

Departmental Disclosure Statement

Education and Training (Grants—Budget Measures) Amendment Bill
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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.

12 May 2021

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Part One: General Policy Statement

The Education and Training Act 2020 (the **principal Act**) establishes and regulates an education system that has the purpose of —

- providing New Zealanders with the skills, knowledge, and capabilities that they need to fully participate in the labour market and their communities; and
- supporting their health, safety, and well-being; and
- assuring the quality of the education provided; and
- honouring Te Tiriti o Waitangi and supports Māori–Crown relationships.

The principal Act was enacted in August 2020 and repealed and replaced former education and training legislation with a simpler and more user-friendly legislative framework.

Section 548 of the principal Act provides for the Minister of Education to determine

- general or discretionary grants paid to a service provider of a licensed childhood service:
- general or discretionary grants paid to a service provider operating a certified playgroup:
- discretionary grants paid to the management of a body corporate for establishing a licensed early childhood service or certified playgroup.

Those funding grants may be paid subject to any conditions the Minister specifies in writing when the grant is paid or earlier: section 548(5)(a). Those funding grants may be paid to be used for any purpose the service provider thinks fit, or for only the purposes that the Minister specifies in writing when the grant is paid or earlier: section 548(5)(b).

This Bill inserts a new section 548(5A) to ensure that the conditions may:

- relate to matters that are, or include, employment conditions (for example, remuneration); and
- be specified to help achieve aims that are, or include, employment relations
- aims that may, but need not, also be specified by the Minister.

New section 548(5A) will apply to any grant paid after the commencement of the Amendment Act arising from this Bill.

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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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?	YES
The Supplementary Analysis Report <i>Power to set funding conditions for early childhood services</i> was authored by the Ministry of Education on 12 May 2021. This is available at Regulatory impact statements (treasury.govt.nz) .	

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?	YES
See reference in section 2.4	
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES

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?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

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?

This Bill does not affect New Zealand's international obligations.

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?

The proposal does not provide any inconsistency with the principles of the Treaty of Waitangi. This is because a funding condition would need to be set under s 548 of the Act before an inconsistency may arise. The proposal does not set actual funding conditions.

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:

(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?

NO

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

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

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

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?

NO

The proposals in the Bill have not been tested due to Budget sensitivity.

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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