

[AS REPORTED FROM THE EDUCATION AND SCIENCE
COMMITTEE]

House of Representatives, 6 June 1991.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Dr Lockwood Smith

EDUCATION AMENDMENT

ANALYSIS

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An Act to amend the Education Act 1989

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

5 **1. Short Title**—This Act may be cited as the Education Amendment Act 1991, and shall be read together with and deemed part of the Education Act 1989* (hereinafter referred to as the principal Act).

*1989, No. 80

Amendments: 1989, No. 156; 1990, No. 60; 1990, No. 118; 1990, No. 134

No. 28—2

Price
incl. GST \$2.30

New

PART IA

RESTRICTION ON ATTENDANCE AT CERTAIN SCHOOLS

1A. Restriction on attendance at certain schools—The principal Act is hereby amended by inserting, after section 3, the following section: 5

“3A. (1) Subject to **subsection (2)** of this section,—

“(a) No male student shall be or continue to be enrolled at a state school that, since—

“(i) Its establishment as a girls’ school; or 10

“(ii) The coming into effect of a declaration under **section 146A (1)** of this Act that it is a girls’ school,— (whichever is the later) has not been declared under that section to be a co-educational school or a boys’ school. 15

“(b) No female student shall be or continue to be enrolled at a state school that, since—

“(i) Its establishment as a boys’ school; or

“(ii) The coming into effect of a declaration under **section 146A (1)** of this Act that it is a boys’ school,— (whichever is the later) has not been declared under that section to be a co-educational school or a girls’ school. 20

“(2) Any person lawfully enrolled at a school immediately before a declaration under **section 146A (1) (b)** of this Act that it is a boys’ or a girls’ school comes into effect may (subject to the other provisions of this Act) continue to be enrolled at the school.” 25

PART I

ENROLMENT SCHEMES

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2. New sections substituted—(1) The principal Act is hereby amended by repealing sections 11 and 12 (as amended by section 7 of the Education Amendment Act 1990), and substituting the following sections:

*Struck Out***“11A. Boards may put enrolment schemes in place—**

(1) The Board of a State school that is not a correspondence school, an integrated school, or a special institution,—

5 “(a) May, subject to **subsection (2)** of this section, by—

“(i) Resolving to adopt a scheme governing enrolments at the school; and

10 “(ii) Publishing in a daily newspaper circulating in the area where the school is situated notice of the scheme’s nature and effect,—

put in place a scheme governing enrolments at the school; and

“(b) May by—

15 “(i) Resolving that the school should have no enrolment scheme; and

“(ii) Publishing in a daily newspaper circulating in the area where the school is situated notice of the fact that it has done so,—

20 abandon any enrolment scheme in force for the school.

“(2) A Board shall not resolve to adopt a scheme governing enrolments at a State school unless—

25 “(a) It is satisfied that unless the scheme is put in place there is likely to be overcrowding at the school; and

“(b) It does so for the purpose of avoiding overcrowding at the school; and

30 “(c) The scheme does not have the effect of excluding from the school more prospective students than it is necessary to exclude to ensure that there is no overcrowding at the school.

“11B. Restrictions on content and effect of enrolment schemes—(1) Nothing in **section 11A** of this Act authorises the inclusion in an enrolment scheme of anything that is contrary to any enactment or the general law of New Zealand.

35 “(2) Nothing in **section 11A** or **section 11F** of this Act, or in any enrolment scheme, authorises any person to—

“(a) Act in a manner that is contrary to any enactment or the general law of New Zealand; or

40 “(b) Fail or refuse to take any action required by any enactment or the general law of New Zealand to be taken.

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- “11c. Application of enrolment schemes to primary schools—**(1) Subject to **section 11E** of this Act, an enrolment scheme put in place for a primary school has effect in relation to every applicant for enrolment at the school whose application is received after the scheme is put in place, other than an applicant who— 5
- “(a) May lawfully begin attending the school, and (in the Board’s opinion) will begin attending the school, before the later of the following days: 10
- “(i) The day 3 months after the day on which the scheme is put in place:
- “(ii) A day specified or described in the scheme as the day on which it takes effect; or
- “(b) In the Board’s opinion, will not begin attending the school before the earlier of the following: 15
- “(i) The day on which another enrolment scheme for the school takes effect:
- “(ii) The later of the following days:
- “(A) The day 3 months after the day on which a later scheme is put in place: 20
- “(B) A day specified in a later scheme as the day on which the later scheme takes effect.
- “(2) The abandonment of an enrolment scheme put in place for a primary school takes effect on the later of the following days: 25
- “(a) The last day of the next term to begin after the day on which notice that the Board has resolved that the school should have no enrolment scheme is published: 30
- “(b) A day specified or described in the Board’s resolution as the day on which the abandonment takes effect.
- “11d. Application of enrolment schemes to secondary schools—**(1) Subject to **section 11E** of this Act, an enrolment scheme put in place for a secondary school has effect in relation to every applicant for enrolment at the school whose application is received after the scheme is put in place, other than an applicant who— 35
- “(a) May lawfully begin attending the school, and (in the Board’s opinion) will begin attending the school, before the later of the following days: 40

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- 5 “(i) The day 5 months after the 1st day of August after the day on which notice of its nature and effect is published:
- 5 “(ii) A day specified or described in the scheme as the day on which it takes effect; or
- “(b) In the Board’s opinion, will not begin attending the school before the earlier of the following:
- 10 “(i) The day on which another enrolment scheme for the school takes effect:
- “ (ii) The later of the following days:
- “ (A) The day 3 months after the day on which a later scheme is put in place;
- “ (B) A day specified in a later scheme as the day on which the later scheme takes effect.
- 15 “(2) The abandonment of an enrolment scheme put in place for a secondary school takes effect on the later of the following days:
- 20 “(a) The day 5 months after the 1st day of August after the day on which notice that the Board has resolved that the school should have no enrolment scheme is published:
- “(b) A day specified or described in the Board’s resolution as the day on which the abandonment takes effect.
- 25 “11E. **Secretary may authorise early commencement of enrolment scheme**—(1) The Board of a State school may apply to the Secretary in writing for authority to put an enrolment scheme in place for the school with earlier effect than provided for by **section 11c (1) or section 11d (1)** (as the case may be) of this Act.
- 30 “(2) The application shall be accompanied by—
- “(a) A copy of the proposed scheme; and
- “(b) Written notice of the day on which the Board would like the scheme to take effect; and
- 35 “(c) Any other argument or evidence the Board thinks fit.
- “(3) Subject to **subsection (4)** of this section, the Secretary may, by written notice to the Board, give the Board authority to put the scheme in place with effect on a day specified in the notice (which may be the day specified by the Board or any later day).
- 40 “(4) The Secretary shall not give the Board authority unless satisfied that—

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- “(a) There will be overcrowding at the school if the scheme does not have effect until the day provided for in **section 11c (1) (a) (i) or section 11d (1) (a) (i)** (as the case may be) of this Act; and 5
- “(b) In all the circumstances it is appropriate for the particular scheme to be put in place for the school with effect on the day specified in the authority.
- “(5) Where, before the day specified by the Secretary and not later than 28 days after the Secretary gave the Board authority, the Board has— 10
- “(a) Put the scheme in place; and
- “(b) Specified in the resolution to adopt it, and the newspaper notice of its nature and effect, the day specified by the Secretary,— 15
- section 11c or section 11d** (as the case may be) of this Act shall have effect in relation to the scheme as if that day is the later of the days referred to in **subsection (1) (a)** of that section.
- “11F. **Effect of enrolment schemes**—(1) Where an enrolment scheme has effect in relation to any applicant for enrolment at a school, the applicant is (subject to the other provisions of this Act) entitled to enrol at the school— 20
- “(a) If the applicant is a domestic or exempt student who has been accepted at a hostel associated with the school for a period including the day on which the applicant intends to begin attending the school; or 25
- “(b) If the applicant is an assisted student whose attendance at the school on the day on which the applicant intends to begin attending the school has been agreed by the Board and the chief executive of the Ministry of External Relations and Trade; or 30
- “(c) If—
- “(i) The scheme provides that people of a particular kind or description are entitled to enrol at the school on the day on which the applicant intends to begin attending the school, or on any day; and 35
- “(ii) The applicant is a person of that kind or description.
- “(2) Where—
- “(a) An enrolment scheme has effect in relation to any applicant for enrolment at a school; and 40

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“**(b)** The scheme specifies pre-enrolment and enrolment procedures,—
the Board shall ensure that procedures for the applicant’s pre-enrolment and enrolment comply with the scheme.

5 “**(3)** Nothing in **subsection (2)** of this section limits or affects **subsection (1)** of this section.

“**(4)** Subject to **subsections (1) and (5)** of this section, where an enrolment scheme has effect in relation to any applicant for enrolment at a school,—

10 “**(a)** The applicant is not entitled to enrol at the school except in accordance with the scheme; and

“**(b)** The applicant’s entitlement to enrol at the school (if any) is subject to the other provisions of this Act.

15 “**(5)** Where an enrolment scheme gives a Board or any person a discretion as to whether or not applicants for enrolment at a school should be accepted, the Board or person, and any other body or person exercising the power to use the discretion under delegation, shall make all reasonable efforts to
20 ensure that the discretion is so used that no more applicants are refused than it is necessary to refuse to ensure that there is no overcrowding at the school.

“**11C. Boards to reconsider threat of overcrowding—**
Where, on the 1st day of June in any year, an enrolment scheme for a school has been in place for more than 3 months, the Board—

25 “**(a)** Shall, before the following 1st day of July, consider whether or not there is likely to be overcrowding at the school if the scheme is abandoned; and

30 “**(b)** If not satisfied that there is likely to be overcrowding at the school if the scheme is abandoned, shall abandon it.”

35 **(2)** **Section 11D** of the principal Act (as substituted by **subsection (1)** of this section) shall have effect in relation to enrolment schemes put in place before the 1st day of October 1991 as if the reference in **subsection (1) (a) (i)** to the 1st day of August is a reference to the 1st day of October.

3. Transitional effect of existing schemes and limitations—(1) Every limitation on enrolment under section
40 129 of the Education Act 1964 or section 11 (1) of the principal

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Act that was in force immediately before the commencement of this Act shall continue in force as if it is an enrolment scheme.

(2) Every scheme under the former section 12 (3) of the principal Act that was in force immediately before the commencement of this Act shall continue to apply to the enrolment of students who lawfully start or would start attending the school concerned before the later of the following days as if the scheme and the said section 12 are still in force:

- (a) The 1st day of January 1992;
- (b) The day on which the abandonment of the scheme (in accordance with **section 11A (1)** of the principal Act) takes effect.

New

11A. Boards may adopt enrolment schemes—(1) Subject to—

“(a) The Race Relations Act 1971; and

“(b) The Human Rights Commission Act 1977; and

“(c) **Subsection (2)** of this section,—

the Board of a State school that is not a correspondence school, an integrated school, or a special institution may put in place for the school a scheme governing enrolments at the school.

“(2) The Board shall not put the scheme in place unless—

“(a) It is satisfied that unless the scheme is put in place there is likely to be overcrowding at the school; and

“(b) It does so for the purpose of avoiding overcrowding at the school; and

“(c) The scheme will not have the effect of excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school.

“(3) Subject to **subsection (4)** of this section and to **section 11c** of this Act, the Board shall put a scheme in place by—

“(a) Resolving to adopt it; and

“(b) Publishing in a daily newspaper circulating in the area in which the school is situated notice of its nature and effect.

New

5 “(4) The Board shall not resolve to adopt the scheme unless, within the 2 months before the day of the meeting at which it does so, the Secretary has given it written notice that the Secretary is satisfied that there is likely to be overcrowding at the school unless an enrolment scheme is put in place for it.

“11B. **Amendment of enrolment schemes**—(1) Subject to—

10 “(a) The Race Relations Act 1971; and
 “(b) The Human Rights Commission Act 1977; and
 “(c) **Subsection (2)** of this section,—
 the Board of a school for which an enrolment scheme is in place may from time to time amend it.

15 “(2) The Board shall not amend the scheme unless—
 “(a) It is satisfied that unless an enrolment scheme is in place there is likely to be overcrowding at the school; and

“(b) It does so for the purpose of—
 “(i) Avoiding overcrowding at the school; or
 “(ii) Attempting to ensure that the scheme does
 20 not have the effect of excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school; and

“(c) The scheme as amended will not have the effect of
 25 excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school.

“(3) Subject to **subsection (4)** of this section and to **section 11c** of this Act, the Board shall amend the scheme by—

30 “(a) Resolving to adopt an amendment to it; and
 “(b) Publishing in a daily newspaper circulating in the area in which the school is situated notice of the amendment’s nature and effect.

35 “(4) The Board shall not resolve to adopt the amendment unless, within the 2 months before the day of the meeting at which it does so, the Secretary has given it written notice that the Secretary is satisfied that there is likely to be overcrowding at the school unless an enrolment scheme is in place for it.

“(5) Subject to **section 11i** of this Act,—

40 “(a) An amendment to a primary school’s enrolment scheme has effect on the day 3 months after the day on which notice of its nature and effect is published, or

New

- on a later day specified in the resolution adopting it; and
- “(b) An amendment to a secondary or composite school’s enrolment scheme has effect on the day 5 months after the 1st day of August after it is put in place, or on a later day specified in the resolution adopting it. 5
- “11c. **Notice**—A Board shall not resolve to adopt an enrolment scheme or amendment to an enrolment scheme unless at least 14 days before the day on which it resolves to do so, it has— 10
- “(a) Published in a daily newspaper circulating in the area in which the school is situated; and
- “(b) Given in writing to the Board of each school it thinks may be affected by the scheme or amendment,— 15
- a notice stating that it intends to adopt the scheme or amendment, specifying its nature and effect, and specifying the day, place, and time of the meeting.
- “11d. **Abandonment of enrolment schemes**—The Board of a school for which an enrolment scheme has been put in place may abandon it by— 20
- “(a) Resolving that the school should have no enrolment scheme; and
- “(b) Publishing in a daily newspaper circulating in the area in which the school is situated notice that it has done so. 25
- “11e. **Boards to notify Secretary**—(1) As soon as is practicable after putting in place or amending an enrolment scheme, a Board shall give the Secretary— 30
- “(a) Written notice that it has done so; and
- “(b) A copy of the scheme or amendment.
- “(2) As soon as is practicable after abandoning an enrolment scheme, a Board shall give the Secretary written notice that it has done so.
- “11f. **Schemes and amendments to be available for inspection**—Every Board shall take all reasonable steps to ensure that copies of all enrolment schemes, proposed enrolment schemes, amendments to enrolment schemes, and proposed amendments to enrolment schemes (other than schemes that have been abandoned or superseded, and 40

New

amendments to such schemes) for every school administered by the Board are available for inspection at all reasonable times at a place within the geographical area the school serves.

5 **“11G. Duration of enrolment schemes for primary schools—**(1) Subject to **section 11i** of this Act, an enrolment scheme for a primary school applies during the period—

10 “(a) Commencing on the day 3 months after the day it is put in place, or on a later day specified in the resolution adopting it; and

15 “(b) Ending immediately before the earlier of the following days:

 “(i) The day on which the scheme’s abandonment takes effect:

20 “(ii) The first day of a period during which a later enrolment scheme for the school applies.

25 “(2) The abandonment of an enrolment scheme for a primary school takes effect on the last day of the next term to begin after the notice that the Board has resolved that the school should have no enrolment scheme is published, or on a later day specified in the resolution.

30 **“11H. Duration of enrolment schemes for secondary and composite schools—**(1) Subject to **section 11i** of this Act, an enrolment scheme for a secondary or composite school applies during the period—

35 “(a) Commencing on the day 5 months after the 1st day of August after it is put in place, or on a later day specified in the resolution adopting it; and

40 “(b) Ending immediately before the earlier of the following days:

 “(i) The day on which the scheme’s abandonment takes effect:

 “(ii) The first day of a period during which a later enrolment scheme for the school applies.

45 “(2) The abandonment of an enrolment scheme for a secondary or composite school takes effect on the day 5 months after the 1st day of August after the day on which the notice that the Board has resolved that the school should have no enrolment scheme is published, or on a later day specified in the resolution.

New

- “11I. **Secretary may authorise early commencement of enrolment scheme or amendment**—(1) The Board of a State school may apply to the Secretary in writing for authority to— 5
- “(a) Put an enrolment scheme in place for the school with earlier effect than provided for in **section 11G (1) (a) or section 11H (1) (a)** (as the case may be) of this Act; or
- “(b) Adopt an amendment to an enrolment scheme for the school with earlier effect than provided for in **section 11B (5)** of this Act. 10
- “(2) The application shall be accompanied by—
- “(a) A copy of the proposed scheme or amendment; and
- “(b) In the case of a proposed amendment to a scheme, a copy of the scheme and all earlier amendments (if any); and 15
- “(c) Written notice of the day on which the Board would like the scheme or amendment to take effect; and
- “(d) Any other argument or evidence the Board thinks fit.
- “(3) Subject to **subsection (4)** of this section, the Secretary may, by written notice to the Board, give the Board authority to put the scheme in place, or amend the scheme, with effect on a day specified in the notice (which may be the day specified by the Board or any later day). 20
- “(4) The Secretary shall not give the Board authority unless satisfied that in all the circumstances it is appropriate for the scheme or amendment to have effect on the day specified in the authority, and— 25
- “(a) In the case of a proposed scheme, that there will be overcrowding at the school if the scheme does not have effect until the day provided in **section 11G (1) (a) or section 11H (1) (a)** of this Act (as the case may be); 30
- “(b) In the case of a proposed amendment to a scheme, that—
- “(i) There will be overcrowding at the school; or 35
- “(ii) The scheme will have the effect of excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school,—
- if the amendment does not have effect until the day 40
- provided in **section 11B (5)** of this Act.

New

“(5) Where, before the day specified in the authority and not later than 28 days after the Secretary gave it to the Board, the Board has—

- 5 “(a) Resolved to adopt the scheme or amendment; and
 “(b) Published the required notice of its nature and effect;
 and
 “(c) Specified in the resolution and notice the day specified
 10 by the Secretary,—
 the scheme or amendment shall have effect accordingly.

“11j. **Effect of enrolment schemes**—(1) During a period during which an enrolment scheme for a State school applies, no person shall be enrolled at or begin attending the school unless the person or the person’s parents have first applied to
 15 the Board for the person’s enrolment.

“(2) An enrolment scheme for a school applies to every person whose application for enrolment at the school the Board receives after the scheme is put in place, other than a person
 20 who—

- “(a) Lawfully begins attending the school before the period
 during which the scheme applies; or
 “(b) Does not begin attending the school until after that
 period.

 “(3) Subject to **subsection (4)** of this section, no person to whom
 25 an enrolment scheme for a school applies shall be enrolled at or begin attending the school, unless the scheme provides that the person is entitled to enrol at the school.

 “(4) A Board or person exercising (directly or under
 30 delegation) a discretion given by an enrolment scheme to decide whether or not people should be enrolled at a school shall make all reasonable efforts to ensure that the discretion is so used that no more people are refused than it is necessary to refuse to ensure that there is no overcrowding at the school.

“11k. **Boards to reconsider threat of overcrowding**—
 35 (1) Where, on the 1st day of June in any year, an enrolment scheme for a school has been in force for more than 3 months, the Board shall, before the following 1st day of July, consider,—

- 40 “(a) Whether or not there is likely to be overcrowding at the
 school if the scheme is abandoned; and

New

“(b) If, in the Board’s opinion, there is likely to be overcrowding at the school if the scheme is abandoned, whether or not in its existing form the scheme is likely to have the effect of excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school. 5

“(2) If not satisfied that there is likely to be overcrowding at the school if the scheme is abandoned, the Board shall abandon it. 10

“(3) If satisfied that—

“(a) There is likely to be overcrowding at the school if the scheme is abandoned; but

“(b) In its existing form the scheme is likely to have the effect of excluding from the school more prospective students than it is necessary to exclude to avoid overcrowding at the school,— 15

the Board shall amend the scheme or put a new one in place.”

(2) Notwithstanding **section 11H(1)(a)** of the principal Act (as substituted by **subsection (1)** of this section) an enrolment scheme for a secondary or composite school put in place before the 1st day of October 1991 applies during the period commencing on the 1st day of January 1992, or on any later day specified in the resolution adopting it. 20 25

2A. Secretary may direct Board to enrol student unable to attend other schools—The principal Act is hereby amended by repealing section 12B (as inserted by section 7 of the Education Amendment Act 1990), and substituting the following section: 30

“12B. (1) Subject to sections 5 and 6 of this Act, and to **subsection (2)** of this section, where an application for enrolment at a school has, by virtue of **section 11J(3)** of this Act, not been accepted, the Secretary may direct the Board to enrol the applicant at the school; and in that case the Board shall do so. 35

“(2) The Secretary shall not give the direction unless satisfied, after having taken all reasonable steps to consult the person’s parents, the Board, and (to the extent, if any, that the person’s age and maturity make consulting the person appropriate) the person, that in all the circumstances the consequences of not giving the direction (or a similar direction to another Board)— 40

New

- 5 “(a) Would be that the person would not be able reasonably practicably to attend any State school of the appropriate class (other than a correspondence school or an integrated school); or
- “(b) Would be so disadvantageous to the person that giving the person preferential treatment is justified.
- 10 “(3) A direction under **subsection (1)** of this section overrides **section 11J** of this Act and **section 3** of the Education Amendment Act 1991.”

3. Transitional effect of existing schemes and limitations—(1) Subject to **subsection (2)** of this section,—

- 15 (a) Every limitation on enrolment under section 129 of the Education Act 1964 or section 11 (1) of the principal Act; and
- (b) Every scheme under the former section 12 (3) of the principal Act,—
- 20 that was in force on the commencement of this Act shall continue in force as if it is an enrolment scheme; and may be amended or abandoned accordingly.
- (2) If not abandoned earlier in fact, every scheme under the former section 12 (3) of the principal Act shall be deemed to have been abandoned with effect at the close of the 31st day of December 1991.

- 25 **4. Consequential amendments**—(1) Section 2 (1) of the principal Act is hereby consequentially amended by inserting, in their appropriate alphabetical order, the following definitions:

- 30 “ ‘Enrolment scheme’ means a scheme put in place under **section 11A (1) (a)** of this Act:

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- 35 “ ‘Overcrowding’, in relation to a school, means one or more of the following:
- “(a) The attendance at the school of more students than its facilities could reasonably be expected to take:

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“(b) The attendance at the school of so many students that some of its facilities would have to take more students than they can be reasonably expected to take:

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“(c) The attendance at the school of so many students that some of its facilities would have to be used for purposes for which they can not reasonably be expected to be used:

“(d) The attendance at the school of more students than the school site could reasonably be expected to take:

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“(e) The attendance at the school of so many students that the health or safety of some or all of them would be, or would be likely to be, at risk:”.

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“‘Overcrowding’, in relation to a school, means the attendance at the school of more students than its site or facilities can reasonably be expected to take:”.

(2) The principal Act is hereby further consequentially amended—

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(a) By omitting from subsection (1) of section 12B (as inserted by section 7 of the Education Amendment Act 1990) the words “zoned school (within the meaning of section 12 (1) of this Act)”, and substituting the words “school for which there is in force an enrolment scheme, or a scheme under the former section 12 of this Act”; and

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(b) By omitting from subsection (2) of the said section 12B the words “the person’s not attending the school would be so disadvantageous to the person as to justify giving the person preference over other people whose right to enrol at the school is to be (or has been) determined by lot”, and substituting the words “not giving the direction (or a similar direction to another

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- Board) would be that the person would not be able reasonably practicably to attend any State school of the appropriate class (other than a correspondence school or an integrated school)”; and
- 5 (c) By inserting in subsection (3) of the said section 12B, before the expression “section 12”, the expression “**section 11A**, or the former”; and
- 10 (d) By omitting from sections 18 (4) and 18A (2) (as substituted by section 9 of the Education Amendment Act 1990) the words “sections 11 and 12 of this Act, and every limitation or enrolment scheme put in place under either”, and substituting, in each case, the words “**section 11A**, and the former section 12, of this Act, and every limitation or enrolment scheme put in place under either of them”.

New

- (a) By omitting from section 9 (2) the expression “section 12”, and substituting the expression “**section 11J**”; and
- 20 (b) By omitting from sections 16 (8), 18 (4), and 18A (2) (as substituted by section 9 of the Education Amendment Act 1990) the words “sections 11 and 12 of this Act, and every limitation or enrolment scheme put in place under either of them”, and substituting the words “**section 11J** of this Act and **section 3** of the Education Amendment Act 1991”; and
- 25 (c) By repealing section 61 (2) (b).

5. Consequential repeals—The following enactments are hereby consequentially repealed:

- 30 (a) *(Section 12A)* Sections 12A, 155 (9) (d), and 156 (7) (d) of the principal Act;
- (b) Section 7 of the Education Amendment Act 1989;
- (c) *(Section 6)* Sections 6 and 7 of the Education Amendment Act 1990.

PART II

OTHER AMENDMENTS TO PRINCIPAL ACT

6. Annual financial statements—Section 82 of the principal Act is hereby amended by inserting, after subsection (2B) (as inserted by section 21 (1) of the Education Amendment Act 1990), the following subsection: 5

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“(2c) If satisfied that a Board’s financial management system is not working well enough, the Secretary may, by written notice to the Board, direct the Board to engage and pay a chartered accountant to manage its financial management system; and in that case, until the Secretary gives the Board written notice that it may resume direct control of its financial management system, the Board shall ensure that a chartered accountant (within the meaning of section 2 of the New Zealand Society of Accountants Act 1958) of its choice— 10 15

“(a) Prepares its accounting records; and

“(b) Keeps its accounts,—

and that no cheque drawn on any of the Board’s accounts is valid unless the chartered accountant countersigns it.” 20

New

“(2c) If satisfied that a Board has not, within 90 days of the end of any financial year, sent to the Audit Office annual financial statements for the year that comply with subsection (2) of this section, the Secretary may, by written notice to the Board, direct the Board to engage and pay a suitably qualified person to manage its financial management system; and in that case, until the Secretary gives the Board written notice that it may resume direct control of its financial management system, the Board shall ensure that either— 25 30

“(a) A chartered accountant (within the meaning of section 2 of the New Zealand Society of Accountants Act 1958) of the Board’s choice; or

“(b) Some other person approved by the Secretary,— prepares its accounting records and keeps its accounts, and that no cheque drawn on the Board’s accounts is valid unless the person for the time being keeping the accounts countersigns it.” 35

New

6A. Single sex schools—(1) The principal Act is hereby amended by inserting, after section 146, the following section:

5 “146A. (1) Subject to section 157 of this Act, the Minister may, by notice in the *Gazette*, declare any secondary school to be a boys’ school, a girls’ school, or a co-educational school.

“(2) The declaration shall come into effect on the day 5 months after the 1st day of August after the notice is published.”

10 (2) Section 146 of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraph:

“(ab) In the case of a secondary school, specifying whether it is a boys’ school, a girls’ school, or a co-educational school; and”.

15 (3) Section 145 of the principal Act is hereby consequentially amended by inserting, before paragraph (a), the following paragraph:

“(aa) Every school—

20 “(i) That was, or is deemed by this subsection to have been, established under section 146 of this Act; and

“(ii) That immediately before the commencement of the Education Amendment Act 1991 was a secondary school; and

25 “(iii) At which no male students (or female students) were enrolled in 1990,— shall be deemed to have been established as a girls’ school (or a boys’ school) under section 146 of this Act.”.

30 (4) Section 157 (2) of the principal Act is hereby consequentially amended by inserting, before paragraph (a), the following paragraph:

35 “(aa) Declare a school to be a boys’ school, a girls’ school, or a co-educational school under **section 146A (1)** of this Act; or”.

(5) Section 157 (3) of the principal Act is hereby consequentially amended by inserting, after paragraph (a), the following paragraph:

40 “(aa) Declare a school to be a boys’ school, a girls’ school, or a co-educational school under **section 146A (1)** of this Act; or”.

7. Contributing schools—(1) Section 150 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “of every intermediate school and intermediate department, and every composite school whose provision of primary education is limited under section 151 of this Act”; and 5

(b) By omitting from subsection (2) the words “of any intermediate school or department, or any composite school”. 10

(2) Section 157 (2) (e) of the principal Act is hereby consequentially amended by omitting the words “of an intermediate school or department, or a composite school”.

(3) Section 157 (3) of the principal Act is hereby consequentially amended by repealing paragraph (c), and substituting the following paragraph: 15

“(c) Determine under section 150 (1) of this Act that a primary school is to be or cease to be a contributing school; or”.

(4) The Intermediate Schools and Departments (Admission of Pupils) Regulations 1967 are hereby consequentially revoked. 20

8. Community education forums—(1) The principal Act is hereby amended by inserting, after section 157, the following section:

“157A. The Minister may at any time appoint a person to— 25

“(a) Convene within a specified area public meetings relating to any action the Minister proposes to consider taking under this Part of this Act; and

“(b) Advise the Minister on the views expressed at the meetings;— 30

and in that case the Minister may refuse to consider whether or not to take the action without—

“(c) Giving the person reasonable time to convene the meetings and advise the Minister; and

“(d) Considering any advice the person gives the Minister in that time.” 35

Struck Out

(2) Section 157 (1) of the principal Act is hereby repealed.

New

(2) Section 157 of the principal Act is hereby amended by repealing subsections (1) and (4).

5 (3) Section 145 (1) of the principal Act is hereby consequentially amended by repealing the definition of the term "community education convenor".