

# Education and Training (System Reform) Amendment Bill

Submission of the New Zealand Law Society Te  
Kāhui Ture o Aotearoa

23 December 2025

## 1. Introduction

- 1.1. The New Zealand Law Society Te Kāhui Ture o Aotearoa (the **Law Society**) welcomes the opportunity to comment on the Education and Training (System Reform) Amendment Bill (**the Bill**).
- 1.2. Relevant to the Law Society's submission, the Bill proposes to amend the Education and Training Act 2020 (**the Act**) to: amend the respective roles and functions of the Teaching Council and the Secretary for Education (the **Secretary**), alter the settings for curriculum statements (including the role of the Minister) and the health curriculum, and establish a new agency to manage education property.
- 1.3. The Law Society does not wish to be heard on this submission.

## 2. Feedback on relevant clauses of the Bill

### Clause 10: Review of curriculum statements by Secretary and amendment of curriculum statements by Minister

- 2.1. Clause 10 introduces new sections 90A and 90B, relating to curriculum statements made by the Minister under section 90 of the Act. Section 90A will require the Secretary, on an ongoing basis, to plan for and conduct reviews of learning areas, subjects, and wāhanga ako referred to in a curriculum statement. The plan must provide for these to be conducted at least once every five years, and findings (including recommendations for amendment of the curriculum statement) must be reported to the Minister.
- 2.2. There are matters the Secretary must have regard to when conducting a review.
  - information about the educational achievement of students in the reviewed learning areas, subjects, and wāhanga ako;
  - relevant evidence, for example, from new developments in educational research; and
  - international practice relating to the setting of curricula.
- 2.3. New section 90B then empowers the Minister to amend curriculum statements, regardless of whether the Secretary has reviewed the statement or reported on it. The Minister must have regard to those same matters set out above, in addition to the Secretary's report, if there is one.
- 2.4. These provisions raise two points for further consideration. First, 'relevant evidence' and 'international practice' could benefit from greater specificity, particularly as they relate to the Minister under section 90B (those considerations not necessarily requiring the input of the Secretary). 'Relevant evidence', though an example is given, is potentially very broad and subjective, depending on the nature of the curriculum statement under consideration.
- 2.5. Second, the nature of the mandatory considerations – in particular the information relating to educational research and international practice – is such that it seems likely the Minister will require advice from officials, irrespective of whether a report under section 90A(4) exists. It may be prudent to instead enable the Minister to direct the Secretary to

review and report on a specified curriculum statement, where amendment under section 90B is contemplated. The Minister would then be required to have regard to that report.

- 2.6. If the policy intent is to enable necessary amendment(s) of a curriculum statement where time, planning, or resource constraints do not allow for a review by the Secretary under section 90A to be undertaken first, section 90B could instead be drafted so as to enable the Minister to direct the Secretary to report on such matters (a lesser undertaking than a full review and report), with this report similarly a matter to which the Minister must have regard. Either option would bolster the decision-making process, in what is acknowledged to be an area of ongoing development and expert knowledge.

#### Clause 11: Board of State School must inform school community about delivery of health curriculum

- 2.7. Section 91 of the Act currently requires the board of a State school to adopt a statement on the delivery of the health curriculum, at least once every two years and after consultation with the school community.
- 2.8. Clause 11 will replace this with a requirement to ‘inform’ the school community, on a regular basis, of the content of the health curriculum and how it will be delivered, as well as the ability for a parent to remove their child from parts of that curriculum relating to sexuality education. This must be done on a regular basis, and at least once every 3 years or whenever the health curriculum is changed, whichever occurs sooner.
- 2.9. This provision would benefit from further specificity as to what types of curriculum changes would trigger the requirement to inform the school community. Would this apply, for example, even to minor curriculum changes?
- 2.10. Further, ‘school community’ is defined in new section 91(3) as including ‘any other person who the board considers is a part of the school community for the purposes of this section.’ This drafting reflects that of the current provision, however the terms ‘for the purposes of this section’ become ambiguous in the context of the new provision and in particular the requirement under new section 91(1)(b). Further consideration should be given to whom new section 91(3)(c) is intended to apply, and whether greater clarity can be provided.

#### Clause 17: State schools of serious concern

- 2.11. New sections 170A-170C set out a process whereby the Chief Review Officer must notify the Secretary and the Minister if of the view that a state school may be of ‘serious concern’ and, within 28 working days, report to the Secretary and Minister on whether the school is of serious concern and (if it is) recommend one or more interventions under section 171 of the Act to address this. Having received such a report, the Secretary must, within 30 working days, report to the Chief Review Officer and the Minister on what action the Secretary has or will be taking, or recommends the Minister take.
- 2.12. The use of this new process therefore depends on what is meant by ‘serious concern.’ However, it is not a term that is defined in the Act or the Bill. This risks uncertainty for not only schools, but also the Chief Review Officer and Secretary, given their obligations under the new process. The Law Society recommends defining the term.

### Clauses 33 – 38: Functions of the Teaching Council and the Secretary

- 2.13. Clauses 33 to 38 propose significant change to the functions of the Teaching Council and the Secretary.
- 2.14. Clause 34 will replace section 476(1) and (2), and repeal subsection (3). The latter is presently a requirement for at least one of the Ministerial appointments to the Teaching Council to be made following, ‘as the Minister thinks fit’ consultation with representatives of parent and community interest groups in relation to schools and early childhood services. No public consultation has been undertaken on this proposal, and the justification for removing an obligation to undertake community consultation is not evident. We recommend the Select Committee remove clause 34(2).
- 2.15. Clause 36 amends the functions and powers of the Teaching Council. A number of the Council’s present functions under section 479(1) of the Act are removed and transferred to the Secretary. The Council will no longer have the following functions:
- To provide direction for teachers.
  - To enhance the status of teachers.
  - To identify and disseminate best practice in teaching and foster the profession’s continued development in light of research and evidence of changes in society and technology.
  - To establish and maintain criteria for teacher registration that the Council considers necessary or desirable.
  - To review criteria for teacher registration and vary, delete, or substitute new criteria after consulting with the Minister.
  - To establish and maintain standards for qualifications that lead to teacher registration.
  - To review the standards for qualifications and vary, delete, or substitute new standards after consulting with the Minister.
  - To establish and maintain standards for ongoing practice and criteria for the issuance of practising certificates of different kinds.
  - To establish and maintain a code of conduct for teachers under section 485.
- 2.16. Clause 36 will also remove the functions that the Teaching Council may carry out with the written approval of the Minister. There are to:
- provide leadership to the education profession;
  - enhance the status of education leaders;
  - identify and disseminate best practice in education leadership.

- 2.17. These amendments may necessitate further amendment to the purpose of the Teaching Council, as recorded in section 478. Clause 35 deletes part of the current purpose so that, as amended, the Council's purpose will be:

*To ensure safe and high-quality leadership, teaching, and learning for children and young people in early childhood, primary, and secondary schooling in English-medium and Māori-medium settings, and settings of other languages.*

- 2.18. The Select Committee may wish to consider whether this purpose is suitably aligned with the Teaching Council's remaining functions.
- 2.19. As noted above, many of the functions removed from the Teaching Council are transferred to the Secretary, by clause 38 of the Bill. This represents a significant change, and one that differs from the approach taken in many other regulated professions, where the regulatory authority also oversees issues such as registration, licensing, and competence. See for example, health authorities established under the Health Practitioners Competence Assurance Act 2003, the Social Workers Registration Board established under the Social Workers Registration Act 2003, the New Zealand Law Society under the Lawyers and Conveyancers Act 2006, and the role of the Plumbers, Gasfitters and Drainlayers Board under the Plumbers, Gasfitters and Drainlayers Act 2006.
- 2.20. It is not entirely clear from the Regulatory Impact Statement (**RIS**) how these changes are intended to support the quality of teaching. Although the RIS refers repeatedly to public perception and variable leadership and teaching skills, it is not identified how the transfer of the above functions will result in improved teacher competence, nor whether they can achieve those outcomes more effectively than other options for reform. Rather, the RIS indicates this is the consequence of ministerial direction, and suggests the approach taken in the Bill is preferred because it meets 'government's expectations through direct ownership of standard setting' and will therefore align standards of teaching practice with 'government understandings of the skills, knowledge and attributes required for quality teaching.' Noting the policy development and legislative process constraints outlined in the RIS, we recommend the Select Committee consider whether further, more detailed policy work is warranted before the Bill proceeds further.
- 2.21. On a more minor point, new section 480A(2) requires the Secretary to review the Code of Conduct at least once every seven years or at shorter intervals if the Secretary thinks there is good reason to do so. New section 480A(1)(g) contemplates that after each review, the Secretary must vary, add to, or replace the Code of Conduct. We suggest consideration be given to an amendment that would allow the Secretary not to make changes if none were considered necessary as a result of the review.

#### Clause 42: New Subpart 5A - New Zealand School Property Agency

- 2.22. Clause 42 introduces new Subpart 5A, establishing the New Zealand School Property Agency (**NZSPA**). It moves property management of a school from the board of trustees to the new agency.
- 2.23. New Subpart 5A enables the Board of the NZSPA to issue requirements for school boards to take actions of various kinds. Failure to comply with a requirement, triggers escalating

enforcement rights, leading to step-in rights in urgent cases and the power of the Secretary to intervene in the governance of the school.

- 2.24. Notably, the provisions do not contain any mechanism for resolving disputes efficiently and cost-effectively, of the kind that you might expect in a tenancy relationship. Although the Bill provides for a case conferences between the Board of the NZSPA and a school board, the prospects of a negotiated resolution are hollow, given that the default position under new section 517AN(6) is that the Board of the NZSPA can just issue a notice requiring a particular action if the parties are unable to agree.
- 2.25. It seems likely that disputes will arise, from time to time, including about whether a requirement (or subsequent intervention) is warranted. Ideally, there would be a mechanism for addressing such disputes in an efficient and effective manner, without relying immediately on the likes of judicial review. The Law Society recommends the Select Committee seek advice from officials as to how such a mechanism could be provided for.

Nāku noa, nā



Frazer Barton  
**President**