



Australian Government
Department of Education

Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024

Submission from the Department of Education to
the Senate Education and Employment Legislation
Committee



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Introduction

The Department of Education (the department) welcomes the opportunity to make a submission to the Senate Education and Employment Legislation Committee.

The department contributes to Australia's economic prosperity and social wellbeing by creating opportunities and driving better outcomes through access to quality education and learning. This includes the delivery of programs and policies that support Australians to access early childhood education and care (ECEC).

The Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (the Bill) establishes a special account to fund grants that support a remuneration increase for workers in the ECEC sector.

The Australian Government has publicly committed to chart the course for universal ECEC, in the great tradition of universal Medicare and universal superannuation. However, this will not be possible unless significant and persistent ECEC workforce shortages are addressed. In creating the mechanism to support remuneration increases for ECEC workers, the Bill is an important step in establishing the foundations required to support the Government's vision for universal ECEC.

The Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024

The Bill provides the legal framework for the establishment and operation of a special account which will be used to administer grant funding to support remuneration increases for ECEC workers through a new ECEC worker retention payment.

The measures under this grant program will fund a 15 per cent wage increase for ECEC workers over two years, tied to a condition that providers pass on all funding as increased wages and limit fee increases to ensure workers are paid fairly without the associated costs being passed on to families.

The establishment of the special account signals the Government's commitment to improving the pay and conditions of this previously undervalued, largely female-dominated sector.

Overview of the Bill

Part 1 of the Bill deals with a range of preliminary matters, including commencement of the Bill and its objects.

Part 2 of the Bill contains provisions establishing the special account, noting this will be credited through annual Appropriation Acts, and sets out the purpose of the special account, which is to make grants under Part 3 of the Bill to support remuneration increases for workers in the ECEC sector in order to facilitate access to quality ECEC.

Part 3 of the Bill empowers the Secretary of the Department, on behalf of the Commonwealth, to make grants of financial assistance to approved providers under the *A New Tax System (Family Assistance) (Administration) Act 1999*. Approved providers must apply for grants. The intention is that funding under the grants would be paid to providers in arrears to cover expenses already incurred.

Part 3 of the Bill also contains provisions relating to the administration of the grants, including requirements relating to terms and conditions of grants. Grants under the Bill will be subject to, and administered in accordance with, the Commonwealth grants policy framework as established through the Commonwealth Grants Rules and Guidelines 2017 (CGRGs) (noting these will be replaced by the Commonwealth Grants Rules and Principles 2024 (CGRPs) from 1 October 2024). The Grant Opportunity Guidelines for these grants, which are expected to be made available shortly, will amongst other things set out eligibility criteria for grant applicants and the purposes for which grant funding must be used by grant recipients.

Part 4 of the Bill contains a range of miscellaneous provisions, including a power for the Secretary of the Department to delegate the Secretary's functions or powers under Part 3 of the Bill, transitional arrangements for funding agreements made before 1 July 2025 under the *A New Tax System (Family Assistance) Act 1999*, a sunset provision for the Bill and a rule-making power for the Minister.

Objects of the Bill

The object of the Bill is to support remuneration increases for workers in the ECEC sector, a sector that provides an essential service, in order to:

- Address current workforce shortages by helping to attract and retain ECEC workers; and
- Contribute to the ongoing professionalisation of the ECEC sector; and
- Ensure that ECEC remains accessible and affordable to families; and
- Encourage good faith bargaining and the making of enterprise agreements in the ECEC sector.

Addressing workforce shortages and attracting and retaining ECEC workers

Jobs and Skills Australia estimate that there is a current shortfall of around 21,000 qualified ECEC professionals needed to meet existing demand and support more sustainable working conditions, and even more workers would be required to support future unmet demand.¹

The Australian Competition and Consumer Commission (ACCC) found that workforce shortages are directly impacting the supply of child care services.²

In its final report as part of its inquiry into ECEC, the Productivity Commission (PC) noted that 'any ECEC reforms will hinge on resolving pressing workforce issues that have been plaguing the system for a long time'.³ The PC highlighted that higher remuneration and better conditions are likely to lower attrition rates and attract more staff to the sector.⁴ Funding provided through this special account is an important step towards lifting remuneration in one of the lowest-paid care sectors.

¹ Jobs and Skills Australia, *The Future of the Early Childhood Education Profession – Early Childhood Education and Care Workforce Capacity Study*, September 2024.

² Australian Competition and Consumer Commission, *Childcare inquiry – Final report*, December 2023.

³ Productivity Commission, *A path to universal early education and care: Final Report*, September 2023, page 45.

⁴ Productivity Commission, *A path to universal early education and care: Draft Report*, November 2023.

Contributing to the ongoing professionalisation of the ECEC sector

Improved remuneration for ECEC workers will not only help to address workforce shortages by attracting and retaining highly skilled and qualified workers, it will also contribute to the ongoing professionalisation of the sector by addressing historic undervaluation and recognising the critical role that ECEC workers play.

Funding provided through this special account will be conditional on providers engaging eligible ECEC workers under a legally enforceable workplace instrument. This will increase sector workplace bargaining engagement for this traditionally award reliant sector, driving professionalism in the heavily female dominated workforce and potentially encouraging an uplift in conditions across the sector.

Supporting accessibility and affordability of ECEC for families

Funding provided through this special account will be conditional on ECEC providers agreeing to limit fee growth by a set amount over the grant period. Providers who opt-in will not be able to increase their fees by more than 4.4 per cent over the 12 months commencing 8 August 2024. A new ECEC Cost Index is being developed and will be applied in subsequent periods of the grant agreement.

Building on the Government's Cheaper Child Care measure (implemented through the *Family Assistance Legislation Amendment (Cheaper Child Care) Act 2022*) which has reduced the costs of child care for more than one million families, this will help to support the affordability of ECEC, provide certainty for families and address cost of living pressures. More affordable and more accessible ECEC will allow more families to engage in work, study and training.

Encouraging good faith bargaining and the making of enterprise agreements in the ECEC sector

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amended the *Fair Work Act 2009* and provided greater access to bargaining for lower-paid sectors through the introduction of the supported bargaining stream. On 6 June 2023, the first supported bargaining application was made to the Fair Work Commission by the United Workers Union, the Australian Education Union, and the Independent Education Union of Australia. The application represents around 540 of approximately 14,000 services operating in the ECEC sector.

Funding provided through this special account will be conditional on providers engaging eligible ECEC workers under a legally enforceable workplace instrument that includes an obligation to pay workers either at or above the relevant minimum rates set out in the Grant Opportunity Guidelines.

Not only will this give assurance that providers are passing on Commonwealth funding to workers as increased remuneration, this condition will encourage good faith bargaining and complement the workplace relations reforms under the *Secure Jobs, Better Pay* reforms.

Consultation

The development of the ECEC worker retention payment involved extensive consultation with key stakeholders in the ECEC sector, including service providers, educators, unions, and advocacy organisations.

This included consultation through the ECEC supported bargaining process as part of Fair Work Commission proceedings and consideration of submissions received in response to the ACCC and PC inquiries into ECEC. These consultations have been crucial in shaping the design of the ECEC worker retention payment and the Bill and ensuring that it meets the needs of the sector.

Consultation has also been undertaken with relevant Commonwealth departments, such as the Department of Employment and Workplace Relations concerning alignment of the ECEC worker retention payment with workplace relations requirements including recent reforms resulting from the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, and the Department of Finance in relation to costs.

Commencement of the Bill

Subject to the Bill passing Parliament, the whole of the Bill's provisions will commence on the day after the *Wage Justice for Early Childhood Education and Care Workers (Special Account) Act 2024* receives Royal Assent.