



Education (Teaching Council of Aotearoa New Zealand) Amendment Act 2018

Public Act 2018 No 35
Date of assent 28 September 2018
Commencement see section 2

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act	2
Part 1	
Amendments to principal Act	
4 Section 348 amended (Interpretation)	2
5 Section 379 amended (Education Council of Aotearoa New Zealand established)	2
6 Section 380 replaced (Composition of Education Council)	2
380 Composition of Teaching Council	3
380A Term of office	4
380B Removal of members	4
7 Section 388 amended (Education Council to make rules)	4
8 Schedule 1 amended	4
9 Schedule 21 amended	4
10 Consequential amendments to principal Act	5
Part 2	
Consequential amendments to other enactments	
11 Education Council Rules 2016 renamed	5
12 Consequential amendments to other enactments	6
Schedule 1	
New Part 5B inserted in Schedule 1	

Schedule 2	8
Clause 1 of Schedule 21 replaced	
Schedule 3	9
Consequential amendments to principal Act	
Schedule 4	12
Consequential amendments to other enactments	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education (Teaching Council of Aotearoa New Zealand) Amendment Act 2018.

2 Commencement

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

3 Principal Act

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

Part 1

Amendments to principal Act

4 Section 348 amended (Interpretation)

- (1) In section 348, repeal the definition of **Education Council**.
- (2) In section 348, insert in its appropriate alphabetical order:

Teaching Council means the body continued and renamed the Teaching Council of Aotearoa New Zealand under section 379(1)

5 Section 379 amended (Education Council of Aotearoa New Zealand established)

- (1) Replace the heading to section 379 with “**Continuation and renaming of Council**”.
- (2) Replace section 379(1) with:
 - (1) The body called the Education Council of Aotearoa New Zealand—
 - (a) is continued; and
 - (b) is renamed the Teaching Council of Aotearoa New Zealand.

6 Section 380 replaced (Composition of Education Council)

Replace section 380 with:

380 Composition of Teaching Council

- (1) The Teaching Council comprises 13 members as follows:
 - (a) 6 members appointed by the Minister in accordance with clause 1 of Schedule 21:
 - (b) 7 elected members, being—
 - (i) 1 teacher representing the early childhood education sector, elected by teachers from that sector; and
 - (ii) 1 teacher representing the primary education sector, elected by teachers from that sector; and
 - (iii) 1 teacher representing the secondary education sector, elected by teachers from that sector; and
 - (iv) 1 teacher educator, elected by registered teachers working in the fields of initial and ongoing teacher education; and
 - (v) 1 principal representing the primary education sector, elected by principals from that sector; and
 - (vi) 1 principal representing the secondary education sector, elected by principals from that sector; and
 - (vii) 1 early childhood education service leader, representing leadership in the early childhood education sector, elected by leaders from that sector.
- (2) Each of the elected members must be a registered teacher holding a current practising certificate, except the teacher educator, who need not hold a current practising certificate but must—
 - (a) be a registered teacher; and
 - (b) have 5 or more years of experience in the field of initial teacher education or ongoing teacher education, or both; and
 - (c) be currently working in one of those fields.
- (3) The Minister must appoint one of the members appointed or elected under this section as chairperson.
- (4) The elected members of the Teaching Council must be nominated and elected in accordance with rules made under section 388.
- (5) However,—
 - (a) elections must be held at least 4 months before members take office; and
 - (b) the Teaching Council must provide confirmation of the election results to the Minister at least 3 months before members take office.
- (6) The electors specified in subsection (1)(b)(i), (ii), (iii), (v), and (vi) must be—
 - (a) registered teachers with current practising certificates; or
 - (b) currently authorised persons.

- (7) The electors specified in subsection (1)(b)(vii) must be early childhood education service leaders who are registered teachers with current practising certificates.

380A Term of office

- (1) The term of office of every member is 3 years and—
- (a) an appointed member may be reappointed for 2 more terms; and
 - (b) an elected member may be re-elected for 2 more terms.
- (2) The term of office of all members—
- (a) begins at the same time (when the term of office of their immediate predecessors expires); and
 - (b) ends at the same time (when their term of office expires).

380B Removal of members

- (1) The Minister may remove an appointed member of the Teaching Council under clause 3(1) of Schedule 21.
- (2) The Minister may remove an elected member of the Teaching Council under clause 3(1A) of Schedule 21.

7 Section 388 amended (Education Council to make rules)

Before section 388(1)(a), insert:

- (aaa) the conduct of elections for electing members to the Teaching Council, including the election process; and

8 Schedule 1 amended

In Schedule 1, after Part 5A, insert the Part 5B set out in Schedule 1 of this Act.

9 Schedule 21 amended

- (1) In the Schedule 21 heading, replace “**Education**” with “**Teaching**”.
- (2) In Schedule 21, replace clause 1 with the clause 1 set out in Schedule 2 of this Act.
- (3) In Schedule 21, after clause 2(f), insert:
- (g) an elected member of the Teaching Council—
 - (i) who ceases to be registered as a teacher; or
 - (ii) who ceases to hold a current practising certificate; or
 - (iii) whose registration as a teacher is suspended; or
 - (iv) whose practising certificate is suspended.
- (4) In Schedule 21, after clause 2, insert:
- (2) Subclause (1)(g)(ii) and (iv) do not apply to teacher educators.

- (5) In Schedule 21, after clause 3(1), insert:
- (1A) The Minister may, after consulting the Teaching Council, remove an elected member of the Teaching Council for just cause.
- (6) In Schedule 21, clause 3(2), after “revocation”, insert “or removal”.
- (7) In Schedule 21, clause 4(1), after “is appointed”, insert “or elected”.
- (8) In Schedule 21, after clause 4, insert:

4A Extraordinary vacancies

- (1) An extraordinary vacancy occurs when a member dies or ceases to hold office.
- (2) If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member’s term,—
- (a) the Minister, in the case of an appointed member, may—
- (i) appoint a replacement; or
- (ii) leave the vacancy open:
- (b) the Teaching Council, in the case of an elected member, may—
- (i) appoint a replacement; or
- (ii) leave the vacancy open.
- (3) If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member’s term,—
- (a) the Minister, in the case of an appointed member, must appoint a replacement:
- (b) the Teaching Council, in the case of an elected member, must—
- (i) appoint a replacement; or
- (ii) hold an election for a replacement.
- (4) A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member’s term.

10 Consequential amendments to principal Act

Amend the principal Act as set out in Schedule 3.

Part 2

Consequential amendments to other enactments

11 Education Council Rules 2016 renamed

From the commencement of this section,—

- (a) the Education Council Rules 2016 are called the Teaching Council Rules 2016; and

- (b) every reference in any enactment and in any document to the Education Council Rules 2016 must, unless the context otherwise requires, be read as a reference to the Teaching Council Rules 2016.

12 Consequential amendments to other enactments

- (1) Amend the enactments specified in Schedule 4 as set out in that schedule.
- (2) Unless the context otherwise requires, every reference in this Act or any other enactment to—
 - (a) the Education Council must be read as a reference to the Teaching Council:
 - (b) the Education Council of Aotearoa New Zealand must be read as a reference to the Teaching Council of Aotearoa New Zealand.

Schedule 1
New Part 5B inserted in Schedule 1

s 8

Part 5B
Provisions relating to changes from Education Council to Teaching Council

11H Commencement of Teaching Council

- (1) The Education Council continues, and its members continue in office, until the members of the Teaching Council first take office.
- (2) The Education Council must hold the first elections for the elected members of the Teaching Council as soon as reasonably practicable, but no later than 9 months, after the commencement of this clause.
- (3) The Education Council must notify the Minister of the successful candidates as soon as reasonably practicable after the election is held.
- (4) The Minister must appoint the appointed members of the Teaching Council as soon as reasonably practicable after being notified, but no later than 12 months after the commencement of this clause.
- (5) The appointed and elected members of the Teaching Council take office at the same time on the earlier of the following dates:
 - (a) a date specified by the Governor-General by Order in Council:
 - (b) the date that is 12 months after the commencement of this clause.
- (6) Section 380(5) (as in force immediately after the commencement of this clause) does not apply to the election of members under this clause.

Schedule 2

Clause 1 of Schedule 21 replaced

s 9

1 Ministerial appointment as member

- (1) The members of the Teaching Council appointed by the Minister must be persons nominated after notification of the Teaching Council vacancy in the *Gazette* and consultation by the Minister undertaken in accordance with subclause (3).
- (2) A *Gazette* notice must specify the appointment process and must list the criteria for appointment specified in subclauses (3) and (4).
- (3) At least one of the appointed members must be appointed after the Minister consults, as the Minister thinks fit, representatives of parent and community interest groups in relation to schools and early childhood education services.
- (4) When considering whether to appoint a member of the Teaching Council, the Minister must—
 - (a) take into account each candidate's ability to carry out the duties of a member of the Teaching Council and represent the public interest; and
 - (b) have regard to the collective skills, experience, and knowledge making up the overall composition of the Teaching Council, including (but not limited to) the candidate's knowledge and experience in any of the following areas:
 - (i) education:
 - (ii) governance:
 - (iii) leadership experience and skills:
 - (iv) financial skills:
 - (v) understanding of the partnership principles of the Treaty of Waitangi.

Schedule 3

Consequential amendments to principal Act

s 10

Part 1

Replacing “Education Council” with “Teaching Council”

In the following provisions, replace “Education Council” with “Teaching Council”:

Section 91A(1), definition of **initial teacher education programme**

Section 348, definition of **satisfactory recent teaching experience**, in each place

Section 350(4)

Section 352, in each place

Section 353

Section 354, in each place

Section 355, in each place

Section 356, in each place

Section 357, in each place

Section 358, in each place

Section 359, in each place

Section 360, in each place

Section 361, in each place

Section 362, in each place

Section 363, in each place

Section 364, in each place

Section 366, in each place

Section 367, in each place

Section 368, in each place

Section 369, in each place

Section 370(2)

Section 371, in each place

Section 372, in each place

Section 373, in each place

Section 374, in each place

Part 32 heading

Section 376

Section 377, in each place

Cross-heading above section 379

Section 379(2) and (3)

Section 381, in each place

Section 382, in each place

Section 383, in each place

Section 384, in each place

Section 385, in each place

Section 386

Section 387, in each place

Section 388, in each place

Section 389, in each place

Section 390, in each place

Section 391, in each place

Section 392, in each place

Section 393(1)

Section 394(1)

Section 395(1)

Section 396, in each place

Section 397, in each place

Section 398(3)

Section 399, in each place

Section 400, in each place

Section 401(2)(d)(v)

Section 404, in each place

Section 405(1)(a)

Section 406(3)

Section 409(2)

Section 410AA(3)

Section 410, in each place

Section 411, in each place

Section 412, in each place

Section 413, in each place

Schedule 21, clauses 3 to 10, in each place.

Part 2

Replacing “Education Council’s” with “Teaching Council’s”

In the following provisions, replace “Education Council’s” with “Teaching Council’s”:

Section 348, definition of **satisfactory recent teaching experience**, paragraph (b)

Section 356(3)

Section 378(1), definition of **serious misconduct**, paragraph (b)

Section 384(1)

Schedule 21, clauses 3(6), 6(2), 8(3), 8(5)(a), 10(5)(a).

Schedule 4

Consequential amendments to other enactments

s 12

Part 1

Amendments to other Acts

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2,—

- (a) repeal the item relating to Education Council of Aotearoa New Zealand; and
- (b) insert, in its appropriate alphabetical order:

Teaching Council of Aotearoa New Zealand

Privacy Act 1993 (1993 No 28)

In section 97, definition of **specified agency**, paragraph (l), replace “Education Council of Aotearoa New Zealand established” with “Teaching Council of Aotearoa New Zealand continued”.

State Sector Act 1988 (1988 No 20)

In section 77C(2)(a), replace “Education Council of Aotearoa New Zealand” with “Teaching Council of Aotearoa New Zealand”.

Part 2

Amendments to legislative instruments

Education Council Rules 2016 (LI 2016/122)

In rule 1, replace “Education Council Rules” with “Teaching Council Rules”.

In rule 3(1), repeal the definition of **Education Council**.

Rule 3(1), insert in its appropriate alphabetical order:

Teaching Council means the body continued and renamed the Teaching Council of Aotearoa New Zealand under section 379(1) of the Act

In the following provisions, replace “Education Council” with “Teaching Council”:

Rule 3(1), in each place

Rule 4(1)(b)

Part 2 heading

Rule 7, in each place

Rule 9(1)

Rule 10, in each place

Education Council Rules 2016 (LI 2016/122)—*continued*

Rule 11, in each place

Rule 12, in each place

Rule 35(2)(d)

Rule 37(1)(e)

Rule 38

Rule 48A(1)(f)

Rule 49(2)

Rule 50, in each place

Rule 53(2)

Rule 54, in each place

Rule 55(2)

Rule 57(2)

Rule 59, in each place

Rule 60(2)

Rule 60A(2)

Rule 60B, in each place

Rule 61, in each place

Rule 62, in each place

Rule 63(1)

Rule 64, in each place

Rule 65, in each place

Rule 66, in each place.

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

In rule 3, definition of **recognised qualification**, paragraph (a), replace “Education Council of Aotearoa New Zealand” with “Teaching Council of Aotearoa New Zealand”.

Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)

In rule 9(1)(c), replace “Education Council of Aotearoa New Zealand” with “Teaching Council of Aotearoa New Zealand”.

Legislative history

29 June 2017	Introduction (Bill 283–1)
1 February 2018	First reading and referral to Education and Workforce Committee
9 August 2018	Reported from Education and Workforce Committee (Bill 283–2)
16 August 2018	Second reading
13 September 2018	Committee of the whole House (Bill 283–3)
18 September 2018	Third reading
28 September 2018	Royal assent

This Act is administered by the Ministry of Education.