

Education (Freedom of Association) Amendment Bill

Member's Bill

Explanatory note

The purpose of this Bill is to uphold students' right to freedom of association, by ensuring that no student is compelled to join a students association.

Section 17 of the New Zealand Bill of Rights Act 1990 guarantees the right to freedom of association. This right includes the freedom from compelled association. Parliament has an obligation to ensure New Zealand legislation is consistent with the New Zealand Bill of Rights Act and New Zealand's obligations under the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

This Bill does not seek to damage or limit students associations, but guarantees the right of students to the freedom of association. It will result in students associations being truly representative of the students who voluntarily join them.

Under this Bill, all students would be able to choose whether or not to join a students association. The current Act requires councils to conduct a referendum to decide if all students should be forced to become members of an association, if petitioned by 10% of the students enrolled at the institution. If a majority of voters in a referendum support compulsory membership, then the right to freedom of association for the all remaining students is breached.

This Bill seeks to address the negative consequences stemming from the passing of the Education Amendment Act 2000 and the referenda provisions of the Education (Tertiary Students Association Voluntary Membership) Amendment Act 1997. The current legislation fails to guarantee individual students a satisfactory opportunity to withdraw from associations, and sets the bar too high for those who wish to make membership of a students association voluntary.

Clause by Clause Analysis

Clause 1 is the Title clause.

Clause 2 provides that the Act comes into force one year after the date on which it receives the Royal assent.

Clause 3 provides that the Act amends the Education Act 1989.

Clause 4 sets out the purposes of this Act.

Clause 5 provides that the Act is binding on the Crown.

Clause 6 inserts a new section which prevents any person from requiring a student to join, or not join a students association, or pay money to a students association. It also prevents any person from exerting undue influence on a student, to join, not join or pay money to a students association.

Clause 7 removes any requirement for a student to join a students association.

Hon Sir Roger Douglas

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Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education (Freedom of Association) Amendment Act 2009.

2 Commencement

This Act comes into force one year after the date on which it receives the Royal Assent.

3 Principle Act amended

This Act amends the Education Act 1989.

4 Purpose

The purpose of this Act is to uphold students' right to freedom of association, by removing any requirement for students to join students associations.

5 Act binds the Crown

This Act binds the Crown.

6 New section 229 substituted

Section 229 is repealed and the following section substituted:

“229 Voluntary membership of students associations

“(1) No person, including any tertiary institution or any association of students, may require any student or exert undue influence on any student –

“(a) to become or not become a member of any association of students; or

“(b) to pay any money to any association of students, or to any other person in lieu of such fees.

“(2) No person, including any tertiary institution, may act in any way which conflicts with the spirit and intent of this section.”

7 Sections 229A to 229D repealed

Sections 229A to 229D are repealed.