

Education Amendment Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

Subject to this Act,

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New (majority)

Subject to this Act,

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New (unanimous)

Subject to this Act,

Text inserted unanimously

<Subject to this Act,>

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Words struck out unanimously

<u>Subject to this Act,>

Words inserted by a majority

Subject to this Act,

Words inserted unanimously

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New

Subject to this Act,

Text inserted

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Words struck out

Subject to this Act,

Words inserted

Hon Trevor Mallard

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education Amendment Act **2004**.

2 Commencement

- (1) This Act (except **sections 22A, 43, 47, and 50**) comes into force on the day after the date on which it receives the Royal assent. 5
- (2) **Sections 22A, 43, 47, and 50** come into force on a date to be appointed by the Governor-General by Order in Council.

New

- | |
|---|
| (3) Despite subsections (1) and (2), sections 314(1) to (4), 317, and 319 (as inserted by section 43 of this Act) come into force on the day after the date on which this Act receives the Royal assent. 10 |
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2A Principal Act amended

This Part amends the Education Act 1989.

Part 1

Amendments to principal Act

Schools

15

3 Boards to reimburse the Crown for expenditure in respect of foreign students

Section 4D is amended by inserting the following subsections after subsection (3):

- “(3A) The Minister may pay to the proprietors of an integrated school whose Board has paid a fee under this section a portion of that fee, as determined in accordance with a formula prescribed under **subsection (3B)**, for the purpose of reimbursing the proprietors for that part of the levy associated with the use of capital assets owned by the proprietors. 5
- “(3B) The Minister must, by notice in the *Gazette*, prescribe a formula for the payment of money under **subsection (3A)**, and may prescribe different formulae to apply to different schools or classes of school.” 10
- 4 Principal may stand-down or suspend students**
Section 14(1)(b) is amended by omitting “for an unspecified period”.
- 5 Effect of school charter**
Section 63(a) is amended by omitting “or deemed to be contained”. 15

New

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|---|
| <p>5A Delegations
Section 66(8) is amended by omitting “subsection (1)(b)” and substituting “subsection (4)(b)”.</p> |
|---|

- 6 New sections 70A to 70C inserted** 20
- (1) The following sections are inserted after section 70:
- “70A Minister may declare land to be no longer needed for educational purposes**
- “(1) The Minister may, by notice in the *Gazette*, declare any land of the Crown to be no longer needed for educational purposes. 25
- “(2) On publication of a notice under **subsection (1)**, any land referred to in the notice that was, immediately before publication of the notice, held for a purpose set out in **subsection (3)**, ceases to be so held and may be disposed of as land no longer required for a public work. 30
- “(3) **Subsection (2)** applies to land held—
“(a) for education or educational purposes; or

- “(b) for, or for the purposes of, a school or other educational institution (whether or not any particular school or institution); or
- “(c) for any purpose related to or connected with a school or other educational institution (whether or not any particular school or institution); or 5
- “(d) for any similar purpose.

Compare: 1949 No 24 s 5A

“70B Leases and licences granted by Boards

- “(1) A Board may, with the written consent of the Secretary, grant a lease or a licence to occupy to any person in respect of any land, buildings, or facilities occupied by the Board. 10
- “(2) The Secretary may agree to the grant of a lease or a licence by the Board only if satisfied that—
 - “(a) the land, building, or facilities are not needed or used for the purposes of the school during the time covered by the lease or licence; and 15
 - “(b) the lease or licence is in the public interest; and
 - “(c) the lease or licence—
 - “(i) is for a purpose associated with educational outcomes and will bring educational benefit to the school or its community, or to any other school; or 20
 - “(ii) is for a community purpose, and will bring no educational disadvantage to the school. 25
- “(3) The Secretary must determine the terms and conditions of any lease or licence granted by a Board, and may do so by either or both of the following:
 - “(a) by notice in the *Gazette* specifying general terms and conditions that apply to all, or specified classes of, leases or licences: 30
 - “(b) by written notice to the Board.

“(4) Section 70(5) applies to a *Gazette* notice under **subsection (3)(a)**.

New (unanimous)

“(5) In relation to an integrated school, this section applies subject to the Private Schools Conditional Integration Act 1975 and to any integration agreement in force between the Minister and the proprietors of the school.

5

Compare: 1949 No 24 ss 6, 6A

“70C Other agreements to occupy school land or buildings

“(1) In this section, **agreement** means an agreement, other than a lease or a licence to occupy under **section 70B**, between a Board and any other person for the use of land, buildings, or facilities occupied by the Board.

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“(2) A Board may not enter into an agreement unless—

“(a) the agreement is of a type permitted by *Gazette* notice under **subsection (5)**; and

“(b) the agreement is consistent with this section and any conditions set out in *Gazette* notices made under **subsection (5)**.

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“(3) It is a condition of every agreement that the Board has the right to enter at any time the land, buildings, or facilities that are the subject of the agreement.

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“(4) No person has the right under an agreement to use or occupy any land, buildings, or facilities in such a way as to unduly interfere with the use by the Board for school purposes of that land or those buildings or facilities, or any other land, buildings, or facilities of the school.

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“(5) The Secretary may, by notice in the *Gazette*,—

“(a) identify the kinds of agreements (such as, for example, agreements for the use of playing fields) that Boards may enter into; and

“(b) specify conditions to which agreements, or specified types of agreements, are subject.

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New (unanimous)

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|---|----------|
| <p>“(6) Section 70(5) applies to a <i>Gazette</i> notice under subsection (5)(b).</p> <p>“(7) In relation to an integrated school, this section applies subject to the Private Schools Conditional Integration Act 1975 and to any integration agreement in force between the Minister and the proprietors of the school.”</p> | 5 |
| <hr/> | |
| <p>(2) A lease or licence to occupy entered into under Part I of the Education Lands Act 1949 is unaffected by the repeal of that Part by this Act or by section 70B of the principal Act.</p> <p>(3) An agreement to which section 70C of the principal Act applies that is in force immediately before that section comes into force is unaffected by section 70C until the end of the year in which that section comes into force. From the beginning of the following year, section 70C of the principal Act applies to the agreement.</p> <p>(4) Section 205(1)(b)(i) of the Local Government Act 2002 is consequentially amended by inserting “or section 70B of the Education Act 1989” after “Education Lands Act 1949”.</p> <p>Compare: 1949 No 24 s 6D</p> | 10
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| <p>7 New section 88A inserted</p> <p>The following section is inserted after section 88:</p> <p>“88A Rent for teachers’ residences</p> <p>“(1) A teacher who is provided with a teacher’s residence in respect of his or her teaching position must pay rent in accordance with a scheme prescribed by the Minister and notified in the <i>Gazette</i>.</p> <p>“(2) Until a rental scheme under subsection (1) takes effect, rents for teachers’ residences must be determined in accordance with the scheme operating immediately before subsection (1) comes into force.”</p> | 20
25 |
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 | |
| <p>8 Limitations on co-option and appointment of trustees</p> <p>(1) Section 94C(1) is repealed.</p> <p>(2) Section 94C is amended by omitting “(otherwise than to a casual vacancy for a parent representative)” from subsections (2) and (3).</p> <p>(3) Section 94C is amended by adding the following subsection:</p> | 30
35 |

“(4) No more than one non-permanently appointed member of the Board staff may be co-opted on to the Board at any one time.”

9 New section 100 substituted

(1) Section 100 is repealed and the following section substituted:

“100 Availability of annual report

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At the same time as a Board gives the Secretary the annual report as required by section 87, the Board must—

“(a) give notice to the school community, by whatever means the Board considers will be most effective, of where and when a copy of the annual report is available for inspection; and 10

“(b) ensure that a copy of the annual report is available for inspection at the school by members of the public during school opening hours.”

(2) Section 153(4) is consequentially amended by omitting “until the close of the day on which its annual meeting is next required by section 100 of this Act to be held” and substituting “until the close of the 7th day after the first election following its change of class”. 15

10 Elections of trustees

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Section 101 is amended by repealing subsection (4) and substituting the following subsection:

“(4) Elections under subsection (3) must be held—

“(a) in the case of a school that is not a correspondence school, on the second Tuesday in May, unless the Board, before 1 February in that year, fixes an earlier date for the election (being a date after 1 February); and 25

“(b) in the case of a correspondence school, on the second Tuesday in July, unless the Board, before 1 April in that year, fixes an earlier date for the election (being a date after 1 April).” 30

11 Term of office

(1) Section 102 is amended by repealing subsection (1) and substituting the following subsection:

“(1) Elected trustees take office 7 days after their election, unless otherwise provided in this section.” 35

(2) Section 102(3) is repealed.

12 Certain persons ineligible to be trustees

- (1) Section 103(1)(da) is repealed.
- (2) Section 103 is amended by repealing subsections (2A), (3), and (4) and substituting the following subsections:
- “(3) Any permanently appointed member of the Board staff may, if otherwise eligible for election, be elected as a staff representative; but no permanently appointed member of the Board staff may be otherwise elected to the Board or be appointed or co-opted on to the Board. 5
- “(4) A non-permanently appointed member of the Board staff may, if otherwise eligible, be elected, appointed, or co-opted on to the Board.” 10

13 Filling of casual vacancies

- (1) The heading to section 105 is amended by omitting “**of casual vacancies**” and substituting “**casual vacancies of elected trustees**”. 15
- (2) Section 105(1) is amended by omitting “(4A)” and substituting “(9)”.
- (3) Section 105 is amended by repealing subsections (4) to (8) and substituting the following subsections: 20
- “(4) When a casual vacancy for an elected trustee occurs at any other time, the Board must resolve, within 8 weeks of the vacancy occurring, whether to—
- “(a) hold an election to fill the vacancy; or
- “(b) fill the vacancy by selection. 25
- “(5) If the Board resolves to fill the vacancy by selection it must, within 14 days of the resolution, publish a notice in a newspaper circulating in the area stating that there is a vacancy and that the Board proposes to fill it by selection.
- “(6) A Board may not resolve to fill a casual vacancy by selection if the effect would be that the number of elected parent representatives on the Board is less than, or equal to, the number of parent representatives on the Board who have not been elected. 30
- “(7) Despite resolving to fill a vacancy by selection, the Board must hold an election to fill the vacancy if, within 28 days of the publication of the notice referred to in **subsection (5)**, a total of at least 10% of the people entitled to vote in an election for 35

trustees advises the Board, in writing, that they wish the vacancy to be filled by an election.

- “(8) An election to fill a casual vacancy for an elected trustee must be held,—
- “(a) if the Board resolved under **subsection (4)(a)** to hold an election, on the 15th Friday after the date on which the vacancy occurred, or on any earlier date fixed by the Board at least 6 weeks before the election date; or
- “(b) if the Board holds an election as a result of a request under **subsection (7)**, on the 10th Friday after receiving the request, or on any earlier date fixed by the Board at least 6 weeks before the election date.
- “(9) If the Board resolved under **subsection (4)** to fill a casual vacancy by selection, then, once the last date for lodging a request under **subsection (7)** has passed, the Board must select a person within 6 weeks of that date, and the person selected takes office on the day of selection by the Board.
- “(10) This Act applies to a trustee selected under this section to fill a casual vacancy of an elected trustee as if the person had been elected, and every reference to an elected trustee (except in **subsection (6)**) includes a reference to a trustee so selected.”
- (4) A trustee who holds office as a result of an appointment under section 105 of the principal Act (as it was immediately before this section comes into force) is to be treated, after this section comes into force, as a trustee selected under that section.
- (5) Section 94B(8) is consequentially amended by omitting “appointment” and substituting “selection”.
- 14 Boards may combine**
- (1) Section 110(1) is amended by omitting “establish a combined Board for the schools or institutions that the applicant Boards administer” and substituting “establish a single Board (called a **combined Board**) to administer all the schools or institutions concerned”.
- (2) Section 110 is amended by omitting “applicant” from subsections (3)(b) and (4) and substituting in each case “existing”.

*Teacher registration***15 Interpretation**

- (1) Section 120 is amended by repealing paragraphs (a) and (b) of the definition of **early childhood education and care service** and substituting the following paragraphs: 5
- “(a) a free kindergarten that is an early childhood service whose licence permits no child to attend for a period of more than 4 hours on any day; and
- “(b) any other early childhood service that is declared by regulations made under section 69(2) of the Education Standards Act 2001 to be an early childhood education and care service for the purposes of this Part”. 10

New

- (2) Regulation 4 of the Education (Registration of Early Childhood Services Teachers) Regulations 2004 is consequentially amended by repealing subclause (2)(a) and substituting the following paragraph: 15
- “(a) a free kindergarten that is an early childhood service whose licence permits no child to attend for a period of more than 4 hours on any day:”.

Struck out (unanimous)

- 16 Restrictions on appointment of teachers** 20
- Section 120A(1) of the principal Act is amended by—
- (a) inserting in paragraph (a)(i), after the word “cancelled”, the words “or has expired”; and
- (b) inserting in paragraph (b), after the word “cancelled”, the words “or has expired”. 25
- 17 Restrictions on continued employment of teachers**
- Section 120B(1) of the principal Act is amended by—
- (a) inserting in paragraph (a)(i), after the word “cancelled”, the words “or has expired”; and
- (b) inserting in paragraph (b), after the word “cancelled”, the words “or has expired”. 30

New

17 Restrictions on continued employment of teachers

Section 120B(4)(b) is amended by omitting “Board” and substituting “Teachers Council”.

18 Appeals from decisions of Teachers Council

- (1) Section 126(1) is amended by omitting “127(5), or 129(1)(a), (b), or (c)” and substituting “129(1)(a) or (b), or 130”. 5

New

- (2) Section 126(7) is amended by omitting “the High Court” in the second place where it appears and substituting “the District Court”.
-

19 Expiry of registration

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Section 127 is repealed and the following section substituted:

“127 Expiry of teacher registration

- “(1) A teacher’s registration expires—
- “(a) in the case of a registration under section 124(1) that has not earlier been confirmed under section 124(3), after 3 years: 15
 - “(b) in the case of the registration of a teacher who has never held a practising certificate, after 5 years:
 - “(c) in the case of a provisional registration under section 123(1) that has not earlier been confirmed under section 123(3), after— 20
 - “(i) 5 years; or
 - “(ii) if the Teachers Council has, before the expiration of 5 years, allowed the teacher a further year, 6 years: 25
 - “(d) in the case of the registration of a teacher who has held a practising certificate but no longer holds one, on the 5th anniversary of the expiry of the practising certificate most recently issued to the teacher:
 - “(e) when the teacher dies. 30
- “(2) When a teacher’s registration expires, the teacher’s name must be removed from the register kept under section 128.”

New (unanimous)

19A New section 127A inserted

The following section is inserted after section 27:

“127A Voluntary deregistration

- “(1) The Teachers Council must deregister a person if—
- “(a) the Teachers Council receives a written request from the person seeking deregistration; and 5
 - “(b) the Teachers Council is satisfied that the person is not the subject of an investigation under Part 10A.
- “(2) This section applies to both teachers and holders of limited authorities to teach.” 10

20 Teachers Council to keep register

Section 128 is amended by adding the following subsection as subsection (2):

- “(2) If the Teachers Council is satisfied that any of the information contained in the register is incorrect, the Council must ensure that the error is corrected.” 15

21 New section 129 substituted

Section 129 is repealed and the following section substituted:

“129 Cancellation of registration as teacher and cancellation of limited authority to teach 20

- “(1) The Teachers Council must cancel a (*teacher's*) person's registration(,) or (*an authorised person's*) limited authority to teach, if—
- “(a) the Teachers Council is satisfied on reasonable grounds that,— 25
 - “(i) in the case of a teacher, the teacher no longer satisfies the requirements for registration as a teacher (as set out in section 122); or
 - “(ii) in the case of an authorised person, the person no longer satisfies the requirements for holding a limited authority to teach (as set out in section 130B(2)); or 30
 - “(b) the Teachers Council is satisfied on reasonable grounds that the registration or authorisation was effected by mistake or obtained by fraud; or 35

Struck out (unanimous)

- “(c) the Teachers Council has ordered, under **section 139AW(1)(g)** or **section 139AZC(8)(c)**, that the teacher or authorised person be deregistered; or
- “(d) the Teachers Council has received a written request from the teacher or authorised person to cancel the registration or limited authority to teach, and the Teachers Council is satisfied that the teacher or authorised person is not the subject of an investigation under Part 10A.

5

New (unanimous)

- “(c) the Disciplinary Tribunal has ordered, under **section 139AW(1)(g)**, that the registration or limited authority to teach be cancelled; or
- “(d) the Teachers Council has ordered, under **section 139AZC(8)(c)**, that the registration or limited authority to teach be cancelled.

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“(2) The Teachers Council may not cancel a teacher’s registration or an authorised person’s limited authority to teach under **subsection (1)(a) or (b)** without first—

- “(a) taking all reasonable steps to ensure that the teacher or authorised person is given notice of the reasons for the proposed cancellation; and
- “(b) giving the teacher or authorised person a reasonable opportunity to make submissions and be heard, either in person or by counsel or other representative, on the proposed cancellation.

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“(3) The fact that a teacher’s registration or an authorised person’s limited authority to teach has been cancelled does not prevent the teacher or authorised person from again being registered or being given a limited authority to teach.

“(4) *(If a teacher or authorised person who is ordered to be deregistered)* If a person’s registration is ordered to be cancelled under **section 139AZC(8)(c)**, and the person later applies for registration or for a limited authority to teach, he or she must be treated as a person who has not held a practising certificate for 5 years.

30

35

Struck out (unanimous)

“(5) The Teachers Council must take all reasonable steps to ensure that employers are informed of the name of every teacher whose registration is cancelled, and of every authorised person whose limited authority to teach is cancelled, if the cancellation is the result of an order for deregistration.

5

New (unanimous)

“(5) The Teachers Council must take all reasonable steps to ensure that employers are informed of the name of every person whose registration or limited authority to teach is cancelled—

“(a) under this section; or

“(b) as a result of the Teachers Council refusing to renew the person’s registration, or to grant a limited authority to teach, on the ground that the person is not of good character or is not fit to be a teacher.”

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21A New section 129A inserted

The following section is inserted after section 129:

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“129A Reclassification of teacher’s registration

“(1) The Teachers Council may, instead of cancelling a teacher’s registration under **section 129(1)(a)**, reclassify the registration if the Teachers Council is satisfied that the only requirement that the teacher does not meet is the requirement for recent teaching experience (as required by section 122(d)).

20

“(2) If a teacher’s registration is reclassified, the registration must show that it is subject to confirmation; and this Act applies as if the teacher were registered under section 124(1).”

22 Authorisation may be renewed

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Section 130E is amended by omitting the heading and substituting the heading “**Period of authorisation**”.

New (unanimous)*Corporal punishment***22A No corporal punishment in early childhood centres or registered schools**

- (1) The heading to section 139A is amended by omitting “centres” and substituting “services”. 5
- (2) Section 139A(1) is amended by repealing paragraphs (c) and (d) and substituting the following paragraphs:
- “(c) is employed at an early childhood service (as defined in **section 309**); or
- “(d) owns, manages, or controls an early childhood service (as so defined),—”. 10
- (3) Section 139A(1) is amended by omitting “centre” where it appears after paragraph (d) and substituting “service”.
- (4) Section 139A(2) is amended by repealing paragraph (c) and substituting the following paragraph: 15
- “(c) on behalf of the service provider of an early childhood service (as defined in **section 309**) any child enrolled at or attending the service,—”.

*Teachers Council***23 Disciplinary bodies** 20**Struck out (unanimous)**

- (1) Section 139AQ(2) of the principal Act is amended by omitting the words “, but the majority of members on each body must be members of the Teachers Council”.
- (2) Section 139AQ of the principal Act is amended by repealing subsection (3), and substituting the following subsection: 25
- “(3) The Disciplinary Tribunal must include at least 1 person who—
- “(a) is appointed by the Minister after consultation with the Teachers Council; and
- “(b) is not a member of the Teachers Council; and 30
- “(c) is not a teacher, employer (as defined in section 120), or member of an employing body.”

Struck out (unanimous)

(3) Section 139AQ of the principal Act is amended by inserting, after subsection (5), the following subsection:

“(5A) The disciplinary bodies may operated in panels, and more than one panel of each body may operate at any one time.”

New (unanimous)

Section 139AQ is amended by repealing subsections (2) and (3) and substituting the following subsections: 5

“(2) Both disciplinary bodies may have members who are not members of the Teachers Council.

“(3) Both disciplinary bodies may operate in panels, and more than one panel of each body may operate at any one time. 10

“(3A) Both disciplinary bodies must include at least one member of the Teachers Council.

“(3B)The Disciplinary Tribunal must include at least one person who is selected from a list, prepared by the Minister after consultation with the Teachers Council, of people who are neither members of the Teachers Council, nor teachers, employers, or members of an employing body. 15

“(3C)The majority of members on the Disciplinary Tribunal, and on every panel of the Disciplinary Tribunal, must be registered teachers.” 20

New**23AA Complaints and reports relating to teacher conduct**

(1) Section 139AS(1)(a) is amended by omitting “relate” and substituting “relates”.

(2) Section 139AS(1)(b) is repealed.

New (unanimous)

23A Powers of Complaints Assessment Committee

New

- (1AA) Section 139AT(2) is amended by omitting “a complaint or report referred to it under section 139AS,—” and substituting “any matter other than a conviction to which section 139AV relates, do any of the following:” 5
- (1AB) Section 139AT(2) is amended by repealing paragraph (d) and substituting the following paragraph:
- “(d) by agreement with the teacher and the person who made the complaint or report, do any of the following:
- “(i) censure the teacher: 10
- “(ii) impose conditions on the teacher’s practising certificate or authority, such as (without limitation) requiring the teacher to undergo supervision or professional development:
- “(iii) suspend the teacher’s practising certificate or authority for a specified period, or until specified conditions are met: 15
- “(iv) annotate the register or the list of authorised persons in a specified manner.”
- (1) Section 139AT is amended by repealing subsection (4) and substituting the following subsections: 20
- “(4) The Complaints Assessment Committee must refer a matter concerning a teacher to the Disciplinary Tribunal if it is satisfied on reasonable grounds that—
- “(a) the teacher has engaged in serious misconduct; and 25
- “(b) the matter should be referred to the Disciplinary Tribunal.
- “(5) If a matter is referred to the Disciplinary Tribunal under **subsection (4)**, a notice must be sent to the teacher concerned setting out the charge of misconduct against him or her.” 30

New

23B Investigation of reports of convictions

- (1) The heading to section 139AV is amended by inserting “**by Complaints Assessment Committee**” after “**Investigation**”.
- (2) Section 139AV is amended by repealing subsection (2) and substituting the following subsection: 5
- “(2) Following the investigation of such a conviction, the Complaints Assessment Committee may do any of the following:
- “(a) dismiss the matter, or resolve to take it no further:
- “(b) refer the teacher concerned to a competency review:
- “(c) refer the teacher concerned to an impairment process 10
which may involve assessing, and (if necessary) assisting with, an impairment:
- “(d) by agreement with the teacher, do any of the following:
- “(i) censure the teacher:
- “(ii) impose conditions on the teacher’s practising certificate or authority, such as (without limitation) 15
requiring the teacher to undergo supervision or professional development:
- “(iii) annotate the register or the list of authorised persons in a specified manner.” 20

24 Interim suspension to enable investigation

Section 139AU(1) is amended by inserting “possible” after “a complaint of”.

25 Powers of Disciplinary Tribunal

Section 139AW(1) is amended by repealing paragraph (g) and substituting the following paragraph: 25

“(g) order that the *(teacher be deregistered (see **section 129(1)(c)**))* teacher’s registration or authority be cancelled (see **section 129(1)**):”.

26 Offences relating to witnesses 30

- (1) The heading to section 139AZ is amended by omitting “**relating to witnesses**”.
- (2) Section 139AZ is amended by adding the following subsection as subsection (2):

- “(2) A person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, if, without lawful excuse, he or she breaches an order made by the Disciplinary Tribunal under rules made under section 139AJ that—
- “(a) provide for a hearing to be held in private; or 5
- “(b) provide for evidence at a hearing to be given in private; or
- “(c) impose restrictions on the publication of any information relating to a particular hearing.”
- 27 Appeals 10**
- Section 139AZB is amended by repealing subsection (1) and substituting the following subsections:
- “(1) The teacher who is the subject of a decision by the Disciplinary Tribunal made under section 139AU(2) or section 139AW, or a decision by the Teachers Council made under section 139AZC, may appeal that decision to a District Court. 15
- “(1A) The Complaints Assessment Committee may, with the leave of the Teachers Council, appeal to a District Court against a decision of the Disciplinary Tribunal made under section 139AU(2) or section 139AW.” 20
- 28 Complaints about competence**
- Section 139AZC(8) is amended by repealing paragraph (c) and substituting the following paragraph:
- “(c) order that the *(teacher be deregistered (see **section 129(1)(c))**)* teacher’s registration or authority be cancelled (see **section 129(1)**).” 25

Schools

- 29 New sections 139C to 139E inserted**
- The following sections are inserted immediately after section 139B: 30
- “139C Offence of insulting, abusing, or intimidating staff**

Struck out (unanimous)

Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, who, while on the premises of any registered school or assembled for school

Struck out (unanimous)

purposes, and within the presence or hearing of any student of the school, intentionally insults, abuses, or intimidates any teacher or member of staff of the school.

New (unanimous)

- “(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, who intentionally insults, abuses, or intimidates a teacher or member of staff of a school—
- “(a) within the presence or hearing of any student of the school; and
- “(b) while on school premises, or in any other place where students of the school are assembled for school purposes.
- “(2) However, no student of the school may be charged with an offence under **subsection (1)**.

Compare: 1964 No 135 s 195

“139D School transport

- “(1) The Secretary for Education may assist in the provision of school transport by doing any of the following:
- “(a) paying schools to provide school transport to their students;
- “(b) arranging transport providers to provide school transport;
- “(c) contributing to the cost of parents providing school transport.
- “(2) In this section,—
- “**school** means registered schools, early childhood services (as defined in **section 120**), and certified playgroups
- “**school transport** means the transport of students to and from school, to and from any educational activity approved by the Secretary, or both.

Compare: 1964 No 135 ss 201A–201D

“139E Bonds for trainee teachers

- “(1) The Minister may enter into an agreement under this section with any person who undertakes teacher training.
- “(2) The agreement must provide for—
- “(a) payment by the Minister to the person of an amount of money on condition that the person will work in New Zealand as a teacher, on completion of the teacher training, for a specified period; and
 - “(b) an undertaking by the person that, if he or she defaults on the condition, he or she will repay (in full or on a pro-rata basis, as determined under the agreement) the amount paid under the agreement.
- “(3) The Minister may require that the agreement be signed by a guarantor for the person, in which case the guarantor is jointly and severally liable with the person under the agreement.

Struck out

- “(4) The Minister may, by notice in the *Gazette*, declare that any type of agreement entered into under this section is a bonded *(allowance) scholarship* for the purposes of recovery under the Student Loan Scheme Act 1992.

New

- “(4) Agreements entered into under this section may be declared, under **section 307AC**, to be bonded scholarships.

Compare: 1964 No 135 s 197”

New**29A Single sex schools**

Section 146A(1) is amended by omitting “secondary”.

30 New section 154A inserted

The following section is inserted after section 154:

“154A Minister may redesignate, or remove designation from, schools

- “(1) The Minister may, by notice in the *Gazette*, and after consultation with the Board of the affected school, do any of the following: 5
- “(a) designate a state school that is not a Kura Kaupapa Maori or a designated character school as a Kura Kaupapa Maori or a designated character school: 10
 - “(b) remove the designation of a Kura Kaupapa Maori and redesignate it as a designated character school:
 - “(c) remove the designation of a designated character school and redesignate it as a Kura Kaupapa Maori:
 - “(d) remove the designation of a Kura Kaupapa Maori or a designated character school while keeping the school established as a state school. 15
- “(2) The designation or removal of designation of a school under this section takes effect on the date specified in the notice under **subsection (1)**, and on and from that date— 20
- “(a) section 155 applies to a school that is designated as a Kura Kaupapa Maori; and
 - “(b) section 156 applies to a school that is designated as a designated character school; and
 - “(c) section 155 ceases to apply to a school that has its designation as a Kura Kaupapa Maori removed; and 25
 - “(d) section 156 ceases to apply to a school that has its designation as a designated character school removed.
- “(3) The notice under **subsection (1)** may prescribe a new name for the redesignated school. 30
- “(4) Section 155 applies in respect of a school that is, or is to be, redesignated as a Kura Kaupapa Maori in the same way as it would apply if the school were being established as a Kura Kaupapa Maori.
- “(5) No school may have its designation as a Kura Kaupapa Maori removed unless the Minister has first consulted with te kaitiaki o Te Aho Matua (as identified under section 155B). 35

New

“(5A) No state school may be designated as a Kura Kaupapa Maori unless the Minister has first consulted with te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua (as defined in section 155A).

“(6) Section 156 applies in respect of a school that is, or is to be, redesignated as a designated character school in the same way as it would apply if the school were being established as a designated character school.”

New

30A Kura Kaupapa Maori

Section 155 is amended by inserting the following subsection after subsection (3):

“(3A) The Minister may not establish a state school as a Kura Kaupapa Maori unless he or she has first consulted with te kaitiaki o Te Aho Matua on the ability of the school to operate in accordance with Te Aho Matua (as defined in section 155A).”

31 Minister may merge schools

(1) Section 156A is amended by inserting the following subsections after subsection (3):

“(3A) Before a notice under subsection (1) takes effect, the Minister must give notice in the *Gazette* of whether, during the period between a date specified in the notice and the date on which new trustees take office following an election (in this section called the **interim period**), the Board of the continuing school is to be—

“(a) the Board of the continuing school plus co-opted trustees representing each merging school, as provided for in **subsection (3B)**; or

“(b) a Board appointed by the Minister, in which case **subsection (3C)** applies.

“(3B) If the notice under **subsection (3A)** provides that the Board of the continuing school must include co-opted trustees representing each merged school,—

- “(a) the Board of the continuing school must, within 28 days after the notice under **subsection (3A)**, co-opt at least one trustee in respect of each of the merging schools, so that each merging school is represented on the Board; and
- “(b) each of those co-opted trustees holds office until the end of the interim period (unless replaced earlier); and 5
- “(c) section 94C (which limits the co-option and appointment of trustees) does not apply to trustees co-opted for an interim period.
- “(3C) If the notice under **subsection (3A)** provides that the Board of the continuing school is to be appointed by the Minister,— 10
- “(a) the notice must specify the constitution of the Board during the interim period, including how many trustees (if any) the Board may co-opt; and
- “(b) the Minister is not bound by section 94 in determining the constitution of the Board. 15
- “(3D) When a Board is appointed by the Minister,—
- “(a) the trustees of the continuing school go out of office at the close of the day before the start of the interim period; and 20
- “(b) the trustees appointed by the Minister to the Board of the continuing school take office on the date of the start of the interim period.
- “(3E) During an interim period, the Board of the continuing school may make decisions and exercise powers both for the purposes of the continuing school before the merger and for the purpose of providing and preparing for the continuing school after the merger has taken effect.” 25
- (2) Section 156A(4A) is repealed.

New (unanimous)

31A Consultations

Section 157(3) is amended by inserting the following paragraph after paragraph (f):

- “(fa) redesignate, or remove a designation from, a school under **section 154A**; or”.

*Tertiary education***32 Preparing charters**

Section 159O(1)(a) is amended by omitting “and publish a list of them in at least 1 daily newspaper circulating in each area served by the organisation”.

5

33 Expiry of charters

Section 159T(1)(b) is amended by adding “, or any earlier date as agreed with the Minister”.

34 Disclosure of enrolment information by institutions

Section 226A(1) is amended by adding “, or identified by *Gazette* notice under **section 307AB**” to the definition of **allowance**.

10

35 Disclosure of enrolment information by private training establishments

Section 238B(1) is amended by adding “, or identified by *Gazette* notice under **section 307AB**” to the definition of **allowance**.

15

*International students***36 Interpretation**

The definition of **provider** in section 238D is amended by—

20

- (a) adding “; or” to the end of paragraph (c); and
- (b) adding the following paragraph:

“(d) an organisation that provides adult and community education and receives funding under section 159ZC”.

Student allowances

25

37 Student allowances

Section 303 is amended by inserting the following subsection after subsection (3):

“(3A) Regulations made under this section may be expressed to come into force, and may accordingly come into force, before the date on which they are made, but only if the regulations—

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- “(a) increase the value or maximum value of any allowance, or the rate or maximum rate at which any allowance may be paid; or

“(b) extend the class or classes of person entitled to receive an allowance, or entitled to be paid an allowance at any particular rate.”

Compare: 1964 No 135 s 203(2)

- 38 Student Allowance Appeal Authority** 5
Section 304 is amended by inserting the following subsection after subsection (2):
- “(2A) Despite the expiry of the member’s term of office, the member may remain in office until he or she is reappointed or a successor is appointed.” 10
- 39 Offences concerning allowances**
Section 307AA(2) is amended by omitting “or the institution concerned”.
- 40 New ~~(section 307AB)~~ sections 307AB and 307AC inserted** 15
The following ~~(section)~~ sections are inserted after section 307AA:
- 307AB Allowances identified by Gazette notice**
“(1) The Minister may, by notice in the *Gazette*, identify any allowance that is paid to students otherwise than under an enactment as an allowance to which this section applies. 20

Struck out

“(2) The Minister may, by notice in the *Gazette*, declare that any allowance to which this section applies is a bonded ~~(allowance)~~ scholarship for the purposes of recovery under the Student Loan Scheme Act 1992. 25

New

“(2) **Subsection (1)** applies to any allowance paid otherwise than under an enactment, whether it first became payable before or after this section comes into force.

New

“307AC Bonded scholarships

“(1) The Minister may, by notice in the *Gazette*, declare that any allowance that is gazetted under **section 307AB**, and any agreement under **section 139E**, is a bonded scholarship.

“(2) The effect of declaring an allowance or agreement to be a bonded scholarship is that, under **section 2A** of the Student Loan Scheme Act 1992, the Student Loan Scheme Act 1992 applies to enable the recovery of money in accordance with the terms of the scholarship.”

41 Use of student allowance information for purposes of Social Security Act 1964

Section 307A(1) is amended by adding “or identified by *Gazette* notice under **section 307AB**” to the definition of **allowance**.

42 New section 307D inserted

The following section is inserted after section 307C:

“307D Details of academic performance

“(1) The Ministry of Education may, on request by the Ministry (as defined in section 302), supply details of the academic performance of any person for the purpose of verifying—

“(a) the entitlement or eligibility of the person to or for any benefit, allowance, or student loan (as those terms are defined in section 226A); or

“(b) the amount of any benefit, allowance, or student loan (as so defined) to which any person is or was entitled or for which any person is or was eligible.

“(2) In this section, **Ministry of Education** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of Part **(XIII)** 13.”

(2) Schedule 3 of the Privacy Act 1993 (which identifies information matching provisions) is consequentially amended by omitting “and 307C” from the second column, opposite the item “Education Act 1989”, and substituting “307C, and **307D**”.

*Early childhood education***43 New Part 26 substituted**

Part <XXVI> <26> is repealed, and the following Part substituted:

“Part 26

5

“Early childhood education and care*“Interpretation***“308 Overview**

This **Part**—

- “(a) requires the licensing of service providers who operate early childhood education and care centres<:><; and> 10
- “(b) allows, but does not require, the licensing of service providers who provide a home-based education and care service or a hospital-based education and care service<:><; and> 15
- “(c) allows, but does not require, playgroups to be certificated<:><; and>
- “(d) provides for the funding of licensed early childhood services and certificated playgroups<:><; and>
- “(e) provides for the regulation of licensed early childhood services and certificated playgroups<:><; and> 20
- “(f) provides for a range of other matters generally in relation to early childhood education and care, including administration, curriculum, police vetting of employees, powers of entry, and offences. 25

“309 Interpretation

In this **Part**, unless the context otherwise requires,—

New (majority)

“**early childhood education and care centre** has the meaning set out in **section 310**

“**early childhood service** means an early childhood education and care centre, home-based education and care service, or hospital-based education and care service 30

“**foreign student** has the same meaning as in section 2(1)

“**home-based education and care service** means the provision of ~~(*education and care*)~~ education or care, for gain or 35

reward, to fewer than 5 children under the age of 6 (in addition to any child enrolled at school who is the child of the person who provides ~~((education and care))~~ education or care), in—

“(a) their own home; or

“(b) the home of the person providing the ~~((education and care))~~ education or care; or

5

New (majority)

“(c) any other home nominated by the parents of the children

“**hospital-based education and care service** means the provision of ~~((education and care))~~ education or care to 3 or more children under the age of 6 who are also receiving health services within premises under the control of the Ministry of Health or a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000

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“**licensed early childhood education and care centre** means an early childhood education and care centre in respect of which the service provider holds a current licence issued under regulations made under **section 317**

“**licensed early childhood service** means an early childhood service in respect of which the service provider holds a current licence issued under regulations made under **section 317**

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“**licensed home-based education and care service** means a home-based education and care service in respect of which the service provider holds a current licence issued under regulations made under **section 317**

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“**licensed hospital-based education and care service** means a hospital-based education and care service in respect of which the service provider holds a current licence issued under regulations made under **section 317**

30

“**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Part

“**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part

35

“**playgroup** means a group that meets on a regular basis to facilitate children’s play and in respect of which—

“(a) no child attends for more than 4 hours on any day<:><;
and>

“(b) more than half the children attending on any occasion 5
have a parent or caregiver present in the same play area
at the same time

“**Secretary** means the chief executive of the Ministry

“**service provider** means<—> <each of the following:>

“(a) in relation to an early childhood education and care 10
centre, the body, agency, or person who or that operates
the centre:

“(b) in relation to a home-based education and care service,
the body, agency, or person who or that arranges, or
offers to arrange, ~~(that education and care))~~ that educa- 15
tion or care:

“(c) in relation to a hospital-based education and care ser-
vice, the body, agency, or person who or that provides
~~(that education and care))~~ that education or care:

“(d) in relation to a playgroup, the person or persons who 20
operate the playgroup.

“310 Meaning of early childhood education and care centre

“(1) In this Part, but subject to **subsections (2) to (4)**, **early childhood 25**
education and care centre means premises used regularly for
the ~~(education and care of 3 or more children (not being
children of the persons providing the education and care))~~
education or care of 3 or more children (not being children of
the persons providing the education or care, or children
enrolled at a school being provided with education or care
before or after school) under the age of 6— 30

“(a) by the day or part of a day; but

“(b) not for any continuous period of more than 7 days.

“(2) Subject to **subsections (3) and (4)**, premises of the following kind
are not early childhood <education and care> centres:

“(a) registered schools (within the meaning of section 2(1) 35
of this Act):

New

- | | |
|---|----|
| <p>“(ab) hostels (within the meaning of section 2(1) of this Act):</p> | |
| “(b) residences (within the meaning of section 2(1) of the Children, Young Persons, and Their Families Act 1989): | 5 |
| “(c) institutions under the control of the Ministry of Health or a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000: | 5 |
| “(d) hospital care institutions (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001): | 10 |
| “(e) children’s health camps operated by Children’s Health Camps—The New Zealand Foundation for Child and Family Health and Development: | |
| “(f) premises where all the children present are members of the same family in the care of a member of the family or <u>((caregiver)) members of the same family in the care of a caregiver who is not acting for gain or reward:</u> | 15 |
| “(g) any premises, during any period of use for the <u>((care and education)) education or care</u> of children for any period not exceeding 4 hours a week in circumstances where the children’s parents or caregivers are— | 20 |
| “(i) in close proximity to the children and are able to be contacted; and | |
| “(ii) able to resume responsibility for the children at short notice: | 25 |
| “(h) any premises, during any period of use for the operation of a playgroup, licensed home-based education and care service, or hospital-based <u><education and></u> care service. | |
| “(3) Despite subsection (2) premises are early childhood education and care centres if they are— | 30 |
| “(a) within premises of a kind described in subsection (2) ; and | |
| “(b) used regularly or principally for the <u>((education and care)) education or care</u> of 3 or more children under the age of 6 who are children of— | 35 |
| “(i) staff who work within premises of a kind described in subsection (2) ; or | |

- “(ii) persons attending premises of that kind as residents or students.
- “(4) An early childhood education and care centre may be operated within the premises of a registered school; and its status as an early childhood education and care centre is not affected by the fact of its being operated within those premises. 5

“Funding

“311 Funding of certain early childhood services and certificated playgroups

- “(1) In each year, out of money appropriated by Parliament,— 10
- “(a) the service provider for every licensed early childhood service—
- “(i) must be paid general grants; and
- “(ii) may be paid 1 or more discretionary grants; and
- “(b) the service provider who operates a certificated playgroup— 15
- “(i) may be paid general grants; and
- “(ii) may be paid 1 or more discretionary grants; and
- “(c) the management of any body corporate may be paid a discretionary grant for the purpose of establishing a licensed early childhood service or certificated playgroup. 20
- “(2) The amount of every grant must be determined by the Minister.
- “(3) The Minister may from time to time determine the means by which the amounts of grants may be calculated or ascertained; and— 25
- “(a) different means may be determined in respect of—
- “(i) grants of different classes or descriptions<:><;
and> 30
- “(ii) licensed early childhood services of different classes or descriptions and certificated playgroups; and
- “(b) the amount of any grant may be determined accordingly; but 35
- “(c) nothing in this subsection limits or affects the Minister’s power under **subsection (2)** to determine the amount of any grant.

- “(4) Without limiting **subsection (3)**, the Minister may determine that no grant is payable in respect of any foreign student attending a licensed early childhood service.
- “(5) Any grant—
- “(a) may be paid unconditionally, or subject to any conditions the Minister specifies in writing when the grant is paid or earlier<.><; and> 5
 - “(b) may be paid to be used for any purpose the service provider considers appropriate, or for only such purposes as the Minister specifies in writing when the grant is paid or earlier<.><; and> 10
 - “(c) may be withheld in whole or in part if the service provider fails to comply with any regulations made under **section 317** or **section 319** or any conditions of the licence or certificate. 15
- “(6) The service provider must ensure that—
- “(a) where a grant has been paid subject to conditions, the conditions are complied with; and
 - “(b) if a grant has been paid to be used only for purposes specified by the Minister under **subsection (5)(b)**, the grant is used only for those purposes. 20

“**312 Loans to licensed early childhood services**

The Minister may, on any terms and conditions the Minister considers appropriate, lend to the service provider for any licensed early childhood service public money appropriated by Parliament for the purpose. 25

“Administration and curriculum

“**313 Administrative requirements**

The service provider for every licensed early childhood service must keep, and make available to the Secretary on request,— 30

- “(a) a register of the children who attend or have attended the service, specifying the date of birth of each; and
- “(b) a record of the attendance of children at the service; and
- “(c) a record of all fees and other charges paid in respect of children’s attendance at the service; and 35
- “(d) evidence that parents of children attending the service have regularly examined the attendance record; and

“(e) any other records that are necessary to enable the service’s performance to be monitored adequately.

“314 Curriculum framework

- “(1) The Minister may prescribe a curriculum framework for~~—~~
<any or all of the following:> 5
- “(a) all licensed early childhood services;
- “(b) all certificated playgroups;
- “(c) all licensed early childhood services and certificated playgroups.
- “(2) The Minister may not prescribe a curriculum framework or amend any prescribed curriculum framework, unless the Minister has consulted with those organisations that appear to the Minister to be representative of persons likely to be substantially affected by the curriculum framework or the amendment, as the case may be. 10 15
- “(3) As soon as practicable after prescribing or amending a curriculum framework, the Minister must publish a notice in the *Gazette*—
- “(a) stating that a curriculum framework has been prescribed or, as the case requires, amended~~<:>~~< and> 20
- “(b) setting out the curriculum framework or the amendment to the curriculum framework in its entirety, or stating where or how a copy of the curriculum framework or the amendment to the curriculum framework can be obtained by members of the public. 25
- “(4) Without limiting the generality of **subsection (1)** a notice under **subsection (3)** may—
- “(a) specify different commencement dates for different provisions of the curriculum framework or for different purposes~~<:>~~< and> 30
- “(b) specify a transitional period during which service providers may elect to comply with another specified curriculum requirement and specify a date on which service providers must comply with the curriculum framework.
- “(5) If a curriculum framework is prescribed under this section, every service provider for a licensed early childhood service or who operates a certificated playgroup, and to whom that 35

curriculum framework applies, must implement that curriculum framework in accordance with any requirements prescribed in regulations made under **section 317** or **section 319**, as the case may be.

“Licensing and certification provisions

5

“315 Service providers operating early childhood education and care centres to be licensed

- “(1) No service provider may operate an early childhood education and care centre unless that service provider is licensed to operate the centre under regulations made under **section 317**. 10
- “(2) Every service provider who operates an early childhood education and care centre commits an offence if—
- “(a) the service provider operates the early childhood education and care centre without holding a current licence under regulations made under **section 317** authorising the operation of the centre<:><; or> 15
- “(b) the service provider ceases to operate an early childhood education and care centre for which it holds a current licence under regulations made under **section 317** authorising the operation of the centre, in circumstances other than an emergency, without first telling the Secretary that it will stop operating the centre<:><; or> 20
- “(c) the service provider ceases to operate the early childhood education and care centre for which it holds a current licence under regulations made under **section 317** authorising the operation of the centre, in circumstances involving an emergency, and fails to tell the Secretary as soon as is reasonably practicable after the closure. 25
- “(3) An offence against **subsection (2)** is punishable on summary conviction,— 30
- “(a) in the case of an offence under **subsection (2)(a)**, by a fine not exceeding \$200 for every day or part of a day on which the offence took place<:><; or>
- “(b) in the case of an offence under **subsection (2)(b) or (c)**, by a fine not exceeding \$200. 35
- “(4) This section is subject to **section 319N**.

“316 Certain service providers may be licensed

A service provider for a home-based education and care service or a hospital-based education and care service may, but need not, apply for a licence under regulations made under **section 317** in respect of the home-based education and care service or hospital-based education and care service provided by the service provider.

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“317 Regulations relating to licensing

“(1) The Governor-General may, by Order in Council, make regulations providing for—> <either or both of the following:>

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“(a) the licensing of service providers to provide early childhood services of any kind, and the transfer of licences:

“(b) regulating the management, operation, and control of licensed early childhood services of any kind, and imposing duties on service providers.

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“(2) Regulations made under **subsection (1)** may (without limitation) do all or any of the following:

“(a) prescribe minimum standards relating to premises, facilities, programmes of education, practices in relation to children’s learning and development, staffing and parental or caregiver participation (including adult:child ratios), health and safety, implementation of the curriculum framework, communication and consultation with parents, the operation or administration of those services, or any of them, to be complied with to ensure the health, comfort, care, education, and safety of children attending licensed early childhood services:

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“(b) authorise the ~~((Secretary))~~ Minister, after consultation with those organisations that appear to the ~~<Minister>~~ ~~((<Secretary>))~~ Minister to be representative of persons likely to be substantially affected by these regulations, to prescribe criteria to be used by the Secretary to assess compliance with the minimum standards imposed by these regulations:

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“(c) require the Secretary to publish a notice in the *Gazette*—

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“(i) stating that criteria referred to in **paragraph (b)** have been prescribed<:><; and>

- “(ii) setting out the criteria in their entirety, or stating where or how a copy of those criteria may be obtained by members of the public:
- “(d) limit or regulate the numbers of children who may attend licensed early childhood education and care centres or any premises used to provide a licensed home-based education and care service, or a licensed hospital-based education and care service: 5
- “(e) provide for the *<granting>* *<grant>*, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of licences of 1 or more specified kinds for service providers for each kind of early childhood service, and prescribe the conditions subject to which such licences may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such licences, or do any of those things: 10 15
- “(f) prescribe conditions governing, or that may be imposed in respect of, licensed early childhood services and the duties of their service providers:
- “(g) prescribe the records to be kept by service providers in respect of children attending licensed early childhood education and care centres, licensed home-based education and care services, and licensed hospital-based education and care services: 20
- “(h) regulate the qualifications to be held by any specified number or proportion of those persons carrying out *<—>* <the following:> 25
- “(i) the control and management of each licensed early childhood education and care centre, licensed home-based education and care service, or licensed hospital-based education and care service, or any of them: 30
- “(ii) the education and care of children attending a licensed early childhood education and care centre, licensed home-based education and care service, or licensed hospital-based education and care service, or any of them: 35

New

“(ha) provide for transitional matters not dealt with in this Act:

“(i) prescribe offences punishable on summary conviction by a fine not exceeding \$500 in respect of the contravention of or non-compliance with the regulations. 5

“(3) Regulations made under **subsection (1)** may (without limitation) prescribe different standards~~((criteria,))~~ and other requirements—

“(a) for ~~<different kinds of>~~ early childhood services~~<:>~~ ~~<of different types or descriptions; and>~~ 10

“(b) in respect of different kinds of licences.

New

“(4) Criteria prescribed by the Minister for use in assessing compliance with the minimum standards imposed by regulations made under this section may differ in any way, including (without limitation), for— 15

“(a) early childhood services of different types or descriptions; and

“(b) different kinds of licences; and

“(c) different minimum standards.

“(5) Criteria prescribed by the Minister for use in assessing compliance with minimum standards imposed by regulations made under this section are deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989 but not for the purposes of the Acts and Regulations Publication Act 1989. 20 25

“318 Playgroups may be certificated

~~((The))~~A service provider who operates a playgroup may, but need not, apply for a certificate issued under regulations made under **section 319** in respect of the playgroup.

“319 Regulations relating to certification of playgroups

“(1) The Governor-General may, by Order in Council, make regulations providing for the certification of playgroups and these regulations may do all or any of the following:

- “(a) prescribe minimum standards relating to premises, facilities, programmes of education, practices in relation to children’s learning and development, parental or caregiver participation (including adult:child ratios), health and safety, implementation of the curriculum framework, communication and consultation with parents, the operation and administration of playgroups, or any of them, to be complied with to ensure the health, comfort, care, education, and safety of children attending certificated playgroups: 5 10

Struck out

- “(b) authorise the Secretary, after consultation with those organisations that appear to the ~~Minister~~ ~~Secretary~~ to be representative of persons likely to be substantially affected by these regulations, to prescribe criteria to be used to assess compliance with minimum standards imposed by these regulations: 15 20

New

- “(b) authorise the Minister, after consultation with those organisations that appear to the Minister to be representative of persons likely to be substantially affected by these regulations, to prescribe criteria to be used by the Secretary to assess compliance with minimum standards imposed by these regulations: 25

“(c) require the Secretary to publish a notice in the *Gazette*—

- “(i) stating that criteria referred to in **paragraph (b)** have been prescribed~~:~~~~>~~<~~;~~ and 30
- “(ii) setting out the criteria in their entirety, or stating where or how a copy of those criteria may be obtained by members of the public:

- “(d) limit or regulate the numbers of children who may attend certificated playgroups:
- “(e) provide for the grant, duration, expiry, renewal, suspension, transfer, ~~((and cancellation of certificates))~~ reclassification, and cancellation of certificates of 1 or more specified kinds for playgroups, and prescribe the conditions subject to which such certificates may be granted, renewed, or transferred and the fees payable in respect of the grant, renewal, or transfer of such certificates, or do any of these things: 5 10
- “(f) prescribe conditions governing, or that may be imposed in respect of, certificated playgroups and the duties of their service providers:
- “(g) prescribe the records to be kept by the service provider in respect of children attending certificated playgroups: 15
- “(h) regulate the qualifications to be held by any specified number or proportion of those persons responsible for either or both of ~~<—>~~ <the following:>
- “(i) the control and management of a certificated playgroup: 20
- “(ii) the education and care of children attending a certificated playgroup:

New

- “(i) provide for transitional matters not dealt with in this Act.
- “(2) Criteria prescribed by the Minister for use in assessing compliance with the minimum standards imposed by regulations made under this section may differ in any way, including (without limitation), for— 25
- “(a) different kinds of certificates; and
- “(b) different standards. 30
- “(3) Criteria prescribed by the Minister for use in assessing compliance with minimum standards imposed by regulations made under this section are deemed to be regulations for the purposes of the Regulations (Disallowance) Act 1989 but not for the purposes of the Acts and Regulations Publication Act 1989. 35
-

*“Powers of entry and inspection***“319A Parent’s right of entry**

The parent or guardian of a child has a right of entry to a licensed early childhood education and care centre or to the premises where a licensed home-based education and care service is provided, whenever the child is there, except if the parent or guardian—

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Struck out (majority)

“(a) is forbidden by law to have access to the child or to those premises; or

“(b) has access by law to the child subject to conditions that forbid access while the child attends the centre or the service, as the case may be; or

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New (majority)

“(a) is subject to an order of a court that prohibits access to, or contact with, the child, either generally or with respect to the child while, or at a time when the child is, attending the centre or service; or

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“(b) is subject to a warning under section 4 of the Trespass Act 1980 to stay off the premises; or

“(c) is suffering from a contagious or infectious disease likely to have a detrimental effect on the children if passed on to them; or

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“(d) is, in the opinion of a person responsible for the operation of the centre or service, *<is>* under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or

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“(e) is, in the opinion of a person responsible for the operation of the centre or service, exhibiting behaviour that is or is likely to be disruptive to the effective operation of the centre or service.

“319B Powers of entry and inspection without warrant

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“(1) Any person holding an authorisation under **subsection (3)** may, for the purpose of ensuring that the provisions of this Act and any regulations made under this Act, or the conditions of any

licence, certificate, or grant issued or made under any of those provisions, are being complied with, or for the purpose of conducting any audit, at any reasonable time, ~~<—>~~ <do all or any of the following:>

- “(a) enter and inspect any premises that are or contain a licensed early childhood education and care centre or that are used to provide a licensed home-based education and care service or a licensed hospital-based education and care service, or that are used by a certificated playgroup: 5
- “(b) inspect, photocopy, print out, or copy onto disk any documents (whether held in electronic or paper form) that the person believes on reasonable grounds to be those of the licensed early childhood service or certificated playgroup: 10
- “(c) remove any document described in **paragraph (b)**, whether in its original form or as an electronic or paper copy. 15
- “(2) If any document is removed from premises under **subsection (1)(c)**, the person who removes it must— 20
- “(a) leave at the premises a list of the documents removed; and
- “(b) return the documents, or a copy of them, to the premises as soon as practicable unless to do so would prejudice any investigation being or to be carried out by the Ministry. 25
- “(3) The Secretary may authorise in writing any person, who in the opinion of the Secretary is suitably qualified and trained in the exercise of powers under **subsection (1)**, to exercise those powers. 30
- “(4) Every authorisation under **subsection (3)** must contain—
- “(a) a reference to this section; and
- “(b) the full name of the person authorised; and
- “(c) a statement of the powers conferred on that person by this section. 35
- “(5) Every person exercising any power under **subsection (1)** must have the appropriate written authorisation, and evidence of identity, and must produce them to the person in charge of the premises concerned (or, as the case may be, the person having possession or control of the documents concerned)— 40
- “(a) on first entering the premises; and

- “(b) whenever subsequently reasonably required to do so by the person in charge.
- “(6) For the purposes of this section and **section 319C**, inspection, in relation to any premises, includes observing any children present there. 5
- “319C Powers of entry and inspection with warrant**
- “(1) Any person authorised by **section 319B(3)** who has reasonable grounds to believe that any premises are being used as an early childhood education and care centre in contravention of this Act or regulations made under **section 317**, may apply in writing on oath to a District Court Judge, Justice of the Peace, Community Magistrate, or Registrar or Deputy Registrar of any court for a warrant. 10
- “(2) If the Judge or other person to whom the application is made is satisfied that there are reasonable grounds to believe that the premises are being so used, he or she may issue a warrant directed to the person by name authorising the person to enter the premises. 15
- “(3) Every warrant issued under **subsection (2)** must contain— 20
- “(a) a reference to this section; and
- “(b) the full name of the person authorised; and
- “(c) a description of the premises concerned; and
- “(d) the date on which it was issued and the date on which it expires.
- “(4) Every warrant issued under **subsection (2)** must authorise the person named in it, at any reasonable time within 4 weeks after the date on which it is issued, to— 25
- “(a) enter the premises described in the warrant; and
- “(b) do on those premises anything necessary to ascertain whether those premises are being used as an early childhood education and care centre, in contravention of this Act or any regulations made under **section 317**. 30
- “(5) Every person exercising any power under **subsection (4)** must have the appropriate warrant and evidence of identity and must produce them to the occupier of the premises concerned— 35
- “(a) on first entering the premises; and
- “(b) whenever subsequently reasonably required to do so by that occupier.

- “(6) Every warrant issued under **subsection (2)** expires on the earlier of the following dates:
- “(a) the date when the purpose for which it was issued has been satisfied; or
 - “(b) the date specified as the date of expiry under **subsection (3)(d)**. 5

“Police vetting of employees

“319D Police vetting of non-teaching and unregistered employees at licensed early childhood services

- “(1) Before appointing a person who is not a registered teacher or holder of a limited authority to teach to a permanent position at a licensed early childhood service, the service provider for the service must obtain a police vet of the person from the New Zealand Teachers Council. 10
- “(2) The service provider for every licensed early childhood service must apply to the New Zealand Teachers Council for a police vet of every person who is employed by the service provider but is not a registered teacher or holder of a limited authority to teach— 15
- “(a) within 2 weeks of first employing the person on a casual or temporary basis at the service<:><; or> 20
 - “(b) in the case of a person employed at the service on 22 April 2002, as required by the New Zealand Teachers Council<:><; or>
 - “(c) in the case of a person on whom a police vet has been conducted within the last 3 years, on or about the third anniversary of the previous police vet. 25

“319E Police vetting of contractors and their employees who work at licensed early childhood services

- “(1) The service provider for every licensed early childhood service must apply to the New Zealand Teachers Council for a police vet of every contractor who regularly works at the service during normal opening hours— 30
- “(a) within 2 weeks of the contractor first starting to work at the service<:><; or> 35
 - “(b) in the case of a contractor working at the service on 22 April 2002, as required by the New Zealand Teachers Council<:><; or>

- “(c) in the case of a contractor on whom a police vet has been conducted within the last 3 years, on or about the third anniversary of the previous police vet.
- “(2) In this section, **contractor** means both—
- “(a) a person who, under a contract (other than an employment contract), works at an early childhood service; and 5
- “(b) a person employed by a person referred to in **paragraph (a)** who, in the course of that employment, works at an early childhood service.
- “**319F Internal procedures relating to police vets** 10
- “(1) In this section, **requester** means the service provider for a licensed early childhood service that has applied to the New Zealand Teachers Council for a police vet of a person.
- “(2) Every requester must establish internal procedures for dealing with police vets that are received as a result of a request under **section 319D** or **section 319E** that must, in particular,— 15
- “(a) identify the person or office-holder within the requester to whom police vets must be sent by the New Zealand Teachers Council; and
- “(b) ensure that strict confidentiality is observed for police vets. 20
- “(3) A requester may not take adverse action in relation to a person who is the subject of a police vet until—
- “(a) the person has validated the information contained in the vet; or 25
- “(b) the person has been given a reasonable opportunity to validate the information, but has failed to do so within a reasonable period.

“*Miscellaneous*

- “**319G Offence of insulting, abusing, or intimidating staff** 30

Struck out (majority)

Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who intentionally insults, abuses, or intimidates any teacher or other member of staff in the presence or within the hearing of any children who are—

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Struck out (majority)

- “(a) at a licensed early childhood education and care centre;
or
“(b) assembled on or off those premises for the purpose of
that centre.

New (majority)

Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, who intentionally insults, abuses, or intimidates a teacher or member of staff of an early childhood education and care centre—

- “(a) within the presence or hearing of any child at the centre;
and
“(b) while on centre premises or in any other place where children are assembled for purposes associated with the centre.

“319H Offence of obstructing power of entry

Every person commits an offence and is liable on summary conviction to a fine not exceeding ~~⟨\$500⟩~~ ⟨\$2,000⟩ who obstructs, hinders, resists, or deceives any person exercising or attempting to exercise a power of entry conferred by **section 319A, 319B, or 319C**.

“319I Payment of fees for attendance of children at kindergartens

“(1) Fees may be charged in respect of the attendance of any child at any kindergarten (whether or not it is, or is known or described as, a free kindergarten).

“(2) **Subsection (1)** is not limited or affected by, and has effect despite,—

- “(a) any enactment or rule of law~~⟨:⟩⟨; or⟩~~
“(b) anything in the constitution of any body corporate~~⟨:⟩⟨; or⟩~~
“(c) any contract or undertaking to the contrary entered into or given before the commencement of the Education Amendment Act (No 3) 1990.

“319J Centres situated on property owned by the Crown

- “(1) Where an early childhood education and care centre is situated on land owned by the Crown, the following provisions apply:
- “(a) the Secretary may direct the building of any capital works on that land intended for the centre’s use: 5
 - “(b) the service provider who operates the centre must—
 - “(i) pay to the Secretary the rent for the time being charged by the Secretary; and
 - “(ii) comply with standards of maintenance and capital works determined by the Secretary: 10
 - “(c) the service provider who operates the centre must not <without the Secretary’s approval,>—
 - “(i) carry out any capital works on the land *<without the Secretary’s approval>*; or
 - “(ii) grant any lease or sublease of, or grant any licence or permit in respect of, or assign any rights in respect of, or part with possession or control of, or allow any other person to share possession, control, or use of, the land or any other property of the Crown. 20
- “(2) The continued operation of an early childhood education and care centre on land owned by the Crown, and the occupation by an early childhood education and care centre of any building on land owned by the Crown, may be governed by—
- “(a) a lease or tenancy or licence under section 45 of the Public Works Act 1981; or 25
 - “(b) a lease or licence under **section 70B** of the Education Act 1989; or
 - “(c) an occupancy document notified to the service provider who operates the centre by the Secretary. 30
- “(3) The Secretary may from time to time amend an occupancy document by written notice to the service provider who operates the centre.

*“Transitional provisions***“319K Existing early childhood centres deemed to be licensed****Struck out**

- “(1) Subject to **subsections (2) and (3)**, every early childhood centre that, immediately before the commencement of **section 317** (as inserted by **section 43** of the Education Amendment Act **2004**), was licensed as an early childhood *<education and care centre continues>* *<centre is deemed>* to be licensed as an early childhood education and care centre for—
- “(a) a period of 6 years; or
- “(b) if the service provider who operates that centre applies within that period for a licence in accordance with regulations made under **section 317**, until that application is determined.

New

- “(1) Subject to **subsections (2), (3), and (6)**, every early childhood centre that, immediately before the commencement of this section, was licensed as an early childhood centre is deemed to be licensed as an early childhood education and care centre under this subsection, and continues to be so licensed—
- “(a) for the relevant period, and in accordance with the regulations referred to in **section 319M(1)(a) and (b)**; or
- “(b) if the service provider who operates that centre applies within the relevant period for a licence in accordance with regulations made under **section 317**, until that application is determined.
- “(2) Despite **subsection (1)**, the Secretary may give written notice to the service provider of an early childhood education and care centre that is deemed to be licensed under **subsection (1)**, requiring the service provider who operates that centre to apply for a licence under regulations made under **section 317** within 3 months of the date of that notice, and—
- “(a) if that service provider fails to make such an application within the specified period, the centre ceases to be

- licensed under **subsection (1)** at the end of that period<:)><; or>
- “(b) if that service provider makes such an application within the required period, the centre continues to be licensed under **subsection (1)** until that application has been determined. 5
- “(3) Despite **subsection (1)**, if **subsection (4)** applies, the Secretary may, by written notice to the service provider who operates an early childhood education and care centre that is deemed to be licensed under **subsection (1)**, declare that the centre is no longer licensed under **subsection (1)** and the notice has effect accordingly. 10
- “(4) The Secretary may give a notice under **subsection (3)** only if the Secretary is satisfied that the service provider or the centre—
- “(a) does not comply with the regulations referred to in **section 319M(1)(a) and (b)**<:)><; or> 15
- “(b) does not comply with any conditions of the licence.
- “(5) The Secretary may, despite the fact that the centre concerned does not meet the minimum requirements for the issue of a licence under regulations made under **section 317**, issue to the service provider operating the centre a transitional licence under those regulations that— 20
- “(a) expires on a date specified in the licence (being a date that is not later than 18 months after the date of issue)<:)><; and> 25
- “(b) is subject to any conditions specified on it.
- “(6) If the Secretary is not satisfied that the conditions specified in a licence issued in circumstances described in **subsection (5)** are being complied with, the Secretary may, by written notice to the service provider operating the centre, cancel the licence. 30
- “(7) Every notice under **subsection (3)** or **subsection (6)** must give reasons for the action taken.
- “(8) Every early childhood centre must, while it is deemed to be licensed under **subsection (1)**, be treated for the purposes of this Act as an early childhood centre licensed under regulations made under **section 317** (as inserted by **section 43** of the Education Amendment Act 2004). 35
- “(9) **Subsections ((3) to (6)) (1) to (6)** do not limit any powers to cancel, suspend, or reclassify a licence conferred by the regulations referred to in **section 319M(1)(a) and (b)**. 40

New

- “(10) In this section, **relevant period** means,—
- “(a) in relation to an early childhood centre for which a probationary licence was in force immediately before the commencement of this section, the period expiring on—
 - “(i) the date specified in the probationary licence as the date on which it expires; or
 - “(ii) if a full licence is obtained under the regulations referred to in **section 319M(1)(a) and (b)** before the expiry of that probationary licence, the date that is 6 years after the commencement of this section:
 - “(b) in relation to an early childhood centre for which a provisional or full licence was in force immediately before the commencement of this section, the date that is 6 years after the commencement of this section.

“319L Existing chartered care arrangers deemed to be licensed

- “(1) Subject to **subsections (2) and (3)**, every care arranger who, immediately before the commencement of **((section 317 (as inserted by section 43 of the Education Amendment Act 2004))**) this section, was a chartered care arranger is ⟨licensed as⟩ ⟨deemed to be⟩ a service provider ⟨who is licensed⟩ to operate a home-based education and care service for—
- “(a) a period of 6 years after the commencement of this section; or
 - “(b) if the service provider who provides that service applies within that period for a licence in accordance with regulations under **section 317**, until that application is determined.
- “(2) Despite **subsection (1)**, the Secretary may give written notice to a service provider that is deemed to be licensed under **subsection (1)**, requiring the service provider to apply for a licence under regulations made under **section 317** within 3 months of the date of that notice, and—
- “(a) if that service provider fails to make such an application within the specified period, the home-based education

- and care service provided by that service provider ceases to be licensed under **subsection (1)** at the end of that period<:)<; or>
- “(b) if that service provider makes such an application within the required period, the service continues to be licensed under **subsection (1)** until that application has been determined. 5
- “(3) Despite **subsection (1)**, if **subsection (4)** applies, the Secretary may by written notice to the service provider who provides the home-based education and care service that is deemed to be licensed under **subsection (1)**, declare that the service is no longer licensed under **subsection (1)** and the notice has effect accordingly. 10
- “(4) The Secretary may give a notice under **subsection (3)** only if the Secretary is satisfied that the service is not provided in a way that complies with the code of practice set out in the order referred to in **section 319M(1)(c)**. 15
- “(5) The Secretary may, despite the fact that the service provider or service concerned does not meet the minimum requirements for the issue of a licence under regulations made under **section 317** or the service concerned is not provided in a way that complies with the code of practice set out in the order referred to in **section 319M(1)(c)**, issue to the service provider providing the service a transitional licence under those regulations that— 20
- “(a) expires on a date specified in the licence (being a date that is not later than 18 months after the date of issue)<:)<; and> 25
- “(b) is subject to any conditions specified on it.
- “(6) If the Secretary is not satisfied that the conditions specified in a licence issued in circumstances described in **subsection (5)**, are being complied with, the Secretary may, by written notice to the service provider providing the service, cancel the licence. 30
- “(7) Every notice under **subsection (3)** or **subsection (6)** must give reasons for the action taken. 35
- “(8) Every home-based education and care service must, while it is deemed to be licensed under **subsection (1)**, be treated for the purposes of this Act as a home-based education and care service licensed under regulations made under **section 317** (as inserted by **section 43** of the Education Amendment Act 2004). 40

New

“319LA Funding conditions during transitional period

“(1) This section applies in respect of—

“(a) a service provider who operates an early childhood education and care centre that immediately before the commencement of this section was a chartered early childhood centre, during the period while it is deemed to be licensed under **section 319K(1)**; and

“(b) a service provider who operates a home-based education and care service and who immediately before the commencement of this section was a chartered care arranger, during the period while the service provider is deemed to be licensed under **section 319L(1)**.

“(2) While this section applies in respect of a service provider who operates an early childhood education and care centre or a home-based education and care service, it is a condition of any grant paid to that provider under **section 311** that the provider continues to comply with the relevant statement of desirable objectives and practices published in the *Gazette* under section 312 (as that section read before the commencement of this section).

“(3) The Minister may at any time, while this section applies in respect of any service provider, amend, revoke, or replace any statement of desirable objectives and practices referred to in **subsection (2)** by notice in the *Gazette*.

“319M Existing regulations preserved

“(1) The following regulations are to be treated as regulations made under **section 317** (as inserted by **section 43** of the Education Amendment Act **2004**):

“(a) the Education (Early Childhood Centres) Regulations 1998 (SR 1998/85):

“(b) the Education (Early Childhood Centres) Fees Regulations 1990 (SR 1990/262):

“(c) the Education (Home-Based Care) Order 1992 (SR 1992/238).

New

“(1A) Despite **subsection (1)** the regulations referred to in **subsection (1)** are not to be treated as regulations made under **section 317** (as inserted by **section 43** of the Education Amendment Act **2004**) for the purposes of the following provisions:

“(a) **section 319K(1)(b), (2), and (5)**; and

“(b) **section 319L(1)(b), (2), and (5)**; and

“(c) **section 319N(1)**.

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“(2) The regulations and order referred to in **subsection (1)** may be amended under **section 317**.

“319N Licence-exempt centres may continue

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“(1) The service provider for an early childhood education and care centre, that immediately before the commencement of this section was a licence-exempt centre, may continue to operate that centre without a licence issued under regulations made under **section 317** for a period that expires 6 years after the date of the commencement of this section.

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“(2) Despite the repeal of sections 311A and 311B of this Act by the Education Amendment Act **2004**, grants may continue to be paid after the commencement of this section to a service provider operating any early childhood education and care centre that, immediately before the commencement of this section, was a licence-exempt centre, for any period that the Minister considers reasonable (not exceeding 6 years after the date of the commencement of this section).

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“(3) For the purposes of **subsection (2)**, section 309 (as it read before the commencement of **section 43** of the Education Amendment Act **2004**) and sections 311A and 311B continue to apply as if—

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“(a) they were still in force; and

“(b) every reference to the management of a centre were a reference to the service provider who operates the centre.”

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44 New Part 30 inserted

The following Part is inserted after section 340:

**“Part 30
“National student numbers**

- “341 Purpose** 5
- The purpose of this Part is to authorise the use by authorised users of national student numbers for specific purposes, in order to facilitate the accurate use and transfer, by authorised users, of information relating to individual students.
- “342 Interpretation** 10
- In this Part,—
- “authorised user** means—
- “**(a)** an education provider; and
- “**(b)** the Ministry; and
- “**(c)** the New Zealand Qualifications Authority; and 15
- “**(d)** the Tertiary Education Commission; and
- “**(e)** the Service continued by section 279; and
- “**(f)** any other agency or body declared by regulations made under **section 347** to be an authorised user
- “education provider** means— 20
- “**(a)** an early childhood service as defined in **section 120**; and
- “**(b)** a registered school as defined in section 2; and
- “**(c)** a tertiary education organisation, being an organisation as defined in section 159B(1)
- “Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part 25
- “Secretary** means the chief executive of the Ministry.
- “343 Assigning national student numbers**
- “**(1)** The Secretary may assign a national student number to any student who— 30
- “**(a)** is enrolled with an education provider; or
- “**(b)** has been granted an exemption under section 21 or section 22.
- “**(2)** On the date on which this Part comes into force, every national student number that is already assigned to a person is deemed to be a national student number assigned under this section to that person. 35

“344 Use of national student numbers

- “(1) The Secretary may authorise or require an authorised user to use national student numbers.
- “(2) The Secretary may authorise or require an authorised user to use national student numbers only for the purpose of, or for a specific purpose falling within, any one or more of the following: 5
- “(a) monitoring and ensuring student enrolment and attendance:
 - “(b) ensuring education providers and students receive appropriate resourcing: 10
 - “(c) statistical purposes:
 - “(d) research purposes:
 - “(e) ensuring that students’ educational records are accurately maintained. 15
- “(3) Every authorisation or requirement under this section must be made by notice in the *Gazette*, and—
- “(a) takes effect on the date, specified in the notice, on or after the date of the notice; and
 - “(b) may be subject to conditions. 20
- “(4) An authorisation or requirement may be made generally (by reference to a class of authorised user) or specifically (by reference to a named authorised user).
- “(5) An authorised user to whom any one or more authorisations relates is authorised to use national student numbers in accordance with the terms of the authorisations. 25
- “(6) An authorised user that is required to use national student numbers for a specific purpose must use national student numbers for that purpose.

“345 Student may use or disclose own national student number 30

Despite anything in this Part, a student may use or disclose his or her own national student number for any purpose.

“346 Offences

- “(1) An authorised user commits an offence, and is liable on summary conviction to a fine not exceeding \$15,000, who uses or discloses a person’s national student number otherwise than in 35

accordance with the authorisations under **section 344** that apply to that user.

- “(2) A person who is not an authorised user commits an offence, and is liable on summary conviction to a fine not exceeding \$15,000, who, without reasonable excuse, keeps a record of, or requires the disclosure of, a *(person’s)* student’s national student number if the number is, or is capable by the person of being, linked to any information that may lead the person to the identification of the student. 5
- “**347 Regulations** 10
- “(1) The Governor-General may from time to time, by Order in Council, make regulations identifying any agency or body as an authorised user for the purpose of this Part.
- “(2) A recommendation for an Order in Council to be made under this section may not be made unless the Privacy Commissioner has been consulted on the recommendation.” 15

Other amendments to principal Act

45 Sixth Schedule amended

Clause 7 of the Sixth Schedule is repealed and the following clause substituted: 20

- “**7 One trustee to preside at meetings**
- “(1) Every Board must appoint a trustee (not being the principal or a staff or student representative) to preside at meetings of the Board.
- “(2) The appointment must be made— 25
- “(a) at the Board’s first meeting in any year, unless it is an election year, in which case it must be at the first meeting held after the election; and
- “(b) when the Board has resolved that it has no confidence in the person for the time being appointed; and 30
- “(c) when the person for the time being appointed ceases to be a trustee, or resigns the task by notice in writing to the Board.”

46 Education Standards Act 2001 amended

- (1) Section 69(2) of the Education Standards Act 2001 is amended by inserting “(as defined in section 120 of the principal Act)” after “early childhood services” where it first appears. 5
- (2) Section 69(2) of the Education Standards Act 2001 is amended by repealing paragraph (b)(ii) and substituting the following: 10
- “(ii) early childhood services or persons employed in teaching positions at those early childhood services:”
- (3) Section 69(2)(c) of the Education Standards Act 2001 is amended by omitting “education and care services (other than free kindergartens)” and substituting “services”.

47 Consequential amendments to principal Act 15

The principal Act is consequentially amended in the manner set out in **Schedule 1**.

Part 2**Other enactments****48 State Sector Act 1988 amended** 20

Section 77C(4) of the State Sector Act 1988 is amended by adding “that is not a free kindergarten”.

Struck out**49 Student Loan Scheme Act 1992 amended**

The definition of **loan contract** in section 2 of the Student Loan Scheme Act 1992 is amended by adding “, and may include any agreement or contract for an allowance that is declared under the Education Act 1989 to be a bonded (*allow-ance*) scholarship”. 25

New

49 Student Loan Scheme Act 1992 amended

- (1) The Student Loan Scheme Act 1992 is amended by inserting the following section after section 2:

“2A Application of Act to bonded scholarships

- “(1) In this section, **bonded scholarship** means an allowance or agreement that is declared under **section 307AC** of the Education Act 1989 to be a bonded scholarship. 5
- “(2) Any amount repayable under a bonded scholarship (the **default amount**), along with any interest payable in accordance with the scholarship agreement, may be recovered under this Act as if— 10
- “(a) the default amount were a student loan; and
- “(b) the recipient of the scholarship were a borrower; and
- “(c) the scholarship agreement were a loan contract.
- “(3) Despite any enactment or rule of law, if a provision in an agreement for a bonded scholarship conflicts with this provision, this provision prevails.” 15
- (2) For the purpose of giving effect to **section 2A** of the Student Loan Scheme Act 1992 with respect to TeachNZ scholarships entered into before that section comes into force, if TeachNZ scholarships are declared under **section 307AC** of the principal Act to be bonded scholarships, then— 20
- (a) the provisions of the standard 2005 loan contract for student loans that relate to payment of interest are deemed to be included (with any necessary modifications) in the agreements for TeachNZ scholarships; and 25
- (b) those provisions are deemed always to have been part of the agreement and therefore apply whether any default under the scholarship occurs before or after the commencement of this section. 30

50 Consequential amendments to other enactments

- (1) The Acts set out in **Part 1** of **Schedule 2** are consequentially amended in the manner set out in that Part.
- (2) The Regulations set out in **Part 2** of **Schedule 2** are consequentially amended in the manner set out in that Part. 35

51 Repeals and revocations

- (1) The School Trustees Act 1989 is repealed.
- (2) Part I of the Education Lands Act 1949 is repealed.
- (3) The following provisions of the Education Act 1964 are repealed: 5
- (a) Parts I and II:
 - (b) sections 70, 99, 100, 106A, 106B, 149, 165, and 165A:
 - (c) Part VII:
 - (d) sections 189 to 204 and the Schedule.
- (4) The following regulations are revoked: 10
- (a) Education (Salaries and Staffing) Regulations 1957 (SR 1957/119):
 - (b) Revocation of Soldier Teachers Grading Adjustment Regulations (SR 1975/30):
 - (c) Revocation of the Combined Secondary and Technical Schools Regulations (SR 1975/41): 15
 - (d) Revocation of Regulations for Registration of Public, Private, and Secondary Schools' Colours, Badges, or Monograms (SR 1976/256):
 - (e) Education (Revocation of Spent Orders in Council) Order 1980 (SR 1980/241). 20
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Schedule 1 Amendments to principal Act

s 47

Section 120

Omit the definition of **early childhood service** and substitute:

“**early childhood service** means a licensed early childhood service (as defined in **section 309**)”.

Omit paragraph (c) of the definition of **employer** and substitute:

“(c) the person or body who appoints staff at an early childhood education and care service”.

Omit from the definition of **free kindergarten** “an early childhood centre (as defined in section 308)” and substitute “an early childhood education and care centre (as defined in **section (310) 309**)”.

Section 120B

Omit from subsection (3)(c) “management of” and substitute “employer at”.

Section 137(1)

Omit from paragraph (h)(iii) “management of” and substitute “employer at”.

Omit from paragraph (i) “management of a” and substitute “employer at an”.

Omit from paragraph (i)(i) “management” and substitute “employer”.

Omit from paragraph (i)(ii) “the management of” and substitute “an employer at”.

Struck out (unanimous)

Section 139A

Omit from the heading the words “**early childhood centres**” and substitute the words “**early childhood education and care centres**”.

Omit from subsection (1)(c) the words “management of an early childhood centre (within the meaning of section 308(1) of this Act)” and substitute the words “employer at an early childhood education and care centre (within the meaning of **section 310**)”.

Omit from subsection (1)(d) the words “early childhood centre (within the meaning of section 308(1) of this Act)” and substitute the words “early childhood education and care centre (within the meaning of **section 310**)”.

Struck out (unanimous)**Section 139A**—*continued*

Omit from subsection (2)(c) the words “management of an early childhood centre (within the meaning of section 308(1) of this Act)” and substitute the words “service provider who operates an early childhood education and care centre (within the meaning of **section 310**) or the employer at that centre”.

Section 144A

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Omit “management” in both places where it appears and substitute “service provider”.

Omit subsection (1)(b) and substitute:

“(b) the service provider who operates any licensed early childhood service (within the meaning of **section 309**) or any certificated playgroup; or”.

10

Schedule 2

Consequential amendments to other enactments

s 50

Part 1 Amendments to other Acts

- Copyright Act 1994 (1994 No 143)** 5
Omit paragraph (d) of the definition of **educational establishment** in section 2(1) and substitute the following paragraph:
“(d) any early childhood service within the meaning of **section 309** of the Education Act 1989”.
- Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)** 10
Omit paragraph (b) of the definition of **educational participation** in clause 12 of Schedule 1 and substitute the following paragraph:
“(b) attending a licensed early childhood service within the meaning of **section 309** of the Education Act 1989; or”. 15
- Local Government (Rating) Act 2002 (2002 No 6)**
Omit from clause 6(b)(iv) of Schedule 1 “early childhood centre under section 308(1)” and substitute “early childhood education and care centre under **section (310) 309**”.
- Smoke-free Environments Act 1990 (1990 No 108)** 20
Omit the definition of **early childhood centre** in section 2(1) and substitute the following definition:
“**early childhood education and care centre** has the meaning given to it by **section (310) 309** of the Education Act 1989”. 25

New (unanimous)

Omit from section 4 “early childhood centres” wherever it appears and substitute in each case “early childhood education and care centres”.

- Omit from the heading to section 7A “**early childhood centres**” and substitute “**early childhood education and care centres**”. 30
Omit from section 7A “early childhood centre” wherever it appears and substitute in each case “early childhood education and care centre”.

Part 2
Amendments to regulations

Building Regulations 1992 (SR 1992/150)

Paragraph 4.0.3 of clause A1 of the First Schedule is amended by omitting “early childhood centre” and substituting “early childhood education and care centre”. 5

Education (Early Childhood Centres) Regulations 1998 (SR 1998/85)

Omit from the definition of **centre** in regulation 2 “early childhood centre within the meaning of section 308(1) of the Act” and substitute “early childhood education and care centre within the meaning of **section (310) 309** of the Act”. 10

New

Definition of **management** in regulation 2: omit.

Add to regulation 2:

“**service provider** has the meaning given to it by paragraph (a) of the definition of that term in **section 309** of the Act”. 15

Insert after regulation 2:

“2A Application

These regulations apply in respect of a centre and its service provider while the centre is deemed to be licensed under **section 319K(1)** of the Act.” 20

Regulations 3(1) and 13(2): omit “management” wherever it appears and substitute “service provider”.

Regulation 11(3): omit “management” and substitute “service provider”. 25

Education (Home-Based Care) Order 1992 (SR 1992/238)

Clause 1 of the Schedule: omit the definition of “**arranger**” and substitute in its appropriate alphabetical order:

“**service provider** means a body, an agency, or a person who provides home-based education and care (as defined in clause 1) as part of a licensed home-based education and care service (as defined in **section 309** of the Act)”. 30

Clause 1 of the Schedule: omit the definition of “**home-based care**” and substitute:

“**home-based education and care** means the provision of education or care, for gain or reward, to fewer than 5 children 35

Part 2—*continued***New****Education (Home-Based Care) Order 1992 (SR 1992/238)—**
continued

under the age of 6 (in addition to any child enrolled at school who is the child of the person who provides education or care), in—

“(a) their own home; or

“(b) the home of the person providing the education and care; or

“(c) any other home nominated by the parents of the children”.

5

The Schedule: omit “an arranger” wherever it appears and substitute in each case “a service provider”.

The Schedule: omit “care” wherever it appears and substitute in each case “education and care”.

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Clause 2 of the Schedule: omit “An arranger” and substitute “A service provider”.

Clause 4 of the Schedule: omit “An arranger” and substitute “A service provider”.

15

The Schedule: omit “the arranger” wherever it appears and substitute in each case “the service provider”.

The Schedule: omit “The arranger” wherever it appears and substitute in each case “The service provider”.

The Schedule: omit “home-based care” wherever it appears and substitute in each case “home-based education and care”.

20

Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)**Struck out (unanimous)**

Omit from regulation 3 the definition of **early childhood centre** and substitute the following definition:

25

“**early childhood education and care centre** has the same meaning as in **section 310** of the Education Act 1989”.

Omit from the definition of **person responsible** in regulation 3 the words “early childhood centre” and substitute the words “early childhood education and care centre”.

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Part 2—*continued***Education (Registration of Early Childhood Services Teachers) Regulations 2004 (SR 2004/236)—*continued*****Struck out (unanimous)**

Omit from regulation 6(a) the words “early childhood centre” in both places where they appear and substitute in each case the words “early childhood education and care centre”.

5

New (unanimous)

Omit from regulation 3 the definitions of **chartered care arranger**, **chartered service**, **co-ordinator**, **early childhood centre**, **early childhood education and care service**, and **person responsible**. Insert in the definition of **declared early childhood service** in regulation 3 “(as defined in section 120 of the Education Act 1989)” after “early childhood service”.

10

Add to regulation 3, as subclause (2):

“(2) Any term used in these regulations that is defined in **section 309** of the Education Act 1989 has the meaning given by that section, unless otherwise indicated.”

15

Omit regulation 6 and substitute:

“6 Meaning of person employed in teaching position

For the purposes of these regulations, **teaching position**, as defined in section 120 of the Education Act 1989, is modified to mean—

20

“(a) in relation to an early childhood education and care centre, and to a licensed hospital-based education and care service, a person responsible (as defined in regulation 2 of the Education (Early Childhood Centres) Regulations 1998); and

25

“(b) in relation to a licensed home-based education and care service, a co-ordinator (as defined in clause 1 of Part 1 of the Schedule to the Education (Home-Based Care) Order 1992).”

Food (Fees and Charges) Regulations 1997 (SR 1997/100)

30

Omit paragraph (d) of the definition of **educational establishment** in regulation 2 and substitute:

Part 2—*continued***Food (Fees and Charges) Regulations 1997 (SR 1997/100)—***continued*

- “(d) any early childhood education and care centre within the meaning of **section (310) 309** of the Education Act 1989:”.

Hazardous Substances (Classes 1 to 5 Controls) Regulations 2001 (SR 2001/116)

Omit from paragraph (c) of the definition of **vulnerable facility** in regulation 3 “early childhood centre (as defined in section 308 of the Education Act 1989)” and substitute “early childhood education and care centre (as defined in **section (310) 309** of the Education Act 1989)”. 5

Health (Immunisation) Regulations 1995 (SR 1995/304) 10

Omit from the definition of **centre employee** in regulation 2(1) “early childhood centre” and substitute “early childhood education and care centre”.

Omit from paragraph (a) of the definition of **controlling authority** in regulation 2(1) “early childhood centre” and substitute “early childhood education and care centre”. 15

Omit from regulation 2(1) the definition of **early childhood centre** or **centre** and substitute the following definition:

“**early childhood education and care centre** or **centre** means an early childhood education and care centre within the meaning of **section (310) 309** of the Education Act 1989”. 20

Omit “**centres**” from the headings to regulations 4, 7, 8, and 12 and substitute “**education and care centres**”.

Omit “early childhood centre” from regulations 4, 8, 10(2), and 12 wherever it appears and substitute in each case “early childhood education and care centre”. 25

New Zealand Teachers Council (Conduct) Rules 2004 (2004 No 143)

Omit “early childhood centre” from paragraph (b) of the definition of **child or young person** in regulation 4(1) and substitute “early childhood education and care centre”. 30

New Zealand Teachers Council (Making Reports and Complaints) Rules 2004 (2004 No 144)

Omit “early childhood centre” from paragraph (b) of the definition of **child or young person** in regulation 5(1) and substitute “early childhood education and care centre”. 35

Part 2—*continued***New Zealand Teachers Council (Making Reports and Complaints) Rules 2004 (2004 No 144)—*continued***

Omit “early childhood centre” from regulation 9(3) and substitute “early childhood education and care centre”.

Legislative history

30 November 2004	Introduction (Bill 236–1)
14 December 2004	First reading and referral to Education and Science Committee
29 June 2005	Reported from Education and Science Committee (Bill 236–2)
14 March 2006	Second reading
2 May 2006	Committee of the whole House (Bill 236–3)

