

EDUCATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill inserts into the Education Act 1964 a new *section 105c* requiring principals of State primary schools and secondary schools to consult the parents and guardians of students on the treatment of the health syllabus at those schools, and a new *section 105d* empowering parents to require their children to be excluded from the teaching of any sex education included in a health syllabus.

Although the new *section 105c* is drafted in general terms, the effect of *clause 3* of this Bill is that for some time consultation with parents on health education will be mandatory in the case only of particular schools designated by the Minister of Education.

Clause 1 relates to the Short Title and commencement. The Bill will come into force 14 days after its passage.

Clause 2 inserts new *sections 105c and 105d*.

Section 105c requires the principals of State primary schools and secondary schools to consult the parents and guardians of pupils on the treatment of health syllabuses at those schools.

Principals will also be required to consult the "managing body" of the school concerned; and *subsection (1)* defines "managing body", and also "health syllabus" and "treatment". Generally, the managing body of a State primary school is its school committee, and the managing body of a secondary school is its governing body (board of governors or occasionally education board). But the managing body of a State primary school that has no school committee is its Commissioner (if it has one) or its Education Board. And the managing body of a secondary school that has a committee of management is that committee.

Subsection (2) requires every principal of a State primary school or secondary school to ensure that the treatment of the health syllabus at that school has been determined after the consultation required by the section, and to ensure that the health syllabus does not include any element of sex education unless the managing body has directed its inclusion.

Subsection (3) requires every principal, no later than 18 months after the treatment of the health syllabus at the school was last determined, to consult parents and guardians, the managing body of the school, and (if it is an integrated school) the proprietor of the school, and attempt to reach agreement on the health education needs of the students enrolled at the school, the goals towards which health education at the school should be directed, and the desirable treatment of the health syllabus at the school.

Subsection (4) requires the consultation with parents and guardians to be by means of one or more public meetings, or by questionnaire, or by some other means agreed by the principal and the managing body.

Subsection (5) requires every principal, no later than 2 years after the treatment of the health syllabus at the school was last determined, to give the managing body of the school a written description of the proposed treatment of that syllabus in the future. It also empowers the principal to give such a description within 6 months of any consultation under *subsection (3)* unless a new determination has been made in the meantime.

Subsection (6) requires the description to contain separate descriptions of the elements of sex education included in the health syllabus, and their proposed future treatment.

Subsections (7) and (8) specify the consequences of the principal's giving to the managing body a written description of the proposed future treatment of the health syllabus. That treatment, so far as it relates to the elements of that syllabus that are not sex education, is deemed to have been determined immediately its description is given to the managing body. But the managing body is given the power to direct that the elements of the health syllabus that are sex education should be included in the school's health education programme. Unless the managing body does so, those elements will not be taught. But the managing body may direct the inclusion of those elements at any time before the principal gives it a new description, so it may negotiate with the principal an amended description of their proposed future treatment and then direct their inclusion. Once the inclusion of any element of sex education is directed, its treatment is then deemed to be determined as that in the written description (with any amendments that may have been negotiated).

Section 105D empowers parents and guardians to require their children to be excluded from class while any element of the health syllabus involving sex education is being taught; and requires the principal to ensure the exclusion of any children whose parents or guardians require their exclusion.

Clause 3 provides for the initial application of the new *section 105c* to only a limited number of schools designated by the Minister, for the continuation of the present treatment of the elements of sex education included in the health syllabus at other schools, and for the eventual application of *section 105c* to all State primary and secondary schools.

The transitional period will end on a date specified by the Minister or, if he specifies no date, on 1 January 1989.

Subclauses (1) and (2) relate to definitions.

Subclause (3) empowers the Minister to designate schools to which the system created by *section 105c* will apply before the transition date.

Subclause (4) empowers the Minister to prescribe health syllabuses for designated schools that are secondary schools.

Subclause (5) limits the application of the consultative system contained in *section 105c* to designated schools.

Subclause (6) provides that the present extent to which sex education is included in the health syllabuses of State primary schools and secondary schools that are not designated schools, and the present treatment of that sex education, are to continue until the transition date (or until the schools become designated schools).

Hon. Russell Marshall

EDUCATION AMENDMENT

ANALYSIS	
Title	<i>Health Education</i>
1. Short Title and commencement	105C. Controlling authorities to consult parents on treatment of health syllabus
2. New sections inserted relating to health education	105D. Parents and guardians may require students to be excluded from health education classes
	3. Transitional

A BILL INTITULED

An Act to amend the Education Act 1964

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

- 5
- 1. Short Title and commencement**—(1) This Act may be cited as the Education Amendment Act 1985, and shall be read together with and deemed part of the Education Act 1964* (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the 14th day after the date on which it receives the Governor-General's assent.

*Reprinted 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1976, No. 70; 1977, No. 91; 1978, No. 79; 1979, No. 148; 1981, No. 124; 1982, No. 19; 1982, No. 155; 1982, No. 170; 1983, No. 57

2. New sections inserted relating to health education—

The principal Act is hereby amended by inserting, after section 105B, the following heading and sections:

“Health Education

“105c. Controlling authorities to consult parents on treatment of health syllabus—(1) In this section, unless the context otherwise requires,—

“‘Health syllabus’, in relation to any school, means the health syllabus required to be taught at that school:

“‘Managing body’—

“(a) In respect of a State primary school that has a school committee, means that committee:

“(b) In respect of a State primary school that has no school committee, but has a commissioner appointed in place of a school committee, means that commissioner:

“(c) In respect of a State primary school that has neither a school committee nor a commissioner appointed in place of a school committee, means the Education Board in whose district that school is situated:

“(d) In respect of a secondary school that has a Committee elected or appointed under section 53 (1) of this Act, means that Committee:

“(e) In respect of a secondary school that has no such committee, or a composite school to which the Education (Form I to VII Schools) Regulations 1976^{*} apply, means the governing body of that school:

“(f) In respect of a composite school to which the said regulations do not apply, means the committee of management established in respect of that school under Part V of the Composite Schools Regulations 1979[†]:

“‘Treatment’, includes scope and emphasis.

^{*}S.R. 1976/325

[†]S.R. 1979/185

“(2) Notwithstanding sections 75 (1A) and 84 of this Act, the principal of a State primary school or secondary school shall ensure that—

“(a) The treatment of the various elements of the health syllabus at that school is that most recently determined under this section; and

“(b) That treatment is not departed from in the course of the teaching of that syllabus; and

5 “(c) The health syllabus at that school in any year includes no element of sex education unless, not earlier than the day on which the treatment of the various elements of the health syllabus (other than sex education) at that school was last determined under **subsection (7)** of this section, the managing body of that school directed under **subsection (8) (c)** of this section that it should be included.

10 “(3) The principal of a State primary school or secondary school may at any time, and not later than 18 months after the day on which the treatment of the various elements of the health syllabus (other than sex education) at that school were last determined under **subsection (7)** of this section he shall, by consultation with the managing body of that school, the
15 proprietor of that school (if it is an integrated school), and parents and guardians of the students enrolled (or at any time in the following 2 years likely to be enrolled) at that school, attempt to—

20 “(a) Identify broadly agreed health education needs of the students enrolled at that school; and

“(b) Establish broadly agreed goals towards which health education at that school should be directed; and

“(c) Reach broad agreement on the desirable treatment of the health syllabus at that school.

25 “(4) The consultation with parents and guardians under **subsection (3)** of this section shall be undertaken by—

“(a) One or more public meetings with parents and guardians;
or

30 “(b) A questionnaire sent to those parents and guardians for whom an address is known at their last known addresses; or

“(c) Any other means agreed by the principal concerned and the managing body concerned.

35 “(5) The principal of a State primary school or secondary school—

“(a) May, at any time—

“(i) Within 6 months of undertaking the consultation described in **subsection (3)** of this section; and

40 “(ii) Before the day following the completion of that consultation on which the treatment of the various elements of the health syllabus (other than sex education) at that school is next determined under **subsection (7)** of this section; and

“(b) Shall, not later than 2 years after the day on which the treatment of the various elements of the health syllabus (other than sex education) at that school was last determined under **subsection (7)** of this section,—

5

give to the managing body of that school a written description of the proposed future treatment of the various elements of the health syllabus at that school.

“(6) Every description given under **subsection (5)** of this section shall contain separate descriptions of—

10

“(a) The elements of sex education included in the syllabus concerned; and

“(b) The proposed future treatment of each of those elements.

“(7) When under **subsection (5)** of this section the principal of a State primary school or secondary school gives the managing body of that school a written description of the proposed future treatment of the various elements of the health syllabus at that school, so far as it relates to elements of that syllabus that are not sex education that treatment shall thereupon be deemed to be determined.

15

20

“(8) Where under **subsection (5)** of this section the principal of a State primary school or secondary school has given the managing body of that school a written description of the proposed future treatment of the various elements of the health syllabus at that school,—

25

“(a) Until that body directs that that syllabus should include any particular element of sex education described in that written description, that principal may from time to time amend that description so far as it describes the proposed future treatment of that element:

30

“(b) That body may direct, or refrain from directing, that that syllabus should include any particular element of sex education described in that written description; but if it so directs it shall not thereafter be capable of withdrawing or modifying its direction except by refraining from directing the inclusion of that element in respect of a further written description given to it under **subsection (5)** of this section:

35

40

“(c) When that body directs that that syllabus should include any particular element of sex education described in that written description, the proposed future treatment of that element then forming part of that written description shall thereupon be deemed to be determined in respect of that element.

45

“(9) The treatment determined under this section of any element of the health syllabus at a State primary school or secondary school shall, until any future relevant determination, be deemed to form—

5 “(a) Part of that school’s school scheme under the Organisation and Inspection of State Primary School Regulations 1963, if that school is a State primary school:

10 “(b) Part of that school’s total programme of studies and activities, if that school is a secondary school.

“105D. **Parents and guardians may require students to be excluded from health education classes**—(1) A parent or guardian of a student enrolled at a State primary school or secondary school may at any time, by notice in writing to the principal of that school, require that student to be excluded from every class in which any element of the health syllabus at that school that is sex education is being taught; and may similarly withdraw any such notice.

20 “(2) For so long as a notice under **subsection (1)** of this section is in force, the principal of the school concerned shall ensure that the student concerned is excluded accordingly.”

3. Transitional—(1) In this section,—

“Designated school” means a school designated under **subsection (3)** of this section:

25 “The new provisions” means **section 105c** of the principal Act (as inserted by **section 2** of this Act):

“Transition date” means—

30 (a) A date specified for the purposes of this section by the Minister by notice in the *Education Gazette*; or

(b) If no date before the 1st day of January 1989 is specified, the 1st day of January 1989.

(2) In this section, terms defined in **section 105c (1)** of the principal Act (as inserted by **section 2** of this Act) shall have the meanings there assigned to them.

35 (3) The Minister may from time to time, by notice in the *Education Gazette*, designate any State primary school or secondary school a school in respect of which the new provisions are to apply before the transition date.

40 (4) The Minister may from time to time, by notice in the *Education Gazette*, prescribe health syllabuses for secondary schools that are designated schools, or for any specified classes at such secondary schools, and may at any time amend or revoke any such notice; and the principal of every secondary school that is a designated school shall ensure that the syllabus
45 prescribed is taught at that school.

(5) Notwithstanding the new provisions, but subject to subsection (6) of this section, before the transition date, the treatment of the various elements of the health syllabus at State primary schools, and secondary schools, that are not designated schools shall not be determined under the new provisions. 5

(6) Where the treatment of the various elements of the health syllabus (other than sex education) at a State primary school or secondary school has never in fact been determined under the new provisions, the new provisions shall have effect in respect of that school,— 10

(a) At any time before, on, or after the transition date,—

(i) If in 1984 no sex education was taught at that school as part of the health syllabus, as if the managing body of that school has never directed under the new provisions that that syllabus should include any element of sex education; and 15

(ii) If in 1984 any element of sex education was taught at that school as part of the health syllabus, as if the managing body of that school had, within 2 years of that time, directed under the new provisions that that syllabus should include that element, and as if the treatment of that element in 1984 were described in the appropriate description given to that managing body; and 20 25

(b) On or after the transition date, as if the treatment of the health syllabus (other than sex education) at that school immediately before the transition date had been determined under the new provisions on a day 6 months before the transition date. 30