
Review of the Operation of the Tertiary Education Institutions at Risk Legislation

Sections 195A to 195F of the Education Act 1989

September 2007

Presented to the House of Representatives pursuant to section 195G(c) of the Education Act 1989.

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Executive Summary

1. Sections 195A to 195F of the Education Act 1989 set out the powers and duties of the Responsible Minister with regard to assessing the level of risk to the operation and long-term viability of tertiary education institutions (TEIs), and the actions the Minister can take when he or she considers the institution to be at risk.
2. Under section 195G, I am required to review the operation of sections 195A to 195F, in consultation with interested parties, to prepare a report of the review that includes recommendations on whether any amendment to these sections is necessary or desirable, and present a copy of the report to the House of Representatives.
3. In reviewing the operation of these sections, both government and key stakeholders have identified a number of issues which may warrant further consideration. For government, the identified issues include: providing government with greater abilities to intervene when risks are identified to ensure the Crown can act effectively to respond to serious risks; and considering how to better assess the effectiveness of these interventions. For stakeholders, the identified issues include: the need for a more collaborative approach to interventions; greater acknowledgment of the disruption that an intervention represents to a TEI; ensuring that all parties have a clear understanding of the purpose and process for interventions and the risk monitoring framework; and the appropriateness of applying sections 195A to 195F across all TEIs.
4. Given the broader policy changes currently taking place across the tertiary education system, I do not consider it necessary or desirable to amend sections 195A to 195F at this time. A substantive review will be undertaken in 2009, when there has been some experience under this new investment system. This will enable the government to determine how best to shape a statutory framework for interventions that gives TEIs as much independence and freedom to make academic and management decisions as is consistent with the national interest (section 160 of the Act refers) in this new environment.

Introduction

5. Sections 195A to 195G were introduced as amendments to the Education Act 1989 as part of the Education Standards Act 2001, which came into force on 24 October 2001. These sections set out the powers and duties of the Responsible Minister with regard to assessing the level of risk to the operation and long-term viability of TEIs, and the

actions the Minister can take when he or she considers the institution to be at risk. A full text of these sections is provided as an appendix to this report.

6. Section 195G requires a review of the operation of sections 195A to 195F:

No later than 5 years from the date on which sections 195A to 195F come into force, the Minister must—

- (a) review, in consultation with interested parties, the operation of sections 195A to 195F; and*
 - (b) prepare a report of the review that includes recommendations on whether any amendment to those sections is necessary or desirable; and*
 - (c) present a copy of the report to the House of Representatives.*
7. This report fulfils these requirements. As part of this review, key stakeholders, in particular TEI Councils and chief executive officers, and sector peak bodies such as the New Zealand Vice-Chancellors' Committee, and Institutes of Technology and Polytechnics New Zealand were asked to comment on the operations of sections 195A to 195F in late April to early June 2007.

The operation of sections 195A to 195F

8. The following section describes the design of the current statutory framework for interventions and briefly describes how these sections have operated since they came into force.

Criteria for risk assessment of institutions

9. Section 195A requires the Secretary for Education to publish criteria for assessing the level of risk to the operation and long-term viability of institutions. The development of the risk assessment criteria is carried out in consultation with TEI Councils. The risk criteria are a key part of defining what is reasonable when requiring information (section 195B), appointing a Crown observer (section 195C) and appointing a commissioner (section 195D). The risk criteria are only one requirement that the Minister must meet in making appointments under section 195C and 195D.
10. The current risk assessment criteria were published in the *New Zealand Gazette* on 5 February 2004. Amendments to the current risk criteria are being made following a review of the criteria (in accordance with section 195A(3) of the Education Act) undertaken in conjunction with this review. Some minor modifications are being made to enable the criteria to operate in a smoother, more effective manner by removing inconsistencies and gaps in the current criteria (see paragraphs 26 and 27 for more detail). The revised criteria have not been gazetted at the time this report was presented to the House of Representatives.¹

¹ The current gazetted risk assessment criteria are available on the Tertiary Education Commission website at: <http://www.tec.govt.nz/templates/standard.aspx?id=1194>
The proposed revised criteria are available on the Ministry of Education website: www.minedu.govt.nz

The different types of intervention provided for under sections 195A to 195F

Provision of information

11. Under section 195B, the Secretary of Education may request that a TEI Council provide specified information or reports on aspects of the operation, management, or financial position of the institution. This is used to inform judgements on whether the institution is at risk and whether further action may be required.

Crown observer

12. Under section 195C, a Crown observer may be appointed if the Minister considers on reasonable grounds that the operation or long-term viability of an institution is at risk. The Crown observer's role is to provide advice; the person appointed has no decision making powers. Typically Crown observers are people with experience in financial management and previous knowledge and involvement in the tertiary sector at senior levels.

Commissioner

13. Under section 195D, the Minister can dissolve a TEI Council and appoint a commissioner in its place. Stringent conditions, notification and consultation requirements are set out in legislation. The appointment of a Commissioner can only occur where there is a serious risk to the operation or long-term viability of an institution, and when other methods of reducing the risk appear likely to fail. A serious risk exists where an institution is insolvent, or at risk of becoming insolvent, and there is a serious risk to the operation or long term viability of the institution according to the gazetted risk assessment criteria.
14. Commissioners are tasked with working in the best interests of the institution so that the risk is addressed, any capability issues are rectified, and the institution becomes more viable. The power and functions of the commissioner are set out under sections 195E and 195F.

Use of intervention powers

15. The Tertiary Advisory Monitoring Unit (TAMU) of the Tertiary Education Commission (TEC) has a role in identifying risks to an institution's viability, supporting providers when risks arise and advising the Crown if further action is required. TAMU meets with most institutions on a regular basis to discuss their strategies, financial management issues and risks. This aligns with one of the primary duties of a Council of a TEI, which is to make sure that the institution operates in a financially responsible manner that "ensures the efficient use of resources and maintains the institution's long-term viability" (section 181(e) refers).
16. Discussion and advice with TAMU is broadly viewed as regular, less formal, non-statutory intervention. In many cases, the relationships established with institutions enable appropriate action to be identified and undertaken at an early stage through collaboration and discussion. A more formal type of non-statutory intervention is the appointment of a Crown Manager, which may be included as a condition of a Crown loan agreement.
17. TAMU conducts interventions at TEIs on an informal basis as well as taking the more formal statutory interventions. In some cases TEIs have met the criteria for a more formal intervention but TAMU has recommended less formal intervention responses (where these are adequate to address a particular situation).

18. Formal intervention is generally only required when an institution does not have the internal capability to address a particular risk issue itself. Informal interventions are as much about capability building as they are about the Crown taking active control of a situation.
19. TAMU also manages the more serious statutory interventions on behalf of the Crown described above and in the table below.
20. The following table summarises the statutory interventions that have occurred since the introduction of sections 195A to 195F in 2001:

Information sought under section 195B	
<i>Extent of use</i>	This power has not been used. The Secretary for Education has instead sought and obtained information from institutions on an informal basis.
Crown observers put in place under section 195C	
<i>Extent of use</i>	Used in seven different institutions. At the time of this report there are currently two Crown observers in place at TEIs.
<i>Success</i>	The success of this intervention has depended on the financial state of the institutions concerned and willingness or capability of the institution to respond to the recommended changes. In five cases there were improvements in financial performance following the intervention. In the other two cases, interventions are ongoing.
Council dissolved and commissioner put in place under section 195D	
<i>Extent of use</i>	This has occurred once and with the agreement of the TEI's Council. In one other instance the commissioner process was begun, but a decision was taken not to appoint a commissioner at that time.
<i>Success</i>	Some difficulties were experienced in the effective use of the mechanism. The limitations of the current risk assessment criteria did not allow for the timely appointment of a commissioner.

Types of institution

21. All of the instances of statutory intervention described in the tables above have either been applied to institutes of technology and polytechnics or wānanga. This does not mean, however, that other TEIs – such as universities – have not triggered risks at levels one and two of the risk criteria. When institutions are assessed to be at risk, TAMU makes an assessment of an institution's capacity to respond to these risks, and, in many instances, it has worked on an informal basis with these institutions to support them in alleviating these risks.

Perspectives on the operation of sections 195A to 195F

Government perspectives

22. In preparing this review, the Ministry of Education and the TEC have considered the way the interventions have operated to date and have identified a range of issues that could be considered over the longer term. These include providing government with greater ability to:
- a. intervene at an early stage;
 - b. intervene for educational reasons;
 - c. intervene to respond to risks relating to governance and management;
 - d. appoint a commissioner under section 195D in a timely manner; and
 - e. assess the effectiveness of interventions.

Intervening at an early stage

23. There may be a need for greater ability to influence and support TEI governance, management, quality and educational viability when concerns are at an early stage. Intermediate powers of intervention – between the appointment of a Crown observer and appointment of a commissioner – may be needed that would allow the Crown to more effectively manage the risk and to support the Council's efforts to respond to identified issues. The early detection of an issue, and early intervention to support the Council in resolving this issue, is likely to result in a faster remedy so that the institution can quickly return to a viable track. Giving the Crown more flexibility to intervene at an early stage may be considered necessary because:
- a. advice and support provided by TAMU does not always result in improvements in areas of concern;
 - b. an institution may face severe risks that are beyond its ability to effectively address;
 - c. in some cases, an institution may fail to take effective action until it is at the point of insolvency – it is only at this point that the Minister can appoint a commissioner; and
 - d. the interests of students enrolled at the institution need to be recognised at an early stage.

Intervening for educational reasons

24. In recent years, there have been some concerns about whether risk in relation to the operation of TEIs should also be measured in terms of the quality of education provision. However, the current risk assessment criteria are focused on predominantly financial considerations. In the longer term, it may be appropriate to review the current criteria to ensure that severe, non-financial problems related to the quality of education can also trigger interventions if they also constitute serious risks to the operation or viability of the institution.

25. In developing any criteria to assess educational risks, due regard would be given to ensuring that these criteria do not conflict with the preservation and enhancement of academic freedom and the autonomy of TEIs, as set out under section 161.

Intervening to respond to risks relating to governance and management

26. In the past, government has had some difficulty in responding when risks relating to governance and management are apparent. Some councils have become incapacitated and dysfunctional, and have been unable to perform their statutory functions and duties (set out under sections 180 and 181), even though they have not triggered any existing level three risk criteria (which are largely based around financial measures). In order to address this in the immediate term, proposed new risk assessment criteria at level three will take into account instances where:
- a. a TEI's Council is not considered to be fulfilling its statutory functions and duties;
 - b. Council membership falls below the statutory minimum requirement of 12 members, if this can be attributed to the action (or inaction) of the Council, and causes the council to be unable to fulfil its statutory functions and duties; and
 - c. the Auditor-General has conducted an inquiry on the affairs of the institution and has concluded that there are serious mismanagement issues.

Difficulty in appointing a commissioner

27. In some situations where there was considered to be a serious risk to the operation or long term viability of an institution that was not covered by the existing risk assessment criteria, the current statutory requirements and risk criteria may have held back the timely appointment of a commissioner. To address this situation, a number of minor amendments to the current risk criteria are proposed to ensure that serious risks in tertiary institutions can be more quickly identified.

Assessing the effectiveness of interventions

28. The assessment of the effectiveness of interventions is not a simple task. The benefits derived from interventions may include improvements in financial performance, which can be relatively easily quantified, but in many cases benefits may also include other, more qualitative, improvements, such as: better strategic planning and asset management; enhanced capability for Council governance or management decision-making, and even educational outcome benefits due to a better alignment of resources to the outcomes the TEI wants to achieve.
29. Most interventions result in positive improvements in financial performance at TEIs in outyears, but restructuring does represent a short term cost. Quite often the financial performance of an institution deteriorates in the first year of intervention, as Crown appointees grapple with a worsening financial situation and steps are taken to build a platform for longer term improvements. The real test for assessing improved performance is typically in the second and third years of an intervention.
30. In some cases, interventions, especially when they are only advisory in nature, such as a Crown observer, can be constrained in their capacity to support effective change through the actions and decisions taken by the institution's management or council.
31. In other cases the state of the institution when the intervention occurs is such that the institution is no longer viable. In those cases, interventions focus on the minimisation of risk to the Crown and maintaining ongoing educational provision for students. The

real test is whether things have improved by comparison to the probable outcome if no intervention had occurred.

Other stakeholder perspectives

32. As part of this review, feedback was sought from stakeholders (mainly TEIs and peak bodies such as the New Zealand Vice-Chancellors' Committee, and Institutes of Technology and Polytechnics New Zealand) on their views of the operation of sections 195A to 195F. The issues raised by stakeholders include the need for:
- a. government taking a more collaborative approach to interventions;
 - b. greater awareness of the disruption that interventions represent to institutions;
 - c. clearer understandings about the interventions framework across the tertiary sector;
 - d. more graduated interventions within the legislation;
 - e. greater consultation with TEIs on assessing risk; and
 - f. applying sections 195A to 195F generically across all TEIs.
33. Other key themes from the feedback included the important role that informal interventions play alongside the formal interventions, the need to ensure good calibre people undertaking Crown observer and Crown manager roles, and recognition for the work the TEI management and council themselves do in returning a TEI to a financially stable position. These issues could be considered in more detail over the longer term.

Collaborative approach

34. Respondents that have experienced a statutory intervention emphasised the need for government agencies to take a more collaborative approach to interventions – the focus should be on supporting TEIs to respond to identified risks, rather than government imposing an external intervention on the TEI. In order to achieve this, where an institution is at significant risk, both the government and the TEI should forge strong working relationships that focus on reaching shared understandings on the position of each party, and the purpose and desired outcomes of the interventions process.

Disruption to institution

35. The application of statutory interventions can be very disruptive to the TEIs affected. Any type of government intervention does tend to attract media attention, particularly in the immediate community, and institutions must work hard to maintain the confidence of local communities about their ability to provide quality and ongoing tertiary education provision. Some TEIs suggest that there is a risk that statutory interventions will actually add to the financial risks the institution faces through:
- a. declining enrolments due to adverse publicity; and
 - b. having to pay for the expenses of the Crown observer, manager or commissioner.
36. With regard to the additional expense of a Crown observer, one respondent suggested that Crown observers should be funded by the TEC, as they are not members of the Council. It should be noted that there are already various cost sharing arrangements in

place, with the TEC tending to pay for initial costs and TEIs picking up shared costs if the appointment is for a longer period. The approach to cost-sharing tends to focus on where the benefits from the intervention accrue.

37. Given the likely disruption even from a limited intervention, such as the appointment of a Crown observer, some respondents suggested that the stricter steps for appointing a Crown commissioner, under section 195D, should also be applied to the appointment of a Crown observer in the legislation.

Clearer understandings of interventions framework

38. There was a sense that government should work to ensure that there are clear understandings across the tertiary sector of both the government's and TEIs' responsibilities and required accountabilities under the current interventions framework. This includes, for example, government setting clear expectations about the role of the Crown observer, and explaining the purpose and operation of the risk assessment criteria.

More graduated statutory interventions

39. One respondent noted the need for more intermediate steps in the intervention spectrum between Crown observer and commissioner and suggested the possible codification of the Crown manager role in legislation. It was seen that the Crown manager took over the financial issues, leaving the TEI Council intact to attend to the educational and other TEI functions. This step was seen as positive as it allowed the Crown to target a particular identified problem, while also minimising the loss of institutional autonomy that would occur completely if a commissioner were to be appointed.

Consulting on risk assessment criteria

40. During the initial consultation, a number of respondents suggested there was a need to include an express requirement for consultation with the institution in the course of undertaking a risk assessment against the risk criteria.
41. In general, a risk assessment will normally be undertaken by TAMU in collaboration with the institution concerned. This provides an opportunity for both TAMU and the institution to discuss the nature and extent of risk and afford the institution an opportunity to take appropriate remedial action, without the need for recourse to formal intervention.
42. In addition, the responsible Minister must formally consult with an institution when deciding whether to intervene and, in the case of the appointment of a commissioner, give the institution the opportunity to be heard in relation to a preliminary decision to appoint. At this stage an institution is able to comment on and, if necessary, challenge a proposed intervention, including the factual basis for the "at risk" assessment.

Application of sections 195A to 195F across tertiary education institutions

43. The universities saw this review as an opportunity to discuss whether sections 195A to 195F are needed, and whether the intervention powers should be applied generically across all TEIs. The New Zealand Vice-Chancellors' Committee did not support this amendment in 2001, and do not consider it appropriate to include universities under these provisions when the instances of serious risk to the viability of tertiary education institutions have largely occurred in institutes of technology and polytechnics and wānanga.

44. However, as noted in paragraph 21 above, while the government has so far only used the statutory interventions to respond to identified risks in institutes of technology and polytechnics and wānanga, it is important to ensure that government has the statutory power to respond where it identifies serious risks, regardless of the type of institution.

Comment – amendment to sections 195A to 195F not necessary

45. The tertiary education system is currently undergoing significant change at this time. Under the new investment framework, the TEC and TEIs will work together to develop investment plans that are focused on meeting the contributions the government expects from the tertiary education system, as articulated in the Tertiary Education Strategy 2007/12 and Statement of Tertiary Education Priorities 2008/11. At the centre of this new system is the Investing in a Plan process, which will enable the TEC to collaborate with each TEI in developing a flexible plan that takes into account the TEI's current capability, asset base, financial situation and place within the overall network of provision. This will enable the TEC to make informed investment decisions across the network of tertiary provision.
46. This new investment system may shape the ways that risks arise in the tertiary system, as well as the way that TEC responds to these risks before statutory interventions are required. It is considered appropriate to consider the statutory framework for interventions when we have a better sense of how this new system operates in practice. It is likely, for example, that as part of the Investing in a Plan process, the TEC will have more tools to support TEIs to respond to the difficulties they are facing, by providing the right kinds of incentives to encourage good performance. The details of these incentives is still being worked through, but could include:
- a. focusing on improving educational performance (to address the issues discussed in paragraph 24 above); and
 - b. providing funding to support capability building.
47. Given the broader policy changes taking place across the tertiary education system, I do not consider it necessary or desirable to amend sections 195A to 195F at this time.² However, a substantive review will be undertaken in 2009, when there has been some experience under this new investment system. This will enable the government to determine how best to shape a statutory framework for interventions that gives TEIs as much independence and freedom to make academic and management decisions as is consistent with the national interest (section 160 of the Act refers) in this new environment. This review may take into account the issues that were highlighted as part of this review.
48. As noted above, a review of the risk assessment criteria has been conducted in conjunction with this review. A number of minor amendments are being made concurrently with this review to support TAMU to identify and respond to risks at an early stage and to respond more effectively to identified governance and management issues.

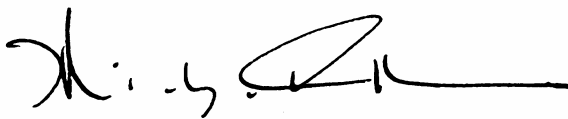
² Note that some minor changes are proposed for sections 195A to 195F as part of the Education (Tertiary Reforms) Amendment Bill. These proposed changes involve: insertion of new section 195DA, which offers protection against personal liability to commissioners; and amendment of section 195E(1) to replace the reference to the charter with plan.

49. There has been mixed support for the proposal to undertake a substantive review in 2009. Institutes of technology and polytechnics and wānanga are comfortable with this, given the demands already being placed upon them through the implementation of the tertiary reforms. However, universities consider that these issues should have been included as part of this review, which they see as an important opportunity to consider whether the statutory interventions are appropriate, and whether they should be applied generically across all TEIs. On balance, because the majority of TEIs are comfortable with this proposal, a review will take place in 2009.

Recommendations

It is recommended that Members of the House of Representatives:

1. **note** that a review of the operation of sections 195A to 195F of the Education Act is required under section 195G;
2. **note** that feedback on the operation of sections 195A to 195F has been sought from interested parties;
3. **note** that no amendment to sections 195A to 195F is considered necessary or desirable at this time, given the broader changes currently taking place in the tertiary education system;
4. **note** that a review of the risk assessment criteria has been undertaken in conjunction with this review, under section 195A(3), and minor amendments to the risk assessment criteria are being made to address identified issues; and
5. **note** that a substantive review of sections 195A to 195F will be undertaken in 2009 when the new investment system is in place, with a view to aligning the statutory framework for interventions with this new system.



Hon Dr Michael Cullen
Minister for Tertiary Education

Institutions at risk

195A Criteria for risk assessment of institutions—

- (1) The Secretary must, after consulting with institution Councils, determine criteria for assessing the level of risk to the operation and long-term viability of institutions.
- (2) The Secretary must publish criteria determined under subsection (1) in the Gazette.
- (3) Criteria determined under this section must be reviewed at least once in every 2 years following the date of their publication in the Gazette.

195B Institutions to provide information if required—

- (1) The Secretary may, if he or she has reasonable grounds to believe that an institution may be at risk, by written notice to the Council of an institution, require the Council to provide either or both of the following:
 - (a) specified information about the operation, management, or financial position of the institution at a given time;
 - (b) reports at specified intervals on specific aspects of the operation, management, or financial position of the institution.
- (2) If the Secretary requires information under subsection (1), the information required must be information that relates to the risks to the institution that the Secretary is concerned about.
- (3) A Council that receives a notice under subsection (1) must provide the Secretary with the required information within or at the time or times specified in the notice.
- (4) The Secretary may revoke or amend any notice given under subsection (1).
- (5) *Repealed.*

195C Minister may appoint Crown observer—

- (1) If the Minister considers on reasonable grounds that the operation or long-term viability of an institution is at risk, he or she may appoint a Crown observer to the Council of the institution.
- (2) A Crown observer may not be appointed to the Council of an institution unless the Minister has first—
 - (a) consulted with the Council; and

- (b) advised the Council that he or she is considering appointing a Crown observer; and
 - (c) given the Council an opportunity to comment on the proposal.
- (3) Every appointment under this section must be in writing and must state the date on which it takes effect.
- (4) A Crown observer may—
- (a) attend any meeting of the Council or committee of the Council of the institution to which he or she is appointed; and
 - (b) offer advice to the Council, or any committee or member of the Council; and
 - (c) report to the Minister on any matter raised or discussed at any meeting that he or she attends as a Crown observer.
- (5) A Crown observer must at all times maintain confidentiality with respect to Council affairs, except as authorised by paragraph (c) of subsection (4).
- (6) A Crown observer is not a member of the Council or any committee of the Council, and may not—
- (a) vote on any matter; or
 - (b) exercise any of the powers, or perform any of the functions or duties, of a member of the Council.

195D Minister may dissolve Council and appoint commissioner—

- (1) The Minister may, by written notice, dissolve the Council of an institution and appoint a commissioner to act in place of the Council if the Minister believes on reasonable grounds that—
- (a) there is a serious risk to the operation or long-term viability of the institution; and
 - (b) other methods of reducing the risk either have failed or appear likely to fail.
- (2) For the purpose of subsection (1), there is a serious risk to the operation or long-term viability of an institution if—
- (a) the institution is, or is at risk of being, unable to pay its debts as they become due in the normal course of business; and
 - (b) according to the criteria published under section 195A(2), there is a serious level of risk to the operation or long-term viability of the institution.
- (3) A notice under subsection (1) must specify—
- (a) the date when the dissolution and appointment take effect; and
 - (b) the name of the person appointed as commissioner.

- (4) The Minister may not exercise the power under subsection (1) in relation to an institution unless he or she has first—
 - (a) consulted with the Council of the institution and any other interested parties over the possible need to dissolve the Council and appoint a commissioner; and
 - (b) following that consultation, given the Council written notice of his or her preliminary decision that the Council should be dissolved and a commissioner appointed in its place; and
 - (c) allowed the Council at least 21 days in which to respond to the preliminary decision; and
 - (d) considered any submissions made by the Council about why the preliminary decision should not be confirmed.
- (5) As soon as practicable after giving a notice under subsection (1), the Minister must—
 - (a) publish a copy of it in the Gazette; and
 - (b) present a copy of it to the House of Representatives.
- (6) When a commissioner is appointed under this section, the Minister must review the appointment at least once in every 12 months following the appointment.
- (7) As soon as the Minister is satisfied (following an annual review or at any other time) that the risk that gave rise to the appointment of the commissioner has reduced to such an extent that it is appropriate that the institution be administered by a Council, a new Council must be appointed in accordance with the constitution of the Council most recently notified in the Gazette.
- (8) A commissioner's appointment ends on the close of the day before a new Council takes office.

195E Powers and functions of commissioner—

- (1) A commissioner appointed under section 195D has all the powers, functions, and duties of the Council that he or she is appointed to replace, and must exercise those powers and perform those functions and duties in accordance with this Act (having particular regard to sections 160 and 161) and the institution's charter.
- (2) A commissioner replaces all Council members who serve on any committee of the Council that he or she is appointed to replace.
- (3) Anything that, if done by or on behalf of a Council, is required to be signed by 2 or more members of the Council, may be done by the commissioner's signature alone.

195F Minister to appoint advisory committee—

- (1) If the Minister appoints a commissioner under section 195D, the Minister must also appoint an advisory committee for the purpose of advising and supporting the commissioner in the exercise of the commissioner's functions, duties, and powers.

- (2) The Minister may appoint up to 5 persons to be members of an advisory committee and must ensure that the composition of the committee reasonably reflects the community of the institution as represented by its Council at the time of the Council's dissolution.
- (3) Members of an advisory committee may be paid fees at the same rates as were paid to members of the Council at the time of its dissolution.
- (4) The commissioner must have regard to any advice given by an advisory committee.
- (5) For the purposes of section 222(1) (which is about delegations by the Council to committees), an advisory committee is deemed to be a committee appointed under section 193(3).

195G Review of operation of sections 195A to 195F—

No later than 5 years from the date on which sections 195A to 195F come into force, the Minister must—

- (a) review, in consultation with interested parties, the operation of sections 195A to 195F; and
- (b) prepare a report of the review that includes recommendations on whether any amendment to those sections is necessary or desirable; and
- (c) present a copy of the report to the House of Representatives.