

Departmental Disclosure Statement

Education (Vocational Education and Training Reform) Amendment Bill

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.

21 August 2018

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Part One: General Policy Statement

The purpose of the Education (Vocational Education and Training Reform) Amendment Bill (the **Bill**) is to create a unified and cohesive vocational education and training system. To do this, the Bill amends the Education Act 1989 (the **principal Act**) and repeals the Industry Training and Apprenticeships Act 1992 (the **ITAA**).

The Bill achieves the public policy objective of creating a unified and cohesive vocational education and training system by—

- establishing a new regulatory framework for vocational education and training; and
- enabling workforce development councils to be established under the principal Act to provide skills leadership, set standards and develop qualifications, endorse programmes and moderate assessments, and provide an advisory and representative role in vocational education and training; and
- establishing the New Zealand Institute of Skills and Technology (**NZIST**) as a tertiary education institution under the principal Act and a Crown entity for the purposes of the Crown Entities Act 2004. NZIST will provide, arrange, and support a range of vocational education and training, including in the workplace; and
- providing transitional arrangements to enable a smooth transfer of functions and responsibilities from the current system to the new system.

A new regulatory framework for vocational education

Currently, industry training organisations are recognised under the ITAA to develop and maintain standards for an industry or industries and to develop arrangements for the delivery of work-based training. Sixteen polytechnics (known as Institutes of Technology and Polytechnics), 3 wānanga and a large number of private training establishments—collectively known as providers—deliver vocational education outside of the workplace under the principal Act. This dual system is legislatively and operationally complex. The consequence is that the system does not always meet the needs of learners, employers, or regions. Some polytechnics are facing big challenges to their sustainability, putting access to their delivery at risk, and employers find the lack of industry input into education delivered outside of the workplace frustrating.

This Bill integrates industry training and vocational education through the establishment of a single regulatory framework for vocational education, bringing the provisions of the ITAA into the principal Act. The former Act will be repealed. This will simplify the legislative framework for vocational education and training. Allied to this, the Bill establishes new entities to create a unified and cohesive system of vocational education and training.

Workforce development councils

The Bill provides for workforce development councils to be established by Order in Council. Workforce development councils will have the following functions in respect of a specified industry or industries:

- to provide skills leadership for the specified industries, including by identifying their current and future needs and advocating for those needs to be met:
- to develop and set skill standards:

- to develop and maintain industry qualifications:
- to develop training schemes:
- to develop and set training packages:
- to decide whether to endorse programmes developed by providers:
- to develop and set capstone assessments:
- to carry out moderation activities:
- to provide employers with brokerage and advisory services approved by the Tertiary Education Commission (the Commission):
- to advise the Commission on its overall investment in vocational education and training:
- to advise the Commission about the mix of vocational education and training needed:
- to represent the interests of their specified industries, while taking account of national and regional interests, and
- to perform any other functions in relation to the specified industries conferred on it by the Minister.

The Commission must have regard to advice from any workforce development council in assessing any proposed plan in relation to vocational education and training. It must give effect to advice from any workforce development council about the mix of vocational education and training needed for its industry, within certain funding limits. Workforce development councils may be disestablished by Order in Council in certain limited circumstances.

New Zealand Institute of Skills and Technology

NZIST will be a tertiary education institution established under the principal Act and a Crown entity for the purposes of the Crown Entities Act 2004. NZIST will have the following functions:

- to provide or arrange, and support, a range of education and training and conduct applied research; and
- to be responsive to and to meet the needs of the regions of New Zealand and their learners, industries, employers, and communities by utilising its national network of tertiary education programmes and activities; and
- to improve the consistency of vocational education and training by using skill standards and working in collaboration with workforce development councils; and
- to improve outcomes in the tertiary education system as a whole, including by making connections with schools and other organisations involved in tertiary education; and
- to improve outcomes for Māori learners and Māori communities in collaboration with Māori and iwi partners and stakeholders.

The Bill sets out a charter that NZIST must give effect to. The Bill sets out arrangements for the constitution and term of office of the NZIST's council, and matters to be considered when appointing members and related matters. Provisions from the Crown Entities Act 2004 that currently apply to tertiary education institutions

will apply to NZIST. Certain additional provisions from the Crown Entities Act 2004 will apply to NZIST and its Crown entity subsidiaries, including the requirement to produce a statement of intent and a statement of performance expectations. These accountability arrangements reflect its unique status as a national institution. Similarly, the Bill establishes a risk management framework for NZIST, and a requirement to provide information to the chief executive of the Commission if requested.

Transitional arrangements

To facilitate a smooth transfer of functions from existing organisations, there will be a transition period from the commencement of the Bill on 1 April 2020 until 31 December 2022.

Industry training organisations are currently recognised under the ITAA to develop and maintain skill standards for an industry or industries and to support work-based training. By the end of the transition period, these functions will be undertaken by workforce development councils and providers of vocational education and training respectively. No new industry training organisations will be recognised. Existing industry training organisations will be recognised as transitional industry training organisations (**transitional ITOs**) and will be able to continue to operate current arrangements to ensure continuity. Transitional ITOs will be required to develop transition plans for the transfer of responsibility for their activities to workforce development councils and providers. Recognition of all transitional ITOs will lapse at the end of the transition period.

All existing polytechnics will become Crown entity subsidiaries of NZIST (being registered companies under the Companies Act 1993) from the commencement date. The Bill contains provisions for the transfer of assets, liabilities, employees, and students, as well as approved programmes, training schemes, and consents to assess against standards listed on the Directory of Assessment Standards. The subsidiaries of NZIST will be dissolved on 31 December 2022, transferring the undertaking of the subsidiary to NZIST, unless dissolved prior by the NZIST council. The dissolution date of any subsidiary may be extended beyond the legislated date by Order in Council.

Regulations and other instruments

The Bill transfers a power to establish, by Order in Council, a voluntary levy on members of an industry from the ITAA to the principal Act. The levy is to meet the costs associated with developing and maintaining skill standards for an industry. The levy order is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012. The purpose of the transfer is to maintain existing legislative provision for such a levy while providing for workforce development councils to collect and allocate the levy, rather than industry training organisations. The provisions are otherwise unchanged. Similarly, the Bill transfers a power from the ITAA to the principal Act that enables the Minister, by notice in the *Gazette*, to issue an apprenticeship training code. This is a disallowable instrument, but not a legislative instrument, for the purposes of the Legislation Act 2012. The purpose of the transfer is to maintain existing legislative provision for such a training code and the provisions are unchanged.

The Bill enables transitional regulations to be made by Order in Council. This ability for regulations to amend primary legislation provides a necessary process to enable

additions or changes to the transitional provisions as necessary to facilitate an orderly transition to NZIST and workforce development councils or to ensure that existing rights or obligations continue as part of, or despite, that transition. The power to make regulations is limited to the duration of the transition period ending on 31 December 2022.

Consequential amendments

The Bill includes consequential amendments to other enactments to reflect the changes made by the Bill.

Commencement date

The Bill comes into force on 1 April 2020.

Part Two: Background Material and Policy Information

Published reviews or evaluations

<p>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?</p>	<p>YES</p>
<p>Consultation materials</p> <p>The Ministry of Education published a large number of documents to support formal consultation on proposed reforms of vocational education, which commenced on 13 February 2019. These included:</p> <ul style="list-style-type: none"> • <i>Reform of Vocational Education: Consultation discussion document</i> • <i>Proposal on roles of providers and industry bodies: Technical discussion document</i> • <i>New Zealand Institute of Skills and Technology: Technical discussion document</i> • <i>Unified funding system: Technical discussion document</i> • <i>Understanding the current vocational education and training system</i> (fact sheet) • <i>What previous engagement has taken place</i> (fact sheet) • Twenty additional fact sheets to help different stakeholder groups understand the proposals • Frequently Asked Questions. <p>These documents can be accessed from this link: https://conversation.education.govt.nz/conversations/reform-of-vocational-education/</p> <p>Cabinet Papers, Cabinet Minutes, and Education Reports</p> <p>Alongside the consultation materials the Ministry of Education published:</p> <ul style="list-style-type: none"> • The following Cabinet papers that preceded formal consultation, and their respective Minutes: <ul style="list-style-type: none"> ○ <i>Approach to reforms of institutes of technology and polytechnic subsector</i> (28 March 2018) ○ <i>Update on progress towards reform of vocational education</i> (10 December 2018, Minute 11 December 2018) ○ <i>Consulting Proposals for Vocational Education System Reform</i> (29 January 2019, Minute 30 January 2019) • The Appendix lists 13 Education Reports (from the Ministry of Education), five Tertiary Education Reports (from the Tertiary Education Commission), four briefing notes and six aide memoires submitted to the Minister of Education prior to formal consultation. • Three media releases and three letters to stakeholders published between 21 February 2018 and 11 December 2018. <p>Since policy decisions have been made, the Ministry of Education has published the following additional documents:</p> <ul style="list-style-type: none"> • The following Cabinet papers and resulting Minutes: <ul style="list-style-type: none"> ○ <i>Cabinet Paper 1: Reform of Vocational Education – Key Decisions</i> (22 July 2019) ○ <i>Cabinet Paper 2: Reform of Vocational Education – Fiscal Implications</i> (22 July 2019) ○ Social Wellbeing Committee minute – SWC-19-MIN-0080 (26 June 2019) ○ Cabinet Minute – CAB-19-MIN-0354 (22 July 2019) • A Programme business case provided to Cabinet to support consideration of the 	

proposals (20 June 2019).

- Eight Education Reports (from the Ministry of Education), 10 Tertiary Education Reports (from the Tertiary Education Commission), three briefing notes and two aide memoires submitted to the Minister of Education since the commencement of formal consultation, and listed in the Appendix.

All of these documents are available at:

<https://conversation.education.govt.nz/conversations/reform-of-vocational-education/about-the-reform-of-vocational-education/background-papers/>.

Other documents published by the Tertiary Education Commission

The Tertiary Education Commission has published a large number of documents regarding the reform of vocational education on its website, at: <https://tec.govt.nz/focus/our-focus/reform-of-vocational-education/>. Among these documents is information prepared in 2018 as part of the Commission's ITP Roadmap 2020 project, including the *ITP Roadmap 2020 Sector Financial Modelling report*, and other information about the state of the polytechnic sector.

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
A final Regulatory Impact Assessment was provided to Cabinet alongside the Cabinet paper seeking the policy decisions that led to this Bill: https://conversation.education.govt.nz/assets/RoVE/AoC/R-27-CP1-short-2-RIA.pdf .	
A draft of the Assessment was provided to Cabinet alongside the Cabinet paper seeking approval to consult on the reform of vocational education proposals: https://conversation.education.govt.nz/assets/RoVE/Cabinet-Paper-Consulting-on-Proposals-for-Vocational-Education-System-Reform-RIS.pdf .	

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
The Regulatory Impact Assessment was assessed on 24 June 2019 by a joint Treasury-Ministry of Education panel, chaired by the Treasury's Regulatory Quality Team. The panel's assessment reads: "A Quality Assurance Panel led by the Regulatory Quality Team at the Treasury with representatives from the Ministry of Education has reviewed the Regulatory Impact Assessment (RIA) "Reform of Vocational Education" produced by the Ministry of Education and dated 24 June 2019. The Panel considers that it partially meets the Quality Assurance criteria. The Panel considers that although the RIA is complex it is relatively concise. There is a clear problem definition and compelling case for change. The RIA outlines the trade-offs around the high-level decisions to implement the preferred package. While there are potentially significant benefits, there are also high costs and risks during the transition period. However, the Panel does not find the RIA fully convincing and complete at this stage. The costs are subject to some uncertainty and the monetised value of the benefits appears highly	

indicative. The costs are uncertain because the detailed design and implementation of the preferred package is yet to be done.

The panel notes that an implementation business case will be submitted to Cabinet, and that the Ministry of Education will involve stakeholders in design and implementation, including through formal advisory groups. It is important that this further detailed work is done to address implementation risks and to provide better information on expected costs and potential benefits to inform subsequent ministerial decisions.”

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

There have been some relatively minor policy changes. We do not consider that these would have altered the rating of the Regulatory Impact Assessment.

The changes include:

- Adding statutory duties for the Institute’s Council with respect to local and national stakeholder engagement, international learners and their potential contribution to regions, staff and student committees and a Board to support the Council to work in partnership with Māori
- Allowing workforce development councils to offer some brokerage functions
- Details relating to the role and operations of transitional organisations in the transition to a unified system, including allowing the transitional organisation to retain its industry training organisation branding.

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?

YES

The final Cabinet policy paper (link above) explains the changes noted under question 2.3.2.

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?

YES

The most up-to-date information on potential costs and benefits is in the final programme business case and Cabinet papers seeking policy approval (see links under question 2.1).

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

Information on these matters is in the Regulatory Impact Assessment, programme business case, and Cabinet papers seeking policy approval (links under question 2.1).

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 Ministry of Education identified relevant obligations under ILO conventions C111 and C122 and a 2015 UNESCO Recommendation regarding Technical and Vocational Education and Training (TVET). The Ministry found the policy consistent with the ILO conventions, and with the vision, aims, and most of the recommendations of the UNESCO Recommendation. New Zealand's devolved tertiary education system does not set fixed requirements for the training, remuneration or working conditions of TVET staff, arguably implied by paragraphs 35-38 of the Recommendation. General employment protections apply and the quality assurance system sets general requirements for provider capability.

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?

The Ministry of Education and the Tertiary Education Commission engaged with Māori, iwi and Māori organisations to ascertain their views on the proposed policy for vocational education and actively reflected their feedback into the development of the policy settings. Treaty-related topics have been considered at various points throughout the development of the policy. Six reports and briefing notes focused specifically on the implications of the proposals for Māori, and for Māori Crown relations.

The Māori shareholders of an industry training organisation took claims, not accepted by the Crown, to the High Court and the Waitangi Tribunal about the engagement process and the effects of the reforms. The High Court dismissed the claim it was asked to consider. The Waitangi Tribunal has not at this point made a determination on the claims it was asked to consider.

The Ministry of Education reviewed these matters and identified various ways that the policy supports the Treaty principles of partnership, participation and protection. The Ministry did not identify any breaches of the principles.

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
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Advice to the Attorney-General from the Ministry of Justice is generally made available on the Ministry of Justice'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:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p>Clause 62 amends section 292 of the Education Act 1989, which sets out offences regarding the use of certain terms. Currently, a current or former polytechnic or institute of technology, or (with the Minister’s consent) a registered establishment or wānanga, may refer to itself as a “polytechnic” or “institute of technology”. Under the amendment, only the Institute or one of its subsidiaries will be permitted to refer to itself using these terms.</p> <p>The offence is intended to protect the Institute and users of the vocational education system by ensuring that they can clearly distinguish between distinctive types of provider. Wānanga have not sought to use these terms. The penalty under the provision is relatively modest, and unintended breaches are unlikely as the offence is known to the sector and NZQA would not register a new provider under a name that breached the provision.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>The Ministry of Justice advised that the current construction of section 292 is not consistent with Legislation Guidelines 2018, and the proposed change will continue this inconsistency. Section 292 is a strict liability offence, and no defence is provided. The Ministry of Justice advised that the Legislation Guidelines note that when strict liability offences are justified, it is necessary to specify any defences a defendant is entitled to raise in the relevant context that, if accepted, would result in acquittal.</p> <p>The availability of defences for section 192 was not considered as part of the development of the reform proposals. However, the inclusion of a possible defence is a matter that may need to be addressed in a future amendment.</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>Clause 12 inserts new section 159KBB and for the TEC to collect information from the Institute for the purposes of assessing risks to the Institute or to the education and training performance of learners. Clause 60 amends section 254A, which enables NZQA to require the provision of information about institutions, so that workforce development councils are subject to this power, where necessary for NZQA to perform its functions. These provisions may cover personal information about individuals (such as demographic data about who has enrolled in courses, and the National Student Number of enrolled learners).</p> <p>Clause 65 inserts new section 502, so qualifying members of a levy group may be required to provide information to a workforce development council or another person to enable or assist determination of the amount of a levy payable. Clause 65 also inserts new section 506, which requires a workforce development council to obtain information from its own records and from other workforce development councils to identify potential levy group members. Under new section 520, persons receiving commercially sensitive information under the Part must take reasonable steps to protect the information. A small amount of personal information, such as names and contact details, would be covered by these provisions. These provisions transfer existing provisions in relation to industry training organisations (see sections 30 and 32 of the Industry Training and Apprenticeships Act 1992) to workforce development councils, and make the necessary consequential amendments.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
The Privacy Commissioner was not consulted because these clauses do not raise new privacy issues. The Commission already has significant powers to collect this type of information from tertiary education institutions, and workforce development councils will have the same role with respect to levies as industry training organisations.	

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>Agencies undertook an intensive seven-week consultation on the proposals from 13 February to 5 April 2019. There were 2,904 written submissions on a consultation document and supporting documents. Feedback was captured from 186 events in 23 locations.</p> <p>The consultation documents are available here: https://conversation.education.govt.nz/conversations/reform-of-vocational-education/).</p> <p>Engagement with stakeholders prior to formal consultation on the proposals included:</p> <ul style="list-style-type: none"> • Ministry of Education and Tertiary Education Commission (TEC) officials consulting with stakeholders (including learners, employers from relevant industries, providers, ITOs and economic development agencies) in Auckland, Hawkes Bay, Taranaki, South Canterbury and Otago, and Wellington, between April and June 2018, to understand their experiences of the strengths and weaknesses in the VET system. • A Ministry survey of 30 medium-to-large employers on the skill system, in mid-2018. • TEC officials engaging with a similar range of stakeholders at the ITPs asked what was working well at the ITP and what needed to change, in mid-2018. The TEC met Māori and Pacific ITP stakeholders to investigate how to improve outcomes for learners and their families. The TEC surveyed around 1,000 ITP staff, learners, people considering tertiary study, employers and community members, and undertook a co-design of options for the ITP sector, with the sector, in mid-2018. • The Ministry considered findings from other processes such as the 2018 Education Summits and consultation on a statutory skills leadership role to ITOs. <p>There has been further engagement, including workshops with ITP and ITO chief executives and iwi, but there has not been consultation on a draft of the Bill.</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
A programme business case prepared by PWC included cost-benefit analysis and risk assessment for a range of broad policy options including the option reflected in the Bill. A link to the business case is provided under question 2.1, above.	

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
<p>There are two minor and technical changes to a levy.</p> <p>Clause 65 transfers a power to impose a voluntary (to an industry) levy, currently under the Industry Training and Apprenticeships Act 1992, to the Education Act 1989. The levy cannot be put in place without employer approval (at a rate of 60% of responding employers).</p> <p>Clause 65 also changes the type of organisation that can collect and allocate the levy, from an industry training organisation to a workforce development council (a new type of organisation that retains the standard setting function of industry training organisations). The levy provisions, including the purpose for which levy funds may be used, are otherwise unchanged.</p>	

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?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
<p>Clause 62 amends a strict liability offence under section 292 with respect to the use of the terms "polytechnic" and "institute of technology". This is explained further under question 3.4.</p>	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

<p>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?</p>	<p>YES</p>
<p>Clause 65 inserts provisions for the establishment and disestablishment of workforce development councils to undertake various activities with respect to an industry or group of industries. These provisions are largely based on the Industry Training and Apprenticeships Act 1992, with necessary amendments – notably the replacement of references to industry training organisations with references to workforce development councils. However, instead of being recognised by the Minister (as industry training organisations are), workforce development councils are to be established or disestablished by Order in Council on the recommendation of the Minister (see question 4.8). The councils take on a stronger role than industry training organisations with respect to standard setting, the formal endorsement of programmes of vocational education and advising the Tertiary Education Commission on investment in vocational education and training. Clause 70 repeals the Industry Training and Apprenticeships Act 1992, and makes consequential amendments to the Education Act 1989.</p> <p>Schedule 1 inserts new Part 9 into the Education Act 1989. This Part empowers the Minister, by notice in the <i>Gazette</i>, to recognise transitional industry training organisations as gaining coverage for an industry or group of industries. It also empowers the Minister to cancel recognition if the transitional industry training organisation asks the Minister to do so, if the organisation no longer exists, if it operates or has an interest in a private training establishment, or if the organisation fails to meet certain performance requirements. Recognition ceases for any such organisation that remains at the end of the transition period.</p> <p>Clause 49 inserts new section 222G, which empowers the Minister to appoint all but three members of the Council of the New Zealand Institute of Skills and Technology. New section 222H sets out matters to be considered by the Minister when making appointments, including the desirability of reflecting the diversity of New Zealand’s population. Clause 49 also sets out a monitoring and interventions framework for the Institute that reflects its major role in the vocational education system and the need to protect learner and public interests in its performance. Clause 51 inserts new section 222Y, which provides that certain provisions of the Crown Entities Act 2004 apply to the Institute’s council, including provisions relating to the removal of members of Crown entities.</p> <p>Clause 14 amends section 159M to empower the Minister to direct funding to the Institute and its subsidiaries, or (during the transition period only) to a provider (for arranging work-based training). This reflects the large share of vocational education that will be delivered by the Institute, and it enables directions that may be needed to ensure a smooth transition to the new system. The Minister must consider whether it is consistent with the efficient use of national resources and in the national interest to direct the funding in these ways.</p> <p>Clause 49 inserted new section 222D, which empowers the Minister, by <i>Gazette</i> notice, to specify administrative regions for the NZIST, to be used for certain limited administrative purposes. This is intended to support collaboration between the Institute and other parts of government, including local government.</p>	

Powers to make delegated legislation

<p>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?</p>	<p>YES</p>
<p>Schedule 1 inserts new Part 9, clause 56 of which enables the Governor-General by Order in Council, on the recommendation of the Minister, to make regulations prescribing transitional provisions, savings provisions (or both). This ability for regulations to amend primary legislation through an Order in Council provides a necessary process to enable additions or</p>	

changes to the transitional provisions to facilitate an orderly transition to the Institute and workforce development councils or to ensure that existing rights or obligations continue as part of, or despite, that transition. The power to make regulations is limited to the duration of a transitional period ending 31 December 2022. The relevant clauses are: [to insert when Bill near complete].

Clause 49 replaces Part 15A which includes new section 222A, which empowers the Governor-General, on the recommendation of the Minister, to change the name of the New Zealand Institute of Skills and Technology, including in legislation. It reflects the public interest in the naming of large public educational institutions. In this sense it is similar to current provisions for naming a tertiary education institution. This clause differs from the existing provisions in that the initial name of the Institute will be in the legislation, and the Governor-General's decision will amend the Act. In making the recommendation, the Minister would have to consider information from the Institute drawn from engagement with stakeholders, along with advice from the Ministry of Education.

Clause 51 inserts section 222Z, which empowers the Governor-General by Order in Council, on the recommendation of the Minister, to extend the date by which a subsidiary or all subsidiaries of the Institute may continue to exist beyond the legislated date of 31 December 2022, to a date specified in the order. The ability to amend primary legislation through an Order in Council provides a necessary process whereby the Minister can extend the NZIST subsidiaries.

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
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Clause 65 inserts new sections 479 and 480, which enable the Governor-General, by Order-in-Council on the recommendation of the Minister, to establish or disestablish a workforce development council (WDC), or to amend its coverage, composition, functions and certain other constitutional details. The Minister may not recommend disestablishing or amending the coverage or constitutions of WDCs unless the Minister has received a request from the relevant industries to do so and is satisfied that there are good reasons to do so, or the Minister reasonably considers that there has been a consistent failure by the WDC to carry out one or more of its functions. This power reflects the need for WDCs and their configuration to adapt with the changing needs of industry.

Clause 65 also inserts new section 492, which transfers the Minister's existing power to issue an apprenticeship training code from the Industry Training Act 1992 to the Education Act 1989.

Clause 51 amends NZQA's powers to make rules under section 246A of the Education Act 1989 by enabling NZQA to prescribe quality assurance requirements in regard to Workforce development councils' functions in the quality assurance system, and to prescribe fees for WDCs in relation quality assurance of the Councils. These amendments support an effective quality assurance system. Any proposed rules under this section must be approved by the board of the Authority and the Minister. The rules are disallowable instruments, but not legislative instruments, for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

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

Publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill – question 2.1

In addition to the documents listed under question 2.1, the following documents created prior to formal consultation on the RoVE proposals are available at:

<https://conversation.education.govt.nz/conversations/reform-of-vocational-education/about-the-reform-of-vocational-education/background-papers/>.

Education Reports

Date	Title
24 Nov 2017	<i>Tertiary Education Report: Background for a first discussion about ITP viability</i>
21 Dec 2017	<i>Education Report: Review of Vocational Education and Training (VET)</i>
16 Feb 2018	<i>Tertiary Education Report: Proposed approach to stakeholder engagement for the ITP Roadmap Project</i>
10 April 2018	<i>Education Report: Scope and process for the VET system review</i>
05 July 2018	<i>Education Report: Shifting to a high- quality, relevant VET</i>
15 Aug 2018	<i>Education Report: What do learners and employers need from the VET system</i>
06 Sep 2018	<i>Education Report: Next steps for the VET system review</i>
2 Oct 2018	<i>Tertiary Education Report - ITP Roadmap 2020 advice - Tū Kahikatea, the Strength of a Network (including five attachments)</i>
11 Oct 2018	<i>Education Report: How to pursue change in the VET System</i>
29 Oct 2018	<i>Education Report: Strategy session on VET</i>
09 Nov 2018	<i>Education Report: Materials for vocational education reform meeting on Monday 12 November 2018</i>
27 Nov 2018	<i>Education Report: Materials to support a meeting with the Minister of Finance on 28 November about RoVE</i>
03 Dec 2018	<i>Education Report: Draft Cabinet Paper: Update on progress towards reforms of vocational education</i>
10 Dec 2018	<i>Tertiary Education Report - Annotated agenda to support discussion of the reform of Vocational Education on 13 December 2018</i>
14 Dec 2018	<i>Education Report: Draft Cabinet paper for the Reform of Vocational Education</i>
11 Jan 2019	<i>Education Report: Revised draft Cabinet paper for the Reform of Vocational Education</i>
17 Jan 2019	<i>Tertiary Education Report: Annotated agenda to support discussion of RoVE on 23 January 2019</i>
18 Jan 2019	<i>Education Report: Draft Regulatory Impact Statement for the Reform of Vocational Education</i>

Date	Title
28 Feb 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE on Monday 4 March 2019</i>
7 Mar 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE on Monday 11 March 2019</i>
8 Mar 2019	<i>Tertiary Education Report: Options to allow a longer time for wānanga to consider involvement in RoVE</i>
8 Apr 2019	<i>Tertiary Education Report: Annotated Agenda to support RoVE Strategy Session on 10 April 2019</i>
26 Apr 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE Proposal one</i>
1 May 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE Proposal two</i>
9 May 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE Proposal three, and the fiscal and systems implications of RoVE</i>
10 May 2019	<i>Education Report: RoVE and Māori – proposal two – creating a NZIST</i>
17 May 2019	<i>Tertiary Education Report: Annotated Agenda to support discussion on RoVE transition arrangements, the formation of Industry Skills Bodies and Centres of Vocational Excellence, and fiscal implications</i>
23 May 2019	<i>Education Report: Draft Cabinet papers for Reform of Vocational Education</i>
24 May 2019	<i>Education Report: RoVE ITO workshop and advice on ISB purchase</i>
31 May 2019	<i>Education Report: Summary of public consultation, Regulatory Impact Assessment and Programme Business Case for Reform of Vocational Education</i>
6 Jun 2019	<i>Education Report: Reflecting Māori Crown relationships in tertiary education, including RoVE</i>
7 Jun 2019	<i>Education Report: Revised Cabinet papers for Reform of Vocational Education</i>
10 Jun 2019	<i>Education Report: Revised Cabinet papers for Reform of Vocational Education</i>

Date	Title
21 Jun 2019	<i>Education Report: Revised Cabinet papers for Reform of Vocational Education</i>
27 Jun 2019	<i>Tertiary Education Report: Annotated Agendas to support the drafting of legislation to implement the RoVE and supplementary work</i>
12 Jul 2019	<i>Tertiary Education Report: Workforce Development Councils and Centres of Vocational Excellence</i>

Aide Memoires, Briefings, Agendas

Date	Title
26 April 2018	<i>Aide Memoire: Future of Work Ministerial Oversight Group VET system Review</i>
24 Aug 2018	<i>Aide-Memoire: ITP Roadmap Strategy Session</i>
31 July 2018	<i>Agenda for a strategy session on VET on 1 August</i>
17 Oct 2018	<i>Aide-Memoire: How ITP Roadmap 2020 maps to options for change to the VET system</i>
17 Oct 2018	<i>Aide-Memoire: How ITP Roadmap 2020 maps to options for change to the VET system (Annex)</i>
2 Nov 2018	<i>Aide Memoire: ITP Roadmap - Financial decision rights options</i>
07 Dec 2018	<i>Aide Memoire: Update on progress toward reform of vocational education</i>
22 Jan 2019	<i>Briefing Note: Impact of Proposed RoVE Changes on Wānanga and Māori Learners</i>
4 Feb 2019	<i>Briefing Note: Draft technical consultation discussion document</i>
5 Feb 2019	<i>Briefing Note: Draft stakeholder factsheets</i>
8 Feb 2019	<i>Briefing Note: Meeting with Wānanga Leadership on the Impact of Proposed RoVE Changes on Wānanga and Māori Learners</i>
26 Apr 2019	<i>Briefing Note: RoVE – ensuring a new vocational education system supports Māori learner success</i>
7 May 2019	<i>Briefing Note: RoVE – ensuring a new vocational education system supports disabled learners’ success</i>
25 Jun 2019	<i>Aide Memoire: Reform of Vocational Education – suite of Cabinet Papers</i>
19 Jul 2019	<i>Aide Memoire: Reform of Vocational Education – Cabinet Papers</i>
19 Jul 2019	<i>Briefing Note: Reform of Vocational Education Suite of Cabinet Papers</i>