

Departmental Disclosure Statement

Education Amendment Bill (No 2)

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Education.

The Ministry of Education certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

10 March 2014.

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Part One: General Policy Statement

The Education Amendment Bill (No 2) (the Bill) amends the Education Act 1989. The public policy objectives of the Bill are:

- to ensure that New Zealand's education sector is equipped to meet the challenges and opportunities of the modern learning context;
- to create a regulatory framework that promotes accountability and high standards within the education sector; and
- to drive continuous improvement in the education sector by clarifying, streamlining, and strengthening processes, as appropriate.

A New Professional Body for the Education Profession

The Bill addresses the public policy objectives by making amendments which will strengthen the capability and quality of the education profession. In 2013, a review of the New Zealand Teachers Council found that the Council, as currently structured, governed, and positioned, was not best placed to lead the education profession. The Bill establishes the Education Council of Aotearoa New Zealand as the new professional body to lead and promote quality teaching, and as a consequence, disestablishes the New Zealand Teachers Council. In addition, the Bill also makes changes to the regulatory framework for teaching and to the disciplinary regime for teachers.

The Bill contains amendments that:

- establish the Education Council of Aotearoa New Zealand as an independent statutory body, with a focus on investing in leadership, as well as quality teaching, across early childhood education and schooling;
- strengthen the regulatory framework for teaching to ensure consistently high professional conduct and education standards, including through the separation of teacher registration from the issuing of practising certificates; and
- strengthen and streamline the disciplinary regime for teachers, especially in relation to the investigation of reports of, and complaints about, possible serious misconduct.

The Bill enables the Education Council of Aotearoa New Zealand to make rules, which will be both a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012. This replicates the existing legal arrangements in respect of rules made by the New Zealand Teachers Council under section 139AJ(5) of the Education Act 1989.

Clause 38 of the Bill which inserts new Parts 31, "Teacher Registration", and 32, "Education Council", is to come into force on a date to be appointed by Order in Council. This allows sufficient flexibility for the appointment of members to the Education Council of Aotearoa New Zealand, via a nominations process.

Tertiary Education Institution Governance

The Bill addresses the public policy objectives by ensuring that universities and wānanga have strong, well-equipped councils that can lead their institutions to meet modern learning needs. Currently, councils tend to be larger, which may not support efficient decision-making, and the representative model on which the governance arrangements are based, does not prioritise council members' capabilities. In addition, there are few mechanisms available to hold members accountable for their performance.

The Bill provides for changes to university and wānanga governance by establishing a new legal framework to support responsive and effective performance. To achieve this, the Bill contains amendments that:

- reduce council size from between 12 to 20 members to between 8 to 12 members, in order to support more effective decision-making;
- provide for increased flexibility for institutions to shape their council membership;
- prioritise members' capabilities; and
- clearly define individual council members' duties and accountabilities.

International Education

The Bill addresses the public policy objectives by strengthening the legal framework governing the care and support of international students, and improving the responsiveness of the education system to the needs of international students.

The Bill contains amendments that:

- enable improvements to be made to the "Code of Practice for the Pastoral Care of International Students";
- enable more targeted intervention in situations where education providers are not complying with their obligations under the "Code of Practice for the Pastoral Care of International Students";
- create more effective and efficient sanctions for breaches of the "Code of Practice for the Pastoral Care of International Students" by education providers; and
- establish an independent contract disputes resolution scheme for international students and education providers.

Under the Bill, the "Code of Practice for the Pastoral Care of International Students" is both a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012. Given that the "Code of Practice for the Pastoral Care of International Students" will be legally enforceable, it is appropriate for Parliamentary counsel to draft the Code to ensure there is the necessary clarity and certainty as to the obligations of education providers, and for the Code to be subject to the scrutiny of the Regulations Review Committee.

The International Education clauses of the Bill are to come into effect on a date to be appointed by Order in Council. This is to allow time for both the new "Code of Practice for the Pastoral Care of International Students" and the rules for the contract disputes resolution scheme to be drafted, and for education providers to make the necessary changes to ensure compliance with the new legal requirements.

Quality Assurance in Tertiary Education

The Bill addresses the third objective through amendments to Parts 18 and 20 of the Education Act 1989, which cover most of the functions of the New Zealand Qualifications Authority. In 2011, the regulation of the tertiary education system was strengthened through the modernising of the New Zealand Qualifications Authority's legal framework. Subsequently, a number of refinements have been identified that will strengthen or streamline aspects of the framework. The Bill contains amendments that:

- confirm and strengthen the New Zealand Qualifications Authority's ability to undertake quality assurance of tertiary education organisations;
- streamline the processes for de-registration of private training establishments; and
- provide the New Zealand Qualifications Authority with additional and targeted enforcement powers.

In addition, amendments are made that will clarify and streamline the student fee protection regime, covering both domestic and international students. The amendments will reduce compliance costs for private training establishments, and improve the protection of fees paid by prospective and enrolled students to such establishments.

Miscellaneous

A minor administrative amendment is made to the Education Act 1989, enabling the Secretary for Education to determine the form of school Board of Trustees' annual financial statements, after consultation with the Auditor-General. In 2015, changes to the nationwide accounting standards will come into effect. The power will allow the adoption of a consistent approach across all schools.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p><i>A new professional body for the education profession</i></p> <ul style="list-style-type: none"> - “Review of the New Zealand Teachers Council: A Teaching Profession for the 21st Century”; New Zealand Teacher Council Review Committee; November 2012. http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/NZTC_FinalReviewReportDec-2012.pdf - “A 21st Century Body for the Education Profession: Proposals for Discussion”; New Zealand Government; May 2013. http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/NZTC_ReviewProposalsDiscussionPaper.pdf - “Review of the New Zealand Teachers Council: Proposals for reform of the New Zealand Teachers Council. Final report of the Ministerial Advisory Group”; July 2013. http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/FinalReportOfTheMAGOnTheReviewOfTheNZTC30July2013PDF.pdf - “Establishment of a new education professional body”; Ministry of Education; September 2013. http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/EstablishmentCabinetPaper.pdf <p><i>Tertiary education institution governance</i></p> <ul style="list-style-type: none"> - “Review of the legislative settings for university governance: consultation document”; Ministry of Education; October 2013; and “Review of the legislative settings for wānanga governance: consultation document”; Ministry of Education; October 2013. http://www.minedu.govt.nz/theMinistry/Consultation/ReviewofUniversityAndWanangaGovernance.aspx - “Summary of submissions received on the proposals for changes to university and wānanga governance”; Ministry of Education; January 2014. http://www.minedu.govt.nz/theMinistry/PolicyAndStrategy/ReformsOfUniversityAndWanangaGovernanceToProceed.aspx - “Modernising the Governance Arrangements for Universities and Wānanga through Legislative Changes to the Education Act 1989”; Ministry of Education; January 2014. http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/PolicyAndStrategy/Tertiary/GovernanceCabinetPaper.pdf <p>For <i>International Education</i>, please refer to Appendix One.</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p><i>A new professional body for the education profession</i> “Options for creating a new professional body for teaching”; Ministry of Education; 26 August 2013. http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/CreatingANewProfessionalBody</p> <p><i>Tertiary education institution governance</i> “Modernising the governance arrangements for universities and wānanga through changes to the Education Act 1989”; Ministry of Education; 4 December 2013. http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/ModernisingTheGovernanceArrangementsForUniversitiesAndWananga</p> <p>For <i>International education</i> and <i>Quality assurance in tertiary education</i>, please refer to Appendix One.</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
<p><i>A new professional body for the education profession</i> 23 August 2013: “The Regulatory Impact Analysis Team (RIAT) has reviewed the RIS prepared by the Ministry of Education, and considers that the information and analysis summarised in the RIS partially meets the quality assurance criteria. Although the RIS clearly sets out the differences between options for a professional body for the regulation of teaching, the analysis is incomplete in terms of how the various options would address the identified problems and therefore does not convincingly support the recommendation to create a new bespoke statutory body, except insofar as that option is considered to be most likely to secure sector support.”</p> <p><i>Tertiary education institution governance</i> No independent opinion was given because it was determined that the RIS did not meet the threshold for RIA Team assessment.</p> <p>For <i>International education</i> and <i>Quality assurance in tertiary education</i>, please refer to Appendix One.</p>	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
<p>The following aspects of the policy to be given effect by the Education Amendment Bill (No 2) were not addressed in RISs:</p> <p><i>A new professional body for the education profession</i> Changes to the disciplinary regime for teachers, and transition arrangements relating to the establishment of the Education Council of New Zealand and the disestablishment of the New Zealand Teachers Council, were exempted from the requirement for a RIS because they were of a minor or technical in nature.</p> <p>For <i>International education</i>, <i>Quality assurance in tertiary education</i>, and <i>Miscellaneous</i>, please refer to Appendix One.</p>	

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p><i>A new professional body for the education profession</i> The RIS provides an assessment of the costs and benefits of the policy. http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/CreatingANewProfessionalBody</p> <p><i>Tertiary education institution governance</i> The RIS provides an assessment of the costs and benefits of the policy. http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/ModernisingTheGovernanceArrangementsForUniversitiesAndWananga</p> <p>For <i>International education</i> and <i>Quality assurance in tertiary education</i>, please refer to Appendix One.</p> <p>Note: None of the policies to be given effect by the Education Amendment Bill (No 2) create a potential for any group of persons to suffer a substantial unavoidable loss of income or wealth.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p><i>International education</i> “Legislative Amendments Related to the Pastoral Care of International Students”; Ministry of Education; 15 July 2013. http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/LegislativeAmendmentsRelatedToPastoralCare</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The policies to be given effect by the Education Amendment Bill (No 2) do not affect New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

A new professional body for the education profession

The Ministerial Advisory Group (MAG) which led sector engagement on proposed reform of the New Zealand Teachers Council deliberated on the question of how best to reflect the principles of the Treaty of Waitangi. It noted that supporting bi-culturalism is a significant issue for the sector and recommended that the criteria for appointment to the governing board of the new body should reflect a bi-cultural perspective.

Consequent policy work considered the MAG's recommendation and responded by including an understanding of the partnership principles of the Treaty of Waitangi in the criteria for selection of Council members. This has been reflected in clause 1 of Schedule 22.

Consultation on the Cabinet paper entitled "Establishment of a new education professional body" included Te Puni Kokiri.

Tertiary education institution governance

Officials engaged with all three wānanga at several points during the review of wānanga governance. Each of the wānanga's proposals for changes to their own councils informed the objectives for the review and the development of the proposed changes.

Public consultation on changes to university and wānanga governance occurred as described in item 3.6 below. Consultation documents (in English and te reo Māori) were publicised to universities, wānanga, iwi, and peak-body and union organisations, including Te Mana Ākonga (the Māori students' organisation).

Officials at the Ministry of Education with expertise in Māori and legal matters were involved in all stages of the review. Te Puni Kōkiri was consulted on the proposed changes to university and wānanga governance.

For ***International education***, ***Quality assurance in tertiary education***, and ***Miscellaneous***, please refer to Appendix Two.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be accessible on the Ministry's website at http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	YES
<p><i>A new professional body for the education profession</i> Clause 38, new section 396(1), increases the maximum fine from \$5,000 to \$25,000, which will apply where an employer or former employer is convicted of failing to report to the Education Council of Aotearoa New Zealand regarding matters involving a teacher's conduct, as specified in clause 38, new sections 392 to 394.</p> <p><i>International education</i> Clause 1 of Schedule 20 disestablishes the International Education Appeal Authority and review panel.</p> <p>Clause 27, new section 238L, creates a new right of appeal, under which an international student may seek an order from the District Court requiring an education provider to comply with the rules of the new Disputes Resolution Scheme or to give effect to a binding resolution.</p> <p>For <i>Quality assurance in tertiary education</i>, please refer to Appendix Two.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p><i>A new professional body for the education profession</i> The Ministry of Justice was consulted and agreed that given the seriousness of offences that could be subject to the penalty, there was a clear rationale for increasing the maximum fine to \$25,000.</p> <p><i>International education</i> The Ministry of Justice was extensively consulted on the development of the Cabinet paper entitled "Legislative Amendments Related to the Pastoral Care of International Students", and other relevant advice. The Ministry's views were reflected in the Cabinet paper and advice.</p> <p>For <i>Quality assurance in tertiary education</i>, please refer to Appendix Two.</p>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
<p><i>A new professional body for the education profession</i> Clause 38, new section 360(2)(ix), enables the Education Council of Aotearoa New Zealand to require the Secretary for Education to provide information about the number of half-days that a person employed in a teaching position has worked in a calendar year. This is the only change to an existing information matching arrangement under section 128A of the Education Act 1989, which is being replaced by new section 360.</p> <p>For <i>Quality assurance in tertiary education</i>, please refer to Appendix Two.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	YES/NO
<p><i>A new professional body for the education profession</i> The Office of the Privacy Commissioner did not raise any concerns about the proposed extension of the existing information matching arrangement between the Education Council of Aotearoa New Zealand and the Ministry of Education.</p> <p>For <i>Quality assurance in tertiary education</i>, please refer to Appendix Two.</p>	

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p><i>A new professional body for the education profession</i> In 2012, the New Zealand Teachers Council Review Committee met with key stakeholder groups and individuals within the education sector, education agencies, and central agencies. The Review Committee's report which details the feedback received can be found at: http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/NZTC_FinalReviewReportDec-2012.pdf</p> <p>In 2013, the Ministerial Advisory Group conducted 90 engagements across the country and received 890 submissions. The report of the Ministerial Advisory Group which details the feedback received can be found at: http://www.minedu.govt.nz/~media/MinEdu/Files/TheMinistry/NZTCReviewProposals2013/FinalReportOfTheMAGOnTheReviewOfTheNZTC30July2013PDF.pdf</p> <p>In 2013, government departments and agencies were consulted on the development of the policy. In early 2014, the New Zealand Teachers Council was consulted on a draft of clause 38, new Parts 31 and 32.</p> <p>For <i>Tertiary education institution governance</i>, <i>International education</i>, <i>Quality assurance in tertiary education</i>, and <i>Miscellaneous</i>, please refer to Appendix Two.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
<p><i>A new professional body for the education profession</i> Proposed changes have been assessed by the members of the Ministerial Advisory Group; the majority of whom were practising principals. Policy details have also been assessed by the New Zealand Teachers Council.</p> <p><i>International education</i> Analysis has been done to gauge the potential cost and level of compliance activities, based on historic data relating to student complaints, and a cost model prepared by an experienced disputes resolution body.</p>	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
<i>A new professional body for the education profession</i> Clause 9 of Schedule 22 specifies the circumstances under which no member of the Education Council of Aotearoa New Zealand will be held personally liable. A similar immunity exists for members of school Board of Trustees (refer to clause 4, Schedule 6, Education Act 1989).	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	YES
<p><i>A new professional body for the education profession</i></p> <p>Clause 38 sets out the regulatory framework for the teaching profession and the related disciplinary regime. There are a range of decision-making powers, with potential implications for a teacher's or a holder's (of a limited authority to teach) rights in respect of their livelihood and, or reputation. Various safeguards are in place to ensure that the powers are properly constrained and used appropriately. As an example, under clause 38, new section 362, the Education Council of Aotearoa New Zealand has the power to cancel a teacher's practising certificate. The Council cannot do so until all reasonable steps have been taken to ensure that the teacher has been given notice of the reasons for the proposed cancellation, and given a reasonable opportunity to make submissions and be heard on the matter.</p> <p><i>International education</i></p> <p>Clause 27 establishes the International Student Contract Disputes Resolution Scheme, under which the scheme operator will have the power to resolve a financial dispute between an international student and an education provider. The decision reached may have a significant effect on a student's financial interests. Clause 27, new section 238L, enables a student to seek an order from the District Court. As part of its consideration, the Court may modify the scheme operator's decisions if they are manifestly unreasonable.</p>	

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p><i>Quality assurance in tertiary education</i></p> <p>The effect of clauses 18 and 32 is to enable the New Zealand Qualifications Authority to make rules exempting types of programmes and training schemes from the requirement for student fees to be deposited with an independent trustee (section 234E(1) of the Education Act 1989). The exemption is likely to be used for low value short courses delivered by high performing private training establishments. This will reduce compliance costs for such organisations, and act as an incentive for others to improve their overall performance.</p> <p>The Authority's rules are a disallowable instrument for the purposes of the Legislation Act 2012 (section 253(7) of the Education Act 1989). There are several safeguards set out in section 253 to ensure that the power to make rules is properly constrained and used appropriately; for example, any rules must be published on the Authority's website and made available in printed form for purchase.</p>	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
<p><i>A new professional body for the education profession</i></p> <p>Under clause 38, new section 388, the Education Council of Aotearoa New Zealand has the power to make rules, especially in relation to disciplinary matters. The Council is required to take all reasonable steps to consult with affected parties over the course of preparing rules and amendments, to give notice of the rules in the <i>Gazette</i>, and to take all reasonable steps to ensure that affected parties are aware of the rules' existence and are able to obtain copies. In addition, the rules will be both a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012. This replicates the existing legal arrangements for the rules made by the New Zealand Teachers Council under section 139AJ(5) of the Education Act 1989.</p> <p><i>International education</i></p> <p>Clause 24 amends section 238F of the Education Act 1989, under which the responsible Minister may publish a <i>Code of Practice for the Pastoral Care of International Students</i>. Clause 24(5) specifies that the Code will be both a legislative instrument and a disallowable instrument for the purposes of the Education Act 1989. Given that the Code will be legally enforceable, it is appropriate for Parliamentary counsel to draft the Code to ensure that there is the necessary clarity and certainty as to the obligations of education providers, and for the Code to be subject to the scrutiny of the Regulations Review Committee.</p> <p>Clause 27, new section 238M, enables the Governor-General, by Order in Council, to prescribe rules for the functioning and administration of the International Student Contract Disputes Resolution Scheme, on the recommendation of the Minister. Clause 27, new section 238M(2), provides that the Minister must not recommend the making of such an order unless relevant bodies and sector representatives have been consulted.</p> <p>Section 4 of the Legislation Act 2012 defines Orders in Council as legislative instruments. Accordingly, in this instance, the Order in Council prescribing rules relating to the Disputes Resolution Scheme must be drafted by Parliamentary counsel and will be subject to the scrutiny of the Regulations Review Committee.</p>	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO

Appendix One: Further Information Relating to Part Two

Published reviews or evaluations – question 2.1

International education

- “Evaluation Report on the Implementation of the Code of Practice for the Pastoral Care of International Students (2002/03)”; Ministry of Education; June 2006.
<http://www.educationcounts.govt.nz/publications/international/14733>
- “Schools’ Provision for International Students (2013)”; Education Review Office; August 2013.
<http://www.ero.govt.nz/National-Reports/Schools-Provision-for-International-Students-August-2013/Overview>
- “Legislative Amendments Related to the Pastoral Care of International Students”; Ministry of Education; September 2013.
<http://www.immigration.govt.nz/NR/rdonlyres/BBC75B43-C73F-4AE2-BCAE-9CDC4EC76806/0/PastoralCare.pdf>

Regulatory impact analysis – question 2.3

International education

“Legislative Amendments Related to the Pastoral Care of International Students”; Ministry of Education; 15 July 2013.
<http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/LegislativeAmendmentsRelatedToPastoralCare>

Quality assurance in tertiary education

“Education Amendment Bill 2013: Quality Assurance”, Ministry of Education; 27 February 2014.
<http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/QualityAssurance>

Regulatory impact analysis – question 2.3.1

International education

The Ministry of Education provided the Treasury with a preliminary assessment of the RIS. Based on this assessment, the Treasury decided not to run the RIS past the RIA Team. No comment was made on the RIS.

Quality assurance in tertiary education

No independent opinion was given because the RIS did not meet the threshold for RIA Team assessment.

Regulatory impact analysis – question 2.3.2

International education

The RIS relating to the International Education policy was not required to be amended because the additional details relating to the legal status of mediation agreements, the introduction of a maximum monetary amount for claims made under the contract disputes resolution scheme, and the lodging of applications for orders from the District Court by international students, did not change the nature of the policy options discussed in the RIS.

Quality assurance in tertiary education

The RIS relating to the policies concerned with quality assurance in tertiary education was not required to be amended because the new power enabling the New Zealand Qualifications Authority to cancel a private training establishment’s registration for a breach of the Education Act 1989 was of a minor nature.

Miscellaneous

The power for the Secretary for Education to determine the form of schools' annual financial statements was exempted from the requirement for a RIS because it was of a minor nature.

Regulatory impact analysis – question 2.5***International education***

The RIS provides an assessment of the costs and benefits of the policy.

<http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/LegislativeAmendmentsRelatedToPastoralCare>

Quality assurance in tertiary education

The RIS provides an assessment of the costs and benefits of the policy.

<http://www.minedu.govt.nz/theMinistry/PublicationsAndResources/RIS/EducationAmendmentBill2013/QualityAssurance>

Appendix Two: Further Information Relating to Part Three

Consistency with the government's Treaty of Waitangi obligations – question 3.3

International education

The policies relating to international education which are to be given effect by the Education Amendment Bill (No 2) do not affect Māori rights or interests protected by the Treaty of Waitangi.

Quality assurance in tertiary education

The policies relating to quality assurance in tertiary education do not affect Māori rights or interests protected by the Treaty of Waitangi.

Miscellaneous

The power for the Secretary of Education to determine the form of annual financial statements prepared by school Boards of Trustees does not affect Māori rights or interests protected by the Treaty of Waitangi.

Offences, penalties and court jurisdictions – question 3.4

Quality assurance in tertiary education

Clause 34 makes it an offence for a person to obstruct, hinder, resist or deceive any person authorised by the New Zealand Qualifications Authority's chief executive to exercise the powers of entry and inspection set out in section 255A of the Education Act 1989. The maximum fine is \$10,000.

Clause 36 makes it an offence for a person to knowingly or recklessly issue an award which falsely represents, expressly or by implication, that a person has achieved a qualification listed on the New Zealand Qualifications Framework. Clause 36 also makes it an offence for a person to receive an award knowing that it falsely represents, expressly or by implication, that he or she has achieved a qualification listed on the New Zealand Qualifications Framework.

Clause 35 extends the liability of a body corporate and directors to cover a broader range of offences, for example, those associated with false qualifications and the falsification of student records.

Offences, penalties and court jurisdictions – question 3.4.1

Quality assurance in tertiary education

The Ministry of Justice was consulted as part of the process for obtaining Cabinet approval of the policies relating to quality assurance in tertiary education.

Privacy issues – question 3.5

Quality assurance in tertiary education

Clause 21 extends the current duties of private training establishments to maintain student records to include the keeping of accurate enrolment and academic records for each student enrolled in standards-based study or training provided by the establishment through a consent to assess against standards.

Privacy issues – question 3.5.1

Quality assurance in tertiary education

The Office of the Privacy Commissioner was not consulted.

External consultation – question 3.6

Tertiary education institution governance

Public consultation took place from 2 October to 12 November 2013. A summary of submissions can be found at:

<http://www.minedu.govt.nz/theMinistry/PolicyAndStrategy/ReformsOfUniversityAndWanangaGovernanceToProceed.aspx>

In 2012, 2013 and early 2014, government departments and agencies were consulted on the development of the policy.

International education

In February and May 2013, international education sector bodies were consulted on the policy to be given effect by the Education Amendment Bill (No 2). A summary of the feedback can be found in the Cabinet paper entitled “Legislative Amendments Related to the Pastoral Care of International Students”; Ministry of Education; September 2013.

<http://www.immigration.govt.nz/NR/rdonlyres/BBC75B43-C73F-4AE2-BCAE-9CDC4EC76806/0/PastoralCare.pdf>

In 2013, government departments and agencies were consulted on the development of the policy.

Quality assurance in tertiary education

In 2013, government departments and agencies were consulted on the development of the policy.