



13 February 2020

James Lohead-Macmillan  
[fyi-request-12029-db539232@requests.fyi.org.nz](mailto:fyi-request-12029-db539232@requests.fyi.org.nz)

Dear Mr Macmillan

**Official Information Request**  
**Our Ref: SSCOIA 2020-0005**

I refer to your Official Information request received on 16 January 2020 where you have asked:

*“how are Kindergartens classed as a State sector Employer given the acts don't appear to line up.*

*Part 10 - Teacher registration [Repealed]*

*Part 10: repealed, on 1 July 2015, by section 6 of the Education Amendment Act 2015 (2015 No 1).*

*120 Interpretation [Repealed]*

*Section 120: repealed, on 1 July 2015, by section 6 of the Education Amendment Act 2015 (2015 No 1).*

- *Could I also ask if you have a definition of what a "Free Kindergarten Association" is?*
- *Also given the different funding to Kindergarten associations, what would be required to set up a new Free Kindergarten Association?"*

We notified you on 29 January 2019 that we were transferring the parts of your request noted below, to the Ministry of Education as this information is not held by the State Services Commission (SSC) but is believed to be more closely connected to the functions of the Ministry of Education:

- *Could I also ask if you have a definition of what a "Free Kindergarten Association" is?*
- *Also given the different funding to Kindergarten associations, what would be required to set up a new Free Kindergarten Association?*

In response to your question regarding how kindergartens are classed as a State sector employee, Part 10, including s120 of the Education Act 1989 was repealed on 1 July 2015 and was replaced on the same day by Part 31 dealing with teacher registration. This includes all relevant definitions relating to kindergartens and early childhood services.

Part 31 of the Education Act 1989 can be found at the link below:

<http://www.legislation.govt.nz/act/public/1989/0080/latest/DLM6526228.html>

It was an oversight at the time that the State Sector Act reference to the repealed s120 was not updated at the same time. This will be rectified in the new Public Service Act. The Public Service Legislation Bill is currently before select committee and can be found at the link below:

[https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL\\_93134/public-service-legislation-bill](https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/BILL_93134/public-service-legislation-bill)

If you wish to discuss this decision with us, please feel free to contact [Ministerial.Services@ssc.govt.nz](mailto:Ministerial.Services@ssc.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) on the State Services Commission's website.

Yours sincerely



Nicky Dirks  
**Managing Principal – Ministerial Services**  
**State Services Commission**