

**Version
as at 10 August 2024**



Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Education.

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An Act to establish a fund to be known as the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund, to commemorate the service of Māori and, in particular, of the 28th (Māori) Battalion, in the war against Germany, and the award of the Victoria Cross to Second Lieutenant Te Moana-nui-a-Kiwa Ngarimu, and to make provision for the control and administration of the Fund

Title: amended, on 29 October 2016, by section 62 of the Education Legislation Act 2016 (2016 No 72).

Preamble

Whereas it is considered desirable to commemorate in a practical manner the service of Māori and, in particular, the service of the 28th (Māori) Battalion in the war against Germany, and the award of the Victoria Cross to Second Lieutenant Te Moana-nui-a-Kiwa Ngarimu, the first Māori to win this distinction:

And whereas for these purposes there has been established a scholarship fund to assist Māori education, and certain moneys have been subscribed to the fund:

And whereas it is necessary to make provision for future contributions to the fund and for the control and administration of the fund.

Preamble: amended, on 29 October 2016, by section 63(a) of the Education Legislation Act 2016 (2016 No 72).

Preamble: amended, on 29 October 2016, by section 63(b) of the Education Legislation Act 2016 (2016 No 72).

1 Short Title

This Act may be cited as the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945.

2 Interpretation

In this Act, unless the context otherwise requires,—

Board means the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board established by this Act

fees framework means the framework determined by the Government from time to time for the classification and remuneration of statutory and other bodies in which the Crown has an interest

financial year means a year ending on 30 June

Fund means the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund established by this Act

local authority means a local authority within the meaning of the Local Government Act 2002

Māori means a person of the Māori race of New Zealand; and includes a descendant of any such person

Minister means the Minister of Education.

Section 2 **fees framework**: inserted, on 29 October 2016, by section 64(1) of the Education Legislation Act 2016 (2016 No 72).

Section 2 **financial year**: amended, on 29 October 2016, by section 64(2) of the Education Legislation Act 2016 (2016 No 72).

Section 2 **local authority**: replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 2 **Māori**: replaced, on 29 October 2016, by section 64(3) of the Education Legislation Act 2016 (2016 No 72).

3 Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund established

- (1) There is hereby established a fund to be called the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund which shall consist of—
 - (a) all the moneys mentioned in the preamble of this Act, together with all interest thereon earned before the passing of this Act:
 - (b) all moneys that may be contributed to the Fund, or that may otherwise be lawfully payable into the Fund:
 - (c) all accumulations of moneys belonging to the Fund.
- (2) The Board must, as soon as practicable after it receives money belonging to the Fund, pay the money into an account of the Board (the **Fund account**) at a bank appointed by the Board.
- (3) No moneys shall be paid out of the Fund Account except pursuant to a resolution of the Board established by this Act.
- (4) The Board may appoint a fund manager to administer the Fund on its behalf.

Section 3(2): replaced, on 29 October 2016, by section 65(1) of the Education Legislation Act 2016 (2016 No 72).

Section 3(4): inserted, on 29 October 2016, by section 65(2) of the Education Legislation Act 2016 (2016 No 72).

4 Establishment of Board to administer Fund

- (1) The Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Board is established for the purpose of administering the Fund.
- (2) The Board consists of—
 - (a) the Minister, who is the chairperson of the Board:

- (b) the Minister for Māori Development:
 - (c) the Secretary for Education:
 - (d) the members of Parliament representing the Māori electoral districts:
 - (e) up to 4 people (preferably people who have served in the Armed Forces) to be appointed by the Governor-General to represent each of the companies that make up the 28th (Māori) Battalion:
 - (f) 1 Māori to be nominated by the descendants of Hamuera Ngarimu and Maraea Ngarimu and appointed by the Governor-General:
 - (g) 1 Māori who has received assistance from the Fund to undertake tertiary education, and who has successfully completed that education, to be appointed by the Governor-General:
 - (h) 1 Māori who has served or is currently serving in the Armed Forces to be appointed by the Governor-General.
- (3) The Board—
- (a) is a body corporate, with perpetual succession and a common seal; and
 - (b) is capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.
- (3A) The Board is the successor to the 28th Maori Battalion (NZ) Association Incorporated.
- (4) Despite subsection (2), the Board consisting of those people specified in subsection (2) before the commencement of subpart 2 of Part 2 of the Education Legislation Act 2016 may continue to perform the functions and exercise the powers of the Board under this Act until the Board described in subsection (2) is assembled.
- (5) In this section, **Armed Forces** has the same meaning as in section 2(1) of the Defence Act 1990.

Section 4: replaced, on 29 October 2016, by section 66 of the Education Legislation Act 2016 (2016 No 72).

Section 4(2)(h): inserted, on 10 August 2024, by section 4(1) of the Regulatory Systems (Education) Amendment Act 2024 (2023 No 30).

Section 4(3A): inserted, on 10 August 2024, by section 4(2) of the Regulatory Systems (Education) Amendment Act 2024 (2023 No 30).

Section 4(5): inserted, on 10 August 2024, by section 4(3) of the Regulatory Systems (Education) Amendment Act 2024 (2023 No 30).

4A People disqualified from Board membership

The following people are disqualified from being members of the Board:

- (a) a person who is an undischarged bankrupt:
- (b) a person who is prohibited under any enactment from being a director or promoter of, or being concerned or taking part in the management of, an incorporated or unincorporated body:

- (c) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
- (d) a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988 that reflects adversely on the person's—
 - (i) competence to manage the person's own affairs in relation to the person's property; or
 - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of the person's personal care and welfare:
- (e) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person.

Section 4A: inserted, on 29 October 2016, by section 66 of the Education Legislation Act 2016 (2016 No 72).

5 Term of office of members of Board

- (1) The members of the Board to be appointed by the Governor-General must be appointed for a term not exceeding 3 years, and any such member may from time to time be reappointed.
- (2) Despite subsection (1), a member continues in office until the member's successor comes into office, even if this means that the member's term exceeds 3 years.
- (2A) Subsection (2) applies unless the member vacates the office earlier due to the member's resignation, removal from office, or disqualification.
- (2B) A member may at any time resign from the Board by notice in writing to the Minister.
- (3) The powers of the Board shall not be affected by any vacancy in the membership thereof.

Section 5(1): replaced, on 29 October 2016, by section 67 of the Education Legislation Act 2016 (2016 No 72).

Section 5(2): replaced, on 29 October 2016, by section 67 of the Education Legislation Act 2016 (2016 No 72).

Section 5(2A): inserted, on 29 October 2016, by section 67 of the Education Legislation Act 2016 (2016 No 72).

Section 5(2B): inserted, on 29 October 2016, by section 67 of the Education Legislation Act 2016 (2016 No 72).

6 Meetings of Board

- (1) A meeting of the Board may be held—
 - (a) by a quorum of members, being assembled together at the time and place appointed for the meeting; or

- (b) by means of audio, audio and visual, or electronic communications, provided that—
 - (i) all of the members who wish to participate in the meeting have access to the technology needed to participate in the meeting; and
 - (ii) a quorum of members can simultaneously communicate with each other throughout the meeting.
- (2) The chairperson must preside over every meeting at which the chairperson is present.
- (2A) If the chairperson is absent from any meeting, the members present must appoint a present member to be the chairperson for that meeting.
- (3) The quorum necessary for any meeting is 5 members, of whom 3 must be members appointed by the Governor-General under section 4(2)(e) to (g).
- (4) All questions before the Board shall be decided by a majority of the valid votes recorded thereon.
- (5) At any meeting of the Board the chairperson shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.
- (6) Subject to the provisions of this Act, the Board shall regulate its own procedure.

Section 6(1): replaced, on 29 October 2016, by section 68(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6(2): replaced, on 29 October 2016, by section 68(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6(2A): inserted, on 29 October 2016, by section 68(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6(3): replaced, on 29 October 2016, by section 68(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6(5): amended, on 29 October 2016, by section 68(2) of the Education Legislation Act 2016 (2016 No 72).

6A Standing Committee

- (1) The Board may establish a Standing Committee consisting of the chairperson of the Board and any 2 other members of the Board.
- (2) The Board may delegate such of its functions and powers as it sees fit to the Standing Committee, except this power of delegation.
- (3) The chairperson must preside over every meeting of the Standing Committee at which the chairperson is present.
- (3A) If the chairperson is absent from any meeting of the Standing Committee, the members present must appoint a present member to be the chairperson for that meeting.
- (4) Any member of the Board may, at the request of the chairperson, act in the place of any member of the Committee (other than the chairperson) at any meeting of the Committee from which the member of the Committee is absent.

- (5) *[Repealed]*
- (6) While a member of the Board acts in the place of the chairperson or any other member of the Standing Committee, the member of the Board is for all purposes a member of the Committee.
- (6A) The fact that a member of the Board attends any meeting of the Standing Committee is sufficient evidence of the member's authority to do so.
- (7) Subject to the provisions of this section and to any general or special conditions attached by the Board, the Standing Committee may exercise and perform any functions and powers delegated to it by the Board in the same manner and with the same effect as if those functions and powers had been directly conferred on the Committee by this Act and not by delegation.
- (8) Any delegation under this section may at any time be revoked by the Board.
- (9) Where the Standing Committee purports to act pursuant to any delegation under this section it shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (10) No delegation under this section shall prevent the Board from exercising any of its functions and powers.
- (11) Subject to the provisions of this Act, the Committee appointed under this section may regulate its procedure in such manner as it thinks fit.

Section 6A: inserted, on 12 September 1974, by section 3 of the Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Amendment Act 1974 (1974 No 52).

Section 6A(1): amended, on 29 October 2016, by section 69(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(3): replaced, on 29 October 2016, by section 69(2) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(3A): inserted, on 29 October 2016, by section 69(2) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(4): amended, on 29 October 2016, by section 69(1) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(4): amended, on 29 October 2016, by section 69(3) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(5): repealed, on 29 October 2016, by section 69(4) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(6): replaced, on 29 October 2016, by section 69(5) of the Education Legislation Act 2016 (2016 No 72).

Section 6A(6A): inserted, on 29 October 2016, by section 69(5) of the Education Legislation Act 2016 (2016 No 72).

7 Functions of Board

- (1) The general functions of the Board are—
- (a) to administer the Fund in accordance with the provisions of this Act for the purpose of granting assistance for the education of any Māori, or for

- the purpose of promoting the study and encouraging the maintenance of the Māori language and of Māori history, tradition, and culture; and
- (b) to perform or exercise any other function, duty, or power conferred on it by or under other legislation.
- (1A) *See* section 18A(3)(b)(iv) of the Flags, Emblems, and Names Protection Act 1981, which sets out the function of the Board to approve persons, classes of persons, or associations who may use any emblem, words, name, title, style, or designation relating to the 28th Māori Battalion or the 28th Maori Battalion (NZ) Association Incorporated.
- (2) Without limiting subsection (1), the Board may apply money towards all or any of the following purposes:
- (a) the provision of tertiary education scholarships for Māori;
- (b) the provision of prizes for competitions relating to the overseas war service of Māori or to any other subject connected with Māori people;
- (c) the provision of grants for the education of primary and secondary school students;
- (d) the granting of leadership awards;
- (e) the promotion of Māori leaders who demonstrate the qualities of Second Lieutenant Te Moana-nui-a-Kiwa Ngarimu and the 28th (Māori) Battalion.
- (3) In making any grant for any of the purposes specified herein the Board may in its discretion impose such conditions as it thinks fit for the purpose of ensuring that the grant is expended only for the purposes for which it is made and to the best advantage; but the Board shall not be obliged to see to the application of any grant or of any other moneys expended under this Act otherwise than by the Board itself.

Section 7(1): replaced, on 10 August 2024, by section 5 of the Regulatory Systems (Education) Amendment Act 2024 (2024 No 30).

Section 7(1A): inserted, on 10 August 2024, by section 5 of the Regulatory Systems (Education) Amendment Act 2024 (2024 No 30).

Section 7(2): replaced, on 29 October 2016, by section 70(2) of the Education Legislation Act 2016 (2016 No 72).

8 Income of Fund available for distribution

- (1) After allowing for the payment of necessary expenses, the net income of the Fund in any financial year shall be available for distribution by the Board:
- provided that any accumulations of income in respect of the moneys mentioned in the preamble of this Act and forming part of the Fund on the passing of this Act may be applied by the Board in augmenting the income of the Fund at any time after the passing of this Act, and any income of the Fund not expended in the year in which it is received may be applied by the Board in augmenting the income of the Fund in any subsequent year or years.

- (2) The capital of the Fund shall not be available for distribution.

9 Annual grant to Board

For the general purposes of the Fund the Minister of Finance shall in each financial year pay to the Board out of moneys appropriated by Parliament for the purpose such sum as the Minister of Finance may approve, and any such sum, whether paid by way of subsidy or otherwise, may be treated either as capital or as income, or partly as capital and partly as income as the Board, at the time of receipt, may determine.

Section 9: amended, on 29 October 2016, by section 71 of the Education Legislation Act 2016 (2016 No 72).

10 Investment of moneys

Any part of the Fund available for investment may be invested in any investments for the time being authorised by law for the investment of trust funds.

11 Local authorities and others may contribute to Fund

Any local authority or other public body, any corporation sole, any company or other incorporated body, any unincorporated body of persons, any trustee or trustees (including any statutory trustee or trustees or board of trustees), or any other person may, unless expressly prohibited by any Act or by any instrument of trust, make to the Board, and the Board may accept, grants or donations of money for the purposes of the Fund.

12 Remuneration of members of Board

- (1) A member of the Board is entitled to receive from the Fund remuneration for services as a member at a rate and of a kind determined by the Minister in accordance with the fees framework.
- (2) The following office-holders are not entitled to any remuneration for services as a member of the Board:
- (a) a Judge:
 - (b) a member of Parliament:
 - (c) an employee of the State services who is acting in the employee's official capacity.

Section 12: replaced, on 29 October 2016, by section 72 of the Education Legislation Act 2016 (2016 No 72).

12A Expenses of members of Board

In addition to any remuneration received under section 12, a member of the Board is entitled, in accordance with the fees framework, to be reimbursed out of the Fund for actual and reasonable travelling and other expenses incurred in carrying out the member's service as a member.

Section 12A: inserted, on 29 October 2016, by section 72 of the Education Legislation Act 2016 (2016 No 72).

12B Conflicts of interest

- (1) A person is **interested in a matter** if the person—
 - (a) may derive a financial benefit from the matter; or
 - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
 - (c) may have a financial interest in a person to whom the matter relates; or
 - (d) is a partner, director, officer, board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or
 - (e) is otherwise directly or indirectly interested in the matter.
- (2) A member who is interested in a matter relating to the Board must disclose to the Board details of the interest as soon as practicable after the member becomes aware that the member is interested.
- (3) The details that must be disclosed are—
 - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
 - (b) the nature and extent of the interest (if the monetary value cannot be quantified).
- (4) A member who is interested in a matter—
 - (a) must not vote or take part in any discussion or decision of the Board or Standing Committee relating to the matter, or otherwise participate in any activity of the Board or Standing Committee that relates to the matter; and
 - (b) must not sign any document relating to the entry into a transaction or the initiation of the matter.
- (5) In this section, **matter** means—
 - (a) the Board's, or the Standing Committee's, performance of its functions or exercise of its powers; or
 - (b) an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by the Board or the Standing Committee.

Section 12B: inserted, on 29 October 2016, by section 72 of the Education Legislation Act 2016 (2016 No 72).

13 Members of Board not personally liable

No member of the Board is personally liable for—

- (a) an act done or omitted to be done by the Board or the Standing Committee; or

- (b) any loss to the Fund arising out of any act done or omitted to be done by the member, if the act or omission was (so far as the member's involvement is concerned) in good faith and in pursuance or intended pursuance of the functions of the Board or the Standing Committee.

Section 13: replaced, on 29 October 2016, by section 73 of the Education Legislation Act 2016 (2016 No 72).

13A Removal of Board members

- (1) The Governor-General may, at any time for just cause, on the advice of the Minister given after consultation with the Attorney-General, remove a member of the Board appointed under section 4(2)(e), (f), or (g).
- (2) The removal must be made by written notice to the member (with a copy to the Board).
- (3) The notice must—
 - (a) state the date on which the removal takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the reasons for the removal.
- (4) The Minister must notify the removal in the *Gazette* as soon as practicable after the notice is given.

Section 13A: inserted, on 29 October 2016, by section 74 of the Education Legislation Act 2016 (2016 No 72).

14 Financial statements must be prepared

The Board must ensure that, within 5 months after the end of the financial year, financial statements that comply with generally accepted accounting practice are—

- (a) completed in relation to the Board and that financial year; and
- (b) dated and signed on behalf of the Board by 2 members of the Board.

Section 14: replaced, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

14A Financial statements must be audited

- (1) The Board must ensure that the financial statements of the Board are audited.
- (2) The Board 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.

Section 14A: inserted, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

15 Annual report

- (1) As soon as practicable after the end of each financial year, the Board must provide to the Minister a report of its operations and proceedings during that year, together with a copy of its financial statements for that year with the audit report on those statements.

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- (2) The Minister must present a copy of the report, the financial statements, and the audit report to the House of Representatives—
- (a) not later than 10 working days after the Minister receives those documents; or
 - (b) if Parliament is not in session, as soon as possible after the commencement of the next session of Parliament.

Section 15: replaced, on 1 April 2014, by section 125 of the Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102).

Notes

1 *General*

This is a consolidation of the Ngarimu VC and 28th (Māori) Battalion Memorial Scholarship Fund Act 1945 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Regulatory Systems (Education) Amendment Act 2024 (2024 No 30): Part 1

Education Legislation Act 2016 (2016 No 72): sections 61–74

Financial Reporting (Amendments to Other Enactments) Act 2013 (2013 No 102): section 125

Local Government Act 2002 (2002 No 84): section 262

Ngarimu VC and 28th (Maori) Battalion Memorial Scholarship Fund Amendment Act 1974 (1974 No 52)