

Departmental Disclosure Statement

Education (School Donations) Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Education.

The Ministry of Education certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

13 May 2019

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Part One: General Policy Statement

The Education (School Donations) Amendment Bill (the Bill) is intended to reduce the widespread expectation that parents should pay voluntary contributions to schools for their child's education. It does this by supporting the implementation of a school donations scheme being established for decile 1-7 schools, whereby schools will be paid a nominal amount per student if the school agrees to comply with certain conditions upon choosing to participate in the scheme. This is an important step towards ensuring education is genuinely free.

The Education Act 1989 (the Act) currently authorises the Minister of Education to pay grants and supplementary grants to boards of trustees of schools. The Bill amends the Act to create a new category of grants called discretionary grants. The Bill provides that the Minister may pay discretionary grants to boards subject to the condition that a board does not seek or receive any solicited voluntary payments from parents, and any further conditions that the Minister determines.

The Bill also enables funding provided as discretionary grants to be effectively recovered from boards that have failed to comply with the conditions of that funding. Funds can be recovered by reducing a future grant to the school, rather than requiring the school to refund money to the Ministry of Education.

This Bill will enable the Minister to pay donations scheme funding as a discretionary grant with conditions attached. The main condition is that boards of trustees agree to stop asking parents for voluntary payments, and the Bill enables the Minister to recover funding paid under the school donations scheme if boards then request voluntary payments from parents.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	NO
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Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

At the time of writing the information on these matters is Budget Sensitive. After 30 May 2019 it should be available on the Ministry of Education website: <https://www.education.govt.nz>

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Bill is consistent with New Zealand's international obligations to provide free and accessible education¹

The Bill supports the establishment of the school donations scheme, by enabling the Minister to recover funds from boards that do not comply with the conditions of the scheme. Boards need to comply with the conditions of the school donations scheme to realise the scheme's purpose of reducing financial barriers to accessing compulsory education.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Consideration has been given as to whether the policy impacts any rights or interests of iwi/Māori, or obligations or commitments of the Crown to iwi/Māori under the Treaty of Waitangi, included as set out in legislation. The Bill is consistent with the principles of the Treaty of Waitangi.

Although the Bill will impact Māori who are students, parents/whānau of students, and school board members, it will not impact them in a way that engages their particular rights or interests under the Treaty of Waitangi, or the Crown's obligations or commitments.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

NO

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?
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NO

(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?

NO

3.4.1. Was the Ministry of Justice consulted about these provisions?

NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?

NO

¹ Article 26, Universal Declaration of Human Rights; Article 13, International Covenant on Economic, Social and Cultural Rights; Article 28, United Nations Convention on the Rights of the Child; Article 24, United Nations Convention on the Rights of Persons with Disabilities.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	NO
No external consultation has been undertaken because the Bill relates to matters that are Budget Sensitive.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
Our assessment is that payment and recovery of funding is currently possible using the existing school resourcing systems.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
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4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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