

13 May 2021

Hon David Parker, Attorney-General

Consistency with the New Zealand Bill of Rights Act 1990: Education and Training (Grants—Budget Measures) Amendment Bill

1. We have considered whether the Education and Training (Grants—Budget Measures) Amendment Bill (the Bill) is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 (the Bill of Rights Act).
2. We have not yet received a final version of the Bill. This advice has been prepared in relation to the latest version of the Bill (PCO 23753/1.7). We will provide you with further advice if the final version includes amendments that affect the conclusions in this advice.
3. The Bill amends s 548 of the Education and Training Act 2020 (the principal Act) by inserting a new s 548(5A). Section 548 of the principal Act provides for funding to be paid as general and discretionary grants to licensed early childhood services or certified playgroups. It also provides that the Minister of Education has the power to determine the amount and the means by which the grants may be calculated or ascertained, and to set conditions on the grants. However, it is not clear that the power to set conditions extends to requiring services to pay certain salaries or to meet certain employment conditions.
4. The new s 548(5A) will clarify that conditions on funding for early childhood services, as specified under s 548(5)(a), may:
 - a. relate to matters that are, or include, employment conditions (for example remuneration); and
 - b. be specified for purposes that are, or include, achieving employment relations objectives.
5. This amendment reflects the Government's commitment to improving teacher pay in the early learning sector.
6. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.



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