



## Education Report: Education and Training Amendment Bill (No 2) – SOP on technical amendments

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	9 June 2022	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1288087
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<b>Messaging seen by Communications team:</b>	No	<b>Round robin:</b>	No

### Purpose of report

This paper seeks your agreement to release a further supplementary order paper (SOP) to amend the Education and Training Amendment Bill (No 2) (the Bill) at Committee of the Whole House stage. The SOP would amend two errors in:

- the Education and Training Act 2020 affecting the operation of provisions relating to student loans and allowances that are currently administered by the Ministry of Social Development (MSD); and
- the Bill affecting the ability of a relevant code administrator to withdraw approval of a signatory provider.

### Recommended Actions

The Ministry of Education recommends that you:

- note** that the Education and Training Act 2020 inadvertently removed a specific definition of 'Minister' for provisions relating to student loans and allowances, including appointments to the Student Allowance Appeal Authority, which means that the Minister of Education is currently responsible for these provisions  
**Noted**
- note** that the Education and Training Amendment Bill (No 2) includes an error that would prevent a relevant code administrator, other than the New Zealand Qualifications Authority, from withdrawing a signatory provider to a code at the provider's written request  
**Noted**
- note** that the technical errors outlined in recommendations **a** and **b** can be resolved by a Supplementary Order Paper to the Education and Training Amendment Bill (No 2) through your authority from Cabinet to make minor and technical changes to the Bill  
**Noted**

- d. **agree** to release the attached Supplementary Order Paper at Committee of the Whole House stage for consideration alongside the Education and Training Amendment Bill (No 2)

**Agree / Disagree**

#### Proactive Release Recommendation

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- e. **agree** that the Ministry of Education release this briefing in full after the Supplementary Order Paper has been released.

**Agree / Disagree**



Ben O'Meara  
**Group Manager**  
**Te Puna Kaupapahere**

09/06/2022



Hon Chris Hipkins  
**Minister of Education**

21/6/2022

## Background

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1. Recent discussions between the Ministry of Education and MSD revealed an error in the Education and Training Act 2020 (the Act) that affects the administration of provisions relating to student loans and allowances.
2. We have also identified a minor error in the Education and Training Amendment Bill (No 2) (the Bill) that would prevent a relevant code administrator, other than the New Zealand Qualifications Authority (NZQA), from being able to withdraw a signatory provider at the provider's written request.

## Issue

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### *MSD related provisions in the Act*

3. Part 25 of the Education Act 1989, which related to student loans and allowances, included a specific definition of 'Minister' that referred to the Minister responsible for the administration of that part of the Act (which was the Minister for Social Development). This separate definition was inadvertently removed during the development of the Education and Training Act 2020, so there is now only one definition of 'Minister.'
4. Section 10 of the Act defines 'Minister' as the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.'
5. As a result of this error, the 'Minister' for the purposes of the provisions relating to student loans and allowances is the Minister of Education. That is not the policy intent and is problematic for MSD. For example, appointments to Student Allowance Appeal Authorities must now be made by the Minister of Education instead of the Minister for Social Development.

### *Signatory provider provisions in the Bill*

6. Clause 44 of the Bill introduces provisions covering the approval and removal of signatory providers to a code. These provisions are part of a package of policy changes aimed to improve wellbeing and safety for international and tertiary students.
7. Clause 44 sets out that NZQA may withdraw approval of a signatory provider at the written request of the provider concerned. However, the policy intent was that this provision should refer to the 'code administrator.' The Act allows a code administrator to decide who can and cannot be a signatory provider.
8. While NZQA is currently the code administrator, the Act allows for different code administrators to be appointed. For example, if there was a separate code administrator for providers with international school students, it would not be appropriate for NZQA to be involved in removing their signatory status. Referring to the code administrator in clause 44 aligns with the policy intent of the Bill's proposals.

## Proposal to address the issue

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9. Parliamentary Council Office (PCO) consider these two changes to be technical errors that can be fixed through a SOP to the Bill. The Ministry and PCO consider that these amendments are within the scope of the authority granted to you by Cabinet to make minor and technical amendments to the Bill.

10. We propose that the attached SOP to amend the Bill be released at Committee of the Whole House stage. We have consulted with MSD and NZQA on the SOP and they support the amendments.
11. There is a minor risk that the release of a further SOP to the Bill may draw attention to the amendments and cause them to be perceived as policy changes. To mitigate this risk, the Ministry's communications on the Bill will make clear that these changes are solely editorial changes that fix errors found during the Ministry's business-as-usual activities.

## Annexes

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Annex 1: Supplementary Order Paper

**IN CONFIDENCE**

House of Representatives

# Supplementary Order Paper

**Tuesday, 7 June 2022**

**Education and Training Amendment Bill (No 2)**

*Proposed amendment*

Hon Chris Hipkins, in Committee, to move the following amendment:

*Clause 5*

After *clause 5(5)* (page 6, after line 34), insert:

- (5A) In section 10(1), definition of **Minister**, after “Act”, insert “or part of this Act”.

*Clause 44*

In *clause 44*, new *section 531A(2)*, replace “NZQA” (page 25, line 32) with “The relevant code administrator”.

**Explanatory note**

This Supplementary Order Paper amends the Education and Training Amendment Bill (No 2) (the **Bill**), which amends the Education and Training Act 2020 (the **Act**).

The amendments—

- add *clause 5(5A)* to the Bill, which adjusts the definition of Minister in section 10(1) of the Act so that it enables different Ministers of the Crown to be responsible for the administration of different parts of the Act. This reinstates the effect of the Education Act 1989 and, in particular, will enable the Minister for Social Development and Employment to administer parts of the Act relating to student allowances, administration of student loans, and Student Allowance Appeal Authorities;
- make a correction to *new section 531A(2)* (as inserted by *clause 44* of the Bill).

**Proposed amendments to  
Education and Training Amendment Bill (No 2)**

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**Departmental disclosure statement**

The Ministry of Education considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.