

EDUCATION REFORM BILL (NO. 2)

EXPLANATORY NOTE

THIS Bill is being introduced as an Education Reform Bill because it contains proposed amendments to the Education Act 1989, the Education Act 1964, and the Industry Training Act 1992. It is intended that the Bill will later be split into 2 Bills, an Education Amendment Bill and an Industry Training Amendment Bill.

Clause 1 relates to the Bill's Short Title.

PART I

MISCELLANEOUS AMENDMENTS TO EDUCATION ACT 1989

Clause 2 provides that *Parts I to III* of the Bill are to be read together with and deemed part of the Education Act 1989 ("the principal Act").

Clause 3 amends Part IV of the principal Act (which relates to the Special Education Service and its Board) by replacing section 39 with 10 new sections.

Proposed new section 39 differs from the existing section in 2 respects. First, it provides that in future the Board's performance of its functions is to be in accordance with a document of accountability, rather than in accordance with agreements with the Secretary of Education. (The preparation of documents of accountability is dealt with in *proposed new sections 39A to 39E*.) Secondly, it does not contain the present restriction preventing the Board from providing advice, guidance, or support for the benefit of people over 21.

Proposed new section 39A empowers the Minister of Education to require the Board to negotiate (with the Minister or a nominee of the Minister) a document of accountability specifying "the nature and extent of the Board's accountability to the Crown for the exercise of its powers and the performance of its functions". New documents of accountability must be negotiated at intervals of no more than 12 months; but the Minister may require the negotiation of a new document at any time. Every requirement will specify a day by which the document must be prepared.

Proposed new section 39B empowers the Minister to prepare a document of accountability for the Board if the day specified in the Minister's requirement has passed and a document has not been negotiated.

Proposed new section 39C specifies the matters to be contained in a document of accountability. The most important of these are the mechanisms, strategies, and operating principles to be used by the Board in the performance of its function;

the services the Board is to provide; the persons the services are to be provided for; the financial performance the Board is to achieve; the reports the Board is to make to the Minister; the monitoring to which the Board is to be subject; and the way in which disagreements between the Board and the Minister about the Board's performance are to be resolved.

Proposed new section 39D provides for the amendment of documents of accountability.

Proposed new section 39E provides that a new document of accountability has the effect of revoking its predecessor.

Proposed new section 39F requires the Board to take all reasonable steps to comply with its document of accountability for the time being.

Proposed new section 39G empowers the Minister to require the Board to comply with its document of accountability where it fails or proposes to fail to do so.

Proposed new section 39H empowers the Minister to dismiss the members of the Board (other than its chief executive) if it refuses to comply with a direction under *proposed new section 39G*, and has not satisfied the Minister that the non-compliance concerned is reasonable in the circumstances (or did not or will not in fact occur).

Proposed new section 39I requires the Minister to lay a copy of every document of accountability prepared by the Minister, and every direction to the Board to comply with its document of accountability, before the House of Representatives (and if the House does not sit or is unlikely to sit within a month of the preparation of the document or the giving of the requirement, to publish a copy in the *Gazette*).

Clause 4 makes amendments consequential on *clause 3*.

Clause 5 amends Part V of the principal Act (which relates to the Early Childhood Development Unit and its Board) by replacing section 45 with 10 new sections. *Proposed new sections 45 to 45I* have the same effect in relation to the Board of the Early Childhood Development Unit as *proposed new sections 39 to 39I* have in relation to the Board of the Special Education Service.

Clause 6 makes amendments consequential on *clause 5*.

Clause 7 inserts into the principal Act a new *section 226A*, enabling the Director-General of Social Welfare to obtain from tertiary institutions information (names, addresses, and dates of birth) verifying the entitlement of students to certain benefits under the Social Security Act 1964, or the eligibility of students entitled to such benefits to receive payments under them at particular rates.

The arrangements in accordance with which the Director-General will require an institution to supply information are to be agreed between the Director-General and the institution under the Privacy Commissioner Act 1991. The form in which the information will be supplied is also to be agreed between the Director-General and the institution. But where the Director-General and the institution are unable to agree on arrangements or a form, the Privacy Commissioner will settle the matter.

It is made an offence for an institution to fail or refuse to supply any information required.

Clause 8 is similar in form to *clause 7*. It inserts into the principal Act a new *section 238A*, enabling the Director-General of Social Welfare to obtain from the governing bodies of private training establishments information (names, addresses, and dates of birth) verifying the entitlement of students to certain

benefits under the Social Security Act 1964, or the eligibility of students entitled to such benefits to receive payments under them at particular rates.

The arrangements in accordance with which the Director-General will require a governing body to supply information are to be agreed between the Director-General and the governing body under the Privacy Commissioner Act 1991. The form in which the information will be supplied is also to be agreed between the Director-General and the governing body. But where the Director-General and the governing body are unable to agree on arrangements or a form, the Privacy Commissioner will settle the matter.

It is made an offence for a governing body to fail or refuse to supply any information required.

Clauses 9 to 11 amend Part XXI of the principal Act (which relates to the Education and Training Support Agency and its Board).

Clause 9 amends section 271 of the principal Act. The amendment has the same effect as the replacement of sections 39 and 45 of the principal Act with new sections by *clauses 3 and 5* of the Bill.

Clause 10 replaces sections 273 to 275 with 9 new sections. *Proposed new sections 273A to 273I* have the same effect in relation to the Board of the Education and Training Support Agency as *proposed new sections 39A to 39I* have in relation to the Board of the Special Education Service and *proposed new sections 45A to 45I* have in relation to the Board of the Early Childhood Development Unit.

Clause 11 makes amendments consequential on *clauses 9 and 10*.

Clauses 12 to 14 amend Part XXII of the principal Act (which relates to the Career Development and Transition Education Service and its Board).

Clause 12 amends section 280 of the principal Act. The amendment has the same effect as the replacement of sections 39, 45, and 271 of the principal Act with new sections by *clauses 3, 5, and 9* of the Bill.

Clause 13 replaces sections 283 to 285 with 9 new sections. *Proposed new sections 283A to 283I* have the same effect in relation to the Board of the Career Development and Transition Education Service as *proposed new sections 39A to 39I* have in relation to the Board of the Special Education Service, *proposed new sections 45A to 45I* have in relation to the Board of the Early Childhood Development Unit, and *proposed new sections 273A to 273I* have in relation to the Board of the Education and Training Support Agency.

Clause 14 makes amendments consequential on *clauses 12 and 13*.

PART II

REVIEW OF EDUCATIONAL SERVICES

Clause 15 inserts into the Education Act 1989 a new *Part XXVIII*, relating to the review of educational services by the Education Review Office. The Part comprises *new sections 323 to 328*.

New section 323 defines certain terms used in the new Part.

New section 324 specifies the kinds of educational service to which the new part is to apply. Broadly, the new Part does not apply to tertiary education; but applies to all other educational services—

- (a) Provided by organisations owned or operated by the Crown; or
- (b) Provided by organisations required to hold licences or permits issued by or on behalf of the Crown; or
- (c) Funded by public money; or

(d) Regulated by or under statute.

New section 325 requires the Chief Review Officer (that is to say the chief executive of the Education Review Office) to administer reviews of services to which the new Part applies, administer the preparation of reports on those reviews for the Minister responsible for the administration of the new Part (who will not necessarily be the Minister of Education), and give the Minister other assistance and advice on the performance of the organisations that provide the services reviewed.

New section 326 empowers the Chief Review Officer to designate review officers to carry out reviews. Review officers will not necessarily be employees of the Chief Review Officer.

New section 327 gives review officers certain powers of entry and inspection. The powers of entry will not be exercisable in respect of a dwellinghouse unless the review officer has obtained a warrant from a District Court Judge.

New section 328 requires review officers to carry, and if requested produce, the certificates designating them review officers. A review officer entering a dwellinghouse pursuant to a warrant will also be required to produce the warrant.

Clause 16 makes consequential amendments and repeals.

PART III LEARNING MEDIA LIMITED

Clause 17 inserts into the Education Act 1989 a new *Part XXIX*, enabling the present learning media section of the Ministry of Education to be established as a company under the Companies Act 1955. The Part comprises *new sections 329 to 341*.

New section 329 defines certain terms used in the new Part.

New section 330 provides for the incorporation of the company.

New section 331 specifies certain objects for the company.

New section 332 provides for the Crown's shareholding in the company.

New sections 333 and 334 provide for the application of the Government Superannuation Fund Act 1956 and the Public Finance Act 1989 to apply to the company in certain respects.

New section 335 provides that the Audit Office is to be the company's auditor.

New section 336 specifies the extent of the application to the company of the Companies Act 1955.

New section 337 requires the company to be a good employer.

New section 338 requires the company to have an equal employment opportunities programme.

New section 339 requires employees of the company to choose (in any particular case) whether to pursue a personal grievance or complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971.

New section 340 requires the company to consult the State Services Commission before entering into an employment contract with its chief executive, or a collective employment contract with any other employees.

New section 341 transfers to the company the existing assets and liabilities of the learning media section of the Ministry of Education.

Clause 18 makes consequential amendments.

PART IV

AMENDMENTS TO EDUCATION ACT 1964

Clause 19 provides that *Part IV* of the Bill is to be read with the Education Act 1964 (“the principal Act”).

Clause 20 amends section 201c of the principal Act, so that the power it contains for the Minister of Education to delegate to Education Boards certain powers of the Minister in relation to the provision of school transport assistance becomes a power to delegate those powers to any person or body the Minister thinks fit.

PART V

AMENDMENT TO INDUSTRY TRAINING ACT 1992

Clause 21 provides that *Part IV* is to be read together with and deemed part of the Industry Training Act 1992 (“the principal Act”).

Clause 22 corrects an erroneous section reference in section 2 of the principal Act.

EDUCATION REFORM (NO. 2)

ANALYSIS

Title	
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2. Part to be read with Education Act 1989	45I. Minister to publish certain documents and directions
3. Accountability of Board of Special Education Service	6. Consequential amendments
39. Function of Board	7. Disclosure of enrolment information to Department of Social Welfare
39A. Minister may require Board to negotiate document of accountability	8. Disclosure of enrolment information to Department of Social Welfare
39B. Minister may prepare document where no agreement reached	9. Functions of Agency
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<p>283g. Non-compliance with document</p> <p>283h. Minister may dismiss Board where non-compliance not rectified</p> <p>283i. Minister to publish certain documents and directions</p> <p>14. Consequential amendment</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">REVIEW OF EDUCATIONAL SERVICES</p> <p>15. New Part inserted</p> <p style="text-align: center;">PART XXVIII</p> <p style="text-align: center;">REVIEW OF EDUCATIONAL SERVICES</p> <p>323. Interpretation</p> <p>324. Educational Services to which Part XXVIII applies</p> <p>325. Chief Review Officer to perform certain functions</p> <p>326. Review officers</p> <p>327. Powers of entry and inspection</p> <p>328. Review officers to prove identity</p> <p>16. Consequential amendments and repeals</p> <p style="text-align: center;">PART III</p> <p style="text-align: center;">LEARNING MEDIA LIMITED</p> <p>17. New Part inserted</p> <p style="text-align: center;">PART XXIX</p> <p style="text-align: center;">LEARNING MEDIA LIMITED</p> <p>329. Interpretation</p> <p>330. Incorporation of company</p>	<p>331. Objects of company</p> <p>332. Crown shareholding</p> <p>333. Application of Government Superannuation Fund Act 1956</p> <p>334. Application of Public Finance Act 1989</p> <p>335. Auditor</p> <p>336. Application of Companies Act 1955</p> <p>337. Personnel policy</p> <p>338. Equal employment opportunities programme</p> <p>339. Choice of procedure in relation to certain personal grievances</p> <p>340. Consultation with State Services Commissioner</p> <p>341. Existing rights, assets, liabilities, and debts</p> <p>18. Consequential amendments</p> <p style="text-align: center;">PART IV</p> <p style="text-align: center;">AMENDMENTS TO EDUCATION ACT 1964</p> <p>19. Part to be read with Education Act 1964</p> <p>20. Delegation of powers and functions in relation to school transport assistance</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">AMENDMENT TO INDUSTRY TRAINING ACT 1992</p> <p>21. Part to be read with Industry Training Act 1992</p> <p>22. Interpretation Schedule</p>
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A BILL INTITULED

An Act to amend certain enactments relating to education

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

1. Short Title—This Act may be cited as the Education Reform Act (No. 2) 1992.

PART I

MISCELLANEOUS AMENDMENTS TO EDUCATION ACT 1989

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

*1989, No. 80

Amendments: 1989, No. 156; 1990, No. 60; 1990, No. 118; 1990, No. 134; 1991, No. 43; 1991, No. 90; 1991, No. 135; 1991, No. 136; 1992, No. 107

3. Accountability of Board of Special Education Service—The principal Act is hereby amended by repealing section 39, and substituting the following sections:

5 “**39. Function of Board**—(1) The Board’s function is to provide advice, guidance, and support for the benefit of people with difficulties in learning or development.

“**(2)** On and after the day on which the Board’s first document of accountability takes effect, it shall not provide any advice, guidance, or support, otherwise than in accordance with
10 its document of accountability.

“**(3)** Before the day on which the Board’s first document of accountability takes effect, it shall not provide any advice, guidance, or support, otherwise than in accordance with—

15 “**(a)** Agreements from time to time reached with the Secretary; or

“**(b)** Where no such agreement is in force, with schemes from time to time notified to it by the Minister.

“**39A. Minister may require Board to negotiate document of accountability**—(1) The Minister—

20 “**(a)** May from time to time, of the Minister’s own motion or at the Board’s request; and

“**(b)** Shall at intervals of no more than 12 months,—
by written notice to the Board, require the Board to negotiate
25 with the Minister (or any person designated by the Minister for the purpose) for the purpose of preparing a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of its functions.

30 “**(2)** The requirement shall specify a day (being a day that gives a reasonable time for the preparation of a document to be negotiated) before which the document is to be prepared.

“**39B. Minister may prepare document where no agreement reached**—Where—

35 “**(a)** The Minister has given the Board a requirement under section 39A (1) of this Act; and

“**(b)** The day specified in the requirement as the day before which such a document is to be prepared has passed; and

40 “**(c)** Such a document has not been prepared,—
the Minister may prepare a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of its functions; and in that case shall, before the day on which it is to come into effect, give a copy to the Board.

“39c. Contents of documents—(1) Every document of accountability shall specify the mechanisms, strategies, and operating principles to be used by the Board in the performance of its function.

“(2) Every document of accountability shall specify— 5

“(a) The services that the Board is to provide; and

“(b) The persons for whom or which the services are to be provided; and

“(c) The financial performance that the Board is to achieve; and 10

“(d) The kinds of report that the Board is to give the Minister, and the frequency with which they are to be given; and

“(e) The kinds of monitoring to which the Board is to be subject, and the assistance and cooperation that the Board is to provide to the persons carrying it out; and 15

“(f) Procedures for negotiating the preparation of future charters; and

“(g) Procedures for negotiating the preparation of amendments to the charter; and 20

“(h) Procedures for resolving disagreements between the Minister and the Board in relation to the exercise of the Board’s powers or the performance of its functions; and 25

“(i) The day on which it is to take effect;—
and may specify any other matters.

“(3) **Subsection (2)** of this section does not limit the generality of **subsection (1)** of this section.

“39d. Amendments to documents—(1) Subject to **section 39c** of this Act and **subsection (2)** of this section, **sections 39a** and **39b** of this Act shall apply to the amendment of documents of accountability as if the references in those sections to a document of accountability is a reference to amendments to a document of accountability. 30 35

“(2) The negotiations for the preparation of amendments to a document of accountability shall follow the procedures specified in the document; and the Minister shall not prepare any amendments under **section 39b** of this Act unless those procedures have been followed. 40

“39e. Revocation of documents—On the day on which a document of accountability takes effect, any document of accountability in force immediately before that day shall cease to have effect.

“39F. Board to comply with document of accountability—The Board shall take all reasonable steps to comply with any accountability document for the time being in force.

5 **“39G. Non-compliance with document—**If satisfied that the Board—

“(a) Has failed or refused to comply with a document of accountability in force at the time of the failure or refusal; or

10 “(b) Is failing or refusing to comply with a document of accountability that is in force; or

“(c) Proposes to fail or refuse to comply with a document of accountability that will be in force at the time of the proposed failure or refusal,—

15 the Minister may, by written notice specifying the failure or refusal and (except in the case of a proposed failure or refusal) a period of not less than 21 days within which the document is to be complied with, direct the Board to comply with the document.

20 **“39H. Minister may dismiss Board where non-compliance not rectified—**(1) If satisfied that the Board has not done any of the following things:

“(a) Complied with a direction under **section 39G** of this Act:

25 “(b) Satisfied the Minister that in all the circumstances the failure or refusal to which the direction relates was, is, or will be (as the case may be) reasonable:

“(c) Satisfied the Minister that the alleged failure or refusal to which the direction relates did not occur, is not occurring, or will not occur (as the case may be),—

30 the Minister may, by notice in the *Gazette*, dismiss the members of the Board (other than the Board’s chief executive) and appoint a person to act in place of the Board.

“(2) The Minister may, by notice in the *Gazette*, revoke a notice under **subsection (1)** of this section (or this subsection) and

35 appoint some different person to act in place of the Board.

“(3) Until a notice under **subsection (1)** or **subsection (2)** of this section is revoked (by notice in the *Gazette*)—

“(a) The Board’s chief executive shall be deemed not to be a member of the Board; and

40 “(b) The person for the time being appointed to act in place of the Board—

“(i) Shall have and may exercise and perform all the powers and functions of the Board; and

“(ii) May affix the Board’s seal to documents accordingly; and
 “(c) Clauses 5 and 12 of the Second Schedule to this Act shall apply to that person as if that person is a member of the Board. 5

“39I. Minister to publish certain documents and directions—(1) As soon as is practicable after—

“(a) Preparing a document of accountability under **section 39B** of this Act; or

“(b) Giving a direction under **section 39G** of this Act,— 10
 the Minister shall lay a copy before the House of Representatives.

“(2) Where, before the end of the period of one calendar month after—

“(a) Preparing a document of accountability under **section 39B** 15
 of this Act; or

“(b) Giving a direction under **subsection (1)** of this section,—
 the Minister will be, or may be, unable to lay a copy before the House of Representatives, because the House will not, or is not expected to, sit during that period, the Minister shall publish a 20
 copy in the *Gazette*.”

4. Consequential amendments—(1) Section 36 of the principal Act is hereby consequentially amended by inserting, after the definition of the term “Board”, the following definition: 25

“‘Document of accountability’ means a document prepared pursuant to a requirement under **section 39A (1)** of this Act, or prepared under **section 39B (1)** of this Act; but where a document of accountability has been amended, means the document of 30
 accountability in its amended form for the time being.”

(2) Section 40 (1) of the principal Act is hereby consequentially amended by inserting, after the word “Minister”, the words “(to the extent that its document of 35
 accountability is relevant to any of those matters, in accordance with the document)”.

5. Accountability of Board of Early Childhood Development Unit—The principal Act is hereby amended by repealing section 45, and substituting the following sections: 40

“45. Function of Board—(1) The Board’s function is to promote and encourage the development and provision of high

quality, accessible, and culturally appropriate educational and developmental facilities and services for the benefit of children who have not yet enrolled at a primary school.

5 “(2) On and after the day on which the Board’s first document of accountability takes effect, it shall not promote or encourage the development or provision of any facility or service, otherwise than in accordance with its document of accountability.

10 “(3) Before the day on which the Board’s first document of accountability takes effect, it shall not promote or encourage the development or provision of any facility or service, otherwise than in accordance with—

“(a) Agreements from time to time reached with the Secretary; or

15 “(b) Where no such agreement is in force, with schemes from time to time notified to it by the Minister.

“45A. Minister may require Board to negotiate document of accountability—(1) The Minister—

20 “(a) May from time to time, of the Minister’s own motion or at the Board’s request; and

“(b) Shall at intervals of no more than 12 months,—
by written notice to the Board, require the Board to negotiate with the Minister (or any person designated by the Minister for the purpose) for the purpose of preparing a document
25 specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of its function.

30 “(2) The requirement shall specify a day (being a day that gives a reasonable time for the preparation of a document to be negotiated) before which the document is to be prepared.

“45B. Minister may prepare document where no agreement reached—Where—

“(a) The Minister has given the Board a requirement under section 45A (1) of this Act; and

35 “(b) The day specified in the requirement as the day before which such a document is to be prepared has passed; and

“**(c) Such a document has not been prepared,—**
the Minister may prepare a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of its functions; and in that case shall, before the day on which it is to come into effect, give a copy to the Board.
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“45c. Contents of documents—(1) Every document of accountability shall specify the mechanisms, strategies, and operating principles to be used by the Board in the performance of its function.

“**(2)** Every document of accountability shall specify— 5

“**(a)** The services that the Board is to provide; and

“**(b)** The persons for whom or which the services are to be provided; and

“**(c)** The financial performance that the Board is to achieve; and 10

“**(d)** The kinds of report that the Board is to give the Minister, and the frequency with which they are to be given; and

“**(e)** The kinds of monitoring to which the Board is to be subject, and the assistance and cooperation that the Board is to provide to the persons carrying it out; and 15

“**(f)** Procedures for negotiating the preparation of future charters; and

“**(g)** Procedures for negotiating the preparation of amendments to the charter; and 20

“**(h)** Procedures for resolving disagreements between the Minister and the Board in relation to the exercise of the Board’s powers or the performance of its functions; and 25

“**(i)** The day on which it is to take effect;—
and may specify any other matters.

“**(3)** Subsection (2) of this section does not limit the generality of subsection (1) of this section.

“45D. Amendments to documents—(1) Subject to section 45c of this Act and subsection (2) of this section, sections 45A and 45B of this Act shall apply to the amendment of documents of accountability as if the references in those sections to a document of accountability is a reference to amendments to a document of accountability. 30 35

“**(2)** The negotiations for the preparation of amendments to a document of accountability shall follow the procedures specified in the document of accountability; and the Minister shall not prepare any amendments under section 45B of this Act unless those procedures have been followed. 40

“45E. Revocation of documents—On the day on which a document of accountability takes effect, any document of accountability in force immediately before that day shall cease to have effect.

“45F. Board to comply with document of accountability—The Board shall take all reasonable steps to comply with any accountability document for the time being in force.

5 **“45G. Non-compliance with document—**If satisfied that the Board—

“(a) Has failed or refused to comply with a document of accountability in force at the time of the failure or refusal; or

10 “(b) Is failing or refusing to comply with a document of accountability that is in force; or

“(c) Proposes to fail or refuse to comply with a document of accountability that will be in force at the time of the proposed failure or refusal,—

15 the Minister may, by written notice specifying the failure or refusal and (except in the case of a proposed failure or refusal) a period of not less than 21 days within which the document is to be complied with, direct the Board to comply with the document.

20 **“45H. Minister may dismiss Board where non-compliance not rectified—**(1) If satisfied that the Board has not done any of the following things:

“(a) Complied with a direction under **section 45G** of this Act:

25 “(b) Satisfied the Minister that in all the circumstances the failure or refusal to which the direction relates was, is, or will be (as the case may be) reasonable:

“(c) Satisfied the Minister that the alleged failure or refusal to which the direction relates did not occur, is not occurring, or will not occur (as the case may be),—

30 the Minister may, by notice in the *Gazette*, dismiss the members of the Board (other than the Board’s chief executive) and appoint a person to act in place of the Board.

“(2) The Minister may, by notice in the *Gazette*, revoke a notice under **subsection (1)** of this section (or this subsection) and

35 appoint some different person to act in place of the Board.
“(3) Until a notice under **subsection (1)** or **subsection (2)** of this section is revoked (by notice in the *Gazette*)—

“(a) The Board’s chief executive shall be deemed not to be a member of the Board; and

40 “(b) The person for the time being appointed to act in place of the Board—

“(i) Shall have and may exercise and perform all the powers and functions of the Board; and

“(ii) May affix the Board’s seal to documents accordingly; and

“(c) Clauses 5 and 12 of the Third Schedule to this Act shall apply to that person as if that person is a member of the Board. 5

“45I. **Minister to publish certain documents and directions**—(1) As soon as is practicable after—

“(a) Preparing a document of accountability under **section 45B** of this Act; or

“(b) Giving a direction under **section 45G** of this Act,— 10
the Minister shall lay a copy before the House of Representatives.

“(2) Where, before the end of the period of one calendar month after—

“(a) Preparing a document of accountability under **section 45B** 15
of this Act; or

“(b) Giving a direction under **subsection (1)** of this section,—
the Minister will be, or may be, unable to lay a copy before the House of Representatives, because the House will not, or is not expected to, sit during that period, the Minister shall publish a 20
copy in the *Gazette*.”

6. Consequential amendments—(1) Section 42 of the principal Act is hereby consequentially amended by inserting, after the definition of the term “Board”, the following definition: 25

“‘Document of Accountability’ means a document prepared pursuant to a requirement under **section 45A(1)** of this Act, or prepared under **section 45B(1)** of this Act; but where a document of accountability has been amended, means the document of 30
accountability in its amended form for the time being.”

(2) Section 46 (1) of the principal Act is hereby consequentially amended by inserting, after the word “Minister”, the words “(to the extent that its document of 35
accountability is relevant to any of those matters, in accordance with the document)”.

7. Disclosure of enrolment information to Department of Social Welfare—(1) The principal Act is hereby amended by inserting, after section 226 (as inserted by section 38 of the Education Amendment Act 1990), the following section: 40

“226A. (1) In this section, unless the context otherwise requires,—

5 “ ‘Benefit’ means a sickness benefit under section 54 of the Social Security Act 1964, an unemployment benefit under section 58 of that Act, a training benefit under section 60A of that Act, or an independent youth benefit under section 60F of that Act:

“ ‘Department’ means the Department of Social Welfare:

“ ‘Director-General’ means the chief executive of the Department.

10 “(2) The purpose of this section is to facilitate the disclosure of information by institutions to the Department, for the purpose of verifying—

“ (a) The entitlement or eligibility of any person to or for any benefit; or

15 “ (b) The amount of any benefit to which any person is or was entitled or for which any person is or was eligible.

“ (3) For the purpose of this section, the Director-General may from time to time, in accordance with arrangements under the Privacy Commissioner Act 1991 previously agreed between the Director-General and any institution (or, where they are unable to agree, in accordance with arrangements under that Act settled by the Privacy Commissioner appointed under the Privacy Commissioner Act 1991), by notice in writing require the institution to supply, in respect of people who are (or were in any period specified in the notice), enrolled as full-time students at the institution,—

25 “ (a) Their full names and addresses; and

“ (b) Their dates of birth.

30 “ (4) As soon as is practicable after receiving a notice under subsection (3) of this section, an institution shall supply the information required to the Director-General or any employee or agent of the Department authorised by the Director-General to receive such information.

35 “ (5) Information supplied by an institution under subsection (4) of this section shall be in a form previously agreed between the institution and the Director-General under the Privacy Commissioner Act 1991 (or, where they are unable to agree, in a form settled by the Privacy Commissioner appointed under the Privacy Commissioner Act 1991).

40 “ (6) Any institution that intentionally fails or refuses to comply with subsection (4) of this section commits an offence punishable by a fine not exceeding \$5,000, and, where the offence is a continuing one, by a fine not exceeding \$500 for each day the offence continues.”

(2) Section 2 of the Privacy Commissioner Act 1991 is hereby amended by inserting in the definition of the term “agency”, after paragraph (g), the following paragraph:

“(ga) An institution within the meaning of section 159 of the Education Act 1989:”

5

(3) The Privacy Commissioner Act 1991 is hereby further amended by omitting from the second column of the Third Schedule (opposite the reference to the Education Act 1989) the word “Section”, and substituting the expression “Sections 226A,”.

10

8. Disclosure of enrolment information to Department of Social Welfare—(1) The principal Act is hereby amended by inserting, after section 238 (as inserted by section 40 of the Education Amendment Act 1990), the following section:

“238A. (1) In this section, unless the context otherwise requires,—

15

“ ‘Benefit’ means a sickness benefit under section 54 of the Social Security Act 1964, an unemployment benefit under section 58 of that Act, a training benefit under section 60A of that Act, or an independent youth benefit under section 60F of that Act:

20

“ ‘Department’ means the Department of Social Welfare:

“ ‘Director-General’ means the chief executive of the Department.

“(2) The purpose of this section is to facilitate the disclosure of information by the governing bodies of private training establishments to the Department, for the purpose of verifying—

25

“(a) The entitlement or eligibility of any person to or for any benefit; or

30

“(b) The amount of any benefit to which any person is or was entitled or for which any person is or was eligible.

“(3) For the purpose of this section, the Director-General may from time to time, in accordance with arrangements under the Privacy Commissioner Act 1991 previously agreed between the Director-General and the governing body of any private training establishment (or, where they are unable to agree, in accordance with arrangements under that Act settled by the Privacy Commissioner appointed under the Privacy Commissioner Act 1991), by notice in writing require the governing body to supply, in respect of people who are (or were in any period specified in the notice), enrolled as full-time students at the private training establishment,—

35

40

“(a) Their full names and addresses; and

“(b) Their dates of birth.

5 “(4) As soon as is practicable after receiving a notice under **subsection (3)** of this section, the governing body of a private training establishment shall supply the information required to the Director-General or any employee or agent of the Department authorised by the Director-General to receive such information.

10 “(5) Information supplied by the governing body of a private training establishment under **subsection (4)** of this section shall be in a form previously agreed between the governing body and the Director-General under the Privacy Commissioner Act 1991 (or, where they are unable to agree, in a form settled by the Privacy Commissioner appointed under the Privacy Commissioner Act 1991).

15 “(6) The governing body of any private training establishment that intentionally fails or refuses to comply with **subsection (4)** of this section commits an offence punishable by a fine not exceeding \$5,000, and, where the offence is a continuing one, by a fine not exceeding \$500 for each day the offence continues.”

20 (2) Section 2 of the Privacy Commissioner Act 1991 is hereby amended by inserting in the definition of the term “agency”, before paragraph (h), the following paragraph:

25 “(gb) A private training establishment within the meaning of section 159 of the Education Act 1989:”

(3) The Privacy Commissioner Act 1991 is hereby further amended by inserting in the second column of the Third Schedule (opposite the reference to the Education Act 1989) before the expression “307A”, the expression “238A, and”.

30 **9. Functions of Agency**— The principal Act is hereby amended by adding to section 271 (as inserted by section 43 of the Education Amendment Act 1990), as **subsections (2) and (3)** the following subsections:

35 “(2) On and after the day on which the Board’s first document of accountability takes effect, the Agency shall not administer any scheme, activity, or programme, otherwise than in accordance with the Board’s document of accountability.

40 “(3) Before the day on which the Board’s first document of accountability takes effect, the Agency shall not administer any scheme, activity, or programme, otherwise than in accordance with—

“(a) Agreements from time to time reached by the Board and the Secretary; or

“(b) Where no such agreement is in force, with schemes from time to time notified to it by the Minister.

10. Accountability of Board of Education and Training Support Agency—The principal Act is hereby amended by repealing sections 273 to 275, and substituting the following sections: 5

“**273A. Minister may require Board to negotiate document of accountability**—(1) The Minister—

“(a) May from time to time, of the Minister’s own motion or at the Board’s request; and 10

“(b) Shall at intervals of no more than 12 months,— by written notice to the Board, require the Board to negotiate with the Minister (or any person designated by the Minister for the purpose) for the purpose of preparing a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of the Agency’s functions. 15

“(2) The requirement shall specify a day (being a day that gives a reasonable time for the preparation of a document to be negotiated) before which the document is to be prepared. 20

“**273B. Minister may prepare document where no agreement reached**—Where—

“(a) The Minister has given the Board a requirement under section 273A (1) of this Act; and

“(b) The day specified in the requirement as the day before which such a document is to be prepared has passed; and 25

“(c) Such a document has not been prepared,— the Minister may prepare a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of the Agency’s functions; and in that case shall, before the day on which it is to come into effect, give a copy to the Board. 30

“**273c. Contents of documents**—(1) Every document of accountability shall specify the mechanisms, strategies, and operating principles to be used by the Board in the performance of the Agency’s functions. 35

“(2) Every document of accountability shall specify—

“(a) The services that the Board is to provide; and

“(b) The persons for whom or which the services are to be provided; and 40

“(c) The financial performance that the Board is to achieve; and

“(d) The kinds of report that the Board is to give the Minister, and the frequency with which they are to be given; and

5 “(e) The kinds of monitoring to which the Board is to be subject, and the assistance and cooperation that the Board is to provide to the persons carrying it out; and

“(f) Procedures for negotiating the preparation of future charters; and

10 “(g) Procedures for negotiating the preparation of amendments to the charter; and

“(h) Procedures for resolving disagreements between the Minister and the Board in relation to the exercise of the Board’s powers or the performance of the Agency’s functions; and

15 “(i) The day on which it is to take effect;—
and may specify any other matters.

“(3) Subsection (2) of this section does not limit the generality of subsection (1) of this section.

20 “273D. **Amendments to documents**—(1) Subject to section 273c of this Act and subsection (2) of this section, sections 273A and 273B of this Act shall apply to the amendment of documents of accountability as if the references in those sections to a document of accountability is a reference to
25 amendments to a document of accountability.

“(2) The negotiations for the preparation of amendments to a document of accountability shall follow the procedures specified in the document of accountability; and the Minister shall not prepare any amendments under section 273B of this Act
30 unless those procedures have been followed.

“273E. **Revocation of documents**—On the day on which a document of accountability takes effect, any document of accountability in force immediately before that day shall cease to have effect.

35 “273F. **Board to comply with document of accountability**—The Board shall take all reasonable steps to comply with any accountability document for the time being in force.

40 “273G. **Non-compliance with document**—If satisfied that the Board—

“(a) Has failed or refused to comply with a document of accountability in force at the time of the failure or refusal; or

“(b) Is failing or refusing to comply with a document of accountability that is in force; or

“(c) Proposes to fail or refuse to comply with a document of accountability that will be in force at the time of the proposed failure or refusal,—

the Minister may, by written notice specifying the failure or refusal and (except in the case of a proposed failure or refusal) a period of not less than 21 days within which the document is to be complied with, direct the Board to comply with the document.

“273H. **Minister may dismiss Board where non-compliance not rectified**—(1) If satisfied that the Board has not done any of the following things:

“(a) Complied with a direction under **section 273G** of this Act:

“(b) Satisfied the Minister that in all the circumstances the failure or refusal to which the direction relates was, is, or will be (as the case may be) reasonable:

“(c) Satisfied the Minister that the alleged failure or refusal to which the direction relates did not occur, is not occurring, or will not occur (as the case may be),—

the Minister may, by notice in the *Gazette*, dismiss the members of the Board (other than the Board’s chief executive) and appoint a person to act in place of the Board.

“(2) The Minister may, by notice in the *Gazette*, revoke a notice under **subsection (1)** of this section (or this subsection) and appoint some different person to act in place of the Board.

“(3) Until a notice under **subsection (1) or subsection (2)** of this section is revoked (by notice in the *Gazette*)—

“(a) The Board’s chief executive shall be deemed not to be a member of the Board; and

“(b) The person for the time being appointed to act in place of the Board—

“(i) Shall have and may exercise and perform all the powers and functions of the Board and the Agency; and

“(ii) May affix the Board’s seal to documents accordingly; and

“(c) Clauses 5 and 11 of the Sixteenth Schedule to this Act shall apply to that person as if that person is a member of the Board.

“273I. **Minister to publish certain documents and directions**—(1) As soon as is practicable after—

“(a) Preparing a document of accountability under **section 273B** of this Act; or

“(b) Giving a direction under **section 273c** of this Act,—
the Minister shall lay a copy before the House of
Representatives.

5 “(2) Where, before the end of the period of one calendar
month after—

“(a) Preparing a document of accountability under **section
273b** of this Act; or

10 “(b) Giving a direction under **subsection (1)** of this section,—
the Minister will be, or may be, unable to lay a copy before the
House of Representatives, because the House will not, or is not
expected to, sit during that period, the Minister shall publish a
copy in the *Gazette*.”

15 **11. Consequential amendment**—Section 269 of the
principal Act is hereby consequentially amended by inserting,
after the definition of the term “Board”, the following
definition:

20 “‘Document of accountability’ means a document
prepared pursuant to a requirement under **section
273a (1)** of this Act, or prepared under **section 273b (1)**
of this Act; but where a document of accountability
has been amended, means the document of
accountability in its amended form for the time
being.”

25 **12. Functions of Service**—(1) The principal Act is hereby
amended by adding to section 280 (as inserted by section 44 of
the Education Amendment Act 1990), as **subsections (2) and (3)** the
following subsections:

30 “(2) On and after the day on which the Board’s first
document of accountability takes effect, the Service shall not
perform any of its functions otherwise than in accordance with
the Board’s document of accountability.

“(3) Before the day on which the Board’s first document of
accountability takes effect, the Service shall not perform any of
its functions otherwise than in accordance with—

35 “(a) Agreements from time to time reached by the Board and
the Secretary; or

“(b) Where no such agreement is in force, with schemes from
time to time notified to it by the Minister.”

40 **13. Accountability of Board of Career Development
and Transition Education Service**—The principal Act is
hereby amended by repealing sections 283 to 285, and
substituting the following sections:

“283A. Minister may require Board to negotiate document of accountability—(1) The Minister—

“(a) May from time to time, of the Minister’s own motion or at the Board’s request; and

“(b) Shall at intervals of no more than 12 months,— 5
by written notice to the Board, require the Board to negotiate with the Minister (or any person designated by the Minister for the purpose) for the purpose of preparing a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of the Service’s functions. 10

“(2) The requirement shall specify a day (being a day that gives a reasonable time for the preparation of a document to be negotiated) before which the document is to be prepared.

“283B. Minister may prepare document where no agreement reached—Where— 15

“(a) The Minister has given the Board a requirement under section 283A (1) of this Act; and

“(b) The day specified in the requirement as the day before which such a document is to be prepared has 20
passed; and

“(c) Such a document has not been prepared,—
the Minister may prepare a document specifying the nature and extent of the Board’s accountability to the Crown for the exercise of its powers and the performance of the Service’s 25
functions; and in that case shall, before the day on which it is to come into effect, give a copy to the Board.

“283c. Contents of documents—(1) Every document of accountability shall specify the mechanisms, strategies, and operating principles to be used by the Board in the performance of the Service’s functions. 30

“(2) Every document of accountability shall specify—

“(a) The services that the Board is to provide; and

“(b) The persons for whom or which the services are to be provided; and 35

“(c) The financial performance that the Board is to achieve; and

“(d) The kinds of report that the Board is to give the Minister, and the frequency with which they are to be given; and 40

“(e) The kinds of monitoring to which the Board is to be subject, and the assistance and cooperation that the Board is to provide to the persons carrying it out; and

“(f) Procedures for negotiating the preparation of future charters; and

“(g) Procedures for negotiating the preparation of amendments to the charter; and

5 “(h) Procedures for resolving disagreements between the Minister and the Board in relation to the exercise of the Board’s powers or the performance of the Service’s functions; and

“(i) The day on which it is to take effect;—
10 and may specify any other matters.

“(3) **Subsection (2)** of this section does not limit the generality of **subsection (1)** of this section.

“**283D. Amendments to documents**—(1) Subject to **section 283c** of this Act and **subsection (2)** of this section, **sections 283A and 283B** of this Act shall apply to the amendment
15 of documents of accountability as if the references in those sections to a document of accountability is a reference to amendments to a document of accountability.

“(2) The negotiations for the preparation of amendments to
20 a document of accountability shall follow the procedures specified in the document; and the Minister shall not prepare any amendments under **section 283B** of this Act unless those procedures have been followed.

“**283E. Revocation of documents**—On the day on which a
25 document of accountability takes effect, any document of accountability in force immediately before that day shall cease to have effect.

“**283F. Board to comply with document of accountability**—The Board shall take all reasonable steps to
30 comply with any accountability document for the time being in force.

“**283G. Non-compliance with document**—If satisfied that the Board—

35 “(a) Has failed or refused to comply with a document of accountability in force at the time of the failure or refusal; or

“(b) Is failing or refusing to comply with a document of accountability that is in force; or

40 “(c) Proposes to fail or refuse to comply with a document of accountability that will be in force at the time of the proposed failure or refusal,—

the Minister may, by written notice specifying the failure or refusal and (except in the case of a proposed failure or refusal)

a period of not less than 21 days within which the document is to be complied with, direct the Board to comply with the document.

“283H. Minister may dismiss Board where non-compliance not rectified—(1) If satisfied that the Board has not done any of the following things: 5

“(a) Complied with a direction under **section 283G** of this Act:

“(b) Satisfied the Minister that in all the circumstances the failure or refusal to which the direction relates was, is, or will be (as the case may be) reasonable: 10

“(c) Satisfied the Minister that the alleged failure or refusal to which the direction relates did not occur, is not occurring, or will not occur (as the case may be),— the Minister may, by notice in the *Gazette*, dismiss the members of the Board (other than the Board’s chief executive) and appoint a person to act in place of the Board. 15

“(2) The Minister may, by notice in the *Gazette*, revoke a notice under **subsection (1)** of this section (or this subsection) and appoint some different person to act in place of the Board.

“(3) Until a notice under **subsection (1)** or **subsection (2)** of this section is revoked (by notice in the *Gazette*)— 20

“(a) The Board’s chief executive shall be deemed not to be a member of the Board; and

“(b) The person for the time being appointed to act in place of the Board— 25

“(i) Shall have and may exercise and perform all the powers and functions of the Board and the Service; and

“(ii) May affix the Board’s seal to documents accordingly; and 30

“(c) Clauses 5 and 11 of the Seventeenth Schedule to this Act shall apply to that person as if that person is a member of the Board.

“283I. Minister to publish certain documents and directions—(1) As soon as is practicable after— 35

“(a) Preparing a document of accountability under **section 283B** of this Act; or

“(b) Giving a direction under **section 283G** of this Act,— the Minister shall lay a copy before the House of Representatives. 40

“(2) Where, before the end of the period of one calendar month after—

“(a) Preparing a document of accountability under **section 283B** of this Act; or

5 “(b) Giving a direction under **subsection (1)** of this section,—
the Minister will be, or may be, unable to lay a copy before the
House of Representatives, because the House will not, or is not
expected to, sit during that period, the Minister shall publish a
copy in the *Gazette*.”

10 **14. Consequential amendment**—(1) Section 278 of the
principal Act is hereby consequentially amended by inserting,
after the definition of the term “Board”, the following
definition:
15 “‘Document of accountability’ means a document
prepared pursuant to a requirement under **section
283A (1)** of this Act, or prepared under **section 283B (1)**
of this Act; but where a document of accountability
has been amended, means the document in its
amended form for the time being.”

PART II

REVIEW OF EDUCATIONAL SERVICES

20 **15. New Part inserted**—The principal Act is hereby
amended by inserting, after Part XXVII (as inserted by section
33 of the Education Amendment Act (No. 4) 1991), the
following Part:

“PART XXVIII

“REVIEW OF EDUCATIONAL SERVICES

25 “**323. Interpretation**—In this Part of this Act, unless the
context otherwise requires,—
“‘Applicable organisation’ means an institution that
provides an applicable service:
“‘Applicable person’, in relation to an applicable
30 organisation, means any body or person who or that
administers, controls, governs, manages, operates, or
owns, the organisation:
“‘Applicable service’ means an educational service to
which this Part of this Act applies:
“‘Chief Review Officer’ means the chief executive of the
35 Education Review Office:
“‘Minister’ means the Minister of State who, under any
warrant or with the authority of the Prime Minister, is
for the time being responsible for the administration
of this Part of this Act:

“ ‘Review officer’ means a person for the time being designated under **section 326** of this Act; and includes the Chief Review Officer.

“324. Educational services to which Part XXVIII applies—This Part of this Act applies to every educational service (other than a service provided only to or for people over 16 who are not enrolled at a state school within the meaning of section 2 (1) of this Act)—

- “(a) That is provided by an organisation—
 - “(i) Owned or operated by the Crown; or
 - “(ii) Forbidden by law to provide that service (or a service of that kind) unless it holds a licence, permit, or other authority issued by or on behalf of the Crown; or
- “(b) Whose provision is (wholly or partly)—
 - “(i) Funded by public money appropriated by Parliament; or
 - “(ii) Regulated by or under statute.

“325. Chief Review Officer to perform certain functions—The Chief Review Officer shall—

- “(a) Administer—
 - “(i) When directed by the Minister to do so; or
 - “(ii) Notwithstanding section 32 of the State Sector Act 1988, of the Chief Review Officer’s own motion,—
 reviews, either general or relating to particular matters, of the performance of applicable organisations in relation to the applicable services they provide; and
- “(b) Administer the preparation of reports to the Minister on the undertaking and results of such reviews; and
- “(c) Give the Minister such other assistance and advice on the performance of applicable organisations as the Minister from time to time requires.

“326. Review officers—The Chief Review Officer may designate any person (whether or not an employee of the Chief Review Officer) a review officer; and shall ensure that every person for the time being so designated has a certificate to that effect, in a form approved by the Chief Review Officer.

“327. Powers of entry and inspection—(1) For the purposes of enabling any functions of the Chief Review Officer to be performed, any review officer may, at any reasonable time and having given reasonable notice to an applicable

organisation or any applicable person of the organisation, enter any place occupied by the organisation or person, and—

“(a) Conduct inspections or inquiries:

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

“(i) An applicable service that the organisation provides; or

10 “(ii) People to whom such a service is (or has been) provided,—

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

“(c) Require any applicable person of the organisation, or any other person—

15 “(i) Employed by the organisation or any applicable person of the organisation; or

“(ii) Involved in the management of the organisation,—

20 to make or provide statements, in any form and manner the review officer specifies, about any matters relating to an applicable service:

“(d) Inspect the work of any person to whom an applicable service is (or has been) provided:

“(e) Meet and talk with any person to whom an applicable service is being provided.

25 “(2) Notwithstanding **subsection (1)** of this section, a review officer shall not enter any place—

“(a) That is, or is within, a dwellinghouse; or

30 “(b) Through a dwellinghouse,—
except with the consent of the occupier of the dwellinghouse or pursuant to a warrant issued under **subsection (3)** of this section.

“(3) A District Court Judge who, on application made on oath, is satisfied that there is reasonable ground for believing that a dwellinghouse—

35 “(a) Is, or has inside it, a place occupied by an applicable organisation or an applicable person; or

“(b) Is the only practicable means through which a place occupied by an applicable organisation or an applicable person may be entered,—

40 may issue to a review officer named in it a warrant to enter any part of the dwellinghouse that is, or is the only practicable means through which the review officer may enter, the place.

“328. **Review officers to prove identity**—Every review officer who enters any place under the authority of **section 326** of this Act shall, on first entering and, if requested, at any later

time, produce to the person apparently in charge the review officer's certificate of designation, (and, where the review officer is entering a dwellinghouse pursuant to a warrant issued under **section 327** of this Act, the warrant)."

16. Consequential amendments and repeals—(1) Section 159 of the principal Act is hereby consequentially amended by repealing the definition of the term "Chief review officer". 5

(2) The following enactments are hereby consequentially repealed:

(a) Sections 78A (as inserted by section 19 (1) of the Education Amendment Act 1990) and 318 (as inserted by section 49 of the Education Amendment Act 1990), and Part XVII (as inserted by section 39 of the Education Amendment Act 1990), of the principal Act: 10

(b) Sections 19 and 39 of the Education Amendment Act 1990. 15

PART III

LEARNING MEDIA LIMITED

17. New Part inserted—The principal Act is hereby amended by inserting, after **Part XXVIII** (as inserted by **section 5** of this Act), the following Part: 20

"PART XXIX

"LEARNING MEDIA LIMITED

"**329. Interpretation**—In this Part of this Act, unless the context otherwise requires,— 25

"The company' means Learning Media Limited, a company to be formed as a private company under the Companies Act 1955:

"The Minister' means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act: 30

"The Ministry' means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act: 35

"The Secretary' means the chief executive of the Ministry: 40

"The shareholding Ministers' means—

“(a) The Minister; and

“(b) The Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Public Finance Act 1989.

5

“330. **Incorporation of company**—(1) Notwithstanding anything in the Companies Act 1955 or any other enactment or rule of law, but subject to **section 331** of this Act, the shareholding Ministers may form and register under the Companies Act 1955 a private company limited by shares called ‘Learning Media Limited’.

10

“(2) On the company’s incorporation, each of the shareholding Ministers shall, on behalf of the Crown, subscribe for half the shares in its capital.

15

“(3) All shares in the company’s capital subscribed for by a Minister under **subsection (2)** of this section shall be deemed to have been allotted to that Minister as fully paid up.

20

“(4) Nothing in **section 60** of the Companies Act 1955 (which relates to returns of allotments, and prescribes the documents that must be delivered to the Registrar of Companies where shares are allotted for a consideration other than cash) applies to shares deemed by **subsection (3)** of this section to have been allotted.

25

“331. **Objects of company**—The company’s objects are—

“(a) To provide, pursuant to contracts with the Secretary, the basic materials and services necessary to support the national education guidelines (within the meaning of **section 60** of the Education Act 1989); and

30

“(b) To maintain the company’s viability as a provider of such materials and services; and

“(c) To maintain the value of the Crown’s equity in the company; and

“(d) All other objects for the time being specified in its memorandum of association.

35

“332. **Crown shareholding**—(1) The Shareholding Ministers may from time to time, on behalf of the Crown, subscribe for or otherwise acquire equal numbers of additional shares in the company’s capital.

40

“(2) All money required to be paid for shares in the company’s capital subscribed for or otherwise acquired under **subsection (1)** of this section shall be paid out of public money appropriated by Parliament for the purpose.

“(3) Notwithstanding any other enactment or any rule of law, it is not necessary to complete or register a transfer of shares in

the capital of the company if the identity of one (or both) of the shareholding Ministers changes.

“333. Application of Government Superannuation Fund Act 1956—Section 2A of the Government Superannuation Fund Act 1956 applies to the company. 5

“334. Application of Public Finance Act 1989—The company is a Crown-owned entity for the purposes of the Public Finance Act 1989.

“335. Auditor—The Audit Office shall be the company’s auditor. 10

“336. Application of Companies Act 1955—Except as provided in subsections (1) to (4) of section 330, section 334, and section 335 of this Act, and in Part V of the Public Finance Act 1989, the Companies Act 1955 applies to the company; and—

“(a) Nothing in section 330 of this Act prevents a change to the company’s name in accordance with that Act; and 15

“(b) The specification of objects for the company by section 331 of this Act does not limit or affect the application to the company of section 18A of that Act. 20

“337. Personnel policy—(1) The company shall operate a personnel policy that complies with the principle of being a good employer.

“(2) For the purposes of subsection (1) of this section, a good employer is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— 25

“(a) Good and safe working conditions; and

“(b) The impartial selection of suitably qualified persons for appointment; and 30

“(c) Recognition of—

“(i) The aims and aspirations of Maori; and

“(ii) The employment requirements of Maori; and

“(iii) The need for appropriate involvement of Maori as employees of the company; and 35

“(d) Opportunities for the enhancement of the abilities of individual employees; and

“(e) Recognition of the aims and aspirations, and the cultural differences, of ethnic or minority groups; and 40

“(f) Recognition of the employment requirements of women; and

“(g) Recognition of the employment requirements of persons with disabilities.

“338. **Equal employment opportunities programme—**

(1) In each financial year, the company shall—

5 “(a) Develop and publish an equal opportunities programme for the company; and

“(b) Ensure that the programme is complied with.

10 “(2) For the purposes of **subsection (1)** of this section, an equal opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers, that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any persons or group of persons.

15 “339. **Choice of procedure in relation to certain personal grievances—**(1) Where the circumstances giving rise to a personal grievance by an employee of the company are also such that the employee would (but for this subsection) be entitled to make a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971, the

20 employee may take one, and only one, of the following steps in relation to the circumstances:

“(a) Invoke the procedures applicable in relation to personal grievances under the employee’s contract of service with the company;

25 “(b) Make a complaint under the Human Rights Commission Act 1977 or (as the case may be) the Race Relations Act 1971.

30 “(2) For the purposes of **subsection (1)(b)** of this section, a person makes a complaint under the Human Rights Commission Act 1977 or the Race Relations Act 1971 when the Human Rights Commission or the Race Relations Act Conciliator (as the case may be) accepts the complaint for investigation.

35 “340. **Consultation with State Services Commissioner—**(1) The terms and conditions of employment of the company’s chief executive shall be determined by agreement between the enterprise and the chief executive, except that the company shall not finalise those terms and conditions without first consulting the State Services

40 Commissioner.
“(2) The company shall not enter into a collective employment contract (within the meaning of the Employment Contracts Act 1991) with any of its employees unless the company or its representative has first consulted the State

Services Commissioner with respect to the terms and conditions of the contract.

“341. **Existing rights, assets, liabilities, and debts**—On the commencement of this Part of this Act,—

- “(a) All rights and assets of the Crown,— 5
- “(i) Including rights under the Ministry’s lease of the premises occupied by the learning media section of the Ministry on that commencement; but
- “(ii) Otherwise excluding interests in land,— 10
- formerly exercisable or used, exclusively or substantially, by the learning media section of the Ministry shall become rights and assets of the company; and
- “(b) All liabilities and debts of the Crown contracted in relation to, or in relation to activities exclusively or 15
- substantially carried on by, the learning media section of the Ministry shall become liabilities and debts of the company.”

18. Consequential amendments—The enactments 20 specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

PART IV

AMENDMENTS TO EDUCATION ACT 1964

19. Part to be read with Education Act 1964—This Part 25 of this Act shall be read together with and deemed part of the Education Act 1964* (hereafter in this Part of this Act referred to as the principal Act).

*Reprinted with amendments: 1975, Vol. 3, p. 1699

Amendments: 1976, No. 42; 1977, No. 91; 1978, No. 79; 1981, No. 124; 1982, No. 19; 1982, No. 155; 1982, No. 170; 1983, No. 57; 1985, No. 124; 1987, No. 14; 1987, No. 177; 1989, No. 3; 1989, No. 80; 1989, no. 156; 1990, No. 60; 1990, No. 118

20. Delegation of powers and functions in relation to school transport assistance—Section 201c of the principal 30 Act (as inserted by section 37 of the Education Amendment Act (No. 2) 1974) is hereby amended—

- (a) By omitting from subsection (1) the words “Education Boards”, and substituting the words “persons, bodies of persons (whether incorporated or not), or bodies 35 corporate”; and
- (b) By omitting from subsections (2) and (4) the words “Education Board or designated officer”, and substituting in each case the words “person or body”; 40
- and

- (c) By omitting from subsection (2) the words “it or him”, in each place where they occur, and substituting in each case the words “the person or body; and
- 5 (d) By omitting from subsection (2) the words “it or he”, and substituting the words “the person or body”.

PART V

AMENDMENT TO INDUSTRY TRAINING ACT 1992

21. Part to be read with Industry Training Act 1992—
10 This Part of this Act shall be read together with and deemed part of the Industry Training Act 1992* (hereafter in this Part of this Act referred to as the principal Act).

*1992, No. 55

22. Interpretation—Section 2 of the principal Act is hereby
15 amended, as from its commencement, by omitting from the definition of the term “apprenticeship contract” the expression “19”, and substituting the expression “13”.

Section 18

SCHEDULE
ENACTMENTS AMENDED

Title of Act	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the item: "Learning Media Limited".
1976, No. 65—The Income Tax Act 1976 (R.S. Vol. 12, p. 1)	By inserting in the Fourteenth Schedule (as substituted by section 23 (1) of the State Services Conditions of Employment Amendment Act 1987), in its appropriate alphabetical order, the item: "Learning Media Limited".
1982, No. 156—The Official Information Act 1982	By inserting in the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987), in its appropriate alphabetical order, the item: "Learning Media Limited".