

House of Representatives

# Supplementary Order Paper

Thursday, 30 September 2021

Education and Training (Teaching Council Fees, Levies, and Costs)  
Amendment Bill

*Proposed amendments for the consideration of the Committee of the  
whole House*

**Key:**

- **this is inserted text**
- **~~this is deleted text~~**

**Note:** This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- NOT have official status in terms of unamended text
- NOT have the status of an as-reported version of the Bill.



### **Explanatory note**

This Supplementary Order Paper sets out amendments to the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Bill (the **Bill**), which amends the Education and Training Act 2020 (the **principal Act**).

The amendments—

- separate the Teaching Council’s functions currently set out in section 479 of the principal Act into mandatory and optional functions:
- provide that the Teaching Council’s optional functions in *new section 479(2)* relating to professional leadership may only be performed with the written approval of the Minister of Education:
- carry over section 480(5) of the principal Act into *new section 480*, which enables the Teaching Council to also charge for any goods or services it provides in accordance with performing its functions under section 479(1):
- provide that the Teaching Council may only recover the costs of performing its mandatory functions under section 479(1) of the principal Act:
- omit the transitional provisions in the Bill relating to the Legislation Act 2019 because the provisions are no longer required:
- make other minor and technical drafting changes.

### **Departmental disclosure statement**

The Ministry of Education is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It provides access to information about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2021&no=68>

**The Honourable Chris Hipkins, in Committee, to propose the amendments shown in the following document.**



*Hon Chris Hipkins*

# **Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Bill**

Government Bill

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

**1 Title**

This Act is the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act **2021**.

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**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**3 Principal Act**

This Act amends the Education and Training Act 2020.

**Part 1**

**Teaching Council ~~fees and costs~~ fees, levies, and costs**

**4 Section 479 amended (Functions of Teaching Council)**

(1) In the heading to section 479, replace “**Functions**” with “**Functions and powers**”.

(1A) In section 479(1), replace “functions of the Teaching Council are as follows” with “functions that the Teaching Council must perform are as follows”.

(1B) Replace section 479(1)(a), (b), and (c) with:

- (a) to provide direction for teachers:
- (b) to enhance the status of teachers:
- (c) to identify and disseminate best practice in teaching and foster the teaching profession’s continued development in light of research and evidence of changes in society and technology:

(2) After section 479(1), insert:

(1A) ~~The Teaching Council may, by written notice to a governing body, require the governing body to give the Teaching Council, within a time specified in the notice, any information specified in the notice, and the governing body must within that time give the Teaching Council in writing all information so required that is reasonably necessary or desirable for the Teaching Council to have for the proper administration of this subpart.~~

(1B) ~~The Teaching Council has and may exercise all other powers conferred by this Act or reasonably necessary for the purposes of performing its functions.~~

(1C) ~~For the purposes of **subsection (1A)**, **governing body** means the board of a State school or a service provider that operates any licensed early childhood service or any certified playgroup or the managers of a private school.~~

(2) Replace section 479(2) with:

(2) The functions that the Teaching Council may perform, with the written approval of the Minister, are as follows:

- (a) to provide leadership to the education profession:
- (b) to enhance the status of education leaders:
- (c) to identify and disseminate best practice in education leadership.

- (3) The Teaching Council may, by written notice to a governing body, require the governing body to give the Teaching Council, within a time specified in the notice, any information specified in the notice, and the governing body must within that time give the Teaching Council in writing all information so required that is reasonably necessary or desirable for the Teaching Council to have for the proper administration of this subpart.
- (4) The Teaching Council has and may exercise all other powers conferred by this Act or reasonably necessary for the purpose of performing its functions.
- (5) For the purposes of **subsection (3)**, **governing body** means the board of a State school or a service provider that operates any licensed early childhood service or any certified playgroup or the managers of a private school.
- (6) When performing its functions and exercising its powers, the Teaching Council must act in accordance with the rules of natural justice.
- (3) In section 479, replace the compare reference with:  
Compare: 1989 No 80 ss 382, 383(6)–(8)

## **5 Section 480 replaced (Powers of Teaching Council)**

Replace section 480 with:

### **480 Teaching Council fees, levies, and costs**

- (1) The Teaching Council may, by notice,—
- (a) fix fees payable for—
    - (i) registration as a teacher:
    - (ii) the issuing of a practising certificate:
    - (iii) the granting of a limited authority to teach:
    - (iv) any other matter associated with those matters (for example, inspection of the register of registered teachers or supplying a copy of an entry in the register):
  - (b) impose a levy payable by registered teachers, holders of a limited authority to teach, and applicants for registration as a teacher or a limited authority to teach for the purpose of funding the Teaching Council's functions set out in section 479(1).
- (2) ~~Fees fixed and levies imposed under **subsection (1)** must recover only the actual and reasonable costs incurred by the Teaching Council in performing and exercising its functions and powers.~~
- (2A) A notice under **subsection (1)** may fix different fees or provide for different amounts of levy payable—
- (a) by registered teachers, holders of a limited authority to teach, and applicants for registration as a teacher or a limited authority to teach; and
  - (b) for registration effected in different circumstances; and

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- (c) for practising certificates of different kinds.
- (3) Fees fixed and levies imposed under **subsection (1)** are payable in the manner (for example, by instalments) prescribed in the notice and are recoverable as a debt due to the Teaching Council.
- (3A) Before issuing a notice under **subsection (1)**, the Teaching Council must—
- (a) consult registered teachers and holders of a limited authority to teach on any proposed fees or levies; and
- (b) receive the views presented to it with an open mind and give those views due consideration when making a decision on the proposed fees or levies.
- (3B) The Teaching Council may also charge a fee for any goods or services it provides in accordance with its functions under section 479(1).
- (3C) Fees fixed and levies imposed under **subsection (1)** and any fees charged under **subsection (3B)** must recover only the actual and reasonable costs incurred by the Teaching Council in performing its functions set out in section 479(1).
- (4) Despite anything in this Act, the Teaching Council may refuse to register a person as a teacher, issue a practising certificate, or grant a limited authority to teach until the appropriate fee or levy has been paid in the manner prescribed by the notice.
- (5) If the Teaching Council cancels a teacher's registration or limited authority to teach, it may, by written notice to the teacher or person concerned, require the teacher or person to pay the Teaching Council any reasonable costs specified in the notice that were incurred by the Teaching Council in dealing with the proposal to cancel the registration or authorisation, or with the cancellation itself.
- (6) A notice made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1989 No 80 ss 364, 372, ~~383(1)–(3)~~ 383(1), (2), (5)

**6 Schedule 3 amended**

In Schedule 3, repeal clauses 13 and 22.

**Part 2**

**Validations and other transitional provisions**

**7 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Parts set out in the **Schedule** of this Act as the last Parts; and
- (b) make all necessary consequential amendments.



**Schedule**  
**New Parts 3 and 4 Part 3 inserted into Schedule 1**

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**Part 3**  
**Provisions relating to Education and Training (Teaching Council  
Fees, Levies, and Costs) Amendment Act 2021**

**73 Interpretation**

In this Part,—

**2015 fees** means fees fixed or purportedly fixed by the Education Council of Aotearoa New Zealand Fees for Registration, Practising Certificates and Limited Authorities to Teach notice published in the *Gazette* on 25 June 2015, 2015-gs3644

**2020 fee** means a fee fixed or purportedly fixed by the Teaching Council of Aotearoa New Zealand Fees for Registration, Practising Certificates, and Limited Authorities to Teach notice published in the *Gazette* on 22 May 2020, 2020-gs2144

**commencement** means the commencement of the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act **2021**

**former Council** means any predecessor of the Teaching Council.

**74 Validation of specified fees**

- (1) This clause applies to the 2015 fees and any previous fees fixed by a former Council for registration as a teacher, the issuing of a practising certificate, or the granting of a limited authority to teach (**specified fees**).
- (2) The specified fees, and all actions of a former Council in fixing the specified fees, are valid and declared to be and to always have been lawful.
- (3) All money received by the Teaching Council or a former Council in payment of the specified fees is to be treated as having been lawfully paid to, and received by, the Teaching Council or the former Council.

**75 Recovery of unpaid 2015 fees**

Any 2015 fee, or part of a 2015 fee, that applies to a person and that has not been paid before commencement—

- (a) is declared to be lawfully payable to the Teaching Council; and
- (b) may be recovered by the Teaching Council on and after commencement as if the 2015 fee had always been lawfully payable by the person.

**76 Payment of 2020 fees**

- (1) This clause applies to a person who has paid a 2020 fee to the Teaching Council on or after 1 February 2021.
- (2) The payment must be treated on and after commencement as a part-payment of the appropriate 2015 fee payable by the person.

**Part 4****Provisions relating to Legislation Act 2019****77 Application of Part**

This Part applies until the main commencement date (as defined in clause 2 of Schedule 1 of the Legislation Act 2019).

**78 Teaching Council fees, levies, and costs**

- (1) This clause applies to a notice made by the Teaching Council under **section 480** (as replaced by the Education and Training (Teaching Council Fees, Levies, and Costs) Amendment Act **2021**).
- (2) The notice—
  - (a) must be published in the *Gazette* and on an Internet site maintained by or on behalf of the Teaching Council; and
  - (b) must state where printed copies of it are available free; and
  - (c) is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.
- (3) The Teaching Council must make printed copies of every notice made under **section 480** that is in force available free at the place stated in it.