



Education and Training Amendment Act 2023

Public Act 2023 No 45
Date of assent 22 August 2023
Commencement see section 2

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New Part 5 inserted into Schedule 1

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education and Training Amendment Act 2023.

2 Commencement

- (1) Section 39(3) to (5) comes into force on the day that is 6 months after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on the day after the date on which this Act receives the Royal assent.

3 Principal Act

This Act amends the Education and Training Act 2020.

Part 1

Amendments to principal Act relating to wānanga

4 Section 9 amended (Te Tiriti o Waitangi)

In section 9(1)(f), replace “Part 4, which provides” with “Part 4 and Part 4A, which provide”.

5 Section 10 amended (Interpretation)

(1) In section 10(1), replace the definition of **wānanga** with:

wānanga means an institution established as a wānanga,—

- (a) before the commencement of Part 4A, under section 268;
- (b) after the commencement of Part 4A, under that Part

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

category A wānanga means a wānanga that—

- (a) is established under section 398E(1) or reconstituted under clause 90(1) of Schedule 1; and
- (b) is a Crown entity

category B wānanga means a wānanga that—

- (a) is established under section 398I(1) or converted under clause 94(2) of Schedule 1; and
- (b) is not a Crown entity

category C wānanga means a wānanga that—

- (a) was established under section 268; and
- (b) has not been reconstituted under clause 90(1) of Schedule 1 or converted under clause 94(2) of Schedule 1; and
- (c) is a Crown entity

6 Section 266 amended (Object)

In section 266, replace “institutions” with “institutions, including those established under Part 4A,”.

7 Section 268 amended (Establishment of institutions)

- (1) Repeal section 268(2)(d)(ii)(B) and (3).
- (2) Renumber section 268(2A) as section 268(3).

8 Section 271 replaced (Institutions to be governed by councils)

Replace section 271 with:

271 Institutions to be governed by councils*Te Pūkenga—New Zealand Institute of Skills and Technology*

- (1) The governing body of Te Pūkenga—New Zealand Institute of Skills and Technology is its council, the members of which are appointed under section 320.

Wānanga

- (2) The governing body of a wānanga that is a Crown entity is its council constituted in accordance with—
- (a) this Part; or
 - (b) the order establishing the wānanga under Part 4A; or
 - (c) the order made under clause 90(1) of Schedule 1 reconstituting the council of the wānanga.
- (3) The governing body of a wānanga that is not a Crown entity is its council constituted in accordance with—
- (a) the order establishing the wānanga under Part 4A; or
 - (b) the order made under clause 94(2) of Schedule 1 converting a wānanga that is a Crown entity to a wānanga that is not a Crown entity.

Other institutions

- (4) The governing body of every other institution is its council constituted in accordance with this Part.

References to, and actions of, councils

- (5) A reference in any enactment to the council or other governing body of an institution referred to in subsections (2) to (4) must be construed as a reference to the council of the institution.
- (6) Subject to section 283(2), all acts or things done in the name of, or on behalf of, an institution with the authority of, or of a delegate of, the council or the chief executive are to be treated as being done by the institution.

Further provisions relating to councils

- (7) Part 4A provides for the constitution, appointment, and operation of councils of certain wānanga, and for related matters.
- (8) Schedule 11 provides for the constitution, appointment, and operation of councils of Te Pūkenga—New Zealand Institute of Skills and Technology and other institutions, and for related matters.

9 Section 272 amended (Incorporation)

In section 272(1), replace “and Te Pūkenga—New Zealand Institute of Skills and Technology as continued by section 314,” with “Te Pūkenga—New Zealand Institute of Skills and Technology as continued by section 314, and each wānanga established under Part 4A”.

10 New Part 4A inserted

After Part 4, insert:

Part 4A
Wānanga

398A Outline of Part 4A

- (1) This Part, which concerns wānanga, is divided into 4 subparts.
- (2) Subpart 1 deals with various preliminary matters.
- (3) Subpart 2 concerns the administration of category A wānanga.
- (4) Subpart 3 concerns the administration of category B wānanga.
- (5) Subpart 5 concerns the disestablishment of wānanga.

398B Purpose of Part 4A

The purpose of this Part is to provide for the establishment, modification, and administration of wānanga in a manner that gives effect to the principles of Te Tiriti o Waitangi and supports Māori-Crown relationships and, in particular, that—

- (a) better reflects the unique characteristics, functions, and purposes of wānanga in the tertiary education system for delivering the best possible education outcomes for ākonga; and
- (b) recognises the interests of iwi or Māori in ensuring the effective governance and administration of wānanga; and
- (c) enables direct accountability to iwi or Māori for the performance of wānanga.

Subpart 1—Preliminary matters

398C Application

- (1) This Part applies to a wānanga that—
 - (a) is established on or after the date on which this Part commences; or
 - (b) existed immediately before the date on which this Part commences, and on or after that date—
 - (i) reconstitutes its governance or administration to become a category A wānanga; or
 - (ii) converts to a category B wānanga.

Provisions that do not apply to category A wānanga and category B wānanga
- (2) On or after commencement of this Part,—
 - (a) the following provisions of this Act do not apply to a category A wānanga or category B wānanga:

- (i) section 268 (establishment of institutions):
- (ii) section 269 (constitutions of institutions):
- (iii) section 270 (disestablishment of institutions):
- (iv) section 573 (effect of the disestablishment of institutions):
- (b) the following provisions of this Act do not apply to councils of category A wānanga or category B wānanga:
 - (i) section 275 (constitution to provide for membership of councils):
 - (ii) section 276 (membership of councils):
 - (iii) section 277 (disqualifications):
 - (iv) section 278 (appointment criteria):
 - (v) section 279 (statutes relating to appointments):

Provisions that do not apply to category A wānanga
- (c) the following provisions in Schedule 11 of this Act do not apply to a category A wānanga:
 - (i) clause 1 (constitutions of councils of new institutions):
 - (ii) clause 2 (amendment of constitution):
 - (iii) clause 3 (limit on number of occasions on which members may be appointed):
 - (iv) clause 6 (term of office):
 - (v) clause 9 (casual vacancies):
 - (vi) clause 12 (removal of members):
 - (vii) clause 13 (process for removal):
 - (viii) clause 15 (chairpersons and deputy chairpersons):
 - (ix) clause 16 (meetings of councils):
 - (x) clause 18 (determination of policy):

Provisions that do not apply to category B wānanga
- (d) the following provisions of this Act do not apply to a category B wānanga:
 - (i) section 273 (common seals):
 - (ii) section 274 (methods of contracting):
 - (iii) section 280 (functions of councils):
 - (iv) section 281 (duties of councils):
 - (v) section 282(4) to (7) (powers of institutions):
 - (vi) section 287 (criteria for risk assessment of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology)):

- (vii) section 288 (institutions to provide information to TEC if required):
- (viii) section 289 (ministerial appointment of Crown observers for institutions):
- (ix) sections 290 to 293 (ministerial dissolution of councils and appointments and processes to appoint commissioners):
- (x) section 294 (duties of chief executives):
- (xi) section 295 (delegation of functions and powers of chief executives):
- (xii) section 296 (further provisions applying to delegation):
- (xiii) section 297 (bank accounts):
- (xiv) section 298 (accounts to be kept):
- (xv) section 300 (gifts):
- (xvi) section 305 (institutions are Crown entities):
- (xvii) section 306 (annual reports):
- (xviii) section 307 (requirements to prepare statements or reports):
- (xix) section 308 (availability of annual reports for inspection):
- (xx) section 597 (good employer principles):
- (xxi) section 602 (duty to act independently):
- (xxii) section 603 (appointments on merit):
- (xxiii) section 604 (notification of vacancies):
- (xxiv) section 608 (chief executives of institutions):
- (xxv) section 609 (appointment of chief executives):
- (xxvi) section 610 (reappointment of chief executives):
- (xxvii) section 611 (conditions of employment of chief executives):
- (xxviii) section 612 (removal from office):
- (xxix) Schedule 11 (council procedures).

Provisions that apply to category A wānanga, category B wānanga, and category C wānanga

- (3) Despite anything in subsection (1), the following sections of this Part apply to category A wānanga, category B wānanga, and category C wānanga:
 - (a) section 398B (purpose of Part 4A):
 - (b) section 398D (what wānanga are (characteristics)):
 - (c) section 398Y (disestablishing wānanga):
 - (d) section 398Z (effect of disestablishing wānanga):

- (e) section 398ZA (disestablished wānanga and their councils cease to exist):
- (f) section 398ZB (entitlements of certain persons for certain awards):
- (g) section 398ZC (vesting of property of disestablished wānanga):
- (h) section 398ZD (treatment of certain contracts, instruments, and proceedings):
- (i) section 398ZE (continuation of disestablished wānanga for certain purposes):
- (j) section 398ZF (restriction on subsequent distribution of surplus assets).

Relationship of this Part with other provisions

- (4) If a provision in this Part conflicts with a provision in subpart 3 of Part 4 or Schedule 11, the provision in this Part prevails.

398D What wānanga are (characteristics)

Wānanga are institutions that—

- (a) Māori, primarily iwi, have been instrumental in establishing; and
- (b) are concerned with a wide diversity of teaching and intellectual endeavour (including research) that is—
 - (i) closely interdependent; and
 - (ii) associated with higher learning; and
- (c) are kaitiaki of mātauranga Māori, te reo Māori, and tikanga Māori within the tertiary education sector; and
- (d) have a role in the promotion and maintenance of social, spiritual, cultural, political, and economic well-being in the community; and
- (e) follow practices that are consistent with mātauranga Māori and tikanga Māori at all levels of governance and operations; and
- (f) accept a role as a critic and conscience of society from a mātauranga Māori, te reo Māori, and tikanga Māori perspective; and
- (g) position themselves within the networks of indigenous tertiary institutions across the world and contribute to the setting of international indigenous standards of teaching and intellectual endeavour, including research.

Subpart 2—Administration of category A wānanga

398E Establishment of category A wānanga

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a category A wānanga.
- (2) Before making a recommendation to establish a wānanga under subsection (1), the Minister must—

- (a) seek advice from NZQA on education quality assurance matters and consider any advice given; and
 - (b) seek advice from Te Taihū o Ngā Wānanga on whether the proposed wānanga would have the characteristics of a wānanga, and take that advice into account; and
 - (c) consult iwi or Māori who are instrumental in its establishment, and take their views into account; and
 - (d) consult other persons or bodies that the Minister thinks fit; and
 - (e) be satisfied that any additional functions and purposes of the proposed wānanga and of its council specified under subsection (3)(f) are consistent with the characteristics of a wānanga; and
 - (f) be satisfied that the establishment of the proposed wānanga is in the interests of the tertiary education system and the nation as a whole.
- (3) An order made under subsection (1) must do all of the following:
- (a) revoke and replace a previous order, if any, establishing the wānanga; and
 - (b) state the name of the wānanga; and
 - (c) provide for determining the people who are to constitute the wānanga; and
 - (d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and arrangements for the appointment, suspension, and removal of members; and
 - (e) set out the procedures for conducting meetings of the council; and
 - (f) specify any functions and purposes of the wānanga and its council that are in addition to any functions and purposes of an institution or its council set out in this Act; and
 - (g) specify the manner in which policies of the wānanga are to be determined; and
 - (h) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters; and
 - (i) provide for any other matters that are necessary or desirable—
 - (i) for the good governance of the wānanga; or
 - (ii) to clarify the arrangements for the administration of the wānanga.
- (4) An order made under subsection (1) may do 1 or both of the following:
- (a) set out by way of preamble the historical background to the establishment of the wānanga and any Crown acknowledgments;
 - (b) impose conditions on the performance or exercise of the powers of the wānanga.

- (5) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

398F Appointment of council members

When appointing members to the council of a category A wānanga, the council, or any other person or body making the appointments, must appoint people who (in the opinion of the council, person, or body making the appointment)—

- (a) have relevant knowledge, skills, or experience; and
- (b) are likely to be able to fulfil their individual duties to the council; and
- (c) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

398G Certain people ineligible to be appointed

A person is not eligible for appointment to the council of a category A wānanga if—

- (a) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or
- (b) a personal order has been made under that Act in respect of the person that reflects adversely on their—
 - (i) competence to manage their own affairs in relation to their property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or
- (c) the person has been adjudicated bankrupt and has not obtained an order of discharge, or their order of discharge has been suspended for a term that has not yet expired or is subject to any conditions that have not yet been fulfilled; or
- (d) the person has been removed from office as a member of the council of any institution.

398H Statutes relating to appointment

- (1) The council of a category A wānanga may make statutes relating to the appointment of members under its constitution.
- (2) The statutes may—

- (a) provide for direct appointment by the council of a member chosen by the council; or
- (b) require the council to appoint a member—
 - (i) of a stated description; or
 - (ii) holding a stated office; or
 - (iii) nominated by a stated person or body or by a person or body of a stated description; or
 - (iv) elected by people of a stated description.
- (3) To the extent that the statutes require the council to appoint—
 - (a) a member elected by people of a stated description, they must also provide for the processes by which elections must be held and their results must be determined:
 - (b) a member nominated by a stated person or body or a body of a stated description, they must also provide for the process by which nominations may be called for and must be considered.
- (4) For an appointment under a statute providing for any of the matters set out in subsection (2)(b), section 398F is complied with if, when making the statute concerned, the council is satisfied that compliance with the statute is likely to result in the appointment of a person who—
 - (a) has relevant knowledge, skills, or experience; and
 - (b) is likely to be able to fulfil the person’s individual duties to the council; and
 - (c) together with the other members of the council, is capable of undertaking its responsibilities, functions, and duties.
- (5) This section does not limit section 284.

Subpart 3—Administration of category B wānanga

398I Establishment of category B wānanga

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a category B wānanga.
- (2) Before making a recommendation to establish a wānanga under subsection (1), the Minister must do all of the following:
 - (a) seek advice from NZQA on education quality assurance matters and consider any advice given; and
 - (b) seek advice from Te Tauihu o Ngā Wānanga on whether the proposed wānanga would have the characteristics of a wānanga and take that advice into account; and
 - (c) consult iwi or Māori instrumental in its establishment; and

- (d) consult other persons or bodies that the Minister thinks fit; and
 - (e) be satisfied that—
 - (i) the functions and purposes of the proposed wānanga and its council are consistent with the characteristics of a wānanga; and
 - (ii) the accountability arrangements set out in subsection (3)(g) and (h) are sufficient for the effective governance and administration of the wānanga; and
 - (f) be satisfied that the person or body identified under subsection (3)(g) as the iwi or Māori to whom the wānanga is accountable—
 - (i) accepts responsibility for ensuring that the wānanga and its council are accountable; and
 - (ii) has access to the skills and resources reasonably necessary to ensure that the wānanga and its council are accountable; and
 - (g) be satisfied that the establishment of the proposed wānanga is in the interests of the tertiary education system and the nation as a whole.
- (3) An order made under subsection (1) must do all of the following:
- (a) state the name of the wānanga; and
 - (b) specify the people who are to constitute the wānanga; and
 - (c) set out the governance arrangements for the council of the wānanga, including the constitution of the council and arrangements for the appointment, suspension, and removal of members; and
 - (d) specify the functions, duties, and purposes of the wānanga and its council; and
 - (e) set out the procedures for conducting the meetings of the council; and
 - (f) specify the collective and individual duties of the members of the council and the manner in which members will be accountable for the performance of their duties; and
 - (g) specify the iwi or Māori to whom the wānanga is accountable for the effective governance and administration of the wānanga, and the things for which the wānanga is accountable (for example, the progress made towards achieving the purposes of the wānanga, the financial management of the wānanga, and the educational performance of the wānanga); and
 - (h) set out what the wānanga must do to ensure adequate accountability for the effective governance and administration of the wānanga, including—
 - (i) requirements for the efficient and prudent financial management of the wānanga; and
 - (ii) requirements for financial reporting and reporting on other matters, including (without limitation) requiring wānanga to prepare,

- in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013),—
- (A) a statement of service performance; and
 - (B) annual financial statements; and
- (iii) the means by which risk to the operation and long-term viability of the wānanga is to be managed, including the range or type of interventions available to address those risks; and
 - (iv) requirements for setting the long-term strategic direction and objectives of the wānanga in respect of the performance of its functions; and
- (i) provide for the appointment of a chief executive, including—
 - (i) the functions and duties of the chief executive; and
 - (ii) the delegation of any functions or duties of the chief executive; and
 - (j) set out the requirements relating to the appointment of employees of the wānanga; and
 - (k) set out the things that the wānanga must do to ensure the fair and proper treatment of employees in all aspects of their employment; and
 - (l) require the wānanga to publish an annual report on an Internet site maintained by or on behalf of the wānanga; and
 - (m) require the annual report of the wānanga to include (without limitation) a statement of—
 - (i) the number of employees or former employees of the wānanga who, in their capacity as employees, received remuneration of \$100,000 or more (including compensation or other benefits) in the year to which the report relates; and
 - (ii) the number of those employees or former employees in each bracket of remuneration in \$10,000 increments.
- (4) An order made under subsection (1) may do all or any of the following:
- (a) set out, by way of a preamble, the historical background to the establishment of the wānanga and any acknowledgements by the Crown;
 - (b) specify the means by which the council of the wānanga is to engage with the people who constitute the wānanga, and the iwi or Māori to whom the wānanga is accountable for its effective governance and administration;
 - (c) impose conditions on the performance or exercise of the functions, duties, or powers of the wānanga and its council;
 - (d) specify the manner in which policies of the wānanga are to be determined:

- (e) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters:
- (f) provide for any other matters that are necessary or desirable—
 - (i) for the good governance of the wānanga; or
 - (ii) to clarify the arrangements for the administration of the wānanga.
- (5) For the purposes of subsection (3)(m), **employees** includes the chief executive appointed by the council of the wānanga.
- (6) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

398J Appointment and nomination of council members

When appointing or nominating members of the council of a category B wānanga, the council or any other person or body making the appointments or nominations must appoint or nominate people who (in the opinion of the council or other person or body making the appointment)—

- (a) have relevant knowledge, skills, or experience; and
- (b) are likely to be able to fulfil their individual duties to the council; and
- (c) together with the other members of the council, are capable of undertaking its responsibilities, duties, and functions.

398K Certain people ineligible to be appointed

A person is not eligible for appointment to the council of a category B wānanga if—

- (a) the person is subject to a property order under the Protection of Personal and Property Rights Act 1988; or
- (b) a personal order has been made under that Act in respect of the person that reflects adversely on their—
 - (i) competence to manage their own affairs in relation to their property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare; or
- (c) the person has been adjudicated bankrupt and has not obtained an order of discharge, or whose order of discharge has been suspended for a term

that has not yet expired or is subject to any conditions that have not yet been fulfilled; or

- (d) the person has been removed from office as a member of the council of any institution.

398L Membership of more than 1 council

A person who is a council member of a category B wānanga may be appointed as a council member of another institution (whether or not they are institutions of the same kind).

398M Statutes relating to appointment

- (1) The council of a category B wānanga may make statutes relating to the appointment of members under its constitution.
- (2) The statutes may—
 - (a) provide for direct appointment by the council of a member chosen by the council; or
 - (b) require the council to appoint a member—
 - (i) of a stated description; or
 - (ii) holding a stated office; or
 - (iii) nominated by a stated person or by a body or person of a stated description; or
 - (iv) elected by people of a stated description.
- (3) To the extent that the statutes require the council to appoint—
 - (a) a member elected by people of a stated description, they must also provide for the processes by which elections must be held and their results must be determined:
 - (b) a member nominated by a stated person or body or a body of a stated description, they must also provide for the process by which nominations may be called for and must be considered.
- (4) For an appointment under a statute providing for any of the matters set out in subsection (2)(b), section 398J is complied with if, when making the statute concerned, the council is satisfied that compliance with the statute is likely to result in the appointment of a person who—
 - (a) has relevant knowledge, skills, or experience; and
 - (b) is likely to be able to fulfil the person's individual duties to the council; and
 - (c) together with the other members of the council, is capable of undertaking its responsibilities, functions, and duties.
- (5) This section does not limit section 284.

398N Acts and proceedings not invalidated by certain defects

No act or proceeding of the council, or any council committee, of a category B wānanga is invalidated by—

- (a) a defect in the appointment of a council member or of the committee; or
- (b) a defect in the nomination of a council member or committee for appointment as a council member; or
- (c) a defect in the election of a council member or committee for appointment as a council member; or
- (d) a disqualification of a council member or committee member; or
- (e) a vacancy in the membership of the council or committee; or
- (f) a defect in the convening of any meeting.

398O Amendments to constitutions

If the council of a category B wānanga recommends to the Minister that the constitution of the council be amended in a manner that complies with the requirements of the Order in Council establishing the wānanga, the Minister must amend the constitution in accordance with the recommendation by notice published in the *Gazette*.

398P Application of Local Authorities (Members' Interests) Act 1968

The council of a category B wānanga is not a local authority for the purposes of the Local Authorities (Members' Interests) Act 1968.

398Q Application of Public Records Act 2005

An institution that is a category B wānanga is a public office for the purposes of the Public Records Act 2005.

Compare: 2022 No 30 s 28

398R Application of Public Audit Act 2001

- (1) An institution that is a category B wānanga is a public entity as defined in section 4 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) The wānanga must forward to the Auditor-General,—
 - (a) within 3 months after the end of each financial year,—
 - (i) the annual financial statements of the wānanga; and
 - (ii) the statement of service performance of the wānanga; and
 - (iii) any other information that the Auditor-General has agreed, or is required, to audit; and
 - (b) the annual report of the wānanga in a timely manner to enable the Auditor-General to review that report before providing the audit report required under subsection (3)(b).

- (3) The Auditor-General must—
- (a) audit the statements and information referred to in subsection (2)(a); and
 - (b) provide an audit report to the wānanga within 4 months after the end of each financial year.

398S Office holders and employees are officials

- (1) This section applies to office holders and employees of a category B wānanga or a subsidiary that it owns solely or together with 1 or more other institutions or Crown entities.
- (2) Individuals working for the wānanga or its subsidiary as contractors or secondees and performing or exercising a function, duty, or power of the wānanga are to be treated as if they are employees.
- (3) This section also applies to a person who was formerly an employee or office holder in respect of any acts or omissions or decisions made while that person was an employee or office holder of the wānanga or its subsidiary.
- (4) A person to whom this section applies is an official for the purposes of sections 105 and 105A of the Crimes Act 1961.
- (5) This section does not limit the meaning of official in section 99 of the Crimes Act 1961.

Compare: 2004 No 115 s 135

398T Disclosure of interest

- (1) A council member of a category B wānanga, or a council committee member, who has an interest in a matter being considered or about to be considered by the council or the committee must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the council or the committee.
- (2) A disclosure under subsection (1) must be recorded in the minutes of the meeting of the council or committee, and the member may not, unless the council decides otherwise,—
 - (a) be present during any deliberation of the council or the committee with respect to that matter; or
 - (b) take part in any decision of the council or the committee with respect to that matter.
- (3) For the purposes of this section, a person **has an interest in a matter** if, and only if, the matter relates to the conditions of service of the person as the chief executive or a member of the staff of the wānanga concerned or the person has any other direct or indirect pecuniary interest in the matter.

Compare: 1989 No 80 s 175

398U Fees and allowances

- (1) A member of the council of a category B wānanga (other than the chief executive) may be paid fees at the rates, not exceeding the maximum rates fixed by the Minister in accordance with the fees framework, that the council determines.
- (2) A council member is entitled, in accordance with the fees framework, to be reimbursed, out of the funds of the wānanga, for actual and reasonable travelling and other expenses incurred in carrying out the member's office as a member.
- (3) In this section, **fees framework** means the framework determined by the Government for the classification and remuneration of statutory and other bodies in which the Crown has an interest, including statutory entities and their subsidiaries and institutions.

398V Personal liability of council members

A council member of a category B wānanga is not personally liable for any act done or omitted by the council member or by the council—

- (a) in good faith; and
- (b) in the performance or intended performance of the functions of the wānanga or of the council.

398W Trust property

Despite anything to the contrary in this Act or any other enactment, any real or personal property held upon trust by a category B wānanga must be dealt with in accordance with the powers and duties of the wānanga as trustee.

Subpart 4—Conversion to category B wānanga**398X Conversion of category A wānanga or category C wānanga to category B wānanga**

A category A wānanga or category C wānanga may be converted to a category B wānanga in accordance with clauses 94 to 108 of Schedule 1.

Subpart 5—Disestablishment of wānanga**398Y Disestablishing wānanga**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
 - (a) disestablish a wānanga and provide for the distribution of its assets and liabilities;
 - (b) disestablish a wānanga and incorporate the disestablished wānanga into another wānanga or other institution, whether the wānanga or other insti-

- tution is an existing wānanga or other institution or a new wānanga or other institution that is established for the purpose:
- (c) provide for the distribution of the assets and liabilities of a wānanga that is to be disestablished.
- (2) Before making a recommendation, the Minister must—
- (a) give to the council of the wānanga, and any other institution that the Minister considers is likely to be directly affected, written notice—
 - (i) setting out the action that the Minister is considering whether to take and the reasons for that action; and
 - (ii) inviting the council and institutions to make a written submission to the Minister in relation to the matter; and
 - (b) consult iwi or Māori instrumental in the establishment of the wānanga and take those views into account; and
 - (c) consult any other person or body that the Minister thinks fit; and
 - (d) publish, in the *Gazette*, the notices that the Minister thinks fit inviting members of the public to make written submissions in relation to the matter; and
 - (e) consider any submissions made within a reasonable period in response to the notices.
- (3) The Minister may not recommend the disestablishment of a category A wānanga or category C wānanga, or its disestablishment and incorporation into another wānanga or other institution, unless the Minister is satisfied—
- (a) on reasonable grounds that there is good reason to do so; and
 - (b) that disestablishing the wānanga, or disestablishing the wānanga and incorporating the disestablished wānanga into another wānanga or other institution, is in the interests of the tertiary education system and the nation as a whole.
- (4) The Minister may not recommend the disestablishment of a category B wānanga, or its disestablishment and incorporation in another wānanga or other institution, unless—
- (a) the iwi or Māori instrumental in the establishment of the wānanga has determined that there is good reason to do so; and
 - (b) the Minister is satisfied that disestablishing the wānanga, or disestablishing the wānanga and incorporating the disestablished wānanga in another wānanga or other institution, is in the interests of the tertiary education system and the nation as a whole; and
 - (c) the iwi, hapū, or Māori organisation that is primarily accountable for the wānanga is instrumental in the Minister's disestablishment decision.

- (5) The Minister must specify in the recommendation the reasons for the proposed disestablishment of a wānanga or proposed disestablishment of a wānanga and its incorporation into another wānanga or other institution.
- (6) An order made under this section must,—
- (a) in respect of the disestablishment of any wānanga, be consistent with the provisions of this Act regarding the distribution of assets and liabilities, including (without limitation) sections 398ZC (vesting of property of disestablished wānanga) and 575A (taxes and duties where assets and liabilities of disestablished institution vested in iwi or Māori):
 - (b) in respect of the disestablishment of a category B wānanga,—
 - (i) require the wānanga to provide a final report to the Minister; and
 - (ii) specify the required content of the final report and the date or dates by which the contents of the report must be provided.
- (7) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

398Z Effect of disestablishing wānanga

Sections 398ZA to 398ZF apply if a wānanga is disestablished.

398ZA Disestablished wānanga and their councils cease to exist

The disestablished wānanga and its council cease to exist.

398ZB Entitlements of certain persons for certain awards

- (1) A person who would, but for the disestablishment of the wānanga, have been entitled to be granted an award of the wānanga is entitled to be granted an equivalent award at—
- (a) the institution into which the wānanga is incorporated; or
 - (b) any other institution that the Secretary directs.
- (2) A person who has partially completed a programme at the disestablished wānanga leading to an award is entitled—
- (a) to enrol in a similar programme at—
 - (i) the institution into which the wānanga is incorporated; or
 - (ii) any other institution that the Secretary directs; and

- (b) to be granted the status, and the credit for work performed at the disestablished wānanga, as the council of the institution referred to in paragraph (a)(i) or (ii), after consulting NZQA, thinks fit.

398ZC Vesting of property of disestablished wānanga

- (1) If the disestablished wānanga is, immediately upon its disestablishment, incorporated into another institution,—
 - (a) all real and personal property that, immediately before the disestablishment, was vested in the disestablished wānanga (including property held on trust) is vested in the other institution subject to all charges, encumbrances, estates, and interests, and any enactment, affecting that property; and
 - (b) the other institution becomes liable to pay and discharge all the debts, liabilities, and obligations of the disestablished institution that existed immediately before its disestablishment.
- (2) The following provisions apply to a category A wānanga or category C wānanga:
 - (a) if the disestablished wānanga is not immediately upon its disestablishment incorporated into another institution, all real and personal property that, immediately before the disestablishment, was vested in the council of the disestablished wānanga (including property held on trust) is vested in the Crown, subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property:
 - (b) despite paragraph (a), the Minister may, by written notice, direct that any of the following specified real or personal property of the wānanga is vested in the iwi or Māori concerned subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property:
 - (i) property that is derived from the settlement of a claim under Te Tiriti o Waitangi in relation to the wānanga:
 - (ii) property that is gifted to the wānanga by iwi or Māori instrumental in the establishment of the wānanga:
 - (c) before issuing a direction under paragraph (b), the Minister must consult the iwi or Māori concerned and any other person or body the Minister thinks fit:
 - (d) the Minister is liable to pay and discharge all the debts, liabilities, and obligations of the council of the disestablished wānanga that existed immediately before its disestablishment other than in relation to any property vested in iwi or Māori under paragraph (b).
- (3) If any real or personal property that was held by a disestablished wānanga on trust vests in the Crown under subsection (2)(a), the Minister may appoint another institution or body to be the trustee of that property.

- (4) In the case of a category B wānanga, if the disestablished wānanga is not, immediately upon its disestablishment, incorporated into another institution,—
- (a) all real and personal property that, immediately before the disestablishment, was vested in the council of the disestablished wānanga (including property held on trust) is vested in the iwi or Māori to whom the wānanga is accountable, subject to all charges, encumbrances, estates, or interests, and any enactment, affecting that property; and
 - (b) the iwi or Māori concerned become liable to pay and discharge all the debts, liabilities, and obligations of the council of the disestablished wānanga that existed immediately before its disestablishment.
- (5) If any real or personal property that was held by a disestablished wānanga on trust vests in an iwi or Māori under subsection (4)(a), the iwi or Māori concerned may appoint another institution or body to be the trustee of that property.
- (6) If any land vests in an institution, or in the Minister or iwi or Māori under this section, the Registrar-General of Land, on the deposit with the Registrar-General of the plans and documents that the Registrar-General may require, must make the entries in the register and generally do all the other things necessary to give full effect to this section.
- (7) If property is vested in iwi or Māori under this section, the iwi or Māori concerned are responsible for any obligations under section 40 of the Public Works Act 1981 in relation to the vested land (as if they were a local authority).

398ZD Treatment of certain contracts, instruments, and proceedings

Any contract or other instrument (other than a contract of, or instrument relating to, employment) subsisting, or any proceeding pending, immediately before the disestablishment of a wānanga to which the wānanga was a party has effect after the disestablishment as if—

- (a) the institution into which the disestablished wānanga is incorporated or the Minister or iwi or Māori concerned is substituted for the disestablished wānanga as a party to the contract, other instrument, or proceeding; and
- (b) any reference in the contract or other instrument, or in a pleading, affidavit, or other document in the proceeding, to the disestablished wānanga in its capacity as a party to the contract, other instrument, or proceeding is (except in relation to matters that occurred before the disestablishment) a reference to the wānanga in which the disestablished wānanga is incorporated or the Minister or iwi or Māori concerned.

398ZE Continuation of disestablished wānanga for certain purposes

- (1) Despite section 398ZA, the council of a disestablished wānanga that was a Crown entity continues in existence for the purpose of complying, or facilitat-

ing compliance, with Part 4 of the Crown Entities Act 2004 and section 306 of this Act in relation to any academic year of the wānanga and,—

- (a) if the wānanga is incorporated into another institution, the council of the other institution; or
- (b) otherwise, the Secretary—

must give to the council of the disestablished wānanga any assistance that the council requires for the purpose of complying with its obligations under those provisions and is responsible for paying any expenses incurred by the council (including remuneration and expenses of members of the council or governing body) in so complying.

- (2) Despite section 398ZA, the council of a disestablished wānanga that was a category B wānanga continues in existence for the purpose of complying, or facilitating compliance, with an order made under section 398Y.

398ZF Restriction on subsequent distribution of surplus assets

If a wānanga is disestablished, any surplus assets vested in the iwi or Māori concerned under section 398ZC may only be used for a public or charitable purpose to advance Māori tertiary education.

11 Section 405 amended (Chief executive must monitor and report on institutions)

In section 405, insert as subsections (2) and (3):

- (2) In the case of an institution that is a wānanga that is not a Crown entity, the chief executive of TEC—
 - (a) may, along with the council of the wānanga, establish a framework for monitoring risk to the operation and long-term viability of the wānanga, having regard to the purpose set out in section 398B and, in particular, the accountability of the wānanga to iwi or Māori; and
 - (b) must undertake any monitoring activity in relation to the wānanga in accordance with the framework; and
 - (c) may report on the outcome of risk monitoring in relation to the wānanga to the Minister and to the iwi or Māori to whom the wānanga is accountable for the operation and long-term viability of the wānanga.
- (3) Nothing in subsection (2) limits or affects the duty of the chief executive to monitor institutions at risk under this section.

12 Section 424 amended (Criteria for assessing proposed plans)

After section 424(2)(d), insert:

- (e) how, in the case of a wānanga, the activities of the wānanga (other than those activities that contribute towards the Government's priorities set out in the tertiary education strategy) support the functions and purposes of the wānanga.

13 Section 574 amended (Taxes and duties where disestablished institution incorporated into another institution)

- (1) In section 574(1)(a), replace “section 573(5) and the other institution referred to in that section” with “section 398ZC(1) or 573(5) and the other institution referred to in those provisions”.
- (2) In section 574(1)(b) and (4), replace “section 573(5)” with “section 398ZC(1) or 573(5)”.

14 Section 575 amended (Taxes and duties in other cases)

In section 575(1), (2), and (4), replace “section 573(6)” with “section 398ZC(2) or 573(6)” in each place.

15 New section 575A inserted (Taxes and duties where assets and liabilities of disestablished institution vested in iwi or Māori)

After section 575, insert:

575A Taxes and duties where assets and liabilities of disestablished institution vested in iwi or Māori

- (1) For the purposes of the Acts specified in Schedule 1 of the Tax Administration Act 1994, and of any other enactment that imposes, or provides for the collection of, a tax, duty, levy, or other charge,—
 - (a) a disestablished wānanga referred to in section 398ZC(4) and the iwi or Māori concerned must be treated as being the same person with effect on and from the date on which the real and personal property of the disestablished wānanga vests in the iwi or Māori under that section; and
 - (b) in respect of the liability under 1 or more of those enactments for, and the assessment, determination, or imposition of, taxes, duties, levies, or other charges accruing on and from the day on which the real and personal property of the disestablished wānanga vests in the iwi or Māori concerned, all transactions entered into by, and acts of, the disestablished wānanga before the vesting under section 398ZC(4) must be treated as having been entered into by, or to be those of, the iwi or Māori concerned and to have been entered into or performed by those iwi or Māori at the time when they were entered into or performed by the disestablished wānanga.
- (2) For the purposes of determining a matter referred to in subsection (3), shares held by a disestablished wānanga in any company (whether directly or through any 1 or more interposed companies) immediately before the vesting under section 398ZC(4) must be treated as having been acquired by the iwi or Māori concerned at the time when they were acquired by the disestablished wānanga.
- (3) The matters are whether—

- (a) any taxpayer satisfies the requirements of section IA 5(2) of the Income Tax Act 2007:
 - (b) any taxpayer is included in a group of companies or a wholly-owned group for the purposes of section IA 6 of the Income Tax Act 2007:
 - (c) any debit arises to be recorded in a taxpayer's imputation credit account under section OB 41 of the Income Tax Act 2007.
- (4) The vesting of all the real and personal property of a disestablished wānanga in the iwi or Māori concerned under section 398ZC(4) may not be treated as a supply of any goods or services for the purposes of the Goods and Services Tax Act 1985, or as a disposition of property for the purposes of the Estate and Gift Duties Act 1968.
- (5) Nothing in subsection (2) or (4) limits subsection (1).
- Compare: 1989 No 80 s 219

16 Section 611 amended (Conditions of employment of chief executive)

Replace section 611(3) with:

- (3) Except where specific conditions of employment for a chief executive are provided in this Act, the conditions of employment for a chief executive must be determined in each case by agreement between the council of the institution and the chief executive, but,—
- (a) in the case of a wānanga that is a Crown entity, the council must consult the Public Service Commissioner on the conditions of employment before finalising them with the chief executive or amending any or all of the conditions once they have been finalised:
 - (b) in the case of any other institution, the council must obtain the written agreement of the Public Service Commissioner to the conditions of employment before finalising them with the chief executive or amending any or all of the conditions once they have been finalised.

17 Schedule 11 amended

- (1) In the Schedule 11 heading, replace “271(5)” with “271(8)”.
 - (2) In Schedule 11, clause 1(1), after “section 268(1)”, insert “or under section 398E”.
 - (3) In Schedule 11, clause 1(2), after “section 276”, insert “or under section 398E”.
 - (4) In Schedule 11, clause 2(1), replace “section 276,” with “section 276 or the requirements of an Order in Council made under section 398E in relation to the constitution of the council of a wānanga,”.
 - (5) In Schedule 11, after clause 11(2), insert:
- (2A) Despite anything in subclause (2), a council member of a wānanga who does not comply with their individual duties may be removed from office under the

provisions for removal of members set out in an Order in Council for the reconstitution or establishment of the wānanga.

Part 2

Other amendments to principal Act

18 Section 5 amended (Minister may issue statement of national education and learning priorities)

In section 5(6)(c), after “schools”, insert “and Kura Kaupapa Māori”.

19 Section 10 amended (Interpretation)

(1) In section 10(1), definition of **domestic student**, paragraph (b), after “2009”, insert “who satisfies the criteria (if any) prescribed by regulations made under subsection (2)”.

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

Kura Kaupapa Māori means a school designated in accordance with section 201

Te Tauihu o Ngā Wānanga means the body incorporated as Te Tauihu o Ngā Wānanga Incorporated, or its successor, to represent the collective interests of wānanga established under this Act

(3) In section 10(2), replace “paragraph (a)(ii) of the definition of domestic tertiary student” with “paragraph (b) of the definition of domestic student or paragraph (a)(ii) of the definition of domestic tertiary student”.

(4) After section 10(4), insert:

(4A) For the purposes of Part 4A and Part 5 of Schedule 1, **iwi or Māori** includes an organisation, an entity, or a body authorised to act on behalf of the iwi or Māori constituency concerned.

20 New section 94A inserted (Appointment of chief executive of Te Aho o Te Kura Pounamu)

After section 94, insert:

94A Appointment of chief executive of Te Aho o Te Kura Pounamu

The chief executive of Te Aho o Te Kura Pounamu is appointed for a term of not more than 5 years, but may be reappointed for 1 or more terms.

21 Section 115 amended (When State schools must be open)

In section 115, replace “Schedule 21 and any regulations made under this Act” with “regulations made under section 638”.

22 Section 189 amended (Overview: classifications and types of State schools)

Replace section 189(b)(ii) with:

- (ii) designated character school:
- (iia) Kura Kaupapa Māori:

23 Section 201 replaced (Kura Kaupapa Māori)

Replace section 201 with:

201 Kura Kaupapa Māori

- (1) When establishing a State school, the Minister may, by notice in the *Gazette*, designate the school as a Kura Kaupapa Māori.
- (2) The Minister may, in the Minister’s absolute discretion, refuse to establish a school as Kura Kaupapa Māori.
- (3) The Minister may not establish a school under this section unless satisfied that—
 - (a) te reo Māori is to be the main language of instruction at the school;
 - (b) the school is to operate in accordance with Te Aho Matua;
 - (c) it is desirable for students whose parents want them to do so to get such an education;
 - (d) students at the school are to receive an education of a kind that differs significantly from the education they would receive at an ordinary State school.
- (4) A Kura Kaupapa Māori may have other special characteristics that give it a particular character (its **special characteristics**).
- (5) The Minister may not establish a State school as a Kura Kaupapa Māori unless the Minister has first consulted te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua.
- (6) A notice under subsection (1) must—
 - (a) specify the name of the school, which must at all times begin with the words “Te Kura Kaupapa Māori o”; and
 - (b) state that the school will operate in accordance with Te Aho Matua; and
 - (c) summarise any special characteristics of the school; and
 - (d) specify the constitution of the board of the school.
- (7) After consultation with the board, the Minister may from time to time, by notice in the *Gazette*, amend the name of the school (but not so as to omit the words “Te Kura Kaupapa Māori o”), its special characteristics, or the constitution of the board.
- (8) The board of a school established under this section must ensure that—
 - (a) te reo Māori is the principal language of instruction at the school; and
 - (b) the school operates in accordance with Te Aho Matua.

- (9) The board may refuse to enrol any person whose parents do not accept that the school operates in accordance with Te Aho Matua.
- (10) The Secretary must, by written notice to a Kura Kaupapa Māori, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.
- (11) Except as provided in this section, clause 16 of Schedule 20, and any regulations made under this Act regarding enrolment schemes for Kura Kaupapa Māori, this Act applies to every Kura Kaupapa Māori as if it were not a Kura Kaupapa Māori.

Compare: 1989 No 80 s 155

24 Section 203 amended (Protection of term Kura Kaupapa Māori)

In section 203(1), replace “section 204” with “section 201”.

25 Sections 204 and 205 replaced

Replace sections 204 and 205 with:

204 Designated character schools

- (1) When establishing a State school, the Minister may designate the school as a designated character school in accordance with this section and section 205.
- (2) The Minister may, in the Minister’s absolute discretion, refuse to establish a designated character school.
- (3) The Minister may not establish a school as a designated character school unless satisfied that, if the school is established,—
 - (a) the school is to have a character that is in some specific way or ways different from the character of ordinary State schools (its **different character**):
 - (b) it is desirable for students whose parents want them to do so to get such an education:
 - (c) students at the school are to receive an education of a kind that differs significantly from the education they would receive at an ordinary State school.
- (4) The board of a designated character school must ensure that—
 - (a) the aims, purposes, and objectives of the school’s different character are set out in the school’s strategic plan; and
 - (b) the school operates consistently with its different character.
- (5) A board of a designated character school may refuse to enrol students whose parents do not accept that the school operates consistently with its different character.

- (6) The Secretary must, by written notice to a designated character school, fix a maximum roll of the school, and the board must ensure that the number of students enrolled at the school is not more than the maximum roll.
- (7) Except as provided in this section, clause 16 of Schedule 20, and any regulations made under this Act regarding enrolment schemes for designated character schools, this Act applies to every designated character school as if it were not a designated character school.

Compare: 1989 No 80 s 156

205 Process for establishing designated character schools

- (1) The Minister may, by notice in the *Gazette*, when establishing a State school, designate the school as a designated character school.
- (2) Before doing so, the Minister must be satisfied of the matters in section 204(3).
- (3) The notice establishing a designated character school must—
- (a) describe the different character of the school (as defined in section 204(3)(a));
 - (b) state the constitution of the school's board.
- (4) The notice establishing a designated character school may also name a body that has a special affiliation with the school or has responsibility for the different character of the school.
- (5) The Minister may, after consultation with the board of a designated character school, by notice in the *Gazette*,—
- (a) amend the description of the different character of the school:
 - (b) name a body that has a special affiliation with the school or has responsibility for the different character of the school:
 - (c) amend the statement of the constitution of the board.
- (6) The Minister must consult any body named under subsection (4) or (5)(b) before amending the description of the school's different character.

Compare: 1989 No 80 s 156AA

26 Section 306 amended (Annual report)

- (1) After section 306(4)(f), insert:
- (g) in the case of an institution that is a university or a wānanga, a statement of the number of employees or former employees of the university or wānanga who, in their capacity as employees, received remuneration of \$100,000 or more (including compensation or other benefits) in the year to which the report relates and the number of those employees or former employees in each bracket of remuneration in \$10,000 increments.
- (2) After section 306(9), insert:

- (10) For the purposes of subsection (4)(g), **employees** includes the chief executive appointed by the council of the university or wānanga.

27 Section 323 amended (Term of office)

After section 323(2), insert:

- (3) If a member's term of office expires before their successor is appointed, the member continues in office until their successor's appointment takes effect.

28 Section 527 amended (Requirements that private training establishments must comply with before enrolling international students)

In section 527(2)(c), replace “training scheme” with “approved micro-credential”.

29 Section 528 amended (Exemptions)

In section 528(1)(b), replace “section 527(2)(b)(ii)” with “section 525(2)(b) or 527(2)(b)(ii)”.

30 Section 535A amended (Appointment and functions of code administrators)

Repeal section 535A(7).

31 Section 540 amended (How export education levy may be applied)

- (1) Repeal section 540(5).
(2) In section 540(6), replace “this section” with “section 641”.
(3) Renumber section 540(6) as section 540(5).

32 New section 548A inserted (Data accessed by Ministry under Data and Statistics Act 2022)

After section 548, insert:

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

- (1) Despite section 54(1)(c) of the Data and Statistics Act 2022, the Ministry may publish or otherwise disclose, at the level of an early childhood service, data relating to the socio-economic status of children attending early childhood services and their families accessed under Part 5 of that Act in a form that may identify an individual or an organisation if—
- (a) 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
- (b) the data does not include personal information, as defined in section 7(1) of the Privacy Act 2020, 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.

(2) In subsection (1), **organisation** has the same meaning as in section 6 of the Data and Statistics Act 2022.

33 Section 594 repealed (Senior positions at institutions)

Repeal section 594.

34 Section 617 amended (Minister must issue eligibility criteria relating to appointment of principals)

In section 617(2)(c), after “schools”, insert “and Kura Kaupapa Māori”.

35 Section 638 amended (Regulations relating to how schools must be run)

(1) Replace section 638(2)(e) with:

- (e) provide for when schools must or may be open and closed for instruction, including (without limitation) by—
- (i) specifying term dates and the number of half-days on which schools must be open and providing for exceptions in particular cases:
 - (ii) allowing boards to vary the time at which any 1 or more half-days take place subject to any specified preconditions or requirements:
 - (iii) allowing boards to run multiple timetable arrangements unconditionally or subject to any specified preconditions or requirements:
 - (iv) authorising the Minister, by notice, to determine the matters set out in subparagraphs (i) to (iii), and authorising the Minister to delegate the power to determine those matters to the Secretary in relation to any individual school:

(2) After section 638(4), insert:

(5) If the regulations authorise the Minister to determine matters referred to in subsection (2)(e)—

- (a) an instrument that determines those matters is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
- (b) the regulations must contain a statement to that effect.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (5)(a)

Publication	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021, unless it is published by PCO	LA19 ss 69, 73, 74(1)(aa)
Presentation	The Minister must present it to the House of Representatives, unless it is excluded by section 114(2) of the Legislation Act 2019	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives, unless it is excluded by section 115 of the Legislation Act 2019	LA19 ss 115, 116

This note is not part of the Act.

36 Section 659 amended (Power of boards to close schools)

- (1) In section 659(1), replace “Schedule 21” with “regulations made under section 638(2)(e)”.
- (2) In section 659(2), replace “clause 1 of Schedule 21” with “regulations made under section 638(2)(e)”.

37 Schedule 1 amended

In Schedule 1,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

38 Schedule 4 amended

- (1) In Schedule 4, replace clause 1(2) with:
 - (2) The service provider must—
 - (a) obtain the Police vet required by subclause (1) before the person begins work at the early childhood service; and
 - (b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children if the person were to carry out work at the service.
 - (3) In carrying out an assessment under subclause (2)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.
- (2) In Schedule 4, replace clause 2(1A) with:
 - (1A) The service provider must—
 - (a) obtain the Police vet required by subclause (1) before the contractor, or employee of a contractor, has, or is likely to have, unsupervised access to children at the service; and
 - (b) consider the information contained in the Police vet to assess whether the contractor, or employee of a contractor, would pose a risk to the safety of children if they had unsupervised access to children at the service.
 - (1B) In carrying out an assessment under subclause (1A)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.
- (3) In Schedule 4, replace clause 6(1) with:
 - (1) The service provider must—
 - (a) obtain the Police vet required by clause 5,—
 - (i) in the case of a home to be used as a licensed home-based education and care service, before the home is used as a licensed home-based education and care service:

- (ii) in the case of a home that is being used as a licensed home-based education and care service, before the adult begins to live in the home; and
 - (b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children to whom the service is provided.
- (1A) In carrying out an assessment under subclause (1)(b), the service provider must take into account any guidelines on risk assessments issued by the Ministry.
- (4) In Schedule 4, replace clause 9(2) with:
- (2) The board or managers must—
 - (a) obtain the Police vet required by subclause (1) before the person begins work at the school; and
 - (b) consider the information contained in the Police vet to assess whether the person would pose a risk to the safety of children if the person were to carry out work at the school.
 - (3) In carrying out an assessment under subclause (2)(b), the board or managers must take into account any guidelines on risk assessments issued by the Ministry.
- (5) In Schedule 4, replace clause 10(1A) with:
- (1A) The board or managers must—
 - (a) obtain the Police vet required by subclause (1) before the contractor, or employee of a contractor, has, or is likely to have, unsupervised access to children at the school; and
 - (b) consider the information contained in the Police vet to assess whether the contractor, or employee of a contractor, would pose a risk to the safety of children if they had unsupervised access to children at the school.
 - (1B) In carrying out an assessment under subclause (1A)(b), the board or managers must take into account any guidelines on risk assessments issued by the Ministry.

39 Schedule 23 amended

- (1) In Schedule 23, replace clause 1(1)(a) with:
- (a) that every board should reflect—
 - (i) the ethnic diversity of the student body and the community of the school or special institution; and
 - (ii) the socio-economic diversity of the student body and the community of the school or special institution; and
 - (iii) the genders, sexualities, and sexes of the student body and the community of the school or special institution; and

- (iv) the diversity of disabled students at the school and the school's or special institution's disability community; and
 - (v) the character of the school, or special institution, it administers; and
 - (vi) the character of the community of the school or special institution (whether geographical or otherwise) that the school or special institution serves; and
- (2) In Schedule 23, after clause 1(2), insert:
- (3) For the purposes of subclause (1)(a)(i) to (iii) and (vi), **community of the school or special institution**—
- (a) means—
 - (i) the parents, families, and whānau of the students of the school or special institution; and
 - (ii) the Māori community associated with the school or special institution; and
 - (b) includes any other person, or group of persons, whom the board considers is part of its community.
- (3) In Schedule 23, after clause 9(1)(f), insert:
- (fa) a person who has been convicted of a specified offence identified in Schedule 2 of the Children's Act 2014, unless that person has obtained a pardon or been granted an exemption under subclause (5):
- (4) In Schedule 23, after clause 9(4), insert:
- (5) The Secretary may, on application, grant an exemption under this subclause to a person described in subclause (1)(fa) that allows the person to serve as a board member if the Secretary is satisfied that the person would not pose an undue risk to the safety of children.
- (6) The Secretary may, from time to time, audit an elected, appointed, or co-opted board member's continuing eligibility under subclause (1) to be a board member.
- (7) For the purposes of subclause (6), the board member must permit the Secretary to obtain any relevant information to enable the Secretary to conduct the audit.
- (5) In Schedule 23, after clause 12(1)(e), insert:
- (f) fails to provide permission under clause 9(7) to enable the Secretary to obtain relevant information for the purpose of auditing the board member's continuing eligibility to be a board member.
- (6) In Schedule 23, clause 13(1), replace "A casual" with "Subject to subclauses (3) to (9), a casual".
- (7) In Schedule 23, repeal clause 13(2).

Part 3

Amendments to other legislation

Amendment to Crown Entities Act 2004

40 Principal Act

Section 41 amends the Crown Entities Act 2004.

41 Section 7 amended (Meaning of Crown entity and categories of Crown entities)

In section 7(1)(e), second column, replace “2020” with “2020, excluding an institution that is a wānanga that is not a Crown entity”.

Amendment to Income Tax Act 2007

42 Principal Act

Section 43 amends the Income Tax Act 2007.

43 Section YA 1 amended (Definitions)

In section YA 1, definition of **tertiary education institution**, paragraph (a), after “subpart 3 or 4 of Part 4”, insert “or Part 4A”.

Amendment to Local Government Official Information and Meetings Act 1987

44 Principal Act

Section 45 amends the Local Government Official Information and Meetings Act 1987.

45 Schedule 2 amended

In Schedule 2, Part 2, insert in its appropriate alphabetical order:
Councils of wānanga established under Part 4A of the Education and Training Act 2020

Amendment to Ombudsmen Act 1975

46 Principal Act

Section 47 amends the Ombudsmen Act 1975.

47 Schedule 1 amended

In Schedule 1, Part 2, insert in its appropriate alphabetical order:
Wānanga established under Part 4A of the Education and Training Act 2020

*Amendment to Public Audit Act 2001***48 Principal Act**

Section 49 amends the Public Audit Act 2001.

49 Schedule 1 amended

In Schedule 1, insert in its appropriate alphabetical order:

Wānanga that are not Crown entities.

*Amendment to Tax Administration Act 1994***50 Principal Act**

Section 51 amends the Tax Administration Act 1994.

51 Section 32E amended (Applications for RWT-exempt status)

In section 32E(2)(kc), after “subpart 3 of Part 4”, insert “or Part 4A”.

Schedule
New Part 5 inserted into Schedule 1

s 37

Part 5
Provisions relating to Education and Training Amendment Act 2023

Subpart 1—Provisions for Part 4A (wānanga)

89 Wānanga

- (1) Wānanga established under section 268—
 - (a) are Crown entities for the purposes of section 7 of the Crown Entities Act 2004 and their councils are boards for the purposes of that Act; and
 - (b) are to be treated as if they were established as Crown entities under section 398E.
- (2) A wānanga that is reconstituted under clause 90(1) is to be treated as if it were established under section 398E as a category A wānanga.
- (3) A wānanga that is converted under clause 94(2) is to be treated as if it were established under section 398I as a category B wānanga.
- (4) The Crown Entities Act 2004—
 - (a) applies to those wānanga except to the extent that this Act expressly provides otherwise; and
 - (b) ceases to apply to those wānanga that are—
 - (i) converted to category B wānanga under clause 94(2);
 - (ii) established as category B wānanga under section 398I.
- (5) The Governor-General may, by Order in Council made on the recommendation of the Minister given after receiving a recommendation from Te Taihū o Ngā Wānanga, amend this Act or any other enactment by—
 - (a) omitting from it the term “category A wānanga” and substituting some other term;
 - (b) omitting from it the term “category B wānanga” and substituting some other term;
 - (c) omitting from it the term “category C wānanga” and substituting some other term.
- (6) To avoid doubt, a wānanga does not cease to be an institution merely because a term used to refer to it is changed under subsection (5).
- (7) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

*Reconstitution of wānanga council***90 Wānanga council may be reconstituted**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, reconstitute the council of a wānanga established under section 268.
- (2) Before making a recommendation to reconstitute the council of a wānanga under subclause (1), the Minister must—
 - (a) consult the council of the wānanga being considered for reconstitution; and
 - (b) consult iwi or Māori instrumental in the establishment of the wānanga; and
 - (c) consult any other persons or bodies that the Minister thinks fit; and
 - (d) be satisfied that any additional functions and purposes of the wānanga that are specified under subclause (4)(a) are consistent with the characteristics of a wānanga set out in section 398D.
- (3) An order made under subclause (1) must—
 - (a) revoke and replace any previous order determining the constitution of the council of the wānanga; and
 - (b) state the name of the wānanga as reconstituted; and
 - (c) make provision for determining the people who are to constitute the wānanga; and
 - (d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and the arrangements for the appointment, suspension, and removal of its members; and
 - (e) set out the arrangements for conducting meetings of the council; and
 - (f) specify the manner in which the policies of the wānanga are to be determined; and
 - (g) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters; and
 - (h) provide for any other matters that are necessary or desirable—
 - (i) for good governance of the wānanga:

- (ii) to clarify the arrangements for the administration of the wānanga; and
- (i) specify how the council is to engage with the Public Service Commissioner on the conditions of employment of the chief executive.
- (4) An order made under subclause (1) may—
- (a) specify any functions and purposes of the wānanga and the council that are in addition to any functions and purposes of an institution or its council set out in this Act;
- (b) impose conditions on the performance or exercise of the powers of the wānanga.
- (5) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

91 Initial membership of council of reconstituted wānanga

- (1) Before the date of reconstitution of the council of a wānanga, each person or body responsible for appointing or electing members to the reconstituted wānanga council may appoint or elect the number of members of the reconstituted wānanga council required by its constitution to be appointed or elected by that person or body.
- (2) The appointment or election of a member to a reconstituted wānanga council under subclause (1) takes effect on the later of—
- (a) the date on which the appointment or election occurs; and
- (b) the date of reconstitution.
- (3) If on the date of reconstitution a vacancy in the council of the wānanga as reconstituted exists, the person or body responsible for appointing or electing a person to that vacancy—
- (a) may, by written notice to any person who was a member of the council immediately before that day, authorise that person to act as a member of the council until the vacancy is filled; and
- (b) must appoint or elect a person to the vacancy within 3 months after the date of reconstitution.
- (4) The person or body responsible for appointing or electing a person to the vacancy must give a copy of every notice under subclause (3)(a) to the council of the wānanga as reconstituted.

- (5) A person authorised under subclause (3)(a) must for all purposes be treated as a member of the council concerned until the vacancy concerned is filled.
- (6) A council may, before the date of reconstitution, make the statutes under section 398H for the purpose of making appointments or conducting elections of members to the council of the wānanga as reconstituted.

Compare: 2009 No 70 s 19

92 Members of existing council go out of office

- (1) On the date of reconstitution of the council of a wānanga,—
- (a) all members of the council of the wānanga immediately before that date go out of office; and
 - (b) all the people appointed or elected as members of the council before that date under clause 91 take up office.
- (2) Neither the Crown, the wānanga, nor the council of the wānanga is liable to make a payment to, or otherwise compensate, a person in respect of the person's going out of office as a member of the council under this clause.

Compare: 2009 No 70 s 20

93 Reconstituted wānanga and council is same institution and council

On and after the date of reconstitution of the council of a wānanga,—

- (a) the wānanga is the same institution and Crown entity that existed immediately before that date; and
- (b) the council of the wānanga as reconstituted—
 - (i) is the same body as the council of the wānanga concerned that existed immediately before that date; and
 - (ii) has the same rights, duties, and obligations it then had under this Act together with any rights, duties, and obligations conferred in the order reconstituting the wānanga.

Compare: 2009 No 70 s 21

Conversion of wānanga

94 Category A wānanga or category C wānanga may convert to category B wānanga

- (1) This clause applies to an institution that is—
- (a) a category A wānanga; or
 - (b) a category C wānanga.
- (2) If this clause applies, the Governor-General may, by Order in Council made on the recommendation of the Minister, convert the institution to a category B wānanga.

- (3) Before making a recommendation to convert an institution to a category B wānanga, the Minister must—
- (a) consult the council of the wānanga being considered for conversion; and
 - (b) consult iwi or Māori instrumental in the establishment of the institution; and
 - (c) consult other persons or bodies that the Minister thinks fit; and
 - (d) be satisfied that the functions and purposes of the wānanga that are specified under subclause (4)(e) are consistent with the characteristics of a wānanga set out in section 398D; and
 - (e) be satisfied that the accountability arrangements set out in subclause (4)(h) and (i) are sufficient for the effective governance and administration of the wānanga; and
 - (f) be satisfied that iwi or Māori specified under subclause (4)(h) as the iwi or Māori to whom the wānanga is accountable—
 - (i) accept responsibility for ensuring accountability of the wānanga and its council; and
 - (ii) have access to the skills and resources reasonably necessary to ensure accountability of the wānanga and its council.
- (4) An order made under subclause (2) must—
- (a) revoke and replace any order establishing the wānanga; and
 - (b) state the name of the wānanga; and
 - (c) provide for determining the people who are to constitute the wānanga; and
 - (d) set out the governance arrangements for the council of the wānanga, including the constitution of the council and the arrangements for the appointment, suspension, and removal of members; and
 - (e) specify the functions, duties, and purposes of the wānanga and its council; and
 - (f) set out the procedures for conducting the meetings of the council; and
 - (g) specify the collective and individual duties of the members of the council and the manner in which members will be accountable for the performance of their duties; and
 - (h) specify the iwi or Māori to whom the wānanga is accountable for the effective governance and administration of the wānanga, and the things for which the wānanga is accountable (for example, the progress made towards achieving the purposes of the wānanga); and
 - (i) set out what the wānanga must do to ensure adequate accountability for the effective governance and administration of the wānanga, including—

- (i) requirements for the efficient and prudent financial management of the wānanga; and
 - (ii) requirements for financial reporting and reporting on other matters, including (without limitation) requiring wānanga to prepare, in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013),—
 - (A) a statement of service performance; and
 - (B) annual financial statements; and
 - (iii) the means by which risk to the operation and long-term viability of the wānanga will be managed, including the range or type of interventions available to address risk; and
 - (iv) requirements for planning the long-term strategic direction and objectives of the wānanga in the performance of its functions; and
 - (j) provide for the appointment of a chief executive, including—
 - (i) the functions and duties of the chief executive; and
 - (ii) the delegation of any functions or duties of the chief executive; and
 - (k) set out any requirements relating to the appointment of employees of the wānanga; and
 - (l) set out the things that the wānanga must do to ensure the fair and proper treatment of employees in all aspects of their employment; and
 - (m) require the wānanga to publish an annual report on an Internet site maintained by or on behalf of the wānanga; and
 - (n) require the annual report of the wānanga to include (without limitation) a statement of—
 - (i) the number of employees or former employees of the wānanga who, in their capacity as employees, received remuneration of \$100,000 or more (including compensation or other benefits) in the year to which the report relates; and
 - (ii) the number of those employees or former employees in each bracket of remuneration in \$10,000 increments.
- (5) An order made under subclause (2) may—
- (a) set out, by way of preamble, the contextual background for the conversion of the institution to a category B wānanga, including any acknowledgements by the Crown;
 - (b) specify the means by which the council of the wānanga is to engage with the people who constitute the wānanga, and the iwi or Māori that the wānanga is accountable to for its effective governance and administration:

- (c) impose conditions on the performance or exercise of the functions, duties, or powers of the wānanga or its council:
 - (d) specify limits on the number of times that people may be appointed to the council:
 - (e) specify the term of office of members of the council:
 - (f) specify the manner in which policies of the wānanga are to be determined:
 - (g) provide for the establishment and membership of an academic committee to advise the council on matters relating to courses of study or training, awards, and other academic matters:
 - (h) provide for any other matters that are necessary or desirable to—
 - (i) provide for good governance of the wānanga; or
 - (ii) clarify the arrangements for the administration of the wānanga.
- (6) For the purposes of subclause (4)(n), **employees** includes the chief executive appointed by the council of the wānanga.
- (7) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this clause

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

95 Members of council cease to hold office on close of day before date of conversion

- (1) If an order is made under clause 94(2), every member of the council of the relevant wānanga that is holding office immediately before the date of conversion ceases to hold office on the close of the day before that date.
- (2) Neither the Crown, the wānanga, nor the council of the wānanga is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) in respect of the loss of office.

96 Rights, assets, and liabilities of converted wānanga

- (1) This clause applies to all rights, assets, and liabilities that belong to a wānanga immediately before its date of conversion.
- (2) On and after the date of conversion,—
 - (a) the rights, assets, and liabilities of the wānanga that was a category A wānanga or category C wānanga vest in the category B wānanga; and

- (b) unless the context otherwise requires, every reference to the wānanga that was a category A wānanga or category C wānanga in any enactment (other than this Act), instrument, agreement, deed, lease, application, notice, or other document before that date must be read as a reference to the category B wānanga.
- (3) In this clause, **assets**, **liabilities**, and **rights** have the same meanings as in section 10(6).

97 Same person for purposes of Inland Revenue Acts

For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), a wānanga that is a category B wānanga must, on and from the date of conversion, be treated as the same person as the wānanga it replaces.

98 Employees of converted wānanga

- (1) On and after the date of conversion, every employee of the wānanga that was a category A wānanga or category C wānanga becomes an employee of the category B wānanga on the same terms and conditions that applied to the person immediately before they became an employee of the category B wānanga.
- (2) For the purposes of every enactment, law, determination, contract, and agreement relating to the employment of that employee,—
 - (a) the employee’s employment agreement is to be treated as unbroken; and
 - (b) the employee’s period of service with the wānanga that was a category A wānanga or category C wānanga, and every other period of service of the employee that is recognised by that wānanga as continuous service, is to be treated as a period of service with the category B wānanga.
- (3) To avoid doubt, the employment by a category B wānanga of an employee to whom this clause applies does not constitute new employment for the purposes of any service-related benefits, whether legislative or otherwise.
- (4) An employee to whom this clause applies is not entitled to receive any payment or benefit from the wānanga that was a category A wānanga or category C wānanga or the category B wānanga on the grounds that—
 - (a) the person’s position in the wānanga that was a category A wānanga or category C wānanga has ceased to exist; or
 - (b) the person has ceased to be an employee of that wānanga because of the transfer to the category B wānanga.
- (5) This clause overrides—
 - (a) Part 6A of the Employment Relations Act 2000; and
 - (b) any employment protection provision in any relevant employment agreement.

99 Superannuation schemes

- (1) This clause applies to a person who, immediately before becoming an employee of a category B wānanga, was—
 - (a) an employee of a category A wānanga or category C wānanga; and
 - (b) a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.
- (2) For the purposes of the Government Superannuation Fund Act 1956, the person is to be treated as being employed in the Government service as long as the person continues to be an employee of the category B wānanga.
- (3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the category B wānanga were Government service.
- (4) 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.
- (5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the category B wānanga is the controlling authority.
- (6) On and after the date of conversion, every reference to the wānanga that was a category A wānanga or category C wānanga as the employer in relation to any superannuation scheme must, unless the context otherwise requires, be read as a reference to the category B wānanga.

100 Students of converted wānanga

- (1) This clause applies to every student enrolled at a wānanga that was a category A wānanga or category C wānanga immediately before its date of conversion to a category B wānanga.
- (2) On and after the date of conversion, the student must be treated as having been enrolled at the category B wānanga.
- (3) A student who would, but for the conversion, have been entitled to be granted an award of the wānanga that was a category A wānanga or category C wānanga is entitled to be granted a like award of the category B wānanga.

101 Visas granted under Immigration Act 2009

- (1) This clause applies to a visa granted under the Immigration Act 2009 in respect of—
 - (a) a student, for the purposes of enrolment at a wānanga that was a category A wānanga or category C wānanga; or
 - (b) a staff member of a wānanga that was a category A wānanga or category C wānanga.
- (2) On and after the date of conversion, any reference to the wānanga that was a category A wānanga or category C wānanga in a condition imposed on the visa must be read as a reference to the category B wānanga.

102 Existing NZQA approvals, accreditations, and consents

- (1) This clause applies to the following that were granted to a wānanga that was a category A wānanga or category C wānanga by NZQA under this Act and in effect immediately before its date of conversion to a category B wānanga:
- (a) an approval of a programme under section 439;
 - (b) an accreditation to provide all or part of a programme under section 441;
 - (c) an approval to provide a micro-credential under section 445;
 - (d) a consent to assess against the standards listed in the Directory of Assessment and Skill Standards under section 449;
 - (e) a consent to award a degree or a postgraduate qualification under section 454.
- (2) On and after the date of conversion,—
- (a) the approval, accreditation, or consent (including any conditions imposed on an approval, an accreditation, or a consent) must be treated as if it were granted to the category B wānanga; and
 - (b) unless the context otherwise requires, every reference to the wānanga that was a category A wānanga or category C wānanga in the approval, accreditation, or consent must be read as a reference to the category B wānanga.

103 Existing funding paid by TEC under funding mechanism

- (1) This clause applies to funding (including any conditions imposed on the funding) payable by TEC to a wānanga—
- (a) in accordance with an approval granted under section 425(2); or
 - (b) other than via a plan under section 428.
- (2) On and after the date of conversion,—
- (a) TEC must treat the funding for a wānanga that was a category A wānanga or category C wānanga as if it were payable to the category B wānanga unless that funding is earlier suspended, revoked, or withdrawn under clause 16 or 26 of Schedule 18; and
 - (b) for the purposes of paragraph (a), every reference to the wānanga that was a category A wānanga or category C wānanga in an approval granted under section 425(2) must, unless the context otherwise requires, be read as a reference to the category B wānanga.

104 Other references to converted wānanga that were category A wānanga or category C wānanga

On and after the date of conversion, every reference to a wānanga that was a category A wānanga or category C wānanga in any enactment (other than this

Act) or document must, unless the context otherwise requires, be read as a reference to the category B wānanga.

105 Existing proceedings and other matters

- (1) On and after the date of conversion,—
- (a) any proceedings by or against the wānanga that was a category A wānanga or category C wānanga may be continued or enforced by or against the category B wānanga without amendment to the proceedings; and
 - (b) a matter or thing that would, but for this clause, have been completed by the wānanga that was a category A wānanga or category C wānanga may be completed by the category B wānanga; and
 - (c) anything done, omitted to be done, or to be done, by or in relation to the wānanga that was a category A wānanga or category C wānanga is to be treated as having been done, omitted to be done, or to be done by or in relation to the category B wānanga.
- (2) In this clause, **proceedings**—
- (a) means civil and criminal proceedings; and
 - (b) includes any enforcement or compliance action by TEC or NZQA.

106 Converted wānanga must provide final report to Minister

- (1) Despite section 45J of the Public Finance Act 1989,—
- (a) a wānanga that is a category B wānanga and that is converted from a wānanga that was a category A wānanga or category C wānanga must provide a final report to the Minister in relation to the wānanga that was a category A wānanga or category C wānanga in accordance with section 45J(1) of that Act; and
 - (b) the Minister may specify the contents of the final report and the date or dates by which the contents of the report must be provided.
- (2) Section 45L of the Public Finance Act 1989 does not apply to a wānanga that was a category A wānanga or category C wānanga and that is converted into a category B wānanga under clause 94(2).
- (3) The Minister must present a copy of the final report to the House of Representatives as soon as practicable after receiving it.
- (4) In this clause, **Minister** means the Minister responsible for the time being for administering this Part of this schedule.

107 Validation of pre-commencement actions and processes for appointments to councils of converted wānanga

- (1) This clause applies to any action or process undertaken by a wānanga that was a category A wānanga or category C wānanga before the date of conversion when appointing members to the council of the category B wānanga.
- (2) An appointment is valid if the action or process substantially complies with this Act and the provisions of the relevant Order in Council establishing the category B wānanga.

108 Membership of councils of category B wānanga reduced

- (1) The number of members of the council of a category B wānanga is reduced until the date on which each member referred to in the membership provisions of the relevant Order in Council is appointed to the council.
- (2) No action of the council of a category B wānanga is invalid just because any member referred to in subclause (1) has not been appointed to that council on the date of conversion.

Subpart 2—Provision relating to election of board members who are parent representatives

109 Timing of mid-term elections of board members who are parent representatives

- (1) This clause applies to a board that has decided under clause 4 of Schedule 23 to adopt a staggered election cycle in relation to the election of board members who are parent representatives.
- (2) Despite clause 4(3) of Schedule 23, the board must hold the next mid-term election of those board members that falls due after the commencement of this clause in November 2023.

Legislative history

23 March 2023	Introduction (Bill 239–1)
28 March 2023	First reading and referral to Education and Workforce Committee
24 July 2023	Reported from Education and Workforce Committee (Bill 239–2)
2 August 2023	Second reading
15 August 2023	Committee of the whole House, third reading
22 August 2023	Royal assent

This Act is administered by the Ministry of Education.