

Cabinet Paper material

Proactive release

Minister & portfolio	Hon Chris Hipkins, Minister of Education
Name of package	Education and Training (Grants – Budget Measures) Amendment Bill: Approval for Introduction
Date considered	17 May 2021
Date of release	5 July 2021

These documents have been proactively released:

**Cabinet paper: Education and Training (Grants – Budget Measures) Amendment Bill:
Approval for Introduction**

17 May 2021

Ministry of Education

Cabinet Minute: CAB-21-MIN-0168

17 May 2021

Cabinet Office

Departmental Disclosure Statement

17 May 2021

Ministry of Education

<http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=43>

Education and Training (Grants – Budget Measures) Amendment Bill

17 May 2021

Ministry of Education

<https://www.legislation.govt.nz/bill/government/2021/0043/latest/LMS496595.html?src=qs>

Supplementary Analysis Report: Power to set funding conditions for early childhood services

17 May 2021

Ministry of Education

<https://conversation.education.govt.nz/conversations/education-and-training-amendment-bill/resources/>

Material redacted

Some deletions have been made from the documents in line with withholding grounds under the Official Information Act 1982. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

The applicable withholding grounds under the Act are as follows:

Section to maintain legal professional privilege
9(2)(h)

You can read the Official Information Act 1982 here:

<http://legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>

In confidence

Office of the Minister of Education

Cabinet

Education and Training (Grants – Budget Measures) Amendment Bill: Approval for Introduction

Proposal

- 1 I propose that the Education and Training (Grants – Budget Measures) Amendment Bill (the Bill) be approved for introduction into the House of Representatives as part of Budget night legislation.

Policy

- 2 On 5 May 2021, the Cabinet Social Wellbeing Committee agreed to amend the Education and Training Act 2020 to clarify that conditions on funding for early childhood services can extend to matters of employment conditions [SWC-21-MIN-0058]. The Bill gives effect to this change. The Bill is proposed for inclusion in this year's Legislation Programme with a proposed priority of category 2: must be passed in the year.
- 3 The Bill's content is unlikely to be particularly controversial, although it may be used as a vehicle by submitters to draw further attention to the pay gap between certificated teachers in education and care services and equivalent teachers in kindergartens.
- 4 The Bill originates from the Government's manifesto commitment to move towards closing this pay gap and achieving pay parity for education and care teachers. This is primarily a matter of fairness because the two groups of teachers effectively carry out the same role. There are likely to be some secondary, educational benefits from closing the pay gap insofar as it supports recruitment and retention of qualified teachers in education and care services.

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9(2)(h)

- 6 This Bill therefore amends section 548 of the Act to enable conditions to be specified on funding for achieving an employment relations purpose.

Clarification of the extent of condition coverage

- 7 The change approved by the Social Wellbeing Committee was described as a power to set conditions on funding related to employment conditions. The drafting of the Bill refers to setting conditions that relate to employment conditions, including remuneration, for an employment relations purpose. This confirms that it is the ability to set the employment conditions including remuneration for an employment relation purpose, such as fairness of pay for different groups of teachers carrying out the same work.

Impact analysis

Regulatory Impact Statement

- 8 Treasury's Regulatory Impact Analysis Team has determined that a Supplemental Analysis Report is required for this Bill. A regulatory impact assessment was not provided to Cabinet committee at the policy approval stage.
- 9 A Ministry of Education Quality Assurance Panel has reviewed the Supplemental Analysis Report *Power to set funding conditions for early childhood services*. The RIA is dated 16 September 2019. The Panel considers that it partially meets the Quality Assurance criteria.

Compliance

- 10 The Bill complies with the following:
- 10.1 the principles of the Treaty of Waitangi;
 - 10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 10.3 the principles and guidelines set out in the Privacy Act 2020;
 - 10.4 relevant international standards and obligations; and
 - 10.5 the Legislation Guidelines.
- 11 A disclosure statement has been prepared for the Bill.

Consultation

- 12 No consultation has been undertaken with other agencies given the limited nature of the drafting change. No consultation with other parties represented in Parliament is required.

Binding on the Crown

- 13 On 5 May 2021 the Cabinet Social Wellbeing Committee considered the Cabinet paper seeking policy approvals for the Bill, which included a statement confirming that the Bill will be binding on the Crown [SWC-21-MIN-0005 refers].

Creating new agencies or amending law relating to existing agencies.

14 Not applicable.

Allocation of decision making powers

15 Not applicable.

Associated regulations

16 Not applicable.

Other instruments

17 Not applicable.

Definition of Minister/department

18 Not applicable.

Commencement of legislation

19 The Bill will come into force on the day after the date of Royal assent.

Parliamentary stages

20 I seek that the Bill be introduced into Parliament by 20 May 2021, as part of Budget night legislation, since it relates to a Budget initiative and that it be enacted as soon as possible after it is reported back to the House.

21 I also seek agreement that the Bill should be referred to the Education and Workforce Committee with a truncated report back period of five weeks. This will enable the legislation to pass in time to clearly allow the Ministry of Education to administer and disburse Budget 2021 funding for teacher pay parity by 1 January 2022, including time for adequate notification of funding rates and associated requirements to services.

Proactive Release

22 I intend to proactively release this Cabinet paper once the Bill has been introduced, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

23 The Minister of Education recommends that Cabinet:

1 **note** that the Education and Training (Grants – Budget Measures) Amendment Bill is proposed to be included in the 2021 Legislation Programme with a priority of category 2: must be passed in the year;

- 2 **note** that the Bill amends the Education and Training Act 2020 to make it clear that conditions can be placed on funding to early childhood services and playgroups for an employment relations purpose;
- 3 **approve** the Education and Training (Grants – Budget Measures) Amendment Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agree** that the Bill be introduced on 20 May 2021;
- 5 **agree** that the Minister propose that the Bill be referred to the Education and Workforce committee for consideration with a truncated report back period of five weeks;
- 6 **note** that the Bill will be enacted as soon as possible after it is reported back to the House of Representatives.

Authorised for lodgement

Hon Chris Hipkins
Minister of Education



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Education and Training (Grants – Budget Measures) Amendment Bill: Approval for Introduction

Portfolio Education

On 17 May 2021, Cabinet:

- 1 **noted** that on 5 May 2021, the Cabinet Social Wellbeing Committee agreed to amend the Education and Training Act 2020 to clarify that conditions on funding for early childhood services can extend to matters of employment conditions [SWC-21-MIN-0058];
- 2 **noted** that the Education and Training (Grants – Budget Measures) Amendment Bill gives effect to the above decisions;
- 3 **approved** for introduction the Education and Training (Grants – Budget Measures) Amendment Bill [PCO 23753/2.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agreed** that the Bill be introduced on 20 May 2021;
- 5 **agreed** that the Minister of Education propose that the Bill be referred to the Education and Workforce Committee for consideration with a truncated report back period of five weeks;
- 6 **noted** that the Bill will be enacted as soon as possible after it is reported back to the House of Representatives.

Michael Webster
Secretary of the Cabinet