

Cabinet Paper material

Proactive release

Minister & portfolio Hon Chris Hipkins, Minister of Education
Name of package Education (School Donations) Amendment Bill: Approval for Introduction
Date considered 27 May 2019

These documents have been proactively released:

Cabinet paper: Education (School Donations) Amendment Bill: Approval for Introduction

Date considered: 21 May 2019, Legislation Committee
Author: Ministry of Education

Departmental Disclosure Statement: Education (School Donations) Amendment Bill

Date considered: 21 May 2019, Legislation Committee
[Document publicly available.](#)

Education (School Donations) Amendment Bill

Date considered: 1 May 2019
[Document publicly available.](#)

Legislation Committee Minute – LEG-19-MIN-0059

Date considered: 21 May 2019
Author: Cabinet Office

Cabinet Minute – CAB-19-MIN-0235

Date considered: 27 May 2019
Author: Cabinet Office

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 9(2)(f)(iv) to protect the confidentiality of advice tendered by Ministers of the Crown and officials

Some deletions have been made from the documents as the information withheld does not fall within scope of the Minister's portfolio responsibilities, and is not relevant to the proactive release of this material.

You can read the Official Information Act 1982 here:

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

Budget Sensitive

Office of the Minister of Education

Chair, Cabinet Legislation Committee

Education (School Donations) Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval to introduce the Education (School Donations) Amendment Bill (the Bill) on 30 May 2019.

Policy

- 2 The Education Act 1989 (the Act) enables the Minister of Education to determine the amounts of grants and supplementary grants to boards. However, the Act does not explicitly authorise placing conditions on the payment of grants to boards and recovery of funds that are paid to boards subject to particular conditions.
- 3 The Government has made a commitment to pay State and State-integrated school boards of trustees \$150 per student if they agree not to ask parents for donations. Cabinet has agreed to amend the Act to support the implementation of the school donations scheme [SWC-19-MIN-0043].
- 4 The Bill creates a new category of discretionary grants that sit alongside the existing grants and supplementary grants. The scope of discretionary grants does not include schools' operational funding. Under the Bill, the Minister of Education can pay discretionary grants to boards subject to the condition that a board does not seek or receive any solicited voluntary payment from parents, as well as any other conditions that the Minister determines. If the conditions are breached, funds can be recovered by reducing a future grant, supplementary grant or discretionary grant to a school rather than requiring schools to refund money to the Ministry of Education.
- 5 The school donations scheme funding would be paid as a discretionary grant. The risk of funds being recovered is intended to give boards a strong incentive to ensure they understand and comply with the scheme rules once they opt in to the scheme.
- 6 The Bill does not prevent unsolicited gifts or schools from recovering compulsory payments for extracurricular activities where it is entitled to do so. It does prevent soliciting all forms of payment rather than purely donations to avoid easy work arounds (for example framing requests for funding as koha).

A drafting change

- 7 Cabinet authorised the Minister of Education to make decisions on any issues of detail that may arise during drafting without further reference to Cabinet, subject to the decisions being consistent with the policy agreed to by Cabinet.
- 8 In accordance with this authority, I have made the decision to clarify in the Bill that the Minister of Education may set conditions on the payment of discretionary grants to boards. This clarification will enable the policy agreed to by Cabinet to be more effectively implemented. I consider that this decision is consistent with the policy agreed to by Cabinet.

Impact analysis

- 9 The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this Cabinet paper are exempt from the requirement to provide a Regulatory Impact Assessment as they have no or minor impacts on businesses, individuals or not for profit entities.

Compliance

- 10 The Bill complies with each of 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 disclosure statement requirements (a disclosure statement has been prepared and is attached to the paper);
 - 10.4 the principles and guidelines set out in the Privacy Act 1993;
 - 10.5 relevant international standards and obligations;
 - 10.6 the Legislation Guidelines (2018), published by the Legislation Design and Advisory.
- 11 The following government departments were consulted on the development of the policy proposals and have reviewed this paper: The Treasury, Inland Revenue, Ministry of Social Development, Office of Disability Issues, Ministry for Women, Ministry for Pacific Peoples, and Ministry for Children—Oranga Tamariki.

Binding on the Crown

- 12 The Bill will not be binding on the Crown, as the sections of the principal Act (the Education Act 1989) requiring amendment are not binding on the Crown.

Allocation of decision making powers

- 13 The Bill does not allocate decision making powers between the executive, the courts, or tribunals.

Associated regulations

- 14 Detailed conditions for the payment of donations scheme funding to individual schools will be determined by the Minister of Education and do not need to be specified in legislation or regulations.
- 15 The Bill therefore does not include any provisions for regulations to be included in the Act.

Other instruments

- 16 The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments.

Definition of Minister/department

- 17 The Bill makes no changes to the definitions of Minister, department or chief executive.

Commencement of legislation

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

Parliamentary stages

- 19 Cabinet agreed to amend the Act as part of the 2019 Legislation Programme, with a **s 9(2)(f)** [REDACTED]
- 20 I intend to introduce the Bill on 30 May 2019 (Budget Day) as this is when funding for the school donations scheme will be announced. The Bill should be passed by the end of 2019.
- 21 I intend to seek a four to five month select committee process during the first reading debate on the Bill. This is necessary to ensure the school donations scheme and its compliance arrangements are in place by 1 January 2020, when the first payments are planned for those schools that opt in to the scheme.
- 22 I propose that the Bill be referred to the Education and Workforce Select Committee.

Proactive Release

- 23 I intend to proactively release this Cabinet paper (subject to any redactions appropriate under the Official Information Act 1982) after 30 May 2019 (Budget Day).

Recommendations

- 24 The Minister of Education recommends that the Committee:
- 1 **note** that Cabinet previously agreed to an amendment to the Education Act 1989 that has a **s 9(2)(f)(iv)** [REDACTED] on the 2019 Legislation Programme. This enables the Bill to be **s 9(2)(f)(iv)** [REDACTED];
 - 2 **note** that Cabinet authorised the Minister of Education to make decisions on any issues of detail that may arise during drafting without further reference to Cabinet, subject to the decisions being consistent with the policy agreed to by Cabinet [SWC-19-MIN-0043];
 - 3 **note** that, pursuant to this authorisation from Cabinet, I have decided to clarify in the Bill that the Minister of Education may set conditions on the payment of discretionary grants to boards including the condition that a discretionary grant must be made subject to the condition that a board does not solicit any form of voluntary payment from parents;
 - 4 **note** that the Bill enables the recovery of funding from boards that have failed to comply with the conditions of a discretionary grant, and that this supports the establishment of the school donations scheme because that funding would be paid as a discretionary grant to schools;
 - 5 **approve** the Education (School Donations) Amendment Bill for introduction, subject to the final approval of the government caucus and support parties;
 - 6 **note** that I intend to seek a truncated select committee period of four to five months during the first reading debate, to enable the Bill to be enacted before the end of the year;
 - 7 **agree** that the Bill be introduced on 30 May 2019 (Budget Day);
 - 8 **agree** that the Government propose that the Bill be:

- 8.1 referred to the Education and Workforce committee for consideration; and
- 8.2 enacted by the end of 2019.

Authorised for lodgement

Hon Chris Hipkins

Minister of Education

Proactively Released by the Minister of Education



Cabinet Legislation Committee

Revised

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 (School Donations) Amendment Bill: Approval for Introduction

Portfolio Education

On 21 May 2019, the Cabinet Legislation Committee:

- 1 **noted** that on 1 May 2019, the Cabinet Social Wellbeing Committee (SWC) agreed to an amendment to the Education Act 1989 that has a **s 9(2)(f)(iv)** priority on the 2019 Legislation Programme;
- 2 **noted** that SWC authorised the Minister of Education to make decisions on any issues of detail that may arise during drafting without further reference to Cabinet, subject to the decisions being consistent with the policy agreed to by Cabinet;

[SWC-19-MIN-0043]
- 3 **noted** that, pursuant to this authorisation from Cabinet, the Minister of Education has decided to clarify in the Bill that the Minister of Education may set conditions on the payment of discretionary grants to boards, including the condition that a discretionary grant must be made subject to the condition that a board does not solicit any form of voluntary payment from parents;
- 4 **noted** that the Education (School Donations) Amendment Bill (the Bill) enables the recovery of funding from boards that have failed to comply with the conditions of a discretionary grant, and that this supports the establishment of the school donations scheme because that funding would be paid as a discretionary grant to schools;
- 5 **approved** the Education (School Donations) Amendment Bill [PCO 22136/1.9] for introduction, subject to the final approval of the government caucuses and support parties;
- 6 **noted** that the Minister of Education intends to seek a truncated select committee period of four to five months during the first reading debate, to enable the Bill to be enacted before the end of the year;
- 7 **agreed** that the Bill be introduced on 30 May 2019 (Budget Day);

8 **agreed** that the government propose that the Bill be:

8.1 referred to the Education and Workforce committee for consideration;

8.2 enacted by the end of 2019.

Vivien Meek
Committee Secretary

Present:

Hon Phil Twford
Hon Chris Hipkins (Chair)
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Tracey Martin
Hon Kris Faafoi
Hon Peeni Henare
Hon Eugenie Sage

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Minister of Education



Cabinet

Minute of Decision

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Report of the Cabinet Legislation Committee: Period Ended 24 May 2019

On 27 May 2019, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 24 May 2019:

| | | |
|-----------------|---|------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| LEG-19-MIN-0059 | Educational (School Donations) Amendment Bill: Approval for Introduction Portfolio: Education | CONFIRMED |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

Redactions made as content outside scope of Minister's portfolio responsibility

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| [REDACTED] | [REDACTED] | [REDACTED] |
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| [REDACTED] | [REDACTED] | [REDACTED] |
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Redactions made as content outside scope of Minister's portfolio responsibility

Michael Webster
Secretary of the Cabinet

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