

Education and Training (Grants—Budget Measures) Amendment Bill

Government Bill

As reported from the Education and Workforce Committee

Commentary

Recommendation

The Education and Workforce Committee has examined the Education and Training (Grants—Budget Measures) Amendment Bill and recommends that the amendments shown be adopted and, by majority, recommends that the bill be passed.

About the bill

The bill would amend section 548 of the Education and Training Act 2020. This section is about funding early childhood services and certified playgroups. The Act sets out that licensed early childhood services must be paid general annual grants and may be paid discretionary grants from the Government. It also sets out that certified playgroups may be paid general and discretionary grants.

The bill would explicitly authorise the Minister, when attaching conditions or purposes related to employment matters to grants, to do so to help achieve employment relations aims. Remuneration would be an example of an employment matter.

Under the Education and Training Act 2020, the Minister can set conditions or purposes on grant funding, such as specifying how the grant is to be used. It is implicit that these conditions or purposes must be focused on the purpose of the Act as set out in section 4.

The purpose of the Act is to establish and regulate an education system that:

- provides New Zealanders and those studying in New Zealand with the skills, knowledge, and capabilities that they need to fully participate in the labour market, society, and their communities; and
- supports their health, safety, and well-being; and

- assures the quality of the education provided and the institutions and educators that provide and support it; and
- honours Te Tiriti o Waitangi and supports Māori-Crown relationships.

As introduced, the bill would make it clear that the Minister could attach conditions or purposes, related to employment matters, to grant funding in order to help achieve employment relations aims.

We note that the Education and Training Act could have arguably allowed the Minister to attach conditions and purposes to grants in accordance with section 4. However, this bill would remove any doubt that the Minister could do so specifically for employment relations aims.

We note that during the first reading of this bill the Minister of Education indicated that centres could get higher rates of funding if they agreed to pay their teaching staff at least the minimum step (1 out of 6) on the kindergarten teacher salary scale.¹ The majority of submitters' comments focused on this proposed condition, not the bill itself.

Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

Our recommendation

We recommend amending clause 4 to make it clear that the bill would not change the types of conditions or purposes permitted under section 548(5) of the Act.

The drafting of the bill does not make it clear that the bill would not change the types of conditions or purposes that the Minister could attach to a grant.

Our amendment would replace section 548(5A) with three new subsections: (5A), (5B), and (5C).

New section 548(5A)(a) would cite the provisions of the Act that enable the Minister to specify conditions and purposes. This would clarify that the bill would not change the conditions or purposes that the Minister could attach to a grant.

New sections 548(5A)(b) and 548(5B) would clarify that conditions or purposes relating to employment matters, such as remuneration, may be specified for employment relations aims. This would make it clear that the Minister could specify conditions for these aims.

Our recommendation would make it clear that the bill does not change the conditions or purposes for funding already permitted under section 548(5). It would also affirm

¹ https://www.parliament.nz/en/pb/hansard-debates/rhr/combined/Hans-Deb_20210520_20210521_40

that the Minister could specify conditions or purposes that relate to employment matters.

National Party differing view

The National Party values the important role that our early childhood education (ECE) teachers play in setting up our very youngest learners for success. While we support remunerating ECE teachers more fairly, and more in line with their kindergarten counterparts, we do not believe that this bill is necessary to achieve higher salaries for teachers, nor is it an effective tool to achieve higher salaries without compromising quality or increasing costs to parents.

The Minister attempted to make the case for requiring an amendment to the existing legislation by stating that his aim of achieving parity was not in line with the intent of the original legislation. We remain unconvinced as to the need for this amendment and share the view of the Early Childhood Council that the attestation mechanism could be used to increase teacher salaries instead. The extremely truncated timeframe for this bill did not give our committee time to properly traverse this issue.

This bill goes far beyond simple remuneration and allows for the Minister to dictate employment terms and conditions to private businesses. Many submitters raised concerns about the additional conditions that may accompany the parity remuneration. Centre owners were worried that if they opted into the parity scheme, the Minister may impose the same or similar terms and conditions as exist in the Kindergarten Teachers, Head Teachers and Senior Teachers' Collective Agreement. They made the point that this may increase costs to their business that would not be covered by the additional funding they would receive. Kindergartens are funded at a far higher rate to reflect the terms and conditions in the collective agreement, whereas ECE centres would not receive this same funding to cover any additional terms and conditions.

While the Minister of Education stated to the committee that he would not impose any additional terms or conditions with the parity remuneration, we heard from officials that two conditions would be imposed:

- how teachers would move up the pay parity scale
- where teachers would start on the pay parity scale

These two conditions contradict the Minister's statement to the committee that there would be no accompanying conditions with the parity funding. This bill, even as amended, does allow for conditions to be linked to parity funding.

ECE centres concerned about additional terms and conditions being imposed remarked that this would lead to additional costs that would need to be covered either through a reduction in the quality of service (increased child-to-teacher ratios or by hiring more inexperienced or unqualified staff), or by passing that cost onto parents through an increase in fees.

The speed that this bill has passed through committee is also of great concern. Only 14 people submitted in person while over 500 managed to submit in writing. There were only two days available for oral submissions, both of which coincided with cen-

tre operating hours. Given the pressure with a lack of ECE staff at present, it was unfair and undemocratic to give such a short time for submissions to be made. There was no need for this bill to pass through under urgency and we do not believe that the issues with the bill were properly traversed.

Green Party differing view

The Green Party believes that every child deserves a high-quality, free, accessible public education that gives them the best possible start in life. We want all children to reach their full potential, but unfortunately, not all learners get equal opportunities and recognition. This is particularly so in early childhood education, which is a sector dominated by private providers. There are serious institutional inequities, of which pay parity is one issue impacting the whole ECE sector.

The Green Party support the Education and Training (Grants—Budget Measures) Amendment Bill, but would welcome action on the concerns expressed by submitters about the implementation of pay parity and the missed opportunity of this bill. The bill is a clarification of the Minister of Education's powers, but it is not sufficient to deliver pay parity in itself. For example, any funding can be opted-out of by private providers. Further work should follow so that fair pay and working conditions for teachers can be delivered, no matter who their employer is.

The Green Party supports the position of the NZEI submission that more substantive reform than this amendment bill is needed to the ECE sector, including a move to more public provision of ECE.

Appendix

Committee process

The Education and Training (Grants—Budget Measures) Amendment Bill was referred to the committee on 20 May 2021. We invited the Minister of Education to speak on the bill. He did so on 9 June 2021.

The closing date for submissions on the bill was 4 June 2021. We received and considered 558 submissions from interested groups and individuals. We heard oral evidence from 14 submitters at hearings in Wellington.

We received advice on the bill from the Ministry of Education. The Office of the Clerk provided advice on the bill's legislative quality. The Parliamentary Counsel Office assisted with legal drafting.

Committee membership

Marja Lubeck (Chairperson)

Chris Baillie

Camilla Belich

Hon Paul Goldsmith

Jan Logie

Jo Luxton

Ibrahim Omer

Angela Roberts

Erica Stanford

Education and Training (Grants—Budget Measures)
Amendment Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Chris Hipkins

Education and Training (Grants—Budget Measures) Amendment Bill

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	2

Part 1

Funding of certain early childhood services and certified playgroups

4	Section 548 amended (Funding of certain early childhood services and certified playgroups)	2
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Part 2

Transitional, savings, and related provisions

5	Schedule 1 amended	2
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Schedule

New Part 2 inserted into Schedule 1

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Education and Training (Grants—Budget Measures) Amendment Act **2021**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Education and Training Act 2020.

Part 1**Funding of certain early childhood services and certified playgroups****4 Section 548 amended (Funding of certain early childhood services and certified playgroups) 5**

After section 548(5), insert:

- (5A) ~~Conditions or purposes specified under subsection (5)(a) or (b) may—~~
- (a) ~~relate to matters that are, or include, employment conditions (for example, remuneration); and~~ 10
 - (b) ~~be specified to help achieve aims that are, or include, employment relations aims that may, but need not, also be specified by the Minister.~~
- (5A) **Subsections (5B) and (5C) apply to conditions or purposes—**
- (a) specified under subsection (5)(a) or (b); and
 - (b) that relate to employment matters (for example, remuneration). 15
- (5B) Those conditions or purposes may be specified by the Minister to help achieve aims that are, or include, employment relations aims.
- (5C) Those aims may, but need not, also be specified by the Minister.

Part 2**Transitional, savings, and related provisions 20****5 Schedule 1 amended**

In Schedule 1,—

- (a) insert the Part set out in the Schedule of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Schedule
New Part 2 inserted into Schedule 1

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Part 2
Provision relating to Education and Training (Grants—Budget Measures) Amendment Act 2021

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72 Application of section 548(5A) to (5C)

Section 548(5A) to (5C) (as inserted by **section 4** of the Education and Training (Grants—Budget Measures) Amendment Act **2021**) applies to a grant paid under section 548, and to a condition or purpose specified under section 548(5)(a) or (b) for that grant, after the commencement of that Act (whether that grant was determined before or after that commencement).

10

Legislative history

20 May 2021

Introduction (Bill 43–1), first reading and referral to Education and Workforce Committee