

BILLS DIGEST

**EDUCATION (TERTIARY REFORMS) AMENDMENT BILL 2007
(2007 No 114-2)**

As reported from the Education and Science Committee: 23 October 2007

Bills Digest No. 1561



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Bills Digest No. 1561

Published by the Parliamentary Library
Parliament Buildings, Wellington
New Zealand.

25 October 2007

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EDUCATION (TERTIARY REFORMS) AMENDMENT BILL 2007 (2007 No 114-2)

Date of introduction:	02 May 2007
Portfolio:	Tertiary Education
Select Committee:	Education and Science
Date report presented:	23 October 2007

PURPOSE

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

MAIN CHANGES TO THE BILL

The majority of the amendments recommended by the Select Committee are of clarificatory or drafting significance.

Academic freedom

The Select Committee has recommended that the purpose clause be amended so that the first element of the purpose is (with added words underlined): "[to] simplify and streamline the processes supporting the operation of the tertiary education system in New Zealand, without affecting the academic freedom and autonomy of institutions preserved and enhanced by the principal Act², 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" (*Part 1, Clause 3, amending paragraph (a)*).

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

² Section 161(1) of the Education Act 1989 provides that " ... it is declared to be the intention of Parliament in enacting the provisions of this Act relating to institutions that academic freedom and the autonomy of institutions are to be preserved and enhanced". Section 161(2) defines "academic freedom", "in relation to an institution" as:

- the freedom of academic staff and students, within the law, to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions;
- the freedom of academic staff and students to engage in research;
- the freedom of the institution and its staff to regulate the subject-matter of courses taught at the institution;
- the freedom of the institution and its staff to teach and assess students in the manner they consider best promotes learning;
- The freedom of the institution through its chief executive to appoint its own staff.

Power for the New Zealand Qualifications Authority to obtain information

The Select Committee has recommended an expanded definition of "institution" that includes private training establishments, secondary schools, and other bodies to allow the New Zealand Qualifications Authority to seek information from these organisations with regard to quality assurance matters (*Part 1, inserting Clause 32A into the Bill, amending Section 255 of the Education Act 1989 by inserting new subsection (1AA): cf. Part 20 of the Education Act 1989*).

Provision of policy advice not the prerogative of the Ministry of Education

Section 159AD of the Education Act 1989 is headed "Roles within tertiary education sector" and provides (in subsection (1)) that " ... nothing in this Act affects the fact that the Ministry [(i.e. the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Part of this Act - the Ministry of Education)] is the Minister's principal policy adviser on tertiary education matters". Subsection (2) provides that " ... the Qualifications Authority (or, in the case of universities, the New Zealand Vice-Chancellors Committee) is the body primarily responsible for quality assurance matters in the tertiary education sector". Subsection (3) provides that " ... this section is for the avoidance of doubt".

The Select Committee has recommended that Section 159AD(1) be deleted from the Act as it "... has no clear legal effect"³ (*Part 1, inserting New Clause 8A into the Bill, repealing Section 159AD(1) of the Education Act 1989*).

³ Education (Tertiary Reforms) Amendment Bill, 2007 No 114-2, As reported from the Education and Science Committee, Commentary, p.7.