

# Supplementary Departmental Disclosure Statement

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Education Amendment Bill (No 2)
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A supplementary departmental disclosure statement for a Bill the government is proposing to amend seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill in amended form.

It highlights material changes to previous disclosures relating to:

- 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.

The original disclosure statement for the Education Amendment Bill (No 2), dated 10 August 2018, can be found at this [link](#).

This supplementary 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.

23 April 2019.

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## **The Main Areas of Change to the Original Disclosures**

This is a supplementary disclosure statement for the Education Amendment Bill (No 2).

The main areas of change to the original disclosure statement include proposals to:

- delay the new planning and reporting framework introduced by the Education (Update) Amendment Act 2017 by way of supplementary order paper (SOP); and
- amend the process for changing a university's name under the Education Act 1989 by way of SOP.

The SOPs also make a technical amendment to fix a, now retrospective, commencement date in clause 19 of the Bill.

## Part One: General Policy Statement

The Education Amendment Bill (No 2) amends the Education Act 1989, Education Act 1964, and Education (Update) Amendment Act 2017. The Bill clarifies the functions, duties and powers of specified education entities.

The first SOP delays the commencement of the new planning and reporting framework in the Education (Update) Amendment Act 2017 from 1 January 2020 to 1 January 2023.

The second SOP amends the process for changing a university's name under section 162(5) of the Education Act 1989.

### *Delaying the new planning and reporting framework*

The Education (Update) Amendment Act 2017 introduced a new strategic planning and reporting framework for State and State integrated schools. The Education Amendment Act 2018 made several changes to this framework.

Under the Education (Update) Amendment Act 2017, the provisions establishing the new planning and reporting framework were to come into force no later than 1 January 2019. To enable a smooth transition to the new framework, including the development of associated regulations, the Education Amendment Act 2018 postponed the commencement date to no later than 1 January 2020.

Since the Education Amendment Act 2018 was passed, there have been large changes proposed for the education sector. While decisions have not yet been made on these changes, it is possible that some of them could impact the way that schools are run, governed and funded. This could include impacts on schools boards' planning and reporting. The extent of possible reform was not known at the time the Education Amendment Act 2018 was passed.

There are also potential risks associated with adding an additional consultation process on proposed regulations at this time. Further consultation will impose additional administrative costs on schools and their boards if they choose to participate. They may also perceive an additional compliance burden if new regulations were made because some changes to how boards develop their plans and engage with their communities would be required.

This SOP delays the commencement date of the new framework from 1 January 2020 to 1 January 2023. It also includes consequential changes to the current transitional provisions, and the date that regulation-making provisions come into force. This will allow boards to operate on a business as usual basis during a period of change.

### *Amending the process for changing a university's name under the Education Act 1989*

Section 162(5) of the Education Act 1989 sets out the process for an institution to change its name:

“The Minister [of Education] may, on recommendation of the council of the institution concerned, change the name of an institution by notice published in the Gazette.”

This process rests the decision-making power with the Minister of Education as to whether a tertiary institution can change its name. This includes the process for changing a university’s name.

The SOP amends this process by transferring the decision-making power from the Minister to the House of Representatives regarding when a university can change its name.

This will align the process for a university name change with the higher bar required for the disestablishment of universities compared to other tertiary education institutions (TEIs) in section 164 of the Education Act 1989. The current name change process for tertiary institutions other than universities in section 162(5) will not be amended.

## 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?	NO
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### Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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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?	N/A
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### Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
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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?	N/A
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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?	N/A
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### 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
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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?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be affected by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>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?</b>
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The policies to be given effect by the SOPs to the Bill do not affect New Zealand's international obligations.
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### Consistency with the government's Treaty of Waitangi obligations

<b>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?</b>
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Te Puni Kōkiri was consulted on the policy decisions contained in these SOPs. Te Puni Kōkiri was also consulted on the original policy decisions as part of the Education (Update) Amendment Act 2017 that gives effect to the new planning and reporting framework that is being delayed by SOP.
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The policies to be given effect to by these SOPs do not affect Māori rights or interests protected by the Treaty of Waitangi.
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### Consistency with the New Zealand Bill of Rights Act 1990

<b>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?</b>
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NO
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### Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
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NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?
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NO
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<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>
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N/A
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### Privacy issues

<b>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?</b>
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NO
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<b>3.5.1. Was the Privacy Commissioner consulted about these provisions?</b>
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N/A
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## 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/NO]
The following government departments and public bodies were consulted in the development of policy proposals: the Treasury, Ministry of Social Development, Office for Disability Issues, Ministry for Women, Te Puni Kōkiri, Ministry for Pacific Peoples, Oranga Tamariki – the Ministry for Children, Ministry of Justice, Department of Corrections, New Zealand Police, Education Review Office, Tertiary Education Commission, New Zealand Qualifications Authority, and Teaching Council of Aotearoa New Zealand. The State Services Commission and the Department of the Prime Minister and Cabinet were informed.	

## 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?	NO
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## 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
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### 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
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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### Strict liability or reversal of the 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?	NO
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### 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?	NO
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### 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?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
The SOP delays the commencement of regulation making powers in section 95 of the Education (Update) Amendment Act 2017. It does not amend the powers in any other way.	

**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**