

2010-2011-2012-2013

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Early Years Quality Fund Special
Account Bill 2013**

No. , 2013

(School Education, Early Childhood and Youth)

**A Bill for an Act to establish the Early Years
Quality Fund Special Account, and for related
purposes**

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1 **A Bill for an Act to establish the Early Years**
2 **Quality Fund Special Account, and for related**
3 **purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Early Years Quality Fund Special*
7 *Account Act 2013*.

8 **2 Commencement**

9 This Act commences on 1 July 2013.

Section 3

1 **3 Object**

2 The object of this Act is to improve quality outcomes for children
3 in early childhood education and care services by enhancing
4 professionalism in the early childhood education and care sector,
5 including through improved attraction and retention of a skilled
6 and professional workforce.

7 **4 Definitions**

8 In this Act:

9 *approved centre based long day care service* has the same
10 meaning as in the *A New Tax System (Family Assistance)*
11 *(Administration) Act 1999*.

12 **5 Early Years Quality Fund Special Account**

13 (1) The Early Years Quality Fund Special Account is established by
14 this section.

15 (2) The Early Years Quality Fund Special Account is a Special
16 Account for the purposes of the *Financial Management and*
17 *Accountability Act 1997*.

18 **6 Credits to the Early Years Quality Fund Special Account**

19 On the day mentioned in column 1 of an item in the following
20 table, there is to be credited to the Early Years Quality Fund
21 Special Account the amount mentioned in column 2 of that item:

22

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

23

7 Purpose of the Early Years Quality Fund Special Account

The purpose of the Early Years Quality Fund Special Account is to provide funding to **approved centre based long day care services**, to be used exclusively for paying remuneration, and other employment-related costs and expenses, in relation to employees in the early childhood education and care sector.

Note: See section 21 of the *Financial Management and Accountability Act 1997* (debits from Special Accounts).

[The wording of this Clause reads as if this funding will be available to ALL "approved centre based long day care services" however the Explanatory Memorandum seems at odds with this.](#)

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2010-2011-2012-2013

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 some~~ early childhood services to attract and retain qualified hard working ~~emotive language~~ professionals in the sector and reduce the numbers of educators leaving the sector overall. How will it achieve this aim when only a small proportion of educators will be able to access this fund

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The Early Years Quality Fund will assist with maintaining the affordability of early childhood education at some services, 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 some 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 where are these??. 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:

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- Superannuation contributions
- Leave entitlements
- Payroll tax
- Workers compensation
- Professional development activities this will further reduce the coverage of this fund

Wage increases will be paid in line with a wage schedule published in the Program Guidelines where is this?

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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 this is already required of any Approved Service under the current Act and Regulations
- 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. This is already required under service agreements with DEEWR

- in all of the announcements and documents regarding this Bill it has been stated that “Funding will be conditional on wage increases being included in an enterprise bargaining agreement” is this no longer the case??

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 at some long day care services-

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 some 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 does this mean that a

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long day care service which is successful in gaining access to this grant may expend the entire grant on professional development for their staff and not increase staff wages at all?.

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 some children in early childhood education and care services by enhancing the professionalism of the workforce in the sector and helping some 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~~ some 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 which are unsuccessful in their application for funding 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 some approved long day care services to meet their commitments to quality outcomes for children under the NQF. How??

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** how is it just and favourable that at most 30% of the workforce are eligible for this while 70% are not??. The right to work and the rights in work are contained in Articles 6 and 7 of ICESCR.

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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** how does this Bill support the concept of fair wages when at most 30% of the workforce are eligible for this while 70% are not??, and a decent living for workers.

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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 some 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 some approved long day care services, by increasing the remuneration of some child care workers with appropriate qualifications. In turn, this will assist approved some long day care services to conform to the standards established by the NQF. The provision of further funding to support some qualified staff also serves to assist some 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 some children to high quality child care, pursuant to the obligations set out in Article 3(3), 18(2) and 18(3) of the CRC.

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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 some child care workers to obtain higher qualification will likely have a positive effect not only on the quality of care some children receive, but also on the educational outcomes for some 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 some employees working in some early childhood education and care services and the children in those services.

Conclusion

The Bill is not compatible with human rights as it unfairly promotes the right to work and rights at something is missing here I think??, the rights of the child and the right to education.

This Bill is not compatible with human rights inso far as it unfairly favours approximately 30% of a workforce and discriminates against approximately 70% of the workforce by not allowing them access to improved payrates and futher professional development.

Minister for School Education, Early Childhood and Youth

