Background

A similar partnership school model was established by legislation in 2013 for the purpose of lifting educational achievement within low socio-economic areas and disadvantaged communities by providing alternative and innovative education for learners. The legislation was repealed in 2018, and the partnership schools in operation were disestablished. This Bill gives effect to the Government's commitments as set out in the 2023 Coalition Agreement between the New Zealand National Party and ACT

New Zealand to reintroduce charter schools and introduce a policy to allow State schools to convert to charter schools.

Framework for charter schools

The Bill proposes to establish a Charter School Authorisation Board (the **Authorisation Board**), which will be a statutory board with its functions and powers specified in legislation. The Authorisation Board's key functions include approving new charter schools and applying interventions against sponsors that are not complying with contractual or legislative obligations. A sponsor is the governing body of the school and could be a body corporate, corporation sole, limited partnership, or institution. For State schools converting to charter schools, the Bill has transitional provisions for staffing, property, assets, liabilities, contracts and other obligations, and commitments.

Under the Bill, a proposed sponsor of a new charter school would apply to the Authorisation Board for approval to operate the charter school. Any State school (apart from specialist schools) would be able to apply to convert to a charter school. The Minister of Education (the **Minister**) would also be able to direct a State school (apart from State integrated schools, distance schools, Kura Kaupapa Māori, specialist schools, and designated character schools) to enter the conversion process.

Once the sponsor is approved by the Authorisation Board, the Charter School Agency (established under the Public Service Act 2020) would enter into a charter school contract on behalf of the Crown with the approved sponsor to operate a charter school.

Operation of charter schools

The Bill outlines the content of charter school contracts, which include detail on performance targets and outcomes, interventions, reporting requirements, the number of teachers that must hold practising certificates, the curriculum and qualifications for the school, and a complaints policy.

Once a charter school is established, a sponsor would be obliged to comply with the legislation, as well as contractual requirements.

Charter schools will have more flexibility than State schools to make decisions about how they operate and use funding to deliver specified performance targets. They will have flexibility in the areas of governance, teachers, curriculum, qualifications, and operating hours, with some limitations specified in legislation and contracts.

Similarly to State schools, charter schools will have to accept all eligible domestic students who apply, unless they are oversubscribed. Charter schools will also be able to refuse enrolment if a parent refuses to accept the particular character of a school.

In other areas, such as special education, stand-down, suspension, and exclusion, police vetting, and international students, the same provisions in the principal Act that apply to State schools will also apply to charter schools.

Network approval for early childhood education

The principal Act, which came into effect on 1 August 2020, introduced a requirement that those wanting to operate a new licensed ECE service would need to receive network approval from the Minister before applying for a licence. The Bill proposes to remove the network approval requirements from legislation, meaning that anyone intending to establish and operate a new licensed ECE service will not need to apply for network approval from the Minister before applying for a licence. Removing this barrier will reduce the regulatory burden and costs to business and the Ministry of Education and enable the market to respond more directly to the needs of parents and communities. Removing network approval requirements does not change the licensing requirements for new services.

Rules for provision of school attendance data

On 6 May 2024, Cabinet agreed to revoke the Education (School Attendance) Regulations 1951 and replace them with regulations that increase the frequency with which State schools are required to provide attendance data to the Secretary for Education (the **Secretary**) from once a term to daily. The new attendance regulations are proposed to come into effect in time for Term 1 2025.

To support the new regulations, the Bill enables the Secretary to make enforceable rules related to attendance data. The Secretary will be able to make changes to rules on the collection and provision of attendance data in the future and be responsive to any future changes to systems and data requirements. The intention is to make these rules in time for Term 1 2025, aligning with the introduction of new attendance regulations.

Departmental disclosure statement

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

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=66>

Regulatory impact statements

The Ministry of Education produced regulatory impact statements on 2 April 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of these regulatory impact statements can be found at—

- <https://www.education.govt.nz/our-work/information-releases/advice-seen-by-our-ministers/>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. It provides that the Bill comes into force on the day after Royal assent.

Clause 3 provides that the Bill amends the Education and Training Act 2020 (the **principal Act**).

Part 1

Amendments to principal Act

Part 1 amends the principal Act to—

- remove the requirement to obtain ministerial approval to apply for a licence to operate an early childhood service (**network approval**); and
- introduce new provisions enabling charter schools/kura hourua (**charter schools**) to be established; and
- extend the application of various provisions to charter schools; and
- provide that some provisions do not apply to charter schools.

Clause 4 amends section 10, which defines terms used in the principal Act, to—

- repeal the definition of excluded early childhood service in section 10(1), which is no longer required because the network approval requirements are being repealed;
- insert new definitions and amend existing definitions for the purposes of the new charter school provisions.

Clause 5 repeals sections 17 to 18C, which currently require an individual or entity that intends to operate a licensed early childhood service to apply to the Minister of Education (the **Minister**) for approval to apply for a licence to operate the service.

Clause 6 amends section 31, which contains an outline of the provisions in Part 3. The amendment inserts a reference to *new subpart 6A* concerning the establishment of charter schools.

Clause 7 amends section 32, which sets out the purpose of Part 3, to include a reference to charter schools.

Clause 8 amends section 33, which sets out the rights of certain domestic students to free enrolment and education at State schools, to also confer rights on those students to free enrolment and education at charter schools.

Clause 9 amends section 34, which provides that students with special educational needs have the same enrolment, attendance, and education rights at State schools as those who do not, to also confer corresponding rights on those students in relation to charter schools.

Clause 10 amends section 36, which sets out the duties of students and boards in relation to attendance at a registered school, to also provide that a sponsor of a charter

school must take all reasonable steps to ensure that the charter school's students attend the school when it is open.

Clause 11 amends section 37, which sets out the duties of the Secretary and parents of a student who requires special education. The Secretary is required under section 37 to agree with the student's parent that the student should be enrolled, or direct the parent to enrol the student, at a particular State school or specialist school. The amendment provides for a corresponding agreement or direction in relation to a charter school.

Clause 12 amends section 43, which requires a board running a multiple timetable arrangement to take all reasonable steps to ensure that an affected student attends the school for the whole time period when the student's timetable is running. The amendment imposes a corresponding duty on a sponsor.

Clauses 13 and 14 amend sections 48 and 49, which provide for State school boards to appoint attendance officers and for the enforcement powers of attendance officers. The amendments provide for sponsors to also appoint attendance officers for charter schools and for the enforcement powers of those officers.

Clauses 15 to 17 amend sections 50, 51, and 52, which allow students at State schools to be released from tuition (or specified parts of the health curriculum) on religious, cultural, or other grounds. The amendments provide for persons responsible for teaching and learning in charter schools to also release their students on the same grounds.

Clause 18 amends section 53, which provides for students of State schools to be authorised to undertake courses, visits, or work experience outside school. The amendment provides for students of charter schools to also be authorised for the same matters.

Clauses 19 to 21 amend sections 63, 64, and 65, which provide for a cohort entry policy (entry of students as a group) at State schools. The amendments provide for the same policy at charter schools.

Clause 22 amends section 77, which enables a principal of a State school to prevent a student from attending the school for health reasons. The amendment provides for a person responsible for teaching and learning in a charter school to also prevent a student at the school from attending for health reasons.

Clause 23 amends section 78, which sets out the purpose of sections 79 to 89 relating to the standing-down, suspension, exclusion, or expulsion of a domestic student from a State school. The amendment provides that the purpose of those sections extends to the standing-down, suspension, exclusion, and expulsion of a domestic student from a charter school.

Clause 24 amends section 79, which sets out that sections 80 to 89 apply only in relation to domestic students at a State school, to extend the application of those provisions to domestic students at a charter school.

Clauses 25 to 33 amend sections 80 to 88, which set out, in relation to State schools,—

- the powers and duties of principals in relation to the standing-down or suspension of students; and
- the powers of boards when suspended students are under 16 years old; and
- the Secretary's powers when excluded students are under 16 years old; and
- the powers of boards when suspended students are over 16 years old; and
- who may attend board meetings concerning suspensions; and
- the effect of suspension on the school register; and
- the powers and duties of boards in relation to re-enrolment of excluded or expelled students; and
- what principals must notify to the Secretary, board, and parents of students who have been stood down or suspended.

The amendments provide for corresponding duties, powers, and matters in relation to the standing-down, suspension, exclusion, and expulsion of domestic students at a charter school.

Clause 34 amends section 89, which sets out the power of the Secretary to make rules relating to procedures to be followed by boards, principals, and other persons under sections 80 to 88, to extend the power of the Secretary in that respect to charter schools.

Clause 35 amends section 92, which restricts who an employer may appoint to a teaching position in a school, to provide that a sponsor may permanently appoint a person to a teaching position even if the person does not hold a practising certificate (it is sufficient if the person holds a limited authority to teach).

Clause 36 amends section 98, which prohibits corporal punishment and seclusion of students in State and private schools by persons employed, engaged, or acting on behalf of the board of a State school or the managers of a private school. The amendment also prohibits corporal punishment and seclusion of students in a charter school by persons employed, engaged, or acting on behalf of a sponsor.

Clause 37 amends section 102, which allows students at State schools to be released from a particular class or subject on religious or cultural grounds, released from tuition of specified parts of the health curriculum related to sexuality education, and to be released early. The amendments confer the same rights on students at charter schools.

Clause 38 amends section 103, which requires the principal of a State school to ensure that students receive good guidance and counselling, and that a parent is informed of barriers to a student's progress at the school. The amendments require the sponsor to also ensure the same matters in respect of students of a charter school.

Clause 39 amends section 104, which requires boards of State schools and managers of private schools to obtain Police vets of non-teaching and unregistered employees and contractors at the school. The amendment imposes a similar obligation on spon-

sors in relation to non-teaching and unregistered employees and contractors at a charter school.

Clause 40 inserts *new subpart 6A* into Part 3, to enable charter schools to be established under the principal Act. *New subpart 6A* comprises *new sections 212A to 212ZI* and includes provisions that—

- establish an Authorisation Board to oversee charter schools:
- specify the membership and functions of the Authorisation Board:
- apply certain other legislation to the Authorisation Board, including specified provisions of the Crown Entities Act 2004 (as set out in *new Schedule 6B*):
- enable a proposed sponsor to apply to the Authorisation Board for approval to operate a charter school:
- enable the Minister to direct the board of a State school to apply to convert the State school to a charter school:
- provide that the Authorisation Board may approve a sponsor to operate a charter school if satisfied that the sponsor and every governing member of the sponsor are fit and proper persons:
- specify mandatory conditions that apply to an approved sponsor if the approval relates to a converting State school:
- allow the Authorisation Board to impose any other conditions on an approval of a sponsor as it thinks fit:
- enable the Charter School Agency (established under the Public Service Act 2020) to enter into a charter school contract on behalf of the Crown with an approved sponsor to operate a charter school, and specify the matters that a charter school contract must and may contain:
- require the Minister to notify the establishment of a charter school in the *Gazette*:
- prohibit a person from operating a charter school unless the person has been approved as a sponsor and has entered into a contract with the Crown:
- specify the duties of sponsors:
- allow a sponsor to delegate any of its functions, duties, or powers to any person:
- require a sponsor to provide the Secretary with annual financial statements relating to the charter school operated by the sponsor:
- allow a sponsor to participate in a school risk management scheme to insure school assets against accidental loss or damage:
- specify how students are to be enrolled in charter schools:
- allow students at a charter school to be given tuition by a State school or another charter school:

- enable a sponsor to charge a property maintenance fee as a condition of a student's enrolment at the charter school:
- specify when and how religious instruction and observances may be provided at charter schools:
- specify the types, grounds, and process for intervention by the Authorisation Board in a charter school:
- specify other legislation that applies or does not apply in relation to charter schools.

Clause 41 amends section 237, which requires a principal of a school to keep enrolment records for students enrolled at the school, to also require a person responsible for teaching and learning at a charter school to keep records of students enrolled at the school.

Clause 42 inserts *new section 237A*, which requires the principal of a State school to keep an attendance record for each student enrolled at the school and authorises the Secretary to make rules setting out requirements relating to the duty to keep attendance records.

Clause 43 amends section 248, which provides that a fine recovered under section 243 or 244 must be paid to the board of the State school on whose behalf the proceedings concerned were commenced. The amendment imposes a corresponding duty to pay fines to the sponsor of a charter school on whose behalf proceedings were commenced.

Clauses 44 and 45 amend sections 497 and 500, which set out the powers of the Complaints Assessment Committee and Disciplinary Tribunal. Those bodies are part of the Teaching Council and deal with complaints against teachers. The amendments provide that those bodies do not have the power to refer holders of limited authorities to teach in charter schools to a competency review or an impairment process.

Clause 46 inserts *new section 504A*, which provides that sections 506 to 509 do not apply to persons employed in charter schools who hold a limited authority to teach.

Clause 47 amends section 519, which prohibits an international student from being enrolled at a State school without the school board's consent. The amendments prohibit international students from being enrolled at a charter school without the sponsor's consent.

Clause 48 amends section 520, which provides that the Minister may, by notice, declare international students of a specified kind or description to be entitled to enrol at State schools. The amendments enable the Minister to make a similar declaration in relation to charter schools.

Clause 49 amends section 521, which requires international students to pay tuition fees to the board of a State school for tuition received at the school. The amendments require international students to pay tuition fees to the sponsor for tuition received at a charter school.

Clause 50 amends section 523, which requires the board of a State school to reimburse the Crown for expenditure relating to international students. The amendments impose the same requirement on the sponsor of a charter school.

Clause 51 amends section 524, which provides that the board of a State school or the managers of a private school may not establish or permit any student to enrol in any class, course, or programme intended exclusively or mainly for international students unless the class, course, or programme is approved by the New Zealand Qualifications Authority (NZQA). The amendments impose the same restriction on the sponsor of a charter school.

Clause 52 amends section 524A, which requires NZQA to give written notice to the board of a State school or the managers of a private school if it is proposing to withdraw the approval of a class, course, or programme intended exclusively or mainly for international students. The amendments require NZQA to also notify the sponsor of a charter school.

Clause 53 replaces section 548A, which allows the Ministry of Education (the **Ministry**) to disclose data accessed under the Data and Statistics Act 2022 relating to the socio-economic status of children attending early childhood services and their families, for the purposes of funding early childhood services. *New section 548A* extends the provision to provide a similar authorisation in respect of the funding of charter schools.

Clause 54 amends section 619, which requires specified individuals or bodies to provide information to the Secretary, to impose corresponding requirements on the sponsor of a charter school.

Clause 55 consequentially repeals section 636(1)(a), which provides for regulations relating to applications for network approval.

Clause 56 amends section 638, which provides for regulations relating to how schools must be run. The amendments extend the regulation-making powers set out in section 638(2)(b) and (c) to sponsors and persons responsible for teaching and learning in charter schools. The amendments also provide that regulations cannot be made in relation to the number of days a charter school must or may be open and closed for instruction.

Clause 57 inserts *new section 651A*, which sets out a power for the Governor-General to make regulations prescribing fees for applications for approval to operate a charter school.

Clause 58 amends section 659, which enables the board of a State school to close the school because of an epidemic, a flood, a fire, or any other emergency. The amendments enable a sponsor to close a charter school in those circumstances.

Clause 59 and *Schedule 1* insert *new Part 6 (new clauses 110 to 124)* into Schedule 1 of the principal Act. *New Part 6* sets out transitional provisions that relate to the removal of the requirement to obtain network approval to operate a licensed early childhood service and that apply when a State school converts to a charter school.

Clause 60 amends Schedule 3, which contains provisions relating to teacher registration, practising certificates, and related matters. The effect of the amendments is to enable sponsors to employ persons with a limited authority to teach even if the persons' skills are not in short supply and are not specialist skills.

Clause 61 amends Schedule 4, which contains provisions relating to Police vetting that is required under the principal Act. The amendments extend the Police vetting requirements in relation to non-teaching and unregistered employees and contractors to charter schools.

Clause 62 and *Schedules 2 and 3* insert *new Schedules 6A and 6B* into the principal Act.

New Schedule 6A sets out administrative provisions relating to the Authorisation Board for charter schools.

New Schedule 6B specifies provisions of the Crown Entities Act 2004 that apply to the Authorisation Board.

Part 2

Amendments to other legislation and revocation

Part 2 (clauses 63 to 70) amends or revokes other legislation.

Clauses 63 and 64 amend Part 2 of Schedule 1 of the Ombudsmen Act 1975 to provide that both that Act and the Official Information Act 1982 apply to the Authorisation Board.

Clauses 65 and 66 amend Schedule 1 of the Public Audit Act 2001 to apply that Act to the Authorisation Board.

Clauses 67 and 68 amend the definition of public office in section 4 of the Public Records Act 2005 to apply that Act to the Authorisation Board.

Clause 69 provides for consequential amendments to the other legislation as set out in *Schedule 4*.

Clause 70 consequentially revokes the Education (Early Childhood Services Network Approval) Regulations 2022, which are no longer required because of the repeal of the network approval provisions in the principal Act.

Hon David Seymour

Education and Training Amendment Bill

Government Bill

Contents

		Page
1	Title	5
2	Commencement	6
3	Principal Act	6

Part 1

Amendments to principal Act

4	Section 10 amended (Interpretation)	6
5	Sections 17 to 18C repealed	7
6	Section 31 amended (Outline of Part 3)	7
7	Section 32 amended (Purpose of Part 3)	7
8	Section 33 amended (Right to free enrolment and free education at State schools (including entitlement to attend full-time))	7
9	Section 34 amended (Students with special educational needs have same rights to education at State schools as others)	7
10	Section 36 amended (Students of registered schools required to attend whenever schools are open)	7
11	Section 37 amended (Special education)	7
12	Section 43 amended (Exceptions to attendance because of secondary–tertiary programmes and multiple timetable arrangements)	7
13	Section 48 amended (Board of State school may appoint attendance officer)	7
14	Section 49 amended (Powers of attendance officers and constables)	8
15	Section 50 amended (Release from tuition on religious or cultural grounds)	8
16	Section 51 amended (Release from tuition for specified parts of health curriculum)	8

Education and Training Amendment Bill

17	Section 52 amended (Release from tuition for outside tuition or if good reasons to leave early)	8
18	Section 53 amended (Courses, work experience, and visits outside school premises)	9
19	Section 63 amended (Cohort entry policy)	9
20	Section 64 amended (Dates for starting school under cohort entry policy)	9
21	Section 65 amended (Adoption or revocation of cohort entry policy)	9
22	Section 77 amended (Principals may preclude students for health reasons)	9
23	Section 78 amended (Purpose of sections 79 to 89)	9
24	Section 79 amended (Application of sections 80 to 89)	9
25	Section 80 amended (Principals of State schools may stand down or suspend students)	10
26	Section 81 amended (Powers of State school board when suspended students aged under 16 years)	10
27	Section 82 amended (Secretary's powers when excluded students aged under 16 years)	10
28	Section 83 amended (Powers of State school board when suspended students aged 16 years or over)	11
29	Section 84 amended (Duties of principals when students stood down or suspended from State schools)	11
30	Section 85 amended (Who may attend State school board meeting concerning suspensions)	11
31	Section 86 amended (Effect of suspension on school register)	12
32	Section 87 amended (Re-enrolment of excluded or expelled student)	12
33	Section 88 amended (Notice requirements for stand-downs, suspensions, exclusions, and expulsions)	12
34	Section 89 amended (Secretary may make rules)	13
35	Section 92 amended (Restrictions on appointment of teachers)	13
36	Section 98 amended (Prohibition on corporal punishment and seclusion in registered schools)	13
37	Section 102 amended (Students at State schools may be released from tuition or for outside tuition)	13
38	Section 103 amended (Students at State schools must receive guidance and counselling and their parents must be told about certain things)	13
39	Section 104 amended (Required Police vetting)	14
40	New subpart 6A of Part 3 inserted	14
Subpart 6A—Charter schools/kura hourua		
<i>Authorisation Board</i>		
212A	Authorisation Board established	14

Education and Training Amendment Bill

212B	Membership of Authorisation Board	14
212C	Functions and powers of Authorisation Board	14
212D	Application of Public Service Act 2020 to Authorisation Board	15
212E	Application of Crown Entities Act 2004 to Authorisation Board	15
	<i>Application to operate charter school</i>	
212F	Application for approval to operate charter schools	15
212G	Minister may direct board to apply to convert State school to charter school	16
212H	Restriction on applications and directions	16
	<i>Approval of sponsor</i>	
212I	Authorisation Board may approve sponsor	16
212J	Criteria for assessing whether proposed sponsor and governing members are fit and proper persons	17
212K	Conditions on approval	18
	<i>Charter school contracts</i>	
212L	Charter school contracts	19
	<i>Notification of charter school</i>	
212M	Notification of charter school	20
212N	Prohibition on operating charter school without approval	21
	<i>Duties and powers of sponsors</i>	
212O	Duties of sponsors	21
212P	Sponsor to control management of charter school	22
212Q	Sponsor's power to delegate	22
212R	Annual financial statements	23
212S	Charter school may participate in school risk management scheme	23
	<i>Enrolment, conditions of enrolment, and instruction of students</i>	
212T	Enrolment in charter schools	23
212U	Students at charter school may be given tuition by State school or another charter school	24
212V	Property maintenance fee	24
212W	Failure to pay property maintenance fee	25
212X	Accounts for property maintenance fees	25
212Y	Religious instruction and observances	26
	<i>Multiple timetable arrangements</i>	
212Z	Multiple timetable arrangements at charter schools	26

Education and Training Amendment Bill

<i>Employment and appointment of teachers</i>		
	212ZA Religious instruction: appointments to special positions relating to character of charter school	27
	212ZB Effect of religious instruction requirements in advertisements	27
	212ZC Restrictions on requirement for teacher to take part in religious instruction	27
<i>Interventions</i>		
	212ZD Interventions in charter schools by Authorisation Board	27
	212ZE Obligations of sponsor subject to intervention	29
	212ZF Process relating to replacement of sponsor	29
<i>Application of other legislation to charter schools</i>		
	212ZG Application of New Zealand Bill of Rights Act 1990	29
	212ZH Application of Official Information Act 1982 to sponsor	30
	212ZI Application of Public Service Act 2020 to sponsor that is institution	30
41	Section 237 amended (Enrolment records)	30
42	New section 237A inserted (Attendance records)	30
	237A Attendance records	30
43	Section 248 amended (Fines to be paid to board)	31
44	Section 497 amended (Powers of Complaints Assessment Committee)	31
45	Section 500 amended (Powers of Disciplinary Tribunal)	31
46	New section 504A inserted (Application of competence provisions to holders of limited authority to teach in charter schools)	31
	504A Application of competence provisions to holders of limited authority to teach in charter schools	31
47	Section 519 amended (Enrolment of international students)	31
48	Section 520 amended (Certain international students may enrol at State schools as of right)	32
49	Section 521 amended (Fees for international students)	32
50	Section 523 amended (Board must reimburse the Crown for expenditure relating to international students)	32
51	Section 524 amended (Courses for international students)	33
52	Section 524A amended (Withdrawal of approval of course for international students)	33
53	Section 548A replaced (Data accessed by Ministry under Data and Statistics Act 2022)	33
	548A Data accessed by Ministry under Data and Statistics Act 2022	33
54	Section 619 amended (Secretary may require information for administration of Act)	34

55	Section 636 amended (Regulations relating to early childhood services)	34
56	Section 638 amended (Regulations relating to how schools must be run)	34
57	New section 651A inserted (Regulations relating to applications to operate charter schools)	34
	651A Regulations relating to applications to operate charter schools	34
58	Section 659 amended (Power of boards to close schools)	34
59	Schedule 1 amended	35
60	Schedule 3 amended	35
61	Schedule 4 amended	35
62	New Schedules 6A and 6B inserted	35

Part 2

Amendments to other legislation and revocation

Amendment to Ombudsmen Act 1975

63	Principal Act	36
64	Schedule 1 amended	36

Amendment to Public Audit Act 2001

65	Principal Act	36
66	Schedule 1 amended	36

Amendment to Public Records Act 2005

67	Principal Act	36
68	Section 4 amended (Interpretation)	36

Consequential amendments and revocation

69	Consequential amendments	36
70	Revocation	36

Schedule 1

New Part 6 inserted into Schedule 1

Schedule 2

New Schedule 6A inserted

Schedule 3

New Schedule 6B inserted

Schedule 4

Consequential amendments

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education and Training Amendment Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Education and Training Act 2020.

Part 1

5

Amendments to principal Act

4 Section 10 amended (Interpretation)

- (1) In section 10(1), definition of **employer**, after paragraph (a), insert:

(aa) a sponsor:

- (2) In section 10(1), repeal the definition of **excluded early childhood service**. 10

- (3) In section 10(1), insert in their appropriate alphabetical order:

Charter School Agency or **Agency** means the Charter School Agency established under section 23 of the Public Service Act 2020

charter school contract means,—

- (a) in relation to the operation of charter school, a contract entered into under **section 212L**: 15

- (b) in relation to a sponsor of a charter school, a contract to which the sponsor and the Agency are parties

charter school/kura hourua or **charter school** means a school in respect of which— 20

- (a) the Authorisation Board has approved a sponsor under **section 212I**; and

- (b) a charter school contract with the Crown is in force

Charter Schools Authorisation Board or **Authorisation Board** means the board established under **section 212A** 25

converting school means a State school that proposes to convert to a charter school

proposed sponsor has the meaning given in **section 212F(1)(a)**

sponsor means the governing body of a charter school that the Authorisation Board has approved under **section 212I** to operate the school 30

- (4) In section 10(1), definition of **registered school**, replace “or a private school” with “a private school, or a charter school”.

- (5) In section 10(1), definition of **relevant school**, after paragraph (d), insert:

(e) a charter school

- 5 Sections 17 to 18C repealed**
Repeal sections 17 to 18C.
- 6 Section 31 amended (Outline of Part 3)**
After section 31(7), insert:
- (7A) **Subpart 6A** concerns the establishment and operation of charter schools/kura hourua. 5
- 7 Section 32 amended (Purpose of Part 3)**
(1) After section 32(d), insert:
- (da) providing for the approval of governing bodies for charter schools/kura hourua and their duties, powers, administration, and accountabilities; and 10
- (2) In section 32(e), after “State schools”, insert “and charter schools”.
- 8 Section 33 amended (Right to free enrolment and free education at State schools (including entitlement to attend full-time))**
(1) In the heading to section 33, after “State schools”, insert “or charter schools”. 15
(2) In section 33(1), after “State school”, insert “or charter school”.
- 9 Section 34 amended (Students with special educational needs have same rights to education at State schools as others)**
(1) In the heading to section 34, after “State schools”, insert “or charter schools”.
(2) In section 34(1), after “State schools”, insert “or charter schools”. 20
- 10 Section 36 amended (Students of registered schools required to attend whenever schools are open)**
In section 36(2), after “board”, insert “or sponsor”.
- 11 Section 37 amended (Special education)**
In section 37(1) and (2), after “State school”, insert “, charter school,”. 25
- 12 Section 43 amended (Exceptions to attendance because of secondary–tertiary programmes and multiple timetable arrangements)**
In section 43(3), after “board”, insert “or a sponsor”.
- 13 Section 48 amended (Board of State school may appoint attendance officer)** 30
(1) In the heading to section 48, after “State school”, insert “or sponsor”.
(2) In section 48(1), after “board of a State school”, insert “or sponsor”.
(3) In section 48(2) and (3), after “board”, insert “or sponsor”.

- 14 Section 49 amended (Powers of attendance officers and constables)**
- (1) Replace section 49(4) with:
- (4) The following persons may file charging documents, conduct prosecutions, and take any other proceedings under this Part:
- (a) an attendance officer: 5
 - (b) a principal:
 - (c) a person responsible for teaching and learning in a charter school:
 - (d) a person appointed by a board, a sponsor, or the Secretary for the purpose.
- (2) In section 49(5),— 10
- (a) after “board”, insert “or sponsor”; and
 - (b) after “board’s”, insert “or sponsor’s”.
- 15 Section 50 amended (Release from tuition on religious or cultural grounds)**
- (1) Replace section 50(1) with:
- (1) This section applies to students enrolled at— 15
- (a) a State school that is not a State integrated school; or
 - (b) a charter school.
- (2) In section 50(2), (4), (5), and (6), after “principal”, insert “or person responsible for teaching and learning in a charter school”.
- 16 Section 51 amended (Release from tuition for specified parts of health curriculum)** 20
- (1) In section 51(1),—
- (a) after “State school”, insert “or charter school”; and
 - (b) after “principal”, insert “or person responsible for teaching and learning in a charter school”. 25
- (2) In section 51(2) and (3), after “principal”, insert “or person responsible for teaching and learning in a charter school”.
- 17 Section 52 amended (Release from tuition for outside tuition or if good reasons to leave early)**
- (1) In section 52, after “principal of a State school”, insert “or person responsible for teaching and learning in a charter school”. 30
- (2) In section 52(a), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

- 18 Section 53 amended (Courses, work experience, and visits outside school premises)**
- (1) In section 53(1), after “board”, insert “or sponsor”.
- (2) In section 53(3), after “principal”, insert “or person responsible for teaching and learning in a charter school”. 5
- 19 Section 63 amended (Cohort entry policy)**
- In section 63(1), after “State school”, insert “or charter school”.
- 20 Section 64 amended (Dates for starting school under cohort entry policy)**
- In section 64(1), after “State school”, insert “or charter school”.
- 21 Section 65 amended (Adoption or revocation of cohort entry policy)** 10
- (1) In section 65(1), after “State school”, insert “or charter school”.
- (2) In section 65(1), (1)(b), (2), and (3), after “board”, insert “or sponsor”.
- 22 Section 77 amended (Principals may preclude students for health reasons)**
- (1) In the heading to section 77, after “**Principals**”, insert “**or persons responsible for teaching and learning**”. 15
- (2) In section 77(1), after “A principal of a State school”, insert “or a person responsible for teaching and learning in a charter school”.
- (3) In section 77(2),—
- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school”; and 20
- (b) after “board”, insert “or sponsor”.
- (4) In section 77(3) and (3)(b), after “board”, insert “or sponsor”.
- (5) Replace section 77(4) with:
- (4) The following persons are not liable for any act done or omitted in good faith with reasonable care in exercising or performing, or in intending to exercise or perform, a power or duty under this section: 25
- (a) a principal:
- (b) a person responsible for teaching and learning in a charter school:
- (c) a board:
- (d) a sponsor. 30
- 23 Section 78 amended (Purpose of sections 79 to 89)**
- In section 78, after “State school”, insert “or charter school”.
- 24 Section 79 amended (Application of sections 80 to 89)**
- In section 79, after “State school”, insert “or charter school”.

- 25 Section 80 amended (Principals of State schools may stand down or suspend students)**
- (1) In the heading to section 80, after “**State schools**”, insert “**or persons responsible for teaching and learning in charter schools**”.
- (2) In section 80(1), after “The principal of a State school”, insert “or person responsible for teaching and learning in a charter school”. 5
- (3) In section 80(2)(d), (3)(a), and (3)(b), after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place.
- 26 Section 81 amended (Powers of State school board when suspended students aged under 16 years)** 10
- (1) In the heading to section 81, after “**State school board**”, insert “**and charter school sponsor**”.
- (2) In section 81(1),—
- (a) after “State school”, insert “or charter school”; and
- (b) after “board”, insert “or sponsor”. 15
- (3) In section 81(2), after “board”, insert “or sponsor” in each place.
- (4) In section 81(3),—
- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school”; and
- (b) after “board”, insert “or sponsor”. 20
- (5) In section 81(4) and (5), after “board”, insert “or sponsor”.
- (6) In section 81(6),—
- (a) after “board”, insert “or sponsor”; and
- (b) after “principal”, insert “or person responsible for teaching and learning in a charter school”. 25
- (7) In section 81(7),—
- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place; and
- (b) after “board’s”, insert “or sponsor’s”.
- 27 Section 82 amended (Secretary’s powers when excluded students aged under 16 years)** 30
- (1) In section 82(1),—
- (a) after “board of a State school”, insert “or sponsor”; and
- (b) after “principal”, insert “or person responsible for teaching and learning in a charter school”. 35
- (2) Replace section 82(1)(b) with:

- (b) arrange for, and if necessary direct, the following to enrol the student at the other school:
- (i) the board of any other State school (other than a State integrated school):
 - (ii) the sponsor of any other charter school. 5
- (3) In section 82(2)(c), (3), and (4), after “board”, insert “or sponsor” in each place.
- 28 Section 83 amended (Powers of State school board when suspended students aged 16 years or over)**
- (1) In the heading to section 83, after “**board**”, insert “**and charter school sponsor**”. 10
- (2) In section 83(1),—
- (a) after “State school”, insert “or charter school”; and
 - (b) after “board”, insert “or sponsor” in each place.
- (3) In section 83(2), after “board”, insert “or sponsor” in each place. 15
- (4) In section 83(3),—
- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school”; and
 - (b) after “board”, insert “or sponsor”.
- (5) In section 83(4) and (5), after “board”, insert “or sponsor”. 20
- 29 Section 84 amended (Duties of principals when students stood down or suspended from State schools)**
- (1) Replace the heading to section 84 with “**Duties of principals or persons responsible for teaching and learning when students stood down or suspended from State schools or charter schools**”. 25
- (2) In section 84(1), after “State school”, insert “or charter school”.
- (3) In section 84(1) and (2), after “principal”, insert “or person responsible for teaching and learning in a charter school”.
- 30 Section 85 amended (Who may attend State school board meeting concerning suspensions)** 30
- (1) Replace the heading to section 85 with “**Who may attend meeting concerning suspension**”.
- (2) In section 85(1), after “State school”, insert “or charter school”.
- (3) In section 85(1) and (2), after “board”, insert “or sponsor” in each place.

31 Section 86 amended (Effect of suspension on school register)

In section 86(1), (2), and (3), after “State school”, insert “or charter school” in each place.

32 Section 87 amended (Re-enrolment of excluded or expelled student)

- (1) In section 87(1), after “board of a State school”, insert “or sponsor”. 5
- (2) In section 87(2),—
- (a) after “board of a State school”, insert “or sponsor”; and
 - (b) after “another State school”, insert “or another charter school”.
- (3) After section 87(3), insert:
- (3A) The Secretary may, in the case of a student who has turned 16 years, direct the sponsor of another charter school to enrol a student at the charter school if— 10
- (a) the student has been expelled from a charter school under section 83; and
 - (b) the Secretary has made all reasonable attempts to consult— 15
 - (i) the student; and
 - (ii) a parent of the student; and
 - (iii) the sponsor; and
 - (iv) any other person or organisation that, in the Secretary’s opinion, may be interested in, or able to advise on or help with, the student’s education or welfare. 20
- (4) In section 87(4), after “board”, insert “or sponsor”.

33 Section 88 amended (Notice requirements for stand-downs, suspensions, exclusions, and expulsions)

- (1) In section 88(1), after “principal”, insert “or person responsible for teaching and learning in a charter school”. 25
- (2) Replace section 88(1)(b) with:
- (b) the reasons for the decision of the principal or person responsible for teaching and learning in a charter school; and
- (3) In section 88(2),—
- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school”; and 30
 - (b) after “board”, insert “or sponsor”.
- (4) Replace section 88(2)(b) with:
- (b) the reasons for the decision of the principal or person responsible for teaching and learning in a charter school. 35
- (5) In section 88(3),—

- (a) after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place; and
- (b) after “board”, insert “or sponsor” in each place.
- (6) Replace section 88(3)(b) with:
- (b) the reasons for the decision of—
- (i) the principal; or
- (ii) the person responsible for teaching and learning in a charter school; or
- (iii) the board; or
- (iv) the sponsor.
- (7) In section 88(4), after “board”, insert “or sponsor”.
- 34 Section 89 amended (Secretary may make rules)**
- (1) In section 89(1), replace “boards, principals,” with “boards, sponsors, principals, persons responsible for teaching and learning in charter schools,”.
- (2) In section 89(1)(c), replace “principal and board” with “principal (or person responsible for teaching and learning in a charter school) and board (or sponsor)”.
- 35 Section 92 amended (Restrictions on appointment of teachers)**
- After section 92(2), insert:
- (3) Despite subsection (2), an employer who is a sponsor may permanently appoint to a teaching position a person who is the holder of a limited authority to teach.
- 36 Section 98 amended (Prohibition on corporal punishment and seclusion in registered schools)**
- In section 98(a) and (b), after “the school’s board”, insert “, the sponsor,”.
- 37 Section 102 amended (Students at State schools may be released from tuition or for outside tuition)**
- (1) In the heading to section 102, after “**State schools**”, insert “**or charter schools**”.
- (2) In section 102(1), (2), and (3), after “State school”, insert “or charter school” in each place.
- 38 Section 103 amended (Students at State schools must receive guidance and counselling and their parents must be told about certain things)**
- (1) In the heading to section 103, after “**State schools**”, insert “**or charter schools**”.
- (2) In section 103, after “principal of a State school”, insert “or person responsible for teaching and learning at a charter school”.

- (3) In section 103(c), replace “in the principal’s opinion” with “in the opinion of the principal or person responsible for teaching and learning at a charter school”.

39 Section 104 amended (Required Police vetting)

In section 104, after “board of a State school”, insert “, the sponsor,”. 5

40 New subpart 6A of Part 3 inserted

After section 212, insert:

Subpart 6A—Charter schools/kura hourua

Authorisation Board

212A Authorisation Board established 10

This section establishes the Charter Schools Authorisation Board.

212B Membership of Authorisation Board

- (1) The Authorisation Board consists of at least 5, but not more than 9, members appointed by the Minister by notice in the *Gazette*.
- (2) In appointing members, the Minister must have regard to the knowledge, skills, and experience necessary to carry out the Authorisation Board’s functions, including in the following areas: 15
- (a) education:
 - (b) governance:
 - (c) leadership: 20
 - (d) financial management:
 - (e) audit and performance management:
 - (f) legal and property management:
 - (g) procurement and contracting:
 - (h) engagement with Māori, Pacific people, and other stakeholders. 25

212C Functions and powers of Authorisation Board

- (1) The functions of the Authorisation Board are to—
- (a) decide on applications by proposed sponsors to operate charter schools:
 - (b) oversee the performance of charter schools:
 - (c) provide strategic policy advice to the Minister and Ministry relating to the charter school model: 30
 - (d) provide any other advice or oversight that the Minister requests in writing:

<ul style="list-style-type: none"> (e) decide whether to apply an intervention referred to in section 212ZD to a sponsor: (f) perform any other functions conferred on it by this Act or any other legislation. 	5
<ul style="list-style-type: none"> (2) The Authorisation Board may exercise its powers only for the purpose of performing its functions. (3) Schedule 6A sets out further provisions relating to the Authorisation Board. 	5
212D Application of Public Service Act 2020 to Authorisation Board	
<p>Sections 12, 13, and 16 to 20 of the Public Service Act 2020 apply to the Authorisation Board as if it were a Crown agent.</p>	10
212E Application of Crown Entities Act 2004 to Authorisation Board	
<p>The provisions set out in Schedule 6B apply to the Authorisation Board as if it were a Crown entity within the meaning of section 7(1) of the Crown Entities Act 2004.</p>	15
<i>Application to operate charter school</i>	
212F Application for approval to operate charter schools	
<ul style="list-style-type: none"> (1) The following may apply to the Authorisation Board for approval to operate a charter school: <ul style="list-style-type: none"> (a) a body corporate, corporation sole, limited partnership, institution, or related entity (a proposed sponsor); or (b) in the case of a converting school,— <ul style="list-style-type: none"> (i) the school’s board with the support of the proposed sponsor; or (ii) 1 or more members of the school community with the support of the proposed sponsor. (2) The application must— <ul style="list-style-type: none"> (a) be in the approved form (if any); and (b) be accompanied by— <ul style="list-style-type: none"> (i) evidence or information specified in the approved form; and (ii) the prescribed fee (if any). (3) The Authorisation Board may require the applicant to provide further information to support the application. (4) The chief executive of the Agency may approve forms for the purposes of this section. 	20 25 30

212G Minister may direct board to apply to convert State school to charter school

- (1) The Minister may, in the Minister's absolute discretion and after considering whether it is appropriate in all the circumstances, direct the board of a State school to make an application to the Authorisation Board to convert the State school to a charter school. 5
- (2) Before issuing a direction under **subsection (1)**, the Minister must first seek the views of the Authorisation Board about whether the State school would be appropriate to convert to a charter school.
- (3) A direction issued by the Minister must specify the proposed sponsor of the charter school. 10
- (4) The board must make an application to the Authorisation Board with the support of the proposed sponsor named in the direction as soon as practicable after receiving the direction.
- (5) **Sections 212F, 212I, 212J, and 212K** apply, with any necessary modifications, to an application made under this section. 15

212H Restriction on applications and directions

- (1) A specialist school may not apply under **section 212F** for approval to operate a charter school.
- (2) The Minister may not issue a direction under **section 212G** to the board of any of the following State schools: 20
 - (a) a specialist school:
 - (b) a State integrated school:
 - (c) a distance school:
 - (d) a Kura Kaupapa Māori: 25
 - (e) a designated character school.

Approval of sponsor

212I Authorisation Board may approve sponsor

General criteria

- (1) The Authorisation Board may approve a sponsor to operate a charter school if satisfied that the proposed sponsor and every governing member of the proposed sponsor are fit and proper persons (after considering the criteria set out in **section 212J**). 30
- (2) When deciding whether to approve a proposed sponsor, the Authorisation Board must take into account the following matters: 35
 - (a) the focus of the proposed charter school:
 - (b) the capability of the proposed sponsor, including—

<ul style="list-style-type: none"> (i) its experience and knowledge of the New Zealand schooling system; and (ii) its financial and governance capability: 	5
<ul style="list-style-type: none"> (c) the standard of tuition to be provided by the proposed charter school, including— <ul style="list-style-type: none"> (i) the mode of curriculum delivery; and (ii) the regularity of instruction: (d) the financial implications for the Crown if the proposed charter school is established: (e) whether the purpose in section 32(e) would be achieved if the proposed charter school is established: (f) the level of support for the proposed charter school from the community in which it is proposed to be established: (g) any other matters the Authorisation Board considers relevant. 	10
<p>(3) The Authorisation Board must seek the views of the Secretary and the Chief Review Officer on the matters set out in subsections (1) and (2).</p> <p><i>Additional criteria for converting schools</i></p>	15
<p>(4) In the case of a converting school, the Authorisation Board must also take into account the following matters:</p> <ul style="list-style-type: none"> (a) the performance of the State school: (b) the level of support from the school community, school staff, and students for the proposed sponsor: (c) the level of support from the school community, school staff, and students for the proposed conversion of the school to a charter school. 	20
<p>(5) For the purpose of ascertaining the matters in subsection (4), the Authorisation Board—</p> <ul style="list-style-type: none"> (a) must consult the school board, school community, school staff, and students; and (b) may consult any other person it thinks fit. 	25
<p>212J Criteria for assessing whether proposed sponsor and governing members are fit and proper persons</p> <p><i>Assessment of proposed sponsor</i></p>	30
<p>(1) In assessing whether a proposed sponsor is a fit and proper person to operate a charter school, the Authorisation Board must take into account the following matters:</p> <ul style="list-style-type: none"> (a) whether the proposed sponsor has been convicted of any offence involving fraud or any crime involving dishonesty: 	35

<ul style="list-style-type: none"> (b) whether the proposed sponsor owes or has owed money to the Crown, including in respect of bodies the proposed sponsor has been involved in managing: (c) whether an intervention has been applied in relation to another charter school which the proposed sponsor is or was operating: (d) whether the proposed sponsor committed a serious or repeated breach of the sponsor's statutory duties in relation to another charter school: (e) any other matters that the Authorisation Board considers relevant. 	5
<i>Assessment of governing members</i>	
<ul style="list-style-type: none"> (2) In assessing whether a governing member of a proposed sponsor is a fit and proper person to operate a charter school, the Authorisation Board must take into account the following matters: <ul style="list-style-type: none"> (a) whether the person has been convicted of serious criminal activity (as defined in section 10(1)): (b) whether the person has been— <ul style="list-style-type: none"> (i) adjudicated bankrupt under the Insolvency Act 2006: (ii) prohibited from being a director or promoter of, or being concerned or taking part in the management of,— <ul style="list-style-type: none"> (A) a company under the Companies Act 1993; or (B) any other body corporate: (c) whether an intervention has been applied in relation to another charter school of which the person is or was a governing member of the sponsor: (d) whether the person committed a serious or repeated breach of the person's statutory duties as a governing member of the sponsor: (e) any other matters that the Authorisation Board considers relevant. (3) For the purposes of subsection (2), if the proposed sponsor is— <ul style="list-style-type: none"> (a) a company, the assessment applies to its directors: (b) an incorporated society or an incorporated trust board, the assessment applies to its governing members: (c) another body corporate, corporation sole, institution, or its related entity, the assessment applies to its governing members: (d) a limited partnership, the assessment applies to its partners as defined in the Limited Partnerships Act 2008. 	10 15 20 25 30
212K Conditions on approval	35
<ul style="list-style-type: none"> (1) If the school to which an approval relates is a converting school, the following conditions apply to the approval: 	

- (a) all students currently enrolled at the State school who wish to attend the charter school must be allowed to do so:
- (b) if the State school is a designated character school, a Kura Kaupapa Māori, or a State integrated school, the character of the school must be maintained. 5
- (2) When granting an approval of a sponsor, the Authorisation Board may impose any other conditions on the approval as it thinks fit, including conditions relating to the maximum number of international students that may be enrolled at the charter school.
- (3) The Authorisation Board may— 10
- (a) impose new conditions on the approval; or
- (b) amend or revoke any existing conditions.
- (4) However, the Authorisation Board may not amend or remove the conditions specified in **subsection (1)**.

Charter school contracts 15

212L Charter school contracts

- (1) The Agency may, in the name and on behalf of the Crown, enter into a contract with a sponsor that allows the sponsor to operate a charter school.
- (2) If the Agency is unable to conclude a contract with the sponsor within a reasonable time, it must refer the matter back to the Authorisation Board for further consideration. 20
- (3) When negotiating a charter school contract, the Agency must have regard to the available budget for charter schools.
- (4) The charter school contract must be for a fixed term.
- (5) The charter school contract must set out, or provide for, the following matters: 25
- (a) the physical capacity of the school premises:
- (b) the conditions that apply to the approval of the sponsor under **section 212J**:
- (c) the performance targets and outcomes that the sponsor must meet in relation to the operation of the school: 30
- (d) the specific measures to be used to determine if the performance targets and outcomes referred to in **paragraph (c)** have been met or achieved:
- (e) the time period to which annual financial statements referred to in **section 212R** must relate:
- (f) an annual self-audit report to be provided by the sponsor to the chief executive of the Agency by a specified date that includes— 35
- (i) a report on the performance targets and outcomes of the sponsor under the contract:

<ul style="list-style-type: none"> (ii) a report on the sponsor’s compliance with contractual and legislative obligations in relation to the charter school: (iii) the annual financial statements referred to in section 212R: 	5
<ul style="list-style-type: none"> (g) the number or percentage of teaching positions at the charter school that— <ul style="list-style-type: none"> (i) must be filled by persons holding a practising certificate; and (ii) may be filled by persons holding a limited authority to teach: 	5
<ul style="list-style-type: none"> (h) the curriculum to be taught at the charter school and its mode of delivery: 	10
<ul style="list-style-type: none"> (i) the qualifications to be offered by the charter school (if it is a secondary or composite school): 	10
<ul style="list-style-type: none"> (j) the renewal and termination of the contract: 	15
<ul style="list-style-type: none"> (k) the obligations of the sponsor to comply with any instructions issued by the Agency if the contract expires or is terminated to ensure the orderly and efficient transfer of the operation of the school: 	15
<ul style="list-style-type: none"> (l) the charter school to have a complaints policy, including a procedure for the independent review of complaints: 	20
<ul style="list-style-type: none"> (m) the grounds for the Authorisation Board to apply an intervention under section 212ZD(1)(a), (b), or (c): 	20
<ul style="list-style-type: none"> (n) the process that the Authorisation Board must follow in applying an intervention under section 212ZD. 	20
<ul style="list-style-type: none"> (6) The charter school contract may contain other provisions as agreed between the Agency and the sponsor that are not inconsistent with this Act, any other legislation, or the general law of New Zealand. 	25
<p><i>Notification of charter school</i></p>	
<p>212M Notification of charter school</p>	
<ul style="list-style-type: none"> (1) The Minister must, by notice in the <i>Gazette</i>, notify the establishment of a charter school as soon as practicable after the date on which the Agency and the sponsor enter into a charter school contract for the school. 	30
<ul style="list-style-type: none"> (2) A notice under subsection (1) must specify— <ul style="list-style-type: none"> (a) the name and location of the charter school to which the contract relates; and (b) the name of the sponsor; and (c) whether the charter school is to be a primary, secondary, or composite school; and (d) the year levels for which education may be given at the school; and 	35

<ul style="list-style-type: none"> (e) any religious, philosophical, or other distinguishing characteristics of the school; and (f) whether all or any (and if so, which) year levels are to be single-sex. 	5
<p>(3) A notice under subsection (1) may provide for different year levels to be phased in over a specified period.</p>	
<p>212N Prohibition on operating charter school without approval</p>	
<ul style="list-style-type: none"> (1) A person that has not been approved as a sponsor under section 212I may not operate, or purport to operate, a charter school. (2) A sponsor may not operate a charter school unless the sponsor has entered into a charter school contract with the Agency to operate the school. 	10
<p><i>Duties and powers of sponsors</i></p>	
<p>212O Duties of sponsors</p>	
<p>A sponsor must—</p>	
<ul style="list-style-type: none"> (a) govern the school so as to ensure that every student is able to attain the highest possible standard of educational achievement; and (b) ensure that every governing member of the sponsor remains a fit and proper person to operate the school; and (c) ensure that a safe physical and emotional environment is provided for students and staff; and (d) appoint— <ul style="list-style-type: none"> (i) a chief executive to be responsible for the day-to-day management of the school; (ii) a person to be responsible for teaching and learning at the school who is appropriately qualified and holds a current practising certificate; and (e) ensure that teachers employed in the school have the necessary qualifications and skills to teach; and (f) ensure that the school’s chief executive and staff develop and deliver a curriculum for teaching, learning, and assessment— <ul style="list-style-type: none"> (i) having regard to any statement of national education and learning priorities; and (ii) that meets tuition standards at least equivalent to those at State schools of the same year levels; and (g) in operating the school, have regard to any statement of national education and learning priorities; and (h) ensure that students have access to a nationally and internationally recognised qualification system; and 	15 20 25 30 35

<ul style="list-style-type: none"> (i) inform parents of the progress of their children at school, and any barriers to progress, at intervals specified in the charter school contract; and (j) make details of the curriculum and its mode of delivery available to parents; and (k) have policies relating to the following matters: <ul style="list-style-type: none"> (i) internal disputes management: (ii) engagement with the school community; and (l) ensure that any complaints against the school are responded to promptly. 	5
212P Sponsor to control management of charter school	
<ul style="list-style-type: none"> (1) A sponsor has complete discretion to control the management of the school as the sponsor thinks fit. (2) A sponsor may make any bylaws that the sponsor thinks necessary or desirable for the control and management of the school. (3) Subsections (1) and (2) are subject to this Act, any other legislation, the general law of New Zealand, and the charter school contract. (4) Before making a bylaw, the sponsor must consult its staff, its students (to the extent that the sponsor considers appropriate), and the school community regarding the proposed bylaw. 	10 15
212Q Sponsor's power to delegate	
<ul style="list-style-type: none"> (1) A sponsor may, either generally or specifically, delegate any of its functions, duties, or powers under this Act to any person. (2) A delegation— <ul style="list-style-type: none"> (a) must be in writing; and (b) may be revoked at will in writing; and (c) may be subject to instructions or conditions. (3) Despite subsection (1), a sponsor must not delegate— <ul style="list-style-type: none"> (a) the general power of delegation: (b) its power to make bylaws set out in section 212P: (c) its functions, duties, or powers relating to the standing-down, suspension, exclusion, or expulsion of students set out in rules made under this Act. (4) The person to whom any functions, duties, or powers are delegated under this section may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act (subject to any general or special instructions given or conditions imposed by the sponsor). 	20 25 30 35

- (5) A person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.
- Subdelegation*
- (6) If the sponsor has delegated any functions, duties, or powers to a person, that person may, with the written approval of the sponsor, subdelegate those functions, duties, or powers to another person. 5
- (7) **Subsection (2)** applies to a subdelegation under **subsection (6)**.
- 212R Annual financial statements**
- (1) A sponsor must ensure the preparation of annual financial statements relating to the charter school for a year ending on a date specified in the charter school contract. 10
- (2) The financial statements must be audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013).
- 212S Charter school 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 576. 15
- (2) Sections 576 and 577, any regulations made under section 642, and any legal instrument by which a school risk management scheme is established apply to a sponsor that participates in the scheme as if it were a participating school board. 20
- Compare: 1989 No 80 s 158L
- Enrolment, conditions of enrolment, and instruction of students*
- 212T Enrolment in charter schools**
- (1) A charter school must enrol all domestic students entitled to free enrolment and free education under section 33 who apply to the school (up to the physical capacity of the school premises as stated in the charter school contract). 25
- (2) However, a charter school may refuse to enrol a student if a parent, or other person who has accepted responsibility for the education of the student, refuses to accept that the school operates in accordance with a character approved by the Authorisation Board. 30
- (3) **Subsections (4) and (5)** apply if a charter school receives more applications than there are places at the school.
- (4) If the charter school was previously a State school that had an enrolment scheme in place before its conversion to a charter school, the order of priority is as follows: 35
- (a) first priority must be given to any applicant who lives in the area of the converting school's previous home zone:

- (b) second priority must be given to any student accepted for enrolment in a special programme run by the school, if applicable:
- (c) third priority must be given to any applicant who is the sibling of a current student of the school:
- (d) fourth priority must be given to any applicant who is the sibling of a former student of the school: 5
- (e) fifth priority must be given to any applicant who is a child of a former student of the school:
- (f) sixth priority must be given to any applicant who is a child of an employee of the sponsor or a child of a member of the sponsor: 10
- (g) seventh priority must be given to all other applicants.
- (5) For all other charter schools, the order of priority is as follows:
- (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 applicant who is the sibling of a former student of the school: 15
- (c) third priority must be given to all other applicants.
- (6) For the purposes of **subsections (4) and (5)**,—
- (a) if there are more applicants within a priority group than there are places available, applicants must be selected by ballot; and 20
- (b) if 2 or more siblings apply at the same time, their applications must be treated as a single application for the purpose of the ballot.
- (7) In this section, **sibling** has the same meaning as in section 75(3).
- 212U Students at charter school may be given tuition by State school or another charter school** 25
- (1) Students enrolled at a charter school may, by agreement between the sponsor of a charter school and the board of a State school, receive tuition at or from a State school.
- (2) Students enrolled at a charter school may, by agreement between the sponsors concerned, receive tuition at or from another charter school. 30
- (3) The sponsor of a charter school at which the students are enrolled may pay the board of the State school or the sponsor of the other charter school giving the tuition.
- (4) Tuition provided under this section may be delivered through any medium, including digital technology. 35
- 212V Property maintenance fee**
- (1) This section applies if—
- (a) the sponsor owns the premises used by the charter school; or

- (b) the relevant integration agreement for a converting school in force immediately before the date of conversion allowed the proprietor of the State integrated school to charge attendance dues.
- (2) The sponsor may, if the charter school contract for the school provides, require a parent or other person who has accepted the responsibility for the education of a student at the charter school to pay a property maintenance fee as a condition of the student's enrolment at the school. 5
- (3) The fee must be paid at the rate, and subject to any conditions, specified in the charter school contract. 10
- (4) Revenue that the sponsor receives from the property maintenance fee must be used solely for the following:
- (a) paying for improvements to the charter school's buildings and associated facilities as specified or provided for in the charter school contract:
 - (b) any capital works as specified or provided for in the charter school contract: 15
 - (c) meeting debts, mortgages, liens, or other charges associated with the land and the buildings that constitute the premises of the charter school.
- (5) No revenue that the sponsor receives from property maintenance fees may be used to provide or improve the charter school's buildings and associated facilities to a standard higher than that appropriate for a comparable State school. 20
- Compare: 1989 No 80 s 447

212W Failure to pay property maintenance fee

- (1) If a parent, or other person who has accepted the responsibility for the education of a student at a charter school, has entered into an agreement to pay a property maintenance fee and fails to make a payment, the payment is recoverable from the parent or other person in any court of competent jurisdiction as a debt due to the sponsor. 25
- (2) In addition, any failure to make payment constitutes grounds for the sponsor of the charter school to suspend the student's attendance at that school and to remove the student's name from the school register. 30
- (3) However, no student may be suspended and have the student's name removed from the school register until arrangements have been made to the satisfaction of the Secretary for the student to be enrolled at another registered school.
- Compare: 1989 No 80 s 449

212X Accounts for property maintenance fees

- (1) A sponsor who is permitted to charge property maintenance fees must keep accounts in a manner approved by the chief executive of the Agency, showing— 35
- (a) the total amount of fees received; and

<ul style="list-style-type: none"> (b) how the fees have been spent. (2) The accounts must be— <ul style="list-style-type: none"> (a) balanced at a date each year approved by the chief executive; and (b) audited by a qualified auditor (within the meaning of section 35 of the Financial Reporting Act 2013). (3) The sponsor must send a copy of the accounts, together with the auditor’s report on them, to the chief executive by a date to be approved by the chief executive. <p>Compare: 1989 No 80 s 450</p>	5
212Y Religious instruction and observances	10
<ul style="list-style-type: none"> (1) A charter school may provide religious instruction and observances only if permitted under its charter school contract. (2) If religious instruction and observances form part of the education with a special character provided by a charter school, these may continue to form part of the general school programme in accordance with the terms and conditions set out in the charter school contract relating to that school. (3) If religious instruction and observances form part of the education with a special character provided by a charter school, that school— <ul style="list-style-type: none"> (a) must be responsive to the sensitivities of students and parents of different religious or philosophical affiliations; and (b) may not require a student of a different religious or philosophical affiliation to participate in religious observances and religious instruction concerned with particular observances if a parent of the student states that they do not wish that student to participate. 	15 20
<i>Multiple timetable arrangements</i>	25
212Z Multiple timetable arrangements at charter schools	
<ul style="list-style-type: none"> (1) A sponsor may run a multiple timetable arrangement at a charter school for a specified period if the sponsor is satisfied that the arrangement is appropriate in the circumstances. (2) A sponsor must take all reasonable steps to notify every affected student and the student’s parents in writing of— <ul style="list-style-type: none"> (a) the multiple timetable arrangement; and (b) the time periods for each day during which the affected student’s timetable will run. <p>Compare: 1989 No 80 s 158Q</p>	30 35

*Employment and appointment of teachers***212ZA Religious instruction: appointments to special positions relating to character of charter school**

If religious instruction forms part of the special character of a charter school, advertisements for the position of a chief executive and a person responsible for teaching and learning at the school may state that a willingness and an ability to take part in religious instruction appropriate to that school are conditions of appointment. 5

212ZB Effect of religious instruction requirements in advertisements

If, in accordance with **section 212ZA**, an advertisement for a position states a requirement that a willingness and an ability to take part in religious instruction are conditions of appointment, any person appointed to that position must accept that requirement as a condition of appointment. 10

212ZC Restrictions on requirement for teacher to take part in religious instruction

- 15
- (1) The appointment of a teacher to a position in a charter school may not be conditional on the willingness and ability of that teacher to take part in religious instruction, and no appointed teacher may be required to take part.
 - (2) **Subsection (1)** is subject to **section 212ZA**.

Interventions 20**212ZD Interventions in charter schools by Authorisation Board***Types of interventions*

- (1) The Authorisation Board may apply 1 or more of the following interventions in relation to a sponsor:
- (a) require the Chief Review Officer to review the governance and management of the charter school by the sponsor: 25
 - (b) require a sponsor to provide the Authorisation Board (or any other person authorised by the Authorisation Board) with the following at a given time, at specified intervals, or both:
 - (i) specified information: 30
 - (ii) an analysis of the specified information to be provided:
 - (c) require a sponsor to do the following at a given time, at specified intervals, or both:
 - (i) carry out a specified action:
 - (ii) provide the chief executive of the Agency with a report (for example, a progress report and a final report) on the action taken: 35
 - (d) terminate the charter school contract with a sponsor:

- (e) terminate the charter school contract with a sponsor and replace the sponsor with another sponsor.
- Grounds for intervention*
- (2) The Authorisation Board may apply an intervention described in **subsection (1)(a), (b), or (c)** if permitted under the relevant charter school contract. 5
- (3) The Authorisation Board may apply an intervention described in **subsection (1)(d) or (e)** only if it considers that a less serious intervention is not sufficient to deal with the matter, and either of the following circumstances applies:
- (a) the Authorisation Board has reasonable grounds to believe that the sponsor— 10
- (i) has failed to comply with any of its contractual or legislative obligations in respect of the charter school; and
- (ii) has not remedied the failure within a reasonable time or the failure cannot be remedied:
- (b) the Authorisation Board has reasonable grounds to believe that— 15
- (i) a significant risk exists that the sponsor will fail to comply with any of its contractual or legislative obligations in respect of the charter school; and
- (ii) the sponsor is unlikely to mitigate that risk within a reasonable time. 20
- General process for applying interventions*
- (4) The Authorisation Board must ensure that any interventions in **subsection (1)** are applied in accordance with relevant provisions of the charter school contract. 25
- Process for applying specified interventions*
- (5) The Authorisation Board's written notice to the sponsor terminating the charter school contract must contain the following information:
- (a) details of the contractual or legislative obligation the sponsor has failed to comply with; and
- (b) the grounds for the Authorisation Board's belief that the sponsor is at risk of failing to comply with specified contractual or legislative obligations; and 30
- (c) whether the sponsor will be replaced by another sponsor; and if so, the reasons for the replacement.
- (6) If the Authorisation Board proposes to replace a sponsor, it— 35
- (a) must consult the sponsor, school community, school staff, and students; and
- (b) may consult any other person it thinks fit.

212ZE Obligations of sponsor subject to intervention

- (1) A sponsor subject to an intervention under **section 212ZD** must give the Authorisation Board or any person acting on its behalf—
- (a) reasonable access to the school on request; and
 - (b) any reasonable assistance on request. 5
- (2) If a sponsor is required to provide information under **section 212ZD(1)(b)**, it must do so—
- (a) within the time, or at the intervals, or both, specified by the Authorisation Board; and
 - (b) in the form (if any) required by the Authorisation Board. 10
- (3) If a sponsor is required to carry out a specified action or provide a report to the Authorisation Board under **section 212ZD(1)(c)**, it must do so—
- (a) within the time, or at the intervals, or both, specified by the Authorisation Board; and
 - (b) in the form (if any) required by the Authorisation Board. 15

212ZF Process relating to replacement of sponsor

- (1) The Authorisation Board may, without receiving an application under **section 212F**, approve—
- (a) a replacement sponsor to operate the charter school; or
 - (b) a temporary sponsor to operate the charter school before replacing the sponsor under **subsection (1)(a)**. 20
- (2) A replacement sponsor or temporary replacement sponsor must be a body corporate, corporation sole, limited partnership, institution, or related entity.
- (3) **Sections 212I, 212J, and 212K** apply, with any necessary modifications, to the approval of a replacement sponsor or temporary replacement sponsor under this section. 25

*Application of other legislation to charter schools***212ZG Application of New Zealand Bill of Rights Act 1990**

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

- (a) a sponsor:
- (b) a person employed or engaged to work in the school by a sponsor.

Compare: 1989 No 80 s 158W

212ZH Application of Official Information Act 1982 to sponsor

(1) The Official Information Act 1982 does not apply to a sponsor if the sponsor is performing or exercising its functions, duties, or powers under this Act or the relevant charter school contract.

(2) However, if the sponsor is an institution, the Official Information Act 1982 applies unless the institution is performing its functions as a sponsor under this Act or a charter school contract.

Compare: 1989 No 80 s 158Y

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212ZI Application of Public Service Act 2020 to sponsor that is institution

The Public Service Act 2020 does not apply to an institution that is a sponsor if the institution is performing or exercising its functions, duties, or powers as a sponsor under this Act or the relevant charter school contract.

Compare: 1989 No 80 s 158Z

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41 Section 237 amended (Enrolment records)

(1) In section 237(1) and (2), after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place.

15

(2) In section 237(4), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

42 New section 237A inserted (Attendance records)

After section 237, insert:

20

237A Attendance records

(1) The principal of a State school must ensure that an attendance record is kept for each student who is enrolled at the school.

(2) The attendance record must be in the form and contain the information specified in rules made under **subsection (3)**.

25

(3) The Secretary may make rules setting out administrative and procedural requirements relating to attendance records, including (without limitation) rules—

(a) specifying the form and content of attendance records:

(b) relating to the collection, storage, and disclosure of information contained in attendance records:

30

(c) specifying the circumstances in which any exceptions to any general requirements for specific school types may be made.

(4) A principal of a State school must comply with rules made under **subsection (3)**.

35

(5) Rules made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

- 43 Section 248 amended (Fines to be paid to board)**
- (1) Replace the heading to section 248 with “**Fines to be paid to board or sponsor**”.
 - (2) In section 248, after “board”, insert “or sponsor”.
- 44 Section 497 amended (Powers of Complaints Assessment Committee)** 5
- After section 497(2), insert:
- (2A) Subsection (2)(b) and (c) does not apply to persons employed in charter schools who hold a limited authority to teach.
- 45 Section 500 amended (Powers of Disciplinary Tribunal)**
- After section 500(1), insert: 10
- (1A) However, in respect of persons employed in charter schools who hold a limited authority to teach, the Disciplinary Tribunal may under subsection (1)(a) only resolve to take the matter no further.
- 46 New section 504A inserted (Application of competence provisions to holders of limited authority to teach in charter schools)** 15
- After section 504, insert:
- 504A Application of competence provisions to holders of limited authority to teach in charter schools**
- The following provisions of this Act do not apply to persons employed in charter schools who hold a limited authority to teach: 20
- (a) section 506:
 - (b) section 507:
 - (c) section 508:
 - (d) section 509.
- 47 Section 519 amended (Enrolment of international students)** 25
- (1) In section 519(1) and (2), after “State school”, insert “or charter school”.
 - (2) In section 519(3), after “board”, insert “or sponsor”.
 - (3) In section 519(5) and (6), after “State school”, insert “or charter school”.
 - (4) In section 519(7),—
 - (a) after “State school”, insert “or charter school” in each place; and 30
 - (b) after “board”, insert “or sponsor”.
 - (5) In section 519(8) and (9),—
 - (a) after “State school”, insert “or charter school”; and
 - (b) after “principal”, insert “or person responsible for teaching and learning in a charter school”. 35

- (6) In section 519(9)(a), after “board”, insert “or sponsor”.
- 48 Section 520 amended (Certain international students may enrol at State schools as of right)**
- (1) In the heading to section 520, after “**State schools**”, insert “**or charter schools**”. 5
- (2) In section 520(1), after “State schools”, insert “or charter schools”.
- 49 Section 521 amended (Fees for international students)**
- (1) In section 521(1) and (2),—
- (a) after “State school”, insert “or charter school” in each place; and
- (b) after “board”, insert “or sponsor” in each place; and 10
- (c) after “board’s”, insert “or sponsor’s” in each place.
- (2) In section 521(3),—
- (a) after “State school”, insert “or charter school”; and
- (b) after “board”, insert “or sponsor” in each place.
- (3) In section 521(4), after “board’s”, insert “or sponsor’s”. 15
- (4) In section 521 (5), after “board”, insert “or sponsor”.
- (5) In section 521(6),—
- (a) after “board”, insert “or sponsor” in each place; and
- (b) after “board’s”, insert “or sponsor’s” in each place.
- (6) In section 521(7),— 20
- (a) after “State school”, insert “or charter school” in each place; and
- (b) after “board”, insert “or sponsor” in each place; and
- (c) after “board’s”, insert “or sponsor’s” in each place.
- 50 Section 523 amended (Board must reimburse the Crown for expenditure relating to international students)** 25
- (1) In the heading to section 523, after “**Board**”, insert “**or sponsor**”.
- (2) Replace section 523(1) with:
- (1) The Minister must, by notice, set fees to be paid by the following:
- (a) boards in respect of international students enrolled at State schools:
- (b) sponsors in respect of international students enrolled at charter schools. 30
- (3) After section 523(2)(a), insert:
- (aa) all charter schools, charter schools of a specified kind or description, or specified charter schools:
- (4) In section 523(3),—

- (a) after “State school”, insert “or charter school”; and
- (b) after “board”, insert “or sponsor”.

51 Section 524 amended (Courses for international students)

In section 524(1), after “board of a State school”, insert “, the sponsor,”.

52 Section 524A amended (Withdrawal of approval of course for international students) 5

(1) In section 524A(1),—

- (a) after “board of a State school”, insert “, the sponsor,”
- (b) after “giving the board”, insert “, the sponsor,”.

(2) In section 524(3) and (4), after “board”, insert “, the sponsor,”. 10

53 Section 548A replaced (Data accessed by Ministry under Data and Statistics Act 2022)

Replace section 548A with:

548A Data accessed by Ministry under Data and Statistics Act 2022

(1) This section applies despite section 54(1)(c) of the Data and Statistics Act 2022. 15

(2) The Ministry may, if the criteria specified in this section are met, publish or otherwise disclose the following data accessed under Part 5 of the Data and Statistics Act 2022 in a form that may identify an individual or an organisation:

Early childhood services 20

(a) data relating to the socio-economic status of children attending early childhood services and their families, but only if—

(i) the data is published or disclosed at the level of an early childhood service; and

(ii) the publication or other disclosure is for the purpose of assisting the Ministry to develop or use tools relating to the provision of funding to early childhood services under this Act; and 25

(iii) the data does not include personal information, unless the service provider of the early childhood service, who is an individual, has consented to the publication or disclosure of information regarding the service they operate: 30

Charter schools

(b) data relating to the socio-economic status of children attending the charter school and their families, but only if—

(i) the data is published or disclosed at the level of a charter school; and 35

- (ii) the publication or other disclosure is for the purpose of assisting the Ministry to develop or use tools relating to the provision of funding to charter schools or to enable performance measurement of charter schools under this Act.
- (3) In this section,— 5
organisation has the same meaning as in section 6 of the Data and Statistics Act 2022
personal information has the same meaning as in section 7(1) of the Privacy Act 2020.
- 54 Section 619 amended (Secretary may require information for administration of Act)** 10
 After section 619(1)(a), insert:
 (aa) the sponsor:
- 55 Section 636 amended (Regulations relating to early childhood services)**
 Repeal section 636(1)(a). 15
- 56 Section 638 amended (Regulations relating to how schools must be run)**
 (1) Replace section 638(2)(b) with:
 (b) give powers to, or impose duties on the following:
 (i) boards or principals (or both):
 (ii) sponsors or persons responsible for teaching and learning in charter schools (or both): 20
- (2) In section 638(2)(c), after “boards”, insert “or sponsors”.
- (3) In section 638(2)(e), after “schools”, insert “(other than charter schools)”.
- 57 New section 651A inserted (Regulations relating to applications to operate charter schools)** 25
 After section 651, insert:
- 651A Regulations relating to applications to operate charter schools**
 (1) The Governor-General may, by Order in Council, make regulations prescribing, or providing for the fixing of, the fee payable for an application made under **section 212F** to operate a charter school. 30
 (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 58 Section 659 amended (Power of boards to close schools)**
 (1) In the heading to section 659, after “boards”, insert “and sponsors”.
 (2) In section 659(1), (3), and (4), after “board”, insert “or sponsor” in each place. 35

- 59 Schedule 1 amended**
- In Schedule 1,—
- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
 - (b) make all necessary consequential amendments.
- 60 Schedule 3 amended** 5
- (1) In Schedule 3, clause 14, insert as subclause (2):
 - (2) Despite subclause (1), a sponsor may employ a person with a limited authority to teach in a charter school even if the person’s skills are not in short supply and are not specialist skills.
 - (2) In Schedule 3, after clause 16(1), insert: 10
 - (1A) The Teaching Council must grant a limited authority to teach if—
 - (a) the limited authority to teach relates to a charter school; and
 - (b) the Teaching Council considers that the applicant—
 - (i) is of a suitable disposition: and
 - (ii) has the skills and experience appropriate to advance the learning of a student or group of students. 15
- 61 Schedule 4 amended**
- (1) In Schedule 4, clause 9(1),—
 - (a) after “board of a State school”, insert “, the sponsor,”; and
 - (b) replace “whom the board or the managers appoints”, with “whom the board, the sponsor, or the managers appoint”. 20
 - (2) In Schedule 4, clause 9(2) and (3), after “board”, insert “, the sponsor,”.
 - (3) In Schedule 4, clause 10(1), after “board of a State school”, insert “, the sponsor,”.
 - (4) In Schedule 4, clause 10(1A) and (1B), after “board”, insert “, the sponsor,”. 25
 - (5) In Schedule 4, clauses 12(1) and 13, after “board of a State school”, insert “, the sponsor,”.
- 62 New Schedules 6A and 6B inserted**
- After Schedule 6, insert the **Schedules 6A and 6B** set out in **Schedules 2 and 3** of this Act. 30

Part 2 Amendments to other legislation and revocation

Amendment to Ombudsmen Act 1975

- 63 Principal Act**
Section 64 amends the Ombudsmen Act 1975. 5
- 64 Schedule 1 amended**
In Schedule 1, Part 2, insert in their appropriate alphabetical order:
Charter Schools Authorisation Board established under **section 212A** of the
Education and Training Act 2020
Sponsor as defined in section 10(1) of the Education and Training Act 2020 10

Amendment to Public Audit Act 2001

- 65 Principal Act**
Section 66 amends the Public Audit Act 2001.
- 66 Schedule 1 amended**
In Schedule 1, insert in its appropriate alphabetical order: 15
Charter Schools Authorisation Board established under **section 212A** of the
Education and Training Act 2020

Amendment to Public Records Act 2005

- 67 Principal Act**
Section 68 amends the Public Records Act 2005. 20
- 68 Section 4 amended (Interpretation)**
In section 4, definition of **public office**, after paragraph (c)(xa), insert:
(xb) the Charter Schools Authorisation Board established under **sec-**
tion 212A of the Education and Training Act 2020; and

Consequential amendments and revocation 25

- 69 Consequential amendments**
Amend the legislation specified in **Schedule 4** as set out in that schedule.
- 70 Revocation**
The Education (Early Childhood Services Network Approval) Regulations
2022 (SL 2022/269) are revoked. 30

Schedule 1
New Part 6 inserted into Schedule 1

s 59

Part 6

Provisions relating to Education and Training Amendment Act 2024 5

Subpart 1—Transitional provisions relating to repeal of network approval requirements

110 Interpretation

In this subpart,—

amendment Act means the Education and Training Amendment Act 2024 10

commencement means the date on which the amendment Act comes into force.

111 Approval conditions need not be met

(1) This clause applies to an approval to apply for a licence granted under section 17 to which conditions imposed under section 17A apply (as those provisions read immediately before commencement). 15

(2) The conditions no longer apply in relation to the approval on and after commencement.

112 Licence no longer subject to certain special conditions

(1) This clause applies to a licence for an early childhood service to which 1 or more of the following special conditions imposed by the Secretary under regulation 22(5) of the Education (Early Childhood Services) Regulations 2008 apply (as it read immediately before commencement): 20

(a) conditions that are a continuation of any conditions on the approval to apply for a licence imposed under section 17A: 25

(b) conditions that are consistent with the approval to apply for a licence granted under section 17:

(c) conditions imposed on an excluded early childhood service that relate to the type of excluded early childhood service.

(2) The special conditions are treated as revoked on and after commencement. 30

113 Pending applications for approval

(1) This clause applies to an application for approval to apply for a licence under section 17 made, but not determined, before commencement.

(2) The Secretary must—

- (a) treat the application as if it had been withdrawn; and
- (b) refund to the applicant the prescribed fee paid in respect of the application.

Subpart 2—Transitional provisions relating to converted schools

114 Interpretation	5
In this subpart,—	
conversion date , in relation to a converted school, means the date on which the State school became a charter school	
converted school means a former State school that has become a charter school in accordance with an approval granted to a sponsor under section 212I	
sponsor has the meaning given in section 10(1).	
115 Board dissolved	
(1) On the conversion date, the board of the converted school is dissolved.	
(2) Every member of the board of the converted school that is holding office immediately before the conversion date goes out of office on the close of the day before that date.	15
116 Integration agreement for State integrated school cancelled	
(1) This clause applies if a converted school was a State integrated school immediately before its conversion date.	20
(2) On the conversion date, the integration agreement between the proprietor and the Crown relating to the State integrated school must be treated as if it were cancelled under clause 11 of Schedule 6.	
<i>Rights, assets, and liabilities of converted school</i>	
117 Rights, assets, and liabilities of converted school	25
(1) This clause applies to all rights, assets, and liabilities that belong to a converted school immediately before its conversion date.	
(2) On the conversion date, all rights, assets, and liabilities of the converted school vest in the Minister on behalf of the Crown.	
(3) Subclause (2) is subject to clauses 121 to 123 .	30
(4) In this clause, assets , liabilities , and rights have the same meanings as in section 10(6).	
118 Property held in trust	
(1) This section applies to any property of a converted school that, immediately before the conversion date, was held in trust—	35

- (a) by the board of the State school; or
- (b) by any other person or body for the benefit of—
- (i) the converted school; or
- (ii) the students or former students of the converted school.
- (2) The property continues to be subject to the trust concerned, but the person or body in whom it is vested may apply to Public Trust to devise a scheme to modify the trust in light of the conversion of the State school concerned. 5
- (3) If satisfied that adequate arrangements have been made to meet the costs of doing so, Public Trust must, in consultation with the sponsor concerned, devise a scheme to modify any trust in respect of which Public Trust has received an application under this clause and notify the Solicitor-General of the scheme. 10
- (4) If Public Trust notifies the Solicitor-General of a scheme, the Solicitor-General may, by written notice to Public Trust,—
- (a) approve the scheme (as originally notified or with any amendments agreed by Public Trust after consultation with the board concerned); or 15
- (b) suggest amendments to it; or
- (c) direct that it should not proceed.
- (5) If the Solicitor-General directs that it should not proceed, the matter may be dealt with under the Charitable Trusts Act 1957.
- (6) If, within 90 days of being notified of a scheme, the Solicitor-General does not suggest amendments to it or direct that it should not proceed, the Solicitor-General is to be treated as having approved the scheme. 20
- (7) If the Solicitor-General approves a scheme notified under this clause, the trust concerned has effect accordingly.
- (8) The Solicitor-General may not approve a scheme under this clause unless satisfied that— 25
- (a) it modifies the trust concerned so as best to give effect to the intentions of the testator, settlor, or other person or body by whom or which the trust was established; and
- (b) subject to **paragraph (a)**, it effects the minimum change necessary to enable the trust to operate successfully in light of conversion of the school concerned. 30

Compare: 1989 No 80 s 156C

Transfer of employees of converted school

- 119 Transfer of employees of converted school to charter school** 35
- (1) On the conversion date, every employee of a converted school becomes an employee of the sponsor (a **transferred employee**)—

- (a) on terms and conditions of employment that are no less favourable overall to those that applied to the person immediately before they became an employee of the sponsor; and
- (b) as if those terms and conditions of employment were contained in an individual employment agreement agreed between the transferred employee and the sponsor. 5
- (2) The terms and conditions of employment referred to in **subclause (1)(a)** continue to apply in relation to the transferred employee until—
- (a) they are varied by agreement between the transferred employee and the sponsor; or 10
- (b) the transferred employee becomes bound by a collective agreement agreed between the sponsor and the union of which the transferred employee is a member.
- (3) A transferred employee is not entitled to receive any contractual notice or any payment, benefit, or compensation from the board of the converted school on the grounds that— 15
- (a) the person's position in the converted school has ceased to exist; or
- (b) the person has ceased to be an employee of the board as a result of the person's transfer to the charter school.
- (4) To avoid doubt, the employment of a transferred employee by the sponsor does not constitute new employment, including for the purposes of any service-related benefits or entitlements (whether legislative or otherwise). 20
- (5) In this clause, **terms and conditions of employment that are no less favourable overall**, in relation to the transferred employee's employment at the converted school, is employment at a charter school that— 25
- (a) is in substantially the same position; and
- (b) is in the same general locality; and
- (c) is on terms that treat the period of service with the converted school (and any other period of service recognised by the converted school as continuous service) as if it were continuous service with the charter school; 30
and
- (d) is on terms and conditions of employment that are no less favourable overall than those that applied to the transferred employee immediately before the person became an employee of the sponsor, including (without limitation) in relation to the employee's overall remuneration and any service-related, redundancy, or superannuation conditions; and 35
- (e) is subject to any other modifications that are necessary to reflect—
- (i) the transferred employee's terms and conditions of employment being treated as if they were contained in an individual employment agreement; and 40

- (ii) the transfer of employment from a State school to a charter school, for example, in relation to—
 - (A) funding and payment of the transferred employee’s remuneration:
 - (B) the eligibility of a transferred employee who holds a teaching position for any awards, grants, or associated leave. 5
- (6) This clause overrides—
 - (a) Part 6A of the Employment Relations Act 2000; and
 - (b) any employment protection provision in any relevant employment agreement. 10
- 120 Transfer of employment information**
- (1) On and after the conversion date, all information held by the board of a converted school, the Ministry, or Education Payroll Limited relating to a transferred employee’s employment is to be treated as being held by the sponsor.
- (2) The transfer of information under **subclause (1)** does not constitute an action that is an interference with the privacy of an individual under section 69 of the Privacy Act 2020. 15
- 121 Transfer of rights, duties, and obligations relating to existing pay equity claims and settlements**
- (1) This clause applies to any rights, duties, or obligations of the Secretary (acting under delegation from the Public Service Commissioner) or the board of a converted school in relation to—
 - (a) any pay equity claims relating to the work of a transferred employee raised before the conversion date but not settled before that date:
 - (b) any existing pay equity claim settlements entered into before the conversion date. 25
- (2) On and after the conversion date,—
 - (a) the rights, duties, and obligations referred to in **subclause (1)** vest in the sponsor; and
 - (b) the existing pay equity claim settlement in respect of teachers aides recorded in the Teacher Aide Pay Equity Settlement Agreement dated 12 February 2020 is to be treated as binding on the sponsor as if—
 - (i) the sponsor were a party to the agreement; and
 - (ii) all references in the agreement to the Secretary were references to the sponsor; and 30
 - (c) every other existing pay equity claim settlement to which the board of the converted school was a party before the conversion date is to be treated as binding on the sponsor as if— 35

(i)	the sponsor were a party to the agreement; and	
(ii)	all references in the agreement to the board were references to the sponsor.	
(3)	In this clause, pay equity claim and pay equity claim settlement have the same meanings as in section 2(1) of the Equal Pay Act 1972.	5
122	Transfer of liabilities for holidays and leave taken before conversion date	
(1)	This clause applies in relation to any holiday, sick leave, bereavement leave, or family violence leave—	
(a)	provided under the Holidays Act 2003; and	
(b)	taken by a transferred employee before the conversion date.	10
(2)	On and after the conversion date, any liabilities of the board of the converted school for holiday pay or leave pay in relation to the holidays and leave referred to in subclause (1) vest in the Minister on behalf of the Crown.	
(3)	In this clause, holiday , holiday pay , and leave pay have the same meanings as in section 5(1) of the Holidays Act 2003.	15
123	Transfer of other rights, duties, liabilities, or obligations of board relating to transferred employees	
(1)	This clause applies to any other rights, duties, liabilities, or obligations of the board of a converted school relating to a transferred employee that were in existence immediately before the conversion date.	20
(2)	On the conversion date, those rights, duties, liabilities, and obligations vest in the sponsor.	
<i>Superannuation</i>		
124	Government superannuation fund	
(1)	Any person who, immediately before becoming an employee of a sponsor, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service as long as the person continues to be an employed at a charter school.	25
(2)	The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the sponsor were Government service.	30
(3)	Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.	
(4)	For the purpose of applying the Government Superannuation Fund Act 1956, the sponsor is the controlling authority.	35

Schedule 2

New Schedule 6A inserted

s 62

Schedule 6A		
Further provisions applying to Authorisation Board		5
		s 212C(3)
1	Resignation or discharge of members	
(1)	A member of the Authorisation Board may resign by giving written notice to the Minister and to the Authorisation Board.	
(2)	The Minister may, at the Minister's discretion, discharge the member by giving written notice to the member and to the Authorisation Board.	10
2	Actions of Authorisation Board not affected by informality in membership	
	The powers of the Authorisation Board are not affected by—	
	(a) any vacancy in its membership; or	
	(b) the discovery of any error or defect in appointment of a member; or	15
	(c) the fact that a person continued to act as a board member after the person's office as a member became vacant.	
3	Delegations	
(1)	The Authorisation Board may, either generally or specifically, delegate any of its functions, duties, or powers under this Act to a public service chief executive.	20
(2)	A delegation—	
	(a) must be in writing; and	
	(b) may be revoked at will in writing; and	
	(c) may be subject to instructions or conditions.	25
(3)	Despite subclause (1) , the Authorisation Board must not delegate the general power of delegation.	
(4)	A public service chief executive to whom any functions, duties, or powers are delegated under this clause may perform those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act (subject to any general or special instructions given or conditions imposed by the Authorisation Board).	30
(5)	A public service chief executive purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.	35

(6)	A delegation continues in force until revoked. <i>Subdelegation</i>	
(7)	If the Authorisation Board has delegated any functions, duties, or powers to a public service chief executive, that public service chief executive may, with the written approval of the Authorisation Board, subdelegate those functions, duties, or powers in accordance with clause 2 of Schedule 6 of the Public Service Act 2020.	5
(8)	In this clause, public service chief executive has the meaning given in section 5 of the Public Service Act 2020.	
4	Personal liability of members A member of the Authorisation Board is not personally liable for an act the member has done or omitted to do, or for any loss arising from that act or omission, if the member was acting—	10
	(a) in good faith; and	
	(b) in the course of performing or exercising the member’s functions, duties, or powers.	15
5	Procedures The Authorisation Board may determine its own procedures.	

Schedule 3

New Schedule 6B inserted

s 62

Schedule 6B

Provisions of Crown Entities Act 2004 that apply to Authorisation Board

5

s 212E

Section	Brief description
Section 26	Accountability of members to responsible Minister
Section 28	Method of appointment of members
Section 30	Qualifications of members
Section 31	Requirements before appointment
Section 32	Term of office of members
Section 34	Validity of members' acts
Section 35	Validity of appointments
Section 36	Removal of members of Crown agents
Section 41	Process for removal
Section 43	No compensation for loss of office
Section 44	Resignation of members
Section 49	Entity must act consistently with objectives, functions, statement of intent, and statement of performance expectations
Section 50	Manner in which functions must be performed
Section 53	Duty to comply with this Act and entity's Act
Section 54	Duty to act with honesty and integrity
Section 55	Duty to act in good faith and not at expense of entity's interests
Section 56	Duty to act with reasonable care, diligence, and skill
Section 57	Duty not to disclose information
Section 103	Power to direct Crown agents to give effect to government policy
Section 113	Safeguarding independence of Crown entities
Section 115	Procedure for ministerial directions on government policy
Sections 138–149A	Statement of intent
Section 150	Obligation to prepare, present, and publish annual report
Section 152	Disclosure of payments in respect of members, committee members, and employees

Schedule 4 Consequential amendments

s 69

Part 1 Amendments to Act

5

Children's Act 2014 (2014 No 40)

In section 15, definition of **school board**, after paragraph (b), insert:

- (c) a sponsor as defined in section 10(1) of the Education and Training Act 2020:

After section 24(1)(c), insert:

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- (d) a sponsor as defined in section 10(1) of the Education and Training Act 2020

Part 2 Amendments to secondary legislation

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)

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In regulation 3, replace the definition of **applicant** with:

applicant, in relation to an application for a licence to operate a licensed early childhood service, means,—

- (a) in the case of a service provider who is an individual, that individual; or
(b) in the case of a service provider who is a body corporate or body of persons, an individual acting on behalf of the service provider

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In regulation 3, revoke the definition of **excluded early childhood service**.

Revoke regulation 6(3)(aaa).

Revoke regulation 22(5)(e), (f), and (g).

Revoke regulation 33(5), (6), and 7(c).

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Education (School Boards) Regulations 2020 (LI 2020/193)

Replace regulation 6 with:

6 Students enrolled at State school may be given tuition by another State school or charter school

- (1) Students enrolled at a State school may, by agreement between the boards concerned, receive tuition at or from another State school.

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- (2) Students enrolled at a State school may, by agreement between the board and the sponsor, receive tuition at or from a charter school.

Education (School Boards) Regulations 2020 (LI 2020/193)—continued

- (3) The board of the State school at which the students are enrolled may pay the board of the other State school or the charter school giving the tuition.
- (4) Tuition provided under this regulation may be delivered through any medium, including digital technology.

Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 (SR 1999/202) 5

In rule 2(1), definition of **the Act**, delete “**the**”.

Replace rule 5 with:

- 5 Purpose of rules**
- These rules regulate the practice and procedure to be followed under sections 80 to 88 of the Act,— 10
- (a) in relation to State schools, by boards, principals, students, parents of students, and other persons:
- (b) in relation to charter schools, by sponsors, persons responsible for teaching and learning at the school, students, parents of students, and other persons. 15

In rule 7(e), after “board”, insert “or sponsor”.

In rules 8, 9, and 10, after “principal”, insert “or person responsible for teaching and learning in a charter school”.

In rules 11 and 12, after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place. 20

In rule 13, after “principal”, insert “or person responsible for teaching and learning in a charter school”.

Replace the heading to rule 14 with “**Suspension report**”.

In rule 14, after “principal”, insert “or person responsible for teaching and learning in a charter school”. 25

In rule 14, after “board”, insert “or sponsor (as the case may be)”.

In rule 15, after “board”, insert “or sponsor” in each place.

In rule 15(2)(c), after “board’s”, insert “or sponsor’s”.

In rule 15(2)(c)(i), replace “the principal’s report” with “the report of the principal or person responsible for teaching and learning in a charter school”. 30

In rule 15(2)(c)(ii), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

Replace rule 16(1) with:

Education (Stand-Down, Suspension, Exclusion, and Expulsion) Rules 1999 (SR 1999/202)—*continued*

(1) The board or sponsor must allow an adjournment in a suspension meeting if any of the following asks the board or sponsor to do so because the person making the request needs time to consider new information:

(a) the student or a parent of the student:

(b) any board member or governing member of the sponsor.

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In rule 16(3), replace “board must have regard to the amount of time that the person making the request needs, in his or her” with “board or sponsor must have regard to the amount of time that the person making the request needs, in the person’s”.

Replace the heading to rule 17 with “**Board’s or sponsor’s decision**”.

In rule 17, after “board”, insert “or sponsor” in each place.

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In rule 17(2), after “principal”, insert “or person responsible for teaching and learning in a charter school” in each place.

In rule 18(1), after “board”, insert “or sponsor”.

In rule 18(2), after “the board”, insert “or sponsor”.

In rule 18(2), after “board meeting”, insert “or meeting of the sponsor”.

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In rule 18(3), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

In rule 19, after “board”, insert “or sponsor” in each place.

In rule 19(1), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

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In rule 20, after “board”, insert “or sponsor” in each place.

In rule 20(2)(c), after “board’s”, insert “or sponsor’s”.

In rule 20(2)(c)(i), replace “the principal’s report” with “the report of the principal or person responsible for teaching and learning in a charter school”.

In rule 20(2)(c)(ii), after “principal”, insert “or person responsible for teaching and learning in a charter school”.

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In rule 21, after “board”, insert “or sponsor”.

In rule 21, after “principal”, insert “or person responsible for teaching and learning in a charter school”.