

BILLS DIGEST

EDUCATION (TERTIARY REFORMS) AMENDMENT BILL 2007

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EDUCATION (TERTIARY REFORMS) AMENDMENT BILL 2007

Date of introduction: 02 May 2007
Portfolio: Education
Select Committee: As at 09 May, 1st reading not held.

PURPOSE

The main aim of the Bill is to reform the system for planning, funding, and monitoring the provision of tertiary education¹.

BACKGROUND

The Bill aims to achieve this objective by:

- "providing a set of instruments for steering the tertiary education sector that focuses on outcomes and the distinctive roles of the various tertiary education sub-sectors"²;
- "enabling the Tertiary Education Commission (the Commission) to more effectively guide the contribution of tertiary education organisations and monitor the performance of tertiary education organisations"³;
- "enhancing the accountability of tertiary education organisations for the expenditure of public funds and strengthening the provisions aimed at safeguarding the Crown's interest in tertiary education organisations generally"⁴.

Overview of new system of steering instruments

"A key part of the Government's reforms is the move away from an annually funded, demand-led, input-based tertiary education system to a three-yearly, controlled, and outcome-based system. The main components of this new system are as follows:

- the Government periodically issues a tertiary education strategy setting out the long-term strategy and current to medium-term priorities; and

¹ Education (Tertiary Reforms) Amendment Bill, 2007 No 114-1, Explanatory note, General policy statement, p. 1.

² Education (Tertiary Reforms) Amendment Bill, 2007 No 114-1, Explanatory note, General policy statement, p. 1.

³ Ibid.

⁴ Ibid.

- the responsible Minister determines the design of funding mechanisms and specifies the amount of funding that will be available to tertiary education organisations in support of the tertiary education strategy; and
- the Commission publishes guidance on how different tertiary education organisations can contribute towards achieving the tertiary education strategy and the criteria for assessing that contribution; and
- a tertiary education organisation prepares a plan, in consultation with stakeholders, in response to the Commission's guidance and presents the proposed plan to the Commission for approval; and
- the Commission applies the relevant criteria for assessment to a tertiary education organisation's proposed plan and approves the plan in whole or in part for funding purposes, and determines the amount of funding and any conditions on funding having regard the relevant funding mechanisms; and
- the Commission monitors the performance of a tertiary education organisation in relation to the specified outcomes in the approved plan or approved parts of the plan"⁵.

Responsibility for administering the new system

"The Government retains responsibility for setting the long-term strategy and current to medium-term priorities for tertiary education. The Government will also determine the overall level of investment in the provision of tertiary education and how that investment should be apportioned between teaching and learning, research, organisational capability building, and between different tertiary sub-sectors.

"The Commission will publish detailed guidance on the content of plans and assessment criteria for approval of plans. This will focus on the shifts required to give effect to the tertiary education strategy. Tertiary education organisations will respond with a proposed plan setting out how the organisation will contribute to the Government's strategy and priorities for the benefit of stakeholders.

"The Commission is responsible for assessing and approving proposed plans for funding purposes and determining the amount of funding for approved plans. The Commission has discretion to approve plans in whole or in part for funding purposes. The Commission may also decline to assess a proposed plan if it does not adequately reflect the Commission's requirements for a plan, for example, if the plan does not clearly show how stakeholders needs will be addressed.

"Plans may be approved for funding by the Commission if the specified outcomes are consistent with the Government's tertiary education strategy. The amount of funding will be determined by applying the relevant funding mechanism or mechanisms. Approved plans will apply for three years or for a shorter period if determined by the Commission.

⁵ Ibid., pp 1 and 2.

"The Commission must monitor the performance of tertiary education organisations to ensure that they are achieving the outcomes specified in a plan. Plans can be reviewed and amended by tertiary education organisations in response to changing needs.

"If a tertiary education organisation is having difficulty fulfilling its obligations under an approved plan, the Commission can require the organisation to review the plan. The Commission can, if necessary, propose amendments to a plan. If an organisation is failing to deliver on the outcomes specified in the plan, then the Commission can suspend or revoke approval for a plan and withdraw funding.

"The Commission is also responsible for allocating funding other than by way of an approved plan, and monitoring organisations in relation to the use of that funding. The Chief Executive of the Commission is responsible for monitoring tertiary education institutions that receive funding for an approved plan to assess whether the operation of an institution poses a risk to the Crown's interests or the long term viability of the institution. The Chief Executive will report directly to the Minister on the outcome of such monitoring"⁶.

MAIN PROVISIONS

Purpose

The purpose of the Bill is to:

- simplify and streamline the processes supporting the operation of the tertiary education system in New Zealand by creating a group of instruments that recognise the differing roles of organisations within the tertiary education sector and require organisations to focus on outcomes; and
- replace the tertiary education strategy and the statement of tertiary education priorities with a single document called the tertiary education strategy; and
- replace charters and profiles with a single document called a plan; and
- enable the Commission to effectively guide the contribution made by organisations towards achieving the current and medium-term priorities set out in the Government's tertiary education strategy and monitor the performance of organisations; and
- enhance the accountability of organisations that receive public funding; and
- safeguard the Crown's interest in organisations generally; and
- clarify the role of the New Zealand Qualifications Authority in undertaking quality assurance of providers of adult and community education; and
- make other amendments to the Education Act 1989 that relate to the tertiary education sector (*Part 1, Clause 3*).

⁶ *ibid.*, pp. 2 and 3.

Tertiary education strategy

The Bill requires the Minister of Education to issue a tertiary education strategy that sets out the Government's long-term strategic direction for tertiary education and the Government's current and medium-term priorities for tertiary education. The long-term strategic direction for tertiary education must address economic goals, social goals, environmental goals and the development aspirations of Maori and other population groups (*Part 1, Clause 6, substituting New Section 159AA of the Education Act 1989*).

New function for the Commission

The Bill provides new functions for the Commission to reflect the Commission's role in giving effect to the new approach to planning, funding, and monitoring in the tertiary education sector (*Part 1, Clause 11 amending Section 159F of the Education Act 1989*).

Funding mechanisms

The Bill provides for the Minister to determine the design of funding mechanisms. The Commission must use these mechanisms when determining the amount of funding to be given to organisations. The Minister must identify the form and essential components of each funding mechanism and must also indicate which funding mechanisms relate to:

- funding to be paid by the Commission via plans that have funding approval;
- funding otherwise paid under Part 13A of the Act ("Tertiary Education Commission"); and
- any other types of funding.

It is made clear that every funding mechanism must be consistent with the principle that receiving public funds is dependent on an organisation meeting the quality assurance requirements in the Education Act 1989. The Commission must develop the details of how to implement the funding mechanisms and must implement the funding mechanisms (*Part 1, Clause 17, substituting Sections 159L - 159O of the Education Act 1989*).

Plans

The Bill provides for the requirements of what a proposed plan must do, including:

- describing how an organisation will give effect to the Government's current and medium-term priorities as described in the tertiary education strategy;
- describing how an organisation will address the needs of its stakeholders;
- describing an organisation's mission and role for the period of the plan;
- setting out what an organisation will do to support its mission and role, including descriptions of all the tertiary education programmes run by the organisation and all activities that will be undertaken by the organisation in order to build its capability;

- describing an organisation's proposed outcomes and the performance indicators that the organisation will use to measure whether those outcomes have been achieved; and
- specifying the amount of funding an organisation seeks from the Commission.

A proposed plan must be submitted by all institutions seeking funding from the Commission under a funding mechanism that requires a plan to have funding approval and all other organisations seeking funding from the Commission under a funding mechanism that requires a plan to have funding approval, unless the Commission exempts them. The Bill provides that the Commission must prescribe, and give public notice of, criteria that the Commission will use to assess proposed plans to determine whether they will receive funding approval. The Bill also provides for the matters in relation to which an organisation (other than an institution) is accountable for funding received through a plan with funding approval. Funding approvals have expiry dates not later than three years from the date on which funding approval has effect. Funding may be suspended or revoked in certain circumstances. The effect of suspending or revoking a funding approval is that the Commission must cease any or all further payments (*Part 1, Clause 17, substituting Sections 159P - 159YO of the Education Act 1989*).

Comment

It is not immediately obvious in the Bill whether the Commission can require funding to be repaid to it after the suspension or revocation of a funding approval.