

Education and Training Amendment Bill (No 2)

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Education and Training Amendment Bill (No 2) and recommends by majority that it be passed. We recommend all amendments unanimously.

Introduction to the bill

This bill would amend the Education and Training Act 2020. Among other things, the proposed amendments are intended to:

- better align Police vetting requirements with the Children’s Act 2014
- strengthen and streamline the Teaching Council’s disciplinary processes
- give the Government more flexibility to regulate compulsory student services fees charged by tertiary education providers
- enable National Student Numbers (NSNs) to be used when there is funding to support work-based training
- enable NSNs to be assigned to students studying for NCEA in certain overseas jurisdictions
- enable the New Zealand Qualifications Authority to exercise discretion about whether to cancel the registration of a private training establishment in relation to immigration breaches
- expand the Education Review Office’s mandate to enable it to review professional learning and development
- simplify qualifications and other credentials
- ensure that learner well-being and safety arrangements and disputes resolution schemes for international and tertiary students are fit for purpose

- introduce a new type of casual vacancy on school boards.

The bill would also make a number of minor and technical amendments.

Supplementary Order Paper No 118

The Minister of Education has introduced Supplementary Order Paper (SOP) No 118 alongside the bill. The Minister wrote to the committee on 14 December 2021 inviting us to consider the amendments proposed in the SOP during our consideration of the bill. We have done so, and recommend that these amendments be incorporated into the bill.

SOP No 118 would amend the current provisions for network management of early childhood education (ECE) services. Network management is a new two-step licensing process. Potential new licensed ECE providers must first gain approval from the Minister of Education before they can apply for a licence to operate. In determining whether to allow an applicant to apply for a licence, the Minister will consider whether a new service is needed and the suitability of the candidate.

The SOP would make the following key changes to the Act:

- introducing national and regional statements that outline the Government's priorities and provide data on current and forecast supply and demand for ECE services
- clarifying that the Minister's assessment of a proposed ECE service only has to assess the attributes of the proposed location at a high level
- shifting the initial administrative assessments of an applicant's suitability as an ECE service from the Minister of Education to the Secretary for Education, and providing for a right of appeal
- introducing provisions to provide transparency about the process
- strengthening the fit and proper assessment made by the Secretary for Education, and introducing a new capability assessment by the Minister of Education
- providing for transitional provisions, and consequential amendments to the Education (Early Childhood Services) Regulations 2008.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We had some initial concerns, but are satisfied that they have been addressed.

Proposed amendments

This commentary covers the main amendments we recommend to the bill as introduced. We do not discuss minor or technical amendments.

Police vetting of non-teaching and unregistered employees

Schedule 4 of the Act requires Police vetting of non-teaching and unregistered employees at licensed early childhood services. Clause 65 of the bill would amend Schedule 4 so that a Police vet has to be obtained before the person begins employment. At present the Act allows the person to start work if an application for a vet is made within two weeks.

The bill as introduced would not require registered teachers who do not hold a current practising certificate and are employed in non-teaching roles to obtain a Police vet. We believe the bill should be amended to address this gap.

We recommend amending clause 65 of the bill so that non-teaching staff who are registered teachers but who do not hold a practising certificate also have to undergo Police vetting.

Purpose and functions of the Teaching Council

Section 479 of the Act outlines the functions of the Teaching Council. Clause 38 of the bill would add a new function, requiring the Council to prosecute breaches of the Act relating to teacher registration, practising certificates, and limited authorities to act.

We believe that clause 38 should be amended to clarify, in relation to proposed section 479(1)(pa), that the Teaching Council has discretion to prosecute breaches as it considers appropriate.

For consistency with the rest of the Act, we also recommend that clause 38 be amended by replacing “limited authorities to act” with “limited authorities to teach” in proposed section 479(1)(pa).

The Complaints Assessment Committee’s power to impose a penalty

Section 497 of the Act relates to the powers of the Complaints Assessment Committee (CAC) regarding any complaint, report, or other matter concerning teacher conduct. Clause 39 of the bill would remove the requirement for a teacher and a complainant to reach agreement in order for the CAC to have jurisdiction over the matter. Removing this requirement is intended to speed up the CAC’s resolution process.

However, we believe it would still be preferable if the CAC could come to an agreement with the teacher involved. We recommend that clause 39(3) be modified so that, where the CAC makes a finding of misconduct or serious misconduct, the CAC may impose a sanction if it has agreed the proposed sanction with the teacher who is the subject of the finding.

Commencement date for amending the heading to section 504

Clause 41 of the bill would amend the heading of section 504 to replace “disciplinary bodies” with “chairperson or Disciplinary Tribunal”. Clause 41 would come into force 12 months after the date on which this legislation received the Royal assent.

We believe there is no need to delay the commencement date of the proposed change to the heading of section 504. We recommend removing the reference to section 41 in clause 2(1) and clause 81 of new Part 4 of Schedule 1.

Code of practice and code administrator

Section 534 of the Act is about pastoral care codes of practice for domestic tertiary and international students. Clause 48 would insert new sections 534A and 534B. The proposed section 534B would allow the Minister of Education to make minor or technical changes to a code of practice and exempt certain providers from compliance with specific requirements of the code.

We recommend amending section 534B so that, if the Minister approves any amendment to a code, the regulator must make reasonable efforts to notify representatives of students, parents, providers, signatory providers, and the staff of providers and signatory providers of the amendment. We believe these affected parties ought to be made aware of changes to a code.

Dispute resolution scheme

Scope and responsibilities of the dispute resolution scheme

Section 536 of the Act established a student contract dispute resolution scheme (DRS). Clause 51 of the bill would broaden the scope of the disputes covered by the DRS to include breaches of a relevant code. Clause 52 would insert new section 536A, which sets out how a DRS operator must perform its role.

To avoid confusion about which codes are covered under section 536 as amended by the bill, we recommend amending section 536 and proposed new section 536A to refer to codes issued under section 534 of the Act.

DRS information provision and information sharing

Clause 52 of the bill would also insert new sections 536B to 536D:

- Section 536B would set out the requirement for the DRS operator to provide information if it is requested by certain bodies.
- Section 536C would enable the DRS operator to share information relating to a dispute with a code administrator or with a quality assurance agency.
- Section 536D would prevent the sharing of personal information under sections 536B and 536C unless it is in accordance with an information-sharing or matching agreement authorised under the Privacy Act 2020.

In the bill as introduced, proposed section 536C would not allow information to be shared between the code administrator and a quality assurance agency. We recommend amending section 536C so that information can be shared between all three parties (the code administrator, a quality assurance agency, and the DRS operator).

The Information Privacy Principles of the Privacy Act allow personal information to be disclosed in specific situations, such as when there is a reasonable belief that sharing the information would lessen a serious threat to someone's life. We recommend

that proposed section 536D be amended so it does not preclude the sharing of personal information as authorised by the Information Privacy Principles.

DRS determination processes and review

Section 536(7)(b) of the Act allows the resolution of a dispute to be binding if it is produced by mediation and the parties have agreed for the outcome to be binding.

We believe this section of the Act should be widened. We recommend amending it by inserting clause 51(6) to replace “mediation” with “consensual methods”.

Clause 54 of the bill would insert new section 538(1)(c). This provision would allow the District Court to modify the terms of a resolution of a dispute by a DRS operator, if the court finds the terms of the resolution manifestly unreasonable.

We recommend amending clause 538(1)(c) to limit the Court’s power so it can only modify the terms of adjudicated resolutions. We believe that this would maintain the finality of outcomes agreed at mediation.

We do not believe it is appropriate for the DRS to consider disputes before 1 January 2022 (the commencement date of DRS rules). We recommend inserting transitional provisions into new Part 4 of Schedule 1 of the Act to state that the DRS operates to consider:

- contractual and financial disputes arising from acts or omissions that occurred on or after 1 January 2022
- alleged breaches of codes issued under section 534 occurring on or after the commencement date of the bill.

Network management functions

Commencement date of network management

The ECE network management provisions of the Act have a delayed commencement date of 1 August 2022 (two years after the Act received the Royal assent).

This date was determined before the COVID-19 Delta and Omicron outbreaks. We believe it should be delayed to give the sector more time to prepare for network management, and to better support services delayed in obtaining building materials or completing other related processes.

We recommend inserting clause 3A to amend section 2 of the principal Act so that the commencement date of sections 17 to 18C is amended to 1 February 2023.

Conditions on approval to apply for a licence

New section 17A as proposed in the SOP would allow the Minister of Education to impose new conditions, or to amend or revoke existing conditions after approval to apply for a licence has been granted.

The Minister’s use of this power would be subject to the usual requirements of procedural fairness. Judicial review would be available to challenge decisions made by the Minister.

Despite this protection, we recommend an amendment to insert new section 17A(3) to include an explicit requirement to notify the applicant of any proposed new conditions, or any proposed changes or revocations, and to seek their response before the power is used. We believe this amendment would make it clear that conditions on an approval to apply for a licence will not be amended without consulting the applicant.

Excluding kōhanga reo from network management

The kōhanga reo movement and other Māori immersion services are crucial to the revitalisation and protection of te reo Māori in the ECE sector. We believe kōhanga reo and other Māori immersion services should be excluded from network management. This would recognise Crown obligations under Te Tiriti o Waitangi in relation to partnership and active protection.

We recommend defining “excluded early childhood services” in section 10(1) of the Act to mean a kōhanga reo chartered to Te Kōhanga Reo National Trust Board. We recommend inserting new section 17(8), which would mean “excluded early childhood services” are omitted from network management.

We note that officials are still working with Te Kāhui o Ngā Puna Reo on a definition that would also exclude other Māori immersion services. We note that the Minister of Education is likely to seek a change during the committee of the whole House stage.

Possible changes to the two-year network approval timeframe

During our consideration of this bill, concerns have been raised that the two-year timeframe for network approval may be too short for applicants, particularly for those undertaking significant building work.

We note that the Minister of Education wrote to us on 12 April 2022, indicating that he is considering a possible change to the two-year network approval timeframe. The Minister said he would want to ensure that any extension is coupled with the ability to monitor applicants’ progress in meeting their development milestones. The Minister said that if any further changes to the bill occur, they will be proposed at the committee of the whole House stage.

National Party differing view

The changes to network planning contained in the Supplementary Order Paper do nothing to allay the National Party’s concerns that the Government’s plan to regulate the establishment of early childhood centres will reduce competition in the sector and lead to an overall reduction of quality.

Over the past 18 months, there has been a drastic reduction in the number of new centres being established while developers and operators wait for the network planning legislation to come into force. The changes contained in the Supplementary Order Paper will further exacerbate the slow-down in builds. Both developers and centre owners have stated the proposed new legislation will make it nearly impossible to build or renovate a new centre for the following reasons:

- unrealistic build/renovation timeframe of 2 years, although we note that the Minister may make changes to this at the committee of the whole House stage
- uncertainty caused by the ability of the Minister to change or amend the approved conditions
- the lack of statutory timeframes for the Minister to have to respond to applications by
- banks' unwillingness to lend due to the uncertainty caused by the legislation.

Overall, network planning will protect centres already in operation by limiting any competition in the same vicinity. This not only massively overinflates the value of that business, but also offers no incentive for that protected centre to improve, modernise, renovate, or improve their service as the parents in that area will have limited or no other choice.

The National Party strongly believes in parental choice in the ECE sector. We believe that competition is the key driver of improved service and innovation. Network planning and the proposed changes in this Supplementary Order Paper will stifle competition and innovation and reduce the choice of service that parents would otherwise enjoy in a competitive market.

Appendix

Committee process

The Education and Training Amendment Bill (No 2) was referred to the committee on 14 December 2021, along with SOP No 118. We invited the Minister of Education to make a public submission on the bill and the SOP. He did so on 16 February 2022.

We called for submissions on the bill and the SOP, with a closing date of 18 February 2022. We received and considered 27 submissions from interested groups and individuals. We heard oral evidence from 14 submitters at hearings held via videoconference.

We received advice on the bill from the Ministry of Education. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Marja Lubeck (Chairperson)

Chris Baillie

Camilla Belich

Jan Logie

Jo Luxton

Ibrahim Omer

Angela Roberts

Penny Simmonds

Erica Stanford

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Chris Hipkins

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Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education and Training Amendment Act **(No 2) 2021**.

2 Commencement

- (1) **Sections 39 to 41 and 40** come into force 12 months after the date on which this Act receives the Royal assent. 5
- (2) The rest of this Act comes into force on **1 August 2022**.

3 Principal Act

This Act amends the Education and Training Act 2020.

Part 1

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Substantive amendments to principal Act

3A Section 2 amended (Commencement)

Replace section 2(1) with:

- (1) **Sections 17 to 18C** come into force on **1 February 2023**.

4 Section 9 amended (Te Tiriti o Waitangi)

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- (1) In section 9(2)(b), replace “approve a licence for an early childhood education and care centre” with “grant approval to apply for an early childhood service”.
- (2) After section 9(2)(g), insert:

- (ga) **section 535B**, which provides for how a code administrator must exercise and perform its functions, powers, and duties in relation to Te Tiriti o Waitangi; and
- (gb) **section 536A(1)**, which provides for how a DRS operator must exercise and perform its functions, powers, and duties in relation to Te Tiriti o Waitangi; and

5 Section 10 amended (Interpretation)

- (1) In section 10(1), insert in their appropriate alphabetical order:
- approved micro-credential** means a micro-credential approved under section 445
- consensual methods** means dispute resolution processes in which the parties reach mutual agreement on the outcome of the dispute (for example, facilitation or mediation)
- excluded early childhood service** means a kōhanga reo chartered to Te Kōhanga Reo National Trust Board
- free kindergarten association** means an organisation that is for the time being specified in **Schedule 2A**
- micro-credential** means study or training that—
- (a) leads to an award; but
- (b) does not, of itself, lead to an award of a qualification listed on the Qualifications and Credentials Framework
- (2) In section 10(1), replace the definition of **accreditation** with:
- accreditation** means the following:
- (a) an accreditation to provide an approved programme or part of a programme under section 441:
- (b) an accreditation to provide an approved micro-credential under **section 446A**
- (3) In section 10(1), repeal the definition of **approved training scheme**.
- (4) In section 10(1), definition of **code administrator**, replace “regulations made under section 648” with “**section 535A**”.
- (5) In section 10(1), replace the definition of **Directory of Assessment Standards** with:
- Directory of Assessment and Skill Standards** means the Directory of Assessment and Skill Standards described in section 437
- (6) In section 10(1), replace the definition of **signatory provider** with:
- signatory provider** means a provider that has been approved by a code administrator under **section 531A(1)** as a signatory provider and that is a signatory to a code issued under section 534(1)(b) or (c)

- (7) In section 10(1), replace the definition of **skill standard** with:
- skill standard**—
- (a) means a specification of skills, the levels of performance in those skills, and the learning outcomes associated with those skills; and
- (b) in relation to any vocational education and training (or proposed vocational education and training), means a specification of some or all of the skills in which training is (or is proposed to be) received, the levels of performance in those skills intended to be attained by people receiving the training, and the learning outcomes associated with those skills
- (8) In section 10(1), definition of **specified user**, paragraph (a), after “education provider”, insert “(as defined in clause 1 of Schedule 24)”. 10
- (9) In section 10(1), definition of **teaching position**, paragraph (c), delete “or other educational institution”.
- (10) In section 10(1), repeal the definition of **training package**.
- (11) In section 10(1), repeal the definition of **training scheme**. 15
- (12) Replace section 10(5) with:
- (5) For the purposes of subpart 2 of Part 5 (apart from section 456), the definition of institution in subsection (1) includes any government training establishment, registered establishment, relevant school, workforce development council, or other body, except that— 20
- (a) a workforce development council is not an institution for the purposes of the following sections:
- (i) sections 439 to 444:
- (ii) **sections 446A and 446B**:
- (iii) sections 449 to 451: 25
- (b) an other body is not an institution for the purposes of sections 441 to 444.
- (13) In section 10(10)(c), after “different name”, insert “if that school has changed its name”.
- (14) After section 10(10), insert: 30
- (10A) The Governor-General may, by Order in Council, amend **Schedule 2A** by—
- (a) adding the name of an organisation if the organisation has been formed from the restructuring of an organisation that appears is specified in **Schedule 2A** or from the merger of 2 or more organisations that appear are specified in **Schedule 2A**; or 35
- (b) omitting the name of an organisation if the organisation has ceased to exist or ceased to operate a free kindergarten; or
- (c) substituting for the name of an organisation any different name if that organisation has changed its name.

(15) After section 10(11)(e), insert:

- (f) an order under **subsection (10A)**.

5A Section 17 replaced (Ministerial approval required for licensing application)

Replace section 17 with:

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17 Ministerial approval required to apply for licence

(1) Despite sections 15 and 16, an individual or entity that intends to operate a licensed early childhood service (the **applicant**) must apply to the Minister for approval to apply for a licence to operate the service.

(2) The Minister may grant approval but, before doing so, must take into account— 10

(a) a high-level assessment of the relevant attributes of the area to be served, including (without limitation) the demography of the area, the needs of the communities in the area, the needs of the children in the area, and the availability of licensed early childhood services in the area with different offerings (for example, the provision of te reo Māori); and 15

(b) any statement issued under **section 17D** that is relevant to the application; and

(c) the suitability of the applicant and of every individual involved in the governance of the proposed service, which, as a minimum, requires the Minister to consider and determine whether each individual is a fit and proper person (including by considering the Secretary's assessment provided under **section 18(4)**); and 20

(d) the applicant's financial position (including by considering the Secretary's assessment provided under **section 18A(3)**); and 25

(e) the licensing history of—

(i) any other early childhood service previously or currently owned, operated, or managed by, or otherwise connected with, the applicant; and

(ii) every individual involved in the governance of the proposed service; and 30

(f) the applicant's capability to effectively establish and provide the service to which the application relates; and

(g) any other matter that the Minister considers is relevant to the application.

(3) If the Minister considers information referred to in **subsection (2)** is insufficient to decide whether to grant approval, the Minister may— 35

(a) ask the applicant to supply more information:

- (b) ask an individual or entity other than the applicant to supply any information that the Minister considers relevant to the application.
- (4) In deciding whether to grant approval, the Minister—
- (a) may consider the application at the same time as any other application for approval to apply for a licence, regardless of the date on which the applications were received: 5
- (b) is not required to defer a decision on the application solely because another applicant for approval to apply for a licence has appealed under **section 18C** against an assessment by the Secretary or has commenced judicial review proceedings. 10
- (5) An individual or entity may not apply for a licence without the Minister's approval.
- (6) Approval to apply for a licence is irrelevant to the granting of a licence (as a licence may only be granted in accordance with regulations made under section 636). 15
- (7) If the Minister grants approval to an applicant,—
- (a) the applicant must inform the Secretary of any change in circumstances that may have materially affected the Minister's decision to grant the approval:
- (b) that approval cannot be transferred to another individual or entity. 20
- (8) This section and **sections 17A to 18C** do not apply in relation to an individual or entity if the service for which the individual or entity intends to apply for a licence is an excluded early childhood service.

5B New sections 17A to 17D inserted

After **section 17**, insert:

17A Conditions on approval to apply for licence

- (1) When approving an application to apply for a licence to operate a licensed early childhood service, the Minister may impose conditions on the approval as the Minister thinks fit, including conditions—
- (a) relating to the nature, capacity, or location of the proposed service; and 30
- (b) that require the applicant to provide regular progress reports to the Ministry.
- (2) The Minister may, at any time,—
- (a) impose new conditions on the approval; or
- (b) amend or revoke any existing conditions. 35
- (3) However, before imposing, amending, or revoking a condition under **subsection (2)**, the Minister must—

- (a) take reasonable steps to notify the applicant of the Minister’s intention to make that decision; and
- (b) if the applicant provides a response to the notification within a reasonable time, take into account that response.
- (4) When a condition is imposed, the Minister may specify a date by which the applicant must satisfy the condition. 5
- 17B Expiry of approval to apply for licence**
- (1) When approving an application to apply for a licence to operate a licensed early childhood service, the Minister must specify an expiry date for the approval that is no more than 2 years after the date on which the approval is given. 10
- (2) However, the Minister may, at any time before an expiry date,—
- (a) extend the expiry date to a date that is no more than 2 years after the date on which approval is granted; or
- (b) if the Minister considers that there are exceptional circumstances that make an extension beyond the maximum period under **paragraph (a)** desirable, extend the expiry date to a date that is no more than 4 years after the date on which approval is granted. 15
- (3) For the purposes of **subsection (2)(b)**, exceptional circumstances includes the impacts of natural disasters or other circumstances beyond the applicant’s control on the proposed licensed early childhood service or the building in which the proposed service is to be located. 20
- 17C Revocation of approval to apply for licence**
- (1) The Minister may revoke an approval to apply for a licence to operate a licensed early childhood service if the Minister is satisfied that 1 or more of the following grounds apply: 25
- (a) the individual or entity granted the approval is not complying, or has not complied, with 1 or more of the conditions of approval imposed under **section 17A**:
- (b) a significant change has occurred in the circumstances relating to the proposed licensed early childhood service that is likely to have materially affected the Minister’s decision to grant the approval: 30
- (c) the individual or entity granted the approval has provided false or misleading information in their application.
- (2) Before revoking an approval under **subsection (1)**, the Minister must—
- (a) take all reasonable steps to give the individual or entity granted the approval written notice— 35
- (i) of the Minister’s intention to revoke the approval; and
- (ii) that the individual or entity may respond in writing to the Minister addressing reasons why the approval should not be revoked; and

- (b) if the individual or entity provides a response within a reasonable time, take that response into account.

17D Minister may issue statements relating to network of licensed early childhood services

- (1) The Minister may, for the purpose of providing potential applicants for approval under **section 17** with information about the network of licensed early childhood services, issue 1 or more statements that set out information relating to the network, at either a national or regional level, including— 5
- (a) the Government’s strategic priorities for the establishment of licensed early childhood services; and 10
- (b) information about the supply, forecast growth, demand, and need for licensed early childhood services; and
- (c) any other information that the Minister considers relevant to applications for approval under **section 17**.
- (2) If a proposed statement relates to the Government’s strategic priorities referred to in **subsection (1)(a)**, the Minister must consult the licensed early childhood services sector and Māori before issuing the statement. 15
- (3) A statement must be published in the *Gazette*.

5C Section 18 replaced (Persons approved to apply for licence must be fit and proper) 20

Replace section 18 with:

18 Secretary to assess whether applicants for approval to apply for licences are fit and proper

- (1) For every application under **section 17** for approval to apply for a licence to operate a licensed early childhood service, the Secretary must make an assessment of whether each individual who is an applicant, or who is involved in the governance of the proposed service, is a fit and proper person to be granted approval. 25
- (2) In making an assessment under **subsection (1)**, the Secretary must take into account whether each individual— 30
- (a) has had a satisfactory Police vet for the purposes of the application:
- (b) has been convicted of an offence that the Secretary considers is relevant to providing an early childhood service (for example, an offence involving harm to children, violence, or fraud):
- (c) has been involved in or associated with an organisation that has been convicted of an offence that the Secretary considers is relevant to providing an early childhood service: 35
- (d) has any health conditions that may affect the individual’s ability to comply with this Act and with regulations made under section 636:

- (e) is, or has been, subject to a property order or personal order under the Protection of Personal and Property Rights Act 1988:
- (f) owes, or has owed, money to the Crown, including in respect of bodies that the individual has been involved in managing:
- (g) has been adjudicated bankrupt under the Insolvency Act 2006 or the Insolvency Act 1967: 5
- (h) has been prohibited from being a director or promoter of, or being concerned or taking part in the management of,—
- (i) a company under the Companies Act 1993; or
- (ii) any other body corporate: 10
- (i) has, or has had, any role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership, or voluntary administration:
- (j) is, or has been, subject to any prohibition against acting as an employer or an officer of an employer under the Employment Relations Act 2000: 15
- (k) has had previous involvement in an early childhood service in respect of which—
- (i) an application for a licence was refused; or
- (ii) a licence was suspended or cancelled:
- (l) meets any other criteria that the Secretary considers relevant. 20
- (3) In making an assessment under **subsection (1)**, the Secretary may give the weight that the Secretary thinks fit to each of the criteria in **subsection (2)**, having regard to the degree and nature of the individual’s involvement in the proposed service.
- (4) Once an assessment is finalised, the Secretary must provide the assessment to the Minister to inform the Minister’s consideration under **section 17(2)(c)**. 25
- (5) However, if the Secretary intends to provide an assessment to the Minister that reflects adversely on the application, the Secretary must, before finalising and providing the assessment to the Minister, follow the process set out in **section 18B**. 30

5D New sections 18A to 18C inserted

After section 18, insert:

18A Secretary to assess financial viability of proposed early childhood service

- (1) For every application under **section 17** for approval to apply for a licence to operate a licensed early childhood service, the Secretary must make an assessment of the financial viability of the proposed service. 35

- (2) In making the assessment, the Secretary may consider whether the applicant has access to, or has a credible plan to obtain access to, sufficient resources to effectively establish and provide the service.
- (3) Once an assessment is finalised, the Secretary must provide the assessment to the Minister to inform the Minister’s consideration under **section 17(2)(d)**. 5
- (4) However, if the Secretary intends to provide an assessment to the Minister that reflects adversely on the application, the Secretary must, before finalising and providing the assessment to the Minister, follow the process set out in **section 18B**.
- 18B Notification of adverse assessment** 10
- (1) This section applies to—
- (a) an assessment of whether an individual is a fit and proper person to be granted approval to which **section 18(5)** applies;
- (b) an assessment of financial viability to which **section 18A(4)** applies.
- (2) Before finalising an assessment and providing it to the Minister, the Secretary must— 15
- (a) notify the applicant in writing of the findings of the assessment; and
- (b) give the applicant an opportunity to respond.
- (3) The Secretary may only finalise an assessment and provide it to the Minister under **section 18(4) or 18A(3)** after— 20
- (a) considering the applicant’s response; or
- (b) if the applicant does not respond, the elapse of 21 days after the applicant received written notice of the assessment.
- (4) The Secretary must notify the applicant in writing of the findings of the final assessment that is provided to the Minister, including any changes made as a result of the applicant’s response. 25
- 18C Appeal against adverse assessment**
- (1) An applicant who is the subject of a final assessment by the Secretary that is provided to the Minister under **section 18(4) or 18A(3)** and that reflects adversely on the application for approval to apply for a licence to operate a licensed early childhood service may appeal against that assessment to the District Court. 30
- (2) An appeal under this section must be made within 14 days after the applicant receives written notice of the findings of a final assessment.
- (3) Despite an appeal being made under this section in relation to an assessment, the Minister may make a decision under **section 17** in reliance upon the assessment. 35

- 6 Section 139 amended (Preparing draft strategic plan)**
- (1) In the heading to section 139, delete “**draft**”.
 - (2) In section 139(1), (2), and (4), delete “draft”.
 - (3) In section 139(3), replace “draft strategic” with “strategic”.
 - (4) In section 139(3)(c) and (d), replace “draft” with “plan”. 5
- 7 Section 140 amended (Secretary to review and approve draft strategic plan)**
- (1) In the heading to section 140, replace “**to review and approve draft**” with “**may review**”.
 - (2) Replace section 140(1) and (2) with: 10
 - (1) The Secretary may review a strategic plan in accordance with regulations made under section 639.
 - (2) After reviewing the strategic plan, the Secretary may direct that the board—
 - (a) consider, or further consider, any matter and revise the plan in the light of that consideration; or 15
 - (b) revise the plan as directed by the Secretary.
 - (3) In section 140(3), and (5), delete “draft”.
 - (4) Repeal section 140(4).
- 8 Section 141 amended (Amending strategic plan)**
- Replace section 141(1) and (2) with: 20
- (1) A board may amend its strategic plan.
 - (2) If the board considers that a proposed amendment to its strategic plan is significant, the board must comply with the requirements of section 139(3) before confirming an amendment.
- 9 Section 256 amended (Fees for domestic students)** 25
- (1) In the heading to section 256, after “**students**”, insert “**and employers**”.
 - (2) Replace section 256(2) with:
 - (2) An institution’s council that receives funding under section 425 or 428 may not fix, in relation to domestic students or employers, a fee (or a fee of a particular kind) that does not comply with any limit or requirement specified in a condition imposed under section 426 or 429(2) (whichever is applicable). 30
 - (3) Repeal section 256(3) and (4).
- 10 Section 257 repealed (Ministerial direction to institutions relating to compulsory student services fees)**
- Repeal section 257. 35

- 11 Section 350 amended (Cancellation of registration)**
- (1) After section 350(1)(c), insert:
- (ca) if the establishment has been convicted of an offence against section 352 of the Immigration Act 2009; or
- (2) Replace section 350(2)(a) with: 5
- (a) the establishment has been convicted of an offence against this Act; or
- 12 Section 353 amended (Fees for domestic students and employers may not exceed maximums set in conditions of funding)**
- (1) Replace section 353(1) with:
- (1) A registered establishment that receives funding from TEC under section 425 or 428— 10
- (a) may not exceed the maximum amount when fixing a tuition fee, a fee for the provision of student services, or a fee of a particular kind for any programme or micro-credential at the establishment; and
- (b) must comply with any limit or requirement specified in a condition imposed under section 426 or 429(2) (whichever is applicable). 15
- (2) Repeal section 353(2).
- 13 Section 360 repealed (Ministerial direction to registered establishments relating to compulsory student services fees)**
- Repeal section 360. 20
- 14 Section 366 amended (Functions of workforce development councils)**
- Replace section 366(1)(e) with:
- (e) to develop and maintain national curricula for qualifications for which it is responsible as a standard-setting body under section 438:
- 15 Section 369 amended (Duties of workforce development councils)** 25
- (1) In section 369(2)(c)(i), replace “and (c)” with “, (c), and (e)”.
- (2) In section 369(2)(c)(iii), after “standards”, insert “or national curricula”.
- 16 Section 419 amended (Minister must determine design of funding mechanisms)**
- In section 419(3)(d), replace “fees” with “and requirements relating to fees, including fees for student services,”. 30
- 17 Section 420 amended (Restrictions on design of funding mechanisms)**
- In section 420(1)(b), after “limits”, insert replace “limits on the” with “limits or requirements relating to”.

- 18 Section 423 amended (Variation of determination of design of funding mechanisms)**
- In section 423(4), after “limits”, ~~insert~~ replace “limits on the” with “limits or requirements relating to”.
- 19 Cross-heading above section 436 amended** 5
- In the cross-heading above section 436, after “*Qualifications*”, insert “*and Credentials*”.
- 20 Section 436 replaced (Qualifications Framework)**
- Replace section 436 with:
- 436 Qualifications and Credentials Framework** 10
- (1) The Qualifications and Credentials Framework—
- (a) consists of all qualifications and micro-credentials that have been approved and listed by NZQA in accordance with the rules made under section 452; and
- (b) includes the rules relating to the framework made under that section. 15
- (2) NZQA—
- (a) must list on the Qualifications and Credentials Framework all qualifications and micro-credentials that it has approved in accordance with the rules made under section 452:
- (b) may, in accordance with the rules, review, amend, add to, remove, or alter the status of any qualification or micro-credential on the framework. 20
- (3) If a qualification is removed from the Qualifications and Credentials Framework,—
- (a) any programme approval granted to an institution under section 439 in respect of that qualification lapses; and 25
- (b) any accreditation granted to an institution under section 441 in respect of that qualification lapses.
- (4) If a micro-credential is removed from the Qualifications and Credentials Framework,— 30
- (a) any approval of the content of that micro-credential granted to an institution under section 445 lapses; and
- (b) any accreditation granted to an institution under **section 446A** to provide that micro-credential lapses.
- 21 Cross-heading above section 437 amended** 35
- In the cross-heading above section 437, after “*Assessment*”, insert “*and Skill*”.

22	Section 437 amended (Directory of Assessment Standards)	
(1)	In the heading to section 437, after “ Assessment ”, insert “ and Skill ”.	
(2)	In section 437(1), replace “Standards consists of all” with “and Skill Standards consists of all assessment and skill”.	
23	Section 438 amended (Standard-setting bodies)	5
	After section 438(3)(c), insert:	
(d)	develop and maintain national curricula for qualifications for which the standard-setting body is responsible.	
24	New sections 438A to 438C inserted	
	After section 438, insert:	10
438A	Standard-setting bodies may develop national curricula	
(1)	An approved standard-setting body may develop and maintain a national curriculum for a qualification for which the body is responsible.	
(2)	In performing this function, a standard-setting body must, to the extent that is necessary or desirable in the circumstances, work collaboratively with—	15
(a)	providers:	
(b)	other standard-setting bodies, particularly on matters of common interest:	
(c)	NZQA:	
(d)	any relevant regulatory body that performs or exercises any functions, duties, or powers under an enactment in relation to entry to an occupation in any of the specified industries covered by the standard-setting body.	20
438B	Recognition of national curricula	
(1)	The standard-setting body may apply to NZQA for recognition of a national curriculum.	25
(2)	NZQA—	
(a)	may grant or refuse to grant recognition of the national curriculum to the applicant; and	
(b)	must give the applicant written notice of its decision to grant or refuse recognition; and	30
(c)	may grant recognition for a specified period or indefinitely.	
(3)	If 2 or more standard-setting bodies have developed a national curriculum together, they may make a joint application for recognition of the national curriculum.	35

- (4) If NZQA considers that there may be grounds for withdrawing recognition of a national curriculum,—
- (a) NZQA must give written notice to the standard-setting body concerned stating the grounds on which NZQA is considering withdrawing recognition; and 5
 - (b) NZQA must give the standard-setting body reasonable time (as specified in the notice) to make submissions on the matter; and
 - (c) after considering those submissions, NZQA—
 - (i) may withdraw recognition from a specified date if it considers there are reasonable grounds to do so; and 10
 - (ii) must notify the standard-setting body of the withdrawal (if any) and the reasons for it.
- (5) NZQA may withdraw recognition of a national curriculum from a specified date at the written request of the standard-setting body concerned.
- 438C Recognised national curriculum treated as approved programme** 15
- (1) For the purposes of this Act, a national curriculum that is recognised under **section 438B** is to be treated as if it were a programme granted approval under section 439 and any reference in this Act to an approved programme applies to that national curriculum.
 - (2) However, the following sections do not apply in respect of a recognised national curriculum: 20
 - (a) section 440 (which relates to conditions on programme approvals):
 - (b) section 459 (which relates to compliance notices).
- 25 Section 441 amended (Accreditation to provide approved programmes)**
- (1) Repeal section 441(3). 25
 - (2) After section 441(4), insert:
 - (4A) If NZQA grants accreditation to the institution to provide all or part of the programme and the programme or part of the programme incorporates standards from the Directory of Assessment and Skill Standards, the institution is authorised to assess against those standards. 30
- 26 Cross-heading above section 445 replaced**
- Replace the cross-heading above section 445 with:
- Micro-credentials*
- 27 Section 445 amended (Application for training scheme approval)**
- (1) In the heading to section 445, replace “**training scheme**” with “**micro-credential**”. 35

- (2) In section 445(1), replace “to provide a training scheme” with “of the content of a micro-credential”.
- (3) In section 445(2)(a), replace “to the training scheme” with “of the content of the micro-credential”.
- (4) Repeal section 445(3). 5

28 New sections 446A and 446B inserted

After section 446, insert:

446A Accreditation to provide approved micro-credentials

- (1) An institution may not offer or provide an approved micro-credential unless the institution is granted accreditation to provide the micro-credential. 10
- (2) An institution may apply to NZQA for accreditation to provide a micro-credential.
- (3) NZQA—
- (a) may grant or refuse to grant accreditation to the institution to provide the micro-credential; and 15
- (b) must give the institution written notice of its decision to grant or refuse accreditation; and
- (c) may grant accreditation for a specified period or indefinitely.
- (4) If NZQA grants accreditation to the institution to provide the micro-credential and the micro-credential incorporates standards from the Directory of Assessment and Skill Standards, the institution is authorised to assess against those standards. 20

446B Conditions on accreditation to provide approved micro-credentials

- (1) Every accreditation to provide an approved micro-credential is subject to the condition that the institution complies at all times with the relevant rules made under section 452, except to the extent that NZQA exempts the institution, by a condition on the accreditation, from compliance. 25
- (2) NZQA may impose conditions on an accreditation to provide an approved micro-credential, and, for that purpose, section 442(2) to (5) applies as if each reference to accreditation or accreditation to provide an approved programme included an accreditation to provide an approved micro-credential under this section. 30

29 Section 447 amended (Lapse of training scheme approval)

- (1) In the heading to section 447, replace “training scheme approval” with “accreditation to provide approved micro-credential”. 35
- (2) Replace section 447(1) with:

- (1) An accreditation to provide an approved micro-credential granted to an institution lapses when—
- (a) 12 months have passed since the accreditation was granted and the institution has not during that time provided the micro-credential to which the accreditation relates; or
 - (b) 12 months have passed since the institution last provided the micro-credential to which the accreditation relates.
- (3) In section 447(3), replace “a training scheme approval” with “an accreditation”.
- 30 Section 448 amended (Withdrawal of training scheme approval)**
- (1) In the heading to section 448, replace “**training scheme approval**” with “**micro-credential approval or accreditation**”.
 - (2) In section 448(1), replace “a training scheme approval” with “an approval of the content of a micro-credential or an accreditation to provide a micro-credential”.
 - (3) In section 448(1)(a), after “approval”, insert “or accreditation”.
 - (4) In section 448(2)(a), (3), and (4), replace “training scheme approval” with “approval or accreditation” in each place.
- 31 Section 452 amended (Rules)**
- (1AAA) Replace section 452(1)(a)(vii) with:
- (vii) the listing of a qualification or micro-credential on the Qualifications and Credentials Framework:
- (1) After section 452(1)(a)(viii), insert:
 - (ix) recognition of a national curriculum:
 - (2) In section 452(1)(c), replace “or consent” with “consent, or recognition”.
 - (3) Repeal section 452(1)(j).
 - (3A) Replace section 452(1)(k) with:
 - (k) providing for the review, amendment, removal, or alteration of the status of qualifications, micro-credentials, and standards, including their components (including where amendments to titles occur, consequential amendments to approved programmes of study or training titles, micro-credential approval titles, accreditations to provide approved programmes or approved micro-credentials, and consents to assess against standards):
 - (4) After section 452(1)(u), insert:
 - (ua) prescribing the process that an institution must follow in order to make any 1 of the following types of transitions:

- (i) a transition from education and training that leads to a qualification through an approved programme that it is accredited to provide to education and training that it is accredited to provide through a national curriculum (or vice versa):
- (ii) a transition from education that leads to a qualification through a national curriculum that it is accredited to provide to an amended or a replacement national curriculum for that qualification.

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32 New section 454A inserted (Withdrawal of consent to grant award)

After section 454, insert:

454A Withdrawal of consent to grant award

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- (1) If NZQA considers that there may be grounds for withdrawing consent to grant an award from a person, NZQA must give written notice to the person—
 - (a) setting out the grounds on which NZQA is considering withdrawing consent; and
 - (b) giving the person a reasonable period to make submissions on the matter.
- (2) After that period, and having considered any submission made by the person, NZQA may, on any reasonable grounds, withdraw consent.
- (3) If NZQA withdraws consent under **subsection (2)**, it must give notice of the withdrawal, with reasons, to the person concerned.
- (4) NZQA may withdraw consent at the written request of the person concerned.

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33 Section 459 amended (Compliance notices)

Repeal section 459(3).

34 New section 459A and cross-heading inserted

After section 459, insert:

Publication of conditions and notices by NZQA

25

459A Publication of conditions and notices

NZQA may publish the following on an Internet site maintained by or on behalf of NZQA:

- (a) any condition (or summary of a condition) imposed by NZQA under any 1 of the following provisions:
 - (i) section 348(2) (which relates to registration of private training establishments):
 - (ii) section 440 (which relates to approval of programmes):
 - (iii) section 442 (which relates to accreditation of institutions to provide approved programmes):

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- (iv) section 446 (which relates to approval to provide micro-credentials):
- (v) **section 446B** (which relates to accreditation to provide approved micro-credentials):
- (vi) section 450 (which relates to consent to assess students against standards): 5
- (b) any notice (or summary of a notice) issued by NZQA under any 1 of the following provisions:
 - (i) section 371(1) (which relates to quality assurance improvement notices): 10
 - (ii) section 372(1) (which relates to compliance notices):
 - (iii) section 459(1) (which relates to compliance notices):
 - (iv) section 535(1) (which relates to sanctions for breach of code):
 - (v) **section 535C(1)** (which relates to performance improvement notices): 15
- (c) any notice (or summary of a notice) of a cancellation of the registration of a registered establishment under section 350:
- (d) any notice (or summary of a notice) of a withdrawal made under any 1 of the following provisions of an accreditation, an approval, or a consent from an institution or a person: 20
 - (i) **section 438B(4)** (which relates to withdrawal of recognition of national curricula):
 - (ii) section 439 (which relates to withdrawal of approval of programmes):
 - (iii) section 444 (which relates to withdrawal of accreditation to provide approved programmes): 25
 - (iv) section 448 (which relates to withdrawal of approval of content of micro-credentials or accreditation to provide micro-credentials):
 - (v) section 449 (which relates to withdrawal of consent to assess against standards): 30
 - (vi) **section 454A** (which relates to withdrawal of consent to grant awards):
 - (vii) **section 524A** (which relates to withdrawal of approval of classes, courses, or programmes intended for international students). 35

35 Section 463 amended (Chief Review Officer to perform certain functions)

In section 463, insert as subsection (2):

- (2) The Chief Review Officer—

(a)	must administer reviews of professional learning and development services accessed by applicable organisations when directed by the Minister to do so; and	
(b)	may, <u>despite section 52 of the Public Service Act 2020</u> , administer reviews of professional learning and development services accessed by applicable organisations on the Chief Review Officer’s own motion (despite section 52 of the Public Service Act 2020); and	5
(c)	must administer the preparation of reports to the Minister on the undertaking and results of the reviews.	
36	Section 464 amended (Information requests)	10
	In section 464(1), after “applicable person”, insert “, or a provider of professional learning and development services,”.	
37	Section 478 amended (Purpose of Teaching Council)	
(1)	In section 478, replace “secondary, and senior” with “and”.	
(2)	In section 478, after “Māori-medium settings”, insert “, and settings of other languages,”.	15
38	Section 479 amended (Functions of Teaching Council)	
	After section 479(1)(p), insert:	
(pa)	to prosecute, <u>as the Teaching Council considers appropriate</u> , breaches of the requirements of this Act relating to teacher registration, practising certificates, and limited authorities to aet <u>teach</u> :	20
39	Section 497 amended (Powers of Complaints Assessment Committee)	
(1)	In section 497(1), after “section 496”, insert “and, for this purpose, may conduct a hearing”.	
(2)	After section 497(1), insert:	25
(1A)	A hearing is to be a hearing on the papers, unless the Complaints Assessment Committee otherwise directs.	
(3)	In section 497(3), replace “misconduct that is not serious misconduct, by agreement with the teacher and the person who made the complaint or report or referred the matter” with “misconduct or serious misconduct, <u>with the agreement of the teacher concerned</u> ”.	30
(4)	Repeal section 497(3)(c).	
(5)	Replace section 497(5) with:	
(5)	The Complaints Assessment Committee must refer to the Disciplinary Tribunal any matter if the Committee considers that either of the following powers is likely to be considered in order to address the matter:	35

- (a) the power to suspend a teacher’s practising certificate or authority under section 500(1)(d):
- (b) the power to cancel a teacher’s registration or authority or practising certificate under section 500(1)(g).

40 New section 499A inserted (Review of Complaints Assessment Committee decisions) 5

After section 499, insert:

499A Review of Complaints Assessment Committee decisions

- (1) A teacher who is the subject of a decision by the Complaints Assessment Committee under section 497(2) or (3), or the person who made the complaint or report or referred the matter to the Committee under section 496 that led to the decision, may request that the Disciplinary Tribunal review all or part of that decision. 10
- (2) A request for a review under this section must be made within 28 days after receipt of written notice of the decision, or any longer period that the Disciplinary Tribunal allows. 15
- (3) The review is by way of written notice to the Disciplinary Tribunal of the teacher’s or person’s intention to request a review, accompanied by—
 - (a) a copy of the written notice of the decision; and
 - (b) the fee prescribed by notice made under section 480, if any; and 20
 - (c) any other information that the teacher or person wishes the Disciplinary Tribunal to consider in relation to the review.
- (4) The review is by way of rehearing.
- (5) The Disciplinary Tribunal must consider the review as soon as practicable, and may confirm, reverse, or modify the decision in accordance with its powers under section 500, or refer the matter back to the Complaints Assessment Committee. 25
- (6) Nothing in this section gives the Disciplinary Tribunal power to review any part of the Complaint Assessment Committee’s decision to which the request does not relate. 30
- (7) A decision of the Complaints Assessment Committee continues in force and has effect pending the determination of the review.
- (8) The Disciplinary Tribunal may order a party to pay the costs incurred by the other party in respect of the review.

41 Section 504 amended (Appeals against decisions of disciplinary bodies) 35
 In the heading to section 504, replace “disciplinary bodies” with “chair-person or Disciplinary Tribunal”.

42 New section 524A inserted (Withdrawal of approval of course for international students)

After section 524, insert:

524A Withdrawal of approval of course for international students

- (1) If NZQA considers that there may be grounds for withdrawing approval of a class, course, or programme intended exclusively or mainly for international students, NZQA must give written notice to the board of the State school or the managers of the school registered under section 214 to whom the approval was granted— 5
- (a) setting out the grounds on which NZQA is considering withdrawing approval; and 10
- (b) giving the board or the managers a reasonable period to make submissions on the matter.
- (2) After that period, and having considered any submission made by the board or the managers, NZQA may, on any reasonable grounds, withdraw approval. 15
- (3) If NZQA withdraws approval under **subsection (2)**, it must give notice of the withdrawal, with reasons, to the board or the managers concerned.
- (4) NZQA may withdraw an approval at the written request of the board or the managers concerned.

43 Subpart 7 heading in Part 5 amended 20

In Part 5, in the subpart 7 heading, replace “Pastoral care” with “Well-being and safety”.

44 New section 531A and cross-heading inserted

In Part 5, after the subpart 7 heading, insert:

Signatory providers 25

531A Approval and removal of signatory providers

- (1) Before a provider can become a signatory provider of a code, the provider must apply to the relevant code administrator for approval, in exercise of the code administrator’s power under **section 535A(3)(a)**, for the provider to become a signatory provider. 30
- (2) NZQA may withdraw approval of a signatory provider at the written request of the provider concerned.
- (3) If approval is withdrawn under **subsection (2)**, a provider ceases to be a signatory to the code and is no longer a signatory provider.

- 45 Section 532 amended (Signatory providers may enrol persons as international students)**
- After section 532(2)(a), insert:
- (aa) has its approval to be a signatory provider withdrawn under section **531A(2)**; or 5
- 46 Cross-heading above section 534 amended**
- In the cross-heading above section 534, replace “*Pastoral care*” with “*Well-being and safety*”.
- 47 Section 534 amended (Pastoral care codes of practice)**
- (1) In the heading to section 534, replace “**Pastoral care**” with “**Well-being and safety**”. 10
- (2) In section 534(1)(a), (b), and (c), replace “a code that provides” with “1 or more codes that provide”.
- (3) In section 534(1)(a), (b), and (c), replace “pastoral care” with “well-being and safety”. 15
- (4) After section 534(1), insert:
- (1A) The Minister must specify whether a code applies to—
- (a) any provider that provides educational instruction to the students in respect of whom the code is issued; or
- (b) a particular type of provider or group of providers (for example, schools, Kura Kaupapa Māori, or Māori providers). 20
- (5) In section 534(2)(a)(i) and (3)(a)(ii) and (b)(ii), after “well-being”, insert “and safety”.
- (6) In section 534(2)(b)(i), replace “protect” with “maintain the well-being and safety of”. 25
- (7) In section 534(2)(b)(ii), delete “in New Zealand”.
- (8) After section 534(5)(a), insert:
- (aa) Māori; and
- (9) In section 534(7)(a), replace “provisions” with “provision”.
- (10) After section 534(7)(a), insert: 30
- (aa) that applies in respect of students undertaking study or training from a provider applies whether the students undertake the study or training in New Zealand or in another country:
- 48 New sections 534A and 534B inserted**
- After section 534, insert: 35

534A Code for particular providers to be mandatory or optional

- (1) A code that applies to a particular type of provider or group of providers under **section 534(1A)(b)** must specify whether the code is mandatory or optional.
- (2) If a code is mandatory, a provider to which the code applies must comply with that code and is not required to comply with any other code. 5
- (3) If a code is optional, a provider to which the code applies may elect to comply with that code in place of compliance with any other code and,—
- (a) if an election is made, the provider must comply with the code and is not required to comply with any other code; and
- (b) if an election is not made, the provider is not required to comply with the code. 10
- (4) An election under **subsection (3)** to comply with a code must be made in accordance with the mechanism set out in the code for this purpose.

534B Minister may make minor or technical changes to code or grant exemptions

- (1) The Minister may— 15
- (a) make minor or technical amendments to a code; and
- (b) exempt specified providers, or types or groups of providers, from compliance with specified requirements of a code that applies to that provider, or type or group of providers, under **section 534(1A)(b)**. 20
- (2) To avoid doubt, the Minister is not required to consult the parties set out in section 534(5) when making an amendment or granting an exemption under this section.
- (3) If the Minister amends a code under **subsection (1)(a)**, the code administrator must make reasonable efforts to notify representatives of students, parents, providers, signatory providers, and the staff of providers and signatory providers of the amendment. 25

49 Section 535 amended (Sanctions for breach of code)

- (1) In section 535(1), replace “quality improvement notice or compliance notice issued under regulations made under section 648” with “performance improvement notice issued under **section 535C**”. 30
- (2) In section 535(2), replace “regulations made under section 648” with “**section 535C**”.

50 New sections 535A to 535D and cross-heading inserted

After section 535, insert: 35

*Code administrators***535A Appointment and functions of code administrators**

- (1) The Minister may, by notice, appoint a person or an agency to be responsible for—
- (a) administering— 5
 - (i) a code for domestic tertiary students;
 - (ii) a code for international students;
 - (iii) a code for domestic tertiary students and international students; and
 - (b) administering 2 or more codes. 10
- (2) When appointing a code administrator, the Minister must have regard to the knowledge, skills, or experience of the person or agency.
- (3) The functions of the code administrator are,—
- (a) in the case of international students,— 15
 - (i) to receive applications from providers seeking to become signatory providers; and
 - (ii) to assess those applications against— 20
 - (A) the criteria stated in a code; and
 - (B) the purpose stated in section 534(2) and the scope of the code stated in section 534(3); and
 - (iii) to approve or decline to approve applicants becoming signatory providers in accordance with those assessments; and
 - (b) in the case of domestic tertiary students and international students,— 25
 - (i) to monitor the extent to which providers comply with a code in close collaboration with quality assurance agencies; and
 - (ii) to issue to providers and signatory providers notices under **section 535C**; and
 - (iii) to impose on providers and signatory providers sanctions under section 535 for breaches of a code and failure to comply with notices; and 30
 - (iv) to undertake periodic reviews of how providers and signatory providers generally are giving effect to a code, or a part or parts of a code, in order to assess the extent to which the purposes of the code are being met.
- (4) The Minister may set performance standards and priorities for code administrators, which code administrators must have regard to in the performance of their duties and functions. 35

- (5) A code administrator may allow an applicant to become a signatory provider unconditionally, or subject to any written conditions made known to the applicant at the time the code administrator informs the applicant that the applicant is allowed to become a signatory provider.
- (6) A code administrator may, with the Minister's prior written approval and subject to any conditions that the code administrator or the Minister thinks fit, delegate any or all of the functions, duties, and powers specified in this section to another person or agency (having regard to their knowledge, skills, or experience). 5
- (7) A notice made under **subsection (1)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements). 10
Compare: 1989 No 80 s 238H(1)-(4), (9)

535B Further obligations of code administrator

A code administrator must—

- (a) exercise and perform all of its functions, powers, and duties in a manner that honours Te Tiriti o Waitangi and supports Māori-Crown relationships; and 15
- (b) report annually to the Minister on the exercise and performance of its functions, powers, and duties, including the extent to which providers and signatory providers are giving effect to their obligations under the codes, and publish the report on an Internet site maintained by or on behalf of the code administrator; and 20
- (c) provide information to the Minister, at the request and in the form specified by the Minister, relating to— 25
- (i) the performance of its duties and functions; and
- (ii) the performance of providers and signatory providers in meeting the requirements of a code.

535C Power to issue performance improvement notices

- (1) A code administrator may issue a performance improvement notice to a provider or signatory provider that requires the provider or signatory provider to do, or refrain from doing, a particular thing in relation to— 30
- (a) its obligations under a code; or
- (b) in the case of a signatory provider, the conditions of its approval as a signatory provider.
- (2) The notice must— 35
- (a) set out any concerns the administrator has about the provider's or signatory provider's systems, practices, training, or procedures; and
- (b) identify—

- (i) any areas for improvement in relation to any of the specified outcomes in a code; and
 - (ii) any areas for compliance in relation to key process requirements in a code; and
 - (c) specify the time within which the provider or signatory provider is expected to address the code administrator's concerns (which must be a reasonable time, having regard to the nature and complexity of the action required); and 5
 - (d) specify the possible consequences of a failure to comply with a performance improvement notice. 10
 - (3) The code administrator may publish the notice, or a summary of it, in a manner designed to give public notice of it.
 - (4) The code administrator may, before the expiry of the time referred to in **subsection (2)(c)**, extend the time, and in that case the time as extended becomes the time within or during which the notice must be complied with. 15
- Compare: 1989 No 80 s 238I

535D Providers and signatory providers to comply with performance improvement notices

- (1) A provider or signatory provider must comply with a performance improvement notice issued under **section 535C**. 20
- (2) If, in a code administrator's opinion, a provider or signatory provider does not comply with the notice, the code administrator may (as the code administrator sees fit) impose sanctions against the provider or signatory provider under section 535.
- (3) The code administrator may not act under **subsection (2)** until the later of the following: 25
 - (a) 10 working days after the date on which the notice was issued;
 - (b) the expiry of any time of a kind referred to in **section 535C(2)(c)** or any extension of that time if that time has been extended under **section 535C(4)**. 30

Compare: 1989 No 80 s 238K

51 Section 536 amended (Student contract dispute resolution scheme established)

- (1) Replace section 536(2) with:
- (2) The purpose of the DRS is to resolve disputes between students (and former and prospective students) and providers or signatory providers relating to the following matters: 35
 - (a) contractual and financial matters:

- (b) a claim for redress for any loss or harm suffered by a student as a result of a breach of a relevant code by a provider or signatory provider of a code issued under section 534.
- (2) In section 536(3) and (5), replace “any contractual or financial dispute” with “a dispute described in **subsection (2)(a) or (b)**”. 5
- (3) In section 536(4)(a), replace “agencies” with “organisations”.
- (4) In section 536(4)(b), replace “agency” with “organisation”.
- (5) After section 536(5), insert:
- (5A) In addition, a student claimant may lodge with the DRS operator for resolution under the DRS a dispute with a provider or signatory provider described in **subsection (2)(b)** only if the code administrator is satisfied that the provider or signatory provider has breached the relevant applicable code. 10
- (6) Replace section 536(7)(b) with:
- (b) it is produced by consensual methods undertaken by or on behalf of a DRS operator, and the parties to the dispute have agreed that it is to be binding. 15

52 New sections 536A to 536D inserted

After section 536, insert:

536A How DRS operator must perform role

- (1) ~~The~~A DRS operator must ~~exercise and perform and exercise~~ its functions, powers, and duties in a manner that contributes to an education system that honours Te Tiriti o Waitangi and supports Māori-Crown relationships by— 20
- (a) resolving disputes in a way that—
- (i) has regard to tikanga Māori; and
- (ii) is consistent with the principles of Te Tiriti o Waitangi; and 25
- (b) responding to the concerns and interests of Māori in the administration and operation of the scheme.
- (2) ~~The~~A DRS operator must perform and exercise its functions, duties, and powers— 30
- (a) in a manner that is fair and reasonable in the relevant circumstances; and
- (b) having regard to—
- (i) the general law; and
- (ii) best practice for dispute resolution; and
- (iii) ~~the provisions of a relevant code in the case of a particular dispute,~~ the provisions of a code issued under section 534 that is relevant to the dispute. 35

- (3) In the adjudication of any dispute, ~~the~~ a DRS operator, or a person appointed as an adjudicator, must determine the dispute according to the substantial merits of the case and—
- (a) is not bound by the rules of evidence or by previous decisions; and
 - (b) is not required to give effect to strict legal obligations, or to legal forms or technicalities. 5

536B Obligation of DRS operator to provide information

- (1) If a specified body reasonably considers that it is necessary for the efficient and effective performance and exercise of any of the body's functions, duties, and powers that a DRS operator provide certain information to the specified body, the specified body may request that the DRS operator provide the information. 10
- (2) A DRS operator must—
- (a) comply with a request under **subsection (1)** within a reasonable time; and
 - (b) in relation to matters arising from the information requested, provide any other reasonable assistance to the specified body. 15
- (3) In this section, a **specified body** means one of the following:
- (a) the Ministry of Education;
 - (b) ~~agencies or bodies responsible for monitoring or enforcement of education quality~~ a quality assurance agency (for example, NZQA, the Education Review Office, ~~and~~ or the Vice-Chancellors Committee) or other bodies responsible for monitoring or enforcement of education quality; 20
 - (c) a code administrator or other body responsible for the well-being and safety of students.

536C Sharing of information relating to disputes 25

- (1) ~~The~~ A DRS operator, a code administrator, and a quality assurance agency may provide to a code administrator or a quality assurance agency any information about a dispute or the resolution of a dispute to each other if the sharing of information relates to a purpose set out in **subsection (2)**.
- (2) ~~The~~ A DRS operator, code administrator, or quality assurance agency may provide information under **subsection (1)** for 1 or more of the following purposes: 30
- (a) to enable the DRS operator, ~~the~~ code administrator, or ~~agencies or bodies responsible for monitoring or enforcement of education quality~~ quality assurance agency to perform any of their duties and responsibilities in relation to the dispute or to matters or concerns to which the dispute relates; 35
 - (b) to ensure the timely and expedient resolution of the dispute:

- (c) to avoid the unnecessary use or duplication of resources in the resolution of a dispute.

536D Sharing of personal information restricted

- (1) ~~In providing~~ No personal information may be supplied under **section 536B or 536C**, the DRS operator must not share any personal information except under in accordance with— 5
- (a) an information matching agreement entered into under Part 10 of the Privacy Act 1993 and continued by clause 11 of Schedule 1 of the Privacy Act 2020; or
- (b) an approved information sharing agreement entered into under subpart 1 of Part 7 of the Privacy Act 2020; or 10
- (c) principles 11 and 12 set out in section 22 of the Privacy Act 2020.
- (2) In this section, **personal information** has the meaning given to it by section 7(1) of the Privacy Act 2020.

53 New section 537A inserted (Time frame for payment for resolution of claim) 15

After section 537, insert:

537A Time frame for payment for resolution of claim

- (1) Within 20 working days of the date of a resolution of a dispute under section 536(7), a provider or signatory provider must pay to a student claimant any amount it is required to pay to comply with the resolution. 20
- (2) However, if, before the expiration of the 20 working days, the provider or signatory provider has applied to the District Court under **section 538(1)(c)** for a modification of the terms of the resolution, the provider or signatory provider is not required to pay the amount until the District Court has determined the matter. 25

54 Section 538 amended (District Court to enforce DRS)

- (1) After section 538(1)(b), insert:
- (c) on the application of a student claimant, provider, or signatory provider, make an order— 30
- (i) modifying the terms of ~~a~~ an adjudicated resolution of a dispute by a DRS operator if the District Court is satisfied that the terms are manifestly unreasonable; and
- (ii) requiring the student claimant, provider, or signatory provider to give effect to the modified resolution. 35
- (2) In section 538(2), after “resolution”, insert “or modified resolution”.
- (3) Repeal section 538(3).

(4) Replace section 538(4), with:

(4) An order made under **subsection (1)(c)** overrides section 536(7).

55 New section 540A and cross-heading inserted

After section 540, insert:

Employees of student accommodation

5

540A Good character assessment of employees of student accommodation

(1) This section applies in respect of student accommodation operated by a provider or signatory provider.

(2) The provider or signatory provider must not employ a person to work in the student accommodation without ensuring that the person is of good character. 10

(3) In assessing whether a person is of good character, the provider or signatory provider must—

(a) obtain a Police vet of the person; and

(b) take into account the matters specified in regulations made under **section 648(a)** for that purpose. 15

(4) The provider or signatory provider must make a further assessment of good character of every person—

(a) of whom an assessment of good character has already been made under this section by that provider or signatory provider; and

(b) who is still employed to work at the student accommodation. 20

(5) The further assessment of good character under **subsection (4)** must be made within 3 years of the previous assessment of that person by the provider or signatory provider.

(6) This section does not apply in respect of a person if the provider or signatory provider is required under Part 3 of the Children's Act 2014 to ensure that a safety check of the person is completed in order for the person to be employed to work in the student accommodation. 25

56 Section 633 amended (Entry to inspect student accommodation subject to codes)

In section 633(1), delete “, in accordance with the requirements of the applicable code,”. 30

57 New section 634A and cross-heading inserted

After section 634, insert:

*Providers and signatory providers***634A Powers of entry and inspection**

- (1) For the purpose of ensuring that a provider or signatory provider complies with a code with which it is required to comply, a code administrator may authorise any person to do, at any reasonable time, any 1 or more of the following things: 5
- (a) enter and inspect any premises (other than a dwelling house) that is occupied by the provider or signatory provider:
 - (b) require any person to produce documents or information under the control of the person:
 - (c) inspect, photocopy, print, or copy any documents (whether held in electronic or paper form) that are produced under **paragraph (b)** or that the authorised person believes on reasonable grounds to belong to the establishment: 10
 - (d) remove any document referred to in **paragraph (c)**, whether in its original form or as an electronic or a paper copy: 15
 - (e) require any employee or member of the provider or signatory provider to make or provide statements, in any form and manner that the authorised person specifies:
 - (f) inspect any education and training work and any related materials:
 - (g) meet and talk with any person. 20
- (2) A person authorised by the code administrator under **subsection (1)** must—
- (a) produce evidence of the person's authorisation to the person in charge of the premises when the person first enters the premises, and at any later time, at the request of the person in charge; and
 - (b) give the person in charge a list of all documents that have been removed (if any); and 25
 - (c) return any documents that have been removed unless to do so would prejudice any investigation.
- (3) Before authorising a person under **subsection (1)**, the code administrator must be satisfied that the person— 30
- (a) is of good character; and
 - (b) has received appropriate training on the exercise of the powers available under **subsection (1)**.
- (4) An authorisation under **subsection (1)** must be in writing and contain— 35
- (a) a reference to this section; and
 - (b) the full name of the person authorised; and
 - (c) a statement of the powers conferred on that person under this section.

- 58 Section 636 amended (Regulations relating to early childhood services)**
In section 636(2)(h), after “regulate”, insert “, including by authorising the Secretary to issue a notice recognising a qualification,”.
- 59 New section 647A inserted (Regulations relating to contracts of enrolment)**
After section 647, insert: 5
- 647A Regulations relating to contracts of enrolment**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that set out the following requirements:
- (a) requirements for the form, content, and scope of contracts of enrolment:
- (b) requirements for the supply of information to students regarding the rights and responsibilities of the parties to a contract of enrolment. 10
- (2) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- 60 Section 648 amended (Regulations relating to pastoral care)**
- (1) In the heading to section 648, replace “**pastoral care**” with “**well-being and safety**”. 15
- (2) Replace section 648(1)(a) with:
- (a) prescribing the matters that providers and signatory providers must take into account when assessing whether a person working in student accommodation is of good character under **section 540A**: 20
- (3) In section 648(1)(b), replace “pastoral care” with “well-being and safety”.
- (4) After section 648(1)(b)(iv), insert:
- (v) prescribing annual reporting requirements for a DRS operator, including in relation to the publication of reports.
- 61 Section 665 amended (Offence relating to powers of entry and inspection)** 25
In section 665, after “section 634(1)”, insert “or **section 634A(1)**”.
- 62 Schedule 1 amended**
- (1) In Schedule 1, repeal clause 7(3).
- (1A) In Schedule 1, replace clause 9 with:
- 9 Review of section 17B** 30
- (1) The Minister must, by no later than 1 August 2025, review, or arrange for a review of, **section 17B**.
- (2) The review must—
- (a) consider the purpose, operation, and effectiveness of **section 17B**; and

- (b) assess whether any amendments to **section 17B** are necessary or desirable.
- (3) The Minister must prepare a report of the review, which must be published on an Internet site maintained by or on behalf of the Ministry.
- (2) In Schedule 1, repeal clause 67. 5
- (3) In Schedule 1,—
- (a) insert the Part set out in **Schedule 1** of this Act as the last Part; and
- (b) make all necessary consequential amendments.
- 63 Schedule 2 amended**
- In Schedule 2, replace the item relating to Ko Tāku Reo with: 10
Ko Taku Reo—Deaf Education New Zealand
- 64 New Schedule 2A inserted**
- After Schedule 2, insert the **Schedule 2A** set out in **Schedule 2** of this Act.
- 65 Schedule 4 amended**
- (1AAA) In Schedule 4, replace clause 1(c) with: 15
- (c) who is not—
- (i) a registered teacher who holds a current practising certificate; or
- (ii) a holder of a limited authority to teach.
- (1) In Schedule 4, clause 1, insert as subclause (2):
- (2) The Police vet must be obtained before a person’s employment or engagement at the early childhood service begins. 20
- (2) In Schedule 4, after clause 2(1), insert:
- (1A) The Police vet must be obtained before a contractor, or an employee of a contractor, has, or is likely to have, unsupervised access to children at the service during normal opening hours. 25
- (3) In Schedule 4, repeal clause 3.
- (3A) In Schedule 4, replace clause 9(c) with:
- (c) who is not—
- (i) a registered teacher who holds a current practising certificate; or
- (ii) a holder of a limited authority to teach. 30
- (4) In Schedule 4, clause 9, insert as subclause (2):
- (2) The Police vet must be obtained before a person’s employment or engagement at the school begins.
- (5) In Schedule 4, after clause 10(1), insert:

- (1A) A Police vet must be obtained before a contractor, or an employee of a contractor, has, or is likely to have, unsupervised access to students at the school during normal school hours.
- (6) In Schedule 4, repeal clause 11.
- 66 Schedule 23 amended** 5
In Schedule 23, after clause 12(1)(d), insert:
(e) is removed by the Minister under section 169(2).
- 67 Schedule 24 amended**
(1) In Schedule 24, after clause 1(c), insert:
(d) an education provider that is in a jurisdiction described in section 455(2)(b) and that provides teaching and assessment of NCEA standards in that jurisdiction. 10
(2) In Schedule 24, clause 3, insert as subclause (2):
(2) For the purposes of this clause, **student** includes a student who is studying in a jurisdiction described in section 455(2)(b) and who is receiving teaching and assessment of NCEA standards in that jurisdiction. 15
(3) In Schedule 24, after clause 4(1)(c)(iii), insert:
(iiia) ensuring that employers and students receive appropriate resourcing and support for work-based training:

Part 2 20

Other amendments

Consequential amendments to principal Act

68 Minor and consequential amendments to principal Act

Amend the principal Act as set out in **Schedule 3**.

Consequential amendments to other legislation 25

69 Consequential amendments to other legislation

Amend the enactments specified in **Schedule 4** as set out in that schedule.

Amendments to Children's Act 2014

70 Principal Act

Section 71 amends the Children's Act 2014. 30

71 Schedule 1 amended

In Schedule 1, after item (31A), insert:

(31B) services provided at student accommodation (as defined in section 10(1) of the Education and Training Act 2020):

Amendments to Ombudsmen Act 1975

72 Principal Act

Section 73 amends the Ombudsmen Act 1975. 5

73 Schedule 1 amended

In Schedule 1, Part 2, insert in their appropriate alphabetical order:

Code administrator appointed ~~under regulations made under~~ subpart 7 of Part 5 of the Education and Training Act 2020

DRS operator appointed under subpart 7 of Part 5 of the Education and Training Act 2020 10

Schedule 1
New Part 4 inserted into Schedule 1

s 62

Part 4		
Provisions relating to Education and Training Amendment Act (No 2) 2021		5
<i>General</i>		
77	Interpretation	
	In this Part—	
	1989 Act means the Education Act 1989	10
	Amendment Act means the Education and Training Amendment Act (No 2) 2021	
	commencement date means the date on which the Amendment Act (other than sections 39 to 41 and 40) comes into force;	
	DRS means the student contract dispute resolution scheme established under section 536.	15
<i>Licensing of early childhood services</i>		
77A	<u>Transitional provision relating to applications for licences to operate early childhood services</u>	
	Sections 17 to 18C do not apply to an application for a licence under the Education (Early Childhood Services) Regulations 2008 made before the date those sections come into force and to which the requirements for the provision of information and evidence relating to the application specified in regulations have been met.	20
<i>Compulsory student services fees</i>		
78	Ministerial direction relating to compulsory student services fees	
(1)	This clause applies to a direction relating to compulsory student services fees that was given by the Minister under section 227A of the 1989 Act, and that—	
	(a) was continued in force under clause 15; and	
	(b) is in force immediately before the commencement of the 2021 Act .	30
(2)	Despite the repeal of sections 257 and 360 by sections 10 and 13 of the Amendment Act, the direction continues in force until 1 January 2024 (unless it is revoked earlier by the Minister).	

*Training schemes***79 Existing training scheme approval to become micro-credential approval and accreditation**

- (1) This clause applies to an institution that was granted approval to provide a training scheme under section 445 before the commencement date. 5
- (2) On and after the commencement date,—
- (a) the training scheme is to be treated as a micro-credential for the purposes of the Act; and
- (b) the institution must be treated as if NZQA has—
- (i) granted approval of the content of a micro-credential under section 445; and 10
- (ii) granted accreditation to the institution to provide the micro-credential under **section 446A**.

*Notices published by NZQA***80 Publication of saved notices by NZQA** 15

NZQA may publish the following under **section 459A**:

- (a) a quality assurance improvement notice (or summary of a notice) issued under section 11C of the Industry Training and Apprenticeships Act 1992 and continued in force under clause 48:
- (b) a compliance notice (or summary of a notice) issued under section 11D of the Industry Training and Apprenticeships Act 1992 and continued in force under clause 48. 20

*Disciplinary functions***81 Transitional provision relating to Complaints Assessment Committee investigation and Disciplinary Tribunal review** 25

- (1) The amendments made by **sections 39 to 41 and 40** apply only to investigations commenced on or after the date on which those sections come into force.
- (2) Investigations commenced, and not finally determined before that date, continue as if those amendments had not been enacted. 30

*Dispute resolution***81A Transitional provision relating to application of DRS to domestic tertiary students' contractual and financial disputes lodged before commencement date**

- (1) Sections 536 to 538 as in force immediately before the Amendment Act apply to a relevant dispute but only if the dispute— 35

<p>(a) <u>relates to circumstances, or an issue or event, that arose or occurred on or after 1 January 2022; and</u></p> <p>(b) <u>is lodged on or after 1 January 2022 and before the commencement date.</u></p> <p>(2) <u>In subclause (1), relevant dispute means a dispute between a domestic tertiary student (or a former or prospective domestic tertiary student) and a provider to which the DRS applied under section 536(2) prior to the commencement date.</u></p>	<p>5</p>
<p>81B <u>Transitional provision relating to application of DRS to domestic tertiary students' contractual and financial disputes lodged after commencement date</u></p> <p>(1) <u>Sections 536 to 538 (as inserted by the Amendment Act) apply to a relevant dispute that—</u></p> <p>(a) <u>relates to circumstances, or an issue or event, that arose or occurred on or after 1 January 2022; and</u></p> <p>(b) <u>is lodged on or after the commencement date.</u></p> <p>(2) <u>In subclause (1), relevant dispute means a dispute between a domestic tertiary student (or a former or prospective domestic tertiary student) and a provider to which the DRS applies under section 536(2)(a) (as amended by the Amendment Act).</u></p>	<p>10</p> <p>15</p> <p>20</p>
<p>81C <u>Transitional provision relating to application of DRS to disputes about breach of code after commencement date</u></p> <p><u>Sections 536 to 538 (as amended by the Amendment Act) apply to the dispute if—</u></p> <p>(a) <u>it is a dispute to which the DRS applies under section 536(2)(b) (as inserted by the Amendment Act); and</u></p> <p>(b) <u>it relates to circumstances, or an issue or event, that arose or occurred on or after the commencement date.</u></p>	<p>20</p> <p>25</p>
<p><i>Student accommodation</i></p>	
<p>82 <u>Transitional provision relating to good character assessment of employees in student accommodation</u></p> <p>(1) <u>This clause applies in respect of every person who at the commencement date was an employee in student accommodation.</u></p> <p>(2) <u>The provider or signatory provider that operates that student accommodation must ensure, within 3 years of the commencement date, that the provider or signatory provider has made an assessment in accordance with section 540A(3) of whether the person is of good character if the provider or signatory provider continues to employ the person.</u></p>	<p>30</p> <p>35</p>

*Regulations relating to early childhood services***83 Notices recognising qualifications made under regulations relating to early childhood services validly issued**

- (1) This clause applies to a notice issued by the Secretary under—
- (a) regulations made under section 636(2)(h) made before the commencement date; or 5
 - (b) regulations made under section 317 of the 1989 Act that are continued in force under clause 4(1).
- (2) A notice to which this clause applies is to be treated as being and having always been validly issued. 10

*Police vetting***84 Transitional provision relating to Police vetting**

- (1) **Subclauses (2) and (3)** apply in respect of any person—
- (a) for whom a Police vet must be obtained by the service provider of a licensed early childhood service under clause 1 of Schedule 4; and 15
 - (b) who has been appointed to a position, or has begun working, at the service concerned; and
 - (c) for whom, at the commencement date, no Police vet had yet been obtained by the service provider.
- (2) The Police vet must be obtained in respect of a person to whom this clause applies before the person has, or is likely to have, unsupervised access to children at the service during normal opening hours. 20
- (3) The service provider must apply for the Police vet no later than 2 weeks after the person begins work at the service.
- (4) **Subclauses (5) and (6)** apply in respect of any person— 25
- (a) for whom a Police vet must be obtained by the board of a State school or the managers of a private school under clause 9 of Schedule 4; and
 - (b) who has been appointed to a position, or has begun working, at the school concerned; and
 - (c) for whom, at the commencement date, no Police vet had yet been obtained by the board or the managers. 30
- (5) The Police vet must be obtained in respect of a person to whom this clause applies before the person has, or is likely to have, unsupervised access to students at the school during normal school hours.
- (6) The board or managers must apply for the Police vet no later than 2 weeks after the person begins work at the school. 35

Schedule 2
New Schedule 2A inserted

s 64

Schedule 2A
Free kindergarten associations

5

s 10(1), (10A)

Ashburton Kindergarten Association Incorporated	
Auckland Kindergarten Association	
Canterbury Westland Kindergarten Association Incorporated	
Central North Island Kindergarten Trust	10
Counties Manukau Kindergarten Association Incorporated	
Dannevirke Kindergarten Association Incorporated	
Dunedin Kindergartens Incorporated	
Geraldine District Free Kindergarten Association Incorporated	
Gisborne Free Kindergarten Association Incorporated	15
He Whanau Manaaki o Tararua Free Kindergarten Association Incorporated	
Heretaunga Free Kindergarten Association Incorporated	
Hutt City Kindergartens Association Incorporated	
Marlborough Free Kindergarten Association Incorporated	
Napier Free Kindergarten Association Incorporated	20
Nelson District Free Kindergarten Association Incorporated	
Northern Auckland Free Kindergarten Association Incorporated	
Northland Kindergarten Association Incorporated	
Oamaru Free Kindergarten Association Incorporated	
Ruahine Kindergarten Association Incorporated	25
South Canterbury Free Kindergarten Association Incorporated	
South Otago Free Kindergarten Association Incorporated	
Southland Free Kindergarten Association Incorporated	
Taranaki Free Kindergarten Association Incorporated	
Tauranga Regional Free Kindergarten Association Incorporated	30
Te Aroha Free Kindergarten Association Incorporated	
Waikato Kindergarten Association	
Waimate Free Kindergarten Association Incorporated	
Westport Kindergarten Association Incorporated	

Schedule 3

Minor and consequential amendments to principal Act

s 68

Section 10

In section 10(1), definition of **award**, paragraph (a), after “Qualifications”, insert “and Credentials”. 5

In section 10(1), definition of **award**, paragraph (b), replace “training scheme” with “micro-credential”.

In section 10(1), definition of **code**, replace “pastoral care” with “well-being and safety”. 10

In section 10(1), definition of **DRS operator**, replace “agency” with “organisation”.

In section 10(1), replace the definition of **educational outcome** with:

educational outcome means a credit, grade, mark, or other measure of student achievement that contributes towards the student gaining—

- (a) a qualification listed on the Qualifications and Credentials Framework; or 15
- (b) an award that recognises the successful completion of a micro-credential; or
- (c) recognition for successfully meeting the learning outcomes of a standard listed on the Directory of Assessment and Skill Standards 20

In section 10(1), definition of **listed skill standard**, after “Assessment”, insert “and Skill”.

In section 10(1), definition of **programme**, after “Qualifications”, insert “and Credentials”.

In section 10(1), definition of **provider**, paragraph (c), replace “pastoral care” with “well-being and safety”. 25

In section 10(1), definition of **qualification**, after “the Qualifications”, insert “and Credentials”.

In section 10(1), definition of **Qualifications Framework**, after “Qualifications” insert “and Credentials”. 30

In section 10(1), definition of **refund period**, paragraph (a) and (b), replace “training scheme” with “micro-credential”.

In section 10(1), definition of **refund period**, paragraph (a) and (b)(i), replace “or scheme” with “or micro-credential”.

In section 10(1), definition of **student claimant**, paragraph (b), replace “tertiary domestic” with “domestic tertiary”. 35

Section 251

In section 251(e), replace “programmes, assessment standards, training schemes” with “micro-credentials, programmes, assessment and skill standards, national curricula”.

Section 255

5

In section 255(1), (3), (4), and (7), replace “training scheme” with “micro-credential” in each place.

In section 255(2)(b) and (5), replace “or scheme” with “or micro-credential”.

In section 255(7),—

- (a) replace “training scheme” with “micro-credential”; and 10
- (b) replace “or scheme” with “or micro-credential”.

Section 284

In section 284(1)(c) and (d), delete “257,”.

Section 312

In section 312(c), after “Qualifications”, insert “and Credentials”. 15

Section 343

In the heading to section 343, replace “**training schemes**” with “**micro-credentials**”.

In section 343, replace “training scheme” with “micro-credential”.

Section 346

In section 346(1)(e), replace “training schemes” with “micro-credentials”. 20

In section 346(1)(h)(i), replace “training scheme” with “micro-credential”.

Section 351

In section 351(2)(a), replace “training schemes” with “micro-credentials”.

Section 352

In section 352(1)(a)(ii) and (b)(ii), replace “training scheme” with “micro-credential it is accredited to provide”. 25

In section 352(2)(a), after “establishment’s accreditation”, insert “to provide an approved programme”.

In section 352(2)(b), replace “training scheme approval” with “accreditation to provide an approved micro-credential”. 30

Section 354

In section 354(a)(i), (b)(i), and (c), replace “training scheme” with “micro-credential” in each place.

Section 354—*continued*

In section 354(a)(ii), replace “or scheme” with “or micro-credential”.

Section 355

In section 355(1), replace “training scheme” with “micro-credential”.

Section 356

In section 356(1), (2), and (5)(a), replace “training scheme” with “micro-credential”. 5

Section 357

In section 357(1)(a) and (b), (2), (3)(a) and (b), and (4), replace “training scheme” with “micro-credential”.

In section 357(4), replace “or scheme” with “or micro-credential”.

Section 358

10

In the heading to section 358, replace “**training scheme**” with “**micro-credential**”.

In section 358, replace “training scheme” with “micro-credential”.

In section 358, replace “or scheme” with “or micro-credential”.

Section 361

In section 361(1)(a)(i), replace “training scheme” with “micro-credential”. 15

Section 366

In section 366(1)(c), after “on the Qualifications”, insert “and Credentials”.

In section 366(1)(d), replace “training schemes” with “micro-credentials”.

Section 391

In section 391(1)(a), after “qualification”, insert “, credential, or micro-credential”. 20

In section 391(1)(a) and (b)(ii), after “Qualifications”, insert “and Credentials”.

In section 391(1)(b)(ii), after “qualification”, insert “or micro-credential”.

In section 391(1)(b) and (c)(ii) and (iii), replace “training scheme” with “micro-credential”.

After section 391(1)(b), insert: 25

(ba) a curriculum is a national curriculum recognised under **section 438B**;
or

In section 391(1)(d), after “Assessment”, insert “and Skill”.

Section 392

In section 392(1)(a) and (b), after “Qualifications”, insert “and Credentials”. 30

Section 393

In section 393(3), replace “training scheme” with “micro-credential” in each place.

Section 399

In section 399(8), replace “pastoral care” with “well-being and safety”.

Section 433

5

In section 433(1)(b), replace “training scheme” with “micro-credential”.

In section 433(1)(d), after “Qualifications”, insert “and Credentials”.

In section 433(1)(d), after “Assessment”, insert “and Skill”.

In section 433(1)(h), (i)(ii), and (l), replace “training schemes” with “micro-credentials”.

10

In section 433(1)(i)(iii), after “programmes”, insert “or approved micro-credentials”.

Section 441

In section 441(3), after “Assessment”, insert “and Skill”.

In section 441(4)(c), replace “without limitation as to time or for a specified period” with “for a specified period or indefinitely”.

15

Section 442

In section 442(1), after “Every accreditation”, insert “to provide an approved programme”.

Section 443

In the heading to section 443, after “**accreditation**”, insert “**to provide approved programme**”.

20

In section 443(1), after “accreditation”, insert “to provide an approved programme”.

In section 443(1)(d), after “Qualifications”, insert “and Credentials”.

Section 444

In the heading to section 444, after “**accreditation**”, insert “**to provide approved programme**”.

25

In section 444(1), after “accreditation”, insert “to provide an approved programme”.

Section 445

In section 445(3), after “Assessment”, insert “and Skill”.

Section 446

30

In the heading to section 446, replace “**training scheme**” with “**micro-credential**”.

In section 446(1), replace “training scheme approval” with “approval of the content of a micro-credential”.

Section 446—continued

In section 446(2), replace “a training scheme approval” with “an approval”.

In section 446(2), replace “accreditation” with “accreditation or accreditation to provide an approved programme”.

Section 449

In section 449(1), after “Assessment”, insert “and Skill”. 5

Section 450

In section 450(2), replace “accreditation” with “accreditation or accreditation to provide an approved programme”.

Section 451

In section 451(1)(a), delete “training scheme approval or”. 10

In section 451(1)(b) and (2), after “Assessment”, insert “and Skill”.

Section 452

In section 452(1)(a)(iii), replace “training scheme” with “micro-credential”.

~~In section 452(1)(a)(vii), (f), and (1), and (2)(b), after “Qualifications”, insert “and Credentials”.~~ 15

In section 452(1)(a)(viii) and (f), and (2)(c), after “Assessment”, insert “and Skill”.

In section 452(1)(f) and (1), and (2)(b), after “Qualifications”, insert “and Credentials”.

~~In section 452(1)(k), after “accreditations”, insert “to provide approved programmes”.~~

In section 452(1)(u), replace “training schemes” with “micro-credentials”. 20

Section 453

In section 453(3)(c) and (d), after “Qualifications”, insert “and Credentials”.

Section 457

In section 457(1)(a)(ii), replace “training scheme” with “micro-credential”.

In section 457(1)(a)(v), after “the Qualifications”, insert “and Credentials”. 25

In section 457(1)(a)(vi), after “Assessment”, insert “and Skill”.

Section 459

In section 459(1)(b), (6)(b) and (e), and (9), replace “training scheme” with “micro-credential” in each place.

In section 459(1)(b), replace “accreditation” with “accreditations”. 30

In section 459(9), after “standards”, insert “or any accreditation”.

Section 486

In section 486(1)(c), after “hearings”, insert “, and review decisions of the Complaints Assessment Committee.”.

Section 525

Replace section 525(2) with:

- (2) An institution’s council may not permit the enrolment of an international student at the institution for a micro-credential unless—
- (a) the micro-credential is approved by NZQA and the institution is accredited to provide the micro-credential; or
 - (b) the micro-credential is exempted under section 528.

In section 525(3)(b), replace “training scheme” with “micro-credential”.

In section 525(3)(b) and (4), replace “or scheme” with “or micro-credential”.

Section 527

In section 527(1)(c) and (2)(c), after “Assessment”, insert “and Skill”.

In section 527(2), (2)(b)(ii), and (3), replace “training scheme” with “micro-credential”.

Replace section 527(2)(b)(i) with:

- (i) the micro-credential is an approved micro-credential and the establishment is accredited to provide the micro-credential; or

Section 528

In section 528(1)(a), after “section”, insert “525(1)(b) or”.

In section 528(1)(b), and (2)(a) to (d), replace “training schemes” with “micro-credentials”.

Section 529

In section 529(1)(a) to (d) and (2), replace “training scheme” with “micro-credential” in each place.

In section 529(1)(b) and (2), replace “or scheme” with “or micro-credential” in each place.

Section 530

In section 530(1)(a)(i), replace “training scheme” with “micro-credential”.

Section 531

In the heading to section 531, replace “**training scheme**” with “**micro-credential**”.

In section 531(1), replace “training scheme” with “micro-credential” in each place.

Section 536

In section 536(5) and (7)(a), replace “the DRS operator” with “a DRS operator”.

In section 536(8), replace “The DRS operator” with “A DRS operator”.

Section 537

In section 537, replace “the DRS operator” with “a DRS operator”.

5

Section 538

In section 538(1)(a) and (b) and (3), replace “the DRS operator” with “a DRS operator”.

Schedule 1

In Schedule 1, clause 12(3)(a), replace “accreditation” with “accreditation or accreditation to provide an approved programme”. 10

In Schedule 1, clause 12(4)(a), replace “accreditation” with “accreditation or accreditation to provide an approved programme”.

In Schedule 1, clause 33(1)(d), after “Assessment”, insert “and Skill”.

In Schedule 1, clause 45(3)(a), after “Assessment”, insert “and Skill”. 15

In Schedule 1, clause 49(1)(b), replace “training scheme” with “micro-credential”.

In Schedule 1, clause 49(1)(c), after “Assessment”, insert “and Skill”.

Schedule 14

In Schedule 14, replace clause 9(1)(c) with:

(c) an approval of the content of a micro-credential under section 445: 20

(ca) an accreditation to provide a micro-credential under **section 446A:**

In Schedule 14, clause 9(1)(d), after “Assessment”, insert “and Skill”.

Schedule 4

Consequential amendments to secondary legislation

s 69

Building (Accreditation of Building Consent Authorities) Regulations 2006 (SR 2006/399) 5

In regulation 3, definition of **specified New Zealand qualification**, paragraph (o)(i), replace “Qualifications Framework” with “Qualifications and Credentials Framework”.

Care of Children (Counselling) Regulations 2013 (SR 2013/432) 10

In regulation 6(b), replace “qualifications framework” with “Qualifications and Credentials Framework”.

Education (Domestic Tertiary Student Contract Dispute Resolution Scheme) Rules 2021 (SL 2021/369)

In rule 4, replace the definition of **dispute** with:

- dispute—** 15
- (a) means a dispute between a domestic tertiary student (or a former or prospective domestic tertiary student) and a provider that relates to either of the matters set out in **section 536(2)** of the Act; and
- (b) includes a contractual dispute in relation to the quality of education received by a domestic tertiary student (or a former domestic tertiary student) if an education quality assurance agency has taken action against the provider under section 348(4), 350(1)(a) to **(ca)** or (2), or 459(6) of the Act 20

In rule 4, insert in its appropriate alphabetical order:

- specified body** has the meaning given to it by **section 536B(3)** of the Act 25

Replace rule 8 with:

- 8 DRS operator to inform student claimant parties of information sharing**
- Before it accepts or declines to accept a dispute, the DRS operator must inform the parties to the dispute— of the following matters:
- (a) ~~of~~ how the DRS operator must perform or exercise its functions, powers, and duties under section **536A** of the Act in resolving a dispute; and 30
- (b) that certain information about the dispute—
- (i) must be provided to a specified body on request made under **section 536B** of the Act; and
- (ii) may be provided to a code administrator or a quality assurance agency under **section 536C** of the Act. 35

Revoke rule 10(1)(a) and (b).

Education (Domestic Tertiary Student Contract Dispute Resolution Scheme) Rules 2021 (SL 2021/369)—continued

Revoke rule 10(2).

Revoke rule 17.

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)

In regulation 3, insert in its appropriate alphabetical order:

applicant, in relation to an application for a licence to operate a licensed early childhood service, means,— 5

(a) if an individual has been granted approval under **section 17** of the Act to apply for a licence to operate the service, that individual:

(b) if an entity has been granted approval under **section 17** of the Act to apply for a licence to operate the service, an individual who is involved in the governance of the entity 10

Replace regulation 5(1) with:

(1) Every application for a licence must be made by the applicant on a form provided by the Secretary for the purpose. 15

Before regulation 6(3)(a), insert:

(aaa) the individual or entity that intends to operate the licensed early childhood service has been granted approval under **section 17** of the Act to apply for a licence to operate a service and—

(i) that approval has not expired or been revoked; and

(ii) any conditions imposed on the approval under **section 17A** of the Act have been satisfied; and 20

Replace regulation 6(3)(b) with:

(b) each individual who is an applicant or who is involved in the governance of the proposed service is a fit and proper person to be involved in the governance of the service. 25

Replace regulations 7 and 8 with:

7 Applicant must make statutory declaration

Every application must be accompanied by a declaration made by the applicant setting out, in the manner provided in the Oaths and Declarations Act 1957, in relation to the applicant and each individual who is involved in the governance of the proposed service,— 30

(a) any previous conviction for any offence:

(b) any involvement in, or association with, an organisation that has been convicted of an offence:

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)—*continued*

(c)	<u>any history of health conditions that may affect the individual's ability to comply with the Act, these regulations, and any regulations made under section 636 of the Act:</u>	
(d)	<u>any property order or personal order under the Protection of Personal and Property Rights Act 1988 to which the person is, or has been, subject:</u>	5
(e)	<u>any sum of money owed, or previously owed, to the Crown, including in respect of bodies that the individual has been involved in managing:</u>	
(f)	<u>any adjudication of bankruptcy under the Insolvency Act 2006 or the Insolvency Act 1967:</u>	10
(g)	<u>any prohibition on being a director or promoter of, or being concerned or taking part in the management of,—</u>	
	(i) <u>a company under the Companies Act 1993; or</u>	
	(ii) <u>any other body corporate:</u>	
(h)	<u>any current or previous role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership, or voluntary administration:</u>	15
(i)	<u>any prohibition against acting as an employer or an officer of an employer under the Employment Relations Act 2000 to which the individual is, or has been, subject:</u>	20
(j)	<u>any previous involvement in an early childhood service in respect of which—</u>	
	(i) <u>an application for a licence was refused; or</u>	
	(ii) <u>a licence was suspended or cancelled:</u>	
(k)	<u>any other matter the Secretary considers relevant and in respect of which the Secretary requires a declaration.</u>	25
8	<u>Fit and proper persons</u>	
	<u>For the purpose of determining whether the individual who is the applicant and each individual who is involved in the governance of the proposed service is a fit and proper person to be involved in the governance of the proposed service, the Secretary may have regard, in relation to all those individuals, to the following matters:</u>	30
(a)	<u>whether the individual has had a satisfactory Police vet for the purposes of the application:</u>	
(b)	<u>any previous conviction for any offence that the Secretary considers is relevant to providing an early childhood service (for example, an offence involving harm to children, violence, or fraud):</u>	35

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)—*continued*

- (c) any involvement in or association with an organisation that has been convicted of an offence that the Secretary considers is relevant to providing an early childhood service:
- (d) any history of health conditions that may affect the individual's ability to comply with the Act, these regulations, and any regulations made under section 636 of the Act: 5
- (e) any property order or personal order under the Protection of Personal and Property Rights Act 1988 to which the individual is, or has been, subject:
- (f) any sum of money owed, or previously owed, to the Crown, including in respect of bodies that the individual has been involved in managing: 10
- (g) any adjudication of bankruptcy under the Insolvency Act 2006 or the Insolvency Act 1967:
- (h) any prohibition on being a director or promoter of, or being concerned or taking part in the management of,— 15
- (i) a company under the Companies Act 1993; or
- (ii) any other body corporate:
- (i) any current or previous role as a governing member of an entity or organisation that became insolvent, including being placed in liquidation, receivership, or voluntary administration: 20
- (j) any prohibition against acting as an employer or an officer of an employer under the Employment Relations Act 2000 to which the individual is, or has been, subject:
- (k) any previous involvement in an early childhood service in respect of which— 25
- (i) an application for a licence was refused; or
- (ii) a licence was suspended or cancelled:
- (l) any other matter that the Secretary considers relevant.

Replace regulation 11(1)(c) with:

- (c) the applicant and each individual who is involved in the governance of the proposed service is a fit and proper person to be involved in the governance of the proposed service; and 30

Replace regulation 13(c) with:

- (c) the applicant and each individual who is involved in the governance of the service provider is a fit and proper person. 35

After regulation 22(5)(d), insert:

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)—*continued*

- (e) that are a continuation of any of the conditions imposed under **section 17A** of the Act on an approval to apply for a licence to operate a licensed early childhood service.

Education (Refund Requirements for International Students) Notice 2012 (SR 2012/312)

5

In clause 3(2), replace “international student, private training establishment, programme, and training scheme” with “international student, micro-credential, private training establishment, and programme”.

In clause 4(1) and (2), replace “training scheme” with “micro-credential”.

In clause 5, replace “training scheme” with “micro-credential”.

10

In clause 7(1)(e), replace “training scheme” with “micro-credential”.

Education (Tertiary Education—Criteria Permanent Residents Studying Overseas must Satisfy to be Domestic Students) Regulations 2016 (LI 2016/212)

In regulation 3(1), definition of **studying overseas**, paragraph (c), replace “training scheme” with “micro-credential”.

15

Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016 (LI 2019/16)

In regulation 3(1), definition of **additional training**, paragraph (a), after “the Qualifications”, insert “and Credentials”.

International Student Contract Dispute Resolution Scheme Rules 2016 (LI 2016/42)

20

In rule 3(1), replace the definition of **dispute** with:

dispute means a dispute between an international student and a provider that relates to either of the matters set out in **section 536(2)** of the Act

Revoke rule 8(a) and (b).

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After rule 8, insert:

8A DRS operator to inform parties of information sharing

Before it accepts or declines to accept a dispute, the DRS operator must inform the parties to the dispute of the following matters:

- (a) how the DRS operator must perform or exercise its functions, powers, and duties under **section 536A** of the Act in resolving a dispute; and
- (b) that certain information about the dispute—
- (i) must be provided to a specified body on request made under **section 536B** of the Act; and

30

International Student Contract Dispute Resolution Scheme Rules 2016 (LI 2016/42)—continued

(ii) may be provided to a code administrator or a quality assurance agency under **section 536C** of the Act.

Revoke rule 9(3) and (4).

Minimum Wage Order 2021~~2~~ (LI 2021/242/44)

In clause 3(1), definition of **industry training programme**, replace “Qualifications Framework” with “Qualifications and Credentials Framework”. 5

Private Security Personnel and Private Investigators (Minimum Training) Regulations 2013 (SR 2013/321)

In regulation 3, definition of **NZQF**, after “the Qualifications”, insert “and Credentials”. 10

Social Security Regulations 2018 (LI 2018/202)

In regulation 104(2)(d), replace “National Qualifications” with “Qualifications and Credentials”.

In regulation 104(2)(d), replace “452(1)(c)” with “**436**”.

Student Allowances Regulations 1998 (SR 1998/277) 15

In regulation 2A(2) and (3), after “the Qualifications”, insert “and Credentials” in each place.

In regulation 2A(4), after “**Qualifications**”, insert “**and Credentials**”.

In regulation 23B(2)(b), after “the Qualifications”, insert “and Credentials”.

Legislative history

30 November 2021
14 December 2021

Introduction (Bill 102–1)
First reading and referral to Education and Workforce
Committee