

Education (Disestablishment of Early Childhood Development Board) Amendment Bill

Government Bill

As reported from the Education and Science Committee

Commentary

Recommendation

The Education and Science Committee has examined the Education (Disestablishment of Early Childhood Development Board) Amendment Bill and recommends that it be passed with the amendments shown.

Purpose

The bill provides for the formal disestablishment of Early Childhood Development Board as a legal entity and the consequential matters that this entails. The Government's intention to disestablish Early Childhood Development Board and integrate its business into the Ministry of Education was approved by Cabinet on 10 March 2003 with an integration date of 1 October 2003.

Commencement

We recommend that clauses 2 and 4 be amended so that the Act comes into force on the day after the bill receives the Royal assent.

Minority view

The New Zealand National Party and ACT New Zealand oppose this bill. It represents an aggregation and centralisation of function into the education bureaucracy. Moreover, the actual disestablishment

occurred before the enactment of the legislation. It is a breach of constitutional principle for the Executive to implement legislative policy without specific legislative authority.

Appendix

Committee process

The Education (Disestablishment of Early Childhood Development Board) Amendment Bill was referred to the committee on 10 September 2003. The closing date for submissions was 31 October 2003. We received and considered one submission, which we heard. Hearing of evidence took 32 minutes and consideration took 53 minutes.

We received advice from the Ministry of Education.

Committee membership

Hon Brian Donnelly (Chairperson)

Donna Awatere Huata

Dr Ashraf Choudhary

Hon Bill English

Dr Wayne Mapp

Bernie Ogilvy

Jill Pettis

Lynne Pillay

HV Ross Robertson

Deborah Coddington (non-voting member)

Metiria Turei (non-voting member)

**Education (Disestablishment of Early
Childhood
Development Board) Amendment**

Key to symbols used in reprinted bill

As reported from a select committee

<i><Subject to this Act,></i>	Words struck out by a majority
<u><Subject to this Act,></u>	Words inserted by a majority

Hon Trevor Mallard

Education (Disestablishment of Early Childhood Development Board) Amendment Bill

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Education (Disestablishment of Early Childhood Development Board) Amendment Act **2003**.
- (2) In this Act, the Education Act 1989¹ is called “the principal Act”.

¹ 1989 No 80

Part 1

Preliminary provisions

2 Commencement

This Act comes into force on <1 October 2003> <the day after the date on which it receives the Royal assent>. 10

3 Purpose

The purpose of this Act is—

- (a) to provide for the Early Childhood Development Board, a Crown entity continued under Part V of the principal

- Act, to be disestablished and for its functions, assets, liabilities, and rights to be transferred to the Ministry of Education; and
- (b) to provide for other matters related to the reorganisation, such as a new funding mechanism for certain early childhood centres to enable grants to be paid by the Ministry rather than through the Early Childhood Development Board. 5
- 4 Interpretation** 10
- In this Act, unless the context otherwise requires,—
- assets** has the same meaning as in section 216(1) of the principal Act
- Board** means the Early Childhood Development Board
- collective agreement** means an employment agreement that is binding on 1 or more employers and 2 or more employees 15
- effective date** means <1 October 2003> <the date on which this Act comes into force (as set out in section 2)>
- employment agreement**, in relation to an employee,—
- (a) has the same meaning as in section 5 of the Employment Relations Act 2000; and 20
- (b) to avoid doubt, includes an employment contract that took effect before the commencement of that Act and covers the employee’s employment with the Board
- liabilities** has the same meaning as in section 216(1) of the principal Act 25
- Ministry** means the Ministry of Education
- rights** has the same meaning as in section 216(1) of the principal Act
- Secretary** means the chief executive of the Ministry.

Part 2 30
Disestablishment of Board and associated matters

- 5 Early Childhood Development Board disestablished and functions, assets, etc, transferred to Ministry on effective date**
- (1) On the effective date,— 35
- (a) the Board ceases to exist; and

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- (b) all functions, assets, liabilities, and rights of the Board, by virtue of this section, become those of the Crown.
- (2) On the effective date, Part V and the Third Schedule of the principal Act are consequentially repealed.
- (3) On the effective date, the following enactments are consequentially repealed: 5
- (a) section 13(2) of the Education Amendment Act 1990; and
- (b) sections 5 and 6 of the Education Amendment Act 1993; and 10
- (c) sections 16 and 17 and the heading above section 16 of the Education Amendment Act (No 2) 1998.
- 6 New sections 311A and 311B inserted**
- The principal Act is amended by inserting, after section 311, the following sections: 15
- “311A Grants to licence-exempt centres**
- “(1) The management of any licence-exempt centre may be paid grants out of public money appropriated by Parliament for that purpose.
- “(2) **Licence-exempt centre** means any premises that are operated as an early childhood centre and that are exempted from the requirement to be licensed by notice in the *Gazette* issued under section 316(1)(b). 20
- “(3) Section 309(2) to (5) applies as if the reference to chartered services were a reference to licence-exempt centres. 25
- “311B Reporting requirements if grant paid to licence-exempt centre**
- “(1) This section applies during the financial year in which a grant is paid to the management of a licence-exempt centre under section 311A, and during the next financial year. 30
- “(2) The Secretary may, by written notice to the management, require the management to give to the Secretary in writing any financial report, or statistical or other information, that is specified in the notice and that relates to the centre.
- “(3) The management must take all reasonable steps to comply with the notice within the time specified in the notice.” 35

7 Consequential amendments to other enactments

On the effective date,—

- (a) the First Schedule of the Official Information Act 1982 is consequentially amended by omitting the item relating to the Board; and 5
- (b) the First Schedule of the Ombudsmen Act 1975 is consequentially amended by omitting from Part II the item relating to the Board; and
- (c) the Fourth, Fifth, Sixth, and Seventh Schedules of the Public Finance Act 1989 are consequentially amended by omitting the item relating to the Board; and 10
- (d) the Education (Change of Name of Education Entities) Order 2000 (SR 2000/117) is consequentially amended by revoking clause 3(2) and so much of the Schedule as relates to the Board. 15

8 Consequential changes to other references

- (1) If any other enactment or other thing refers to the Board and that reference is no longer appropriate because the Board has been disestablished, the reference must be read as a reference to the Ministry. 20
- (2) If any other enactment or other thing refers to the chief executive of the Board and that reference is no longer appropriate because the Board has been disestablished, the reference must be read as a reference to the Secretary.

9 Application of consequential changes to references 25

Section 8—

- (a) applies to things that are in force or existing on the effective date (whether coming into force, entered into, or created before or after the commencement of this section); and 30
- (b) applies to references in anything, including (without limitation) deeds, agreements, proceedings, instruments, documents, and notices; and
- (c) does not apply to collective employment agreements (if any); and 35
- (d) does not apply to individual employment agreements (if any).

10 Effect of reorganisation

- (1) On and from the effective date, anything done or omitted to be done by, or in relation to, the Board must be treated as having been done or omitted by, or in relation to, the Crown.
- (2) The disestablishment of the Board, and the transfer of its functions, assets, liabilities, and rights to the Crown, does not affect—
- (a) the assets, liabilities, or rights of the Crown or the Board (other than by transferring them); or
 - (b) the commencement or continuation of proceedings by or against the Board; those proceedings may instead be commenced or continued by or against the Crown.
- (3) If a transfer of an asset or liability under **section 5** is registrable, the person responsible for keeping the register must register the transfer immediately after written notice of the transfer is received by him or her from any person authorised for this purpose by the Minister.
- (4) **Subsection (2)** does not limit **sections 5 to 9**.

11 Final report and accounts

- (1) As soon as reasonably practicable after the commencement of this Act, the Ministry must arrange for the final report of the Board to be delivered to the Minister.
- (2) The report must—
- (a) describe the Board's operations for the period beginning on 1 July 2003 and ending immediately before the effective date; and
 - (b) if the Board has not already prepared and forwarded to the Minister an annual report on the operations of the Board for the year ended 30 June 2003 under Part V of the Public Finance Act 1989, describe the Board's operations for that year; and
 - (c) include—
 - (i) financial statements of the Board prepared, in accordance with Part V of the Public Finance Act 1989, for that period and, if **paragraph (b)** applies, that year; and
 - (ii) an audit report prepared by the Auditor-General.

- (3) The Minister must present a copy of the report to the House of Representatives under section 44A of the Public Finance Act 1989.

Legislative history

26 August 2003

Introduction (Bill 77-1)

10 September 2003

First reading and referral to Education and Science
Committee
