



# Education and Training (Vocational Education and Training System) Amendment Act 2025

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Date of assent      21 October 2025  
Commencement      see section 2

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

**1 Title**

This Act is the Education and Training (Vocational Education and Training System) Amendment Act 2025.

**2 Commencement**

- (1) This Act comes into force on 22 October 2025.
- (2) However, Parts 3 to 6 of Schedule 6 come into force on a date or dates set by Order in Council.
- (3) Any part of Part 3 or 4 of Schedule 6 that has not come into force by 1 April 2027 comes into force then.
- (4) Any part of Part 5 or 6 of Schedule 6 that has not come into force by 1 January 2027 comes into force then.

- (5) An Order in Council made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116
<i>This note is not part of the Act.</i>		

Section 2(1): editorial change made by the PCO, on 24 October 2025, under sections 86(1) and 87(m) of the Legislation Act 2019 (2019 No 58).

### 3 Principal Act

This Act amends the Education and Training Act 2020.

## Part 1 Main amendments

### Subpart 1—Amendments to Part 1 (preliminary provisions)

#### 4 Section 9 amended (Te Tiriti o Waitangi)

- (1) Replace section 9(1)(g) with:
- (g) section 321(c), which provides that the council of a polytechnic must ensure that the polytechnic operates in a way that allows the polytechnic to develop meaningful relationships and engage with communities at a local level, including with Māori employers and hapū and iwi.
- (2) Replace section 9(2)(e) with:
- (e) section 314(d), which provides that one of the characteristics of polytechnics is that they improve outcomes for Māori students and trainees and Māori communities in collaboration with Māori and iwi and interested persons or bodies; and

#### 5 Section 10 amended (Interpretation)

- (1) In section 10(1), definition of **institution**, replace paragraph (a) with:
- (a) a polytechnic:
- (2) In section 10(1), replace the definition of **specified industries** with:
- specified industries**, in relation to an industry skills board, means the 1 or more specified industries covered by the industry skills board
- (3) In section 10(1), definition of **tertiary education organisation**, replace paragraph (b) with:
- (b) an industry skills board:
- (4) In section 10(1), replace the definition of **training agreement** with:

**training agreement** means an agreement between an employer and an employee that relates to the employee's receipt of, or provides for the employee to receive, vocational education and training (whether provided by the employer or some other person), and that sets out—

- (a) the responsibilities of the employer and employee under the training agreement; and
- (b) the responsibilities and activities of a provider and an industry skills board (if applicable) in relation to the training specified in the training agreement

- (5) In section 10(1), insert in their appropriate alphabetical order:

**anchor polytechnic** means a polytechnic that is specified to be an anchor polytechnic by an Order in Council made under section 315

**Federation of Polytechnics Committee** or **Federation Committee** means the board established under section 325

**federation polytechnic** means a polytechnic that is a member of the federation of polytechnics that is not an anchor polytechnic

**industry skills board** means an industry skills board established under section 362

**polytechnic** means an institution established under section 315

**relevant services** includes—

- (a) the design, development, or delivery of micro-credentials and programmes of study or training, including teaching and study materials, and the assessment against skill standards; and
- (b) the development and ongoing operation of a quality management system, including monitoring programme delivery and moderating assessments; and
- (c) the provision of shared administration services and information systems for 2 or more federation polytechnics (including, without limitation, student management and learning management systems, contract procurement, human resources, finance, and accounting systems)

## Subpart 2—Amendments to Part 4 (tertiary education and vocational education and training)

### *Polytechnics*

#### 6 Section 250 amended (Outline of Part 4)

Replace section 250(5) with:

- (5) Subpart 4 concerns polytechnics.



**7 Section 267 amended (Academic freedom and institutional autonomy of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology))**

- (1) In section 267(1), replace “universities and wānanga” with “universities, polytechnics, and wānanga”.
- (2) Replace section 267(5) with:
- (5) To avoid doubt,—
  - (a) nothing in subsection (4) limits or affects an industry skills board performing its functions of developing and maintaining standards, qualifications, micro-credentials, and capstone assessments for vocational education and training; and
  - (b) the performance of those functions by the industry skills board does not limit or affect the academic freedom of an institution as set out in subsection (4)(a), (b), or (c).

**8 Section 268 amended (Establishment of institutions)**

After section 268(7), insert:

- (8) This section does not apply to a polytechnic (for which section 315 provides).

**9 Section 269 amended (Constitution of institutions)**

In section 269, insert as subsection (2):

- (2) This section does not apply to a polytechnic.

**10 Section 271 amended (Institutions to be governed by councils)**

- (1) Repeal section 271(1) and the cross-heading above section 271(1).
- (2) Replace section 271(8) with:
- (8) Schedule 11 provides for the constitution, appointment, and operation of councils of institutions and related matters.

**11 Section 272 amended (Incorporation)**

In section 272(1), replace—

- (a) “Te Pūkenga—New Zealand Institute of Skills and Technology as continued by section 314” with “each polytechnic established under section 315”; and
- (b) “4A,” with “4A”.

**12 Section 275 amended (Constitution to provide for membership of council)**

Replace section 275(2) with:

- (2) This section does not apply to a polytechnic (for which section 316 provides).

**13 Section 276 amended (Membership of council)**

Replace section 276(2) with:

- (2) This section does not apply to a polytechnic (for which section 317 provides).

**14 Section 278 amended (Matters to be considered when appointing council members)**

Replace section 278(8) with:

- (8) This section does not apply to a polytechnic (for which section 318 provides).

**15 Section 279 amended (Statutes relating to appointment of members by councils of institutions)**

Replace section 279(6) with:

- (6) This section does not apply to a polytechnic (for which section 320 provides).

**16 Section 281 amended (Duties of councils)**

Replace section 281(2) with:

- (2) In addition, a polytechnic's council must comply with the additional duties set out in section 321.

**17 Section 284 amended (Statutes)**

Replace section 284(2) with:

- (2) This section does not apply to a polytechnic (for which section 320 provides).

**18 Section 287 amended (Criteria for risk assessment of institutions (other than Te Pūkenga—New Zealand Institute of Skills and Technology))**

- (1) In the heading to section 287, delete “(other than Te Pūkenga—New Zealand Institute of Skills and Technology)”.
- (2) Replace section 287(4) with:
- (4) This section does not apply to a polytechnic (for which section 341H provides).

**19 Section 288 amended (Institutions to provide information to TEC if required)**

Replace section 288(5) with:

- (5) This section does not apply to a polytechnic (for which section 341I provides).

**20 Section 289 amended (Minister may appoint Crown observers for institutions)**

Replace section 289(7) with:

- (7) This section does not apply to a polytechnic (for which section 341J provides).

**21 Section 290 amended (Minister may dissolve council and appoint commissioner)**

Replace section 290(9) with:

- (9) This section does not apply to a polytechnic (for which section 341P provides).

**22 Subpart 4 of Part 4 replaced**

Replace subpart 4 of Part 4 with:

**Subpart 4—Polytechnics***Establishment and administration of polytechnics***314 Characteristics of polytechnics**

Polytechnics are institutions that have the following characteristics:

- (a) they offer a wide diversity of continuing education that contributes to the maintenance, advancement, and dissemination of knowledge and expertise and promotes community learning; and
- (b) they are predominantly involved in providing continuing education that responds to the education and training needs of local communities and industries in their regions; and
- (c) they undertake research, particularly applied and technological research; and
- (d) they improve outcomes for Māori students and trainees and Māori communities in collaboration with Māori and iwi and other interested persons or bodies.

**315 Establishment of polytechnics**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish a polytechnic.
- (2) Before making a recommendation, the Minister must—
  - (a) seek advice from NZQA on quality assurance matters and consider any advice given; and
  - (b) consult other persons or bodies that the Minister thinks fit; and
  - (c) take into account the characteristics of a polytechnic; and
  - (d) be satisfied that the establishment of the polytechnic is in the interests of the tertiary education system and the nation as a whole.
- (3) An order may specify whether the polytechnic is an anchor polytechnic.
- (4) Before recommending that a polytechnic be specified as an anchor polytechnic, the Minister must be satisfied that the polytechnic is able to perform the role of an anchor polytechnic specified in section 337.

- (5)
A polytechnic established under this section must comply with the provisions of the order that establishes it.

(6)
An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
- Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*
- 316
**Constitutions of councils of polytechnics must specify number of council members**

The constitution of the council of a polytechnic must specify that it has a council with 6, 7, or 8 members.
- 317
**Membership of polytechnic’s council**

The membership of a polytechnic’s council must have—

(a)
the following number of members appointed by the Minister by written notice to the council:

(i)
4 members in the case of a council comprising 7 or 8 members:

(ii)
3 members in the case of a council comprising 6 members; and

(b)
enough members appointed directly by the council by resolution to bring the membership up to the total number specified in its constitution.
- 318
**Matters to be considered when appointing members of polytechnic’s council**

(1)
The council of a polytechnic should, as far as is reasonably practicable, reflect the communities in the region that the polytechnic serves.

(2)
When appointing council members, the Minister or council must—

(a)
have regard to subsection (1); and

(b)
appoint people who (in the Minister’s or council’s opinion)—

(i)
have relevant knowledge, skills, and experience in relation to governance; and

(ii)
are likely to be able to fulfil their individual duties to the council; and

(iii)
are, together with the other members of the council, capable of undertaking the council’s responsibilities, duties, and functions.

**319 Chairperson and deputy chairperson**

- (1) The Minister may appoint a chairperson and deputy chairperson of the council of a polytechnic from among its members by giving written notice to the member concerned stating the term for which the member is appointed as chairperson or deputy chairperson.
- (2) The Minister may, by written notice to the member concerned, dismiss the chairperson or deputy chairperson from office as chairperson or deputy chairperson.
- (3) However, the Minister may not dismiss the chairperson or deputy chairperson without first consulting them about the proposed dismissal.
- (4) The chairperson or deputy chairperson—
  - (a) may resign as chairperson or deputy chairperson by giving written notice to the Minister; and
  - (b) ceases to hold office if they—
    - (i) cease to be a member of the council; or
    - (ii) become the chief executive of the polytechnic or a member of the staff of the polytechnic or a subsidiary of the polytechnic; or
    - (iii) become a student enrolled at the polytechnic.
- (5) A chairperson or deputy chairperson who resigns must give a copy of the notice of resignation to the council.
- (6) The chairperson or deputy chairperson of the council holds office as chairperson or deputy chairperson for the term for which they were appointed (but may be reappointed), unless the person earlier dies, is dismissed, resigns, or ceases to hold office under subsection (4)(b).
- (7) If the term of office of the chairperson or deputy chairperson expires before a successor is appointed, the chairperson or deputy chairperson continues in office until their successor is appointed.

**320 Council statutes for appointing members of polytechnic's council**

- (1) The council of a polytechnic may make statutes relating to the appointment of members under section 317(b).
- (2) The statutes may only provide for how the council appoints members directly.

**321 Additional duties of council of polytechnic**

When performing its functions or exercising its powers, the council of a polytechnic must—

- (a) consider the need to collaborate with other polytechnics to use resources effectively, to avoid duplicating effort, and to identify opportunities for sharing services; and

- (b) be responsive to industry and community needs, including skills shortages; and
- (c) ensure that the polytechnic operates in a way that allows the polytechnic to develop meaningful relationships and to engage with communities at a local level, including industries, Māori employers, hapū and iwi, and Pacific communities.

### **322 Additional requirement for councils of polytechnics to provide information**

- (1) The chief executive of TEC may, by written notice to a council of a polytechnic, require the council to provide any information that the chief executive considers is reasonably required in relation to the operation of the polytechnic or any related entity of the polytechnic for the purpose of determining whether there is a risk to, or arising from,—
  - (a) the governance, management, or financial position of the polytechnic or any related entity of the polytechnic; or
  - (b) the education and training performance of students enrolled at the polytechnic or any related entity of the polytechnic.
- (2) If the council of a polytechnic receives a notice under subsection (1), it must provide the chief executive of TEC with the required information within the period specified in the notice.
- (3) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 159KBB

### *Federation of polytechnics*

### **323 Requirement to work in federation**

- (1) This section applies to—
  - (a) each polytechnic specified under section 315(3) as an anchor polytechnic; and
  - (b) each polytechnic designated under section 339 as a federation polytechnic.
- (2) Each polytechnic to which this section applies must work together in a federation with the Federation Committee for the purposes set out in section 324.

### **324 Purposes of federation**

The purposes of the federation of polytechnics are to—

- (a) support and contribute to the long-term viability of the polytechnics in the federation:
- (b) enable federated polytechnics to—

- (i) develop, design, and deliver cost-effective education and training programmes that are consistent with the polytechnics' characteristics:
- (ii) access relevant services and other shared services that may be required for their effective and efficient operation or management.

**325 Federation of Polytechnics Committee established**

- (1) This section establishes the Federation of Polytechnics Committee as the administrative body of federated polytechnics.
- (2) The Federation Committee is a body corporate with perpetual succession and is capable of—
  - (a) holding real and personal property; and
  - (b) suing and being sued; and
  - (c) otherwise doing and suffering all that bodies corporate may do and suffer.
- (3) Despite subsection (2)(c), the Federation Committee may not establish subsidiaries.

**326 Membership of Federation Committee**

- (1) The Federation Committee consists of—
  - (a) the chief executive of each federation polytechnic and each anchor polytechnic (or a staff member of the polytechnic that the chief executive has nominated); and
  - (b) the chairperson of the council of each federation polytechnic and each anchor polytechnic (or a member of the council that the chairperson has nominated); and
  - (c) 1 person whom the Minister has appointed to be the independent chairperson of the Federation Committee on terms the Minister has specified.
- (2) If the office of chief executive or chairperson of a federation polytechnic or an anchor polytechnic is vacant, the person acting in that office must be treated as the chief executive or chairperson of the polytechnic for the purposes of any meetings of the Federation Committee.
- (3) The Minister may—
  - (a) appoint the chairperson for a term not exceeding 4 years:
  - (b) reappoint the chairperson for 1 or more terms.

**327 Functions of Federation Committee**

The functions of the Federation Committee are to—

- (a) give effect to the purposes of the federation:

- (b) identify, in consultation with federation polytechnics, the services, programmes, and courses that provide practical, affordable, and sustainable ways for those polytechnics to meet the education and training needs of the industries and communities that they serve;
- (c) procure from an anchor polytechnic or another provider the relevant services and other shared services that the council of a federation polytechnic may require for the efficient administration and prudent financial management of its polytechnic;
- (d) commission an anchor polytechnic or another provider to develop or deliver programmes of education or training that are cost-effective, sustainable, and relevant to the educational and training needs of the communities in the regions that federation polytechnics serve;
- (e) engage with councils of polytechnics outside the federation to identify strategies, policies, and practices that would be likely to promote the success and long-term viability of federation polytechnics;
- (f) encourage and lead collaboration between polytechnics in the federation to identify matters of common interest or concern and develop solutions for advancing those interests or addressing those concerns.

### **328 Duties of Federation Committee**

- (1) The Federation Committee must—
  - (a) perform its functions and exercise its powers in a manner consistent with the purposes of the federation; and
  - (b) act in the interests of federation polytechnics provided that action is not detrimental to the interests of an anchor polytechnic; and
  - (c) ensure, as far as reasonably practicable, that each federation polytechnic has access to the relevant services and other shared services that it may require.
- (2) In performing its functions and exercising its powers, the Federation Committee—
  - (a) may provide different levels of support to federation polytechnics, based on the needs of each polytechnic in the federation; and
  - (b) may treat the interests of a federation polytechnic differently from the interests of another federation polytechnic if reasonable to do so; and
  - (c) may not do anything that—
    - (i) limits the academic freedom of a federation polytechnic, including the subject matter or method of delivery of a programme of study or training; or
    - (ii) unduly restricts the range of programmes or micro-credentials available at a federation polytechnic.



- (3) The duties specified in this section are owed to the federation polytechnics.

**329 Federation Committee may charge certain fees**

- (1) The Federation Committee may charge a federation polytechnic fees for the relevant services or other shared services that the Federation Committee procures or commissions.
- (2) Fees payable to the Federation Committee—
- (a) are recoverable as a debt due to the Federation Committee; and
  - (b) may not exceed the actual and reasonable costs that the Federation Committee has incurred; and
  - (c) must be paid in the manner that the Federation Committee specifies; and
  - (d) may be refunded or waived by the Federation Committee.

**330 Dispute resolution**

- (1) The Federation Committee must implement a procedure for resolving disputes between the Federation Committee and a federation polytechnic arising from—
- (a) decisions about the availability or access to relevant services or other shared services; or
  - (b) fees that the Federation Committee or an anchor polytechnic charge; or
  - (c) the type or suitability of a relevant service or other shared service that an anchor polytechnic provides; or
  - (d) any other matters relating to the manner in which the Federation Committee or a federation polytechnic is performing its duties and functions under this subpart.
- (2) The disputes procedure must be based on the principle that disputes are to be resolved by agreement in an impartial, cost-effective, flexible, and timely manner.
- (3) A federation polytechnic must comply with the disputes procedure.

**331 Federation Committee to be good employer**

Section 597 applies to the Federation Committee as if it were an employer in the education service (as defined in section 10(7)).

**332 Application of Public Audit Act 2001 to Federation Committee**

- (1) The Federation Committee is a public entity as defined in section 5 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.
- (2) The Federation Committee must forward to the Auditor-General,—
- (a) within 3 months after the end of each academic year,—
    - (i) the annual financial statements of the Federation Committee; and

- (ii) any other information that the Auditor-General has agreed, or is required, to audit; and
  - (b) the annual report of the Federation Committee in a timely manner to enable the Auditor-General to review that report before providing the audit report required under subsection (3)(b).
- (3) The Auditor-General must—
  - (a) audit the statements and information referred to in subsection (2)(a); and
  - (b) provide an audit report to the Federation Committee within 4 months after the end of each academic year.

### **333 Certain acts of Federation Committee invalid**

- (1) An act of the Federation Committee is invalid, unless section 334 applies, if—
  - (a) the act is contrary to, or outside the authority of, an Act; or
  - (b) the act is not done for the purpose of performing the Federation Committee's functions.
- (2) Subsection (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

### **334 Some natural person acts protected**

- (1) Section 333, or any rule of law to similar effect, does not prevent a person dealing with the Federation Committee from enforcing a transaction that is a natural person act unless the person dealing with the Committee knew, or ought reasonably to have known, that—
  - (a) an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or
  - (b) the act was done otherwise than for the purpose of performing the Federation Committee's functions.
- (2) A person who relies on subsection (1) has the onus of proving that the person did not have, and could not reasonably be expected to have had, the knowledge referred to in that subsection.
- (3) The Federation Committee must report, in its financial report required by clause 13 of Schedule 18, each transaction that the Federation Committee has performed in the year to which the report relates that was invalid under section 333 but enforced in reliance on subsection (1).
- (4) To avoid doubt, this section does not affect any person's other remedies under the general law (for example, remedies in contract).
- (5) In this section, **natural person act** has the same meaning as in section 148(5).

### **335 Office holders and employees are officials**

- (1) This section applies to—

- (a) office holders and employees of the Federation Committee;
  - (b) persons who were formerly office holders or employees in respect of any acts or omissions or decisions made while they were office holders or employees of the Federation Committee;
  - (c) individuals carrying out work for the Federation Committee as contractors or on secondment and who are performing or exercising a function, duty, or power of the Federation Committee.
- (2) A person to whom this section applies is an official for the purposes of sections 105 and 105A of the Crimes Act 1961.
- (3) This section does not limit the meaning of official in section 99 of the Crimes Act 1961.

**336 No compensation for loss of office**

A member of the Federation Committee is not entitled to any compensation or other payment or benefit relating to their ceasing, for any reason, to hold office as a member.

**337 Role of anchor polytechnic**

- (1) An anchor polytechnic must provide the relevant services that the Federation Committee considers necessary to give effect to the purposes of the federation.
- (2) However, an anchor polytechnic may decline to provide (or cease to provide) relevant services if—
- (a) the anchor polytechnic ceases to be an anchor polytechnic; or
  - (b) the council of the anchor polytechnic considers that providing the relevant services would—
    - (i) unduly limit the capacity of the anchor polytechnic to meet the needs of the communities that it serves; or
    - (ii) put at risk its performance, operation, or viability; or
  - (c) the anchor polytechnic would have to provide the relevant services at a loss.

**338 Anchor polytechnics may charge certain fees**

- (1) An anchor polytechnic may charge fees to the Federation Committee or a polytechnic for the relevant services or other shared services that the Federation Committee or a polytechnic procures or commissions from the anchor polytechnic.
- (2) Before doing so, the council of the anchor polytechnic must consult, and consider the views of, the Federation Committee on the method or methods to be used to determine fees.
- (3) Fees payable to the anchor polytechnic—
- (a) are recoverable as a debt due to the anchor polytechnic; and

- (b) may not exceed the actual and reasonable costs that the polytechnic has incurred; and
- (c) must be paid in the manner that the anchor polytechnic specifies; and
- (d) may be refunded or waived by the anchor polytechnic.

**339 Minister may designate or remove designation of federation polytechnics**

- (1) The Minister may, by notice in the *Gazette*, designate a polytechnic as a federation polytechnic.
- (2) Before designating a polytechnic as a federation polytechnic, the Minister must—
  - (a) seek and consider advice from—
    - (i) TEC on the viability of the polytechnic over the long term; and
    - (ii) NZQA on quality assurance matters; and
  - (b) consult the polytechnic being considered for designation as a federation polytechnic; and
  - (c) consult the Federation Committee; and
  - (d) consult other persons or bodies that the Minister thinks fit; and
  - (e) be satisfied that the designation is in the interests of the education and training system as a whole.
- (3) Before designating a polytechnic as a federation polytechnic, the Minister must be satisfied that the designation—
  - (a) is necessary or expedient—
    - (i) for the polytechnic to deliver the programmes and carry out the activities consistent with the characteristics of the polytechnic; and
    - (ii) to support the educational performance, operation, and viability of the polytechnic; and
  - (b) meets any additional criteria that the Minister has specified under section 340.
- (4) A notice given under this section may specify the conditions that a polytechnic must satisfy before the designation takes effect.
- (5) The Minister may, by notice in the *Gazette*, remove the designation of a polytechnic as a federation polytechnic.
- (6) However, before removing a polytechnic's designation as a federation polytechnic, the Minister must—
  - (a) consult the polytechnic whose designation is being considered for removal; and
  - (b) consult the Federation Committee; and

- (c) be satisfied that remaining in the federation as a federation polytechnic is no longer necessary or expedient—
- (i) for the polytechnic to deliver the programmes and carry out the activities consistent with the characteristics of the polytechnic; and
  - (ii) to support the educational performance, operation, and viability of the polytechnic.
- (7) A notice made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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**340 Additional criteria for designating federation polytechnics**

- (1) The Minister may specify additional criteria for designating a polytechnic as a federation polytechnic.
- (2) Before specifying the criteria, the Minister must consult the Federation Committee on the proposed criteria.
- (3) The Minister must—
  - (a) publish the criteria in the *Gazette*; and
  - (b) review the criteria at least once every 2 years following the date of their publication in the *Gazette*.

**341 Effect of federation membership**

Except as otherwise provided in this Act, a federation polytechnic has the same autonomy and academic freedom as a polytechnic that is not a member of the federation.

**341A Duties of council of federation polytechnic**

The council of a federation polytechnic must use the services that the Federation Committee procures or commissions for federation polytechnics to the extent that the council of the federation polytechnic considers necessary to—

- (a) achieve efficiency gains or economies of scale in the operation or management of the polytechnic; or
- (b) improve academic quality and provide a range of education and training options that respond to the needs of the industries and communities that the polytechnic serves, including (without limitation) needs relating to skills shortages; or

- (c) help the polytechnic remain viable.

**341B Polytechnics may seek to join federation**

- (1) The council of a polytechnic may apply to the Minister for the polytechnic to be designated as a federation polytechnic.
- (2) The application must specify—
  - (a) how the polytechnic meets the criteria specified under section 339(3) and any additional criteria specified under section 340 for designation; and
  - (b) the consultation that the council undertook and the feedback it received; and
  - (c) the reasons why being a member of the federation—
    - (i) would assist in the operation or management of the polytechnic; and
    - (ii) would be in the interests of the polytechnic's students, and the industries and communities in the region that the polytechnic serves.
- (3) On receiving an application, the Minister must—
  - (a) consider whether to designate the polytechnic as a federation polytechnic under section 339; and
  - (b) grant the application if satisfied that the criteria in sections 339(3) and 340 are met.
- (4) Before determining an application, the Minister may require the council to provide any additional information the Minister considers appropriate.

**341C Chief executive of TEC may direct federation polytechnic to use relevant services**

- (1) The chief executive of TEC may direct the council of a federation polytechnic to use 1 or more relevant services if the chief executive considers that it is reasonably necessary to limit or manage a risk, or a potential risk, to the educational performance, operation, or long-term viability of the federation polytechnic.
- (2) The relevant services specified in the direction must be procured or commissioned or made available by the Federation Committee to enable the council of the federation polytechnic to comply with the direction.
- (3) Before giving the direction, the chief executive—
  - (a) must consult the Federation Committee and the council of the federation polytechnic; and
  - (b) may consult any other persons that the chief executive thinks fit.
- (4) A direction must be in writing and set out the reasons for the direction.

- (5) The council of the federation polytechnic must comply with the direction.
- (6) A direction may be given despite anything in—
  - (a) section 267 in relation to the autonomy of institutions; or
  - (b) section 260(1) in relation to the power of an institution's council to determine the programmes of study and training provided by the institution.

**341D Councils of polytechnics not members of federation may request access to relevant services**

- (1) The council of a polytechnic that is not a member of the federation may ask the Federation Committee to grant its polytechnic access to 1 or more of the relevant services that are available to federation polytechnics.
- (2) If the Federation Committee agrees to the council's request, then the council must, if required by the Federation Committee, pay the fees that—
  - (a) the Federation Committee charges for those relevant services under section 329(1); or
  - (b) an anchor polytechnic charges for those relevant services under section 338(1).
- (3) To avoid doubt, a polytechnic that is not a member of the federation of polytechnics that uses 1 or more relevant services is not a federation polytechnic.

**341E Councils of federation polytechnics and anchor polytechnics may establish or disestablish combined academic committees**

- (1) The councils of 2 or more federation polytechnics, or of an anchor polytechnic and 1 or more federation polytechnics, may, by written agreement, establish or disestablish a combined academic committee.
- (2) A combined academic committee—
  - (a) consists of the chief executive (or the chief executive's delegate) of each polytechnic whose council established the committee; and
  - (b) may establish subcommittees, consisting of 1 or more of the staff or students of each polytechnic whose council established the committee, to assist the committee in providing advice on academic matters to the councils that established it, including advice on the programmes that are important to the industries and communities in the regions that the polytechnics of those councils serve; and
  - (c) takes the place of the academic committee of each of the councils that established the combined academic committee; and
  - (d) must, when determining its policies, comply with the requirements of clause 18(1) of Schedule 11.

- (3) The council of a polytechnic that established a combined academic committee may, by written notice to the councils of the other polytechnics that established the committee, withdraw from the committee.
- (4) If the council of a polytechnic withdraws from a combined academic committee, it must establish its own academic committee as soon as practicable.
- (5) If the combined academic committee is disestablished, each of the councils that it served must establish its own academic committees as soon as practicable.
- (6) A reference in this Act to the academic committee of an institution must, in relation to the councils of polytechnics that have a combined academic committee, be read as a reference to the combined academic committee of those councils.

Compare: 1989 No 80 s 222AR

**341F Minister may direct councils of federation polytechnics and anchor polytechnics to establish or withdraw from combined academic committee**

- (1) The Minister may direct—
  - (a) 2 or more councils of federation polytechnics to establish a combined academic committee; or
  - (b) the council of an anchor polytechnic and 1 or more councils of federation polytechnics to establish a combined academic committee.
- (2) Before giving a direction, the Minister must—
  - (a) consult the councils of the polytechnics proposed to be directed and the Federation Committee; and
  - (b) be satisfied that a combined academic committee is likely to produce decisions (regarding the range and type of programmes that those polytechnics offer) that better—
    - (i) reflect the needs of the industries and communities in the regions that the polytechnics serve; or
    - (ii) enable those polytechnics to avoid duplication of programmes in the regions the polytechnics serve.
- (3) If a council is directed to establish a combined academic committee, then section 341E(2) applies with any necessary modifications to the committee.
- (4) The Minister may direct the council of a federation polytechnic or an anchor polytechnic to withdraw from a combined academic committee established under this section.
- (5) If a council is directed to withdraw from a combined academic committee, then section 341E(4) to (6) applies with any necessary modifications.
- (6) A council must comply with the direction given under this section.



**341G Administration of Federation Committee**

Schedule 11A sets out administrative provisions that apply to the Federation Committee.

*Interventions for polytechnics***341H Criteria for assessing risks to polytechnics and related entities**

- (1) For the purpose of exercising a power under any of sections 341J to 341P, the Secretary must, after consulting all polytechnics, determine the criteria for assessing the risks to—
  - (a) the operation and viability of a polytechnic and any related entity of a polytechnic; and
  - (b) the education and training performance of students enrolled at a polytechnic.
- (2) The Secretary must publish the criteria in the *Gazette*.
- (3) The criteria must be reviewed at least once in every 2 years following the date of their publication in the *Gazette*.

Compare: 1989 No 80 s 222P

**341I Polytechnics or related entities must provide information if required**

- (1) If the chief executive of TEC has reasonable grounds to believe that a polytechnic or a related entity of a polytechnic may be at risk, the chief executive may, by written notice to the council of the polytechnic, require the council to provide either or both of the following:
  - (a) specified information about the operation, management, or financial position of the polytechnic or a related entity of the polytechnic at a given time;
  - (b) reports at specified intervals on specific aspects of the operation, management, or financial position of the polytechnic or a related entity of the polytechnic.
- (2) If the chief executive of TEC requires information under subsection (1), the information required must relate to the risks to the polytechnic or the related entity of the polytechnic that the chief executive is concerned about.
- (3) If the council of a polytechnic receives a notice under subsection (1), the council must provide the chief executive of TEC with the required information within the period specified in the notice.
- (4) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 222Q

**341J Minister may appoint Crown observer for polytechnic**

- (1) This section applies if the Minister believes on reasonable grounds that—

- (a) a polytechnic or a related entity of a polytechnic may be at risk; or
  - (b) the educational and training performance of the students enrolled at a polytechnic or a related entity of a polytechnic may be at risk.
- (2) The Minister may appoint a Crown observer to the council of the polytechnic.
- (3) However, a Crown observer may not be appointed unless the Minister has first—
  - (a) consulted the council of the polytechnic; and
  - (b) advised the council that the Minister is considering appointing a Crown observer; and
  - (c) given the council an opportunity to comment on the proposal.
- (4) An appointment under this section must be in writing and must state the date on which it takes effect.
- (5) A Crown observer may—
  - (a) attend any meeting of the council of the polytechnic (or a committee or board of the council) to which the Crown observer is appointed; and
  - (b) offer advice to the council (or a committee or board of the council); and
  - (c) report to the Minister on any matter raised or discussed at any meeting that the person attends as a Crown observer.
- (6) Except as authorised by subsection (5)(c), a Crown observer must, at all times, maintain confidentiality with respect to the affairs of the council of the polytechnic.
- (7) A Crown observer is not a member of the council of the polytechnic (or a committee or board of the council), and may not—
  - (a) vote on any matter; or
  - (b) exercise any of the powers, or perform any of the functions or duties, of a member of the council.

Compare: 1989 No 80 s 222R

### **341K Specialist help**

- (1) This section applies if the chief executive of TEC believes on reasonable grounds that—
  - (a) a polytechnic or a related entity of a polytechnic may be at risk; or
  - (b) the educational and training performance of the students enrolled at a polytechnic or a related entity of a polytechnic may be at risk.
- (2) The chief executive of TEC may, by written notice to the council of the polytechnic, require the council to obtain specialist help for the polytechnic or a related entity of the polytechnic.
- (3) The notice must state—
  - (a) the help or kind of help to be obtained; and

- (b) the person or organisation, or kind of person or organisation, from whom or from which it is to be obtained.
- (4) As soon as practicable after receiving the notice, the council of the polytechnic must comply with it.
- (5) The council of the polytechnic must—
  - (a) provide the information and access, and do all other things, reasonably necessary to enable the person or organisation engaged to provide the help; and
  - (b) to the extent that the help provided is advice, take the advice into account in performing its functions and duties; and
  - (c) pay the person's or organisation's reasonable fees and expenses.

Compare: 1989 No 80 s 222S

### **341L Performance improvement plan**

- (1) This section applies if the chief executive of TEC believes on reasonable grounds that—
  - (a) a polytechnic or a related entity of a polytechnic may be at risk; or
  - (b) the educational and training performance of the students enrolled at a polytechnic or a related entity of a polytechnic may be at risk.
- (2) The chief executive of TEC may, by written notice to the council of the polytechnic, require the council to prepare and give to the chief executive a draft performance improvement plan for the polytechnic or a related entity of the polytechnic.
- (3) The notice must state—
  - (a) the matters to be addressed by the draft plan; and
  - (b) the outcomes that implementation of the draft plan is intended to achieve; and
  - (c) the times by which those outcomes should be achieved; and
  - (d) the performance measures that are to be used to determine whether those outcomes have been achieved; and
  - (e) the date by which the draft plan must be given to the chief executive of TEC.
- (4) The council of the polytechnic must prepare, and give to the chief executive of TEC by the stated date, a draft plan that complies with subsection (3).
- (5) The chief executive of TEC may—
  - (a) approve the draft plan; or
  - (b) after considering the draft plan, approve for the polytechnic or the related entity of the polytechnic some other plan that complies with subsection (3) (whether a modified version of the draft plan or a different plan).

- (6) If the council of the polytechnic does not comply with subsection (4), the chief executive of TEC may approve for the polytechnic or the related entity of the polytechnic any plan that complies with subsection (3) that the chief executive thinks fit.
- (7) The chief executive of TEC may not approve any plan, other than a draft plan given to the chief executive, before discussing it with the council of the polytechnic.
- (8) The council of the polytechnic must take all reasonably practicable steps to implement a plan approved under this section.

Compare: 1989 No 80 s 222T

### **341M Minister may appoint Crown manager for polytechnic**

- (1) This section applies if the Minister believes on reasonable grounds—
  - (a) that there is a risk to the operation or long-term viability of a polytechnic or a related entity of a polytechnic; or
  - (b) that the educational and training performance of the students enrolled at a polytechnic or a related entity of a polytechnic is at risk.
- (2) The Minister may, by written notice to the council of the polytechnic, appoint a Crown manager for the polytechnic.
- (3) However, the Minister must first—
  - (a) give the council of the polytechnic written notice of the Minister's intention to do so and the Minister's reasons for intending to do so; and
  - (b) allow the council reasonable time (as specified in the notice) to respond to the notice; and
  - (c) consider any written submissions received from the council within that time.
- (4) Whether the time specified is reasonable in any particular case may depend (among other things) on the urgency of the matters the Crown manager must deal with.
- (5) The notice must state—
  - (a) the name of the Crown manager and the day on which their appointment takes effect; and
  - (b) the functions of the council of the polytechnic to be performed by the Crown manager; and
  - (c) any conditions subject to which the Crown manager may perform those functions; and
  - (d) any matters about which the Crown manager may advise the council.
- (6) As soon as practicable after appointing a Crown manager, the Minister must notify the appointment in the *Gazette*.

- (7) While a Crown manager is appointed for the polytechnic,—
- (a) the Crown manager may perform any of the functions stated in the notice appointing them, and,—
    - (i) for that purpose, the Crown manager has all the powers of the council of the polytechnic; but
    - (ii) in performing any of those functions (and exercising any of those powers in order to do so), the Crown manager must comply with all relevant duties of the council; and
  - (b) the council of the polytechnic—
    - (i) may not perform any of those functions; but
    - (ii) must provide the information and access, and do all other things, reasonably necessary to enable the Crown manager to perform those functions and exercise those powers.
- (8) The Crown manager must perform any function under subsection (7)(a) (and exercise any power in order to do so) in accordance with this Act and, in particular, must have regard to section 267.
- (9) The council of a polytechnic must pay the Crown manager's reasonable fees and expenses.
- (10) If the Crown manager's appointment has not been revoked earlier, the Minister must consider whether the reasons for the appointment still apply—
- (a) no later than 12 months after it was made; and
  - (b) no later than 12 months after the Minister last considered whether they still applied.

Compare: 1989 No 80 s 222U

### **341N Personal liability of Crown manager**

A Crown manager appointed under section 341M is not personally liable for any act done or omitted to be done by the Crown manager, or for any loss arising from that act or omission, if the Crown manager was acting—

- (a) in good faith; and
- (b) in the course of performing their functions.

Compare: 1989 No 80 s 222V

### **341O Powers may be used concurrently**

To the extent that it is possible in practice, the powers specified in sections 341J to 341P may be exercised concurrently.

Compare: 1989 No 80 s 222W

**341P Minister may dissolve council of polytechnic and appoint commissioner**

- (1) The Minister may, by written notice, dissolve the council of a polytechnic and appoint a commissioner to act in place of the council if the Minister believes on reasonable grounds that—
  - (a) there is a serious risk to the operation or long-term viability of the polytechnic; and
  - (b) other methods of reducing the risk have failed or appear likely to fail.
- (2) A notice under subsection (1) must specify—
  - (a) the date on which the dissolution and appointment take effect; and
  - (b) the name of the person appointed as commissioner.
- (3) The Minister may not exercise the power under subsection (1) unless the Minister has first—
  - (a) consulted the council and any other interested parties about the possible need to dissolve the council and appoint a commissioner; and
  - (b) following that consultation, given the council written notice of the Minister's preliminary decision that the council should be dissolved and a commissioner appointed in its place; and
  - (c) allowed the council at least 21 days in which to respond to the preliminary decision; and
  - (d) considered any submissions made by the council about why the preliminary decision should not be confirmed.
- (4) As soon as practicable after giving a notice under subsection (1), the Minister must—
  - (a) publish a copy of it in the *Gazette*; and
  - (b) present a copy of it to the House of Representatives.
- (5) When a commissioner is appointed under this section, the Minister must review the appointment at least once in every 12 months following the appointment.
- (6) As soon as the Minister is satisfied (following an annual review or at any other time) that the risk that gave rise to the appointment of the commissioner has been reduced enough so that it is appropriate that the polytechnic be administered by a council, a new council must be appointed in accordance with sections 316 to 319 and clause 6 of Schedule 11.
- (7) A commissioner's appointment ends on the close of the day before a new council takes office.
- (8) Sections 291, 292, and 293 apply, with any necessary modifications, as if a commissioner appointed under subsection (1) were appointed under section 290.

Compare: 1989 No 80 s 222X

**341Q Council of polytechnic may request intervention**

If the council of a polytechnic requests the Minister or the chief executive of TEC to act under any of sections 341J to 341P, the Minister or the chief executive of TEC—

- (a) must consider any submission or evidence supplied by the council; and
- (b) must consider whether to act under that section; but
- (c) may then (if any necessary conditions are satisfied) act under another of those sections that gives them power to act.

Compare: 1989 No 80 s 222Y

*Vocational education and training***23 Subpart 6 of Part 4 replaced**

Replace subpart 6 of Part 4 with:

**Subpart 6—Vocational education and training***Industry skills boards***362 Establishment of industry skills boards**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, establish an industry skills board for 1 or more specified industries.
- (2) An order made under subsection (1)—
  - (a) must—
    - (i) state the name of the industry skills board; and
    - (ii) state the 1 or more specified industries that the industry skills board covers; and
    - (iii) state the additional functions (if any) conferred on the industry skills board by the Minister in accordance with section 367(1)(j); and
  - (b) may—
    - (i) outline the means by which the 1 or more specified industries covered by the industry skills board may engage with the industry skills board in relation to the performance or exercise of its functions, duties, or powers; and
    - (ii) prescribe matters relating to the industry skills board's use of its assets, including assets allocated to the industry skills board from the New Zealand Institute of Skills and Technology or a workforce development council under clause 131(1)(b) or 172(1)(b) of Schedule 1; and

	<div> <div>(iii)</div> <div>impose conditions on the performance or exercise of the industry skills board’s functions, duties, or powers; and</div> </div> <div> <div>(iv)</div> <div>subject to sections 363 to 366, provide for any other matters that are necessary or desirable to clarify the governance arrangements of the industry skills board.</div> </div>
(3)	<div>The Minister must not recommend the making of an order under this section or a significant amendment to an order made under this section unless the Minister has—</div> <div> <div>(a)</div> <div>consulted the representatives of the 1 or more specified industries covered or proposed to be covered by the industry skills board; and</div> </div> <div> <div>(b)</div> <div>taken into account any views expressed by those representatives regarding—</div> <div> <div>(i)</div> <div>the proposed name and governance arrangements of the industry skills board; and</div> </div> <div> <div>(ii)</div> <div>the desirability of avoiding duplication of resources in the coverage of industry skills boards in relation to the specified industries; and</div> </div> <div> <div>(iii)</div> <div>the capability the proposed industry skills board requires to perform and exercise its functions, duties, and powers efficiently and effectively.</div> </div> </div>
(4)	An industry skills board established under this section must comply with the provisions of the order that establishes it.
(5)	Schedule 13 sets out further provisions that apply to an industry skills board and its members.
(6)	An order made under this section is secondary legislation ( <i>see</i> Part 3 of the Legislation Act 2019 for publication requirements).
	<div> <div>Legislation Act 2019 requirements for secondary legislation made under this section</div> <div> <div>Publication</div> <div>PCO must publish it on the legislation website and notify it in the <i>Gazette</i></div> <div>LA19 s 69(1)(c)</div> </div> </div> <div> <div>Presentation</div> <div>The Minister must present it to the House of Representatives</div> <div>LA19 s 114</div> </div> <div> <div>Disallowance</div> <div>It may be disallowed by the House of Representatives</div> <div>LA19 ss 115, 116</div> </div> <div> <div><i>This note is not part of the Act.</i></div> </div>
363	<div>Membership of industry skills board</div> <div>An industry skills board must have 8 members, comprising—</div> <div> <div>(a)</div> <div>2 members appointed by the Minister by written notice to the industry skills board; and</div> </div> <div> <div>(b)</div> <div>6 members appointed by the industry skills board.</div> </div>



**364 Appointment process**

The members of an industry skills board are appointed as follows:

- (a) for members appointed by the Minister under section 363(a),—
  - (i) the chief executive of TEC must—
    - (A) invite nominations and expressions of interest for appointment to the board (including, where appropriate, from industry bodies, employers, and employees the industry skills board covers); and
    - (B) recommend to the Minister from the list of nominations or expressions of interest received those persons that the chief executive considers suitable for appointment, having regard to the matters set out in section 365; and
  - (ii) the Minister must consider the recommendations made by the chief executive and appoint those persons that the Minister considers are best suited for appointment, having regard to the matters set out in section 365:
- (b) for members appointed by the industry skills board under section 363(b), the industry skills board must—
  - (i) invite nominations and expressions of interest for appointment to the board (including, where appropriate, from industry bodies, employers, and employees the industry skills board covers); and
  - (ii) appoint 6 members to the board from the list of nominations or expressions of interest received by the board, being those persons who are best suited for appointment, having regard to the matters set out in section 365.

**365 Matters to be considered when appointing members**

When appointing members, the Minister and the industry skills board must ensure that the board as a whole, as far as is reasonably practicable,—

- (a) reflects the makeup of the current and anticipated workforce of the specified industries; and
- (b) provides for the collective representation of employers and employees in the 1 or more specified industries covered by the industry skills board; and
- (c) has sufficient—
  - (i) skills and abilities to perform the functions of the industry skills board, having regard to the matters set out in section 370; and
  - (ii) experience in the specified industries covered by the board; and
  - (iii) experience as employers in the specified industries covered by the board; and

- (iv) experience in governance, public administration, and financial analysis and management; and
- (v) knowledge of the vocational education and training system.

**366 Disqualification from office**

The following persons are disqualified from being members of an industry skills board:

- (a) a person who occupies a governance role in relation to, or who has an ownership interest in, a provider that offers programmes that must be endorsed by the industry skills board under section 367(1)(f):
- (b) a person who is an undischarged bankrupt:
- (c) a person who is prohibited from being a director or promoter of, or being concerned with or taking part in the management of, an incorporated or unincorporated body under any legislation:
- (d) a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988:
- (e) a person in respect of whom a personal order has been made under that Act that reflects adversely on the person's—
  - (i) competence to manage their own affairs in relation to their property; or
  - (ii) capacity to make or to communicate decisions relating to any particular aspect or aspects of their personal care and welfare:
- (f) a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless the person has obtained a pardon, served the sentence, or otherwise suffered the penalty imposed on the person:
- (g) a member of Parliament:
- (h) a person who is disqualified from holding an office under an Act.

**367 Functions of industry skills boards**

- (1) The functions of an industry skills board, in relation to the specified industries it covers, are—

*Workforce analysis and planning*

- (a) to undertake strategic workforce analysis and planning for the specified industries:

*Developing, setting, and maintaining standards, qualifications, micro-credentials, and capstone assessments*

- (b) to develop, set, and maintain skill standards:

- (c) to develop and maintain industry qualifications and micro-credentials for listing on the Qualifications and Credentials Framework and to maintain qualifications and micro-credentials for which it has become the developer:
  - (d) to develop and maintain national curricula for qualifications for which it is responsible as a standard-setting body under section 438:
  - (e) to develop, set, and maintain capstone assessments based on the needs of the specified industries:  
*Endorsing programmes and moderating assessments*
  - (f) to decide whether to endorse programmes developed by providers:
  - (g) to carry out moderation activities in relation to any standards and capstone assessments it sets:  
*Advisory and representative role*
  - (h) to advise TEC, as provided for in section 411, about the mix of vocational education and training needed for the 1 or more specified industries the industry skills board covers in the manner required by TEC:
  - (i) to represent the interests of the specified industries:  
*Other functions*
  - (j) to perform any other functions that the Minister confers on the industry skills board in relation to the specified industries.
- (2) For the purposes of subsection (1)(f), the Minister may, by notice in the *Gazette*, specify criteria relating to when an industry skills board must endorse a programme before it may be approved by NZQA under section 439.
- (3) The Minister must not confer any additional function on an industry skills board under subsection (1)(j) without first consulting the industry skills board.

### **368 Industry skills board's functions in relation to wānanga**

- (1) Subject to subsection (2),—
- (a) an industry skills board may endorse a programme developed by a wānanga only if requested by the wānanga:
  - (b) a capstone assessment developed by an industry skills board applies to a wānanga only if requested by the wānanga.
- (2) If a programme includes a component of work-based training, an industry skills board may perform its functions under section 367 in relation to the programme.

Compare: 1989 No 80 s 483

### **369 Duties of industry skills boards**

- (1) An industry skills board must comply with any prescribed quality assurance requirements set by NZQA relating to the performance of its functions.

- (2) In performing its functions, an industry skills board—
- (a) must treat all providers and types of providers in a fair, equitable, and consistent manner;
  - (b) must take into account the needs of employers and employees in the 1 or more specified industries the industry skills board covers but, in doing so, must also consider national and regional interests;
  - (c) must, to the extent that is necessary or desirable in the circumstances, work collaboratively with—
    - (i) providers in relation to the functions set out in section 367(1)(b) to (d) and, in the case of wānanga, while respecting their special character under section 398D(c);
    - (ii) other industry skills boards, particularly on setting of standards, quality assurance of institutions, setting fees for institutions, and other matters of common interest;
    - (iii) NZQA, in relation to moderation, qualifications and micro-credentials development, programme endorsement, and developing, setting, or maintaining skill standards or national curricula;
    - (iv) 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 the industry skills board covers;
  - (d) must, when performing its functions under section 367, take all reasonable steps to avoid any adverse impact on its relationship with a provider or providers.

### **370 Performance of industry skills board's functions and duties**

When performing its functions and duties under sections 367 to 369, the industry skills board must act in a manner that—

- (a) contributes towards the creation of a workforce that meets industry needs and is fit for work in a sustainable, globally engaged, and adaptive New Zealand; and
- (b) seeks to contribute to an education system that helps to ensure fair and equitable outcomes for all, including people who have been underserved by the education system; and
- (c) contributes to a well-functioning labour market system in which the specified industries can access the skills required to meet their current and future needs; and
- (d) aims to support and respond to New Zealand's current and future workforce needs, taking into account the skills, knowledge, and qualifications that learners will need in future to achieve success for themselves and their communities; and

- (e) has regard to the needs of Māori and other population groups as identified in the tertiary education strategy issued under section 7.

### **371 Incorporation**

- (1) Each industry skills board established under section 362 is a body corporate with perpetual succession and a common seal, and is capable of—
  - (a) holding real and personal property; and
  - (b) suing and being sued; and
  - (c) otherwise doing and suffering all that bodies corporate may do and suffer.
- (2) Despite subsection (1)(c), an industry skills board may only establish subsidiaries with the written approval of TEC.

Compare: 1989 No 80 s 481

### **372 Industry skills board may not operate private training establishment or registered establishment**

- (1) An industry skills board may not operate or hold any interest (whether financial or otherwise) in a private training establishment or a registered establishment.
- (2) An industry skills board must not, whether directly or through an agent,—
  - (a) provide any education and training approved by NZQA; or
  - (b) operate, or hold an interest in, an organisation that provides education and training approved by NZQA.

### **373 Industry skills board may charge fees for quality assurance functions**

- (1) An industry skills board may, by notice, fix fees payable by providers in relation to the board's activities in performing its quality assurance functions.
- (2) A notice under subsection (1) may fix different fees payable by providers, or a group or category of providers, in relation to training programmes based on the standards set by the industry skills board for qualifications that relate to a specified industry.
- (3) An industry skills board may not issue a notice under subsection (1) unless the chief executive of NZQA is satisfied that the proposed fee is reasonable, having regard to—
  - (a) the costs incurred by the industry skills board in performing the activities for which the proposed fee is payable; and
  - (b) the fees (if any) fixed by other industry skills boards in respect of the same activities.
- (4) Fees fixed under subsection (1) are payable in the manner prescribed in the notice and are recoverable as a debt due to the industry skills board.
- (5) Before issuing a notice under subsection (1), the industry skills board must—

- (a)

consult the providers concerned on any proposed fees; and

(b)

give their views due consideration when deciding on the proposed fees.
- (6)

Fees fixed under this section must be limited to recovering the actual and reasonable costs incurred by an industry skills board in performing its functions.
- (7)

A fee payable by a provider may be refunded or waived in accordance with any criteria set out in the notice.
- (8)

In this section, **quality assurance functions**, in relation to an industry skills board, means the activities of the industry skills board in relation to—

(a)

administering capstone assessments under section 367(1)(e); and

(b)

endorsing programmes and moderating assessments under section 367(1)(f) and (g).
- (9)

A notice made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116
<i>This note is not part of the Act.</i>		

### 374 Annual fee payable by industry skills board to NZQA

- (1)

An industry skills board must pay to NZQA an annual fee prescribed by or determined under rules made under section 452(1)(h).
- (2)

The annual fee may recover no more than the reasonable costs, excluding those costs that are recoverable through fees charged under section 457, incurred by NZQA for—

(a)

prescribing quality assurance requirements under section 452(1)(i); and

(b)

monitoring compliance, and addressing non-compliance, with those requirements in accordance with its functions under section 433(1)(e); and

(c)

issuing quality assurance improvement notices under section 375.
- (3)

The fee is—

(a)

payable by the due date prescribed in the rules; and

(b)

recoverable as a debt due to NZQA.

### 375 NZQA may issue quality assurance improvement notice

- (1)

NZQA may, if satisfied that action is reasonably necessary to maintain the quality and effectiveness of an industry skills board’s performance of its functions, issue a quality assurance improvement notice to the industry skills board.

- (2) A quality assurance improvement notice must—
- (a) set out any concerns NZQA has about the industry skills board's systems, practices, or procedures; and
  - (b) specify the time within which the industry skills board is expected to address NZQA's concerns (which must be a reasonable time, having regard to the nature and complexity of the action required); and
  - (c) state that, if NZQA's concerns are not addressed within the specified time, NZQA may issue a compliance notice under section 376; and
  - (d) state the possible consequences of a failure to comply with a compliance notice.

Compare: 1989 No 80 s 487

### **376 NZQA may issue compliance notice**

- (1) NZQA may issue a compliance notice to an industry skills board requiring it to do either or both of the following:
- (a) do, or refrain from doing, a particular thing in relation to a prescribed quality assurance requirement;
  - (b) address any concerns set out in a quality assurance improvement notice issued under section 375 that were not addressed within the time specified in that notice.
- (2) Section 459(2) to (5) applies to a compliance notice issued under this section.
- (3) If an industry skills board fails to comply with a compliance notice issued under this section, NZQA may notify the Minister in writing.
- (4) A compliance notice may be issued to an industry skills board whether or not a quality assurance improvement notice has been issued under section 375.
- (5) Nothing in this section limits the power of NZQA to issue a compliance notice to an industry skills board in accordance with section 459.

Compare: 1989 No 80 s 488

### **377 Application of Public Audit Act 2001 to industry skills board**

Each industry skills board established under section 362 is a public entity as defined in section 5 of the Public Audit Act 2001 and, in accordance with that Act, the Auditor-General is its auditor.

### **378 Acts in breach of statute invalid**

- (1) An act of an industry skills board is invalid (unless section 379 applies) if—
- (a) the act is contrary to, or outside the authority of, an Act; or
  - (b) the act is not done for the purpose of performing the industry skills board's functions.
- (2) Subsection (1) does not limit any discretion of a court to grant relief in respect of a minor or technical breach.

**379 Some natural person acts protected**

- (1) Section 378, or any rule of law to similar effect, does not prevent a person dealing with an industry skills board from enforcing a transaction that is a natural person act unless the person dealing with the entity knew, or ought reasonably to have known, that—
  - (a) an express restriction in an Act makes the act contrary to, or outside the authority of, the Act; or
  - (b) the act was done otherwise than for the purpose of performing the industry skills board's functions.
- (2) A person who relies on subsection (1) has the onus of proving that the person did not have, and could not reasonably be expected to have had, the knowledge referred to in that subsection.
- (3) An industry skills board must report, in its financial report required by clause 13 of Schedule 18, each transaction that the board has performed in the year to which the report relates that was invalid under section 377 but enforced in reliance on subsection (1).
- (4) To avoid doubt, this section does not affect any person's other remedies under the general law (for example, remedies in contract).
- (5) In this section, **natural person act** has the same meaning as in section 148(5).

**380 Disestablishment of industry skills boards**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, disestablish an industry skills board and provide for the distribution of its assets and liabilities.
- (2) The Minister may not recommend the disestablishment of an industry skills board under subsection (1) unless—
  - (a) the Minister has received a request from the industry skills board or 1 or more of the specified industries covered by the industry skills board for it to be disestablished and is satisfied on reasonable grounds that there are good reasons to do so; or
  - (b) the Minister is satisfied that it is necessary to do so because—
    - (i) the industry skills board has persistently engaged in unlawful activity; or
    - (ii) the industry skills board has persistently failed to perform its functions or duties; or
    - (iii) there have been 1 or more serious complaints, or there has been a persistent pattern of complaints, to TEC, NZQA, or the Minister from the 1 or more specified industries that the industry skills board covers regarding the board's performance or exercise of its functions, duties, or powers.



- (3) An order made under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

*Apprenticeship training activities*

**381 Training agreements and apprenticeship training agreements part of employment agreement**

Training agreements and apprenticeship training agreements are part of the employment agreement between the employee and employer concerned.

Compare: 1989 No 80 s 478; 1992 No 55 s 3

**382 Apprenticeship training activities must be included in proposed plan**

- (1) A provider that seeks funding for an apprenticeship training activity (as described in subsection (2)) via a plan must specify in its proposed plan how it intends to carry out that activity.
- (2) The apprenticeship training activities are—
  - (a) to promote apprenticeship training generally through providing information, guidance, and advice to employers and prospective apprentices about the benefits of an apprenticeship:
  - (b) to identify—
    - (i) prospective apprentices; and
    - (ii) employers able to offer apprenticeship training that satisfies all of the work-based requirements of the approved programme of the provider:
  - (c) to provide or arrange training or employment that may lead to apprenticeship training for prospective apprentices:
  - (d) to help prospective apprentices enter into apprenticeship training agreements:
  - (e) to produce, and facilitate (in consultation with the apprentice and the apprentice’s employer) the implementation of, individual training plans consistent with an apprentice’s apprenticeship training agreement:
  - (f) to monitor individual apprentices to ensure that their apprenticeship training enables them to attain, within a reasonable time, the level of skills necessary to complete a qualification in the skills of the specified industry:

- (g) to ensure, as far as is reasonably practicable, that apprenticeship training, and every apprenticeship training agreement, within a specified industry is consistent with any apprenticeship training code:
- (h) to provide or procure appropriate pastoral care and support for apprentices, having regard to the age and experience of the apprentice and the contents of any apprenticeship training code.

Compare: 1989 No 80 s 493; 1992 No 55 s 13D

### **383 Duties of persons carrying out apprenticeship training activities**

- (1) Persons carrying out apprenticeship training activities (whether or not via a plan) must,—
  - (a) in performing any apprenticeship training activity described in section 382(2), comply with every part of the apprenticeship training code that affects that activity:
  - (b) before helping a person to enter into an apprenticeship training agreement, advise that person to seek advice about the agreement from an independent person.
- (2) A provider must give written notice to an apprentice under the provider's care if the provider becomes aware that it is impracticable for the apprentice to continue their apprenticeship training with their current employer.
- (3) A notice under subsection (2) must advise the apprentice that—
  - (a) the provider is able to assist the apprentice with finding a new employer with whom the apprentice can complete their apprenticeship training; and
  - (b) if the apprentice so requests, the provider will make reasonable endeavours to find a new employer with whom the apprentice can complete their training.

Compare: 1989 No 80 s 494; 1992 No 55 s 13E

### **384 Minister may issue apprenticeship training code**

- (1) The Minister may issue an apprenticeship training code that—
  - (a) is consistent with this subpart; and
  - (b) sets out the responsibilities of apprentices, their employers, and persons carrying out apprenticeship training activities under this subpart.
- (2) The apprenticeship training code may, but need not, be a code recommended by TEC.
- (3) Before issuing an apprenticeship training code, the Minister may consult any persons or organisations that the Minister thinks fit.
- (4) Before issuing an apprenticeship training code under subsection (1), the Minister must consult relevant industry skills boards that cover the 1 or more specified industries to which the code relates.

- (5) An apprenticeship training code issued under this section—
- (a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) comes into force on a date specified in it, being not less than 28 days after it is published under that Act.

Compare: 1989 No 80 ss 495, 498; 1992 No 55 ss 13F, 13I

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	The maker must: <ul style="list-style-type: none"> <li>publish it in the <i>Gazette</i>; or</li> <li>notify it in the <i>Gazette</i> giving enough information to identify it and state where copies of it may be obtained</li> </ul>	LA19 ss 73, 74(1)(a), Sch 1 cl 14
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**385 Apprenticeship training code to be taken into account by mediator, Employment Relations Authority, and Employment Court**

In exercising or performing, in relation to a matter concerning an apprentice, any power or function under the Employment Relations Act 2000, the following must take into account every applicable element of any apprenticeship training code:

- (a) a person providing mediation services under that Act;
- (b) the Employment Relations Authority;
- (c) the Employment Court.

Compare: 1989 No 80 s 497; 1992 No 55 s 13H

*Industry skills board levy*

**385A Industry skills board levy may be imposed by Order in Council**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, impose a levy on qualifying members of a levy group that is payable to an industry skills board.
- (2) The Minister may not recommend the making of an Order in Council under this section unless the Minister is satisfied that—
  - (a) the industry skills board has undertaken adequate consultation on the proposals relating to the levy order with the levy group concerned; and
  - (b) the feedback from consultation with the levy group supports the view that imposing the levy is in the interests of all members of the levy group.
- (3) A levy may be payable to—

- (a) 1 industry skills board by all qualifying members of the industry that is covered by that board; or
  - (b) 1 industry skills board by all qualifying members of a specific industry that is within the range of industries covered by that board; or
  - (c) more than 1 industry skills board, jointly, by all qualifying members of an industry that is covered by those boards.
- (4) A levy order made under this section—
- (a) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements); and
  - (b) must be confirmed by an Act (*see* subpart 3 of Part 5 of the Legislation Act 2019).

**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

**385B Matters to be specified in levy orders**

Schedule 16 sets out provisions relating to the matters that must be specified in a levy order made under section 385A.

**385C Administration of levy orders**

Schedule 17 sets out provisions relating to the administration of an industry skills board levy.

**385D Minister must indicate whether levy order to continue in force**

- (1) The Minister on whose recommendation a levy order is made must indicate the Minister's intentions with regard to the levy order continuing in force by publishing a notice in the *Gazette* at least 6 months before the deadline that applies under subpart 3 of Part 5 of the Legislation Act 2019 (the **6-month date**).
- (2) However, this section does not apply if the levy order has already been revoked, disallowed under subpart 2 of Part 5 of the Legislation Act 2019, or confirmed by an Act before the 6-month date.

**385E Expiry and revocation of levy order**

- (1) A levy order expires 5 years after the day on which it was made unless it is sooner—
  - (a) revoked; or
  - (b) disallowed under subpart 2 of Part 5 of the Legislation Act 2019.

- (2) A levy order is revoked if the industry skills board responsible for administering the levy is disestablished under section 380.

*Other amendments*

**24 Section 390 amended (Offences relating to use of certain terms)**

Replace section 390(1)(b) and (c) with:

- (b) uses the term polytechnic to describe an educational establishment or facility unless the educational establishment or facility is a polytechnic:
- (c) uses the term institute of technology to describe an educational establishment or facility unless the educational establishment or facility is a polytechnic.

**Subpart 3—Amendments to Part 5 (performance, funding, and support)**

**25 Section 408 amended (Principles guiding how TEC operates)**

In section 408(1)(b), replace “workforce development councils” with “industry skills boards”.

**26 Section 409 amended (Functions of TEC)**

In section 409(1)(p), replace “sections 381 to 385” with “sections 382 to 385E”.

**27 Sections 411 to 413 replaced**

Replace sections 411 to 413 with:

**411 Duties of TEC in relation to industry skills boards**

TEC must have regard to advice from an industry skills board in relation to its 1 or more specified industries when assessing any proposed plan under section 425 or when considering funding an organisation other than via a plan under section 428 in relation to vocational education and training.

**412 Power of TEC to require information from industry skills board**

- (1) The chief executive of TEC may, by written notice to an industry skills board, require it to provide the chief executive of TEC with any information about the financial position or operations (or both) of the industry skills board (whether or not funded under a plan under section 425).
- (2) An industry skills board that receives a notice under subsection (1) must provide the chief executive of TEC with the required information within the period specified in the notice.
- (3) The chief executive of TEC may revoke or amend a notice given under subsection (1).

Compare: 1989 No 80 s 159FB

**413 Power of TEC to audit industry skills board**

- (1) For the purpose of ascertaining whether an industry skills board is complying, or has complied, with this Act, the chief executive of TEC may commission an independent audit of the industry skills board.
- (2) The audit may (without limitation) include an assessment of—
  - (a) the performance of the industry skills board's functions:
  - (b) the application of funding that TEC provides to the industry skills board.

Compare: 1989 No 80 s 159FC

**28 Section 433 amended (Functions of NZQA)**

- (1) In section 433(1)(e), replace “workforce development councils” with “industry skills boards”.
- (2) In section 433(1)(f), replace “a workforce development council’s” with “an industry skills board’s”.

**29 Section 438 amended (Standard-setting bodies)**

Replace section 438(1)(a) with:

- (a) an industry skills board established under section 362; and

**30 Section 452 amended (Rules)**

- (1) Replace section 452(1)(h) and (i) with:

- (h) prescribing the amount of, or the method of determining, the annual fee payable by an industry skills board and when and how that fee is payable:
- (i) prescribing quality assurance requirements for industry skills boards, including (without limitation) requirements relating to the performance of the relevant functions of industry skills boards:

- (2) Replace section 452(1)(r) and (s) with:

- (r) prescribing reporting requirements that institutions or industry skills boards must comply with in relation to a student's record of achievement that is maintained by NZQA:
- (s) for the purposes of rules made under paragraph (r), specifying the qualifications and standards for which institutions or industry skills boards are required to report the credits gained by students who are undertaking or who have undertaken study or training towards those qualifications or standards:

**31 Section 458 amended (Power to obtain information)**

Replace section 458(1)(b) with:

- (b) by written notice to the chief executive of an institution or an industry skills board, require the chief executive, within a reasonable period

that is specified in the notice, to supply to NZQA the information or documents relating to the institution or industry skills board that are specified in the notice.

#### Subpart 4—Amendment to Part 6 (administration of education system)

##### **32 Section 556 amended (Grants to educational bodies)**

In section 556(2), replace “a workforce development council” with “an industry skills board”.

#### Subpart 5—Other amendments to principal Act

##### **33 Schedule 1 amended**

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.

##### **34 Schedule 11 amended**

- (1) In Schedule 11, clause 1(1), replace “under section 268(1) or under section 398E” with “under section 268(1), 315, or 398E”.
- (2) In Schedule 11, clause 1(2), replace “the requirements of section 276 or under section 398E” with “the requirements of section 276, 317, or 398E”.
- (3) In Schedule 11, replace clause 15(12) with:
- (12) This clause does not apply to the chairperson or deputy chairperson of a polytechnic (for which section 319 provides).

##### **35 New Schedule 11A inserted**

After Schedule 11, insert the Schedule 11A set out in Schedule 2 of this Act.

##### **36 Schedule 13 replaced**

Replace Schedule 13 with the Schedule 13 set out in Schedule 3 of this Act.

##### **37 Schedules 14 and 15 repealed**

Repeal Schedules 14 and 15.

##### **38 Schedules 16 and 17 replaced**

Replace Schedules 16 and 17 with the Schedules 16 and 17 set out in Schedule 4 of this Act.

##### **39 Minor and consequential amendments to principal Act**

Amend the principal Act as set out in Schedule 5.

## Part 2

### Amendments to other legislation and revocation

#### *Amendment to Income Tax Act 2007*

#### **40 Principal Act**

Section 41 amends the Income Tax Act 2007.

#### **41 New section CW 55BAA inserted**

After section CW 55BA, insert:

##### **CW 55BAA Federation of Polytechnics Committee and industry skills boards**

- (1) An amount of income derived by the Federation of Polytechnics Committee established under section 325 of the Education and Training Act 2020 is exempt income if the Committee is not carried on for the private pecuniary profit of any individual.
- (2) An amount of income derived by an industry skills board established under section 362 of the Education and Training Act 2020 is exempt income if the board is not carried on for the private pecuniary profit of any individual.

Defined in this Act: amount, exempt income, income

#### *Amendment to Local Government Official Information and Meetings Act 1987*

#### **42 Principal Act**

Section 43 amends the Local Government Official Information and Meetings Act 1987.

#### **43 Schedule 2 amended**

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

Councils of polytechnics established under subpart 4 of Part 4 of the Education and Training Act 2020

#### *Amendments to Ombudsmen Act 1975*

#### **44 Principal Act**

Section 45 amends the Ombudsmen Act 1975.

#### **45 Schedule 1 amended**

- (1) In Schedule 1, Part 2, item relating to Institutions established under subpart 3 of Part 4 of the Education and Training Act 2020, after “subpart 3”, insert “or subpart 4”.
- (2) In Schedule 1, Part 2, insert in their appropriate alphabetical order:  
Federation of Polytechnics Committee established under section 325 of the Education and Training Act 2020



Industry skills boards established under section 362 of the Education and Training Act 2020

*Amendments to Public Audit Act 2001*

**46 Principal Act**

Sections 47 and 48 amend the Public Audit Act 2001.

**47 Schedule 1 amended**

In Schedule 1, insert in its appropriate alphabetical order:

Industry skills boards established under section 362 of the Education and Training Act 2020

**48 Schedule 2 amended**

In Schedule 2, insert in its appropriate alphabetical order:

Federation of Polytechnics Committee established under section 325 of the Education and Training Act 2020

*Amendment to Public Records Act 2005*

**49 Principal Act**

Section 50 amends the Public Records Act 2005.

**50 Section 4 amended (Interpretation)**

In section 4, definition of **public office**, after paragraph (c)(xb), insert:

- (xc) the Federation of Polytechnics Committee established under section 325 of the Education and Training Act 2020; and
- (xd) an industry skills board established under section 362 of the Education and Training Act 2020; and

*Consequential amendments and revocation*

**51 Consequential amendments to other legislation**

Amend the legislation specified in Schedule 6 as set out in that schedule.

**52 Revocation**

The Education (Name Change for NZIST) Order 2020 (LI 2020/260) is revoked.

## Schedule 1

### New Part 7 inserted into Schedule 1

s 33

#### Part 7

#### Provisions relating to Education and Training (Vocational Education and Training System) Amendment Act 2025

##### 126 Interpretation

- (1) In this Part, unless the context otherwise requires,—

**amendment Act** means the Education and Training (Vocational Education and Training System) Amendment Act 2025

**commencement** means the date on which the amendment Act (except Parts 3 to 6 of Schedule 6) comes into force

**NZIST** means New Zealand Institute of Skills and Technology continued as an institution under clause 128

**Te Pūkenga—New Zealand Institute of Skills and Technology** or **Te Pūkenga** means the institution continued under section 314 (as in force immediately before commencement) and in existence immediately before commencement

**training activity** means a programme, micro-credential, assessment against standards, or other activity provided or carried out by Te Pūkenga before commencement relating to the provision of any work-based training (as defined in section 10(1)).

- (2) A term used in this Part that is defined in section 10(1) or (6), but not in this Part, has the meaning given in section 10(1) or (6).

#### Subpart 1—Transitional provisions relating to Te Pūkenga

##### 127 Definitions for this subpart

- (1) In this subpart, unless the context otherwise requires,—

**disestablishment date**, in relation to NZIST, means the date specified in clause 147(1)(b) or specified by an order made under clause 147(2)

**successor organisation**,—

- (a) in relation to a programme, micro-credential, assessment against standards, or other activity provided by NZIST on or before the transfer date, means a tertiary education provider that on and after the transfer date is responsible for continuing the programme, micro-credential, assessment against standards, or other activity (or any part of the programme, micro-credential, assessment against standards, or other activity):

- (b) in relation to a training activity provided by NZIST on or before the transfer date, means an industry skills board that on and after the transfer date is responsible for continuing the training activity or any part of the training activity

**transfer date**,—

- (a) in relation to a programme, micro-credential, or other activity provided by NZIST, means the date (or dates) specified in the transition plan approved under clause 130 on which the programme or micro-credential transfers to the relevant successor organisation:
- (b) in relation to a training activity provided by NZIST, means the date (or dates) specified in the transition plan approved under clause 131 on which the training activity transfers to the relevant successor organisation

**transition period**, for NZIST, means the period starting on commencement and ending on the close of the day before the disestablishment date

**transition plan**, for NZIST, means a plan developed and approved under clause 130 or 131.

- (2) The modification of this Act by clause 129 does not affect the text of this Act, but requires it to be read as if amended in the manner indicated by that clause.

### *Continuation, and renaming, of Te Pūkenga*

#### **128 Continuation, and renaming, of Te Pūkenga during transition period**

- (1) Despite the amendments made by the amendment Act, Te Pūkenga continues in existence during the transition period and is renamed the New Zealand Institute of Skills and Technology (**NZIST**).
- (2) During the transition period,—
  - (a) Te Pūkenga's council continues in existence as the council of NZIST; and
  - (b) NZIST's council may continue to operate even if the membership of the council no longer meets any 1 or more of the membership requirements specified in section 320(1)(a) to (d) (as in force before commencement); and
  - (c) an elected member of NZIST's council may continue to serve on the council even if the advisory committee that elected the member ceases to operate.

#### **129 Application of this Act to NZIST during transition period**

- (1) This Act (as in force immediately before commencement) continues to apply to NZIST during the transition period—
  - (a) as modified by this clause; and

- (b) with any other necessary modifications.

*Functions of NZIST*

- (2) Section 315 (as in force immediately before commencement) does not apply to NZIST.
- (3) Instead, NZIST's functions during the transition period are as follows:
  - (a) to maintain the delivery of programmes, micro-credentials, training activities, and other activities pending the transfer of those programmes, micro-credentials, training activities, or other activities to successor organisations:
  - (b) to do all things necessary to transfer the programmes, micro-credentials, training activities, and other activities that have been allocated to successor organisations under a transition plan:
  - (c) to do all other things that are necessary to prepare for NZIST's disestablishment, including (without limitation)—
    - (i) disposing of surplus assets and discharging the liabilities of NZIST:
    - (ii) cancelling or closing down any programmes, micro-credentials, training activities, or other activities provided by NZIST that have not been allocated to a successor organisation under a transition plan or for which there is no successor organisation:
  - (d) to carry out any other functions that are conferred by the Minister for the purpose of giving effect to this Part.

*Duties of NZIST's council*

- (4) NZIST's council has—
  - (a) all the duties of a polytechnic's council under section 281 (as amended by the amendment Act); and
  - (b) the additional duties of a polytechnic set out in section 321 (as replaced by the amendment Act).

*Duty to give effect to charter*

- (5) Section 316 and Schedule 13 (as in force immediately before commencement) do not apply to NZIST.

*Schedules*

- (6) Schedules 14 and 15 (as in force immediately before commencement) do not apply to NZIST.

*Transfer of NZIST's operations***130 Requirement to develop transition plan for programmes and micro-credentials**

- (1) As soon as practicable after commencement, NZIST's council must, in consultation with NZQA, develop a transition plan for approval by TEC that provides for the transfer of NZIST's operations, including (without limitation)—
  - (a) programmes, micro-credentials, or other activities provided by NZIST to 1 or more tertiary education providers; and
  - (b) any specified rights, assets, liabilities, or agreements of NZIST relating to those programmes, micro-credentials, or other activities to 1 or more tertiary education providers.
- (2) The chief executive of TEC—
  - (a) may issue guidance to NZIST on what must be contained in the transition plan; and
  - (b) must consult NZIST when developing the guidance.
- (3) When approving a transition plan under this clause, TEC may, by giving written notice to NZIST, make any amendments to the plan that TEC considers reasonably necessary.
- (4) As soon as practicable after TEC has approved a transition plan, NZIST's council must do all things necessary to give effect to the plan.
- (5) If NZIST fails or refuses to develop a transition plan, TEC may develop the transition plan and NZIST must give effect to that plan.

**131 Requirement to develop transition plan for training activities**

- (1) As soon as practicable after commencement, NZIST's council must, in consultation with NZQA, develop a transition plan for approval by TEC that provides for the transfer of NZIST's operations, including (without limitation)—
  - (a) training activities provided by NZIST to 1 or more industry skills boards; and
  - (b) any specified rights, assets, liabilities, or agreements of NZIST relating to those training activities to 1 or more industry skills boards.
- (2) A transition plan developed under subclause (1) may specify that the assets of NZIST to be transferred to an industry skills board for the purposes of providing training activities under clause 153—
  - (a) may only be used by the industry skills board for those training activities; and
  - (b) must be managed by the industry skills board in a way that ensures the assets are available for transfer to a tertiary education provider under clause 160.

- (3) The chief executive of TEC—
  - (a) may issue guidance to NZIST on what must be contained in the transition plan; and
  - (b) must consult NZIST when developing the guidance.
- (4) When approving a transition plan under this clause, TEC may, by giving written notice to NZIST, make any amendments to the plan that TEC considers reasonably necessary.
- (5) As soon as practicable after TEC has approved a transition plan, NZIST's council must do all things necessary to give effect to the plan.
- (6) If NZIST fails or refuses to develop a transition plan, TEC may develop the transition plan and NZIST's council must give effect to that plan.

**132 Minister may exercise temporary power of direction in relation to NZIST**

- (1) During the transition period, the Minister may, by written notice to NZIST's council, give any directions that the Minister thinks are reasonably necessary to ensure that NZIST can deal effectively with matters relating to the allocation and transfer of programmes, micro-credentials, training activities, or other activities to a successor organisation as provided for in a transition plan.
- (2) The Minister must consult TEC, NZQA, and NZIST before giving a direction.
- (3) NZIST must comply with the direction.
- (4) A direction expires on the earlier of—
  - (a) the expiry date specified in the direction; and
  - (b) the end of the transition period.

Compare: 1989 No 80 Schedule 1 cl 24

**133 Transfer of programmes, micro-credentials, and training activities provided by NZIST**

- (1) This clause applies to—
  - (a) a programme, micro-credential, training activity, or other activity provided by NZIST that is allocated to a successor organisation in accordance with a transition plan approved under clause 130 or 131; and
  - (b) any specified rights, assets, liabilities, or agreements of NZIST relating to those programmes, micro-credentials, training activities, and other activities of NZIST that are allocated to the successor organisation under the transition plan.
- (2) On and after the transfer date,—
  - (a) the matters specified in subclause (1) vest in the successor organisation concerned; and
  - (b) any reference to NZIST in any legislation (other than this Act), instrument, agreement, deed, lease, application, notice, or other document

relating to the matters specified in subclause (1) must be read as a reference to the successor organisation concerned; and

- (c) any information or document held by NZIST relating to the matters specified in subclause (1) is held by the successor organisation concerned; and
  - (d) all money payable to, or by, NZIST (including funding payable under this Act) in relation to the matters specified in subclause (1) becomes payable to, or by, the successor organisation concerned.
- (3) The transfer of information from NZIST to a successor organisation under this clause does not constitute an action that is a breach of information privacy principle 8 or 11 within the meaning of the Privacy Act 2020.

#### **134 Existing approvals, accreditations, and consents**

- (1) This clause applies to the following matters granted to, or treated as having been granted to, NZIST under subpart 2 of Part 5 before the transfer date of a programme, micro-credential, or training activity and in effect immediately before that date:
- (a) an approval of a programme under section 439:
  - (b) an accreditation to provide all or part of a programme under section 441:
  - (c) an approval of the content of a micro-credential under section 445:
  - (d) an accreditation to provide a micro-credential under section 446A:
  - (e) a consent to assess against the standards listed in the Directory of Assessment and Skill Standards under section 449:
  - (f) a consent to award a degree or a postgraduate qualification under section 454.
- (2) On and after the transfer date,—
- (a) the approval, accreditation, or consent (including any conditions imposed on an approval, accreditation, or consent) continues to apply and must be treated as if it were granted to the successor organisation to which the relevant programme or micro-credential or consent is transferred; and
  - (b) unless the context otherwise requires, every reference in the approval, accreditation, or consent must be read as a reference to the successor organisation concerned.

#### **135 Existing funding paid by TEC under funding mechanism**

- (1) This clause applies to funding (including any conditions imposed on the funding) payable by TEC to NZIST in respect of a programme, micro-credential, training activity, other activity, or group of students or trainees—
- (a) in accordance with an approval granted under section 425(2); or

- (b) other than via a plan under section 428.
- (2) On and after the transfer date,—
  - (a) TEC must treat the funding, unless it is earlier suspended, revoked, or withdrawn under clause 16 or 26 of Schedule 18, as if it were payable to the successor organisation to which the programme, micro-credential, training activity, or other activity, or group of students or trainees is transferred; and
  - (b) for the purposes of paragraph (a), every reference to NZIST in an approval granted under section 425(2) must, unless the context otherwise requires, be read as a reference to the successor organisation concerned.

### **136 Transfers do not give rise to claims**

Nothing effected or authorised by this subpart—

- (a) places NZIST, a successor organisation, or any other person in breach of contract or confidence, or makes any of them liable for a civil wrong; or
- (b) places NZIST, a successor organisation, or any other person in breach of any legislation, rule of law, or contractual provision that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or
- (c) entitles a person to terminate or cancel a contract or an arrangement, or to accelerate the performance of an obligation, or to impose a penalty or an increased charge; or
- (d) releases a surety from an obligation; or
- (e) invalidates or discharges a contract or surety.

Compare: 2022 No 30 Schedule 1 cl 28

### **137 Existing proceedings and other matters**

- (1) This clause applies in relation to a programme, micro-credential, training activity, or other activity provided by NZIST or an approval, accreditation, or consent held by NZIST that is transferred to a successor organisation.
- (2) On and after the transfer date,—
  - (a) proceedings continued or enforced by or against NZIST in relation to a matter referred to in subclause (1) may instead be continued or enforced by or against the successor organisation without amendment to the proceedings; and
  - (b) a matter or thing that would, but for this clause, have been completed by NZIST may instead be completed by the successor organisation concerned; and
  - (c) anything done, or omitted to be done, or that is to be done, by or in relation to NZIST is to be treated as having been done, or having



been omitted to be done, or having to be done, by or in relation to the successor organisation concerned.

- (3) In subclause (2)(a), **proceedings**—
- (a) means civil and criminal proceedings; and
  - (b) includes any enforcement or compliance activities by TEC or NZQA.

*Transfer of NZIST employees to successor organisation*

**138 Duties to identify employees and provide employee information**

- (1) NZIST's council must—
- (a) identify the employees of NZIST whose positions may be required by a successor organisation to carry out the functions of the successor organisation; and
  - (b) provide to the successor organisation the employee information about those employees that is reasonably necessary for the purpose of making offers of employment under clause 139(3).
- (2) In this clause, **employee information**, in relation to an employee of NZIST, includes (without limitation) information about—
- (a) the employee's employment agreement, remuneration, accrued leave entitlements, superannuation scheme benefits, and any service-related benefits and entitlements;
  - (b) any employment policies that are part of the employee's conditions of employment.

**139 Employment of NZIST employees by successor organisation**

- (1) This clause applies if any programmes, micro-credentials, training activities, or other activities provided by NZIST are transferred to a successor organisation in accordance with a transition plan approved under clause 130 or 131.
- (2) The successor organisation concerned must identify the employees of NZIST—
- (a) whose duties overall are required by the successor organisation to carry out the organisation's functions; and
  - (b) whose positions will cease to exist as a result of the transfer of the programmes, micro-credentials, training activities, or other activities to the successor organisation.
- (3) An employee who is identified under subclause (2) may be offered equivalent employment by the successor organisation, being employment that is—
- (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions (including, without limitation, in relation to the employee's overall remuneration and any service-related, redundancy,

- or superannuation conditions) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and
- (d) on terms that treat the period of service with NZIST (and every other period of service recognised by NZIST as continuous service) as if it were continuous service with the successor organisation.
- (4) If the employee accepts an offer of employment under subclause (3), the employee's employment by the successor organisation concerned is to be treated as continuous employment, including for the purposes of service-related entitlements, whether legislative or otherwise.
- (5) An employee of NZIST who is offered employment under subclause (3) by a successor organisation is not entitled to receive any contractual notice or any payment, benefit, or compensation from NZIST or the successor organisation on the grounds that—
- (a) the employee's position in NZIST has ceased to exist, whether or not the employee accepts the offer; or
- (b) the person has ceased to be an employee of NZIST as a result of the person's employment by the successor organisation.
- (6) To avoid doubt, the employment of an employee by the successor organisation concerned does not—
- (a) constitute new employment, including for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006 or any service-related entitlements or benefits (whether legislative or otherwise); or
- (b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000.
- (7) This clause overrides—
- (a) Part 6A of the Employment Relations Act 2000; and
- (b) any employee protection provision in any relevant employment agreement.
- 140 Transfer of other employment rights, duties, liabilities, or obligations of NZIST on change of employer**
- (1) This clause applies to any other rights, duties, liabilities, or obligations of NZIST (including in relation to any holiday and leave entitlements under the Holidays Act 2003)—
- (a) relating to an employee who has become an employee of a successor organisation under clause 139; and
- (b) that were in existence immediately before the date on which the employee became an employee of the successor organisation.

- (2) The rights, duties, liabilities, and obligations referred to in subclause (1) vest in the successor organisation on the date on which the employee becomes an employee of the successor organisation.

#### **141 Government Superannuation Fund**

- (1) This clause applies to a person who, immediately before becoming an employee of a successor organisation, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.
- (2) For the purposes of the Government Superannuation Fund Act 1956, the person is treated as being employed in the Government service as long as the person continues to be an employee of the successor organisation.
- (3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the successor organisation were Government service.
- (4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the successor organisation is the controlling authority.

#### *Students and trainees of NZIST*

#### **142 Students and trainees of NZIST**

- (1) This clause applies to every student or trainee enrolled at NZIST in a programme, micro-credential, or training activity immediately before the transfer date of the programme, micro-credential, or training activity to a successor organisation.
- (2) The student or trainee must be treated as having been enrolled at the successor organisation that is responsible for continuing the programme, micro-credential, or training activity on and after the transfer date.
- (3) A student or trainee who would, but for the transfer of a programme, micro-credential, or training activity to a successor organisation, have been entitled to be granted an award by NZIST is entitled to be granted the same or equivalent award of the successor organisation.

#### **143 Existing training agreements**

- (1) This clause applies to a training agreement and an apprenticeship training agreement that was in force immediately before the date on which responsibility for delivery or co-ordination of training activities under the agreement is transferred to a successor organisation.
- (2) On and after the transfer date,—

- (a) the training agreement and apprenticeship training agreement continues in force; and
  - (b) unless the context otherwise requires, every reference to NZIST in the training agreement and apprenticeship training agreement must be read as a reference to the successor organisation where the trainee is enrolled on and after that date.
- (3) Subclause (4) applies if the activities and responsibilities of the successor organisation in respect of the delivery or co-ordination of the training under the training agreement are to be changed.
- (4) As soon as is reasonably practicable after the transfer date, the successor organisation must—
  - (a) consult the parties to the training agreement before amending the training agreement; and
  - (b) if the parties agree, amend the training agreement and apprenticeship training agreement.

*Other matters relating to transfers*

**144 Visas granted under Immigration Act 2009**

- (1) This clause applies to a visa granted under the Immigration Act 2009 in respect of—
  - (a) a student or trainee for the purposes of enrolment at NZIST; or
  - (b) an employee of NZIST for the purposes of being employed by NZIST.
- (2) On and after the transfer date, any reference to NZIST in a condition imposed on the visa must be read as a reference to the successor organisation where the student or trainee is taken to be enrolled or where the employee's employment is continued (as applicable).

**145 Consequences of transfers for purposes of Inland Revenue Acts**

- (1) This clause applies in relation to a matter that is transferred to a successor organisation in accordance with a transition plan approved under clause 130 or 131.
- (2) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), NZIST and the successor organisation are treated as the same person to the extent to which the matter is transferred to the successor organisation.

**146 Transfer of contract for services to more than 1 successor organisation**

- (1) This clause applies if a contract for services entered into by Te Pūkenga before commencement or by NZIST during the transition period is transferred to more than 1 successor organisation.

- (2) On and after the transfer date, the contract of service must be treated as if it had been entered into by each relevant successor organisation on terms that reflect that successor organisation's use of the services.

### *Disestablishment of NZIST*

#### **147 Disestablishment of NZIST**

- (1) NZIST is disestablished on the earlier of the following dates:
- (a) the date specified by Order in Council made under subclause (2); and
  - (b) the close of 31 March 2027.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- (a) specify the date on which NZIST is disestablished; and
  - (b) provide for the distribution of residual assets and liabilities (including any liabilities for tax or redundancy payments) of NZIST.
- (3) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **Legislation Act 2019 requirements for secondary legislation made under this clause**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

### *Consequences of disestablishment*

#### **148 Section 573 applies to NZIST**

Section 573 (which sets out the effects of disestablishment of an institution) applies, with any necessary modifications, in relation to NZIST on its disestablishment date.

#### **149 Council members cease to hold office**

- (1) Every member of NZIST's council holding office immediately before the disestablishment date ceases to hold office on the close of the day before that date.
- (2) Neither the Crown nor NZIST is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) in respect of the loss of office.

#### **150 Taxes and duties of NZIST**

Section 575 (which provides for the taxes and duties of a disestablished institution) applies, with any necessary modifications, in relation to any outstanding taxes or duties of NZIST on the disestablishment date.

**151 Previous actions or decisions of NZIST not affected**

The disestablishment of NZIST does not, by itself, affect any of the following matters:

- (a) any decision made, or anything done or omitted to be done, by NZIST in relation to the performance or exercise of its functions, powers, or duties under any legislation:
- (b) any proceedings commenced by or against NZIST:
- (c) any other matter or thing arising out of NZIST's performance or exercise, or purported performance or exercise, of its functions, powers, or duties under any legislation.

Compare: 2022 No 30 Schedule 1 cl 10

**Subpart 2—Provision of work-based training by industry skills boards  
for temporary period****152 Application of clauses 153 to 162**

- (1) Clauses 153 to 162 apply during the period beginning on commencement and ending on the close of 31 December 2027.
- (2) The modification of this Act by clause 153 does not affect the text of this Act, but requires it to be read as if amended in the manner indicated by that clause.

**153 Provision of training activities by industry skills boards**

- (1) Section 367 (as replaced by the amendment Act) applies to an industry skills board as if the following paragraph and heading were inserted before the heading above paragraph (a):

*Providing training activities*

- (aaa) to provide the training activities allocated to the industry skills board in accordance with a transition plan approved under clause 131 of Schedule 1 pending the transfer of those activities to a tertiary education provider:
- (2) Subclause (1) applies despite section 372 (as replaced by the amendment Act).

**154 Application of well-being and safety code of practice to industry skills board that provides training activities**

A code of well-being and safety issued under section 534(1) applies to an industry skills board that provides training activities in accordance with clause 153 as if—

- (a) the industry skills board were a signatory provider to which the code applies; and

- (b) the students or trainees enrolled in the training activity were domestic tertiary students or international students in respect of whom the code applies.

#### 155 Industry skills board to be treated as institution for purposes of certain provisions

Despite section 10(5)(a), an industry skills board that provides training activities is to be treated as an institution for the purposes of the sections specified in section 10(5)(a)(i) to (iii) during the period referred to in clause 152(1).

#### 156 Industry skills board may charge fees for providing training activities

- (1) An industry skills board may, by notice, fix fees payable by trainees for training activities provided by the industry skills board.
- (2) A notice under subclause (1) may fix different fees payable by trainees, or a group or category of trainees, in relation to the training activities provided by the industry skills board.
- (3) However, a fee fixed under subclause (1) must not exceed the corresponding amount that was being charged by Te Pūkenga as at 31 December 2025 for providing the relevant training activity.
- (4) Fees fixed under this clause are payable in the manner prescribed in the notice and are recoverable as a debt due to the industry skills board.
- (5) A fee payable by a trainee may be refunded or waived in accordance with any criteria set out in the notice.
- (6) A notice made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

##### Legislation Act 2019 requirements for secondary legislation made under this clause

<b>Publication</b>	The maker must publish it in accordance with the Legislation (Publication) Regulations 2021	LA19 s 74(1)(aa)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

#### 157 Industry skills board's use of fee income for training activities

- (1) Before the transfer of training activities under clause 160, any income from fees paid by trainees to an industry skills board in accordance with a fee notice issued under clause 156 may only be used to provide the training activities to those trainees.
- (2) To avoid doubt, the income from fees paid to the industry skills board may be used for payment of actual and reasonable costs incurred—
  - (a) for the governance and management of the training activities; or

- (b) as a direct result of compliance obligations, reporting requirements, or other legal obligations relating to the provision of the training activities.

**158 Enrolment of new trainees in training activities**

- (1) An industry skills board may enrol new trainees in a training activity unless TEC determines by notice in writing to the industry skills board that new trainees may not be enrolled in the training activity.
- (2) A determination under subclause (1) may relate to any 1 or more trainees or class of trainees specified in the notice.
- (3) In making a determination, TEC must take into account the availability of the training activity to the trainee or trainees to whom the proposed determination relates.

**159 Requirement to develop transition plan for transfer of training activities to tertiary education providers**

- (1) An industry skills board must, in consultation with NZQA, develop a transition plan for approval by TEC that provides for the transfer of—
  - (a) training activities provided by the industry skills board and trainees enrolled in those training activities to 1 or more tertiary education providers; and
  - (b) any specified rights, assets, liabilities, or agreements of the industry skills board relating to those training activities to 1 or more tertiary education providers.
- (2) The chief executive of TEC—
  - (a) may issue guidance to an industry skills board on what must be contained in a transition plan; and
  - (b) must consult the industry skills board when developing the guidance.
- (3) When approving a transition plan, TEC may, by giving written notice to the industry skills board, make any amendments to the plan that TEC considers reasonably necessary.
- (4) As soon as practicable after TEC has approved a transition plan, the industry skills board must do all things necessary to give effect to the plan.
- (5) If the industry skills board fails or refuses to develop a transition plan, TEC may develop the transition plan and the industry skills board must give effect to that plan.

**160 Transfer of training activities**

- (1) During the period beginning on 1 July 2027 and ending with the close of 31 December 2027, an industry skills board must give effect to a transition plan approved under clause 159 for the transfer of training activities to a tertiary education provider.



- (2) However, an industry skills board may develop and give effect to a transition plan approved under clause 159 before 1 July 2027 with the written approval of TEC.
- (3) On and after the date of transfer specified in the transition plan approved under clause 159,—
  - (a) the training activities, rights, assets, liabilities, and agreements specified in the transition plan vest in the tertiary education provider concerned; and
  - (b) any reference to the industry skills board in any legislation (other than this Act), instrument, agreement, deed, lease, application, notice, or other document relating to the training activities, rights, assets, liabilities, and agreements must be read as a reference to the tertiary education provider concerned; and
  - (c) any information or document held by the industry skills board relating to the training activities, rights, assets, liabilities, and agreements is held by the tertiary education provider concerned; and
  - (d) all money payable to, or by, the industry skills board (including funding payable under this Act) in relation to the training activities, rights, assets, liabilities, and agreements becomes payable to, or by, the tertiary education provider concerned.
- (4) To the extent that any training activity provided by an industry skills board has not been transferred in accordance with a transition plan approved under clause 159 by the close of 31 December 2027, the industry skills board must cease to provide the training activity.

**161 Trainees of industry skills board**

- (1) This clause applies to every trainee enrolled at an industry skills board in a training activity immediately before the date on which that training activity is transferred to a tertiary education provider.
- (2) The trainee must be treated as being enrolled at the tertiary education provider that is responsible for continuing the training activity on and after the transfer date.
- (3) A trainee who would, but for the transfer of the training activity to a tertiary education provider, have been entitled to be granted an award by the industry skills board is entitled to be granted the same or equivalent award of the tertiary education provider.

**162 Transfer of training agreements**

- (1) This clause applies to a training agreement and an apprenticeship training agreement that were in force immediately before the date on which responsibility for delivery or co-ordination of training activities under the agreements is transferred to a tertiary education provider.

- (2) On and after the transfer date,—
- (a) the training agreement and apprenticeship training agreement continue in force; and
  - (b) unless the context otherwise requires, every reference to the industry skills board in the training agreement and apprenticeship training agreement must be read as a reference to the tertiary education provider where the trainee is enrolled on and after that date.
- (3) As soon as is reasonably practicable after the transfer date, the tertiary education provider must—
- (a) consult the parties to the training agreement before amending the training agreement; and
  - (b) if the parties agree, amend the training agreement and apprenticeship training agreement.

### **163 Transfers do not give rise to claims**

Nothing effected or authorised by this subpart—

- (a) places an industry skills board, tertiary education provider, or any other person in breach of contract or confidence, or makes any of them liable for a civil wrong; or
- (b) places an industry skills board, tertiary education provider, or any other person in breach of any legislation, rule of law, or contractual provision that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or
- (c) entitles a person to terminate or cancel a contract or an arrangement, or to accelerate the performance of an obligation, or to impose a penalty or an increased charge; or
- (d) releases a surety from an obligation; or
- (e) invalidates or discharges a contract or surety.

Compare: 2022 No 30 Schedule 1 cl 28

### **164 Consequences of transfers for purposes of Inland Revenue Acts**

- (1) This clause applies in relation to a matter that is transferred to a tertiary education provider in accordance with a transition plan approved under clause 159.
- (2) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), the relevant industry skills board and the tertiary education provider are treated as the same person to the extent to which the matter is transferred to that tertiary education provider.

*Transfer of industry skills board's employees to tertiary education providers***165 Duties to identify employees and provide employee information**

- (1) An industry skills board must—
  - (a) identify the employees of the industry skills board whose positions may be required by a tertiary education provider to carry out its function in providing training activities; and
  - (b) provide to the tertiary education provider the employee information about those employees that is reasonably necessary for the purpose of making offers of employment under clause 166(3).
- (2) In this clause, **employee information**, in relation to an employee of an industry skills board, includes (without limitation) information about—
  - (a) the employee's employment agreement, remuneration, accrued leave entitlements, superannuation scheme benefits, and any service-related benefits and entitlements;
  - (b) any employment policies that are part of the employee's conditions of employment.

**166 Employment of industry skills board employees by tertiary education provider**

- (1) This clause applies if training activities provided by an industry skills board are transferred to a tertiary education provider.
- (2) The tertiary education provider concerned must identify the employees of the industry skills board—
  - (a) whose duties overall are required by the provider to carry out its function in providing the training activities; and
  - (b) whose positions will cease to exist as a result of the transfer of the training activities to the tertiary education provider.
- (3) An employee who is identified under subclause (2) may be offered equivalent employment by the tertiary education provider, being employment that is—
  - (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions (including, without limitation, in relation to the employee's overall remuneration and any service-related, redundancy, or superannuation conditions) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and
  - (d) on terms that treat the period of service with the industry skills board (and every other period of service recognised by the industry skills board as continuous service) as if it were continuous service with the tertiary education provider.

- (4) If the employee accepts an offer of employment under subclause (3), the employee's employment by the provider concerned is to be treated as continuous employment, including for the purposes of service-related entitlements, whether legislative or otherwise.
- (5) An employee of an industry skills board who is offered employment under subclause (3) by a tertiary education provider is not entitled to receive any contractual notice or any payment, benefit, or compensation from the industry skills board or the tertiary education provider on the grounds that—
  - (a) the employee's position in the industry skills board has ceased to exist, whether or not the employee accepts the offer; or
  - (b) the person has ceased to be an employee of the industry skills board as a result of the person's employment by the tertiary education provider.
- (6) To avoid doubt, the employment of an employee by the tertiary education provider concerned does not—
  - (a) constitute new employment, including for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006 or any service-related entitlements or benefits (whether legislative or otherwise); or
  - (b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000.
- (7) This clause overrides—
  - (a) Part 6A of the Employment Relations Act 2000; and
  - (b) any employee protection provision in any relevant employment agreement.

**167 Transfer of other employment rights, duties, liabilities, or obligations of industry skills board on change of employer**

- (1) This clause applies to any other rights, duties, liabilities, or obligations of an industry skills board (including in relation to any holiday and leave entitlements under the Holidays Act 2003)—
  - (a) relating to an employee who has become an employee of a tertiary education provider under clause 166; and
  - (b) that were in existence immediately before the date on which the employee became an employee of the tertiary education provider.
- (2) The rights, duties, liabilities, and obligations referred to in subclause (1) vest in the provider on the date on which the employee becomes an employee of the tertiary education provider.

**168 Government Superannuation Fund**

- (1) This clause applies to a person who, immediately before becoming an employee of a tertiary education provider, was a contributor to the Government

Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.

- (2) For the purposes of the Government Superannuation Fund Act 1956, the person is treated as being employed in the Government service as long as the person continues to be an employee of the tertiary education provider.
- (3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the tertiary education provider were Government service.
- (4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the tertiary education provider is the controlling authority.

### Subpart 3—Transitional provisions relating to WDCs

#### 169 Interpretation

In this subpart,—

**disestablishment date**, in relation to a WDC, means the date specified in clause 183(1)(b) or specified for the WDC by an order made under clause 183(2)

**transfer date**, in relation to a function of a WDC, means the date (or dates) specified in the WDC's transition plan on which its functions in relation to the specified industries covered by the WDC are transferred to 1 or more industry skills boards

**transition period**, in relation to a WDC, means the period starting on commencement and ending on the close of the day before the WDC's disestablishment date

**transition plan**, for a WDC, means a plan developed and approved under clause 172

**workforce development council** or **WDC** means a workforce development council established under section 363 (as in force immediately before commencement) and in existence immediately before commencement.

#### *Continuation of WDCs*

#### 170 Continuation of WDCs

Despite the amendments made by the amendment Act, a WDC continues in existence during the relevant transition period for the WDC.

**171 Application of legislation to WDC during transition period**

- (1) During the transition period, subpart 6 of Part 4, Schedules 16 and 17, and any other provision of this Act or secondary legislation made under this Act or any other legislation relating to WDCs (as in force immediately before commencement) continue to apply to or in respect of a WDC as if the amendment Act had not been enacted.
- (2) Without limiting subclause (1), the following secondary legislation continues in force in respect of the relevant WDC until the WDC's disestablishment date and is then revoked:
  - (a) Education (Community, Health, Education, and Social Services Workforce Development Council) Order 2021:
  - (b) Education (Hanga-Aro-Rau Manufacturing, Engineering, and Logistics Workforce Development Council) Order 2021:
  - (c) Education (Muka Tangata—People, Food, and Fibre Workforce Development Council) Order 2021:
  - (d) Education (Services Workforce Development Council) Order 2021:
  - (e) Education (Toi Mai Workforce Development Council) Order 2021:
  - (f) Education (Waihanga Ara Rau Construction and Infrastructure Workforce Development Council) Order 2021.

*Transfer of functions***172 Requirement to develop transition plan relating to WDC's functions**

- (1) As soon as practicable after commencement, a WDC must, in consultation with NZQA, develop a transition plan for approval by TEC that provides for the allocation and transfer of the WDC's functions in relation to—
  - (a) any of the specified industries covered by the WDC to an industry skills board or NZQA that, on and after the transfer date, is to be responsible for carrying out those functions; and
  - (b) any specified rights, assets, liabilities, and agreements of the WDC.
- (2) For the purposes of this clause, the functions that may be transferred to an industry skills board are—
  - (a) skills and workforce leadership for the specified industries:
  - (b) developing, setting, and maintaining skill standards:
  - (c) developing, setting, and maintaining capstone assessments for specified industries:
  - (d) developing and maintaining industry qualifications:
  - (e) developing and maintaining micro-credentials:
  - (f) developing and maintaining national curricula for national qualifications for which it is the standard-setting body:

- (g) endorsing programmes and moderating standards and capstone assessments offered by providers for which it is the standard-setting body.
- (3) The chief executive of TEC—
  - (a) may issue guidance to a WDC on what must be contained in the transition plan; and
  - (b) must consult WDCs when developing the guidance.
- (4) When approving a transition plan, TEC may, by giving written notice to the WDC, make any amendments to the plan that it considers reasonably necessary.
- (5) As soon as practicable after TEC has approved a transition plan, the WDC must do all things necessary to give effect to the plan.
- (6) If a WDC fails or refuses to develop a transition plan, TEC may, after consulting NZQA, develop the transition plan for the WDC and the WDC must implement and maintain that plan.

#### **173 Minister may exercise temporary power of direction in relation to WDC**

- (1) During the transition period, the Minister may, by written notice to a WDC, give any directions the Minister thinks reasonably necessary to ensure that the WDC can deal effectively with matters relating to the allocation and transfer of functions to an industry skills board or NZQA.
- (2) The Minister must consult TEC, NZQA, and the WDC concerned before giving a direction.
- (3) The WDC must comply with the direction.
- (4) A direction expires on the earlier of—
  - (a) the expiry date specified in the direction; and
  - (b) the end of the transition period relating to the WDC.

Compare: 1989 No 80 Schedule 1 cl 24

#### **174 Transfer of rights, assets, and liabilities of WDC**

- (1) This clause applies to all rights, assets, and liabilities of a WDC that are allocated to an industry skills board or NZQA in accordance with the WDC's transition plan.
- (2) On and after the transfer date,—
  - (a) the rights, assets, and liabilities vest (as the case requires) in the industry skills board concerned or NZQA; and
  - (b) any information or document held by a WDC that relates to the functions or activities allocated in the WDC's transition plan to an industry skills board or NZQA is held by the industry skills board or NZQA (as the case may be); and

- (c) all money payable to, or by, a WDC (including funding payable under this Act) in relation to the functions or activities allocated in the WDC's transition plan to an industry skills board or NZQA becomes payable to, or by, the industry skills board or NZQA (as the case may be); and
- (d) unless the context otherwise requires, every reference to the WDC in any legislation (other than this Act), instrument, agreement, deed, lease, application, notice, or other document before that date must be read as a reference to that industry skills board or NZQA.

**175 Consequences of transfer for purposes of Inland Revenue Acts**

- (1) This clause applies in relation to a function of a WDC that is transferred to an industry skills board in accordance with the WDC's transition plan.
- (2) For the purposes of the Inland Revenue Acts (as defined in section 3(1) of the Tax Administration Act 1994), a WDC and the industry skills board must be treated as the same person to the extent that the function is transferred to the industry skills board.

**176 Transfers do not give rise to claims**

Nothing effected by this Part or any other provision of this Act—

- (a) places the Crown, a WDC, an industry skills board, NZQA, or any other person in breach of contract or confidence, or makes any of them liable for a civil wrong; or
- (b) places any of those persons or any other person in breach of any legislation, rule of law, or contractual provision prohibiting, restricting, or regulating the assignment or transfer of property or the disclosure of information; or
- (c) entitles a person to terminate or cancel a contract or an arrangement, or to accelerate the performance of an obligation, or to impose a penalty or an increased charge; or
- (d) releases a surety from an obligation; or
- (e) invalidates or discharges a contract or surety.

**177 Existing proceedings and other matters**

- (1) This clause applies in respect of any functions or activities allocated to an industry skills board or NZQA in accordance with a WDC's transition plan.
- (2) On and after the transfer date,—
  - (a) proceedings continued or enforced by or against the WDC may instead be continued or enforced by or against the industry skills board concerned or NZQA without amendment to the proceedings; and
  - (b) a matter or thing that would, but for this clause, have been completed by the WDC may instead be completed by that industry skills board or NZQA; and



- (c) anything done, or omitted to be done, or that is to be done, by or in relation to the WDC is to be treated as having been done, or having been omitted to be done, or having to be done, by or in relation to that industry skills board or NZQA.
- (3) In subclause (2)(a), **proceedings**—
  - (a) means civil and criminal proceedings; and
  - (b) includes any enforcement or compliance activities by TEC or NZQA.

*Transfer of WDC employees*

**178 Duties to identify employees and provide employee information**

- (1) A WDC must—
  - (a) identify the employees of the WDC whose positions may be required by an industry skills board or NZQA to carry out its functions; and
  - (b) provide to the industry skills board and NZQA the employee information about those employees that is reasonably necessary for the purpose of making offers of employment under clause 179(3).
- (2) In this clause, **employee information**, in relation to an employee of a WDC, includes (without limitation) information about—
  - (a) the employee's employment agreement, remuneration, accrued leave entitlements, superannuation scheme benefits, and any service-related benefits and entitlements;
  - (b) any employment policies that are part of the employee's conditions of employment.

**179 Employment of WDC employees by industry skills board or NZQA**

- (1) This clause applies if the functions or activities of a WDC are transferred, in accordance with the WDC's transition plan, to—
  - (a) an industry skills board that is to be responsible for carrying out those functions or providing the activities on and after the transfer date; or
  - (b) NZQA, in the case of any standards-setting function for a specified industry that is currently performed by the WDC and that will, on and after the transfer date, be performed by NZQA.
- (2) The industry skills board concerned or the chief executive of NZQA (as the case may be) must identify the employees of the WDC—
  - (a) whose duties overall are required by the industry skills board or NZQA to carry out those functions or provide those activities; and
  - (b) whose positions will cease to exist as a result of the transfer of the WDC's functions and activities to the industry skills board or NZQA.

- (3) An employee who is identified under subclause (2) may be offered equivalent employment by the corresponding industry skills board or NZQA, being employment that is—
- (a) in substantially the same position; and
  - (b) in the same general locality; and
  - (c) on terms and conditions (including, without limitation, in relation to the employee's overall remuneration and any service-related, redundancy, or superannuation conditions) that are no less favourable than those applying to the employee immediately before the date on which the offer of employment is made to the employee; and
  - (d) on terms that treat the period of service with the WDC (and every other period of service recognised by the WDC as continuous service) as if it were continuous service with the industry skills board or NZQA.
- (4) If the employee accepts an offer of employment under subclause (3), the employee's employment by the industry skills board or NZQA is to be treated as continuous employment, including for the purposes of service-related entitlements, whether legislative or otherwise.
- (5) An employee of a WDC who is offered employment by an industry skills board or NZQA is not entitled to receive any payment or other benefit on the grounds that—
- (a) the employee's position in the WDC has ceased to exist, whether or not the employee accepts the offer; or
  - (b) the person has ceased to be an employee of the WDC as a result of the person's employment by the industry skills board or NZQA.
- (6) The employment of an employee by the industry skills board or NZQA does not—
- (a) constitute new employment, including for the purposes of the Holidays Act 2003 or the KiwiSaver Act 2006 or any service-related entitlements or benefits (whether legislative or otherwise); or
  - (b) treat that employee as a new employee for the purposes of the Employment Relations Act 2000.
- (7) This clause overrides—
- (a) Part 6A of the Employment Relations Act 2000; and
  - (b) any employee protection provision in any relevant employment agreement.

**180 Transfer of employment rights, duties, liabilities, or obligations of WDC on change of employer**

- (1) This clause applies in relation to any rights, duties, liabilities, or obligations of a WDC (including in relation to any holiday and leave entitlements under the Holidays Act 2003)—
  - (a) relating to an employee who has become an employee of an industry skills board or NZQA under clause 179; and
  - (b) that were in existence immediately before the date on which the employee became an employee of the industry skills board or NZQA.
- (2) The rights, duties, liabilities, and obligations referred to in subclause (1) vest in the industry skills board or NZQA (as the case may be) on the date on which the employee becomes an employee of the industry skills board or NZQA.

**181 Government Superannuation Fund**

- (1) This clause applies to a person who, immediately before becoming an employee of an industry skills board or NZQA (as the case may be) was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956.
- (2) For the purposes of the Government Superannuation Fund Act 1956, the person is treated as being employed in the Government service as long as the person continues to be an employee of the industry skills board or NZQA.
- (3) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of the industry skills board or NZQA were Government service.
- (4) Subclause (1) does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (5) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of the industry skills board or NZQA (as the case may be) is the controlling authority.

**182 Visas granted under Immigration Act 2009**

- (1) This clause applies to a visa granted under the Immigration Act 2009 in respect of a person who—
  - (a) was an employee of a WDC; and
  - (b) has accepted an offer of employment from the chief executive of an industry skills board or NZQA under clause 179(3).
- (2) Any reference to the WDC in a condition imposed on the visa must be read as a reference to the industry skills board or NZQA (as the case may be) on and after the date on which the person becomes an employee of the industry skills board or NZQA.

### *Disestablishment of WDCs*

#### **183 Disestablishment of WDCs**

- (1) A WDC is disestablished on the earlier of the following dates:
  - (a) the date specified by Order in Council made under subclause (2); and
  - (b) the close of 31 December 2026.
- (2) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
  - (a) specify the date on which a WDC is disestablished; and
  - (b) provide for the distribution of residual assets and liabilities (including any liabilities for tax or redundancy payments) of the WDC.
- (3) An order made under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

#### **Legislation Act 2019 requirements for secondary legislation made under this clause**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

### *Consequences of disestablishment*

#### **184 Council members cease to hold office**

- (1) Every member of a WDC's council holding office immediately before the disestablishment date ceases to hold office on the close of the day before that date.
- (2) Neither the Crown nor the WDC is liable to make a payment to, or otherwise compensate, a person referred to in subclause (1) in respect of the loss of office.

#### **185 Previous actions or decisions of WDC not affected**

The disestablishment of a WDC does not, by itself, affect any of the following matters:

- (a) any decision made, or anything done or omitted to be done, by the WDC in relation to the performance or exercise of its functions, powers, or duties under any legislation;
- (b) any proceedings commenced by or against the WDC;
- (c) any other matter or thing arising out of the WDC's performance or exercise, or purported performance or exercise, of its functions, powers, or duties under any legislation.

Compare: 2022 No 30 Schedule 1 cl 10

**186 Final report of WDC**

- (1) A WDC must provide the Minister with a final report in respect of its operations for the period—
  - (a) commencing at the start of the financial year in which the WDC is disestablished; and
  - (b) ending on the WDC's disestablishment date.
- (2) The final report must—
  - (a) be prepared in accordance with the annual reporting requirements set out in the Order in Council that established the WDC; and
  - (b) be provided not later than 3 months after the disestablishment date.
- (3) The Minister may transfer some or all of the responsibility for providing the final report to another party if satisfied that it is necessary or expedient to do so.

**Subpart 4—Transitional provisions relating to establishment of council of polytechnic****187 Validation of pre-commencement actions and processes**

- (1) This clause applies to any action or process undertaken by the Minister before commencement when appointing members to the first council of a polytechnic.
- (2) An appointment is valid if the action or process substantially complies with this Act.

**188 Membership of first council of polytechnic reduced**

- (1) The number of first council members of a polytechnic is proportionately reduced until the date on which each member referred to in section 317 (as replaced by the amendment Act) is appointed to the council.
- (2) No action of a polytechnic's council is invalid merely because any member referred to in subclause (1) has not been appointed to the polytechnic's council on its establishment date.

**Subpart 5—Transitional provisions relating to establishment of industry skills boards****189 Members of first industry skills board**

- (1) The members of a first industry skills board are as follows:
  - (a) 2 members appointed by the Minister; and
  - (b) 6 members subsequently appointed by the members referred to in paragraph (a).
- (2) For the purpose of appointing members under subclause (1)(b), the chief executive of TEC must—

- (a) invite nominations and expressions of interest for appointment to the board (including, where appropriate, from industry bodies, employers, employees, and iwi partners from the specified industries covered by the board); and
  - (b) recommend to the members appointed by the Minister under subclause (1)(a) from the list of nominations and expressions of interest received by the chief executive those persons that the chief executive considers are suitable for appointment, having regard to the matters set out in section 365 (as replaced by the amendment Act).
- (3) The members appointed under subclause (1)(a) must consider the recommendations received from the chief executive of TEC and appoint as members of the board those persons who are best suited for appointment as a member, having regard to the matters set out in section 365 (as replaced by the amendment Act).
- (4) Members appointed under subclause (1)(b) must be appointed as soon as practicable, but no later than 31 March 2026.

**190 Validation of pre-commencement actions and processes regarding appointments to industry skills board**

An appointment of a member to an industry skills board by the Minister is valid if the action or process for appointment undertaken before the commencement date substantially complies with the membership requirements of this Act.

**191 Membership of industry skills board reduced until all appointments made**

- (1) The number of members and the quorum required for a meeting under clause 13(3) of Schedule 13 are proportionately reduced until the date on which each member referred to in section 363 (as replaced by the amendment Act) is appointed to the industry skills board.
- (2) No action of an industry skills board is invalid merely because a member has not been appointed to the board on its establishment date.

**192 First annual report for industry skills board**

- (1) The Minister may exempt an industry skills board that is established during the last 4 months of a financial year from the obligation to provide an annual report for that financial year.
- (2) An industry skills board that is exempted under subclause (1) must, after the end of the industry skills board's first full financial year, provide an annual report that covers the period from the date on which it is established until the end of its first full financial year.
- (3) To avoid doubt, the annual report referred to in subclause (2) must contain the information that is required to be included in the industry skills board's annual

report, except that the information must be in respect of the period referred to in that subclause.

### Subpart 6—Miscellaneous

#### **193 Apprenticeship training code**

- (1) This clause applies to an apprenticeship training code issued under section 378 (as it read immediately before commencement) and in force immediately before commencement.
- (2) The apprenticeship training code continues in force on and after commencement and must be treated as if it were issued under section 384 (as replaced by the amendment Act).

## Schedule 2

### New Schedule 11A inserted

s 35

### Schedule 11A

#### Administrative provisions of Federation Committee

s 341G

#### 1 Chairperson

- (1) The Minister may appoint a chairperson of the Federation Committee from among its members by giving written notice to the member concerned stating the term for which the member is appointed as chairperson.
- (2) The Minister may, by written notice to the member concerned, dismiss the member from office as chairperson.
- (3) However, the Minister may not dismiss the chairperson without first consulting the chairperson about the proposed dismissal.
- (4) A person holds office as chairperson for the term for which the person was appointed (but may be reappointed), unless the person earlier dies, is dismissed, or ceases to hold office.
- (5) A person ceases to hold office as chairperson if—
  - (a) the person gives written notice of resignation to the Minister; or
  - (b) ceases to be a member of the Federation Committee.
- (6) A person who resigns as chairperson must give a copy of the notice of resignation to the Federation Committee.
- (7) If the term of office of the chairperson expires before a successor is appointed, the chairperson continues in office until a successor is appointed.

#### 2 Chairperson to preside when present

- (1) The chairperson of the Federation Committee must preside at all meetings of the Committee at which the chairperson is present.
- (2) If the chairperson is not present, the members present must appoint one of their number to preside at that meeting.

#### 3 Federation Committee meetings

- (1) The chairperson may convene meetings to be held at the time and place that the chairperson of the Federation Committee determines and must give at least 7 days' notice in writing of those meetings to members.
- (2) If a member is unable to attend a meeting, a person nominated by the member may attend in place of the member and, when so attending, is to be treated as the member of the Federation Committee for the purposes of the meeting.



- (3) A meeting may be held by means of electronic communication.
- (4) The quorum for a meeting is a majority of the members then holding office.
- (5) The Federation Committee should strive to achieve consensus in its decision making.
- (6) However, if at any meeting of the Federation Committee consensus on any matter cannot be achieved, the matter must be decided by a majority of those members present, with the chairperson for the meeting having a casting vote.
- (7) A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
- (8) An irregularity in a notice of a meeting is waived if all members entitled to receive the notice—
  - (a) attend the meeting without objection to the irregularity; or
  - (b) do not attend the meeting but agree before the meeting is held to waive the irregularity.
- (9) Subject to this clause, the Federation Committee may determine its own procedures for regulating meetings and conducting its affairs.

#### **4 Collective duties**

- (1) The Federation Committee must act in a manner consistent with its functions, duties, and powers.
- (2) The Federation Committee must perform or exercise its functions, duties, and powers efficiently and effectively.
- (3) The Federation Committee must operate in a financially responsible manner and, for that purpose, ensure that it prudently manages its assets and liabilities.

#### **5 Individual duties**

- (1) A member of the Federation Committee may not contravene, or cause the contravention of, or agree to the Federation Committee contravening, the Act.
- (2) A member of the Federation Committee must, when acting as a member,—
  - (a) act with honesty and integrity; and
  - (b) act in good faith and not pursue the member's own interests at the expense of the Committee's interests; and
  - (c) exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—
    - (i) the nature of the Committee; and
    - (ii) the nature of the action; and
    - (iii) the position of the member and the nature of the responsibilities undertaken by the member.

- (3) A member of the Federation Committee must—
- (a) act in the interests of the Committee as a whole; and
  - (b) act in a manner that promotes the performance of the functions and the duties of the Committee.
- (4) A member of the Federation Committee who has information in their capacity as a member that would not otherwise be available to them may not disclose the information to any person, or make use of, or act on, the information, except—
- (a) in the performance of the Federation Committee's functions; or
  - (b) as required or permitted by law; or
  - (c) if the member is first authorised to do so by the Committee and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Committee.

## 6 Conflicts of interest

- (1) A person is **interested** in a matter if the person—
- (a) may derive a financial benefit from the matter; or
  - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
  - (c) may have a financial interest in a person to whom the matter relates; or
  - (d) is a partner, director, officer, board or council or committee member of a person who may have a financial interest in a person to whom the matter relates; or
  - (e) is otherwise directly or indirectly interested in the matter.
- (2) A member who is interested in a matter relating to the Federation Committee must disclose to the Federation Committee details of the interest as soon as practicable after the member becomes aware that the member is interested.
- (3) The details that must be disclosed are—
- (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - (b) the nature and extent of the interest (if the monetary value cannot be quantified).
- (4) A member who is interested in a matter—
- (a) may not vote or take part in any discussion or decision of the Federation Committee or any of its committees relating to the matter, or otherwise participate in any activity of the Federation Committee that relates to the matter; and
  - (b) may not sign any document relating to the entry into a transaction or the initiation of the matter.

(5) To avoid doubt, a member must not be treated as interested in a matter merely because the member is an officer or an employee of a federation polytechnic to which the matter relates.

(6) In this clause, **matter** means—

- (a) the Federation Committee's performance of its functions or exercise of its powers; or
- (b) an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Federation Committee.

## **7 Staff and expenses**

The federation polytechnics and anchor polytechnics are responsible for—

- (a) providing the Federation Committee with a secretariat and other staff to assist the Committee in the performance of its functions and for paying the remuneration and allowances of those staff; and
- (b) meeting the office overheads and other costs and expenses reasonably incurred by the Committee in performing its functions.

## **8 Personal liability of members or staff**

A member of the Federation Committee or staff member of the Federation Committee is not personally liable for any act done or omitted by the person—

- (a) in good faith; and
- (b) in the performance or intended performance of the Committee's functions.

## **9 Method of contracting**

(1) A contract or other enforceable obligation may be entered into by the Federation Committee according to this clause.

(2) An obligation that, if entered into by an individual, is required to be by deed may be entered into on behalf of the Federation Committee in writing, signed under the name of the Committee,—

- (a) by 2 or more of its members; or
- (b) by 1 or more attorneys appointed by the Committee.

(3) An obligation that is required to be in writing may be entered into on behalf of the Federation Committee in writing by a person acting under the Committee's express or implied authority.

(4) An obligation that is not required to be in writing may be entered into on behalf of the Federation Committee in writing or orally by a person acting under the Committee's express or implied authority.

(5) This clause applies to a contract or other obligation—

- (a) whether or not that obligation was entered into in New Zealand; and

- (b) whether or not the law governing that obligation is the law of New Zealand.

## **10 Federation Committee may establish committees**

- (1) The Federation Committee may establish committees to advise the Committee on decisions relating to exercising its powers or performing its functions.
- (2) A committee of the Federation Committee may include people who are members of the Federation Committee, people who are not members of the Federation Committee, or both.
- (3) A committee of the Federation Committee must appoint a person to preside at its meetings (a **presiding officer**).
- (4) If the presiding officer is not present at a meeting of the committee of the Federation Committee, the members of the committee present must appoint one of their number to preside at that meeting.
- (5) Subject to this clause, a committee of the Federation Committee may determine its own procedures.

## **11 Delegations**

- (1) The Federation Committee may, either generally or specifically, delegate any of its powers under this Act or any other enactment to—
  - (a) any of its committees; or
  - (b) any member of the Committee, its committees, or its staff (including contractors and secondees).
- (2) A delegation—
  - (a) must be in writing; and
  - (b) is revocable at will in writing; and
  - (c) may be made subject to instructions or conditions.
- (3) A committee or person purporting to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of that delegation.
- (4) A delegation does not affect or prevent the Federation Committee from exercising any power or affect the Committee's responsibility for the actions of any committee or person acting under it.
- (5) A delegation continues in force until revoked.

## **12 Bank accounts**

- (1) The Federation Committee may establish, maintain, and operate bank accounts at a registered bank.
- (2) As soon as practicable after receiving any money, the Federation Committee must pay it into one of its bank accounts.

- (3) The Federation Committee must properly authorise every withdrawal and payment of money from any of its bank accounts.

**13 Investment**

Subject to any other enactment, the Federation Committee may invest any of its money in any manner in which the Treasury may invest public money under section 65I(1) and (2) of the Public Finance Act 1989.

**14 Annual report**

- (1) As soon as practicable after the end of an academic year, the Federation Committee must give to the federation polytechnics, the anchor polytechnics, and the TEC a report on its operations and activities for that academic year.
- (2) The annual report must include (without limitation)—
- (a) the audited financial statements of the Federation Committee; and
  - (b) an outline of the progress the Federation Committee has made towards achieving the goals and objectives set out in its statement of strategic direction.

## Schedule 3

### Schedule 13 replaced

s 36

### Schedule 13

#### Further provisions applying to industry skills boards

s 362(5)

#### 1 Interpretation

In this schedule, unless the context otherwise requires,—

**Board** means an industry skills board established under section 362

**member** means a member of the Board.

#### 2 Term of office

(1) When making appointments, the Minister or the Board—

- (a) may appoint a member for a period not exceeding 4 years; and
- (b) must state in the notice or resolution appointing the member—
  - (i) the day on which the member's appointment takes effect; and
  - (ii) the term for which the member is appointed.

(2) A member may be reappointed if the total of any consecutive or non-consecutive terms does not exceed 8 years.

(3) If a member's term of office expires before their successor is appointed, the member continues in office until their successor's appointment takes effect.

#### 3 Chairperson and deputy chairperson

##### *Appointment*

(1) The Board may appoint one of the members as chairperson and one of the members as deputy chairperson by notice in writing stating the date on which the appointment takes effect.

##### *Term of office*

(2) The chairperson or deputy chairperson holds that office until—

- (a) they resign from that office; or
- (b) they are removed from it by the Board; or
- (c) they cease to hold office as a member; or
- (d) the term of office specified on appointment expires.

(3) A person may be reappointed as chairperson or deputy chairperson for a further term.

*Resignation*

- (4) The chairperson or deputy chairperson may, without resigning as a member, resign from that office by giving written notice to the Board.
- (5) The notice of resignation must state the date on which the resignation takes effect.

*Removal*

- (6) The Board may, after consulting the person concerned, remove the chairperson or deputy chairperson from office by written notice to the person (with a copy to the Board).
- (7) The notice of removal must state the date on which the removal takes effect.

**4 Removal from office**

- (1) The Minister may revoke the appointment of a member that the Minister has appointed.
- (2) The Minister must provide the Board with the Minister's reason or reasons for the revocation in writing.
- (3) The Board may revoke the appointment of a member for just cause.
- (4) The revocation of the appointment must be made by written notice to the member, stating—
  - (a) the date on which the revocation takes effect, which must be no earlier than the date on which the notice is received; and
  - (b) the reasons for the revocation.
- (5) The Board may revoke the appointment of a member with as little formality and technicality, and as much expedition, as is permitted by—
  - (a) the principles of natural justice; and
  - (b) a proper consideration of the matter; and
  - (c) the Board's policy (if any) on the revocation of the appointment of members.
- (6) A member is not entitled to any compensation or other payment or benefit relating to the member ceasing, for any reason, to hold office as a member.
- (7) In subclause (3), **just cause** includes misconduct, inability to perform the functions of office, neglect of duty, and breach of any of the collective duties of the Board or the individual duties of members (depending on the seriousness of the breach).

**5 Continuation in office**

- (1) Each member continues in office (unless the member ceases to hold office) until a successor is appointed.
- (2) A member may resign from office by written notice to the Board signed by the member.

- (3) The resignation takes effect when the Board receives the notice or at any later time specified in the notice.
- (4) A member of the Board ceases to hold office if the member—
  - (a) resigns; or
  - (b) has had their appointment as a member revoked under clause 4; or
  - (c) becomes disqualified from being a member; or
  - (d) ceases to hold office in accordance with any legislation.

## **6 Vacancies**

### *Ordinary vacancies*

- (1) The Board must fill an ordinary vacancy as soon as practicable using the process by which the departing member was appointed, unless that process is no longer available or applicable to the position.

### *Extraordinary vacancies*

- (2) An extraordinary vacancy occurs when a member dies or ceases to hold office under clause 5(4).
- (3) If an extraordinary vacancy occurs within 6 months of the expiry of the vacating member's term, the Board may—
  - (a) appoint a replacement; or
  - (b) leave the vacancy open.
- (4) If an extraordinary vacancy occurs more than 6 months before the expiry of the vacating member's term, the Board must appoint a replacement member using the process by which the departing member was appointed, unless that process is no longer available or applicable to the position.
- (5) A person appointed or elected to fill an extraordinary vacancy holds office only for the remainder of the vacating member's term.

### *General*

- (6) The powers of the Board are not affected by any vacancy in its membership.

## **7 Collective duties**

- (1) The Board must act in a manner consistent with its functions, duties, and powers.
- (2) The Board must perform or exercise its functions, duties, and powers efficiently and effectively.
- (3) The Board must operate in a financially responsible manner and, for that purpose, ensure that it prudently manages its assets and liabilities.

## **8 Individual duties**

- (1) A member may not contravene, or cause the contravention of, or agree to the Board contravening, this Act.



- (2) A member must, when acting as a member, act with honesty and integrity.
- (3) A member must, when acting as a member, act in good faith and not pursue the member's own interests at the expense of the Board's interests.
- (4) A member must, when acting as a member, exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation)—
  - (a) the nature of the Board; and
  - (b) the nature of the action; and
  - (c) the position of the member and the nature of the responsibilities undertaken by the member.
- (5) A member must—
  - (a) act in the interests of the Board as a whole; and
  - (b) act in a manner that promotes the performance of the functions and the duties of the Board.
- (6) A member must comply with a code of conduct for members issued by the Board.
- (7) A member who has information in the member's capacity as a member that would not otherwise be available to the member may not disclose the information to any person, or make use of, or act on, the information, except—
  - (a) in the performance of the Board's functions; or
  - (b) as required or permitted by law; or
  - (c) when the member is first authorised to do so by the Board and the disclosure, use, or act in question does not, or is unlikely to, prejudice the Board.

## **9 Accountability**

- (1) A member's duties are owed to the Board.
- (2) If a member does not comply with their individual duties, the member's appointment may be revoked.
- (3) The Board may bring an action against a member for breach of any individual duty.
- (4) A member is not liable for a breach of an individual duty, except as provided in subclauses (2) and (3).
- (5) Nothing in this clause limits or affects the member's accountability for any thing else for which the member may be liable under any Act or rule of law arising from the act or omission that constitutes the breach.

## **10 Personal liability of members**

A member is not personally liable for any act done or omitted to be done by the Board or any loss to the Board arising out of any act or omission of the

member if the act or omission was (as far as the member's involvement is concerned)—

- (a) in good faith; and
- (b) in performance or intended performance of the functions of the Board.

## **11 Conflicts of interest**

- (1) A person is **interested** in a matter if the person—
  - (a) may derive a financial benefit from the matter; or
  - (b) is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or
  - (c) may have a financial interest in a person to whom the matter relates; or
  - (d) is a partner, director, or officer, or a member of a board or a committee, of a person who may have a financial interest in a person to whom the matter relates; or
  - (e) otherwise directly or indirectly has an interest in the matter.
- (2) A member who is interested in a matter relating to the Board must disclose to the Board details of the interest as soon as practicable after the member becomes aware that they are interested.
- (3) The details that must be disclosed are—
  - (a) the nature of the interest and the monetary value of the interest (if the monetary value can be quantified); or
  - (b) the nature and extent of the interest (if the monetary value cannot be quantified).
- (4) A member who has an interest in a matter—
  - (a) may not vote or take part in any discussion or decision of the Board or any of its committees relating to the matter, or otherwise participate in any activity of the Board that relates to the matter; and
  - (b) may not sign any document relating to the entry into a transaction or the initiation of the matter.
- (5) In this clause, **matter** means the Board's performance of its functions or exercise of its powers, or an arrangement, agreement, or a contract made or entered into, or proposed to be made or entered into, by the Board.

## **12 Delegation**

- (1) The Board may, by resolution in writing, delegate any of its functions or powers (except the power to appoint a general manager) to—
  - (a) a member or members of the Board;
  - (b) the general manager;
  - (c) a committee appointed by the Board;

- (d) a subsidiary of the Board:
  - (e) any other person approved by the Board.
- (2) The power to delegate may not be further delegated.
- (3) The person to whom any functions or powers are delegated may perform those functions or exercise those powers in the same manner and with the same effect as if the delegate were the Board.
- (4) A person who purports to act under a delegation is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of delegation.
- (5) A delegation under this clause—
  - (a) may be subject to any conditions that the Board thinks fit:
  - (b) is revocable at any time, by notice in writing or by any other method specified in the delegation:
  - (c) does not prevent the Board from performing the functions or exercising the powers:
  - (d) does not affect the Board's responsibility for the actions of the person acting under delegation.

### **13 Meetings**

- (1) The chairperson may convene meetings to be held at the time and place that the chairperson determines, and must give at least 7 days' notice in writing of those meetings to members.
- (2) A meeting may be held by means of electronic communication.
- (3) The quorum for a meeting is 4 of the members then holding office.
- (4) The Board should strive to achieve consensus in its decision making; however, any matter arising at a meeting may be decided by a majority vote of those members present with the chairperson having a casting vote or, if the chairperson is absent, with the deputy chairperson having a casting vote.
- (5) A resolution in writing signed by a majority of members is as valid as if it had been passed at a meeting of those members.
- (6) An irregularity in a notice of a meeting is waived if all members entitled to receive the notice—
  - (a) attend the meeting without objection to the irregularity; or
  - (b) do not attend the meeting, but agree before the meeting is held to waive the irregularity.
- (7) Subject to this clause, the Board may determine its own procedures for regulating meetings and conducting its affairs.

## Schedule 4

### Schedules 16 and 17 replaced

s 38

### Schedule 16

#### Matters to be specified in industry skills board levy orders

s 385B

#### 1 Purposes for which levy may be used

- (1) A levy order must specify the purposes for which levy funds are to be used.
- (2) A levy order may specify any purpose or purposes for which no amount of levy may be used.
- (3) In specifying how levy funds are to be used, a levy order may specify 1 or more purposes that benefit the levy group as a whole and that are related to meeting the costs of the relevant industry skills board performing its functions under section 367.
- (4) No levy order may specify a purpose for which levy funds may be used that is related to—
  - (a) meeting the costs of arranging delivery of work-based training; or
  - (b) undertaking any commercial or trading activity; or
  - (c) any matter that directly benefits 1 or more individual members of the levy group, as opposed to generally benefiting the relevant industry as a whole.
- (5) Subclause (4)(b) does not prevent an industry skills board from—
  - (a) using any part of a levy to publish or sell any educational, informative, or promotional material (whether or not for profit); or
  - (b) investing any part of a levy pending its expenditure.

#### 2 Who pays and receives levy

A levy order must specify—

- (a) the industry whose members are to be primarily liable to pay the levy; and
- (b) the name of the industry skills board that is to receive the levy.

#### 3 Amount of levy

A levy order must specify—

- (a) the basis on which the amount of the levy is to be calculated or ascertained; and

- (b) how the size of a qualifying member of the levy group is to be calculated for the purposes of calculating the levy payable by that member, for example,—
  - (i) based on the number of employees of the member who work in the relevant industry; or
  - (ii) based on the level of production of the member; and
- (c) whether the levy is to be payable at a single rate or 2 or more different rates and the basis on which any different rates apply; and
- (d) how the amount of the levy payable is to be calculated when a person becomes a qualifying member of the levy group part way through a levy period; and
- (e) how the rates of the levy are to be notified; and
- (f) maximum and minimum amounts of levy payable (if any); and
- (g) the amount of any additional charges, or the percentage increase in the levy payable, for late payment of levies and unpaid levies.

#### **4 Levy order may require provision of information**

A levy order may require qualifying members of the levy group to provide information to the industry skills board, or some other person or body, for the purpose of enabling or assisting with the determination of the amount of levy payable.

#### **5 Application of levy by industry skills board**

- (1) A levy order must specify—
  - (a) how the industry skills board is to spend the levy; or
  - (b) the means by which the industry skills board is to consult qualifying members of the levy group as to how the industry skills board is to spend the levy.
- (2) A levy order may specify whether the levy must be spent by the industry skills board or may be paid to, and spent by, branches or subsidiaries of the industry skills board.

#### **6 Payment of levy**

A levy order must specify when and how the levy is to be payable, including—

- (a) the period to which the levy applies (the **levy period**); and
- (b) how often levy payments are required to be made; and
- (c) the methods of payment of the levy that are to be available to qualifying members of the levy group; and

- (d) how refunds of the levy are to be calculated, and when they are to be paid, if a qualifying member ceases to be a qualifying member of the levy group part way through a levy period; and
- (e) what exemptions from payment of the levy are available; and
- (f) the circumstances (if any) in which, and the conditions on which, qualifying members of the levy group may be allowed extensions of time for the payment of any amount of levy; and
- (g) the enforcement mechanisms that the industry skills board receiving the levy may use to collect the levy.

#### **7 Levy order may provide for collection by agent**

- (1) A levy order may specify persons, other than the persons who are primarily responsible for paying the levy, who must collect levy money due from qualifying members and pay it to the industry skills board.
- (2) If a levy order specifies a person who must act as a collection agent under subclause (1), the levy order must also specify an amount from, or a percentage of, the levy money collected that the person may retain as a fee for providing the collection service.

#### **8 Record-keeping**

A levy order must provide for records to be kept by—

- (a) the industry skills board receiving the levy; and
- (b) persons collecting the levy; and
- (c) persons who are, or may be, liable to pay the levy.

#### **9 Dispute resolution**

A levy order must provide details of the arbitration or mediation method to apply in the case of disputes, as required by clause 13(2) of Schedule 17.

**Schedule 17****Provisions relating to administration of industry skills board levy**

s 385C

**1 Industry skills board must identify potential members of levy group**

- (1) An industry skills board must take reasonable steps to identify all potential members of the levy group, including obtaining from the industry skills board's records, and from records that may be available from other industry skills boards, information that can be used to identify potential members.
- (2) After satisfying the requirements of subclause (1), the industry skills board must provide TEC with a list of all potential members of the levy group it has identified.

**2 TEC must notify potential members of levy group**

- (1) TEC must notify—
  - (a) every person named on the list of potential members of the levy group provided by the industry skills board under clause 1(2); and
  - (b) any other person who TEC considers may be a member of the levy group.
- (2) The notice under subclause (1) must—
  - (a) describe the industry that is intended to be covered by the proposed levy order; and
  - (b) state that TEC considers that the person is or may be a member of that industry; and
  - (c) state that membership of the industry means that the person is required to pay the levy if the levy order is made; and
  - (d) state that the person must notify TEC if the person disputes that the person is a member of the industry intended to be covered by the proposed levy order (a **coverage dispute**); and
  - (e) state the date by which that notification of a coverage dispute must be received.

**3 TEC must resolve coverage disputes**

- (1) If TEC receives a notice under clause 2(2)(d) that a person wishes to raise a coverage dispute, TEC must determine the matter.
- (2) The industry skills board that is proposing a levy be imposed or, if a levy order has been made, that is responsible for administering the levy must pay the reasonable costs of TEC for determining the dispute.

**4 Industry skills board must consult qualifying members relating to payment of levy**

An industry skills board must—

- (a) provide the qualifying members of the levy group with information on the purposes of the proposed levy; and
- (b) seek feedback from the qualifying members of the levy group on the proposals relating to the levy order and whether the proposed levy is in the interests of all members of the levy group.

**5 Levy is payable by qualifying members to industry skills board**

If a levy order is made, the levy specified in the order is payable by every qualifying member of the levy group to the industry skills board named in the levy order.

**6 Exemption from payment of levy**

The chief executive of an industry skills board may exempt a member of the relevant industry from payment of a levy if satisfied on reasonable grounds that 1 or more of the reasons for exemption, specified in the levy order in accordance with clause 6(e) of Schedule 16, applies to that member.

**7 Method of collecting levy**

- (1) An industry skills board may collect levies directly from qualifying members of the levy group or by using a collection agent specified in the levy order in accordance with clause 7 of Schedule 16.
- (2) An industry skills board may recover levies due from any qualifying member of the levy group—
  - (a) by deducting the amount due from any amount the industry skills board owes that qualifying member; or
  - (b) as a debt due to the industry skills board.

**8 Accounting systems**

An industry skills board must have in place adequate systems for accounting to qualifying members of the levy group for the expenditure of levy funds.

**9 Levy funds must be kept in separate bank accounts and used only for authorised purposes**

- (1) An industry skills board that receives a levy under a levy order must open 1 or more bank accounts for the purposes of the levy and must use the account or those accounts for only the following purposes:
  - (a) depositing amounts of levy paid or recovered; and
  - (b) making payments out of levy funds.



- (2) Only people expressly authorised by the industry skills board may operate the account or those accounts.
- (3) No money may be paid out of the account or those accounts except for a purpose authorised in the levy order.

#### **10 Duty to keep records**

An industry skills board that receives a levy must keep an accurate and up-to-date record of—

- (a) the names of all members of the levy group from whom the levy has been collected or recovered; and
- (b) the amount of the levy collected or recovered from those members; and
- (c) the names of all members of the levy group who are or may be liable to pay the levy but have not done so; and
- (d) the use to which the levy funds have been put.

#### **11 Duty to provide annual report**

- (1) As soon as practicable after the end of a financial year during which a levy has been paid to an industry skills board under a levy order, the industry skills board—
  - (a) must prepare, in respect of that year, financial statements in accordance with generally accepted accounting practice (within the meaning of section 8 of the Financial Reporting Act 2013); and
  - (b) must include in the financial statements required by paragraph (a) all the necessary information to explain—
    - (i) the balance of the levy fund; and
    - (ii) the movements in the levy fund over the course of the year, including receipts of money collected and payments of money made under the levy order; and
    - (iii) the use of assets acquired or built up with or out of money received under the levy order.
- (2) The industry skills board must ensure that the financial statements prepared under subclause (1) are audited within 3 months after the end of that financial year.
- (3) Financial statements prepared under subclause (1) must be included in the industry skills board's annual report for that year.
- (4) An industry skills board that is required by subclause (3) to include financial statements in its annual report must, as soon as that report has been completed, give a copy to the Minister, and the Minister must present a copy to the House of Representatives not later than 6 sitting days after receiving it.

(5) Despite subclause (4), if an enactment other than this Act requires an industry skills board to give a Minister a copy of its annual report and requires the Minister to present a copy to the House of Representatives, the board must, to the extent that the enactment and subclause (4) impose different requirements, comply with the enactment instead of subclause (4).

(6) An industry skills board must ensure that a copy of the annual report is made available to the members of the levy group liable for paying the levy as soon as practicable after the report has been completed.

## **12 Duty to protect commercially sensitive information**

A person who receives commercially sensitive information for the purposes of carrying out a function or an activity under this schedule, or under a levy order, must take reasonable steps to protect that information.

## **13 Arbitration or mediation system must be established**

(1) An industry skills board that receives a levy under a levy order must establish a method of arbitration or mediation for resolving disputes regarding—

- (a) whether a person has paid the levy; and
- (b) the amount of levy payable; and
- (c) any other matter relating to the levy, except disputes about whether a person is within the levy group.

(2) Details of the arbitration or mediation method must be specified in the levy order, including—

- (a) the method of appointment of arbitrators or mediators; and
- (b) the procedures to be followed by arbitrators or mediators; and
- (c) the remuneration of arbitrators or mediators; and
- (d) the payment of costs in relation to arbitration or mediation; and
- (e) any other matters relating to the resolution of disputes.

## **14 Appeal to District Court**

(1) If a dispute is unresolved after arbitration or mediation in accordance with the method specified in the levy order, or if a party wishes to appeal against a decision of an arbitrator or mediator, the dispute may be referred, or the decision may be appealed, to the District Court.

(2) A determination by TEC under clause 3 may be appealed against on grounds of procedural error only.

(3) An appeal under subclause (2) may be made to the District Court by the person disputing membership of the levy group or by the industry skills board that is proposing a levy or is responsible for administering the levy.

## Schedule 5

### Minor and consequential amendments to principal Act

s 39

#### Section 9

In section 9(2)(c), replace “sections 278(2)(a), 320(1)(c), 325(1) and (3), 326(2), and 363(3)(b), which provide” with “section 278(2)(a), which provides”.

#### Section 10

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

**council**, in relation to an institution, means the body that governs the institution in accordance with section 271

In section 10(1), definition of **programme**, replace “section 10(5)(a)” with “section 10(5)”.

In section 10(1), repeal the definitions of **Te Pūkenga—New Zealand Institute of Skills and Technology**, **Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary**, and **workforce development council**.

In section 10(5), replace “workforce development council,” with “industry skills board,”.

In section 10(5)(a), replace “a workforce development council” with “an industry skills board”.

#### Section 260

Repeal section 260(5).

#### Section 267

In the heading to section 267, delete “(other than **Te Pūkenga—New Zealand Institute of Skills and Technology**)”.

#### Section 270

Repeal section 270(7).

#### Section 273

Repeal section 273(4).

#### Section 274

Repeal section 274(6).

#### Section 277

Repeal section 277(2).

**Section 283**

Repeal section 283(3).

**Section 284**

In section 284(1)(a), delete “and the board of an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary”.

**Section 285**

Repeal section 285(6).

**Section 297**

Repeal section 297(4).

**Section 395**

In section 395(2), delete “(including an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary)”.

**Section 398C**

In section 398C(2)(d)(vi), delete “(other than Te Pūkenga—New Zealand Institute of Skills and Technology)”.

**Section 398R**

In section 398R(1), replace “section 4” with “section 5”.

**Section 406**

Repeal section 406.

**Section 420**

Repeal section 420(2).

**Section 527**

In section 527(3), replace “scheme” with “micro-credential”.

**Section 658**

Replace section 658 with:

**658 Academic freedom unaffected**

Nothing in sections 653 to 657 limits the academic freedom of an institution as set out in section 267.

**Schedule 1**

In Schedule 1, in the heading to clause 14, delete “(other than Te Pūkenga—New Zealand Institute of Skills and Technology or Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary)”.

**Schedule 1**—*continued*

In Schedule 1, clause 14(1), delete “(other than Te Pūkenga—New Zealand Institute of Skills and Technology or an Te Pūkenga—New Zealand Institute of Skills and Technology subsidiary)”.

**Schedule 11**

In Schedule 11, repeal clause 1(4).

In Schedule 11, repeal clause 2(2).

In Schedule 11, repeal clause 3(5).

In Schedule 11, repeal clause 5(2).

In Schedule 11, repeal clause 6(3).

In Schedule 11, repeal clause 7(7).

In Schedule 11, repeal clause 9(5).

In Schedule 11, repeal clause 10(4).

In Schedule 11, repeal clause 11(7).

In Schedule 11, repeal clause 12(8).

In Schedule 11, repeal clause 17(4).

In Schedule 11, repeal clause 18(6).

In Schedule 11, clause 20, delete “(including Te Pūkenga—New Zealand Institute of Skills and Technology and its subsidiaries)”.

## Schedule 6

### Consequential amendments to other legislation

s 51

#### Part 1

#### Amendments to Acts that come into force on day after Royal assent

##### **Building Act 2004 (2004 No 72)**

In Schedule 2, paragraph (m), after “universities,”, insert “polytechnics,”.

##### **Crown Entities Act 2004 (2004 No 115)**

In section 7(1)(e), after “universities,”, insert “polytechnics,”.

##### **Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)**

Replace section 157 with:

**157 Minister may require output agreement to include matters relating to Board’s relationship with industry skills board or workforce development council**

(1) The Minister may require the output agreement referred to in section 156 to include matters relating to the Board’s relationship with any industry skills board or workforce development council (as applicable).

(2) The purpose of the matters referred to in subsection (1) is to assist the Board and the industry skills board or workforce development council to clarify, align, and manage their respective expectations and responsibilities in relation to their respective functions and powers.

(3) In this section,—

**industry skills board** means an industry skills board established under section 362 of the Education and Training Act 2020

**workforce development council** means a workforce development council continued for the time being under clause 170 of Schedule 1 of the Education and Training Act 2020.

##### **Public Audit Act 2001 (2001 No 10)**

In Schedule 2, item relating to workforce development councils, replace “established under section 363” with “continued for the time being under clause 170 of Schedule 1”.

##### **Public Works Act 1981 (1981 No 35)**

In section 2, definition of **local authority**, after paragraph (b)(ii), insert:

(iia) a polytechnic:

**Public Works Act 1981 (1981 No 35)—*continued***

In section 2, definition of **public work** and **work**, paragraph (c)(i), replace “university or wānanga” with “university, polytechnic, or wānanga”.

**Real Estate Agents Act 2008 (2008 No 66)**

In section 12(3), replace “a workforce development council established under section 363 of the Education and Training Act 2020” with “an industry skills board established under section 362 of the Education and Training Act 2020 or a workforce development council continued for the time being under clause 170 of Schedule 1 of that Act (as applicable)”.

**Support Workers (Pay Equity) Settlements Act 2017 (2017 No 24)**

In section 5, definition of **level 2 qualification**, paragraph (b), replace “workforce development council (as defined in section 10(1) of” with “industry skills board or workforce development council (as established or continued for the time being under”.

In section 5, definition of **level 3 qualification**, paragraph (b), replace “workforce development council (as defined in section 10(1) of” with “industry skills board or workforce development council (as established or continued for the time being under”.

In section 5, definition of **level 4 qualification**, paragraph (b), replace “workforce development council (as defined in section 10(1) of” with “industry skills board or workforce development council (as established or continued for the time being under”.

**Taratahi Agricultural Training Centre (Wairarapa) Act 1969 (1969 No 138)**

In section 3(2)(d), replace “workforce development council” with “industry skills board or workforce development council (as applicable)”.

**Part 2****Amendments to secondary legislation that come into force on day  
after Royal assent****Accident Insurance (“Counsellor”) Regulations 1999 (SR 1999/166)**

In regulation 2, definition of **course of education**, paragraph (a), after “a university,”, insert “a polytechnic,”.

**Education (Domestic Tertiary Student and International Student Contract  
Dispute Resolution Scheme) Rules 2023 (SL 2023/199)**

In rule 36(2)(a), after “private training establishments,”, insert “polytechnics,”.

**Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018 (LI 2018/96)**

In Schedule 2, paragraph 13, after “universities,”, insert “polytechnics,”.

**National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)**

In the Schedule, clause 102(2)(a), after “universities,”, insert “polytechnics,”.

**Real Estate Agents (Licensing) Regulations 2009 (SR 2009/282)**

In regulation 3(1), definition of **workforce development council**, replace “established under section 479 of the Education Act 1989” with “continued for the time being under clause 170 of Schedule 1 of the Education and Training Act 2020”.

In regulation 3(1), insert in its appropriate alphabetical order:

**industry skills board** means the industry skills board for the real estate industry established under section 362 of the Education and Training Act 2020

In regulation 12(1)(a)(iii), (b)(iv), and (c)(iv), replace “workforce development council” with “industry skills board or workforce development council (as applicable)”.

**Student Allowances Regulations 1998 (SR 1998/277)**

In regulation 2(1), definition of **tertiary provider**, after “university,”, insert “a polytechnic,”.

**Part 3****Amendments to Acts that come into force by Order in Council****Building Act 2004 (2004 No 72)**

In Schedule 2, paragraph (m), delete “Te Pūkenga—New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Crown Entities Act 2004 (2004 No 115)**

Repeal section 6(1A) and (1B).

In section 7(1)(e), delete “Te Pūkenga—New Zealand Institute of Skills and Technology,”.

Repeal Part 2 of Schedule 4.

**Local Government Official Information and Meetings Act 1987 (1987 No 174)**

In Schedule 2, Part 2, repeal the item relating to Te Pūkenga—New Zealand Institute of Skills and Technology.

**Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, repeal the item relating to Te Pūkenga—New Zealand Institute of Skills and Technology.



**Public Works Act 1981 (1981 No 35)**

In section 2, definition of **local authority**, repeal paragraph (b)(iv).

In section 2, definition of **public work** and **work**, repeal paragraph (c)(ii).

**Part 4****Amendments to secondary legislation that come into force by Order  
in Council****Accident Insurance (“Counsellor”) Regulations 1999 (SR 1999/166)**

In regulation 2, definition of **course of education**, paragraph (a), delete “Te Pūkenga—New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Education (Domestic Tertiary Student and International Student Contract  
Dispute Resolution Scheme) Rules 2023 (SL 2023/199)**

In rule 36(2)(a), delete “Te Pūkenga—New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and  
Evacuation Schemes) Regulations 2018 (LI 2018/96)**

In Schedule 2, paragraph 13, delete “Te Pūkenga—New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Health Sector Transfers (Ministry of Health to Health New Zealand) Order 2022  
(SL 2022/198)**

In the Schedule, appendix, delete the item relating to Te Pukenga- New Zealand Institute of Skills and Technology.

**National Civil Defence Emergency Management Plan Order 2015 (LI 2015/140)**

In the Schedule, clause 102(2)(a), delete “Te Pūkenga—New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Student Allowances Regulations 1998 (SR 1998/277)**

In regulation 2(1), definition of **tertiary provider**, delete “the New Zealand Institute of Skills and Technology and its Crown entity subsidiaries,”.

**Part 5****Amendments to Acts that come into force by Order in Council****Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, repeal the item relating to workforce development councils.

**Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)**

Replace section 157 with:

**157 Minister may require output agreement to include matters relating to Board's relationship with industry skills board**

- (1) The Minister may require the output agreement referred to in section 156 to include matters relating to the Board's relationship with any industry skills board.
- (2) The purpose of the matters referred to in subsection (1) is to assist the Board and the industry skills board to clarify, align, and manage their respective expectations and responsibilities in relation to their respective functions and powers.
- (3) In this section, **industry skills board** means an industry skills board established under section 362 of the Education and Training Act 2020.

**Public Audit Act 2001 (2001 No 10)**

In Schedule 2, repeal the item relating to workforce development councils.

**Real Estate Agents Act 2008 (2008 No 66)**

In section 12(3), delete “or a workforce development council continued for the time being under clause 170 of Schedule 1 of that Act (as applicable)”.

**Support Workers (Pay Equity) Settlements Act 2017 (2017 No 24)**

In section 5, definition of **level 2 qualification**, paragraph (b), replace “industry skills board or workforce development council (as established or continued for the time being under” with “industry skills board (as established under”.

In section 5, definition of **level 3 qualification**, paragraph (b), replace “industry skills board or workforce development council (as established or continued for the time being under” with “industry skills board (as established under”.

In section 5, definition of **level 4 qualification**, paragraph (b), replace “industry skills board or workforce development council (as established or continued for the time being under” with “industry skills board (as established under”.

**Taratahi Agricultural Training Centre (Wairarapa) Act 1969 (1969 No 138)**

In section 3(2)(d), delete “or workforce development council (as applicable)”.

**Part 6****Amendments to secondary legislation that come into force by Order  
in Council****Real Estate Agents (Licensing) Regulations 2009 (SR 2009/282)**

In regulation 3(1), revoke the definition of **workforce development council**.

**Real Estate Agents (Licensing) Regulations 2009 (SR 2009/282)—*continued***

In regulation 12(1)(a)(iii), (b)(iv), and (c)(iv), delete “or workforce development council (as applicable)”.

**Legislative history**

13 May 2025	Introduction (Bill 150–1)
20 May 2025	First reading and referral to Education and Workforce Committee
22 September 2025	Reported from Education and Workforce Committee (Bill 150–2)
7 October 2025	Second reading
14 October 2025	Committee of the whole House (Bill 150–3)
15 October 2025	Third reading
21 October 2025	Royal assent

This Act is administered by the Ministry of Education.