

**Reprint  
as at 1 August 2020**



**Education (Freedom of Association) Amendment Act  
2011**

Public Act    2011 No 80  
Date of assent    30 September 2011  
Commencement    see section 2

Education (Freedom of Association) Amendment Act 2011: repealed, on 1 August 2020, pursuant to section 669(3)(b) of the Education and Training Act 2020 (2020 No 38).

**Contents**

	Page
1      Title	2
2      Commencement	2
3      Principal Act amended	2
4      Purpose	2
5      Requirements as to constitutions of councils	2
6      New sections 229A to 229CA substituted	2
229A    Membership of students association voluntary	2
229B    Undue influence	2
229C    Complaints	2
229CA   Students association membership fees	3
7      Sections 229A to 229C apply to private training establishments	4
8      Information, withdrawals, and refunds	4
9      Transitional provision	4

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**Note**

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**This Act is administered by the Ministry of Education.**

**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Education (Freedom of Association) Amendment Act 2011.

**2 Commencement**

This Act comes into force on 1 January 2012.

**3 Principal Act amended**

This Act amends the Education Act 1989.

**4 Purpose**

The purpose of this Act is to uphold students' rights to freedom of association, by removing any requirement for students to join students associations.

**5 Requirements as to constitutions of councils**

Section 171(2) is amended by repealing paragraph (e) and substituting the following paragraph:

- (e) at least 1, but not more than 3, persons who must be appointed following an election (conducted in accordance with statutes made by the council) by the students at the institution:

**6 New sections 229A to 229CA substituted**

Sections 229A to 229C are repealed and the following sections substituted:

**229A Membership of students association voluntary**

No student or prospective student at an institution is required to be a member of a students association.

**229B Undue influence**

A person must not exert undue influence on any student or prospective student with intent to make that student or prospective student—

- (a) become or remain a member of a students association; or
- (b) cease to be a member of a students association; or
- (c) not become a member of a students association.

**229C Complaints**

- (1) A student or prospective student who, on reasonable grounds, considers that any person has exerted undue influence in breach of section 229B may lodge a complaint with the council of the institution.
- (2) A complaint must be in writing, and must specify the grounds on which the person believes that undue influence has been exerted.

- (3) A student or prospective student who lodges a complaint—
  - (a) is entitled to be heard on the matter by the council; and
  - (b) may represent himself or herself, or be represented by an advocate.
- (4) A students association in respect of which a complaint has been lodged—
  - (a) is entitled to be heard on the matter by the council; and
  - (b) may be represented by a member of the association or by an advocate.
- (5) The council may refuse to hear a complaint if it believes that no reasonable grounds exist for it to be made.
- (6) If the council hears a complaint, it must deal with that complaint in accordance with the principles of natural justice and the procedures (if any) prescribed by the council in statutes made under section 194.
- (7) The council may uphold, reject, or otherwise decide on the complaint as it considers appropriate in the circumstances, and its decision is final.

#### **229CA Students association membership fees**

- (1) No person is required to pay a membership fee to a students association, or to pay money to any other person as an alternative to paying such a membership fee, unless that person chooses to become or remain a member of that association.
- (2) A person who is not a member of a students association may not be required to pay a representation fee to that association for any services that the association provides generally to the institution's student body.
- (3) Subsections (1) and (2) do not prevent a students association—
  - (a) charging a person who is not a member of the association for the provision of a specific service to that person, at that person's request; or
  - (b) being contracted by an institution or any other person to provide services to students of an institution.
- (4) The council of an institution must, if asked by a students association of the institution, collect the membership fees of that association, but only if the association provides the council with—
  - (a) a copy of its current constitution; and
  - (b) an independently audited set of financial accounts of the association for the last financial year.
- (5) The council must pay all membership fees collected on behalf of the students association to the association in a timely manner.
- (6) Despite subsections (4) and (5), the council may decline a request to collect membership fees on behalf of a students association, or may withhold all or part of any membership fees collected, if the council believes that—
  - (a) the terms of the constitution of the association are being breached; or

- (b) the accounts disclose financial irregularities.
- (7) The council may retain any membership fees that have been withheld under subsection (6) until the council is satisfied that all breaches of the terms of the association's constitution, and all financial irregularities, have been appropriately addressed by the association.
- (8) The council may charge a students association for the actual and reasonable costs incurred by the council in collecting membership fees on behalf of that association.

#### **7 Sections 229A to 229C apply to private training establishments**

- (1) The heading to section 229D is amended by omitting “**229C**” and substituting “**229CA**”.
- (2) Section 229D is amended by omitting “229C” and substituting “229CA”.

#### **8 Information, withdrawals, and refunds**

Section 236A(1)(a)(i) is amended by omitting “, and including any students association membership fees”.

#### **9 Transitional provision**

- (1) This section applies to any student who on 1 January 2012—
  - (a) is enrolled at an institution or private training establishment; and
  - (b) is a member of that institution's or that private training establishment's students association.
- (2) Despite sections 229A to 229CA of the principal Act (as inserted by this Act),—
  - (a) a student to whom this section applies continues to be a member of the students association until the expiry of his or her current term of enrolment; and
  - (b) the provisions of the constitution of the students association that existed when the student last joined or rejoined the association continue to apply until the expiry of that period.

## **Reprints notes**

### **1    *General***

This is a reprint of the Education (Freedom of Association) Amendment Act 2011 that incorporates all the amendments to that Act as at the date of the last amendment to it.

### **2    *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3    *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4    *Amendments incorporated in this reprint***

Education and Training Act 2020 (2020 No 38): section 669(3)(b)