

**TERTIARY STUDENTS ASSOCIATION VOLUNTARY MEMBERSHIP**

ANALYSIS

Title	229a. Collection of fees on behalf of associations of students
1. Short Title and commencement	229c. No discrimination to be based on membership of associations of students
2. Interpretation	229d. Intimidation regarding membership of associations of students an offence
3. State agencies, tertiary institutions, and private training establishments to act in spirit of this Act	5. Requirements as to constitutions of Councils
4. New sections inserted	6. Transitional provisions relating to an institution's first Council
229. Membership of associations of students to be voluntary	7. Term of office
229A. Provision of non-educational services	

A BILL INTITULED

**An Act to amend the Education Act 1989**

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

5     **1. Short Title and commencement**—(1) This Act may be cited as the Tertiary Students Association Voluntary Membership Act 1994, and shall be read together with and deemed part of the Education Act 1989\* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1995.

10     **2. Interpretation**—Section 159 (1) of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

15             “ ‘Association of students’ means any association, society, or other body, whether corporate or unincorporate, representing the interests of, or providing non-

\*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; 1993, No. 51; 1993, No. 77

educational services to, students, or any group of students:

“‘Non-educational services’ means any amenity, facility, or service which is not, or not directly related to, an educational course provided by a tertiary institution or private training establishment:” 5

**3. State agencies, tertiary institutions, and private training establishments to act in spirit of this Act**—No State agency, tertiary institution, or private training establishment shall act in any way which conflicts with the intentions of this Act. 10

**4. New sections inserted**—The principal Act is hereby amended by repealing section 229 (as inserted by section 38 of the Education Amendment Act 1990), and substituting the following sections: 15

**“229. Membership of associations of students to be voluntary**—(1) It shall not be compulsory for any person to become a member of an association of students, either as a condition of enrolment at a tertiary institution or private training establishment or for any other reason. 20

“(2) It shall not be compulsory for any person who chooses not to belong to an association of students—

“(a) To make a subscription or pay any fees to an association of students, either directly or indirectly; or

“(b) To pay an amount to a charity or other person or body in lieu of such a subscription or fee. 25

**“229A. Provision of non-educational services**—(1) No Council of a tertiary institution or governing body of a private training establishment shall fund non-educational services through a fee or levy on any person who does not use, or intend to use, the service. 30

“(2) The costs of a non-educational service provided by a Council of a tertiary institution or private training establishment must be fully funded by the users of that service.

“(3) Nothing in this section shall apply to— 35

“(a) The provision of any non-educational service which is required by an employment contract under the Employment Contracts Act 1991; or

“(b) The provision of childcare services for employees and students of the tertiary institution or private training establishment; or 40

“(c) The provision of healthcare services for employees and students of the tertiary institution or private training establishment; or

5 “(d) The provision of counselling services for employees and students of the tertiary institution or private training establishment; or

“(e) The provision of any non-educational service required by or under any Act or regulation; or

10 “(f) Any building levy required to maintain any property owned by an association of students on 1 March 1994.

“229B. **Collection of fees on behalf of associations of students**—(1) Every Council of a tertiary institution or governing body of a private training establishment shall collect fees on behalf of any association of students to which at least 15 10 percent of the students enrolled at the tertiary institution or private training establishment belonged in the previous year.

20 “(2) At the time of enrolment, every Council of a tertiary institution or governing body of a private training establishment shall inform, by notice in writing, every person enrolling in courses at the tertiary institution or private training establishment of the provisions of **section 229** of this Act.

25 “(3) Every Council or governing body shall collect the fees as trustee for the particular association of students and shall pay those fees to the association as agreed between the Council or governing body and the association.

30 “229C. **No discrimination to be based on membership of associations of students**—No State agency, tertiary institution or private training establishment shall treat any person more favourably or less favourably according to whether or not—

“(a) The person is, intends to become, or intends to cease to be, a member of an association of students; or

35 “(b) The person has paid, intends to pay, or has refused to pay, any fee, subscription, or amount referred to in **section 229 (2)** of this Act.

40 “229D. **Intimidation regarding membership of associations of students an offence**—(1) It shall be unlawful for any person to attempt to persuade a person to become, or cease to be, a member of an association of students by intimidation or deception, whether by threat or otherwise.

“(2) Where a person contravenes **subsection (1)** of this section, that person commits an offence and is liable, on summary conviction, to a fine not exceeding,—

- “(a) In the case of an individual, \$5,000; or
- “(b) In any other case, \$50,000.”

**5. Requirements as to constitutions of Councils—**

(1) Section 171 of the principal Act (as inserted by section 37 of the Education Amendment Act 1990) is hereby amended by repealing paragraph (e) of subsection (2), and substituting the following paragraph: 5

- “(e) At least 1, but not more than 5, people, whether or not they are or have been students of the institution, who are elected democratically by all the students of the institution who choose to vote:” 10

(2) Section 171 of the principal Act (as so inserted) is hereby further amended by repealing paragraph (a) of subsection (8), and substituting the following paragraph:

- “(a) In the case of an election of a student representative, on the first Wednesday in July in the year preceding that elected member’s term of office, in a democratic election administered by the Council; or” 15

**6. Transitional provisions relating to an institution’s first Council—**Section 172 of the principal Act (as inserted by section 37 of the Education Amendment Act 1990) is hereby amended by repealing paragraph (a) of subsection (4), and substituting the following paragraph: 20

- “(a) In the case of an election of a student representative, on a day determined by the Minister, in a democratic election administered by the governing body; or” 25

**7. Term of office—**Section 173 of the principal Act (as inserted by section 37 of the Education Amendment Act 1990) is hereby amended by repealing subsection (2), and substituting the following subsection: 30

- “(2) Subject to this section, a student representative holds office from 1 January to 31 December in the year following his or her election.”