

# **Education (School Donations) Amendment Bill**

Government Bill

## **Explanatory note**

### **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 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.

### Departmental disclosure statement

The Ministry of Education is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=147>

### Regulatory impact assessment

A regulatory impact assessment is not required for this Bill.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* relates to commencement. The Amendment Act will come into force on the day after the date of Royal assent.

*Clause 3* indicates that the principal Act amended is the Education Act 1989.

## Part 1

### Main amendment

*Clause 4* inserts new *sections 79A and 79B*, about discretionary grants for boards.

*New section 79A* enables the Minister, in or for a financial year, to make discretionary grants to boards out of public money appropriated by Parliament for the purpose. *New section 79A* requires the Minister to determine the amount of each discretionary grant. In doing so, the Minister must take no account of international students (other than students exempted under section 4A(1)) enrolled or likely to be enrolled at any school administered by the board concerned.

A discretionary grant must be made subject to the condition that a board that receives it does not seek or receive any solicited voluntary payment from parents (as defined in *new section 79A(7)*). A discretionary grant may also be made subject to other conditions (except the condition that it will be used for the purposes set out in the grant) determined by the Minister. A board that receives a discretionary grant is required by *new section 79A* to take all reasonable steps to ensure that all conditions of the grant are complied with.

Discretionary grants therefore supplement, and differ from, these 2 existing kinds of grants under section 79 (which section 79(1) requires the Minister to determine):

- grants, which are used for schools' operational funding (*see also* sections 4B(4) to (6), 78E(3), and 91K):
- supplementary grants, which are paid subject to the condition that they will be used for the purposes set out in those grants, and which, under section 79(3), must be used, by the boards that receive them, for those purposes only.

(This Bill also does not affect grants under section 35N for private schools, or grants under section 81A for correspondence schools.)

*New section 79B* is about non-compliance with earlier discretionary grants. *New section 79B* applies when the Minister is determining, for the purposes of section 79 or *new section 79A*, the amount of any grant, supplementary grant, or discretionary grant payable to a board in respect of a school in or for a financial year. *New section 79B*—

- requires the Minister to have regard to the extent to which the board has, in any 1 or more earlier financial years, in respect of the school, failed to comply with all or any conditions of a discretionary grant paid to the board in respect of the school in those 1 or more earlier financial years; and
- permits the Minister, after consulting the board, to determine for the grant, supplementary grant, or discretionary grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been.

## Part 2

### Consequential amendments

*Clause 5* makes consequential amendments to make clear that section 79(1)—

- is about grants and supplementary grants for boards; and
- is subject to section 79(2) and (3) and *new section 79B* (inserted by *clause 4*).



*Hon Chris Hipkins*

## **Education (School Donations) Amendment Bill**

Government Bill

### **Contents**

		Page
1	Title	1
2	Commencement	1
3	Principal Act	1
<b>Part 1</b>		
<b>Main amendment</b>		
4	New sections 79A and 79B inserted	2
	79A Discretionary grants for boards	2
	79B Effect of non-compliance with earlier discretionary grants	3
<b>Part 2</b>		
<b>Consequential amendments</b>		
5	Section 79 amended (Grants for boards)	3

### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

This Act is the Education (School Donations) Amendment Act **2019**.

#### **2 Commencement**

This Act comes into force on the day after the date of Royal assent.

5

#### **3 Principal Act**

This Act amends the Education Act 1989 (the **principal Act**).

## Part 1

### Main amendment

#### 4 New sections 79A and 79B inserted

After section 79, insert:

<b>79A Discretionary grants for boards</b>	5
(1) The Minister may, in or for a financial year, make discretionary grants to boards out of public money appropriated by Parliament for the purpose.	
(2) <b>Subsection (1)</b> is subject to <b>subsections (3) to (7) and section 79B</b> .	
(3) The Minister must determine the amount of each discretionary grant made under <b>subsection (1)</b> .	10
(4) In determining the amount of a discretionary grant, the Minister must take no account of international students (other than students exempted under section 4A(1)) enrolled or likely to be enrolled at any school administered by the board concerned.	
(5) A discretionary grant made under <b>subsection (1)</b> —	15
(a) must be made subject to the condition that a board that receives it does not seek or receive any solicited voluntary payment from parents; and	
(b) may also be made subject to other conditions (except a condition that it will be used for the purposes set out in the grant) determined by the Minister.	20
(6) A board that receives a discretionary grant must take all reasonable steps to ensure that all conditions of the grant are complied with.	
(7) In this section,—	
<b>parent</b> , in relation to any student, means a person who is the student’s mother, father, or guardian	25
<b>solicited voluntary payment from parents</b> , for a board, means a payment that is—	
(a) to be made or made by or of behalf of a parent, or parents, of any student, or students, likely to be enrolled or enrolled at any school administered by the board; and	30
(b) a payment that the parent has, or that those parents have, no legal obligation to make; and	
(c) sought in any way, directly or indirectly, from the parent or those parents, by or on behalf of the board.	

**79B Effect of non-compliance with earlier discretionary grants**

In determining for the purposes of section 79 or **79A** the amount of any grant, supplementary grant, or discretionary grant payable to a board in respect of a school in or for a financial year, the Minister—

- (a) must have regard to the extent to which the board has, in any 1 or more earlier financial years, in respect of the school, failed to comply with all or any conditions of a discretionary grant paid to the board in respect of the school in or for those 1 or more earlier financial years; and 5
- (b) may, after consulting the board, determine for the grant, supplementary grant, or discretionary grant an amount that is (to that extent or some lesser extent) less than it would otherwise have been. 10

**Part 2****Consequential amendments****5 Section 79 amended (Grants for boards)**

- (1) In the heading to section 79, after “**Grants**”, insert “**and supplementary grants**”. 15
- (2) In section 79(1), replace “Subject to subsection (2), in each” with “In or for a”.
- (3) After section 79(1), insert:
  - (1A) Subsection (1) is subject to subsections (2) and (3) and **section 79B**. 20
- (4) In section 79(2),— 20
  - (a) replace “foreign” with “international”; and
  - (b) delete “or institution”.