



## Education Report: Consultation draft of the Education and Training Bill

<b>To:</b>	Hon Chris Hipkins, Minister of Education		
<b>Date:</b>	24 October 2019	<b>Priority:</b>	High
<b>Security Level:</b>	In Confidence	<b>METIS No:</b>	1209287
<b>Drafters:</b>	Jo Jansen-Thomson/Minh Vo	<b>DDI:</b>	s 9(2)(a)
<b>Key Contact:</b>	Ben O'Meara	<b>DDI:</b>	
<b>Messaging seen by Communications team:</b>	No	<b>Round Robin:</b>	No

### Purpose of Report

The purpose of this paper is to:

- **Provide** you with a draft of the LEG (Approval for Introduction) Cabinet paper for consultation with your colleagues.
- **Seek** your approval to consult with education agencies on relevant parts of a consultation draft of the Education and Training Bill (your formal approval is required for any agency that is not a Crown department); and
- **Seek** your comments and input to the draft purpose statements for the early childhood education, primary and secondary education, tertiary education and international education parts of the Education and Training Bill.

### Summary

1. Attached at Annex 1 is a draft LEG (Approval for Introduction) Cabinet paper for the Education and Training Bill (Bill). Parliamentary Counsel Office is providing a consultation draft of the Bill this weekend. We will email the draft to your office as soon as it arrives. We recommend you use the draft LEG paper and draft Bill for consultation with your colleagues. We are working to lodge the paper by 14 November for consideration at LEG on 19 November.
2. We will undertake departmental consultation concurrently. We propose consulting with those departments and agencies that inputted to the earlier policy approval process. We have also sent the draft Bill to the Office of the Privacy Commissioner so that they can undertake the privacy assessment, and we will be sending it to Justice for the Bill of Rights Act assessment.
3. In addition, we would like to consult with the education agencies who are not Crown departments. This requires your express approval. The education agencies we propose consulting with are the New Zealand Qualifications Authority (NZQA), Teaching Council of Aotearoa New Zealand, Tertiary Education Commission (TEC), and Education New

Zealand. We propose sending these education agencies only the parts of the consultation draft of the Bill that are relevant to these respective organisations on an in-confidence basis and subject to legal professional privilege.

4. You will also note that the draft LEG paper seeks Cabinet's approval for four purpose statements for the Bill (relating to the early childhood education, primary and secondary education, tertiary education, and international education parts of the Bill). We have drafted these recently and would appreciate your comments and input to these statements.

### Recommended Actions

The Ministry of Education recommends that you:

- a. **agree** to consult with your colleagues on the draft LEG paper and draft Bill

**Agree / Disagree**

- b. **agree** that officials can consult with NZQA, Teaching Council of Aotearoa New Zealand, TEC, and Education New Zealand on the relevant parts of the consultation draft of the Bill on an in-confidence basis and subject to legal professional privilege

**Agree / Disagree**

- c. **note** that we will not have to obtain the Attorney-General's permission to release the relevant consultation draft to these education agencies since our Chief Legal Advisor has confirmed that the release will not constitute a legal risk to the Crown

**Noted**

- d. **note** that we will also consult with the Education Review Office, Office of Privacy Commissioner and government departments that have been involved in earlier policy approval

**Noted**

- e. **note** the four draft purpose statements relating to the early childhood education, primary and secondary education, tertiary education, and international education parts of the Bill, and provide any comments and input as required

**Noted**

- f. **note** that the draft LEG paper seeks Cabinet approval for four purpose statements relating to the early childhood education, primary and secondary education, tertiary education, and international education parts of the Bill

**Noted**

- g. **note** that the draft LEG paper seeks Cabinet approval for five amendments that have been identified as work on the Bill has progressed

**Noted**

- h. **note** that if these amendments are not to be progressed, drafting instructions can still be issued to Parliamentary counsel for the changes to be made prior to Introduction

**Noted**

#### Proactive Release Recommendation

- i. **agree** that this Education Report will be proactively released once the Education and Training Bill has been introduced to the House of Representatives.

**Agree / Disagree**



Dr Andrea Schöllmann  
**Deputy Secretary**  
**Education System Policy**

24/10/2019



Hon Chris Hipkins  
**Minister of Education**

30/10/19.

## Purpose statements

1. It is modern drafting practice to include purpose statements or objects clauses in legislation. A purpose statement is a simple statement of intent that appears at the beginning of a part or subpart of an Act. A purpose statement articulates the purpose of the relevant part of the legislation and the policy objective that underlies it.
2. A purpose statement is aimed at helping readers understand the reason for the legislative provisions. Adding a formal purpose statement can help reduce possible ambiguity and makes it easier for users and the courts to interpret the Act.
3. Below are the draft purpose statements for the early childhood education, primary and secondary education, tertiary education, and international education parts of the Bill. We would appreciate your comments and input to these purpose statements. You will also note that the draft LEG paper seeks Cabinet approval for these purpose statements.

### ***Purpose statement for early childhood education***

The purpose of this Part is to set the parameters for an early childhood education system where all children are able to participate in early learning to provide them with a strong foundation for learning, positive wellbeing and life outcomes by:

- (a) Setting standards to support quality provision and learning;
- (b) Helping to ensure the health, safety and wellbeing of children; and
- (c) Enabling parental choice by enabling licensing and funding of different types of provision.

### ***Purpose statement for primary and secondary education***

The purpose of this part of the Act is to establish a schooling system that helps to support all learners/ākonga to gain the skills and knowledge they need to be lifelong learners/ākonga and fully participate in the labour market, society and their communities by:

- (a) ensuring that all children and young people are present in the schooling system in order to be able to exercise their right to an education, including setting up fair and consistent processes when students are excluded from the system that aim to return them to education as soon as possible;
- (b) providing for the health, safety and well-being of students;
- (c) providing for what is to be taught in schools;
- (d) establishing governing bodies for state and state integrated schools, their elections, duties, powers, administration, and accountabilities;



- (e) establishing and managing a network of state schools that allows every student to access quality schooling and enables choice for them and their parents about the types of education they receive;
- (f) regulating the teaching profession, including setting standards and providing for the registration of teachers and a complaints and disciplinary process to ensure the quality of teaching in the schooling system;
- (g) providing for the efficient and effective administration of the schooling system.
- (h) honouring Te Tiriti o Waitangi and supporting Māori-Crown relationships that make a difference to learning; and
- (i) reflecting and integrating Te reo Māori, tikanga Māori, mātauranga Māori and te ao Māori in the schooling system.

#### **Purpose statement for tertiary education**

The purpose of Parts a,b,c is to establish a tertiary education system that meets the objectives set out in (s 159AAA) by:

- providing the framework for Government to set out its strategic direction for tertiary education;
- establishing tertiary education organisations, and providing for their operation, duties, powers, compliance and exit;
- providing for the admission of domestic and international students and setting out student rights, responsibilities and protections;
- providing for the health, safety and well-being of students;
- regulating and quality assuring learning, including qualifications, credentials, programmes, assessment standards, training schemes, and apprenticeship training arrangements;
- providing for funding of tertiary education; and
- regulating the roles and functions of other regulators and education agencies.

#### **Purpose statement for international education**

The purpose of this Part is to ensure that New Zealand education is appropriate for and trusted by international students by:

- (a) providing for the health, safety and welfare of international students studying in New Zealand;
- (b) regulating enrolment and the payment of fees and their repayment in certain circumstances; and

- (c) providing for levies on institutions enrolling international students in order to offset the contribution of the state to the costs of educating international students.

### Points of note in the draft LEG paper

4. In addition to the insertion of purpose statements into the Bill, the draft LEG paper seeks Cabinet approval of five amendments that have been identified as work has progressed on the Bill. These are:
- a. s 9(2)(f)(iv)
  - b. Specifying that the Secretary for Education must review enrolment schemes no later than every three years, or earlier if he/she chooses to do so<sup>2</sup>;
  - c. extending the new International Education regulation making power to enable provisions creating a legal framework for the pastoral care of international and domestic tertiary students, where appropriate, to be converted into regulations on the enactment of the Education and Training Bill<sup>3</sup>;
  - d. including new regulation making powers and sunset clauses of between 12 to 24 months duration for the nine Schedules containing provisions identified as suitable for conversion into regulations<sup>4</sup>;
  - e. delaying the commencement of the clause creating a new objective for school boards of trustees to give effect to Te Tiriti o Waitangi/Treaty of Waitangi until 1 January 2021<sup>5</sup>;
5. If you do not wish for any of these matters to be in the Introduction version of the Bill, there is time for the appropriate instructions to be provided to Parliamentary counsel.

### Next steps

- 6. We recommend Ministerial and Departmental consultation occur concurrently in the next two weeks.
- 7. We will continue to work with PCO over this time to refine the draft Bill and prepare it for lodging.
- 8. We will prepare a General Policy Statement and a Disclosure Statement and provide these to your office within the next two weeks.

s 9(2)(f)(iv)

<sup>2</sup> See paragraphs 20-23 of the draft LEG paper.

<sup>3</sup> See paragraphs 38-40 of the draft LEG paper.

<sup>4</sup> See paragraph 41 of the draft LEG paper.

<sup>5</sup> See paragraph 49 of the draft LEG paper.

9. We are aiming to lodge the LEG (approval to introduce) Cabinet paper on 14 November for consideration at LEG on 19 November. This enables Cabinet confirmation on 25 November.
10. We are hoping this provides time for introduction, first reading, and referral to Select Committee to enable the Committee to open for submission before the Christmas recess.

## Annex

---

Annex 1: Draft LEG (Approval for Introduction) Cabinet paper for the Education and Training Bill