



Education Report: Options for progressing possible amendments to education legislation arising from the COVID-19 response

To:	Hon Chris Hipkins, Minister of Education		
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Drafter:	Kara Isaac	DDI:	s 9(2)(a)
Key contacts and numbers:	Ben O'Meara s 9(2)(a) (Schooling) Katrina Sutich s 9(2)(a) (Tertiary)	Round robin:	No
Messaging seen by Communications team:	No		

Purpose of report

- This report provides advice on gaps identified in the Education Act 1989 during our work to respond to the rapidly evolving COVID-19 pandemic to date.
- For schooling the gaps identified relate to:
 - the ability of the Minister (or Secretary) to direct school boards to close and open during a response to an emergency, and during the recovery from an emergency;
 - clarifying that online and distance learning can be provided as part of instruction when schools are closed for physical attendance; and
 - providing flexibility for the Minister, Ministry, or schools to restrict physical attendance.
- For tertiary education the identified gap is:
 - allowing the Minister to vary a funding determination without stand down to support the recovery from the COVID-19 pandemic.
- We have two options for progressing amendments to address the gaps:
 - continuing to rely on the epidemic notice and associated legislation for COVID-19 and then amending the Education and Training Act through the first set of legislative amendments after the Bill becomes law (preferred for schooling);
 - progressing amendments to education legislation with greater urgency, with a Cabinet paper for consideration by the Cabinet Business Committee in late May

2020, seeking approval for the drafting of Supplementary Order Papers (SOPs) for the Education and Training Bill (preferred for tertiary).

Summary

1. During our work to implement the Government's response to the COVID-19 pandemic¹, we have identified critical gaps in the Education Act 1989 (the Act) in terms of its ability to respond efficiently and effectively during any situation that requires a nationally or regionally coordinated response. These deficiencies also exist in the Education and Training Bill (the Bill).

Schooling

2. In particular, we have identified for schooling that:
 - a. the powers under S65D for the Minister of Education (the Minister) to close schools are permissive powers only, which means schools cannot be compelled to close;
 - b. closing schools under S65D effectively creates a holiday for the purposes of the Act, has Holidays Act 2003 and industrial relations implications, s 9(2)(h) [REDACTED]
 - c. there is no ability under the Act to distinguish between closures for physical attendance and closures for instruction, meaning that if schools are physically closed, there is no specific power to direct them to continue to provide instruction remotely; and
 - d. the emergency provisions under S65E allow individual school boards to close schools irrespective of any national, regional or local advice or direction from the Minister or Secretary for Education (the Secretary). Once this occurs, there is no ability for either the Minister or the Secretary to require boards to reopen schools.
3. s 9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
4. The urgent passing of the COVID-19 Response (Urgent Management Measures) Legislation on 25 March 2020 addresses these gaps for as long as the epidemic notice is in force. The current notice will be in place until 25 June 2020 and may be extended. During this time, the Act provides broad powers for the Secretary to direct governing authorities² of education entities³ to comply with specific requirements in relation to being closed, their operation, management and control, and the provision of instruction.

¹ The status of the COVID-19 outbreak was upgraded from 'epidemic' to 'pandemic' by the WHO on 11 March 2020 indicating that it is a world-wide phenomenon.

² Governing authority, in relation to an education entity, means the body that is primarily responsible for the governance of the education entity.

³ For the purposes of the amendments, an education entity means a registered school (as defined in section 2(1)); a service provider (as defined in section 309); a hostel (as defined in section 2(1)); a private training establishment (as defined in section 159(1)); an institution (as defined in section 159(1)); and an educational body (as defined in section 320).

5. While the Secretary currently has all the powers required to respond to COVID-19 under the Education Act amendments tied to the epidemic notice and associated legislation, it is important that the gaps and shortcomings identified in our legislation are addressed to ensure it is fit for purpose in future.
6. There are currently two possible options for this:
 - a. Option one: A medium term policy work programme with changes to be incorporated at the next legislative opportunity (expected to be in 2021) (preferred option); and/or
 - b. Option two: Urgently progressing Supplementary Order Papers to amend the Education and Training Bill when it returns to the House. ✓
7. While there are complex policy and operational issues that would be required to be worked through (for example, industrial relations implications) to progress changes via SOP, this may be possible if there was a delay to the Education and Training Bill being considered by the House until late June 2020.
8. There are risks associated with progressing legislative changes via SOP to the Education and Training Bill. These include:
 - a. having limited time to undertake cross-agency or consultation work, or engage with the sector to develop and agree the appropriate legislative response to the gaps identified;
 - b. the need to make significant policy decisions in a short period of time could result in the amendments ultimately not being fit for purpose or resulting in unintended consequences; and
 - c. progressing the amendments without any public consultation or Select Committee scrutiny risks undermining the relationship with the sector.
9. Given that the Secretary currently holds all the powers needed under the COVID-19 epidemic notice and associated legislation, our preferred approach is to progress this work for inclusion at the first legislative opportunity once the Education and Training Bill is passed. This will ensure a robust process is undertaken, including public and Select Committee scrutiny of any proposed amendments.
10. Alternatively, if you wish to progress this work with urgency, we will progress developing more detailed advice for you and proposed policy decisions for Cabinet consideration in late May 2020. ✓

Tertiary

11. For tertiary education we have identified that the legislative requirement that a funding mechanism variation cannot come into effect for at least three months or until the beginning of the calendar year, whichever is later, means that, in times of an epidemic or emergency, a quick response cannot be developed even if there is sector support for the change.
12. This gap is not covered by the Secretary's expanded powers under the COVID-19 Response (Urgent Management Measures) Legislation and epidemic notice. As such, we recommend that this is addressed by an SOP to the Education and Training Bill.
13. We are also investigating including this amendment in the next COVID-19 Omnibus Bill. This would mean that if there is a delay in the passing of the Education and Training Bill

there would be an alternative mechanism to give immediate effect if a funding mechanism variation is required to support the sector before the Bill is passed. ✓

14. Officials also propose to work with agency and sector stakeholders on potential changes needed to enable a coordinated emergency response in future. When an epidemic notice is no longer in force, there is also no ability for the Secretary to open, close or apply conditions to the operation of tertiary education organisations. We do not recommend seeking to address this through an SOP to this Bill, because of the need to develop fit-for-purpose and proportionate solutions with the sector, which includes a range of private or autonomously-managed institutions.

Early childhood education

15. We have not yet identified any legislative gaps or issues for early childhood, but will continue to include ECE in our medium-term work programme to ensure we take a 'whole of education system' approach to amending our legislation so that it is responsive and fit for purpose in the future.

Recommended Actions

The Ministry of Education recommends that you:

- a. **note** that we have identified gaps in the Education Act 1989 (the Act) during the Government's response to COVID-19 **Noted**
- b. **note** that these gaps also exist in the Education and Training Bill and will be carried over to the new legislative framework, unless amendments are made via SOP **Noted**
- c. **note** that the Secretary for Education currently has significant powers under the amendments to the Education Act made by the COVID-19 Response (Urgent Management Measures) Legislation which address the gaps identified. **Noted**

Schooling

- d. **note** that we have done some initial work on possible schooling-related amendments to the Bill to address the gaps, but have not had the opportunity to analyse all options, potential impacts, and risks due to the very recent identification of these gaps **Noted**

EITHER

- e. **agree** that we undertake further policy work to develop proposed amendments to address the gaps, and any further gaps that emerge as the COVID-19 response and recovery unfolds this year, with a view to progressing the amendments at the first opportunity following the passing of the Education and Training Bill (preferred)

Agree / **Disagree**

OR

- f. **agree** that we address these gaps now by developing proposed amendments to the Bill and drafting a paper for consideration by the Cabinet Business Committee (CBC) in late May 2020, seeking agreement to amend the Bill through the drafting of Supplementary Order Papers

Agree Disagree

Tertiary

- g. **note** that for tertiary education we have identified that the legislative requirement that a funding mechanism variation cannot come into effect for at least three months or the beginning of the calendar year, whichever is later, means that, in times of an epidemic or emergency, a quick response cannot be developed

Noted

- h. **agree** that we address this gap by developing a proposed amendment to the Bill and drafting a paper for consideration by the Cabinet Business Committee (CBC) in late May 2020, seeking agreement to amend the Bill through the drafting of Supplementary Order Papers

Agree Disagree

- i. **agree** that officials work with providers and education agencies to consider whether future legislation or other policy change is warranted to ensure a coordinated response to future emergencies that require closing facilities or limiting operations

As a minimum I would expect that the powers given to the Secretary under the COVID legislation should be reinstated whenever there is an Epidemic Notice in place or whenever a National State of Emergency is declared.

Agree Disagree

- j. **note** that none of these proposals are intended to, in any way, change or override existing powers and responsibilities for responding to or managing the recovery from public health, natural hazard, or emergency situations under other legislation including, but not limited to, the Health Act 1956, the Civil Defence and Emergency Management Act 2002, and the Epidemic Preparedness Act 2006

Noted

Proactive Release Recommendation

The Ministry of Education recommends that you:

- k. **agree** that this Education Report is NOT proactively released while this issue remains under active consideration.

Agree Disagree



Dr Andrea Schöllmann
Deputy Secretary
Education System Policy
24/04/2020



Hon Chris Hipkins
Minister of Education

1 / 5 / 2020

Background

Our ability to respond effectively to situations such as COVID-19 and manage the recovery process is constrained under the Education Act 1989

1. In the weeks leading up to the Government's decision to declare a COVID-19 State of Emergency, we worked with the Ministry of Health to consider the options available under the Education Act 1989 (the Act) and Health Act 1956 to respond to COVID-19. This included what (if any) options we had to implement restricted attendance or compulsory school closures to help minimise the transmission of COVID-19, such as through moving the school holidays, and/or closing groups of schools in specific locations, restricting attendance to particular students (e.g. children of essential workers) or physically closing all schools and moving to distance learning/remote instruction.
2. Throughout this time, we received numerous queries and concerns from stakeholders on a range of issues, but particularly in relation to school closures, including if or when these would be implemented and how they would be operationalised. It became increasingly clear as time progressed that there was a significant risk that some school boards would act under Section 65E to close schools themselves, irrespective of any advice from the Government or Ministry of Education (the Ministry).
3. During that process, we identified a number of gaps in the Act that constrained the education system from responding in a coordinated way in emergency situations where the health, safety and wellbeing of learners, teaching professionals and the wider community is at risk, and facilitate the subsequent recovery process in a centrally coordinated way. In particular, we found that:
 - a. the powers under S65D for the Minister of Education (the Minister) to close schools are permissive powers only, which means schools cannot be compelled to close;
 - b. closing schools under S65D effectively creates a holiday for the purposes of the Act, has Holidays Act 2003 and industrial relations implications. s 9(2)(h)
 - c. there is no ability under the Act to distinguish between closures for physical attendance and closures for instruction, meaning that if schools are physically closed, there is no specific power to direct them to continue to provide instruction remotely; and
 - d. the emergency provisions under S65E allow individual school boards to close schools irrespective of any national, regional or local advice or direction from the Minister or Secretary for Education (the Secretary). Once this occurs, there is no ability for either the Minister or the Secretary to require boards to reopen schools.
 - e. the requirement under S159OA that a tertiary funding mechanism variation cannot come into effect for at least three months or the beginning of the next calendar year means that, in times of an epidemic or emergency, a quick response cannot be developed even if there is sector support for the change. Without a legislative change, it would not be possible to rapidly implement proposals to assist with the recovery from COVID-19.
4. Due to the unprecedented nature and national significance of the COVID-19 pandemic and the response required, it is not surprising that these gaps in the legislative framework have not been identified previously. From an operational perspective,

however, the Ministry is applying many of the learnings and experience gained from the Christchurch and Kaikōura earthquakes to the response.

The Epidemic Notice and the COVID-19 Response (Urgent Management Measures) Legislation has addressed these gaps for now

5. The urgent passing of the COVID-19 Response (Urgent Management Measures) Legislation on 25 March 2020 addresses the identified gaps for as long as the epidemic notice and epidemic management notice are in force. The current notices will be in place until 25 June 2020, but may be extended.
6. During this time, the Act provides broad and unprecedented powers for the Secretary to direct governing authorities of education entities to comply with specific requirements in relation to being open and closed, their operation, management and control, and the provision of instruction.
7. These powers enable the Secretary to act quickly in the best interests of educators, parents and whānau when required during the epidemic. If used, they will be used for the purpose of avoiding, remedying or mitigating the actual or potential effects of the outbreak, and to facilitate co-ordinated processes and planning in response to the outbreak.
8. s 9(2)(h)
[Redacted]
9. s 9(2)(h)
[Redacted]

The Education and Training Bill provides an opportunity to ensure future legislation is fit for purpose

10. The Education and Training Bill (the Bill) is currently due to be reported back to the House by the Education and Workforce Select Committee by 8 June 2020.
11. At present, S65D, S65E and S159OA from the Act have essentially been replicated in the Bill. Section 65E and 65E have been earmarked to move to Regulations and accordingly the Bill contains provision that they will be repealed on 1 January 2023. This means that the problems identified during the response to COVID-19 will remain in the legislation and will occur again during a future similar event or situation.
12. There is an opportunity to amend the Bill through SOPs to provide specific provisions for future events like the COVID-19 pandemic. We are currently preparing a Cabinet paper for consideration by CBC in May seeking agreement to other separate policy proposals and approval for these to be drafted as SOPs to amend the Bill.

13. We have worked to identify any straightforward changes that could be progressed urgently via SOP. For the schooling related gaps there are complex policy and operational issues that would be required to be worked through (for example, industrial relations implications and possible unintended consequences). This may be possible if there was a delay to the Education and Training Bill being considered by the House until late June 2020.
14. We do recommend that you progress with the tertiary related change to allow the Minister to vary a funding determination, without a stand-down period, via SOP. This is because this gap is not covered by the Secretary's additional powers under the COVID-19 legislation and epidemic notice.
15. There are risks and challenges associated with progressing legislative changes at speed now. These include:
 - a. limited time to undertake cross-Ministry or agency work, or engagement with the sector ideally needed to develop and agree the appropriate legislative response to the gaps identified;
 - b. the need to make significant policy decisions in a short period of time could result in the amendments ultimately not being fit for purpose or resulting in unintended consequences; and
 - c. progressing the amendments without any public consultation or Select Committee scrutiny risks undermining the relationship with the sector.

We have not yet identified any gaps for ECE, but will continue to take a whole of education system approach to our legislative work programme

16. Early childhood provision is significantly different to schooling in that the majority of providers are privately owned. While COVID-19 has resulted in a number of challenging and complex issues for ECE providers, and the Ministry has and will continue to support the sector to respond to these.
17. While we have not identified any immediate gaps in the Education Act 1989 or Education and Training Bill, we will include early childhood as part of our work programme. This will ensure that we are take a 'whole of education system' approach to amending our legislation so that it is responsive and fit for purpose in any future emergency situations.

Other legislation also has a critical role in times of emergencies

18. There are a number of other pieces of legislation that have implications for the opening, closing and operation of schools during an emergency response and recovery. These include, for example:
 - a. Health Act 1956 – provides Medical Officers of Health with various powers in relation to closing an education institution to manage an infectious disease; and allows for the making of Regulations for the closing of schools or the regulation or restriction of school attendance to prevent or restrict the spread of any infectious disease.
 - b. Civil Defence and Emergency Management Act 2002 – establishes the legislative framework for New Zealand's national emergency management system, including the powers and obligations of the Minister for Civil Defence, the Director of Civil Defence Emergency Management, National and Group Controllers, and government departments, amongst others.

- c. Epidemic Preparedness Act 2006 – ensures there is adequate statutory power for government agencies to prevent and respond to epidemics, including ensuring that certain activities can continue to be undertaken during an epidemic.
 - d. Health and Safety at Work Act 2015 - requires that workers and others are given the highest level of protection from workplace health and safety risks, so far as is reasonably practicable.
19. The proposals outlined in this paper are not intended to influence or change in any way the provisions and powers set out in other legislation for the management of public health matters, emergencies, disasters or natural hazards, including the legislation listed above. However, we have not yet had an opportunity to discuss the proposals with the relevant agencies to fully understand how the various pieces of legislation could work together with the proposed amendments in a future emergency scenario.

Schooling Analysis

20. We have done some initial thinking about the kinds of powers that we think should be explored further to inclusion in education legislation. These are:
- a. the ability to direct school boards to open and close in response to an emergency, and during the recovery from an emergency;
 - b. enabling restricted student attendance;
 - c. ensuring that schools that are physically closed but providing distance learning are legally deemed to be open for instruction; and
 - d. ensuring Ministerial direction can override the power of individual school boards to close and open state schools in an emergency.
21. Due to short timeframes in which thinking has developed, we have not had the opportunity to analyse all options, potential impacts, and risks due to the very recent identification of these gaps.

Ability to direct school boards to open and close in response to an emergency, and during the recovery from an emergency

Status quo

22. Schedule 20 of the Bill sets out when state schools must be open. Clauses 1, 2 and 3 deal with the length of the school year, terms and holidays. Clause 4 provides for exceptions to these requirements in particular cases. The provisions set out in clause 4 are the same as those set out in S65D of the Act (see Annex 1 for the relevant provisions in both the Bill and the Act).
23. Under Clause 4, the Minister can authorise exceptions to the usual requirements pertaining to school opening hours, thereby authorising new terms and holidays. In particular, the Minister may authorise a board to open any specified school it administers for fewer half-days in any year than required, and schools may be closed accordingly. The Minister may also authorise a board to open and close any specified school it administers in accordance with terms and holidays (specified by the Minister) that differ from those that are otherwise required by the Act to be observed; and, subject to any terms and conditions specified by the Minister when giving the authority, schools may be open and closed accordingly.

24. Under Clause 8 (current section 65G), the Minister may delegate to the Secretary the Minister’s powers under section Clause 4(2) only, but if the Minister does so, the Secretary must exercise the powers in respect of individual schools only and the delegation does not limit or affect the exercise of the powers by the Minister.

Problem

25. The power for the Minister to authorise school closures under clause 4 in Schedule 20 of the Bill is a permissive power only (i.e. it does not compel a school to close). This means that the Minister may issue the authorisation but the Board has the legal ability to choose to remain open. In the case of a response to an emergency such as COVID-19, the ability of a Board to act against the advice or direction of the Minister or Secretary could create significant risks to the health, safety and wellbeing of students, parents, whānau, communities, teaching professionals and others working at a school. It is unlikely that this would have occurred during the response to COVID-19, due to school premises being closed under the Health Act, but there is a risk that it could occur under different circumstances.

26. s 9(2)(h) [Redacted]

- a. [Redacted]

- b. [Redacted]

27. The current powers are also unusual in that, with one exception, they may not be delegated. During the COVID-19 response, it became clear that the day to day ability to direct all schools or groups of schools (e.g. schools in a particular locality or region) to open and close sat better at a Ministry level.

Enabling restricted student attendance

Status quo

28. There is currently no specific ability under the Education Act or Education and Training Bill to restrict attendance, prioritise attendance of a particular group or groups of students or specify bespoke arrangements for attendance for multiple students (e.g. in an emergency situation directing that students in a particular year group attend for physical instruction for part of the week and undertake distance learning for part of the week).

Problem

29. The COVID-19 pandemic has made it clear that the system needs the ability to be able to respond flexibly when responding to unforeseen future events. For example, schools, depending on size, location, and workforce constraints, need to be able to respond flexibly to future events in a way that is appropriate to their situation and community. This could include the ability to specify specific days for physical attendance by specific year groups, operating “split-shift” arrangements where student attendance is split across different parts of the day, or even specifying provision for a specific subset of

students (for example, prioritising the physical attendance of children and young people with additional learning support needs or disabilities where all the support they require cannot be provided in a distance learning environment).

Ensuring schools that are physically closed but providing distance learning are legally deemed to be open for instruction

Status quo

30. The Bill (and the Act) makes the connection between a school being “open” and students being able to physically attend.

Problem

31. There is no ability for the Minister or Secretary for Education to physically “close” a school under the Act while directing that the school remain “open” for instruction via distance learning or other alternative channels.
32. Currently schools are either open or closed. While open students are free to physically attend (schools sites are currently closed under the Health Act as there is no ability to do so under the Education Act) and while closed teaching staff are on holiday and need not work. The Act does not currently allow for a middle ground where a school site may be closed but the school remains open to deliver education through alternative means.

Ensuring Ministerial direction can override the power of individual boards to close state schools in an emergency

Status quo

33. Under S65E of the Act (Clause 6 of Schedule 20 in the Bill), a school board can, at any time, because of epidemic, flood, fire, or other emergencies, close a school it administers. In response, the Secretary can, if satisfied that the closure was necessary, reduce the number of half-days for which the school would otherwise be required to be open for instruction.
34. The provisions in the Bill for the closure of state schools in the case of an emergency are the same as those in set out in S65E of the Education Act 1989 (see Annex 1 for the relevant provisions in both the Bill and the Act).

Problem

35. There is currently no provision in the legislation for the Minister (or Secretary) to prevent a board from closing a school under S65E where the Minister (or Secretary) is not satisfied that the closure is necessary (e.g. in the best interests of the students and wider school community). Furthermore, once a board has closed a school, there is no ability for the Minister (or Secretary) to require the board to reopen the school.
36. At present, if a school board were to close a school under S65E for the reason of an emergency, and this were to be against the advice of the Minister and/or Secretary, then the only course of action available to reopen the school is for the Minister to use the intervention powers in the Act to dissolve the board and direct the Secretary to appoint a Commissioner. However, this is a “nuclear” option and there is no guarantee that a Commissioner would make a different decision to the board. It would also have a detrimental impact on the relationship between the school, their community, and the Minister/Ministry.

37. In the lead-up to the announcement of Alert Level 3 for the COVID-19 response, the risks of the current legislative approach were highlighted through the large number of queries and concerns that the Ministry received in relation to school closures, including if and/or when they were going to be put in place.
38. At the time, the official advice was that mass school closures were not currently being considered, but that temporary closures of individual schools would take place as necessary when a COVID-19 case was confirmed to allow for testing and cleaning. However, it was clear that a growing sense of unease about the evolving domestic and global situation could have resulted in a scenario where individual school boards decided to close the school themselves, even though they had no cases of COVID-19 in their community. If this had occurred, the Minister would have been unable to direct schools to reopen. This could have led to a “domino effect” of mass school closures by Boards of Trustees against official advice and had a lasting impact on the confidence of New Zealanders in the ability of the Minister and/or Ministry to exercise stewardship and leadership across the education system.

Tertiary Analysis

Varying funding mechanisms

Status quo

39. When varying funding mechanisms, the variation must take effect at least three months after the date on which the Minister varies the determination, or the beginning of the next calendar year, whichever is later. For example, if the Minister wishes to vary a funding determination now, the change would not be able to come into effect until 1 January 2021.

Problem

40. The requirement that the funding mechanism variation cannot come into effect for at least three months or the beginning of the next calendar year means that, in times of an epidemic or emergency, a quick response cannot be developed even if there is sector support for the change. Without a legislative change, it would not be possible for the rapid implementation of support proposals to assist with the recovery from COVID-19.

Change proposal

41. We propose that the Minister is empowered to vary a funding determination immediately following consultation when it is in the national interest. The stand-down requirement is currently set out in new clause 9 of Schedule 17 of the Education and Training Bill (version 20) (Section 159OA of the Education Act 1989 refers).

Other changes may be needed

42. Officials will prepare further advice about other legislative changes that could be used for a scaled response to an epidemic or emergency. Legislative change was needed to allow the Secretary to direct tertiary education organisations to close, open, and/or provide education in particular ways during the COVID-19 epidemic.
43. When the epidemic notice is no longer in force, there is no ability for the Secretary to open, close or apply conditions to tertiary education organisations during any situation that requires a nationally or regionally coordinated response to an emergency or epidemic. This work will be progressed in consultation with the Tertiary Education

Commission, New Zealand Qualifications Authority and sector stakeholders to ensure that the legislative proposals are fit for purpose.

Annexes

Annex 1: Relevant provisions in the Education Act 1989 and Education and Training Bill

Proactively Released

Annex 1: Relevant provisions in the Education Act 1989 and Education and Training Bill

Provisions in the Education Act 1989	Provisions in the Education and Training Bill
<p>65D Exceptions in particular cases</p> <p>(1) The Minister may authorise a board to open any specified school it administers for fewer half-days in any year than required by section 65A (2); and schools may be closed accordingly.</p> <p>(2) The Minister may authorise a board to open and close any specified school it administers in accordance with terms and holidays (specified by the Minister) that differ from those otherwise required by this Act to be observed; and, subject to any terms and conditions specified by the Minister when giving the authority, schools may be open and closed accordingly.</p>	<p>Schedule 20 When State schools must be open</p> <p>Clause 4 - Exceptions in particular cases</p> <p>(1) The Minister may authorise a board to open any particular school it administers for fewer half-days in any year than required by clause 1(2) and, if the Minister does so, the school may be closed accordingly.</p> <p>(2) The Minister may authorise a board to open and close any particular school it administers in accordance with terms and holidays (specified by the Minister) that differ from those otherwise required by this Act to be observed; and, subject to any terms and conditions specified by the Minister when giving the authority, the school may be open and closed accordingly.</p>
<p>65E Emergencies</p> <p>(1) Notwithstanding anything in this Part, a board may at any time, because of epidemic, flood, fire, or other emergency, close a school it administers.</p> <p>(2) If satisfied that the closure for instruction of any school during any period during which it was otherwise required by this Part to be open was necessary because of epidemic, flood, fire, or other emergency, the Secretary may, by written notice to the board, reduce the number of half-days for which the school would otherwise be required by section 65A to be open for instruction; and the school may be open and closed for instruction accordingly.</p>	<p>Schedule 20 When State schools must be open</p> <p>Clause 6 Emergencies</p> <p>(1) Despite anything else in this schedule, a board may close a school it administers because of an epidemic, a flood, a fire, or another emergency.</p> <p>(2) The Secretary may, written notice to the board, reduce the number of half-days for which a school would otherwise be required by clause 1 to be open for instruction if satisfied that its closure for instruction was necessary because of an epidemic, flood, fire, or other emergency.</p>

1590A Variation of determination of design of funding mechanisms

(7) If the Minister varies a determination, the variation takes effect on a date specified by the Minister that must be no earlier than whichever is the later of the following:

- (a) the day that is 3 months after the date on which the Minister varies the determination:
- (b) the beginning of the calendar year after the calendar year during which the Minister varies the determination.

Schedule 17 TEC

Clause 9 Variation of determination of design of funding mechanisms

(7) If the Minister varies a determination, the variation takes effect on a date specified by the Minister, which must be no earlier than whichever is the later of the following:

- (a) the day that is 3 months after the date on which the Minister varies the determination:
- (b) the beginning of the calendar year after the calendar year during which the Minister varies the determination.

Proactively Released