

# **Education (Charter Schools Abolition) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

#### **Purpose of the Bill**

The purpose of this Bill is to abolish partnership schools kura hourua (“charter schools”) in New Zealand. Charter schools are a threat to New Zealand’s world-leading public education system. These schools undermine teacher quality and threaten student safety by permitting unregistered and unqualified people to teach children. Parents and the public at large have a right to expect that their children will be taught by teachers who have undergone rigorous professional training and a robust registration process. Students at charter schools lack this assurance.

Charter schools should therefore be abolished entirely. All students in New Zealand deserve to be taught by qualified and registered teachers and have access to the broad, innovative, locally relevant and child-centred curriculum that is reflected in the New Zealand Curriculum and Te Marautanga. Parents and whanau deserve to be full partners in their school communities through democratically elected Boards of Trustees.

The best school for the vast majority of New Zealand students should be their local state school. Rather than choosing to divert resources into an experimental charter school scheme, the Government’s focus should instead be on making sure that every state school is a great school.

#### **Risks with charter schools**

*No transparency or accountability:* Charter schools are less transparent in their governance and educational practices than existing state schools and therefore less accountable to parents, whanau and communities. For example, charter schools are exempt from the provisions of the Official Information Act 1982, despite being taxpayer funded. These schools also lack a Board of Trustees. Partnership between schools, family and whanau is an important factor in students’ success. Removing the right of

parents to be involved in school governance via a Board of Trustees is anti-democratic and removes one of the key ways that schools are accountable to the communities they serve.

**Education quality dubious:** Charter schools are also not required to teach the New Zealand Curriculum or Te Marautanga. This raises serious concerns about the quality and direction of charter schools. There is a serious risk that students at charter schools will be delivered narrow curricula of a low quality that are irrelevant to the society to which they belong.

**Wrong motivations:** The ideology behind charter schools is also flawed. Ostensibly, the schools are aimed at raising the achievement of underperforming students in New Zealand. Yet the evidence to suggest that charter schools will in fact improve educational outcomes does not take into account the high results that New Zealand is already achieving for its students through the public education system. The charter school scheme overlooks the widely accepted understanding that educational underachievement is inextricably linked to poverty and increasing income inequality.

Charter schools therefore represent the privatisation and commercialisation of an important public good. We do not support a system that puts profit before kids and the interests of the community. And we are not alone. Allowing charter school sponsors to profit from the public funds provided for the education of our young people is not supported by the majority of New Zealanders.

### **Transitional arrangements**

Under this Bill, charter schools will first undergo a disestablishment period before being completely abolished from 1 January 2016. This provides a reasonable opportunity for students and families at these schools to make alternative arrangements to continue their education. It will be the responsibility of existing charter schools to seek an alternative legal status (and meet the legal requirements to run) as a school before that date if they wish to continue operating.

### **Clause by clause analysis**

*Clause 1* contains the Bill's title.

*Clause 2* states the commencement date.

*Clause 3* provides that the Education Act 1989 (EA) is the Act being amended.

*Clauses 4 to 22* reverse the amendments made to the EA by the Education Amendment Act 2013 relating to partnership schools kura hourua.

*Clause 23* inserts a new section 300A into the EA, specifying the consequences of the abolition of partnership schools kura hourua.

*Clause 24* reverses the amendments made to other Acts by the Education Amendment Act 2013 relating to partnership schools kura hourua.

*Chris Hipkins*

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

**1 Title**

This Act is the Education (Charter Schools Abolition) Amendment Act **2016**.

**2 Commencement**

- (1) Section 23 comes into force on the day after the date on which this Act receives the Royal assent. 5
- (2) The rest of this Act comes into force on 1 January 2016.

**3 Principal Act**

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

**4 Section 2 amended (Interpretation)** 10

- (1) In section 2(1), repeal the definitions of **partnership school contract, partnership school kura hourua, primary partnership school kura hourua, and sponsor**.
- (2) In section 2(1), definition of **registered school**, delete “, a partnership school kura hourua,”. 15

**5 Section 3 amended (Right to free primary and secondary education)**

Delete “or partnership school kura hourua”.

**6 Section 16 amended (Secretary’s powers when excluded student younger than 16)**

- (1) Repeal section 16(1)(ba). 20
- (2) Repeal section 16(2A).
- (3) Repeal section 16(5).

- 7 Section 17D amended (Re-enrolment of excluded or expelled student)**
- (1) In section 17D(2), delete “or a partnership school kura hourua”.
  - (2) Repeal section 17D(3A).
  - (3) Repeal section 17D(5).
- 8 Section 25 amended (Students required to enrol must attend school) 5**
- (1) In section 25(2), delete “and every sponsor of a partnership school kura hourua”.
  - (2) In section 25(7), delete “or a sponsor”.
- 9 Section 31 amended (Ensuring attendance of students) 10**
- (1) Repeal section 31(1A).
  - (2) In section 31(2), delete “or sponsors, or a board and sponsor jointly”.
  - (3) Repeal section 31(3A).
  - (4) In section 31(7), delete “, a sponsor” in each place.
  - (5) Repeal section 31(8A).
- 10 Section 31B amended (Provider group for secondary-tertiary programme) 15**
- Repeal section 31B(a)(ia).
- 11 Section 31F amended (Recognition as lead provider of secondary-tertiary programme)**
- Repeal section 31F(ab).
- 12 Section 31G amended (Lead provider to co-ordinate secondary-tertiary programme) 20**
- Repeal section 31G(2)(ab).
- 13 Section 31I amended (Entry into secondary-tertiary programme)**
- Repeal section 31I(1)(ba).
- 14 Section 77A amended (Enrolment records) 25**
- Repeal section 77A(5) and (6).
- 15 Section 120 amended (Interpretation)**
- (1) In section 120, definition of **employer**, repeal paragraph (ab).
  - (2) In section 120, repeal the definitions of **partnership school kura hourua** and **sponsor**. 30
  - (3) In section 120, definition of **professional leader**, paragraph (a), delete “other than a partnership school kura hourua”.
  - (4) In section 120, definition of **professional leader**, repeal paragraph (ab).

<b>16</b>	<b>Section 120A amended (Restrictions on appointment of teachers)</b>	
	In section 120A(2), delete “, other than a sponsor,”.	
<b>17</b>	<b>Section 120B amended (Restrictions on continued employment of teachers)</b>	
(1)	In section 120B(2), delete “, other than a sponsor,”.	
(2)	In section 120B(3), delete “, other than a sponsor,”.	5
<b>18</b>	<b>Section 137 amended (Offences)</b>	
	In section 137(1)(h), delete “other than a sponsor”.	
<b>19</b>	<b>Section 139A amended (No corporal punishment in early childhood services or registered schools)</b>	
(1)	Repeal section 139A(1)(ba).	10
(2)	Repeal section 139A(2)(ba).	
<b>20</b>	<b>Section 144A amended (Secretary may require information for proper administration of Act)</b>	
(1)	Repeal section 144A(1)(ab).	
(2)	In section 144A(1), delete “sponsor,” in each place.	15
<b>21</b>	<b>Part 12A repealed (Partnership schools kura hourua)</b>	
	Repeal Part 12A.	
<b>22</b>	<b>Section 246 amended (Interpretation)</b>	
	In section 246, definition of <b>relevant school</b> , delete paragraph (ba).	
<b>23</b>	<b>New section 300A inserted</b>	20
	After section 300, insert:	
<b>300A</b>	<b>Transitional provisions consequential on abolition of partnership schools kura hourua</b>	
(1)	At the close of 31 December 2015,—	
(a)	every partnership school kura hourua must cease to operate; and	25
(b)	every partnership school contract is voided; and	
(c)	the advisory group appointed under section 158C is disestablished.	
(2)	On or before 31 December 2015, the sponsors of partnership schools kura hourua must ensure that students enrolled in the schools who are required by section 20 to be enrolled at a registered school, or who want to be enrolled at a registered school, are enrolled at a registered school.	30
(3)	As soon as is practicable after 31 December 2015, any sponsor of a partnership school kura hourua who has not already given the Secretary of Education the school’s final audited financial statements must do so.	

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- (4) The Crown is not liable to pay compensation to any person for any loss or damage arising from the amendments in the **Education (Charter Schools Abolition) Amendment Act 2016**.
- (5) In relation to the advisory group,—
- (a) no member is entitled to compensation for loss of office resulting from the group's disestablishment; and
  - (b) the group's real and personal property and rights and liabilities are vested in the Crown.

**24 Consequential amendments**

The Acts listed in the schedule are amended in the manner indicated in the schedule. 10

## Schedule

### Consequential amendments

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#### **Accident Compensation Act 2001 (2001 No 49)**

In section 6(1), definition of **place of education**, paragraph (a)(i), replace “, or a secondary school registered under section 35A of the Education Act 1989, or a secondary partnership school kura hourua or composite partnership school kura hourua (within the meaning of section 158A of the Education Act 1989)” with “or a secondary school registered under section 35A of the Education Act 1989”. 5

#### **Health Act 1956 (1956 No 65)**

In section 125(1), repeal the definition of **partnership school kura hourua**. 10  
In section 125(2), delete “, partnership school kura hourua,”.

#### **Immigration Act 2009 (2009 No 51)**

In section 4, definition of **compulsory education**, paragraph (a), delete “, or at a partnership school kura hourua (within the meaning of section 2(1) of that Act)”. 15  
In section 4, definition of **course of study**, paragraph (a)(i), delete “, or by a partnership school kura hourua (within the meaning of section 2(1) of that Act)”.

#### **Income Tax Act 2007 (2007 No 97)**

Repeal section CW 55BB(1)(b)(ia)

#### **Local Government (Rating) Act 2002 (2002 No 6)**

In Schedule 1, repeal clause 6(b)(vi). 20

#### **Official Information Act 1982 (1982 No 156)**

In section 2, definition of **organisation**, paragraph (a), replace “Parliamentary Service, mortality review committees, or sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing functions under the Education Act 1989 or a partnership school contract (within the meaning of section 2(1) of the Education Act 1989)” with “Parliamentary Service or mortality review committees”. 25

#### **Ombudsmen Act 1975 (1975 No 9)**

Repeal section 2(5).

In Schedule 1, Part 2, delete “sponsors (within the meaning of section 2(1) of the Education Act 1989) when performing a standing-down, suspension, exclusion, or expulsion function”. 30