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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

EARLY YEARS QUALITY FUND SPECIAL ACCOUNT BILL 2013

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for School Education, Early Childhood and Youth)

EARLY YEARS QUALITY FUND SPECIAL ACCOUNT BILL 2013

GENERAL OUTLINE

The purpose of this Bill is to establish a Special Account to administer the Early Years Quality Fund.

The Early Years Quality Fund will provide \$300 million over two years to support quality outcomes for children by assisting the early childhood services to attract and retain qualified hard working professionals in the sector and reduce the numbers of educators leaving the sector overall.

The Early Years Quality Fund will assist with maintaining the affordability of early childhood education, along with the Government's substantial financial assistance to families through Child Care Benefit and Child Care Rebate, while ensuring the high quality of education and care for children.

All approved centre based long day care services approved for Child Care Benefit will be eligible to apply for the funding. Grants will be approved through an application and assessment process using a defined set of assessment criteria to be outlined in the Program Guidelines. Funding will be conditional on services agreeing to use the funding exclusively for the remuneration of employees and other employment-related costs and expenses, in relation to early childhood education and care employees. These may include but are not limited to:

- Superannuation contributions
- Leave entitlements
- Payroll tax
- Workers compensation
- Professional development activities

Wage increases will be paid in line with a wage schedule published in the Program Guidelines.

Applications for grants will be assessed against predetermined criteria including:

- a demonstrated commitment at the service to quality outcomes for children under the National Quality Framework (NQF), including a detailed plan to meet NQF qualification requirements
- an agreement to utilise grant funds exclusively for wage increases, or other approved purposes (i.e. on-costs, professional development), with a detailed acquittal process
- a commitment to affordability for families through fee restraint limited to actual operating cost increases (and no increases as a result of wages arising from the operation of the Fund)
- increased fee transparency requirements for services, including explaining to parents the level of financial assistance provided by the Australian Government through Child Care Benefit and Child Care Rebate, and meeting specific reporting requirements for MyChild.

Services approved for a grant will be required to enter into a Funding Agreement outlining the obligations on the service through the life of the Funding Agreement.

The Office of Best Practice Regulation has been consulted in developing this program and has advised a Regulation Impact Statement is not required for this Program.

The Early Years Quality Fund is an important part of the Government's ongoing investment into early childhood education and care and will support development, professionalism and retention of qualified workers in the sector.

FINANCIAL IMPACT STATEMENT

This Bill provides for \$300 million to be credited over two years to the Special Account based on:

Credits to the Early Years Quality Fund Special Account		
Item	Column 1	Column 2
	Day	Amount
1	1 July 2013	\$135,000,000
2	1 July 2014	\$165,000,000

NOTES ON CLAUSES

Clause 1 – Short Title

This clause identifies the legislation as the *Early Years Quality Fund Special Account Act 2013*.

Clause 2 – Commencement

This clause provides that the Act will commence on 1 July 2013.

Clause 3 – Object

This clause sets out the object of the Act. In particular the object of the Act is to improve quality outcomes for children in early childhood education and care services. This is to be achieved by enhancing professionalism in the early childhood education and care sector by, amongst other things, attracting and retaining a skilled and professional workforce.

Clause 4 – Definitions

This clause provides a definition for *approved centre based long day care service* by giving it the same meaning as that term has in the *A New Tax System (Family Assistance) (Administration) Act 1999*.

Clause 5 – Early Years Quality Fund Special Account

This clause establishes the Early Years Quality Fund Special Account (the Fund). This clause further provides that the Fund will be a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

Clause 6 – Credits to the Early Years Quality Fund Special Account

This clause provides that the Fund will be credited with \$135,000,000 on 1 July 2013 and \$165,000,000 on 1 July 2014.

Clause 7 – Purposes of the Early Years Quality Fund Special Account

This clause sets out the purposes of the Fund. The purposes of the Fund is to provide funding to approved centre based long day care services which is to be used to pay remuneration to, or for other employment-related costs and expenses in relation to employees of those services. Additionally, or alternatively, the Fund can be used for providing professional development activities to employees which relate to their employment in the early childhood education and care sector.

The note to this clause provides a cross-reference to section 21 of the *Financial Management and Accountability Act 1997* which sets out the arrangements for Special Accounts established by other Acts. In particular it provides for debits from Special Accounts to be made.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Early Years Quality Fund Special Account Bill 2013

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Early Years Quality Fund Special Account Bill 2013 (the Bill) establishes the Early Years Quality Fund Special Account (the Fund).

The object of the Bill is to increase quality outcomes for children in early childhood education and care services by enhancing the professionalism of the workforce in the sector and helping approved centre based long day care services (approved long day care services) to attract and retain a skilled and professional workforce.

The Fund will provide \$300 million over two years to all long day care services, which are approved for Child Care Benefit. Grants will be approved through an application and assessment process using a defined set of assessment criteria to be outlined in the Program Guidelines. Funding will be conditional on services agreeing to use the funding exclusively for certain purposes.

In particular, approved long day care services must use the funding for payments to eligible employees to pay for wage increases and to cover other employment related costs and expenses as well as providing professional development activities to employees in connection with their employment in the early childhood education and care sector. The level of wage increase supported is proportional across the classification scale of eligible employees. A higher level of wage increase will be provided for diploma and degree qualified educators. This is intended to provide an incentive for educators to further their careers by attaining higher qualifications. The establishment of the Fund will also help approved long day care services to meet their commitments to quality outcomes for children under the NQF.

Human rights Implications

The Bill engages the following human rights:

- rights to work and rights in work in the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, and
- the rights of the child in the *Convention on the Rights of the Child (CRC)*.
- right to education in the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*.

Rights to work and rights in work

The Bill promotes the right to work which includes the right to the enjoyment of just and favourable conditions. The right to work and the rights in work are contained in Articles 6 and 7 of ICESCR.

Article 6(1) provides that the right to work includes the right of everyone to the opportunity to gain their living by work which they freely accept. Further, Article 6(2) recognises that steps to be taken by States in order to achieve the full realisation of this right include the provision of technical and vocational guidance and training programs, policies and techniques. Article 7 sets out the obligations to recognise the right of everyone to the enjoyment of just and favourable conditions of work – including fair wages and a decent living for workers.

The Fund is to be used to increase the remuneration of eligible employees, including these employees' ongoing-costs, thereby promoting just and favourable conditions of work, including fair wages. It will also be used to attract and retain a skilled and professional workforce by providing professional development activities to employees in connection with their employment and by supporting employees to further their careers by attaining higher qualifications and attracting greater levels of pay linked to their qualifications.

The measures contained in the Bill promote the right to work by providing opportunities for increased remuneration and support for professional development for eligible employees of approved long day care services.

Rights of the Child

The Bill also promotes the rights of the child which are set out in the CRC. In particular, Article 3(3) of the CRC provides that 'institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision'. Article 18(2) of the CRC also provides that 'States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibility and shall ensure the development of institutions, facilities and services for the care of children.'

The measures contained in the Bill have the object of supporting and improving the quality of child care provided to children in approved long day care services, by increasing the remuneration of child care workers with appropriate qualifications. In turn, this will assist approved long day care services to conform to the standards established by the NQF. The provision of further funding to support qualified staff also serves to assist parents and legal guardians of children in their child-rearing responsibilities by ensuring the facilities and services which are provided for the care of children are high quality and importantly, meet nationalised standards established by the NQF.

Article 18(3) of the CRC also provides for all appropriate measures to be taken to ensure that children of working parents have the right to benefit from child care. To the extent this right is engaged, the measures in the Bill promote the right as the

children of working parents will benefit from having access to increased quality of care.

The establishment of the Fund is consistent with and promotes the protection of the rights of a child to high quality child care, pursuant to the obligations set out in Article 3(3), 18(2) and 18(3) of the CRC.

Right to Education

Article 13 of the ICESR provides for the recognition of the right of everyone to education. To the extent that measures in the Bill engage the right to education, the right is promoted. The incentive for child care workers to obtain higher qualification will likely have a positive effect not only on the quality of care children receive, but also on the educational outcomes of the children in care. Furthermore, it is intended that in some circumstances, funding will be used to assist employees by providing professional development activities, thereby improving certain eligible employee's own access to education opportunities.

To the extent the right to education is engaged, it is positively engaged and promoted as there will be positive educational outcomes and improved access to education, for both employees working in early childhood education and care services and the children in those services.

Conclusion

The Bill is compatible with human rights as it promotes the right to work and rights at, the rights of the child and the right to education.

Minister for School Education, Early Childhood and Youth

