

House of Representatives  
**Supplementary Order Paper**

**Wednesday, 14 November 2007**

**Education (Tertiary Reforms) Amendment Bill**

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*Proposed amendments*

Dr Paul Hutchison, in Committee, to move the following amendments:

*Clause 6*

New section 159AA: to omit subsection (3)(a) and substitute the following (lines 15 and 16 on page 7):

- “(a) those stakeholders in the tertiary education sector that he or she considers ought to be consulted, including those who represent major tertiary education organisations including, but not limited to, universities, polytechnics, industry training organisations, wananga, and private training establishments; and

To omit subsection (4) and substitute the following (lines 18 and 19 on page 7):

- “(4) As soon as practicable after issuing a tertiary education strategy the Minister must—  
“(a) give public notice of it; and  
“(b) present a copy of it to the House of Representatives.”

*Clause 8*

New section 159AC: to omit subsection (2)(a) and substitute the following (lines 32 and 33 on page 7):

- “(a) those stakeholders in the tertiary education sector that he or she considers ought to be consulted, including those who represent major tertiary education organisations including, but not limited to, universities, polytechnics, industry training organisations, wananga, and private training establishments; and

To omit subsection (3) and substitute the following (lines 35 to 38 on page 7):

- “(3) As soon as practicable after revoking and replacing, or significantly amending a tertiary education strategy, the Minister must—
- “(a) give public notice of the revocation and replacement or amendment; and
  - “(b) present a copy of the revocation and replacement or amendment to the House of Representatives.

*Clause 11*

Subclause (1): to add the following subparagraph to section 159F(1)(a) (after line 21 on page 10):

- “(ix) ensuring that reasonable negotiation takes place; and”.

*Clause 17*

New section 159V: to omit paragraph (b) and substitute the following (lines 1 and 2 on page 19):

- “(b) if the Commission directs, at more frequent intervals specified by the Commission (but not less than yearly, unless the Commission and organisation are in agreement).

New section 159YA: to amend subclause (2) by inserting “reasonably” before “applying” (line 6 on page 21); and to insert the following paragraph after subsection (3)(b) (after line 27 on page 21):

- “(c) reasonably apply the assessment criteria prescribed under section 159Y.

New section 159YC: to omit subsection (1) and substitute the following (lines 28 to 35 on page 22):

- “(1) It is a condition of an organisation receiving funding approval for its plans or part of its plans that the organisation will supply to either the Commission or Ministry (but not both) from time to time as required by either the Commission or Ministry (but not both) and in a form specified by either the Commission or Ministry (but not both) any reasonable financial, statistical or other information that either the Commission or Ministry requires the organisation to supply.

New section 159YO: to add the following subsection after subsection (2) (after line 31 on page 31):

- “(3) An organisation is not required to include details in any plan summary, of information which is confidential or commercially sensitive or which may otherwise be withheld from

disclosure under the Official Information Act 1982, the Privacy Act 1993 and the Local Government Official Information and Meetings Act 1987 if the information relates to activity which is non-government funded.”

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### Explanatory note

Under the current Bill it is up to the Minister whom he consults with. It is fundamental that those he consults with include those who represent major tertiary organisations; Universities, Polytechnics, Industry Training Organisations, Wananga and Private Training Establishments. It is also important the House of Representatives is aware of who has been consulted in the formation of a Tertiary Education Strategy (clauses 6 and 8).

With regard to “Functions of the Commission”, the Minister has said the Bill would be high trust. It is important that there be an ethos required of TEC, to carry out ‘reasonable negotiation’. Already there have been examples where institutions have said the TEC has threatened not to sign “the plan”, unless they “play ball” (clause 11).

If High Trust is to be achieved towards the tertiary sector then a ‘reasonable’ approach should be taken by the Tertiary Education Commission in negotiating plans. In the current Bill, the Commission must—

‘give the organisation a reasonable opportunity to be heard’ but is not obliged to be reasonable towards the organisation. While it may be difficult to legislate for this, if it is good enough to use the term ‘reasonable opportunity to be heard’ it should be good enough to negotiate reasonably with tertiary education organisations.

One of the objectives of this Bill is said to be to reduce complexity and bureaucracy. There should not be a need for the Commission and Ministry to require information at the same time. They should be well co-ordinated enough not to request duplicate information. It is also important that requests for information are reasonable and well thought through. Too often Government departments request vast amounts of information that is not used (section 159YC).

Increasingly, tertiary educational organisations are carrying out ventures with industry or private businesses. It is important that a tertiary education organisation can carry out joint ventures with industry, and not have sensitive commercial information divulged inappropriately when non-government funded resources are used (section 159YO).