

# EDUCATION AMENDMENT BILL

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## EXPLANATORY NOTE

*Clause 1* relates to the Bill's Short Title and commencement. The Bill comes into force on 1 January 1990.

### PART I

#### AMENDMENTS TO EDUCATION ACT 1989

*Clause 2* provides that *Part I* is to be read with the Education Act 1989.

*Clause 3* adds 2 new definitions to section 2 of the principal Act.

*Clause 4* inserts into section 4 of the principal Act (which relates to the rights of foreign students to enrol at state schools)—

- 2 new subclauses giving domestic students and certain foreign students who have been exempted from payment of fees a general priority over other foreign students in relation to enrolment at state schools, and
- a new subclause allowing foreign fee-paying students priority in relation to enrolment in vacant places established expressly for foreign students and available only for so long as there is an adequate fee income to pay for them.

*Clause 5* provides for the payment of fees by foreign students enrolled at state schools. The fees must be sufficient to recover costs, and Boards that fail to charge fees, or charge fees that are too low, may have future grants reduced by the amount of the shortfall.

*Clause 6* provides for the payment of fees by people attending evening and similar classes at state schools. The clause is to the same effect as section 94 of the Education Act 1964.

*Clause 7* makes 2 amendments to the principal Act. The first provides that the amount of a school's teacher salaries grant is to be determined without reference to foreign students. The second gives the Minister a general power to authorise the payment of teacher salaries out of fees paid by foreign students, to the extent that the enrolment of those students has made necessary the employment of extra teachers.

*Clause 8* inserts into the principal Act new provisions dealing with the establishment and closure of state schools, and repeals the equivalent provisions of the Education Act 1964.

The new provisions differ from the old in 2 major respects. First, primary schools were formerly established and closed by Education Boards. Now the Minister will do it. Secondly, provision is made for the establishment of "designated character schools". Groups of parents who want their children to be educated in an institution whose character is in some specific way different from the character of the standard state school will be able to ask for the establishment as part of the state system of a school of that character.

## PART II

### AMENDMENTS TO EDUCATION ACT 1964

*Clause 9* provides that *Part II* is to be read with the Education Act 1964 (the 1964 Act). The amendments are intended as short-term measures, remaining in force only until comprehensive legislation is passed.

*Clause 10* amends the 1964 Act so as to empower the fixing of fees for domestic teachers college students.

*Clause 11* amends the 1964 Act so as to empower the fixing of fees for domestic students at technical institutions and community colleges.

*Clause 12* amends the 1964 Act to empower the Education Review Office to inspect private schools.

*Clause 13* amends the 1964 Act to give employees of the Education Review Office power to enter schools.

*Clause 14* makes consequential amendments and repeals.

*Clause 15* empowers the enrolment of and fixing of fees for foreign students at teachers colleges, technical institutes, and community colleges.

*Clause 16* provides for the bulk funding of teachers colleges, technical institutes, and community colleges.

*Clause 17* provides for the bulk funding of early childhood education.

## PART III

### AMENDMENTS TO UNIVERSITY ACTS

*Part III* amends the Universities Act 1961, and makes 3 identical amendments to each of the 7 individual University Acts.

*Clauses 18, 22, 26, 30, 34, 38, and 42* provide that various provisions are to be read with individual University Acts.

*Clauses 19, 23, 27, 31, 35, 39, and 43* provide priorities for enrolment at University to the same extent as *clause 4* provides for schools.

*Clauses 20, 24, 28, 32, 36, 40, and 44* provide for bulk funding of the Universities.

*Clauses 21, 25, 29, 33, 37, 41, and 45* provide for the charging of fees to domestic and foreign university students.

*Clause 46* amends the Universities Act 1961 so as to remove the University Grants Committee from involvement in the funding of the Universities.

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*Hon. P. B. Goff*

## EDUCATION AMENDMENT

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A BILL INTITULED

**An Act to reform further the administration of education**

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Education Amendment Act 1989. 5

(2) This Act shall come into force on the 1st day of January 1990.

PART I

AMENDMENTS TO EDUCATION ACT 1989 10

**2. Part to be read with Education Act 1989**—This Part of this Act shall be read together with and deemed part of the Education Act 1989\* (in this Part of this Act referred to as the principal Act).

**3. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions: 15

“ ‘Domestic student’ means a person who is not a foreign student:

“ ‘Exempt student’ means a foreign student who— 20

“ (a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or

“ (b) Is for the time being exempted under section 4A (1) of this Act.”. 25

(2) Section 2 of the principal Act is hereby amended by adding the following subsection:

“(3) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or 30

“(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,— 35

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

5     **4. Foreign students**—(1) Section 4 of the principal Act is hereby amended by inserting, after subsection (3), the following subsections:

10     “(3A) Except as provided in **subsection (3c)** of this section, no foreign student who is not an exempt student shall be enrolled at a state school if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

15     “(3B) Except as provided in **subsection (3c)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject or course at a state school if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject or course and has applied for enrolment in it is not able to be enrolled in it.

20     “(3c) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at a state school, or in any subject, course, or programme at a state school, if the enrolment is in a vacant place—

25     “(a) That the Board established for foreign students; and  
   “(b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

30     (2) Section 12 of the principal Act is hereby amended by omitting the word “person” from the definition in subsection (1) of the term “outside applicant”, and from paragraphs (b) to (d) of subsection (6) (wherever it appears), and substituting, in each case, the words “domestic or exempt student”.

   (3) Section 12 of the principal Act is hereby amended by repealing subsection (12), and substituting the following subsections:

35     “(11A) Subject to **section 4A (3)** of this Act, a foreign student who is not an exempt student is (subject to the provisions of this Act) eligible to enrol at the school in that year if accepted in accordance with the following provisions:

40     “(a) The Board shall not accept a foreign student who is not an exempt student until all outside applicants who are otherwise eligible to enrol at the school have been accepted:

   “(b) The Board shall not accept a number of foreign students who are not exempt students that, when added to the

number of outside applicants already accepted, is greater than the number of vacancies available:

“(c) Subject to paragraphs (a) and (b) of this subsection, the Board shall accept applicants successively, in the order in which the Board received their applications. 5

“(12) Notwithstanding paragraph (c) of subsection (11) (or, as the case requires, subsection (11A)) of this section, where it is impossible or impracticable for a Board to discover the order in which it received applications from 2 or more late applicants (or foreign students who are not exempt students) only some of 10 whom may be accepted, it shall—

“(a) By lot rank those applicants in order of precedence for acceptance; and

“(b) Subject to paragraphs (a) and (b) of the subsection concerned, accept those applicants in the order of precedence established under paragraph (a) of this subsection.” 15

(4) Section 12 (13) of the principal Act is hereby amended—

(a) By omitting the word “outside”; and

(b) By inserting, after the expression “(11) (b)”, the words “or subsection (11A) (b)”. 20

**5. Fees for foreign students**—(1) The principal Act is hereby amended by inserting, after section 4, the following section:

“4A. (1) The Minister may, by notice in the *Gazette*, exempt 25 foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by subsection (3) of this section.

“(2) With the consent of the principal, a foreign student may, 30 for a period of not more than 28 consecutive days (or any longer period the Secretary approves in any particular case), attend a state school without paying any of the fees that would otherwise be required by subsection (3) of this section; but in that case the student— 35

“(a) Shall be deemed not to be enrolled at the school; and

“(b) Shall not be counted for the purpose of calculating or ascertaining the school’s entitlement to teachers or funding.

“(3) Subject to subsections (1) and (2) of this section, no foreign 40 student shall be or continue to be enrolled in any subject, course, or programme at a state school unless there have been paid to the Board—

“(a) An amount fixed by the Board (having regard to any guidelines the Secretary has given it) that is not less than the sum of—

5                   “(i) The Board’s best estimate of the cost to the Board (including the appropriate proportion of the Board’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

10                   “(ii) An amount that is in the Board’s opinion an appropriate reflection of the use made by 1 student receiving tuition in the subject, course, or programme of the Board’s capital facilities; and

                  “(b) All fees (if any) prescribed by the Board.

15                   “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at a state school without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Board may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Board.

20                   “(5) In any year, the amount of a Board’s operational activities grant for a school it administers may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the school in which a foreign student was enrolled has not been paid to the Board, the student’s education has been subsidised by money appropriated by Parliament.

30                   “(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Board concerned written notice of the circumstances taken into account when the proposed reduction was decided on.

35                   “(7) Where a Board disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

40                   “(a) The Board may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration:

45                   “(b) If, within 14 days of getting the Board’s notice, the Secretary has agreed an arbitrator with the Board, the agreed arbitrator shall settle the dispute:

“(c) If, within 14 days of getting the Board’s notice, the Secretary has not agreed an arbitrator with the Board, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Board shall settle the dispute: 5

“(d) The arbitrator’s decision is final.”

(2) Section 4 (6) of the principal Act is hereby amended by omitting the word “Once”, and substituting the words “Subject to **section 4A (3)** of this Act, once”.

(3) Section 60 of the principal Act is hereby amended by 10 inserting, in their appropriate alphabetical order, the following definitions:

“‘Domestic student’ means a person who is not a foreign student:

“‘Exempt student’ means a foreign student who— 15

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or

“(b) Is for the time being exempted under **section 4A (1)** of this Act.” 20

“‘Foreign student’ means a person who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or

“(b) A person obliged by or pursuant to that Act or 25 any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally.”.

**6. Fees for evening classes, etc.**—The principal Act is 30 hereby amended by inserting, after section 7, the following section:

“7A. The tuition fees for people attending at a state school classes—

“(a) Usually held outside normal school hours; and 35

“(b) Open to people not enrolled full-time at the school,— shall be on a scale approved by the Minister.”

**7. Grants for Boards**—(1) Section 79 of the principal Act is hereby amended by adding the following subsection:

“(3) In determining the amount of a Board’s teacher salaries 40 grant, the Minister shall take no account of foreign students (other than students exempted under **section 4A (1)** of this Act)



enrolled or likely to be enrolled at any school or institution the Board administers.”

5 (2) Section 81 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) The Minister shall withhold consent under subsection (1) of this section unless satisfied that—

10 “(a) Special circumstances applying to the school or institution concerned make it inappropriate for the Minister to do so; or

15 “(b) The money concerned was paid to the Board by foreign students enrolled at a school or institution it administers, and is no more than is necessary to pay the salaries of the extra teachers whose employment has become necessary because of the enrolment of those students.”

**8. Establishment of schools**—(1) The principal Act is hereby amended by adding, after Part XI, the following Part:

“PART XII

20 “ESTABLISHMENT OF SCHOOLS

“145. **Interpretation**—(1) In this Part of this Act, unless the context otherwise requires,—

25 “‘Composite school’ means a school established under **section 146** of this Act as a composite school:

“‘Intermediate department’ means a department established under **section 148** of this Act:

“‘Intermediate school’ means a school established under **section 146** of this Act as an intermediate school:

30 “‘Minister’ means the Minister of the Crown for the time being responsible for the administration of this Part of this Act:

“‘Ministry’ means the Ministry of Education:

35 “‘Primary school’ means a school established under **section 146** of this Act as a primary school or an intermediate school:

“‘Secondary school’ means a school established under **section 146** of this Act as a secondary school:

“‘Secretary’ means the chief executive of the Ministry:

40 “‘Teachers college’ means a college established under section 106 of the Education Act 1964.

“(2) For the purposes of this Act,—

“(a) Every school other than a composite school that was, immediately before the commencement of the

Education Amendment Act 1989, a primary school within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 146 of this Act as a primary school:

- “(b) Every school other than a composite school that was, immediately before the commencement of the Education Amendment Act 1989, a secondary school within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 146 of this Act as a secondary school: 5 10
- “(c) Every department that was, immediately before the commencement of the Education Amendment Act 1989, an intermediate department within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 148 of this Act as an intermediate department: 15
- “(d) Every school other than a composite school that was, immediately before the commencement of the Education Amendment Act 1989, an intermediate school within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 146 of this Act as an intermediate school: 20
- “(e) Every school other than a composite school that was, immediately before the commencement of the Education Amendment Act 1989, a composite school within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 146 of this Act as a composite school: 25 30
- “(f) Every school that was, immediately before the commencement of the Education Amendment Act 1989, a composite school within the meaning of section 2 (1) of the Education Act 1964 shall be deemed to have been established under section 146 of this Act as a composite school. 35

“146. **Minister may establish schools**—(1) Subject to subsection (2) of this section, the Minister may by notice in the *Gazette*—

“(a) Describing the place where the school is to be located; 40  
and

“(b) Specifying a name for the school,—  
establish a new school.

“(2) Every new school established under this section shall be established as a primary, intermediate, secondary, or composite school; and the notice establishing it shall specify which class of school it is.

5 “147. **Normal schools, etc.**—(1) The Minister may by notice in the *Gazette*—

“(a) Designate one or more specified primary schools as normal or model schools for a specified teachers college:

10 “(b) Designate with a specified primary school a normal or model school, or model class, for a specified teachers college:

“(c) Revoke any designation under this section.

Cf. 1964, No. 135, s. 72

15 “148. **Intermediate departments**—The Minister may, by notice in the *Gazette*,—

“(a) Establish an intermediate department—

“(i) Within a composite school; or

“(ii) To form part of a secondary school; or

20 “(b) Disestablish any intermediate department.

Cf. 1964, No. 135, s. 73

“149. **Contributing schools**—(1) The Minister shall from time to time, after consultation with the Board (if any) of an intermediate school or department and the Boards of the other  
25 schools concerned, determine which primary schools are to be its contributing schools.

“(2) Where the Minister determines that a primary school is to be or cease to be a contributing school of any intermediate school or department, the Minister shall notify the Board of the  
30 primary school; and while the school is a contributing school, the Board shall limit the education given at the school to the education described in the syllabus for classes not higher than standard 4 (or, where the Minister so decides, not higher than form I).

35 Cf. 1964, No. 135, s. 74

“150. **Correspondence schools**—(1) Subject to subsection (2) of this section, the Minister may, by notice in the *Gazette*,—

“(a) When establishing the school, or at any other time, designate a state school as a correspondence school;  
40 or

“(b) At any time, remove a designation under paragraph (a) of this subsection.

“(2) The Minister shall not designate a school as a correspondence school, or cancel a designation as a correspondence school, without having regard to the education of people unable conveniently to get tuition from a suitable state school that is not a correspondence school. 5

“(3) Subject to sections 102 (7) and 104 of this Act, where an existing state school is designated as a correspondence school, its Board shall continue in office as constituted until a day specified by the Minister in the notice in the *Gazette* under section 95 (1) of this Act determining the composition of its Board, but shall go out of office on that day. 10

“(4) With the consent of the Minister, a correspondence school may provide early childhood education.

“(5) The school that was, immediately before the commencement of the Education Amendment Act 1989, a correspondence school shall be deemed to have been— 15

“(a) Established under **section 146** of this Act as a composite school; and

“(b) Designated under **subsection (1)** of this Act as a correspondence school. 20

Cf. 1964, No. 135, s. 105

“**151. Minister may change class of school**—(1) The Minister may, by notice in the *Gazette*,—

“(a) Declare a composite school to be a primary, intermediate, or secondary school; or 25

“(b) Declare a primary, intermediate, or secondary school to be a composite school; or

“(c) Declare an intermediate school to be a primary or secondary school; or

“(d) Declare a primary or secondary school to be an intermediate school. 30

“(2) A notice under **subsection (1)** of this section, shall specify a day (not earlier than the end of the term after the term during which the notice is published) on which it is to take effect; and the school shall become a school of the class concerned, and cease to be a school of the class it was, on the day specified. 35

“(3) Subject to sections 102 (7) and 104 of this Act, where an existing state school becomes a school of a different class, its Board shall continue in office as constituted until the day before the day on which its annual meeting is next required by section 100 of this Act to be held. 40

“**152. Closure of schools**—(1) Where, after consulting the Board of a state school, the Minister is satisfied that it should be closed, the Minister may, by written notice to the Board ask the

Board if it has any arguments in favour of the school's staying open.

5 “(2) The Minister may, after considering all arguments (if any) received from the Board within 28 days after it got notice under **subsection (1)** of this section, by notice in the *Gazette* specifying a day (not earlier than the end of the term after the term during which the notice is published) on which the school will close, close the school; and the school shall cease to be established on the day specified.

10 “(3) A school that has been closed may not be reopened, except by being established again under this Act.

15 “153. **Designated character schools**—(1) Subject to **subsection (2)** of this section, the Minister may, by notice in the *Gazette* when establishing the school, designate a state school as a designated character school.

“ (2) The Minister shall not establish a school as a designated character school unless satisfied that—

20 “(a) The parents of at least 21 people who would, if the school were established, be entitled to free enrolment there, want the school to be established; and

“(b) The parents want the school to have a character that is in some specific way or ways different from the character of ordinary state schools; and

25 “(c) The parents have given the Minister a clear written description and explanation (expressed in the form of aims, purposes, and objectives for the school) of the way or ways; and

30 “(d) Students at a school with such a character would get an education of a kind that—

“ (i) Differs significantly from the education they would get at an ordinary state school; and

35 “ (ii) Is not available at any other state school that children of the parent concerned can conveniently attend; and

“ (e) It is desirable for students whose parents want them to do so to get such an education.

“ (3) The Minister may in the Minister's absolute discretion refuse to establish a designated character school.

40 “ (4) The notice establishing a designated character school shall specify the aims, purposes, and objectives that constitute its designated character; and every charter and proposed charter for the school shall be deemed to contain them.

“(5) The notice shall also specify the constitution of the school’s Board.

“(6) The Minister may from time to time, after consultation with the Board of a designated character school, by notice in the *Gazette* amend—

“(a) The aims, purposes, and objectives that constitute the school’s designated character; or

“(b) The constitution of its Board.

“(7) A designated character school shall not have an enrolment scheme; but—

“(a) The Secretary shall from time to time, by written notice to the Board, fix a maximum roll for it; and

“(b) The Board shall ensure that the number of students enrolled at the school is not more than the maximum roll; and

“(c) The Board may refuse the enrolments of people whose parents do not accept the aims, purposes, and objectives that constitute the school’s designated character; and

“(d) Subject to paragraphs (b) and (c) of this subsection, section 12 of this Act shall apply to enrolments at the school as if—

“(i) There is in place an enrolment scheme for the school; and

“(ii) The scheme defines a home zone where no person lives permanently.

“(8) This section shall have effect notwithstanding any other provision of this Act or the Education Act 1964.”

(2) Section 2 (1) of the principal Act is hereby consequentially amended by repealing the definitions of the terms “correspondence school”, “primary school”, and “secondary school”, and inserting, in their appropriate alphabetical order, the following definitions:

“‘Composite school’ has the same meaning as in section 145 (1) of this Act:

“‘Correspondence school’ has the same meaning as in section 145 (1) of this Act:

“‘Intermediate school’ has the same meaning as in section 145 (1) of this Act:

“‘Primary school’ has the same meaning as in section 145 (1) of this Act:

“‘Secondary school’ has the same meaning as in section 145 (1) of this Act.”

(3) Section 2 (2) of the principal Act is hereby consequentially amended by omitting the expression “‘composite school’”.

(4) Section 92 (1) of the principal Act is hereby consequentially amended by repealing the definitions of the terms “correspondence school” and “secondary school”, and inserting, in their appropriate alphabetical order, the following definitions:

5 “‘Composite school’ has the same meaning as in section 145 (1) of this Act:

“‘Correspondence school’ has the same meaning as in section 145 (1) of this Act:

10 “‘Intermediate school’ has the same meaning as in section 145 (1) of this Act:

“‘Primary school’ has the same meaning as in section 145 (1) of this Act:

15 “‘Secondary school’ has the same meaning as in section 145 (1) of this Act.”

(5) Section 120 of the principal Act is hereby consequentially amended by adding the following definition:

“‘State school’ has the same meaning as in section 2 (1) of this Act.”

20 (6) The following enactments are hereby consequentially repealed:

(a) Sections 71 to 74, 82, 83, 86, and 105 of the Education Act 1964:

(b) Section 12 of the Education Amendment Act 1968:

25 (c) Section 13 of the Education Amendment Act (No. 2) 1974:

(d) Sections 2 (2) and 12 of the Education Amendment Act 1976:

(e) Sections 6 and 7 of the Education Amendment Act (No. 2) 1982:

30 (f) Section 92 (2) of the principal Act.

## PART II

### AMENDMENTS TO EDUCATION ACT 1964

**9. Part to be read with Education Act 1964**—This Part of this Act shall be read together with and deemed part of the Education Act 1964\* (in this Part of this Act referred to as the principal Act).

**10. Fees for domestic teachers college students**—(1) The principal Act is hereby amended by inserting, after section 67s, the following section:

\*Reprinted with Amendments: 1975, Vol. 3

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; 1985, No. 124; 1986, No. 28; 1987, No. 14; 1987, No. 177

“67SA. (1) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (2)** of this section.

“(2) Notwithstanding anything in this Act or in any regulations made under it, but subject to **subsection (3)** of this section, no domestic student shall be or continue to be enrolled in a subject, course, or programme at a teachers college unless there have been paid to the council of the college—

“(a) The appropriate tuition fee for the student for the subject, course, or programme fixed by the council with the Minister’s written consent; or

“(b) Where the council has not fixed a tuition fee, the appropriate tuition fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—

and all other fees (if any) prescribed by the council.”

(2) Section 67J (1) (e) of the principal Act is hereby consequentially repealed.

**11. Fees for continuing education for domestic students**—(1) The principal Act is hereby amended by repealing sections 93 and 94, and substituting the following section:

“94. (1) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of tuition fees that would otherwise be required by **subsection (2)** of this section.

“(2) Subject to **subsection (1)** of this section, no domestic student shall be or continue to be enrolled in a subject, course, or programme at a technical institute or community college unless there have been paid to the governing body of the institute or college—

“(a) The appropriate tuition fee for the student for the subject, course, or programme fixed by the governing body with the Minister’s written consent; or

“(b) Where the governing body has not fixed a tuition fee, the appropriate tuition fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—



and all other fees (if any) prescribed by the governing body.”

(2) The following enactments are hereby consequentially repealed:

- 5 (a) Section 85 (3) of the principal Act;
- (b) Section 17 of the Education Amendment Act (No. 2) 1974;
- (c) Sections 5 and 6 (1) of the Education Amendment Act 1975.

**12. Registration and inspection of private schools—**  
Section 186 of the principal Act is hereby amended by omitting  
10 the expression “Inspector”, wherever it appears, and substituting the words “review officer”.

**13. Powers of entry for employees of Education Review Office—**  
The principal Act is hereby amended by inserting,  
after section 186A (as substituted by section 16 of the Education  
15 Amendment Act 1983), the following section:

“186B. (1) The governing body and principal (or other chief executive) of every State primary school, secondary school, teachers college, technical institute, and community college shall take all reasonable steps to ensure that it is open at all  
20 reasonable times for visits, inspections, and reviews by review officers.

“(2) For the purposes of subsection (1) of this section the review of an institution may, at the discretion of the review officer undertaking it, include the examination of students enrolled  
25 there.”

**14. Consequential amendments, repeals, and saving—**  
(1) Section 2 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following  
30 definitions:

“ ‘Chief Review Officer’ means the chief executive of the Education Review Office:

“ ‘Domestic student’ means a person who is not a foreign student:

35 “ ‘Foreign student’ means a person who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or  
40

“(c) Deemed for the purposes of that Act to be in New Zealand illegally:

“ ‘Review officer’ means an employee of the Education Review Office, and includes the Chief Review Officer.”

- (2) The following enactments are hereby repealed: 5
- (a) Section 5 of the Education Amendment Act 1981: 5
- (b) So much of the Schedule to the Local Elections and Polls Amendment Act 1982 as relates to the Education Act 1964:
- (c) Sections 9 (1), and 10 to 12, of the Education Amendment Act (No. 2) 1987: 10
- (d) So much of the First Schedule to the Public Finance Act 1989 as relates to the principal Act.
- (3) The repeal by section 142 (3) of the Education Act 1989 of the Education Amendment Act (No. 2) 1976 does not affect section 130F of the principal Act. 15

**15. Foreign students at tertiary institutions**—(1) In this section, unless the context otherwise requires,—

“Council” means the governing body of a tertiary institution; and, in relation to an institution means its council: 20

“Exempt student” means a foreign student who—

- (a) Is in New Zealand under an assistance or exchange programme approved by the New Zealand Government; or
- (b) Is for the time being exempted under **subsection (3)** of this section: 25

“Tertiary institution” or “institution” means a body that is a community college, teachers college, or technical institute.

(2) Every council shall take all reasonable steps to ensure that no person is enrolled at a tertiary institution it administers until it has established whether the person is a domestic student or a foreign student. 30

(3) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (4)** of this section. 35

(4) Subject to **subsection (3)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at a tertiary institution unless there have been paid to the council— 40

- (a) An amount fixed by the council (having regard to any guidelines the Secretary has given it) that is not less

5 than the council's best estimate of the cost to the council (including the appropriate proportion of the council's administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

(b) All fees (if any) prescribed by the council.

10 (5) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at a tertiary institution without paying the full amount required by **subsection (4) (a)** of this section in respect of the subject, course, or programme, the council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the council.

15 (6) In any year, the amount of any grant for a tertiary institution may be reduced from what it would otherwise have been by any amount by which (in the Secretary's opinion), by virtue of the fact that the full amount required by **subsection (4) (a)** of this section in respect of a subject, course, or programme at the institution in which a foreign student was  
20 enrolled has not been paid to the Council, the student's education has been subsidised by money appropriated by Parliament.

25 (7) No grant shall be reduced under **subsection (6)** of this section unless the Secretary has given the Council concerned written notice of the circumstances taken into account when the proposed reduction was decided on.

30 (8) Where the council of a tertiary institution disputes that a grant should be reduced under **subsection (6)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

35 (a) The council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration:

(b) If, within 14 days of getting the council's notice, the Secretary has agreed an arbitrator with the council, the agreed arbitrator shall settle the dispute:

40 (c) If, within 14 days of getting the council's notice, the Secretary has not agreed an arbitrator with the council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the council shall settle the dispute:

(d) The arbitrator's decision is final.

(9) No foreign student who is not an exempt student shall be enrolled at a tertiary institution except with the consent of the council.

(10) Except as provided in **subsection (12)** of this section, no foreign student who is not an exempt student shall be enrolled at a tertiary institution if the student's enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

(11) Except as provided in **subsection (12)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at a tertiary institution if the student's enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.

(12) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at a tertiary institution, or in any subject, course, or programme at a tertiary institution, if the enrolment is in a vacant place—

- (a) That the Council established for foreign students; and
- (b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.

(13) In the absence of proof to the contrary,—

- (a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or
- (b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,—

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.

**16. Bulk funding of tertiary institutions—**(1) In each financial year the governing body of every teachers college, technical institute, and community college—

- (a) Shall be paid a general grant; and
  - (b) May be paid one or more special grants,—
- out of money appropriated by Parliament for the purpose.

(2) The amount of every general and special grant shall be determined by the Minister.

(3) The Minister shall ensure that no special grant is paid to a governing body before the Minister has given it written notice  
5 of the purposes for which the grant is to be used.

(4) A governing body shall ensure that a special grant is not used except for the purposes specified for it by the Minister.

(5) Before a general grant has been paid to a governing body, the Minister may give the body written notice that a part or  
10 parts of the grant (specified as a particular sum or as a proportion of the total grant) is not to be used except for purposes specified in the notice.

(6) A governing body that has been given notice under **subsection (5)** of this section shall ensure that no part of the grant  
15 to which the notice relates is used for purposes other than those specified for it in the notice.

(7) Subject to **subsections (4) and (6)** of this section, the provisions of any other enactment, and the terms of any trust or endowment,—

20 (a) The income and capital of a teachers college, technical institute, or community college, (within the meaning of the principal Act) shall be applied in doing whatever its governing body thinks will best accomplish the purposes it was established for; and

25 (b) The governing body may from time to time, out of the income, create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied.

(8) **Paragraph (b) of subsection (7)** of this section does not limit the  
30 generality of **paragraph (a)** of that subsection.

(9) The following provisions of the principal Act are hereby consequentially repealed:

(a) Section 67P (as inserted by section 9 (1) of the Education  
Amendment Act (No. 2) 1974); and

35 (b) Sections 69AG and 69AH (as inserted by section 7 (1) of the Education Amendment Act (No. 2) 1987).

**17. Bulk funding of early childhood educational institutions**—(1) The Minister may from time to time—

40 (a) Recognise for the purposes of funding out of money appropriated by Parliament institutions providing educational and developmental facilities and services for the benefit of children who have not yet enrolled at a State primary school:

(b) Withdraw the recognition under **paragraph (a)** of this subsection of any institution.

(2) The governing body of an institution for the time being recognised under **subsection (1)** of this section may be paid grants out of money appropriated by Parliament for the purpose. 5

(3) The amount of every grant paid under **subsection (2)** of this section shall be determined by the Minister.

(4) Before a grant is paid under **subsection (2)** of this section, the Minister may give the governing body concerned written notice that the grant, or a part or parts of the grant (specified as a particular sum or as a proportion of the total grant), is not to be used except for purposes specified in the notice. 10

(5) A governing body that has been given notice under **subsection (4)** of this section shall ensure that no part of the grant to which the notice relates is used for purposes other than those specified for it in the notice. 15

(6) Subject to **subsection (5)** of this section, a governing body to which a grant is paid under **subsection (2)** of this section shall apply the grant in doing whatever it thinks will best achieve the purposes the institution or institutions concerned were established for. 20

(7) Every institution that was, immediately before the commencement of this Part of this Act, recognised pursuant to regulations made under section 70 (1) (b) of the principal Act shall be deemed on that commencement to have been recognised under **paragraph (a) of subsection (1)** of this section; and **paragraph (b)** of that subsection shall apply accordingly. 25

(8) The following regulations are hereby consequentially revoked:

(a) Regulations 3 and 4 of the Kindergartens Regulations 1959: 30

(b) Regulation 3 of the Kindergartens Regulations 1959, Amendment No. 6.

(9) Regulation 2 of the Kindergartens Regulations 1959 is hereby consequentially amended by adding to the definition of the term "kindergarten" the words "under **section 17 (1) (a)** of the Education Amendment Act 1989". 35

(10) The regulations amended by **subsections (8) and (9)** of this section may be amended or revoked as if the amendments had been effected by Order in Council and not by those subsections. 40

PART III

AMENDMENTS TO UNIVERSITY ACTS

**18. Sections to be read with University of Auckland Act 1961**—This section and sections 19 to 21 of this Act shall be read together with and deemed part of the University of Auckland Act 1961\* (in those sections referred to as the principal Act).

**19. Admission of students**—(1) Section 24 of the principal Act is hereby amended by adding the following subsections:

“(10) No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

“(11) Except as provided in subsection (13) of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

“(12) Except as provided in subsection (13) of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.

“(13) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the University, or in any subject, course, or programme at the University, if the enrolment is in a vacant place—

“(a) That the Council established for foreign students; and  
“(b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

(2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to subsections (10) to (13) of this section, every”.

**20. Bulk funding**—(1) The principal Act is hereby amended by repealing section 39 (as amended by section 7 of the University of Auckland Amendment Act 1966), and substituting the following section:

“39. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and

“(b) May be paid one or more special grants,—

\*R.S. Vol. 14, p. 813

out of money appropriated by Parliament for the purpose.

“(2) The amount of every general and special grant shall be determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to the Council before the Minister has given it written notice of the purposes for which the grant is to be used. 5

“(4) The Council shall ensure that a special grant is not used except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment, and the terms of any trust or endowment,— 10

“(a) The University’s income and capital shall be applied in doing whatever the Council thinks will best accomplish the purposes it was established for; and

“(b) The Council may from time to time, out of the income, create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied. 15

“(6) Paragraph (b) of subsection (5) of this section does not limit the generality of paragraph (a) of that subsection.”

(2) Section 7 of the University of Auckland Amendment Act 1966 is hereby consequentially repealed. 20

**21. Fees**—(1) The principal Act is hereby amended by repealing section 47, and substituting the following sections:

“**47A. Fees for domestic students**—(1) Subject to subsection (2) of this section, no domestic student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council— 25

“(a) The appropriate fee for the student for the subject, course, or programme fixed by the Council with the Minister’s written consent; or 30

“(b) Where the Council has not fixed a fee, the appropriate fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,— 35

and all other fees (if any) prescribed by the Council.

“(2) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by subsection (1) of this section. 40

“**47B. Fees for foreign students**—(1) The Council shall take all reasonable steps to ensure that no person is enrolled at the



University until it has established whether the person is a domestic student or a foreign student.

5 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

10 “(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

15 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“(b) All fees (if any) prescribed by the Council.

20 “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

30 “(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament.

35 “(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on.

40 “(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and

address of a proposed arbitrator, require the dispute to be settled by arbitration:

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 5

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 10

“(d) The arbitrator’s decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Domestic student’ means a student of the University who is not a foreign student: 15

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand under an assistance or exchange programme approved by the New Zealand Government; or 20

“(b) Is for the time being exempted under **section 47B (2)** of this Act:

“ ‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 25

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally: 30

“ ‘Secretary’ means the chief executive of the Ministry of Education.”

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection: 35

“(2) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or 40

“(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,— 45

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

5     **22. Sections to be read with University of Waikato Act 1963**—This section and **sections 23 to 25** of this Act shall be read together with and deemed part of the University of Waikato Act 1963\* (in those sections referred to as the principal Act).

10     **23. Admission of students**—(1) Section 24 of the principal Act is hereby amended by repealing subsection (10), and substituting the following subsections:

“**(10)** No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

15     “**(11)** Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

20     “**(12)** Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or  
25 programme and has applied for enrolment in it is not able to be enrolled in it.

“**(13)** Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the University, or in any  
30 subject, course, or programme at the University, if the enrolment is in a vacant place—

“**(a)** That the Council established for foreign students; and

“**(b)** Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

35     (2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to **subsections (10) to (13)** of this section, every”.

40     **24. Bulk funding**—The principal Act is hereby amended by repealing section 38, and substituting the following section:

\*R.S. Vol. 14, p. 849

Amendment: 1987, No. 162

“38. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and

“(b) May be paid one or more special grants,—  
out of money appropriated by Parliament for the purpose.

“(2) The amount of every general and special grant shall be 5  
determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to  
the Council before the Minister has given it written notice of  
the purposes for which the grant is to be used.

“(4) The Council shall ensure that a special grant is not used 10  
except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment and the  
terms of any trust or endowment,—

“(a) The University’s income and capital shall be applied in  
doing whatever the Council thinks will best 15  
accomplish the purposes it was established for; and

“(b) The Council may from time to time, out of the income,  
create, maintain, or add to, a fund or funds for any  
one or more of the purposes for which it may be 20  
applied.

“(6) Paragraph (b) of subsection (5) of this section does not limit  
the generality of paragraph (a) of that subsection.”

**25. Fees**—(1) The principal Act is hereby amended by  
repealing section 47, and substituting the following sections:

“47A. **Fees for domestic students**—(1) Subject to subsection 25  
(2) of this section, no domestic student shall be or continue to  
be enrolled in any subject, course, or programme at the  
University unless there have been paid to the Council—

“(a) The appropriate fee for the student for the subject,  
course, or programme fixed by the Council with the 30  
Minister’s written consent; or

“(b) Where the Council has not fixed a fee, the appropriate  
fee (if any) for the subject, course, or programme  
specified by the Minister by notice in the *Gazette*, or  
calculated or ascertained in accordance with a notice 35  
published by the Minister in the *Gazette*,—

and all other fees (if any) prescribed by the Council.

“(2) The Minister may, by notice in the *Gazette*, exempt  
people of any class or description from the payment of all or a  
specified proportion of fees specified in the notice that would 40  
otherwise be required by subsection (1) of this section.

“47B. **Fees for foreign students**—(1) The Council shall take  
all reasonable steps to ensure that no person is enrolled at the

University until it has established whether the person is a domestic student or a foreign student.

“(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

“(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

“(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“(b) All fees (if any) prescribed by the Council.

“(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

“(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament.

“(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on.

“(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and

address of a proposed arbitrator, require the dispute to be settled by arbitration:

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 5

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 10

“(d) The arbitrator’s decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Domestic student’ means a student of the University who is not a foreign student: 15

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or 20

“(b) Is for the time being exempted under **section 47b (2)** of this Act:

“ ‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 25

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally: 30

“ ‘Secretary’ means the chief executive of the Ministry of Education:”.

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection: 35

“(2) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or 40

“(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,— 45

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

5     **26. Sections to be read with Massey University Act 1963**—This section and **sections 27 to 29** of this Act shall be read together with and deemed part of the Massey University Act 1963\* (in those sections referred to as the principal Act).

10     **27. Admission of students**—(1) Section 24 of the principal Act is hereby amended by adding the following subsections:

“**(10)** No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

15     “**(11)** Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

20     “**(12)** Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be  
25 enrolled in it.

“**(13)** Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the University, or in any subject, course, or programme at the University, if the  
30 enrolment is in a vacant place—

“**(a)** That the Council established for foreign students; and

“**(b)** Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

35     (2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to **subsections (10) to (13)** of this section, every”.

40     **28. Bulk funding**—The principal Act is hereby amended by repealing section 38, and substituting the following section:

“38. (1) In each financial year the Council—

\*R.S. Vol. 14, p. 441

Amendment: 1987, No. 150

- “(a) Shall be paid a general grant; and  
 “(b) May be paid one or more special grants,—  
 out of money appropriated by Parliament for the purpose.  
 “(2) The amount of every general and special grant shall be  
 determined by the Minister. 5  
 “(3) The Minister shall ensure that no special grant is paid to  
 the Council before the Minister has given it written notice of  
 the purposes for which the grant is to be used.  
 “(4) The Council shall ensure that a special grant is not used  
 except for the purposes specified for it by the Minister. 10  
 “(5) Subject to the provisions of any enactment and the  
 terms of any trust or endowment,—  
 “(a) The University’s income and capital shall be applied in  
 doing whatever the Council thinks will best  
 accomplish the purposes it was established for; and 15  
 “(b) The Council may from time to time, out of the income,  
 create, maintain, or add to, a fund or funds for any  
 one or more of the purposes for which it may be  
 applied.  
 “(6) Paragraph (b) of subsection (5) of this section does not limit 20  
 the generality of paragraph (a) of that subsection.”

**29. Fees**—(1) The principal Act is hereby amended by  
 repealing section 47, and substituting the following sections:

“**47A. Fees for domestic students**—(1) Subject to subsection  
 (2) of this section, no domestic student shall be or continue to 25  
 be enrolled in any subject, course, or programme at the  
 University unless there have been paid to the Council—

- “(a) The appropriate fee for the student for the subject,  
 course, or programme fixed by the Council with the  
 Minister’s written consent; or 30  
 “(b) Where the Council has not fixed a fee, the appropriate  
 fee (if any) for the subject, course, or programme  
 specified by the Minister by notice in the *Gazette*, or  
 calculated or ascertained in accordance with a notice  
 published by the Minister in the *Gazette*,— 35

and all other fees (if any) prescribed by the Council.

“(2) The Minister may, by notice in the *Gazette*, exempt  
 people of any class or description from the payment of all or a  
 specified proportion of fees specified in the notice that would  
 otherwise be required by subsection (1) of this section. 40

“**47B. Fees for foreign students**—(1) The Council shall take  
 all reasonable steps to ensure that no person is enrolled at the



University until it has established whether the person is a domestic student or a foreign student.

5 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

10 “(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

15 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“ (b) All fees (if any) prescribed by the Council.

20 “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

25 “(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament.

30 “(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on.

35 “(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

40 “(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and

address of a proposed arbitrator, require the dispute to be settled by arbitration:

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 5

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 10

“(d) The arbitrator’s decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Domestic student’ means a student of the University who is not a foreign student: 15

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or 20

“(b) Is for the time being exempted under **section 47B (2)** of this Act:

“ ‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 25

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally: 30

“ ‘Secretary’ means the chief executive of the Ministry of Education:”.

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection: 35

“(2) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or 40

“(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,— 45

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

5     **30. Sections to be read with Victoria University of Wellington Act 1961**—This section and **sections 31 to 33** of this Act shall be read together with and deemed part of the Victoria University of Wellington Act 1961\* (in those sections referred to as the principal Act).

10    **31. Admission of students**—(1) Section 24 of the principal Act is hereby amended by adding the following subsections:

    “(10) No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

15    “(11) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

20    “(12) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or  
25 programme and has applied for enrolment in it is not able to be enrolled in it.

    “(13) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the University, or in any  
30 subject, course, or programme at the University, if the enrolment is in a vacant place—

    “(a) That the Council established for foreign students; and

    “(b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

35    (2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to **subsections (10) to (13)** of this section, every”.

40    **32. Bulk funding**—(1) The principal Act is hereby amended by repealing section 40 (as amended by section 4 of the Victoria

\*R.S. Vol. 14, p. 889

Amendment: 1987, No. 163

University of Wellington Amendment Act 1966), and substituting the following section:

“40. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and

“(b) May be paid one or more special grants,— 5  
out of money appropriated by Parliament for the purpose.

“(2) The amount of every general and special grant shall be determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to the Council before the Minister has given it written notice of 10  
the purposes for which the grant is to be used.

“(4) The Council shall ensure that a special grant is not used except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment and the 15  
terms of any trust or endowment,—

“(a) The University’s income and capital shall be applied in doing whatever the Council thinks will best accomplish the purposes it was established for; and

“(b) The Council may from time to time, out of the income, 20  
create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied.

“(6) Paragraph (b) of subsection (5) of this section does not limit the generality of paragraph (a) of that subsection.”

(2) Section 4 of the Victoria University of Wellington 25  
Amendment Act 1966 is hereby consequentially repealed.

**33. Fees**—(1) The principal Act is hereby amended by repealing section 48, and substituting the following sections:

“48A. **Fees for domestic students**—(1) Subject to subsection 30  
(2) of this section, no domestic student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

“(a) The appropriate fee for the student for the subject, 35  
course, or programme fixed by the Council with the Minister’s written consent; or

“(b) Where the Council has not fixed a fee, the appropriate 40  
fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—

and all other fees (if any) prescribed by the Council.

“(2) The Minister may, by notice in the *Gazette*, exempt 40  
people of any class or description from the payment of all or a

specified proportion of fees specified in the notice that would otherwise be required by **subsection (1)** of this section.

5 “48B. **Fees for foreign students**—(1) The Council shall take all reasonable steps to ensure that no person is enrolled at the University until it has established whether the person is a domestic student or a foreign student.

10 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

15 “(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

20 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“ (b) All fees (if any) prescribed by the Council.

25 “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

30 “(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament.

35 “(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on.

40 “(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the

amount by which it should so be reduced, the following provisions shall apply:

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration: 5

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 10

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 15

“(d) The arbitrator’s decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Domestic student’ means a student of the University who is not a foreign student: 20

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or 25

“(b) Is for the time being exempted under **section 48b (2)** of this Act:

“ ‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 30

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally: 35

“ ‘Secretary’ means the chief executive of the Ministry of Education:”.

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection: 40

“(2) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance

programme approved by the New Zealand Government; or

5 “(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,—

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief  
10 executive or (as the case may be) the Secretary.”

**34. Sections to be read with University of Canterbury Act 1961**—This section and **sections 35 to 37** of this Act shall be read together with and deemed part of the University of Canterbury Act 1961\* (in those sections referred to as the  
15 principal Act).

**35. Admission of students**—(1) Section 24 of the principal Act is hereby amended by adding the following subsections:

20 “(10) No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

“(11) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and  
25 has applied for enrolment is not able to be enrolled.

“(12) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt  
30 student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.

“**(13)** Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an  
35 exempt student may be enrolled at the University, or in any subject, course, or programme at the University, if the enrolment is in a vacant place—

“**(a)** That the Council established for foreign students; and

40 “**(b)** Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

(2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to **subsections (10) to (13)** of this section, every”.

**36. Bulk funding**—(1) The principal Act is hereby amended 5  
by repealing section 40 (as amended by section 4 of the  
University of Canterbury Amendment Act 1966), and  
substituting the following section:

“40. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and 10

“(b) May be paid one or more special grants,—  
out of money appropriated by Parliament for the purpose.

“(2) The amount of every general and special grant shall be  
determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to 15  
the Council before the Minister has given it written notice of  
the purposes for which the grant is to be used.

“(4) The Council shall ensure that a special grant is not used  
except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment and the 20  
terms of any trust or endowment,—

“(a) The University’s income and capital shall be applied in  
doing whatever the Council thinks will best  
accomplish the purposes it was established for; and

“(b) The Council may from time to time, out of the income, 25  
create, maintain, or add to, a fund or funds for any  
one or more of the purposes for which it may be  
applied.

“(6) **Paragraph (b) of subsection (5)** of this section does not limit  
the generality of **paragraph (a)** of that subsection.” 30

(2) Section 4 of the University of Canterbury Amendment  
Act 1966 is hereby consequentially repealed.

**37. Fees**—(1) The principal Act is hereby amended by  
repealing section 48, and substituting the following sections: 35

“48A. **Fees for domestic students**—(1) Subject to **subsection**  
**(2)** of this section, no domestic student shall be or continue to  
be enrolled in any subject, course, or programme at the  
University unless there have been paid to the Council—

“(a) The appropriate fee for the student for the subject, 40  
course, or programme fixed by the Council with the  
Minister’s written consent; or

“(b) Where the Council has not fixed a fee, the appropriate  
fee (if any) for the subject, course, or programme



specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—

and all other fees (if any) prescribed by the Council.

- 5 “(2) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (1)** of this section.

- 10 “**48B. Fees for foreign students**—(1) The Council shall take all reasonable steps to ensure that no person is enrolled at the University until it has established whether the person is a domestic student or a foreign student.

- 15 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

- 20 “(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

- 25 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“(b) All fees (if any) prescribed by the Council.

- 30 “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

- 35 “(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament.

“(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on.

“(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply:

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration: 10

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 15

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 20

“(d) The arbitrator’s decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions: 25

“ ‘Domestic student’ means a student of the University who is not a foreign student:

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or 30

“(b) Is for the time being exempted under **section 48B (2)** of this Act:

“ ‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is— 35

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or 40

“(c) Deemed for the purposes of that Act to be in New Zealand illegally:

“ ‘Secretary’ means the chief executive of the Ministry of Education.”

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:

“(2) In the absence of proof to the contrary,—

5 “(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or

10 “(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,—

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be  
15 taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

**38. Sections to be read with University of Otago Amendment Act 1961**—This section and **sections 39 to 41** of this Act shall be read together with and deemed part of the  
20 University of Otago Amendment Act 1961\* (in those sections referred to as the principal Act).

**39. Admission of students**—(1) Section 14 of the principal Act is hereby amended by adding the following subsections:

25 “(10) No foreign student who is not an exempt student is eligible to matriculate at the University except with the consent of the Council.

30 “(11) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

35 “(12) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the University if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or programme and has applied for enrolment in it is not able to be enrolled in it.

40 “(13) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the University, or in any

subject, course, or programme at the University, if the enrolment is in a vacant place—

“(a) That the Council established for foreign students; and

“(b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.” 5

(2) Section 14 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to **subsections (10) to (13)** of this section, every”.

**40. Bulk funding**—(1) The principal Act is hereby amended 10  
by repealing section 26 (as amended by section 3 of the University of Otago Amendment Act 1966), and substituting the following section:

“26. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and 15

“(b) May be paid one or more special grants,—  
out of money appropriated by Parliament for the purpose.

“(2) The amount of every general and special grant shall be determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to 20  
the Council before the Minister has given it written notice of the purposes for which the grant is to be used.

“(4) The Council shall ensure that a special grant is not used except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment and the 25  
terms of any trust or endowment,—

“(a) The University’s income and capital shall be applied in doing whatever the Council thinks will best accomplish the purposes it was established for; and

“(b) The Council may from time to time, out of the income, 30  
create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied.

“(6) **Paragraph (b) of subsection (5)** of this section does not limit 35  
the generality of **paragraph (a)** of that subsection.”

(2) Section 3 of the University of Otago Amendment Act 1966 is hereby consequentially repealed.

**41. Fees**—(1) The principal Act is hereby amended by 40  
repealing section 34, and substituting the following sections:

“**34A. Fees for domestic students**—(1) Subject to **subsection (2)** of this section, no domestic student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

“(a) The appropriate fee for the student for the subject, course, or programme fixed by the Council with the Minister’s written consent; or

5 “(b) Where the Council has not fixed a fee, the appropriate fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—  
and all other fees (if any) prescribed by the Council.

10 “(2) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (1)** of this section.

15 “34B. **Fees for foreign students**—(1) The Council shall take all reasonable steps to ensure that no person is enrolled at the University until it has established whether the person is a domestic student or a foreign student.

20 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by **subsection (3)** of this section.

25 “(3) Subject to **subsection (2)** of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the University unless there have been paid to the Council—

30 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“(b) All fees (if any) prescribed by the Council.

35 “(4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the University without paying the full amount required by **subsection (3) (a)** of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the  
40 student, as a debt due to the Council.

“(5) In any year, the amount of any grant for the University may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this

section in respect of a subject, course, or programme at the University in which a foreign student was enrolled has not been paid to the Council, the student's education has been subsidised by money appropriated by Parliament.

“(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on. 5

“(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply: 10

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration: 15

“(b) If, within 14 days of getting the Council's notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute: 20

“(c) If, within 14 days of getting the Council's notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 25

“(d) The arbitrator's decision is final.”

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Domestic student’ means a student of the University who is not a foreign student: 30

“‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or 35

“(b) Is for the time being exempted under **section 34B (2)** of this Act:

“‘Foreign student’ means a student of the University who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 40

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

“(c) Deemed for the purposes of that Act to be in New Zealand illegally:

“ ‘Secretary’ means the chief executive of the Ministry of Education:”.

5 (3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:

“(2) In the absence of proof to the contrary,—

10 “(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or

15 “(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,—

is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief  
20 executive or (as the case may be) the Secretary.”

**42. Sections to be read with Lincoln College Act 1961—**

This section and **sections 43 to 45** of this Act shall be read together with and deemed part of the Lincoln College Act 1961\* (in those sections referred to as the principal Act).

25 **43. Admission of students—**(1) Section 24 of the principal Act is hereby amended by adding the following subsections:

“(10) No foreign student who is not an exempt student is eligible to matriculate at the College except with the consent of the Council.

30 “(11) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled at the College if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol there and has applied for enrolment is not able to be enrolled.

35 “(12) Except as provided in **subsection (13)** of this section, no foreign student who is not an exempt student shall be enrolled in any subject, course, or programme at the College if the student’s enrolment has the effect that a domestic or exempt student who is entitled to enrol in the subject, course, or  
40 programme and has applied for enrolment in it is not able to be enrolled in it.

“(13) Notwithstanding that domestic and exempt students may not be able to be enrolled, a foreign student who is not an exempt student may be enrolled at the College, or in any subject, course, or programme at the College, if the enrolment is in a vacant place— 5

“(a) That the Council established for foreign students; and

“(b) Whose continued availability is dependent on the fees payable by foreign students enrolled in it.”

(2) Section 24 (1) of the principal Act is hereby consequentially amended by omitting the word “Every”, and substituting the words “Subject to subsections (10) to (13) of this section, every”. 10

**44. Bulk funding**—(1) The principal Act is hereby amended by repealing section 38 (as amended by section 4 of the Lincoln College Amendment Act 1966), and substituting the following section: 15

“38. (1) In each financial year the Council—

“(a) Shall be paid a general grant; and

“(b) May be paid one or more special grants,— out of money appropriated by Parliament for the purpose. 20

“(2) The amount of every general and special grant shall be determined by the Minister.

“(3) The Minister shall ensure that no special grant is paid to the Council before the Minister has given it written notice of the purposes for which the grant is to be used. 25

“(4) The Council shall ensure that a special grant is not used except for the purposes specified for it by the Minister.

“(5) Subject to the provisions of any enactment and the terms of any trust or endowment,—

“(a) The College’s income and capital shall be applied in doing whatever the Council thinks will best accomplish the purposes it was established for; and 30

“(b) The Council may from time to time, out of the income, create, maintain, or add to, a fund or funds for any one or more of the purposes for which it may be applied. 35

“(6) Paragraph (b) of subsection (5) of this section does not limit the generality of paragraph (a) of that subsection.”

(2) Section 4 of the Lincoln College Amendment Act 1966 is hereby consequentially repealed. 40

**45. Fees**—(1) The principal Act is hereby amended by repealing section 46, and substituting the following sections:



“46A. **Fees for domestic students**—(1) Subject to subsection (2) of this section, no domestic student shall be or continue to be enrolled in any subject, course, or programme at the College unless there have been paid to the Council—

5 “(a) The appropriate fee for the student for the subject, course, or programme fixed by the Council with the Minister’s written consent; or

“(b) Where the Council has not fixed a fee, the appropriate fee (if any) for the subject, course, or programme specified by the Minister by notice in the *Gazette*, or calculated or ascertained in accordance with a notice published by the Minister in the *Gazette*,—

and all other fees (if any) prescribed by the Council.

15 “(2) The Minister may, by notice in the *Gazette*, exempt people of any class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by subsection (1) of this section.

“46B. **Fees for foreign students**—(1) The Council shall take all reasonable steps to ensure that no person is enrolled at the College until it has established whether the person is a domestic student or a foreign student.

20 “(2) The Minister may, by notice in the *Gazette*, exempt foreign students of a particular class or description from the payment of all or a specified proportion of fees specified in the notice that would otherwise be required by subsection (3) of this section.

“3) Subject to subsection (2) of this section, no foreign student shall be or continue to be enrolled in any subject, course, or programme at the College unless there have been paid to the Council—

30 “(a) An amount fixed by the Council that is not less than the Council’s best estimate of the cost to the Council (including the appropriate proportion of the Council’s administrative and other general costs) of providing tuition in the subject, course, or programme for 1 student; and

“35 “(b) All fees (if any) prescribed by the Council.

“4) Where a foreign student has after the 31st day of December 1989 received tuition in a subject, course, or programme at the College without paying the full amount required by subsection (3) (a) of this section in respect of the subject, course, or programme, the Council may, in any Court of competent jurisdiction, recover the underpayment from the student, as a debt due to the Council.

“(5) In any year, the amount of any grant for the College may be reduced from what it would otherwise have been by any amount by which (in the Secretary’s opinion), by virtue of the fact that the full amount required by **subsection (3) (a)** of this section in respect of a subject, course, or programme at the College in which a foreign student was enrolled has not been paid to the Council, the student’s education has been subsidised by money appropriated by Parliament. 5

“(6) No grant shall be reduced under **subsection (5)** of this section unless the Secretary has given the Council written notice of the circumstances taken into account when the proposed reduction was decided on. 10

“(7) Where the Council disputes that a grant should be reduced under **subsection (5)** of this section, or disputes the amount by which it should so be reduced, the following provisions shall apply: 15

“(a) The Council may, within 28 days of getting notice from the Secretary under **subsection (6)** of this section, by written notice to the Secretary giving the name and address of a proposed arbitrator, require the dispute to be settled by arbitration: 20

“(b) If, within 14 days of getting the Council’s notice, the Secretary has agreed an arbitrator with the Council, the agreed arbitrator shall settle the dispute:

“(c) If, within 14 days of getting the Council’s notice, the Secretary has not agreed an arbitrator with the Council, an arbitrator appointed jointly by the Secretary and the arbitrator originally proposed by the Council shall settle the dispute: 25

“(d) The arbitrator’s decision is final.” 30

(2) Section 2 of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Domestic student’ means a student of the College who is not a foreign student: 35

“ ‘Exempt student’ means a foreign student who—

“(a) Is in New Zealand to study under an assistance or exchange programme approved by the New Zealand Government; or

“(b) Is for the time being exempted under **section 34B (2)** of this Act: 40

“ ‘Foreign student’ means a student of the College who is not a New Zealand citizen, and is—

“(a) A person to whom section 7 of the Immigration Act 1987 applies; or 45

“(b) A person obliged by or pursuant to that Act or any other enactment to leave New Zealand immediately or within a specified time; or

5 “(c) Deemed for the purposes of that Act to be in New Zealand illegally:

“‘Secretary’ means the chief executive of the Ministry of Education:”.

(3) Section 2 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:

10 “(2) In the absence of proof to the contrary,—

“(a) A certificate signed by the chief executive of the Ministry of External Relations and Trade that a person is or is not in New Zealand to study under an assistance programme approved by the New Zealand Government; or

15 “(b) A certificate signed by the Secretary that a person is or is not in New Zealand to study under an exchange programme approved by the New Zealand Government,—

20 is, for the purposes of **subsection (1)** of this section, conclusive evidence of the matter certified; and judicial notice shall be taken of the signature on any such certificate of the chief executive or (as the case may be) the Secretary.”

25 **46. Universities Act 1961 amended**—Section 13, and paragraphs (e) and (f) of section 11 (1) of the Universities Act 1961 are hereby repealed.