EDUCATION LEGISLATION AMENDMENT BILL

EXPLANATORY NOTE

The Business Committee of the House has agreed to the introduction of this Bill under Standing Order 259 (c). That Standing Order provides that the Business Committee may agree to the introduction of a law reform Bill or other omnibus Bill that amends more than 1 Act. The Bill is in 3 Parts and will be broken up into 3 separate Bills at the committee of the whole stage in the House. Part 1 contains amendments to the Education Act 1989, Part 2 contains amendments to the Private Schools Conditional Integration Act 1975, and Part 3 contains amendments to the Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945.

GENERAL POLICY STATEMENT

This Bill provides for changes to the Education Act 1964, the Education Act 1989, the Private Schools Conditional Integration Act 1975, the Education Lands Act 1949, and the Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945. The Bill covers 3 matters of educational significance (enrolment schemes, curriculum matters, and suspensions and expulsions) and a number of other amendments, some of which are of a technical nature, which are necessary because the current provisions are out-dated or have proved inadequate in practical situations.

Summary of Key Measures

Enrolment Schemes

Enrolment scheme legislation is amended to-

- (a) Require that schemes have regard to the capacity of the existing network of schools and to whether students can attend a reasonably convenient school; and
- (b) Require more consultation by schools about their enrolment schemes; and
- (c) Require enrolment schemes to be approved by the Secretary of Education in order to ensure greater coordination in the provision of school places and that fair processes are put in place; and
- (d) Require boards annually to review the need for a scheme, but with a discretion available to the Secretary to waive this requirement for a period of up to 3 years.

Curriculum

Legislative provisions for curriculum are all brought under the Education Act 1989. The Bill provides for—

- (a) A statement of foundation policy on learning and assessment; and
- (b) Appropriate flexibility for the New Zealand curriculum, or elements of it, to apply to particular years, state (including integrated) schools or groups of students, which will provide for an orderly and phased transition to any new curriculum.

Suspensions and Expulsions

Sections 13 to 18 of the Education Act 1989 are amended to-

- (a) Achieve greater fairness in suspension procedures; and
- (b) Recognise changed understandings on the rights of young people arising from the *United Nations Convention on the Rights of the Child*; and
- (c) Give greater flexibility in response to student needs; and
- (d) Reduce the complexity of present legislation; and
- (e) Introduce the new terms stand-down and exclusion; and
- (f) Give the Secretary of Education the power to publish rules that will require the practices of principals and Boards to conform to principles of natural justice.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the Bill. Clause 13 (which sets out a new regime for stand-downs, suspensions, exclusions, and expulsions) and clause 66 (which is a related transitional provision) come into force on a date appointed by Order in Council. A delayed commencement is needed here to enable the associated procedural rules to be made under clause 14. The rest of the Bill comes into force on the day after the date the Bill receives its Royal assent.

PART 1

EDUCATION ACT 1989

Clause 2 provides that this Part is part of the Education Act 1989.

Enrolment Schemes

Clause 3 inserts into the principal Act new section 11AA.

New section 11AA provides that the purpose of the provisions of the Act relating to enrolment schemes is—

- to avoid overcrowding or the likelihood of overcrowding at a school; and
- to avoid excluding more prospective students than is reasonably necessary to avoid overcrowding or the likelihood of overcrowding; and
- to ensure that the development and approval of enrolment schemes takes into account the capacity of the existing network of schools and the desirability of ensuring a student can attend a reasonably convenient state school (other than an integrated school); and
- to enable Boards to have schemes that are appropriate to their schools.

Clause 4 amends section 11A of the principal Act by adding 2 new factors to those which a Board must take into account before putting an enrolment scheme in place.

The present factors are—

- there is likely to be overcrowding at the school; and
- the purpose of the scheme is to avoid overcrowding at the school; and

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

The clause provides that, in addition,-

- the Board must consider the capacity of the existing network of schools; and
- the Board must consider whether students can attend a reasonably convenient state school (other than an integrated school); and
- the Board can consider other relevant factors.

The new section also provides more coordination of enrolment schemes by including the Secretary in the approval process.

Clause 5 amends section 11B of the principal Act by requiring that the Secretary must approve an amendment to an enrolment scheme before a Board may put the amendment in place.

Clause 6 inserts into the principal Act new sections 11BA to 11BC.

New section 11BA relates to the content of an enrolment scheme and—

- requires a scheme to set out rules and procedures for pre-enrolment and enrolment; and
- allows a scheme to contain other enrolment matters.

New section 11BB sets out the matters to which the Secretary must have regard in approving an enrolment scheme. Those matters are—

- the capacity of the existing network of schools; and
- whether students can attend a reasonably convenient state school (other than an integrated school); and
- the Board's compliance with the consultation requirements in new section 11BC.

New section 11BC imposes a new consultation requirement on Boards. In the course of preparing a new enrolment scheme or an amendment to an existing scheme, a Board must take reasonable steps to discover and consider the views of—

- the school community; and
- people living in the geographical area of the school; and
- the Boards of other affected schools.

Clause 7 amends section 11c of the principal Act by allowing Boards to notify a proposed enrolment scheme in a community newspaper (as an alternative to a daily newspaper).

Clause 8 amends section 11D of the principal Act by allowing Boards to notify a proposed abandonment of an enrolment scheme in a community newspaper (as an alternative to a daily newspaper).

Clause 9 repeals section 11E of the principal Act. Section 11E requires Boards to notify the Secretary when they propose to abandon an enrolment scheme. The section is no longer necessary.

Clause 10 amends section 111 of the principal Act to ensure that an enrolment scheme does not commence early unless the Secretary is satisfied that the Board has carried out the consultation required by new section 11BC (as set out in clause 6).

Clause 11 repeals section 11K of the principal Act, and substitutes new sections 11K and 11KA.

New section 11k carries forward the existing requirement that a Board review the likelihood of overcrowding once each year and adds the following new requirements:

- the Board must carry out an annual review of the enrolment scheme itself; and
- each year the Board must ask the Secretary whether he or she agrees that there is, or is likely to be, overcrowding.

The new section also exempts a Board from complying with new section 11BC (which sets out the Board's consultation requirements) where it decides to retain the existing enrolment scheme (or a substantially similar scheme) and the Secretary waives compliance with section 11BC. A Board may also apply to the Secretary for a waiver from the requirement to review its scheme.

New section 11KA specifies what a Board must do if it declines to accept an application for enrolment. The Board must give the parents and the student (where the student's age and maturity make it appropriate) a written statement of its reasons.

Clause 12 makes a consequential amendment to section 12B of the principal Act.

Standing-down, Suspension, Exclusion, and Expulsion of Students

Clause 13 repeals and replaces sections 13 to 18 of the principal Act. Sections 13 to 18 relate to suspension, expulsion, and exclusion of students. The new sections are also numbered 13 to 18.

New section 13 sets out the purpose of new sections 14 to 18. Their purpose is to—

- · provide flexibility in the responses available to principals and Boards; and
- facilitate the student's return to school; and
- ensure that the principles of natural justice are complied with.

New section 14 introduces a new procedure called stand-down. The stand-down replaces the specified suspension procedure available to principals under the existing section 13 with the following changes:

- the length of the period for which the student may be removed from a state school under this procedure is increased from 3 to 5 days; and
- a student may be stood-down for periods totalling up to 5 days in any school term, but not for more than 10 days in any school year.

The grounds on which a student may be stood-down are the same as those presently set out in section 13 for a specified period suspension, namely:

- the student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or
- because of the student's behaviour, it is likely that the student, or other students at the school, will be seriously harmed if the student is not stood-down.

New section 14 also carries over the unspecified period suspension procedure available to principals under the existing section 13. The grounds are the same as those for a stand-down.

New section 15 carries over much of the existing section 16 and sets out a Board's powers in relation to the suspension of students who are younger than 16.

The existing provisions provide that an unspecified suspension lasts for 7 days and give a Board 2 options as follows:

- the Board can lift the suspension within the 7-day period and may impose conditions in doing so; or
- the Board may extend the suspension before it expires, but may not impose conditions in doing so.

The new section 15 introduces the following significant changes:

- a Board can conditionally extend a suspension and, if it takes this option, the Board must take steps to facilitate the student's return to school:
- if the most serious response is justified, a Board may exclude the student from the school by extending the suspension and requiring the student to enrol at another school:
- if a Board decides to exclude a student and the principal is unable to arrange
 for the student to attend another school, the principal must tell the Secretary
 for Education about that outcome and this requirement applies after 10 days
 from the date of the suspension.

New section 16 replaces subsections (7) and (8) of the existing section 16 and sets out the Secretary's powers where students younger than 16 are excluded from a state school and the principal has not arranged for the student to attend another school. The only change here is in the terminology: the new section applies only where a student is excluded under new section 15 (1) (c) (which action is comparable to the existing suspension for an unspecified period of a student who will turn 16 while suspended). The Secretary must do 1 of the following:

- arrange for and (if necessary) direct the Board of another state school (other than an integrated school) to enrol the student; or
- lift the exclusion; or
- direct a parent of the student to enrol the student at a correspondence school. New section 17 replaces the existing section 17 (1) and sets out a Board's powers where students who are 16 or older are suspended. Presently a Board can lift the suspension or expel the student. The new section allows a Board to conditionally extend a suspension, and, if it takes this option, the Board must take steps to facilitate the student's return to school.

New section 174 sets out the duties of a principal where students are stood-down or suspended. A principal must—

- take all reasonable steps to ensure that the student has guidance and counselling:
- ensure that the student receives an appropriate educational programme that is aimed at facilitating the student's return to school and minimising the educational disadvantages that occur from a student's absence from school.

New section 17B confers on a student, the parents of a student, and their representatives the right to attend and speak at a Board meeting before the Board decides whether to lift or extend the student's suspension or to exclude or expel the student.

New section 17c replaces the existing section 16 (9) and (10) and section 17 (3), and relates to the effect a suspension has on a school's register. The new section ensures that a student's name is not automatically removed from the register when the period of the suspension or exclusion ends.

New section 17D replaces the existing section 18 and relates to the re-enrolment of students who have been excluded or expelled. A minor change is made to clarify that the section applies to students who are for the time being suspended or expelled, rather than to students who have ever been suspended or expelled. The new section preserves the right of Boards to refuse to enrol such a student and the Secretary's power to direct a Board to enrol a student.

New section 18 sets out the notice requirements of principals and Boards where a student is stood-down, suspended, excluded, or expelled. The requirements are—

• if a student is stood-down, the principal must immediately tell the Secretary and (if the student is younger than 20) a parent:

- if a student is suspended, the principal must immediately tell the Board, the Secretary, and (if the student is younger than 20) a parent:
- if a suspension is lifted or extended, or a student is excluded or expelled, the principal must immediately tell the Secretary and (if the student is younger than 20) a parent.

Clause 14 inserts into the principal Act new section 1844. The new section empowers the Secretary to make procedural rules for the purposes of new sections 14 to 18. The rules are intended to—

- cover the content of existing section 15 (3) to (7) (meetings between principals and parents to discuss a suspension), section 16 (2) (a) (i) and (b) and section 17 (2) (notice of a Board meeting to consider whether to lift or extend a suspension):
- set out requirements as to notices that the Act requires to be given, such as who must give them and what they must contain:
- set out time limits for the purposes of giving notices, making representations, as associated matters:
- protect the privacy of individuals (in a way that is not inconsistent with the Privacy Act 1993).

Clause 15 consequentially amends section 19 of the principal Act, which relates to the suspension of students for health reasons. The terminology is changed so that the removal of a student under this section is treated as a suspension rather than an exclusion (which now refers to action taken under new section 15 (1) (c).

Clause 16 amends section 21 of the principal Act, which relates to long term exemptions from enrolment. A new subsection (8A) is inserted to provide for the automatic expiry of an exemption certificate when the person to whom it applies turns 16 or enrols at a registered school (whichever happens first). The new subsection obviates the need for a formal revocation in such cases.

Clause 17 inserts into the principal Act new section 22A, which relates to persons who reside in a residence under section 364 of the Children, Young Persons, and Their Families Act 1989. The new section provides a mechanism for exempting such persons from the requirement (in section 20 of the principal Act) to be enrolled at a school.

Clause 18 amends section 35A of the principal Act (which relates to registration and inspection of private schools) to update a reference to the minimum school leaving age.

Clause 19 inserts into the principal Act a new section 35AA, which relates to suspensions and expulsions in private schools. The new section replaces section 130F of the Education Act 1964.

Section 130F, which applies if the student concerned is younger than 15,—

- requires the principal to notify the Secretary when a student is suspended or expelled; and
- requires the Secretary to arrange for the student to be enrolled at some other school or to require the student to be enrolled at a correspondence school.

Students attending private registered schools are not subject to the suspension and expulsion regime in *new sections 13 to 18* of the principal Act. The relationship between the students, parents, and school is a contractual one.

Subsection (1) requires the principal of a private school to notify the Secretary when a student is—

• expelled; or

- suspended for more than 5 days; or
- suspended indefinitely.

Subsection (2) requires the Secretary to make arrangements to enrol the student at some other registered school and allows the Secretary to direct the Board of a state school to enrol the student or to direct a parent of the student to enrol the student at a correspondence school.

Subsection (3) ensures that a direction under subsection (2) overrides a school's enrolment scheme.

Special Education Service

Clause 20 consequentially amends the definition of the term "Board" in section 36 of the principal Act, which is an interpretation section relating to the Special Education Service. The amendment is necessary because clause 21 reconstitutes the Board and enables it to change its name under new section 301A (as set out in clause 55).

Clause 21 repeals and replaces sections 37 and 38, which establish the Special Education Service Board and set out its membership. The purpose of the new sections is to—

- provide for a chairperson to be appointed by the Minister as a separate member of the Board:
- require the Minister to have regard to the principle that a Board should have the appropriate skill and knowledge:
- to facilitate a change in the Board's name.

New section 37 continues the Board under its existing name until a new name is specified under new section 301A.

New section 38 reconstitutes the Board. Presently it comprises 6 members appointed by the Minister and the Board's chief executive. The Minister is presently required to appoint 1 of the members to preside. Under the new section, the Minister appoints a chairperson and 5 other members, and the chief executive can be a member if the Minister approves.

Early Childhood Development Unit

Clause 22 consequentially amends the definition of the term "Board" in section 42 of the principal Act, which is an interpretation section relating to the Early Childhood Development Unit. The amendment is necessary because clause 23 reconstitutes the Board and enables it to change its name under new section 301A.

Clause 23 repeals and replaces sections 43 and 44 of the principal Act, which establish the Early Childhood Development Unit Board and set out its membership. These provisions are to the same effect as those in clause 21.

Curriculum

Clause 24 is a consequential amendment to the definition of the term "national education guidelines" in section 60 of the principal Act. The existing definition is expanded to cover foundation curriculum policy statements under the amendments to section 60A that are made by clause 25.

Clause 25 amends section 60A of the principal Act, which relates to national education guidelines.

Subclause (1) creates a new kind of guideline called a foundation curriculum policy statement and its features are—

• to set out policy about teaching, learning, and assessment in schools:

- to underpin and give direction to the way in which curriculum and assessment responsibilities are managed in schools:
- to underpin and give direction to national curriculum statements and locally developed curriculum.

Subclause (2) enables national curriculum statements (covering such things as the knowledge, understanding, and skills of students) to be phased in progressively and provides for old curriculum statements (including syllabuses under the Education Act 1964) to be revoked and replaced.

Subclause (3) consequentially repeals corresponding provisions in the Education Act 1964 which are no longer necessary.

Subclause (4) consequentially revokes regulations relating to curriculum matters, which were made under the Education Act 1964 and are no longer necessary.

Assistance for Boards

Clause 26 inserts into the principal Act new section 64A, which relates to the compulsory provision of specialist support for Boards of Trustees. Presently the options open to the Secretary when a Board is having management difficulties or is not complying with its charter are limited. The present options are—

- to utilise the power under section 64 (2) by taking legal proceedings against the Board to enforce the Board's charter; or
- to give a direction under section 81B that requires the Board to engage a suitably qualified person to manage its financial management system; or
- recommend that the Minister dissolve the Board under section 107.

The *new section* does not prevent the operation of the other options or require that any particular option be tried before any other option can operate.

Subsection (1) empowers the Secretary to direct a Board to engage specialist assistance if satisfied that the Board is not meeting or is not likely to meet its statutory obligations. Those obligations include the aims, purposes, and objectives of its charter.

Subsection (2) requires the Board to comply with the direction and to pay the fees of the specialist who is engaged to assist.

Subsection (3) allows the Secretary to take action under this section independently of other provisions of the Act.

Subsection (4) preserves the other options available to the Secretary.

Meaning of School Day

Clause 27 amends section 65D of the principal Act, which relates to the length of the school year. The amendment gives the Minister a discretion to allow Boards to apply a different meaning of 'half day' to that described in section 65B (3A).

School Property

Clause 28 amends section 70 of the principal Act, which relates to codes of practice for the occupancy of state school property. New subsections (1), (1A), (5), and (6) are substituted.

Section 70 empowers the Secretary to publish the terms and conditions on which Boards of Trustees of state schools occupy land and buildings owned by the Crown. This can be done by notice in the *Gazette* (if the notice is to apply generally) or by written notice to a particular Board. The section is presently limited to state schools and to property owned by the Crown.

New subsection (1) extends the notice procedure to cover all Boards (including Proprietors of integrated schools) and all land and buildings occupied by a Board. In most cases at present, a Board cannot acquire an interest in land or obtain a licence to occupy land without the Minister's consent.

New subsection (1A) clarifies that the notice can apply to any property occupied by a Board (regardless of the ownership of the property) and makes notices subservient to the Private Schools Conditional Integration Act 1975.

New subsection (5) allows the Secretary to make the full text of the terms and conditions available separately rather than publishing them in full in the notice.

New subsection (6) carries over the existing subsection (5) with consequential changes. This subsection specifies the effect of the terms and conditions notified under subsection (1).

School Records

Clause 29 inserts into the principal Act new section 77A, which relates to enrolment records. The new section will provide for a mandatory and nationally consistent enrolment record that can be transferred with the student to whom it relates and will assist in the tracking of students who move between schools. The new record will be in addition to the admission register and the register of daily attendances, which registers are kept under the Education (School Attendance) Regulations 1951.

Subsection (1) requires principals of registered schools to keep an enrolment record

Subsection (2) requires the record to be kept at a school until the student turns 16 or (if the student has moved to another school) the principal has taken reasonable steps to forward the enrolment record to the other school.

Subsection (3) empowers the Secretary to make rules by notice in the Gazette. The rules may—

- relate to the enrolment record-related duties of principals:
- require principals to inform students and parents about enrolment records:
- specify the form and content of enrolment records:
- set out exceptions to the requirement to keep enrolment records.

Entry and Inspection of Schools

Clause 30 amends section 78A of the principal Act, which relates to the entry into and inspection of schools. The clause repeals and replaces subsections (1) and (2), and the main changes are—

- the new subsection (1) authorises the copying and removal of records;
- the new subsection (2) allows the Minister to authorise any person (rather than just officers of the Ministry) to exercise powers in new subsection (1).

Clause 31 inserts into the principal Act a new section 78B. This section authorises entry onto premises which are suspected of being used as an unregistered school, in contravention of section 35A (12). The entry must be made under warrant, and the person entering may ascertain whether the premises are being used as a school. The provision parallels section 318 (5), which allows an authorised person to enter, under a warrant, premises suspected of being used as an unlicensed early childhood centre.

Provisions Concerning Boards, Commissioners, and Establishment of Schools

Clause 32 makes technical amendments to section 94A of the principal Act, which relates to variation of the numbers of trustees appointed to Boards of integrated schools. The amendments remove some cross-references to make the section easier to understand.

Clause 33 amends section 98 (2) of the principal Act, which relates to Boards of newly established schools. The amendment provides that members of a Board of a newly established school remain in office until the day before the day that the

newly elected Board members take office, rather than (as at present) going out of office on the day of the election.

Clause 34 amends section 104 (6) of the principal Act, which relates to certain casual vacancies on Boards of Trustees. The amendment provides that casual vacancies arise on the day that elected trustees take office, rather than (as at present) on the day of the election.

Clause 35 amends section 109 of the principal Act, which relates to Commissioners who are appointed in place of a Board of trustees.

Subclause (1) relates to the provisions which determine when a Commissioner goes out of office. As it presently stands, section 109 expressly provides for cases where a Commissioner has been appointed in place of a Board comprising elected members but does not provide for cases where a Board comprises any members who are appointed rather than elected. The subclause inserts new subsection (7A), which provides that the Commissioner goes out of office on a date appointed by the Minister by notice in the Gazette, if all the Board members were appointed members. The subclause also inserts new subsection (7B), which enables the Minister to defer an election and continue the Commissioner's term of office.

Subclause (2) adds a new subsection (9), which relates to the liability of a Commissioner and confers on a Commissioner the same protection as member of a Board of Trustees (as provided by clause 4 of the Sixth Schedule to the Act).

Clause 36 amends section 116 of the principal Act, which relates to the representation of schools on combined Boards. The amendment removes some of the restrictions relating to the election of trustees to combined Boards and makes section 116 consistent with the other election provisions in the Act.

Clause 37 repeals section 140 of the principal Act. Section 140 relates to the initial appointment of certain classes of teachers and is now spent.

Clause 38 amends section 145 of the principal Act (an interpretation section for the purposes of Part XII, which relates to the establishment of schools). The clause rectifies an omission in the existing section by inserting a definition of the term "correspondence school".

Clause 39 amends section 146 of the principal Act, which relates to the establishment of schools. Section 146 empowers the Minister to establish schools but a new school must be established as a primary, intermediate, secondary, or composite school. The purpose of this amendment is to introduce flexibility by enabling the Minister—

- to specify the class levels for which education must be given at a school;
- to designate a new primary school as a contributing school.

Clause 40 amends section 150 of the principal Act, which relates to contributing schools. The clause is consequential on the changes to section 146 made by clause 39, and amends section 150 to reflect the fact that a contributing school will be able to be established directly under the amended section 146 as well as in the way presently described in section 150 (namely, by a determination made by the Minister under that section).

Clause 41 consequentially amends section 151 of the principal Act, which relates to limitations on the provision of education at composite schools. A reference to students of specified year levels is inserted to reflect changes made in the amended section 146.

Clause 42 amends section 153 of the principal Act, which relates to the Minister's power to change the class of a school.

Subclause (1) is consequential on clause 39 and enables the Minister to specify the class levels for which education must be given at a school.

Subclause (2) amends section 153 (4) to cure an anomaly concerning the date when a Board of Trustees of an affected school goes out of office. That provision provides that the Board continues in office as constituted until the day before the day on which its annual meeting is next required to be held. However, under section 102 the new Board members do not come into office until the day after that annual meeting. The amendment simply provides that the old Board goes out of office at the end of the day of that annual meeting.

Clause 43 amends section 154 of the principal Act, which relates to the closure of schools.

Subclause (1) relates to the consultation requirements in subsections (1) and (2) of section 154. As they stand, those provisions require the Minister to ask the Board if it has any arguments in favour of the school's staying open and to wait 28 days to hear what the Board has to say. Subclause (1) inserts new subsection (2A) to allow the Minister to proceed without delay if the Board has no objection to the closure.

Subclause (2) relates to the distribution of a Board's trust assets after its school is closed and inserts new subsection (3A) to allow trusts to be modified for the benefit of another school. A similar provision is contained in section 156c for trust property of a school that merges with another school and it is applied for the purposes of section 154.

Clause 44 repeals and replaces section 156A of the principal Act, which relates to school mergers. The changes are—

- to remove the need in the existing section 156A (5) for an election to be held where schools merge after the Boards have combined under section 110:
- new subsection (5) provides that, where elections are necessary, the outgoing Board members remain in office until the new Board takes office:
- to simplify the effect of a notice merging schools.

Fee Disclosure by Institutions

Clause 45 inserts into the principal Act new section 236AB. The new section requires tertiary institutions to give prospective students full information about course fees. Similar requirements apply to private training establishments under section 236A.

Clause 46 amends section 238A of the principal Act, which relates to grants to private training establishments. The amendment amends a provision which requires financial statements to be prepared in accordance with generally accepted financial practice. The amendment aligns the provision with the Public Finance Act 1989 by replacing the term financial practice with accounting practice (as defined in section 2 (1) of the Public Finance Act 1989).

Education and Training Support Agency

Clause 47 consequentially amends the definition of the term "Board" in section 269 of the principal Act, which is an interpretation section relating to the Education and Training Support Agency. The amendment is necessary because clause 48 reconstitutes the Board and enables it to change its name under new section 301A.

Clause 48 repeals and replaces sections 270 to 272 of the principal Act, which establish the Education and Training Support Agency, and its Board, and set out its membership. These provisions are to the same effect as those in clause 21.

Clause 49 amends section 276 of the principal Act, which relates to the powers of Education and Training Support Agency (ETSA). The amendment removes references to Regional Employment and Access Councils and apprenticeship committees, which are now out of date.

Clause 50 amends clause 1 of the Sixteenth Schedule of the principal Act, which relates to the term of office of members of the ETSA Board. The amendment provides for members to be reappointed for up to 2 further terms of 3 years, rather than just once as at present.

Careers Service

Clause 51 consequentially amends the definition of the term "Service" in section 278 of the principal Act, which is an interpretation section relating to the Careers Service. The amendment is necessary because clauses 52 and 53 reconstitute the Service and enable it to change its name under new section 301A.

Clauses 52 and 53 repeal and replace section 279 and 281 of the principal Act, which establish the Careers Service, and its Board, and set out its membership. These provisions are to the same effect as those in clause 21.

Clause 54 amends clause 1 of the Seventeenth Schedule of the principal Act, which relates to the term of office of members of the Careers Service Board. The amendment provides for members to be reappointed for up to 2 further terms of 3 years, rather than just once as at present.

Miscellaneous Provisions

Clause 55 inserts into the principal Act new section 301A. The new section applies to education entities established under the Act and enables their names to be changed from time to time by Order in Council. The entities affected are the Special Education Service, the Early Childhood Development Unit, the Education and Training Support Agency, and the Careers Service. Until their names are changed under the new section, they retain their existing names.

Clause 56 repeals and replaces section 307 of the principal Act, which relates to the Secretary's powers to require information concerning student allowances. The existing section applies to students who currently hold an allowance. The main changes are—

- the Secretary's powers are extended to apply to persons who are not current holders but have held or applied for a student allowance in the past:
- to enable the Secretary to refuse to grant the allowance if the student refuses to comply with a request to provide information:
- to add an offence of failing to comply with a request to provide information or to notify a material change in circumstances.

Clause 57 amends section 318, which deals with the entry into and inspection of early childhood centres. The amendments mirror those made to section 78A by clause 30, which deals with entry and inspection in relation to schools.

Clause 58 amends section 319 of the principal Act, which relates to early childhood centres situated on land owned by the Crown. The existing section sets out the basis on which a centre may occupy land owned by the Crown. The section operates where a centre occupies a stand-alone building and requires that

the centre's occupation of the land must be governed by an occupancy document. The changes are—

- to extend the section to apply where a centre occupies a school building rather than its own purpose built or relocated building:
- to make a document of accountability just 1 of the options available to govern the centre's occupation of the land.

Review of Educational Services

Clauses 59 and 60 clarify the review powers of review officers in relation to educational services provided to persons exempt from enrolment under section 21 of the principal Act. The power of entry does not however apply in this situation.

Election Irregularities

Clause 61 amends clause 9 (3) of the Sixth Schedule. The amendment gives the Minister the power to declare that, if an election is declared invalid, then the trustees in office at the time of the election must remain in office until trustees elected in a new election take office. The subclause has also been split into 2 subclauses to make it more readable.

Repeals, Amendments, and Transitional and Savings Provisions Clause 62 sets out consequential repeals.

Clause 63 amends section 6 of the Education Lands Act 1949, which relates to the leasing of school sites. At present, section 6 (4) prevents a lease being granted for more than 10 years and also prevents the renewal of leases. These restrictions are a disincentive to third parties who might otherwise construct swimming pools and similar works on school sites. In particular,—

- the parties who construct the works are unlikely to amortise their costs over the permitted 10 years:
- many works are not relocatable and section 6B excludes compensation in such cases.

The amendment repeals the 10-year limit and enables the Crown to determine the terms and conditions of leases.

Clause 64 contains a transitional provision relating to enrolment schemes. Existing schemes will continue in force until a date to be appointed by Order in Council. The order mechanism is being used to overcome difficulties in fixing a date for the purposes of the clause. At present, enrolment schemes for secondary schools are usually put in place on 1 August and take effect on the following 1 January, but schemes for primary schools may be put in place and commence on different dates. Pre-enrolment will usually occur in the year preceding the year in which an enrolment scheme takes effect. A practicable date can be fixed only when the Bill is passed.

Clause 65 contains a savings provision relating to curricula promulgated under the Education Act 1964. They are to continue in force until revoked under section 60A (as amended by clause 25).

Clause 66 contains a transitional provision relating to the suspension of students. A suspension in force at the commencement of clause 13 (which changes the suspension regime) will continue in force until the suspension is lifted or otherwise ceases to have effect under the old regime.

PART 2

PRIVATE SCHOOLS CONDITIONAL INTEGRATION ACT 1975

Clause 67 provides that this Part is part of the Private Schools Conditional Integration Act 1975.

Clause 68 amends section 2 of the principal Act by updating the language of the definition of "integration agreement", consistent with the changes to section 7 made by clause 70.

The clause also amends the definition of "Proprietor" to include Proprietors who lease land and buildings.

Clause 69 replaces sections 5 and 6 of the principal Act, which relate to applications and negotiations for an integration agreement.

The *new section* 5 provides that a school may apply to the Minister to negotiate an integration agreement, and sets out certain matters that the Minister must consider, and the consultation to be done, before an application is accepted or rejected. The Minister has an absolute discretion to consider applications.

The *new section 6* continues to provide for proposed schools to be considered for integration.

The *new section* 6A sets out when negotiations may commence, and the Minister's obligations to consult during negotiations.

Clause 70 amends section 7 of the principal Act by updating the language used in subsections (1) and (2).

Clause 71 replaces sections 11 and 13 of the principal Act with new sections 11, 11A, 11B, and 11c. These sections set out the mechanisms for, and the circumstances in which, an integration agreement may be cancelled. The changes are—

- agreements have always been able to be cancelled by the Minister or by the Proprietors, and the amendments allow them to be cancelled by mutual agreement as well:
- the provisions for cancellation are set out in 3 separate sections to reflect the different situations that may arise.

New section 11 provides that an agreement may be cancelled by the Minister or the Proprietors or both, and sets out what happens when it is cancelled.

New section 114 sets out the basis on which the Minister may cancel an agreement.

New section 118 sets out the basis on which the Proprietors may cancel an agreement. New section 11c provides for cancellation by mutual consent.

Clause 72 replaces section 12 of the principal Act, and updates it to make it reflect the changes made by clause 71.

Clause 73 repeals section 13 of the principal Act, which is redundant because of the new section 11B.

Clauses 74 to 78 make amendments to sections 14 to 18 of the principal Act that are consequential on the substantive changes made by clause 71.

Clauses 79, 80, and 83 amend the principal Act to ensure that it applies to Proprietors who lease the school premises. At present, a Proprietor must own the premises.

Clause 81 removes unnecessary words from section 44 of the principal Act.

Clause 82 amends sections 59 and 60 of the principal Act, by repealing references to Loreto Hall.

Clause 84 abolishes the Integration Standing Committee, which is now defunct, and makes consequential amendments to the principal Act.

PART 3

NGARIMU V.C. AND 28TH (MAORI) BATTALION MEMORIAL SCHOLARSHIP FUND ACT 1945

Clause 85 provides that this Part is part of the Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945.

Clause 86 makes the following amendments to section 4 of the principal Act, which lists the members of the Board that administers the Fund:

- the Minister of Maori Affairs is added to the list;
- the reference to Maori "discharged servicemen" is replaced by a reference to Maori who have been, but are no longer, members of the Armed Forces; and
- the language relating to the Maori members of Parliament is updated.

Hon Wyatt Creech

EDUCATION LEGISLATION AMENDMENT

ANALYSIS

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1. Short Title and commencement

PART 1

EDUCATION ACT 1989

- 2. Part to be part of Education Act 1989
- 3. New heading and section inserted

Enrolment Schemes

- 11AA. Purpose
- 4. Boards may put enrolment schemes in
- 5. Amendment of enrolment schemes
- 6. New sections inserted
 - 11BA. Content enrolment schemes
 - 11BB. Matters to which Secretary must have regard in approving enrolment scheme or amendment
 - 11BC. Board to discover and consider views of persons affected by enrolment scheme
- 7. Notice
- 8. Abandonment of enrolment schemes
- Repeal of section 11E
 Secretary may authorise early commencement of enrolment scheme or amendment
- 11. New sections substituted
 - 11K. Boards to review threat of overcrowding and enrolment scheme
 - 11KA. Board must give reasons if it declines enrolment application
- 12. Exemptions from enrolment schemes in exceptional cases
- 13. New heading and sections substituted

Standing-down, Suspension, Exclusion, and Expulsion of Students

- 13. Purpose
- 14. Principal may stand-down or suspend students

- 15. Board's powers when suspended student younger than 16
- 16. Secretary's powers excluded student younger than 16
- powers when sus-17. Board's pended student 16 or older
- 17A. Duties of principal when stu-dent stood-down or suspended
- 17B. Who may attend Board meeting concerning suspensions
- 17c. Effect of suspension on school register
- 17D. Re-enrolment of excluded or expelled student
- 18. Notice requirements for standdowns, suspensions, exclusions, and expulsions
- 14. Secretary may make rules
 15. Principal may suspend student for health reasons
- 16. Long term exemptions from enrolment
- 17. Secretary may exempt from enrolment persons placed in residence or programme under Children, Young Persons, and Their Families Act 1989
- 18. Registration and inspection of private schools
- 19. Suspensions and expulsions of students from private schools to be notified to Secretary

Special Education Service

- 20. Interpretation
- 21. New sections substituted
 - 37. Board continued for purposes of this Part
 - 38. Membership of Board

Early Childhood Development Unit

- 22. Interpretation
- 23. New sections substituted
 - 43. Board continued for purposes of this Part
 - 44. Membership of Board

Curriculum

- 24. Interpretation
- 25. National education guidelines

Assistance for Boards

26. Secretary may require Board to get specialist support

Meaning of School Day

27. Exceptions in particular cases

School Property

28. Occupancy of property and buildings

School Records

29. Enrolment records

Entry and Inspection of Schools

30. Powers of entry and inspection

31. Entry where school suspected of being unregistered

Provisions Concerning Boards, Commissioners, and Establishment of Schools

- 32. Proprietors of integrated schools may vary number of trustees they appoint
- 33. Boards of newly established schools
- 34. When casual vacancies arise
- 35. Commissioners
- 36. Each school to be represented on combined Board
- 37. Repeal of spent section
- 38. Interpretation
- 39. Minister may establish schools
- 40. Contributing schools
 41. Provision of education at composite schools
- 42. Minister may change class of school
- 43. Closure of schools
- 44. Minister may merge schools

Fee Disclosure by Institutions

- 45. Tertiary institutions to give prospective students information about fees
- 46. Grants private training to establishments

Education and Training Support

- 47. Interpretation
- 48. New sections substituted

270. Agency continued for purposes of this Part

271. Function of Agency

- 272. Continuation of Board
- 49. Powers of Board 50. Term of office

Careers Service

- 51. Interpretation
- 52. Service continued for purposes of Part XXII
- 53. Continuation of Board
- 54. Term of office

Miscellaneous Provisions

- 55. Change of names of education entities
- 56. New sections substituted

- 307. Recipients of allowances may be required to provide information
- 307AA. Offences concerning allowances
- 57. Powers of entry and inspection of early childhood centres
- 58. Centres situated on property owned by the Crown

Review of Educational Services

- 59. Educational services to which this Part applies
- 60. Powers concerning education services provided to persons with enrolment exemption

Election Irregularities

61. Validation and invalidation of elections of Boards

Repeals, Amendments, and Transitional and Savings Provisions

- 62. Consequential repeals
- 63. Amendment to Education Lands Act 1949
- 64. Transitional provisions relating to enrolment schemes
- 65. Saving of syllabuses in force under Education Act 1964
- 66. Transitional provision relating to suspension of students from state schools

PRIVATE SCHOOLS CONDITIONAL INTEGRATION ACT 1975

- 67. Part to be part of Private Schools Conditional Integration Act 1975
- 68. Interpretation
- 69. New sections substituted
 - 5. Application negotiate integration
 - 6. Applications relating to proposed schools
 - 6A. Negotiation of agreement
- 70. Integration agreement
- 71. New sections substituted
 - 11. Cancellation of integration agreement
 - 11a. Cancellation by Minister
 - 11B. Cancellation by Proprietors 11c. Cancellation by agreem
 - agreement between parties
- 72. Closure of integrated school
- 73. Repeal of section 13
- 74. Rights of appointment
- 75. Notification of cancellation or of closing of school
- 76. Disposal of assets on cancellation of integration agreement or closing of school
- 77. Restriction on cancellation of integration agreement or closure of school
- 78. Compensation
- 79. Powers and responsibilities of Proprietors
- 80. Leases of land

- 81. Proprietors unable to meet obligations82. Repeal of provisions relating to Loreto Hall
- 83. Teacher's housing

30

84. Integration Standing Committee abolished

PART :

NGARIMU V.C. AND 28TH (MAORI) BATTALION MEMORIAL SCHOLARSHIP FUND ACT 1945

85. Part to be part of Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945

86. Establishment of Board to administer

A BILL INTITULED

An act to amend the Education Act 1989 and related enactments

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

1. Short Title and commencement—(1) This Act may be cited as the Education Legislation Amendment Act 1997.

(2) This Act (except sections 13 and 66) comes into force on the day after the date on which it receives the Royal assent.

(3) Sections 13 and 66 come into force on a date to be appointed by the Governor-General by Order in Council.

PART 1

EDUCATION ACT 1989

2. Part to be part of Education Act 1989—This Part is part of the Education Act 1989* (in this Part referred to as the principal Act).

*R.S. Vol. 34, p. 17 Amendment: 1996, No. 98

3. New heading and section inserted—The principal Act is amended by inserting, before section 11A, the following heading and section:

"Enrolment Schemes

20 "11AA. **Purpose**—The purpose of the provisions of this Act relating to enrolment schemes is—

"(a) To avoid overcrowding or the likelihood of overcrowding at schools; and

"(b) To exclude from schools no more prospective students than is necessary to avoid overcrowding or the likelihood of overcrowding at schools; and

> "(c) To ensure that in the development and approval of enrolment schemes, in addition to other matters Boards consider relevant, schemes take into account—

> > "(i) The capacity of the existing network of schools; and

- "(ii) The desirability of ensuring that students can attend a reasonably convenient state school (that is not an integrated school); and
- "(d) To enable Boards to put in place enrolment schemes that are appropriate for their schools and are based 5 on the purposes set out in paragraphs (a) to (c)."
- 4. Boards may put enrolment schemes in place— (1) Section 11A (2) of the principal Act is amended by adding the expression "; and", and the following paragraphs:

"(d) It has considered the capacity of the existing network of 10 schools; and

- "(e) It has considered whether students can attend a reasonably convenient state school (that is not an integrated school); and
- "(f) It has considered any other factors the Board thinks 15 relevant."

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(2) Section 11A(3) of the principal Act is amended by omitting the expression "subsection (4) of this section and to section 11c of this Act", and substituting the expression "subsections (4) and (5) and to sections 11BC and 11c".

(3) Section 11A of the principal Act is amended by adding the following subsection:

- "(5) The Board must not resolve to adopt the scheme unless the Secretary has approved the scheme."
- 5. Amendment of enrolment schemes—(1) Section 25 11B(3) of the principal Act is amended by omitting the expression "subsection (4) of this section and to section 11c of this Act", and substituting the expression "subsections (4) and (4A) and to sections 11BC and 11C".
- (2) Section 11B of the principal Act is amended by inserting, after subsection (4A), the following subsection:
- "(4A) The Board must not resolve to adopt the amendment unless the Secretary has approved the amendment."
- 6. New sections inserted—The principal Act is amended by inserting, after section 11B, the following sections: 35
- "11BA. Content of enrolment schemes—An enrolment scheme—
 - "(a) Must set out rules and procedures for pre-enrolment and enrolment; and
 - "(b) May such other provisions contain concerning 40 enrolment as the Board thinks fit.

"11BB. Matters to which Secretary must have regard in approving enrolment scheme or amendment—In approving an enrolment scheme or an amendment to an enrolment scheme, the Secretary must—

"(a) Have regard to—

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"(i) The capacity of the existing network of schools; and

"(ii) Whether students can attend a reasonably convenient state school (that is not an integrated school); and

"(b) Be satisfied that the Board, in preparing the scheme or amendment, complied with section 118C.

"11BC. Board to discover and consider views of persons affected by enrolment scheme—(1) When preparing an enrolment scheme or an amendment to an enrolment scheme, and when conducting an annual review of an enrolment scheme under section 11K, the Board must take all reasonable steps to discover and consider the views of—

(a) The school community of the students attending the

school concerned; and

"(b) The people living in the geographical area in which the school is located; and

"(c) The Boards of other schools that the Board reasonably thinks may be affected by the scheme.

- 25 "(2) The Board must not resolve to adopt an enrolment scheme or an amendment to an enrolment scheme unless the Board has complied with this section."
- 7. Notice—Section 11c (a) of the principal Act is amended by inserting, after the word "daily", the words "or 30 community".
 - **8. Abandonment of enrolment schemes**—Section 11D (b) of the principal Act is amended by inserting, after the word "daily", the words "or community".
- 9. Repeal of section 11E—Section 11E of the principal Act (which relates to notices concerning enrolment schemes which Boards must give the Secretary) is repealed.
 - 10. Secretary may authorise early commencement of enrolment scheme or amendment—(1) Section 111 (3) of the principal Act is amended by omitting the expression "subsection (4) of this section", and substituting the expression "subsections (4) and (4A)".

- (2) Section 111 of the principal Act is amended by inserting, after subsection (4), the following subsection:
- "(4A) The Secretary may not give the Board authority unless satisfied that the Board has complied with section 11BC."
- 11. New sections substituted—The principal Act is 5 amended by repealing section 11K, and substituting the following sections:
- "11K. Boards to review threat of overcrowding and enrolment scheme—(1) If, on 1 June in any year, an enrolment scheme for a school has been in force for more than 10 3 months, the Board, before the following 1 July, must—

"(a) Review both—

"(i) Whether or not there is likely to be overcrowding at the school if the scheme is abandoned; and

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- "(ii) The operation of the existing provisions of the enrolment scheme having regard to the purpose stated in section 11AA; and
- "(b) Ask the Secretary whether he or she agrees with the Board's view about overcrowding or the likelihood 20 of overcrowding.

"(2) The Board must abandon the scheme if—

- "(a) It is not satisfied that there is likely to be overcrowding at the school if the scheme is abandoned; or
- "(b) The Secretary tells the Board that he or she does not 25 agree that there is likely to be overcrowding.
- "(3) The Board must amend the scheme if in its existing form the scheme has the effect of excluding more prospective students than is necessary to exclude to avoid overcrowding at the school.

"(4) A Board need not comply with section 1180 in the case of an annual review of an enrolment scheme if—

- "(a) The Board has reconsidered the issue of overcrowding, reconsidered its enrolment scheme, and decided to continue with the existing scheme or a scheme 35 having substantially the same effect; and
- "(b) The Secretary waives compliance with section 11BC in that case.
- "(5) A Board need not review its enrolment scheme under this section if the Secretary waives compliance with that 40 requirement, in which case the following provisions apply to the waiver:

"(a) If satisfied that an enrolment scheme is necessary, the Secretary may grant the waiver for a period not exceeding 3 years:

"(b) If the Secretary considers the enrolment scheme has substantially changed at any time after the exemption comes into force, the waiver ceases to have effect on a date specified by the Secretary.

"11KA. Board must give reasons if it declines enrolment application—If a Board decides not to accept a person's application for enrolment, the Board must give the person's parents and (to the extent, if any, that the person's age and maturity make it appropriate) the person a written statement setting out the reasons for the decision."

- 12. Exemptions from enrolment schemes in exceptional cases—Section 12B (2) (a) of the principal Act is amended by omitting the words "reasonably practicably to attend any" and substituting the words "to attend any reasonably convenient".
- 13. New heading and sections substituted—The principal Act is amended by repealing sections 13 to 18, and substituting the following heading and sections:

"Standing-down, Suspension, Exclusion, and Expulsion of Students

"13. **Purpose**—The purpose of the provisions of this Act concerning the standing-down, suspension, exclusion, or expulsion of a student from a state school is to—

'(a) Provide flexibility in the responses available to principals and Boards when considering individual cases, while minimising the disruption to a student's attendance at school and facilitating the return of the student to school where that is appropriate; and

"(b) Ensure that individual cases are dealt with in accordance with the principles of natural justice.

"14. Principal may stand-down or suspend students—
(1) The principal of a state school may stand-down a student from the school, or suspend a student for an unspecified period, if satisfied on reasonable grounds that—

"(a) The student's gross misconduct or continual disobedience is a harmful or dangerous example to other students at the school; or

"(b) Because of the student's behaviour, it is likely that the student, or other students at the school, will be

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seriously harmed if the student is not stood-down or suspended for an unspecified period.

"(2) A stand-down may be for 1 or more specified periods, and—

"(a) The period or periods may not exceed 5 school days in 5 any 1 term:

"(b) A student may be stood-down more than once in the same year but not more than 10 days in total in that year:

"(c) In calculating the period of a stand-down, the day on which the student was stood-down, and any day on which the student would not have had to attend school in any event, must not be counted:

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"(d) The principal may lift the stand-down at any time before it is due to expire.

"(3) A student who has been stood-down from a state school or suspended for an unspecified period does not have to, and is not permitted to, attend the school while stood-down or suspended.

"15. **Board's powers when suspended student younger** 20 **than 16**—(1) If a student younger than 16 has been suspended from a state school, the school's Board may—

"(a) Lift the suspension at any time before it expires, either unconditionally or subject to any conditions the Board wants to make:

"(b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case subsection (2) applies:

"(c) If the circumstances of the case justify the most serious response, exclude the student from the school by extending the suspension and requiring the student to be enrolled at another school.

"(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school and must take appropriate steps to facilitate the return of the student to school.

"(3) If the Board has not sooner lifted or extended it or excluded the student under subsection (1) (c), the suspension of a student younger than 16 ceases to have effect—

"(a) At the close of the 7th school day after the day of the 40 suspension; or

"(b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.

"(4) If the Board of a state school excludes the student under subsection (1) (c), the principal must try to arrange for the student to attend another school (which school is a suitable school that the student can reasonably conveniently attend).

"(5) If the principal is unable, by the 10th school day after the day of the Board's decision to exclude a student, to arrange for the student to attend another school, the principal must tell the Secretary what steps the principal took in trying to do so.

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- "16. Secretary's powers when excluded student younger than 16—(1) If the Secretary is satisfied that the Board of a state school has excluded a student who is younger than 16 from the school under section 15(1)(c), and that the principal has not arranged for the student to attend another school, the Secretary must either—
 - "(a) Arrange for and, if necessary, direct the Board of any other state school (that is not an integrated school) to enrol the student at the other school; or
 - "(b) If satisfied that it is not inappropriate for the student to return to the school from which the student has been excluded, lift the exclusion; or
 - "(c) Direct a parent of the student to enrol the student at a correspondence school.
 - "(2) The Secretary may not give a direction under subsection (1) (a) or lift an exclusion under subsection (1) (b) unless the Secretary has also made all reasonable attempts to consult the student's parents, the Board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- 30 "(3) If the Board of the school from which the student has been excluded also controls another school, the Secretary (in exercising the power conferred by subsection (1) (a)) may direct the Board to enrol the student at that other school.
 - "(4) A Board must comply with a direction under subsection (1) (a) and the direction overrides section 11J and also overrides section 5 of the Education Amendment Act 1991.
 - "17. Board's powers when suspended student 16 or older—(1) If a student who is 16 or older has been suspended from a state school, the Board may—
 - "(a) Lift the suspension at any time before it expires, either unconditionally or subject to any conditions it wants to make; or

- "(b) Extend the suspension conditionally for a reasonable period determined by the Board when extending the suspension, in which case subsection (2) applies; or
- "(c) Expel the student.
- "(2) If the Board extends a suspension conditionally, the Board must impose reasonable conditions aimed at facilitating the return of the student to school, and must take steps to facilitate the return of the student to school.
- "(3) If the Board has not sooner lifted or extended it or expelled the student under subsection (1) (c), the suspension of a student who is 16 or older ceases to have effect—

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- "(a) At the close of the 7th school day after the day of the suspension; or
- "(b) If the suspension occurs within 7 school days before the end of a term, at the close of the 10th calendar day after the day of the suspension.
- "17A. Duties of principal when student stood-down or suspended—(1) When a student is stood-down or suspended from a state school, the principal must take all reasonable steps to ensure that the student has the guidance and counselling that are reasonable and practicable in all the circumstances of the stand-down or suspension.
- "(2) If a student is suspended subject to conditions (whether under section 15 or section 17), the principal must take all reasonable steps to ensure that an appropriate educational programme is provided to the student.
- "(3) The purpose of the programme referred to in subsection (2) is to facilitate the return of a student to school and to minimise the educational disadvantages that occur from absence from school.
- "17B. Who may attend Board meeting concerning suspensions—If a student has been suspended, the student, the student's parents, and their representatives are entitled to attend at least 1 meeting of the Board and speak at that meeting, and to have their views considered by the Board before it decides whether to lift or extend the suspension or exclude or expel the student (whether under section 15 or section 17).
- "17c. Effect of suspension on school register—(1) The name of a student younger than 16 who has been suspended from a school under section 14 or excluded from a school under section 15 (1) (c) must stay on the school's register until the earliest of the following days:

- "(a) The day the student is enrolled at another registered school:
- "(b) The day the student is given an exemption under section 21 or section 22.
- 5 "(2) The name of a student who has turned 16 and is suspended from a school under section 14 must stay on the register of the school until the earliest of the following days:
 - "(a) The day on which the student is enrolled at another registered school:
- 10 "(b) The day on which the student is expelled from the school:
 - "(c) The day on which the student leaves school:
 - "(d) The 1 January after the student's 19th birthday.
 - "(3) Subsection (2) applies to a student who is younger than 16 when suspended from a school under section 14 or excluded from a school under section 15 (1) (c), and turns 16 while subject to the suspension or exclusion.
- "17D. Re-enrolment of excluded or expelled student—
 (1) The Board of a state school from which a student has ever been excluded or expelled (whether under section 15 or section 17) may refuse to enrol the student at the school (unless, in the case of an exclusion, the Secretary has lifted the exclusion under section 16 (1) (b)).
 - "(2) Subject to section 16 (1) (a), the Board of a state school may refuse to enrol a student who is for the time being excluded or expelled (whether under section 15 or section 17) from another state school.
 - "(3) The Secretary may, in the case of a student who has turned 16, direct the Board of another state school to enrol a student at the school if—
 - "(a) The student has been expelled under section 17; and

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- "(b) The Secretary has made all reasonable attempts to consult the student's parents, the Board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
- "(4) A Board must comply with a direction under subsection (3), and the direction overrides subsection (2) and also overrides section 11J of this Act and section 5 of the Education Amendment Act 1991.
- "18. Notice requirements for stand-downs, suspensions, exclusions, and expulsions—(1) Immediately after a student is stood-down under section 14, the principal must

12 tell the Secretary and (except in the case of a student who has turned 20) a parent of the student— "(a) That the student has been stood-down; and "(b) The reasons for the principal's decision; and "(c) The period for which the student has been stood-down. "(2) Immediately after a student is suspended under section 14, the principal must tell the Board, the Secretary, and (except in the case of a student who has turned 20) a parent of the student-10 "(a) That the student has been suspended; and "(b) The reasons for the principal's decision. "(3) Immediately after a Board lifts a suspension, extends a suspension, excludes a student, or expels a student (whether under section 15 or section 17), the principal must tell the Secretary and (except in the case of a student who has turned 20) a parent of the student— "(a) That the suspension has been lifted or extended, and the period of the extension (if any), or that the student has been excluded or expelled; and 20 "(b) The reasons for the Board's decision." 14. Secretary may make rules—The principal Act is amended by inserting, before section 18A, the following section: "18AA. (1) The Secretary may from time to time, by notice in the Gazette, make rules (which must not be inconsistent with 25 this Act) regulating the practice and procedure to be followed by Boards, principals, students, parents of students, and other persons under sections 14 to 18, including (without limitation) rules— "(a) Setting out procedural requirements to be followed when a proposed stand-down, suspension, exclusion, or expulsion is to be considered or decided: "(b) Specifying who should be consulted about the circumstances of stand-down, suspension, 35 exclusion, or expulsion: "(c) Setting out the steps to be taken by the principal and

Board, respectively, when a student has been stood-

lift a suspension, or a decision to extend a

suspension or expel a student, is made; and specifying the particulars to be set out in each **4**0

down, suspended, excluded, or expelled: "(d) Specifying the notices to be given when a decision not to

notice:

"(e) Specifying time limits within which specified things are to be done, and the reports that are to be produced and the persons who are to produce them:

"(f) Providing reasonable measures (which must not be inconsistent with the Privacy Act 1993) to protect the privacy of individuals:

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"(g) Providing for such other matters as the Secretary considers desirable in the interests of natural justice.

"(2) Before making any rules under this section, the 10 Secretary must—

"(a) Publish in the *Gazette*, and in such newspapers as the Secretary considers appropriate, a notice of his or her intention to make the rules; and

"(b) Give interested persons a reasonable time to make representations about the proposed rules; and

"(c) Consult such persons and groups as the Secretary considers appropriate.

"(3) If there is any conflict between rules made under this section and the provisions of clause 8 of the Sixth Schedule, the rules override clause 8.

"(4) Rules made under this section are regulations for the purposes of the Acts and Regulations Publication Act 1989 and the Regulations (Disallowance) Act 1989."

15. Principal may suspend student for health reasons— Section 19 of the principal Act is amended—

(a) By omitting from subsection (1) the word "exclude", and substituting the word "suspend":

(b) By omitting from subsection (2) the word "excluding", and substituting the word "suspending":

(c) By omitting from subsections (2), (3), (4), and (5) the word "excluded" wherever it occurs, and substituting in each case the word "suspended":

(d) By omitting from subsections (3), (4), and (5) the word "exclusion", and substituting in each case the word "suspension".

16. Long term exemptions from enrolment—(1) Section 21 (2) of the principal Act is amended by omitting the word "revoked", and substituting the words "it is revoked or expires".

(2) Section 21 of the principal Act is amended by inserting, after subsection (8), the following subsection:

"(8A) A certificate for the time being in force under subsection (1) or subsection (3) expires when the person to whom it applies turns 16 or enrols at a registered school, whichever happens first."

- 17. Secretary may exempt from enrolment persons placed in residence or programme under Children, Young Persons, and Their Families Act 1989—The 5 principal Act is amended by inserting, after section 22, the following section:
- "22A. (1) On an application from the Director-General of Social Welfare, the Secretary may, by a certificate given to the Director-General, exempt a person from the requirements of section 20 if satisfied that the person—

"(a) Has been placed—

"(i) In a residence established under section 364 of the Children, Young Persons, and Their Families Act 1989; or

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"(ii) In a residential programme instituted by, and operated under contract with, the Director-General of Social Welfare where the person would otherwise be in a residence established under section 364 of that Act; and

"(b) Will receive education services appropriate to the person's needs.

"(2) The Secretary may at any time revoke a certificate granted under subsection (1)—

- "(a) On notification by the Director-General of Social Welfare that the person exempted has been released from a residence other than for a temporary period; or
- "(b) If the Secretary is no longer satisfied that the person exempted meets the requirements of subsection (1); or
- "(c) At the request of the Director-General of Social Welfare and if satisfied that an exemption from section 20 is no longer required.
- "(3) A certificate under subsection (1) continues in force until revoked under this section."
- 18. Registration and inspection of private schools— 35 Section 35A (1) of the principal Act is amended omitting from paragraph (b) of the definition of the term "efficient" the figure "15", and substituting the figure "16".
- 19. Suspensions and expulsions of students from private schools to be notified to Secretary—The principal 40 Act is amended by inserting, after section 35A (as inserted by

section 9 of the Education Amendment Act 1989), the following section:

"35AA. (1) Immediately after a student has been expelled, or suspended for an indefinite period, or suspended for a period of more than 5 days, from a school registered under section 35A, the school's principal or head teacher must give the Secretary—

"(a) Written notice of-

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- "(i) The student's name and last known address; and
 - "(ii) The day on which the student was suspended or expelled (or, if the student was first suspended and later expelled, the days on which the student was suspended and expelled, and the length of the suspension (if applicable)); and
- "(b) A written statement of the reasons for the student's suspension or expulsion.
- "(2) Unless the student is within a reasonable time reinstated at the school or enrolled at some other registered school, the Secretary must (if the student is younger than 16) and may (if the student is 16 or older)—
 - "(a) Arrange for the student to be enrolled at some other reasonably convenient registered school that the student can attend; or
- 25 "(b) Direct the Board of a state school (that is not an integrated school) to enrol the student at the school; and, in that case, the Board must do so; or
 - "(c) Direct a parent of the student to have the student enrolled at a correspondence school.
- "(3) The Secretary may not give a direction under subsection (2) unless the Secretary has also made all reasonable attempts to consult the student's parents, the Board, and any other person or organisation that, in the opinion of the Secretary, may be interested in, or able to advise on or help with, the student's education or welfare.
 - "(4) A direction under subsection (2) (b) overrides section 11J and overrides section 5 of the Education Amendment Act 1991."

Special Education Service

20. Interpretation—Section 36 of the principal Act is amended by repealing the definition of the term "Board", and substituting the following definition:

- "'Board' means the Board continued by section 37 (1):".
- **21. New sections substituted**—(1) The principal Act is amended by repealing sections 37 and 38, and substituting the following sections:
- "37. **Board continued for purposes of this Part** 5 (1) There is to continue to be a Board for the purposes of this Part and the Board is to be known by the name for the time being specified for the purpose of this section under **section 301A**.

"(2) The Second Schedule (which sets out administrative provisions applying to the Board) applies for the purposes of

this Part.

- "(3) Until a new name is specified for the Board under section 301A, the Board is to continue to be called the Special Education Service Board; and the Board is the same body as the Board that existed under this section immediately before the commencement of section 21 of the Education Legislation Amendment Act 1997
 - "38. Membership of Board—(1) The Board comprises—

"(a) A chairperson appointed by the Minister; and

"(b) Five members appointed by the Minister; and

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- "(c) If the Minister approves, the chief executive of the Board.
- "(2) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.

"(3) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by

the newly appointed member.

"(4) When the position of chairperson becomes vacant, the 30 Minister may—

"(a) Appoint a successor to the chairperson; or

"(b) Appoint an existing member to be chairperson and fill the consequential vacancy."

(2) The Second Schedule of the principal Act is 35 consequentially amended—

(a) By omitting from the heading the words "SPECIAL EDUCATION SERVICE BOARD", and substituting the words "BOARD CONTINUED BY SECTION 37":

(b) By omitting from clauses 3, 4 (1), 4 (3) (a), and 4 (3) (b) (ii) 40 the words "member appointed by the Minister to preside at meetings", and substituting in each case the word "chairperson".

(3) The member who was, immediately before the date of commencement of this section, the member appointed by the Minister to preside at meetings of the Board is on that date to be treated as the chairperson appointed under section 38 of the principal Act.

Early Childhood Development Unit

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- 22. Interpretation—Section 42 of the principal Act is amended by repealing the definition of the term "Board", and substituting the following definition:
 - "'Board' means the Board continued by section 43 (1):".
- 23. New sections substituted—(1) The principal Act is amended by repealing sections 43 and 44, and substituting the following sections:
- "43. **Board continued for purposes of this Part** 5 (1) There is to continue to be a Board for the purposes of this Part and the Board is to be known by the name for the time being specified for the purpose of this section under section 301A.
- "(2) The Third Schedule (which sets out administrative provisions applying to the Board) applies for the purposes of 20 this Part.
 - "(3) Until a new name is specified for the Board under section 301A, the Board is to continue to be called the Early Childhood Development Unit Board; and the Board is the same body as the Board that existed under this section immediately before the commencement of section 23 of the Education Legislation Amendment Act 1997.
 - "44. Membership of Board—(1) The Board comprises—
 - "(a) A chairperson appointed by the Minister; and
 - "(b) Five members appointed by the Minister; and
- 30 "(c) If the Minister approves, the chief executive of the Board.
 - "(2) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.
 - "(3) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.
- "(4) When the position of chairperson becomes vacant, the Minister may—
 - "(a) Appoint a successor to the chairperson; or

"(b) Appoint an existing member to be chairperson and fill the consequential vacancy."

(2) The Third Schedule of the principal Act is consequentially

amended-

(a) By omitting from the heading the words "EARLY UNIT Board", CHILDHOOD DEVELOPMENT "BOARD CONTINUED BY substituting the words SECTION 43":

(b) By omitting from clauses 3, 4 (1), 4 (3) (a), and 4 (3) (b) (ii) the words "member appointed by the Minister to preside at meetings", and substituting in each case

the word "chairperson".

(3) The member who was, immediately before the date of commencement of this section, the member appointed by the Minister to preside at meetings of the Board is on that date to be treated as the chairperson appointed under section 44 of the principal Act.

Curriculum

24. Interpretation—Section 60 of the principal Act is amended by inserting in the definition of the term "national education guidelines", after the words "national education goals,", the words "foundation curriculum policy statements,".

25. National education guidelines—(1) Section 60A of the principal Act is amended by inserting, after paragraph (a), the

tollowing paragraph:

"(aa) Foundation curriculum policy statements, which are statements of policy concerning teaching, learning, and assessment that are made for the purposes of underpinning and giving direction to-

"(i) The way in which curriculum and assessment 30

responsibilities are to be managed in schools:

'(ii) National curriculum statements and locally developed curriculum:".

(2) Section 60A of the principal Act is amended by adding, as subsection (2), the following subsection:

"(2) Without limiting the generality of subsection (1), a notice

relating to a national curriculum statement may—

"(a) Specify different commencement dates for different provisions or different purposes, which dates may 40 differ according to the class or designation of a school, the group or year level of students attending a school, or any combination of such classes, designations, groups, or levels:

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- "(b) Specify a transitional period during which a Board may elect to comply with an existing curriculum statement or the new curriculum statement, and specify a date on which a Board must begin complying with the new curriculum statement:
- "(c) Revoke any curriculum statement issued under this section, and revoke any corresponding statement (such as a syllabus) issued in the form of a notice and having effect under the Education Act 1964."

10 (3) The following enactments are repealed:

- (a) Sections 75 and 84 of the Education Act 1964:
- (b) Section 5 of the Education Amendment Act (No. 2) 1982.

(4) The following regulations are revoked:

- (a) The Education (Secondary Instruction) Regulations 1975 (S.R. 1975/72):
- (b) The Education (Secondary Instruction) Regulations 1975, Amendment No. 1 (S.R. 1976/33):
- (c) The Education (Secondary Instruction) Regulations 1975, Amendment No. 3 (S.R. 1977/147):
- (d) The Education (Secondary Instruction) Regulations 1975, Amendment No. 4 (S.R. 1977/211):
 - (e) The Education (Secondary Instruction) Regulations 1975, Amendment No. 7 (S.R. 1980/118):
 - (f) The Education (Secondary Instruction) Regulations 1975, Amendment No. 10 (S.R. 1986/169):
 - (g) The Education (Secondary Instruction) Regulations 1975, Amendment No. 11 (S.R. 1986/376):
 - (h) The Education (Secondary Instruction) Regulations 1975, Amendment No. 14 (S.R. 1990/168).

Assistance for Boards

26. Secretary may require Board to get specialist support—The principal Act is amended by inserting, after section 64, the following section:

"64A. (1) If at any time the Secretary is satisfied that a Board is not meeting or is not likely to meet its statutory obligations (including the aims, purposes, and objectives of its charter), the Secretary may, by written notice to the Board, direct the Board to engage for a specified period a specified number of persons or organisations who are acceptable to the Secretary and can provide the Board with appropriate assistance.

"(2) A Board must comply with all directions given to it under subsection (1) and must pay the fees and reasonable expenses of the persons or organisations engaged to provide

assistance to it under that subsection.

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"(3) Nothing in any of sections 64, 81B, and 107, or in any other provision of this Act, limits or affects the circumstances in which the power conferred on the Secretary by this section may be exercised (or limits or affects that power in any other way) or is to be read as requiring that action be taken under this section before action may be taken under any other provision of this Act.

"(4) If, after giving a written direction to a Board under this section, the Secretary becomes satisfied that the Board is still not meeting or is still not likely to meet its statutory obligations, the fact that the direction has been given does not prevent the Secretary or any other person from taking further action under any other provision of this Act to rectify the Board's non-compliance."

Meaning of School Day

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27. Exceptions in particular cases—Section 65D of the principal Act is amended by adding the following subsections:

"(3) The Minister may authorise a Board to apply a meaning of 'half day' that differs from the meaning it has in section 65B(3), if the Minister is satisfied that—

"(a) The Board has adequately consulted parents, staff, and the local community about the proposal; and

"(b) The proposal is generally acceptable to the families of students at the school and the rest of the school's community; and

"(c) The adoption of the proposal will not result in the students of the school spending less time in school than other students in comparable schools; and

"(d) The Minister considers that such a variation is appropriate in the circumstances.

"(4) An authorisation under subsection (3) must be given either unconditionally or subject to such conditions as the Minister considers appropriate.

"(5) A student enrolled at a state school must comply with section 25 (3) even if the school's Board varies the meaning of 35 'half day' under subsection (3).

"(6) Subsection (3) overrides section 77 of the Education Act 1964."

School Property

28. Occupancy of property and buildings—(1) Section 70 40 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- "(1) The Secretary may from time to time, by notice in the *Gazette*, specify terms and conditions applying generally to land and buildings occupied by Boards, and may from time to time, by written notice to a particular Board, specify terms and conditions applying to land and buildings occupied by that Board.
 - "(1A) A notice under subsection (1)—

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- "(a) May apply to any land and buildings occupied by a Board (regardless of who owns the property); but
- "(b) To the extent that it applies to the Board of an integrated school, is subject to the Private Schools Conditional Integration Act 1975 and to the integration agreement for the time being in force between the Minister and the Proprietor of the school."
- (2) Section 70 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:
- "(5) A notice published in the Gazette under subsection (1) may publish the terms and conditions in their entirety, or by way of a general description and an indication of where the full text can be obtained.
 - "(6) Terms and conditions specified under subsection (1) apply to Boards or a Board (as the case may be) as if—
 - "(a) The land and buildings were owned by the Crown and the Crown has leased them to the Board; and
 - "(b) The terms and conditions were part of the lease; and "(c) The Crown had empowered the Secretary to exercise
 - "(c) The Crown had empowered the Secretary to exercise the Crown's powers concerning the lease."

School Records

- 30 **29. Enrolment records**—The principal Act is amended by inserting, after section 77, the following section:
 - "77A. (1) The principal of a registered school must ensure that an enrolment record in such form and containing such information as may be specified under subsection (3) is kept for each student younger than 16 who is enrolled at the school.
 - "(2) A student's enrolment record must be kept by a school until the student turns 16 or the principal has, in accordance with rules under subsection (3), taken reasonable steps to send the enrolment record to the principal of some other registered school at which the student has enrolled, whichever happens first.
 - "(3) The Secretary may from time to time, by notice in the Gazette, make rules setting out administrative and procedural

22	Education	Legislation Ame	endment	
requirements relating to enrolment records, including (without limitation) rules—				
"(a) Setting rec	out the duti	ies of principals e information o	concerning enrolment contained in enrolment	5
"(b) Requiri abo	ng principa out enroln	nent records	students and parents and the use and ords, and specifying the	
par be	rticulars abo informed:	out which stude	ents and parents are to	10
	ing exception		of enrolment records: ar requirements of the	
"(4) A princ for the time b	ipal of a reg being in for	gistered school i ce under subsec	must comply with rules tion (3)."	15
Entry and Inspection of Schools				
the principal (2), and substi	Act is amer tuting the f	nded by repeal following subse		
"(1) Any pe			ation under subsection (2)	20
"(a) Enter a	nd inspect a	any registered	school:	
for	\mathbf{m}) that the	he person be	or copy onto disk any n electronic or paper elieves on reasonable loard of the school:	25
"(c) Remove in i	e any docur ts original fo	nent described orm or as an el	in paragraph (b), whether ectronic or paper copy.	
"(IA) It any	original do	ocuments are r	emoved from a school emoves the documents	30
must—	11 (1) (0), the	person who re	moves the documents	30
• •			cuments removed; and	
"(b) Return	the docume	ents, or a copy	of them, to the school less to do so would	
pre	ejudice any by the Mir	investigation b	peing or to be carried	35
"(2) The Se	crétary ma	y authorise in	writing any person to	
"(2) The Secretary may authorise in writing any person to exercise the powers in subsection (1)." (2) Section 78A (4) of the principal Act is amended—				
(a) By omitt secti	ting the worion", and	rds "of entry o substituting	t is amended— or inspection under this the words "under	40
Subse	ection (1)":			

(b) By omitting the words "(where applicable)".

31. Entry where school suspected of being unregistered—The principal Act is amended by inserting in Part VII, after section 78A, the following section:

"78B. (1) A person who holds an authorisation under section 78A (2), and who has reasonable cause to believe that any premises are being used as a school in contravention of section 35A (12), may apply for a warrant to enter the premises.

"(2) An application for a warrant must be in writing, on oath, and be made to a District Court Judge, Justice of the Peace, or

Registrar or Deputy Registrar of any Court.

- subsection (1) if the person issuing it is satisfied that there is reasonable cause to believe that the premises are being used as a school in contravention of section 35A (12).
 - "(4) A warrant issued under subsection (3) must contain—

"(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.
- "(5) A warrant issued under subsection (3) must authorise the person named in it, at any reasonable time within 4 weeks of the date on which it is issued, to enter and inspect the premises described in the warrant to ascertain whether those premises are being used as a school in contravention of section 35A (12).
- "(6) A person acting under a warrant under subsection (3) must retain the warrant and must show it, along with evidence of identity, to the occupier of the premises concerned—

"(a) On first entering the premises; and

"(b) Whenever subsequently reasonably required to do so by that occupier."

Provisions Concerning Boards, Commissioners, and Establishment of Schools

- 35 32. Proprietors of integrated schools may vary number of trustees they appoint—Section 94A of the principal Act is amended—
 - (a) By omitting from subsection (2) the words "; and, subject to subsections (3) and (4) of this section, every notice shall have effect according to its tenor":
 - (b) By omitting from subsection (4) the words "; and, subject to subsection (5) of this section, every notice shall have effect according to its tenor".

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- **33. Boards of newly established schools**—Section 98 (2) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
 - "(a) Goes out of office at the close of the day before the day on which the trustees who have been elected under section 101 take office under section 102; but".

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- **34.** When casual vacancies arise—Section 104 (6) of the principal Act is amended by omitting the words "on the day of the election", and substituting the words "on the day on which the elected trustees take office".
- **35. Commissioners**—(1) Section 109 of the principal Act is amended by inserting, after subsection (7), the following subsections:
- "(7A) If the Board comprises only members who are to be appointed or comprises both members to be appointed and members to be elected, the commissioner is to go out of office,—
 - "(a) In the case of a Board comprising only members to be appointed, on a date appointed by the Minister by notice in the *Gazette*:
 - "(b) In the case of a Board comprising both members to be appointed and members to be elected, in accordance with subsection (5) or subsection (6) or subsection (7) (as the case may be).
- "(7B) Despite anything in section 101 or any other provision of this section, if the Secretary is satisfied that it is in the interests of a school that the election of its Board should be postponed, the Secretary may, by notice in the *Gazette*, set the date for the election and extend the commissioner's term of office."
- (2) Section 109 of the principal Act is amended by adding the following subsection:
 - "(9) No commissioner is personally liable for—
 - "(a) Any act done or omitted by the commissioner; or
 - "(b) Any loss arising out of any act done or omitted by the commissioner,—
- if the act or omission was (so far as the commissioner's involvement is concerned) in good faith and occurred in the course of carrying out the commissioner's functions."
- 36. Each school to be represented on combined 40 Board—(1) Section 116 (1) (a) of the principal Act is amended

by omitting the words "(being a school in respect of which the candidate is a parent or adult student)".

- (2) Section 116 (2) of the principal Act is repealed.
- 37. Repeal of spent section—Section 140 of the principal
 Act (which relates to the initial appointment of teachers to certain positions) is repealed.
 - **38.** Interpretation—Section 145 (1) of the principal Act is amended by inserting, after the definition of the term "composite school", the following definition:
- "'Correspondence school' means a school for the time being designated under section 152(1) as a correspondence school:".
 - 39. Minister may establish schools—Section 146 of the principal Act is amended by adding the following subsections:
 - "(3) A notice under subsection (1) establishing a new school may specify the class levels for which education may be given at the school and may provide for different class levels to be phased in over a specified period or periods.

- "(4) A notice under subsection (1) establishing a new primary school may designate the school as a contributing school."
- **40. Contributing schools**—Section 150 of the principal Act is amended by adding the following subsections:
- "(6) This section applies to a school designated as a contributing school under section 146 (4) as if the school had become a contributing school under subsection (1) of this section and the Minister had given the school's Board the appropriate notice under subsection (2) of this section.
- "(7) In determining that a school should be or should cease to be a contributing school, the Minister may provide for the provision of education at specified class levels to be phased in or phased out (as the case may require) over a specified period or periods."
- 41. Provision of education at composite schools—The principal Act is amended by repealing section 151, and substituting the following section:
 - "151. Subject to section 157 of this Act, and to section 33 of the Private Schools Conditional Integration Act 1975, the Minister may from time to time, by written notice to the Board of a composite school, require the Board to provide education

for the class levels specified in the notice; and the Board must provide education at the school accordingly."

42. Minister may change class of school—(1) Section 153 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) The Minister may, by notice in the Gazette, specify the class levels for which education must be given at a school (whether it is an existing school or a school whose class has been changed under subsection (1)) and provide for class levels to be phased in over a specified period or periods."

(2) Section 153 (4) of the principal Act is amended by omitting the words "day before", and substituting the words

"close of".

43. Closure of schools—(1) Section 154 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) If the Board of a state school at any time advises or indicates to the Minister in writing that it agrees to or does not oppose the proposed closure of the school, the Minister may (despite anything in subsection (1) or subsection (2) and regardless of whether the Minister has formally begun or completed the necessary consultation under subsection (1) close the school by notice under subsection (2) at any time on or after receiving the Board's written advice."

(2) Section 154 of the principal Act is amended by inserting,

after subsection (3), the following subsection:

"(3A) Without limiting the rights or privileges conferred on the Minister by subsection (3) (b), the following provisions apply to property that was, immediately before dissolution, held by the Board in trust for the benefit of the school:

"(a) The Minister may at any time apply to the Public Trustee to devise a scheme to modify the trust for the benefit of another school:

"(b) If the Minister applies under paragraph (a) to the Public Trustee, subsections (2) to (7) of section 156c apply with any necessary modifications (as if the property were property to which that section applies)."

44. Minister may merge schools—The principal Act is amended by repealing section 156A, and substituting the following section:

"156A. (1) Subject to sections 156B and 157, the Minister may, by notice in the Gazette, merge 1 or more state schools 10

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("merging schools") that are not integrated schools with another state school ("the continuing school") that is not an integrated school, if satisfied that—

- "(a) Each Board of a school concerned has made reasonable efforts to consult the parents of students (other than adult students) enrolled full-time at the school about the proposed merger; and
- "(b) The consultation that has in fact taken place has been adequate in all the circumstances; and
- 10 "(c) In the case of each school, most parents favour the proposed merger; and
 - "(d) Each Board of a school concerned has joined in making a written application to the Minister to merge the schools: and
- 15 "(e) The creation of a single school by the proposed merger is appropriate in the circumstances.
- "(2) A notice under subsection (1) takes effect on a day (no earlier than the end of the term after the term during which the notice is published) specified in the notice, and has effect as 20 follows:
 - "(a) The merging schools are part of the continuing school:
 - "(b) If the continuing school and each merging school are not already administered by a single Board,—
 - "(i) The Board of each merging school is dissolved: and
 - "(ii) All rights, assets, liabilities, and debts of each merging school are vested in the Board of the continuing school:
 - "(c) The continuing school is a school of the class specified in the notice and provides education for the student class levels specified in the notice.
 - "(3) A notice under subsection (1) does not affect the name of the continuing school.
 - "(4) Unless it was (immediately before the merger took effect) a combined Board established under section 110 and subject to subsection (6), the Board of the continuing school must hold elections for a new Board and the following provisions apply:
- "(a) If, not later than 5 months after the day on which the merger took effect, the Board fixes as its election day a day that is not later than 6 months after the day on which the merger took effect, the election must be held on that election day:

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"(b) If paragraph (a) does not apply, the election must be held on the first Tuesday after the day that is 6 months after the day on which the merger took effect.

"(5) If the Board of the continuing school is required by subsection (4) to hold elections for a new Board, all its elected, appointed, and co-opted trustees holding office immediately before the election day go out of office on the close of the day before the day on which the newly elected trustees are to take office.

"(6) If the merger takes effect after 31 October in the year 10 before an election year and before 31 December in that election year, the Board of the continuing school does not have to hold an election until the next election year."

Fee Disclosure by Institutions

45. Tertiary institutions to give prospective students 1 information about fees—The principal Act is amended by inserting, after section 228, the following section:

"228A. An institution (as defined in section 159 (1)) must ensure that prospective students receive, before enrolment is completed, full written details of—

"(a) All fees associated with their courses; and

"(b) The class or lecture materials, books, special clothing, safety equipment, tools, and other items that are or may be required by the establishment to be bought or provided by students enrolled for each course of 25 study or training."

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46. Grants to private training establishments— Section 238A (8) (a) of the principal Act is amended by omitting the words "financial practice", and substituting the words "accounting practice (as defined in section 2 (1) of the Public 30 Finance Act 1989)".

Education and Training Support

47. Interpretation—Section 269 of the principal Act is amended by repealing the definition of the term "Agency", and substituting the following definition:

"'Agency' means the Agency continued by section 270:".

48. New sections substituted—(1) The principal Act is amended by repealing sections 270 to 272, and substituting the following sections:

"270. Agency continued for purposes of this Part— 40 (1) There is to continue to be an Agency for the purposes of this

Part and the Agency is to be known by the name for the time being specified for the purpose of this section under section 301A.

"(Ž) The Agency is a body corporate with perpetual succession and a common seal; and is capable of—

"(a) Holding real and personal property; and

"(b) Suing and being sued; and

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- "(c) Otherwise doing and suffering all that bodies corporate may lawfully do and suffer.
- "(3) The Agency is a Crown entity for the purposes of the 10 Public Finance Act 1989.
 - "(4) The Board must submit to the Secretary, not later than such date as the Secretary directs,—
 - "(a) The statement of objectives for a financial year referred to in section 41 (2) (d) of the Public Finance Act 1989 as that section applies to the Agency by virtue of subsection (3); and
 - "(b) A list of the performance indicators that the Board considers will enable the preparation of a statement of service performance for the purposes of section 41 (2) (e) of the Public Finance Act 1989.
 - "(5) The Sixteenth Schedule (which sets out administrative provisions applying to the Agency) applies for the purposes of this Part.
- "(6) Until a new name is specified for the Agency under section 301A, the Agency is to continue to be called the Education and Training Support Agency; and the Agency is the same body as the Agency that existed under this section immediately before the commencement of section 48 of the Education Legislation Amendment Act 1997.
- 30 "271. Function of Agency—The function of the Agency is to administer, in accordance with its document of accountability, activities and programmes relating to education or training for the time being directed (after consulting any persons and organisations the Minister thinks appropriate) by the Minister.
 - "272. Continuation of Board—(1) A Board will continue to manage the affairs of the Agency and the Board is to be constituted in accordance with this section.
 - "(2) The Board comprises—
 - "(a) A chairperson appointed by the Minister; and
 - "(b) Six members appointed by the Minister; and
 - "(c) If the Minister approves, the general manager.
 - "(3) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and

appropriate resources of skill and knowledge to enable its

functions to be performed competently.

"(4) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

"(5) When the position of chairperson becomes vacant, the

Minister may—

"(a) Appoint a successor to the chairperson; or

"(b) Appoint an existing member to be chairperson and fill

the consequential vacancy."

(2) Section 253 (c) (i) of the principal Act is consequentially amended by omitting the words "(including pre-vocational courses provided under the Access Training Scheme)".

(3) The Sixteenth Schedule of the principal Act is

consequentially amended—

(a) By omitting from the heading the words "EDUCATION AND TRAINING SUPPORT AGENCY", and substituting the words "Agency Continued by Section 270":

(b) By omitting from clause 4(2) the figure "4", and

substituting the figure "3".

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(4) Even though the term for which a member was appointed may not have expired, each appointed member holding office immediately before the commencement of this section must, if the member's office has not earlier become vacant under clause 2 (2) of the Sixteenth Schedule of the principal Act, go out of office on the earlier of the following days:

(a) The day on which the appointment of a successor takes

effect:

(b) The day on which the ninth member to be appointed

after that commencement takes office.

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(5) Despite clause 1 (1) of the Sixteenth Schedule of the principal Act, of the 6 members other than the chairperson first appointed after the commencement of this section, 4 are to be appointed for a term of 18 months only.

49. Powers of Board—Section 276 of the principal Act is 35 amended-

(a) By repealing subsection (2) (a):

(b) By omitting from subsection (2) (b) the words "Regional Employment and Access Council, New Zealand Apprenticeship Committee, or other" and the words 40 "Council, committee,":

(c) By omitting from subsection (3) the words "Council to which a direction is given under subsection (2)(a) of this section or a Council, committee, or other".

50. Term of office—Clause 1 (1) of the Sixteenth Schedule of the principal Act is amended by omitting the expression "1 further term", and substituting the expression "2 further terms".

Careers Service

- **51. Interpretation**—Section 278 of the principal Act is amended by repealing the definition of the term "Service", and substituting the following definition:
 - "'Service' means the Service continued by section 279:".
- 52. Service continued for purposes of Part XXII—
 (1) The principal Act is amended by repealing section 279, and substituting the following section:
 - "279. (1) There is to continue to be a Service for the purposes of this Part and the Service is to be known by the name for the time being specified under section 301A.
 - "(2) The Service is a body corporate with perpetual succession and a common seal; and is capable of—
 - "(a) Holding real and personal property; and
 - "(b) Suing and being sued; and

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- 20 "(c) Otherwise doing and suffering all that bodies corporate may lawfully do and suffer.
 - "(3) The Service is a Crown entity for the purposes of the Public Finance Act 1989.
 - "(4) The Board must submit to the Secretary, not later than such date as the Secretary directs,—
 - "(a) The statement of objectives for a financial year referred to in section 41 (2) (d) of the Public Finance Act 1989 as that section applies to the Service by virtue of subsection (3) of this section; and
- 30 "(b) A list of the performance indicators that the Board considers will enable the preparation of a statement of service performance for the purposes of section 41 (2) (e) of the Public Finance Act 1989.
- "(5) The Seventeenth Schedule (which sets out administrative provisions applying to the Service) applies for the purposes of this Part.
 - "(6) Until a new name is specified for the Service under section 301A, the Service is to continue to be called the Careers Service; and the Service is the same body as the Service that existed under this section immediately before the commencement of section 52 of the Education Legislation Amendment Act 1997"

this section.

- (2) The Seventeenth Schedule of the principal Act is consequentially amended by omitting from the heading the words "Careers Service", and substituting the words "Service Continued by Section 279".
- 53. Continuation of Board—The principal Act is amended 5 by repealing section 281, and substituting the following section. "281. (1) A Board will continue to manage the affairs of the Service and the Board is to be constituted in accordance with

"(2) The Board comprises—

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- "(a) A chairperson appointed by the Minister; and
- "(b) Six members appointed by the Minister; and

"(c) If the Minister approves, the general manager.

"(3) In appointing members, the Minister must have regard to the principle that the Board should have sufficient and appropriate resources of skill and knowledge to enable its functions to be performed competently.

"(4) When appointing a member, the Minister must specify which member or former member is replaced or succeeded by the newly appointed member.

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- "(5) When the position of chairperson becomes vacant, the Minister may—
 - "(a) Appoint a successor to the chairperson; or
 - "(b) Appoint an existing member to be chairperson and fill the consequential vacancy."

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54. Term of office—Clause 1 (1) of the Seventeenth Schedule of the principal Act is amended by omitting the expression "1 further term", and substituting the expression "2 further terms".

Miscellaneous Provisions

- 55. Change of names of education entities—The principal Act is amended by inserting in Part XXIV, after section 301, the following section:
- "301A. (1) The Governor-General may from time to time, by Order in Council made on the recommendation of the 35 Minister, do either or both of the following:
 - "(a) Specify or change the name of any education entity whose name is to be specified under this section:
 - "(b) Amend any enactment by omitting from it the name of any such education entity and substituting some 40 other name.

- "(2) An education entity established or continued by this Act does not cease to be such an entity merely because its name is changed under this section."
- **56.** New sections substituted—The principal Act is amended by repealing section 307, and substituting the following sections:

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- "307. Recipients of allowances may be required to provide information—(1) In this section,—
 - "Recipient' means a person who holds, has at any time held, or has at any time applied for, a statutory allowance:
 - "'Statutory allowance' means an allowance established by regulations under section 303.
- "(2) Regulations under section 303 may require officials of institutions at which any statutory allowance established by the regulations is or has at any time been tenable to give the Secretary either or both of the following:
 - "(a) Information about payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution:
 - "(b) Statistical or other information relating to payments made under the regulations to or in respect of recipients enrolled or formerly enrolled at the institution, whether—
 - "(i) In general; or
 - "(ii) In relation to recipients of a particular class or description; or
 - "(iii) In relation to a particular recipient or particular recipients.
- 30 "(3) The Secretary (or any person authorised for the purpose by the Secretary) may, by written notice to any recipient, require the recipient to do all or any of the following things:
 - "(a) Produce to the Secretary (or authorised person) any papers, documents, records, or other things, relevant to the recipient's entitlement at any time—
 - "(i) To a statutory allowance; or
 - "(ii) To be paid a statutory allowance at a particular rate,—
 - that are in the person's possession or under the person's control:
 - "(b) Allow copies of any such papers, documents, or records to be made:

"(c) Give the Secretary (or authorised person) any information or particulars relevant to the recipient's entitlement at any time—

"(i) To a statutory allowance; or

"(ii) To be paid a statutory allowance at a 5 particular rate,—
that is required by the Secretary (or the authorised

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person).

"(4) The Secretary (or any person authorised for the purpose by the Secretary) may investigate the circumstances at any

time of any recipient so far as they may relate to the recipient's entitlement at any time—

"(a) To a statutory allowance; or

"(b) To be paid a statutory allowance at a particular rate.

"(5) A recipient who is asked questions under subsection (4) 15 must answer them.

"(6) If satisfied that a person has without reasonable cause failed or refused to comply with a requirement under subsection (3) or to comply with subsection (5), the Secretary may, as the case requires,—

"(a) Suspend any statutory allowance held by the recipient (whether granted before or after the failure or

refusal concerned); or

"(b) Refuse to grant any statutory allowance to the recipient (whether or not the recipient might appear to be entitled to be granted it).

"(7) While a statutory allowance is suspended under subsection (6), no payments may be made under it.

"307AA. Offences concerning allowances—(1) A person commits an offence against this Act, and is liable on summary conviction to a fine not exceeding \$2,000, who, in response to a requirement under subsection (3) or a question asked under subsection (4) of section 307, knowingly—

"(a) Makes a false or misleading statement; or

"(b) Makes a statement from which any material matter has 35 been omitted; or

"(c) Provides any false or misleading paper, document, or record; or

"(d) Provides a paper, document, or record from which any material matter has been omitted.

"(2) A recipient must notify the Secretary or the institution concerned, as soon as practicable, of any change in the recipient's circumstances that materially affects his or her entitlement at any time—

"(a) To a statutory allowance; or

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- "(b) To be paid a statutory allowance at a particular rate, and the recipient commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 if he or she wilfully fails to comply with this subsection for the purpose of receiving or continuing to receive a statutory allowance, or a statutory allowance at a particular rate, other than that to which the recipient is entitled.
- "(3) Despite section 14 of the Summary Proceedings Act 1957, an information for an offence against this section may be laid at any time within 2 years after the end of the year in which the offence was committed."
- 57. Powers of entry and inspection of early childhood centres—(1) Section 318 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:
 - "(1) Any person holding an authorisation under subsection (2) may, at any reasonable time,—
- "(a) Enter and inspect any premises that are or contain a licensed early childhood centre:
 - "(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 service:
- 25 "(c) Remove any document described in paragraph (b), whether in its original form or as an electronic or paper copy.
 - "(1A) If any document is removed from premises under subsection (1) (c), the person who removes it must—
 - "(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.
- 35 "(2) The Secretary may authorise in writing any person to exercise the powers in subsection (1)."
 - (2) Subsection 318 (4) of the principal Act is amended by-
 - (a) Omitting the words "of entry or inspection under this section", and substituting the words "under subsection (1)":
 - (b) Omitting the words "(where applicable)".

58. Centres situated on property owned by the Crown—(1) Section 319 of the principal Act is amended by repealing paragraphs (d) and (e).

(2) Section 319 of the principal Act is amended by adding, as when time (2) the following subsection:

subsection (2), the following subsection:

"(2) The continued operation of an early childhood centre on land owned by the Crown, and the occupation by an early childhood 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 1

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Public Works Act 1981; or

"(b) A lease or licence under section 6 (1c) of the Education Lands Act 1949; or

"(c) An occupancy document notified to the management by the Secretary.

"(3) The Secretary may from time to time amend an occupancy document by written notice to the management."

Review of Educational Services

59. Educational services to which this Part applies—Section 324 of the principal Act is amended by adding, as 20 subsection (2), the following subsection:

"(2) This Part also applies to educational services provided to a student who has an enrolment exemption under section 21."

60. Powers concerning education services provided to persons with enrolment exemption—The principal Act is amended by inserting, after section 327, the following section:

"327A. (1) Sections 325, 326, and 328 apply to educational services provided to a person who has an enrolment exemption under section 21 as if the person providing the services were an

applicable organisation.

"(2) For the purposes of enabling any functions of the Chief Review Officer to be performed in relation to an educational service provided to a person who has an enrolment exemption under section 21, a review officer may, at any reasonable time and having given reasonable notice, do all or any of the 35 following:

"(a) Conduct inspections or inquiries:

"(b) Require any person to produce documents or information relating to—

"(i) The service that the person provides; or "(ii) People to whom the service is (or has been) provided,—

and permit the review officer to make copies or extracts of the documents or information:

- "(c) Require any person to make or provide statements, in any form and manner the review officer specifies, about any matters relating to the service:
- "(d) Inspect the work of any person to whom the service is (or has been) provided:
- "(e) Meet and talk with any person to whom the service is being provided.
- 10 "(3) Nothing in subsection (2) confers on a review officer the power of entry referred to in section 327."

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Election Irregularities

- 61. Validation and invalidation of elections of Boards—Clause 9 of the Sixth Schedule of the principal Act is amended by repealing subclause (3), and substituting the following subclauses:
 - "(3) Subclause (3A) applies if there occurs in connection with an election under this Act—
 - "(a) Any lateness, omission, or irregularity that is capable of being validated under this clause, but which the Minister thinks would be improper or undesirable to validate; or
 - "(b) Any other irregularity that the Minister thinks could materially have affected the result of the election.
- 25 "(3A) If this subclause applies to an election, the Minister may at any time within 60 days of the election, by notice in the Gazette,—
 - "(a) Declare the election invalid; and
 - "(b) Require a new election to be held on a day specified in the notice; and
 - "(c) Declare that the trustees holding office on the date of the invalid election remain in office until the close of the day before the day on which the new trustees take office."
- 35 Repeals, Amendments, and Transitional and Savings Provisions
 - **62.** Consequential repeals—The following enactments are consequentially repealed:
 - (a) Section 130F of the Education Act 1964:
 - (b) So much of the Ninth Schedule of the principal Act as relates to section 130F of the Education Act 1964:
 - (c) Sections 8 and 9 of the Education Amendment Act 1990:
 - (d) Section 6 (2) (b) of the Education Amendment Act 1991:
 - (e) Section 18 of the Education Amendment Act 1993.

- 63. Amendment to Education Lands Act 1949—(1) Section 6 (1c) of the Education Lands Act 1949 (as substituted by section 4 (1) of the Education Lands Amendment Act 1991) is amended by adding the words "; and any letting or licence under this subsection may be on such terms as the 5 Minister thinks fit."
- (2) Section 6 of the Education Lands Act 1949 is amended by repealing subsection (4).
- 64. Transitional provisions relating to enrolment schemes—(1) Despite anything in the principal Act or in the 10 enrolment schemes concerned, every enrolment scheme in place under the principal Act when this section comes into force ("an old scheme") continues in force and ceases to have effect on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made under 15 this subsection appointing different dates for different classes of schools or different locations.
- (2) A new enrolment scheme (whether or not it is to have effect in place of an old scheme) may be prepared in accordance with sections 11A to 11K of the principal Act (as 20 amended by sections 4 to 11 of this Act) at any time after this section comes into force.
- 65. Saving of syllabuses in force under Education Act 1964—Every statement (such as a syllabus) corresponding to a national curriculum statement under section 60A of the 25 principal Act that was issued in the form of a notice and was, immediately before the commencement of this section, in force under the Education Act 1964 continues in force until revoked under section 60A (2) of the principal Act.
- 66. Transitional provision relating to suspension of students from state schools—(1) Despite the repeal of sections 13 to 18 of the principal Act by section 13 of this Act, those sections 13 to 18 are to continue to apply (as if those sections had not been repealed) to every student of a state school who was, immediately before the date of the repeal of those sections, subject to a suspension under any of those sections 13 to 18.
- (2) Sections 13 to 18 of the principal Act continue to apply to a student to whom subsection (1) applies until the suspension is lifted or otherwise ceases to have effect under those sections.

PART 2

PRIVATE SCHOOLS CONDITIONAL INTEGRATION ACT 1975

67. Part to be part of Private Schools Conditional Integration Act 1975—This Part is part of the Private Schools Conditional Integration Act 1975* (in this Part referred to as the principal Act).

*R.S. Vol. 26, p.747 Amendment: 1991, No. 140

68. Interpretation—(1) Section 2 (1) of the principal Act is amended by repealing the definition of "integration agreement", and substituting the following definition:

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"'Integration agreement' means an agreement entered into under section 7 between the Proprietors and the Minister, under which provision is made for establishing a private school as an integrated school; and includes a supplementary agreement entered into under that section:".

(2) Section 2 (1) of the principal Act is amended by repealing the definition of the term "Proprietor", and substituting the following definition:

- "'Proprietor' or 'Proprietors', in relation to a private school or an integrated school, means that corporation, body of trustees, or other person or body of persons, which or who have the primary responsibility for determining the special character of the school and for supervising the maintenance of that special character, and who own, hold upon trust, or lease the land and buildings that constitute the school premises:".
- **69. New sections substituted**—The principal Act is amended by repealing sections 5 and 6, and substituting the following sections:
 - "5. Application to negotiate integration—(1) The Proprietors of a private school that is registered under section 35A of the Education Act 1989, and any person who proposes to establish a school with the intention that it become an integrated school, may apply to the Minister to enter into negotiations for integration under this Act.

"(2) If the Minister accepts an application to negotiate, the applicant and the Minister may enter into negotiations for an integration agreement under section 7.

"(3) If the Minister declines the application, the applicant may make a fresh application at any time.

- "(4) Without limiting the factors that the Minister may consider, the Minister must, in considering an application, consider the nature, character, and capacity of the existing network of schools.
- "(5) The Minister has an absolute discretion to accept 5 applications to enter into negotiations for integration under this Act, and may from time to time, after giving such public notice as he or she considers appropriate, decide not to consider applications from particular areas.
- "6. Applications relating to proposed schools—It a person who proposes to establish a school with the intention that it become an integrated school makes an application under section 5, this Act applies to the application and to any subsequent negotiations and agreements as if—

"(a) The applicant were a Proprietor; and

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- "(b) The school were a registered private school.
- "6A. **Negotiation of agreement—**(1) The Minister and an applicant may commence negotiations for an integration agreement under section 7 at any time after the Minister has accepted an application under section 5.

"(2) During the course of negotiations, the Minister must consult with such interested persons or groups as he or she

considers appropriate."

70. Integration agreement—(1) Section 7 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

"(1) The Minister has the sole right to approve the establishment of a private school as an integrated school.

- "(2) The Minister must signify his or her approval by entering into a deed of agreement (an 'integration agreement') 30 with the Proprietors."
- (2) Section 7 (6) (b) of the principal Act is amended by inserting, after the words "land or buildings owned", the words "or leased".
 - (3) The following enactments are consequentially repealed: 35
 - (a) Section 4 (2) of the Private Schools Conditional Integration Amendment Act 1977:
 - (b) Section 2 (1) of the Private Schools Conditional Integration Amendment Act 1986.
- 71. New sections substituted—The principal Act is 40 amended by repealing section 11, and substituting the following sections:

- "11. Cancellation of integration agreement—(1) An integration agreement may be cancelled—
 - "(a) By the Minister, in which case section 11A applies; or
 - "(b) By the Proprietors, in which case section 11B applies; or
- "(c) By agreement between the Minister and the Proprietors, in which case section 11c applies.
 - "(2) On the cancellation of an integration agreement,—
 - "(a) The school ceases to be an integrated school; and
 - "(b) The respective rights and obligations of the parties that arise by virtue of the agreement cease to have effect; and
 - "(c) In the absence of an agreement to the contrary, the school is deemed to be provisionally registered as a private school under section 35A of the Education Act 1989.
- "11A. Cancellation by Minister—The Minister may cancel an integration agreement under section 11 (1) (a) if—
- "(a) It appears to the Minister on reasonable grounds that the Proprietors or controlling authority of the integrated school are not sufficiently carrying out the functions and obligations accepted by them or it under this Act or under the integration agreement; and
- "(b) The Minister has consulted with the Proprietors, the controlling authority, and such other interested persons or groups as he or she considers appropriate.
- "11B. Cancellation by Proprietors—The Proprietors may give notice of an intention to cancel an agreement under 30 section 11 (1) (b) if—
 - "(a) It appears to the Proprietors on reasonable grounds that—
 - "(i) The special character of the integrated school has been or is likely to be jeopardised; or
 - "(ii) The Minister or any controlling authority is not carrying out the functions and obligations accepted by the Minister or the controlling authority under this Act or the integration agreement; and
- "(b) The Proprietors have consulted with the Minister, the 40 controlling authority, and such other interested persons or groups as the Proprietors consider appropriate.

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- "(2) The notice of intention to cancel takes effect as a cancellation of the integration agreement under section 11 (1) (b) on the date 4 months after the date of the notice.
- "11c. Cancellation by agreement between parties—The Minister and the Proprietors may cancel an integration 5 agreement under section 11(1)(c) by mutual agreement, after consultation with such other interested persons or groups as they consider appropriate."
- **72. Closure of integrated school**—The principal Act is amended by repealing section 12, and substituting the 10 following section:

- "12. If it appears to the Minister that for the reason set out in section 11A(a) the school should be closed, the Minister may, after the consultation referred to in section 11A (b), disestablish and close the school."
- **73. Repeal of section 13**—Section 13 of the principal Act (which relates to the cancellation of an integration agreement by Proprietors) is repealed.
- 74. Rights of appointment—Section 14 of the principal Act is amended by omitting from subsections (1), (2), and (3) 20 the words "or section 13 of this Act" wherever they occur.
- 75. Notification of cancellation or of closing of school—Section 15 of the principal Act is amended by omitting the words "or section 13 of this Act".
- 76. Disposal of assets on cancellation of integration agreement or closing of school—(1) Section 16 of the principal Act is amended by omitting from subsections (1), (2), (5), and (6) the words "by the Minister or by the Proprietors" wherever they occur.
- (2) Section 16 of the Act is amended by repealing 30 subsection (8), and substituting the following subsection:
- "(8) Subject to subsections (1) to (7), if an integration agreement is cancelled, or an integrated school is closed, any land, buildings, chattels, and other interests relating to the school that are vested in the Proprietors remain vested in the 35 Proprietors."
- 77. Restriction on cancellation of integration agreement or closure of school—Section 17 of the principal

Act is amended by omitting the words "or section 13 of this Act".

78. Compensation—Section 18 of the principal Act is amended by omitting the words "by the Minister or by the Proprietors".

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- 79. Powers and responsibilities of Proprietors—(1) Section 40 (2) (a) of the principal Act is amended by omitting the words "Shall own or hold upon trust", and substituting the words "Own, hold upon trust, or lease".
- (2) Section 40 (2) (e) of the principal Act is amended by omitting the words "May own, or hold upon trust", and substituting the words "May own, hold upon trust, or lease".
- (3) Section 40 (2) (g) of the principal Act is amended by omitting the words "and other assets owned or held upon trust", and substituting the words "and other assets owned, held upon trust, or leased".
 - **80. Leases of land**—The principal Act is amended by inserting, after section 40, the following section:
- "40A. (1) The Proprietors of an integrated school must obtain 20 the prior consent of the Minister before entering into a lease relating to land that is used, or to be used, for the school.
 - "(2) If the Proprietors fail to obtain the prior consent of the Minister to a lease, the lease is not affected, but the Minister may cancel the integration agreement under section 11."
- 25 **81. Proprietors unable to meet obligations**—(1) Section 44 (1) (a) of the principal Act is amended by omitting the words "and annul".
- (2) Section 44 (1) of the principal Act is amended by repealing paragraph (c), and substituting the following 30 paragraph:
 - "(c) Arrange for the acquisition by the Crown, in accordance with the Public Works Act 1981, of any land, buildings, and chattels relating to the school that are owned or leased by the Proprietors, and that the Minister considers appropriate for the purpose of establishing a State school."
 - 82. Repeal of provisions relating to Loreto Hall—(1) Section 59 of the principal Act is amended by repealing subsections (3) to (9).

- (2) Section 60 (1) of the principal Act is amended by omitting the words "and any student enrolled for training as a teacher at Loreto Hall and being paid student allowances out of money appropriated by Parliament,".
- **83. Teacher's housing**—Section 79 (2) of the principal Act 5 is amended by omitting the words "vested in or held in trust", and substituting the words "owned, held upon trust, or leased".
- **84.** Integration Standing Committee abolished—(1) The Integration Standing Committee established by section 20 of the principal Act is abolished.

(2) The following enactments are consequentially repealed: (a) Sections 20 to 24, 41, 71 (7), and 72 (4) of the principal

Act:

(b) Section 6 of the Private Schools Conditional Integration Amendment Act 1977:

(c) So much of the Eighth Schedule of the Education Act 1989 as relates to section 20 of the principal Act.

PART 3

NGARIMU V.C. AND 28TH (MAORI) BATTALION MEMORIAL SCHOLARSHIP FUND ACT 1945

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85. Part to be part of Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945—This Part is part of the Ngarimu V.C. and 28th (Maori) Battalion Memorial Scholarship Fund Act 1945* (in this Part referred to as the principal Act).

*R.S. Vol. 24, p. 607

86. Establishment of Board to administer Fund—(1) Section 4 (2) of the principal Act is amended by inserting, after paragraph (a), the following paragraph:

"(aa) The Minister of Maori Affairs:".

(2) Section 4 (2) of the principal Act is amended by repealing 3 paragraphs (c) and (d), and substituting the following paragraphs:

(c) Those members of Parliament who represent the Maori

electoral districts:

"(d) Four Maori, each of whom has been (but is no longer) a 35 member of the Armed Forces, who are to be appointed by the Governor-General:".