Education Amendment Bill 2012

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**Portfolio:** Education

**Select Committee:** As at 18 October, 1st Reading not held.

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Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

**Purpose**

The main aim of the Bill is to amend the Education Act 1989 (the Act) to:

- provide for the creation and operation of “partnership school kura hourua” (formerly referred to as charter school);
- make provision in respect of the surrender and retention of property in schools; and
- make various other changes to the Act\(^1\).

**Background**

**Regulatory impact statement**

A regulatory impact statement may be found here:

http://www.treasury.govt.nz/publications/informationreleases/ris

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\(^1\) Education Amendment Bill, 2012 No 77-1, Explanatory note, General policy statement, p. 1.
Main Provisions

Fee enrolment and free education at a partnership school kura hourua

The Bill extends the right to free enrolment and free education at any state school to partnership schools kura hourua. The term “partnership school kura hourua” is defined as a school in respect of which the Minister has approved a sponsor (see below) and a partnership school contract is in force (Part 1, Clause 5, amending Section 3 of the Act; Clause 4(1), amending Section 2(1) of the Act by inserting a new definition, that of “partnership school kura hourua”).

Partnership schools kura hourua, their characteristics, and who may enrol in them

The Bill makes provision for partnership schools kura hourua, which are a new form of registered school. The Minister is given power to approve by notice in the Gazette an incorporated body or limited partnership to be the sponsor of a partnership school kura hourua. The Minister must appoint a group to advise on the approval of sponsors and the educational performance of partnership schools kura hourua. The Minister may enter into a contract with a sponsor for the operation of a partnership school kura hourua. The contract must be for a fixed term and must contain specified provisions. A body must not operate or purport to operate a partnership school kura hourua unless it has been approved under the Bill and may not operate a partnership school kura hourua unless there is a partnership school contract in place (Part 1, Clause 31, inserting New Sections 158A-158E).

The Bill provides the sponsor of a partnership school kura hourua with the power to control the management of the school and may make rules for the purpose of the control and management of the school. A sponsor is also under a duty to perform its functions in such a way as to ensure that students are able to achieve their highest possible educational standards (Part 1, Clause 31, inserting New Sections 158G-158H). A sponsor is a body approved by the Minister by notice in the Gazette to be a sponsor of a partnership school kura hourua (Part 1, Clause 31, New Section 158B).

The Bill provides a power of intervention in a partnership school kura hourua if the Secretary for Education has reasonable grounds to believe that there is an emergency, or an imminent threat of an emergency, affecting the education or welfare of the students. In such a case, the Secretary may take over the management of the school for as long as the Secretary considers necessary (Part 1, Clause 31, inserting New Section 158L).

In relation to enrolment, the Bill makes provision for enrolment in partnership schools kura hourua by setting out the order of priority for applicants if there are more applications than there are places (Part 1, Clause 31, inserting New Section 158M). Students who have special educational needs are given the same rights to be enrolled at a partnership school kura hourua as students who do not and they may (subject to the agreement of the parents and the Secretary) continue to be enrolled at partnership schools kura hourua despite being over the upper age limit for the schools. The Bill also enables a sponsor of a partnership school kura hourua to run multiple timetable arrangements (Part 1, Clause 31, New Sections 158N, 158O and 158P) (Part 1, Clause 31, inserting New Part 12A, inserting New Sections 158A-158X into the Act).

Discipline and attendance at a partnership school kura hourua

The Bill provides that domestic students at partnership schools kura hourua will not be required to pay tuition fees from correspondence schools (as applies to other schools) (Part 1, Clause 6, amending Section 7A of the Act). A sponsor of a partnership school kura hourua may be directed to enrol a student under the age of 16 who has been excluded from a State school, provided that there has been appropriate consultation and the parents of the student consent (Part 1, Clause 7, amending Section 16 of the Act). State school boards are given the power to refuse to enrol a student who has been excluded or expelled from a partnership school kura hourua and the Secretary for Education is given power to direct a sponsor of a partnership school kura hourua to enrol a student aged 16 or over who has been expelled from a State school, provided there has been appropriate consultation and the parents of the student consent (Part 1, Clause 8, amending Section 17D of the Act; Clause 31 inserting New Sections 158Q and 158R into the Act).
The Act places duties on students and boards with regard to school attendance. The duty is modified for the sponsors of partnership schools kura hourua to attend school whenever the school is open for those students who are subject to a multiple timetable arrangement under New Section 65DA (see below). They will instead be required to attend school for the period or periods when their timetables are in operation (Part 1, Clause 9, amending Section 25 of the Act).

Multiple timetable arrangements

Clause 15 inserts a new section 65DA. This new section enables State schools to run multiple timetable arrangements, with the Minister's authority. These are arrangements where more than one timetable per day is run at the school. The timetables might run concurrently or consecutively. The school may run such arrangements only if it has consulted appropriately, and the Minister considers that the arrangements are appropriate. The board of the school must notify affected students and their parents of the arrangements and the time periods when the students will be required to attend school. (Part 1, Clause 15, inserting New Section 65DA into the Act).

Surrender and retention of property

The Bill creates a power for teachers to require students to surrender items in their possession or control if the teacher has reasonable grounds to believe that a student has hidden or “in clear view” on or about the student’s person, or in any bag or other container under the student’s control, an item that is likely to endanger safety or detrimentally affect the learning environment. Teachers may retain and dispose of items surrendered, if appropriate. Teachers may require students to reveal items that are stored on electronic devices, and to surrender the electronic devices, which may be retained for a reasonable period. Items and electronic devices retained must be stored appropriately, and at the end of the period of retention they must be returned to the student or passed onto another agency. However, teachers will not be permitted to use physical force to search a student or his or her bag, to require a bodily sample, or to use a dog for the purpose of the search. Nor will teachers be permitted to carry out blanket requests for students to surrender items, unless there are reasonable grounds to believe that each student has a relevant item in his or her possession (Part 1, Clause 28, inserting New Sections 139AAA-139AAE into the Act).

Merging schools

The Bill makes new provision for the merger of State schools by allowing the Minister to give notice that the continuing school's board is to have an alternative constitution which has effect from a date specified by the Minister (Part 1, Clause 30, substituting Section 156A of the Act by New Sections 156A-156AC).