



Schools Assistance Act 2008

No. 153, 2008

**An Act to grant financial assistance for
non-government primary and secondary education
for 2009 to 2012, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	2
3 Simplified outline of Act	2
Part 2—Interpretation	3
Division 1—Definitions	3
4 Definitions	3
Division 2—Other important concepts	12
5 Students receiving education at non-government schools	12
6 Meaning of <i>funding level</i>	12
7 Levels of education	13
8 Meaning of <i>schools census day</i>	14
9 Meaning of <i>school campus census day</i>	14
10 Meaning of <i>nominated authority</i>	15
Part 3—Authorisation of financial assistance	16
Division 1—Simplified outline of Part	16
11 Simplified outline	16
Division 2—Authorised financial assistance	18
12 Authorised financial assistance—funding agreements	18
13 Authorised financial assistance—schools must be approved	18
14 Authorised financial assistance—State recognition of schools etc.	18
15 Authorised financial assistance—financial viability	19
Division 3—Funding agreements	21
Subdivision A—Purpose of grants	21
16 Funding agreements—purpose of grants	21
Subdivision B—National school performance and transparency requirements	21
17 Funding agreements—national student assessments	21
18 Funding agreements—national reports on the outcomes of schooling	22
19 Funding agreements—individual school information	23
20 Funding agreements—reporting to parents etc.	24
21 Funding agreements—publication by schools of information relating to schools	24
22 Funding agreements—national curriculum	25

Subdivision C—Grant acquittal and reporting requirements	25
23 Funding agreements—acquittal of grants	25
24 Funding agreements—reports on programs and financial operations	26
Subdivision D—Monitoring, evaluation and compliance	26
25 Funding agreements—monitoring	26
26 Funding agreements—evaluation	27
27 Funding agreements—failure to comply	28
28 Funding agreements—unauthorised amounts	29
Subdivision E—Other provisions in funding agreements	29
29 Funding agreements—other provisions	29
Division 4—Conditions applying to the States	31
30 Conditions applying to the States—payment of financial assistance to non-government schools and bodies	31
31 Conditions applying to the States—requirement to repay amounts to Commonwealth	31
Division 5—Repayment of financial assistance	32
32 Repayment of financial assistance—relevant considerations	32
33 Repayment of financial assistance—recovery from States as debts	32
34 Repayment of financial assistance—failure by relevant authorities to repay amounts	32
Part 4—Grants for recurrent expenditure	34
Division 1—Simplified outline of Part	34
35 Simplified outline	34
Division 2—Average Government School Recurrent Costs	35
36 Average Government School Recurrent Costs—meaning of AGSRC	35
37 Average Government School Recurrent Costs—rounding-up per student funding amounts	35
Division 3—Current SES funding	37
38 Current SES funding—scope	37
39 Current SES funding—primary education funding determination	37
40 Current SES funding—primary education funding amounts	37
41 Current SES funding—secondary education funding determination	38
42 Current SES funding—secondary education funding amounts	38

Division 4—Maintained funding	39
43 Maintained funding—scope.....	39
44 Maintained funding—determination.....	41
45 Maintained funding—primary education funding amounts	41
46 Maintained funding—secondary education funding amounts.....	41
Division 5—Guaranteed year 2008 funding	43
47 Guaranteed year 2008 funding—scope.....	43
48 Guaranteed year 2008 funding—primary education funding determination.....	44
49 Guaranteed year 2008 funding—primary education funding amounts	44
50 Guaranteed year 2008 funding—secondary education funding determination.....	45
51 Guaranteed year 2008 funding—secondary education funding amounts	45
Division 6—Maximum SES funding	46
52 Maximum SES funding—scope	46
53 Maximum SES funding—meaning of <i>majority Indigenous student school</i>	46
54 Maximum SES funding—determination	47
55 Maximum SES funding—primary education funding amounts	47
56 Maximum SES funding—secondary education funding amounts	47
Division 7—Distance education funding	49
57 Distance education funding—primary distance education funding amounts	49
58 Distance education funding—secondary distance education funding amounts	50
Division 8—Remoteness loading	51
59 Remoteness loading—scope.....	51
60 Remoteness loading—primary education funding determination.....	51
61 Remoteness loading—primary education funding amounts	52
62 Remoteness loading—secondary education funding determination.....	54
63 Remoteness loading—secondary education funding amounts.....	54
Division 9—Indigenous supplementary assistance	57
64 Indigenous supplementary assistance—scope	57
65 Indigenous supplementary assistance—definitions	57

66	Indigenous supplementary assistance—primary education funding determination.....	57
67	Indigenous supplementary assistance—primary education funding amounts	58
68	Indigenous supplementary assistance—secondary education funding determination.....	60
69	Indigenous supplementary assistance—secondary education funding amounts	60
Division 10—Indigenous funding guarantee		63
70	Indigenous funding guarantee—funding determination	63
71	Indigenous funding guarantee—funding amounts	63
Division 11—SES scores		65
Subdivision A—Definition		65
72	SES scores—definition.....	65
Subdivision B—SES scores under former Act		65
73	SES scores—transitional determinations	65
74	SES scores—transitional guidelines	66
Subdivision C—Change of SES score determinations		66
75	SES scores—determination of changes	66
Subdivision D—SES score changes on application by school		67
76	SES scores—change proposals.....	67
77	SES scores—change applications.....	67
78	SES scores—decisions on change proposals	67
79	SES scores—general prerequisites for change proposals	68
80	SES scores—variation of determinations	68
Subdivision E—Miscellaneous		69
81	SES scores—clerical or formal changes.....	69
82	SES scores—notice of determinations.....	69
Part 5—Grants for capital expenditure		70
83	Capital expenditure—definitions.....	70
84	Capital expenditure—funding determination.....	71
85	Capital expenditure—capital expenditure supplementation number.....	72
Part 6—Grants for targeted expenditure		73
Division 1—Simplified outline of Part		73
86	Simplified outline	73
Division 2—Short term emergency assistance		74
87	Short term emergency assistance—funding determination.....	74

Division 3—Education in country areas	75
88 Education in country areas—funding determination	75
Division 4—Languages education	76
89 Languages education—improving learning outcomes	76
90 Languages education—national projects	76
91 Languages education—grant amounts	77
Division 5—Teaching English to new arrivals	78
92 Teaching English to new arrivals—definitions	78
93 Teaching English to new arrivals—funding determination	79
94 Teaching English to new arrivals—eligible new arrivals amounts	80
95 Teaching English to new arrivals—eligible humanitarian new arrivals amounts	81
Division 6—Literacy, numeracy and special learning needs	83
96 Literacy, numeracy and special learning needs—students with disabilities	83
97 Literacy, numeracy and special learning needs—students who are educationally disadvantaged	84
98 Literacy, numeracy and special learning needs—school grants amounts	85
99 Literacy, numeracy and special learning needs—guarantee amounts	85
Division 7—Establishment assistance	86
100 Establishment assistance—funding determination	86
Division 8—Targeted expenditure supplementation number	87
101 Targeted expenditure supplementation number	87
Part 7—Approved schools	88
Division 1—Simplified outline of Part	88
102 Simplified outline	88
Division 2—Approved schools	89
103 Approved schools—definition	89
Division 3—Former listed schools	90
104 Former listed schools	90
Division 4—Approved school determinations	91
Subdivision A—Scope of Division	91
105 Approved school determinations—new school proposals	91
Subdivision B—Applications	91
106 Approved school determinations—new school applications	91

107	Approved school determinations—decisions on new school proposals.....	92
108	Approved school determinations—general prerequisites for new school proposals.....	92
109	Approved school determinations—prerequisites for new school proposals applying in previous program years	93
	Subdivision C—Making approved school determinations	93
110	Approved school determinations—power to determine.....	93
111	Approved school determinations—contents	94
	Division 5—Changes to approved school determinations	95
	Subdivision A—General provisions	95
112	Changes to approved school determinations—power to determine	95
	Subdivision B—End of State recognition	95
113	Changes to approved school determinations—end of State recognition.....	95
	Subdivision C—Location changes	95
114	Changes to approved school determinations—location change proposals	95
115	Changes to approved school determinations—location change applications	96
116	Changes to approved school determinations—decisions on location change proposals.....	96
117	Changes to approved school determinations—general prerequisites for location change proposals	97
118	Changes to approved school determinations—prerequisites for location change proposals applying in previous program years	97
119	Changes to approved school determinations—location changes	97
	Subdivision D—Miscellaneous	98
120	Changes to approved school determinations—clerical or formal changes	98
	Division 6—Revoking approved school determinations	99
121	Revoking approved school determinations—power to determine	99
122	Revoking approved school determinations—schools ineligible for funding	99
	Division 7—Miscellaneous	100
123	Minister to give notice of determinations to approved authorities	100

124	Determinations may be given retrospective effect.....	100
125	Publication of list of funded schools.....	100
Part 8—Approved school systems		101
Division 1—Simplified outline of Part		101
126	Simplified outline	101
Division 2—Approved school systems		102
127	Approved school systems—definitions	102
Division 3—Former approved school systems		103
128	Former approved school systems.....	103
Division 4—Approved school system determinations		104
129	Approved school system determinations—power to determine	104
130	Approved school system determinations—contents	104
Division 5—Changes to approved school system determinations		105
Subdivision A—General provisions		105
131	Changes to approved school system determinations—power to determine.....	105
Subdivision B—New members of systems		105
132	Changes to approved school system determinations—new member proposals.....	105
133	Changes to approved school system determinations—new member applications.....	106
134	Changes to approved school system determinations— decisions on new member proposals	106
135	Changes to approved school system determinations— prerequisites for new member proposals	107
136	Changes to approved school system determinations—new member changes	107
Subdivision C—Ending membership		108
137	Changes to approved school system determinations— proposals to end membership	108
138	Changes to approved school system determinations— applications to end membership	108
139	Changes to approved school system determinations— decisions on proposals to end membership.....	109
140	Changes to approved school system determinations— prerequisites for proposals to end membership.....	109
141	Changes to approved school system determinations—ending membership	109
Subdivision D—Miscellaneous		110

142	Changes to approved school system determinations—clerical or formal changes	110
Division 6—Revoking approved school system determinations		111
143	Revoking approved school system determinations—power to determine	111
144	Revoking approved school system determinations—systems stopped existing	111
Division 7—Miscellaneous		112
145	Minister to give notice of determinations to approved authorities	112
146	Determinations may be given retrospective effect.....	112
147	Publication of list of approved school systems	112
Part 9—Approved authorities		113
Division 1—Simplified outline of Part		113
148	Simplified outline	113
Division 2—Approved authorities		114
149	Approved authorities—definition	114
Division 3—Former approved authorities		115
150	Former approved authorities.....	115
Division 4—Approved authority determinations		116
151	Approved authority determinations—power to determine.....	116
Division 5—Changes to approved authority determinations		117
152	Changes to approved authority determinations—power to determine	117
153	Changes to approved authority determinations—clerical or formal changes	117
Division 6—Revoking approved authority determinations		118
Subdivision A—General provisions		118
154	Revoking approved authority determinations—power to determine	118
Subdivision B—Change of authorities		118
155	Revoking approved authority determinations—change of authorities	118
156	Revoking approved authority determinations—change of authority proposals	119
157	Revoking approved authority determinations—decisions on change of authority proposals	119
158	Revoking approved authority determinations—prerequisites for change of authority proposals	120

159	Revoking approved authority determinations—change of authority	120
Division 7—Miscellaneous		121
160	Minister to give notice of determinations to approved authorities	121
161	Determinations may be given retrospective effect.....	121
Part 10—Miscellaneous		122
Division 1—Timing and amounts of financial assistance		122
162	Timing and amounts of financial assistance—general.....	122
163	Timing and amounts of financial assistance—advances.....	122
164	Timing and amounts of financial assistance—determinations.....	122
Division 2—False or misleading statements		123
165	False or misleading statements—reduction of payments.....	123
166	False or misleading statements—variation of SES score.....	124
Division 3—Appropriation and borrowings		125
167	Appropriation	125
168	Borrowings for capital expenditure	125
Division 4—Administration		126
169	Administration—determinations and approvals	126
170	Administration—general power to vary or revoke determinations and approvals	127
171	Administration—delegation	128
172	Administration—annual report by Minister.....	128
Division 5—Overseas students		129
173	Overseas students not covered.....	129
Division 6—Regulations		131
174	Regulations.....	131
Schedule 1—Current SES funding level		132



Schools Assistance Act 2008

No. 153, 2008

**An Act to grant financial assistance for
non-government primary and secondary education
for 2009 to 2012, and for related purposes**

[Assented to 11 December 2008]

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act may be cited as the *Schools Assistance Act 2008*.

2 Commencement

This Act commences on 1 January 2009.

3 Simplified outline of Act

- (1) This section is a simplified outline of this Act.
- (2) Financial assistance may be paid to a State for, or in connection with, non-government schools (or approved school systems) in the State for the following:
 - (a) recurrent expenditure (see Part 4);
 - (b) capital expenditure (see Part 5);
 - (c) targeted expenditure (see Part 6).
- (3) Financial assistance may be paid for the 2009 to 2012 program years.

- (4) Financial assistance for a non-government school, or another non-government body, may only be paid if there is a funding agreement with the relevant authority of the school or body that sets out the requirements that must, under this Act, be included in the agreement.

Note: See Divisions 2 and 3 of Part 3.

- (5) If a non-government school, or another non-government body, breaches a funding agreement, the Minister may (under the agreement) require the school or body to repay an amount to the Commonwealth. The Minister may also reduce or delay the amount of other payments for the school or body under this Act.

Note: See section 27.

- (6) If a State fails to pass on an amount of financial assistance to a non-government school, or another non-government body, for which financial assistance is granted under this Act, the Minister may require the State to repay an amount to the Commonwealth.

Note: See Division 4 of Part 3.

Part 2—Interpretation

Division 1—Definitions

4 Definitions

In this Act:

1992 Act means the *States Grants (Primary and Secondary Education Assistance) Act 1992*.

1996 Act means the *States Grants (Primary and Secondary Education Assistance) Act 1996*.

2000 Act means the *States Grants (Primary and Secondary Education Assistance) Act 2000*.

2008 funding level, for a school, for a particular level of education, means the funding level that was used to work out the funding for the school's recurrent expenditure for the 2008 program year, for that level of education, under the former Act.

AGSRC (short for Average Government School Recurrent Costs) has the meaning given by section 36.

amount includes a nil amount.

approved authority has the meaning given by section 149.

approved authority determination means a determination (including a transitional approved authority determination) made under section 151.

approved school has the meaning given by section 103.

approved school determination means a determination (including a transitional approved school determination) made under subsection 110(1).

approved school system has the meaning given by section 127.

Section 4

approved school system determination means a determination (including a transitional approved school system determination) made under subsection 129(1).

block grant authority has the meaning given by section 83.

body means any organisation or body, whether incorporated or not, or an individual.

capital expenditure has a meaning affected by section 83.

capital expenditure supplementation number has the meaning given by section 85.

current SES funding level, for a school with a particular SES score, means the percentage of AGSRC specified in column 2 of the table in Schedule 1 for that SES score.

disability assessment, for a student, means an assessment, by a person with relevant qualifications, that:

- (a) the student has one or more of the following impairments:
 - (i) an intellectual impairment;
 - (ii) a sensory impairment;
 - (iii) a physical impairment;
 - (iv) a social impairment;
 - (v) an emotional impairment; and
- (b) the student has the impairment or impairments to a degree that satisfies the criteria for eligibility to access special education services, or special education programs, provided by the Government of the State in which the student resides.

Education Assistance Act means this Act, the former Act, the 2000 Act, the 1996 Act or the 1992 Act.

eligible humanitarian new arrival has the meaning given by section 92.

eligible new arrival has the meaning given by section 92.

former Act means the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004*.

former list of non-government schools means the list of non-government schools kept under Division 2 of Part 3 of the former Act.

funding agreement has the meaning given by section 12.

funding level, for a non-government school, for a particular level of education, has the meaning given by section 6.

guaranteed funding level, for a non-government school, for a particular level of education, means the school's 2008 funding level for that level of education.

guarantee year, for a non-government school, means:

- (a) if Subdivision C of Division 2 of Part 6 of the former Act (current SES funding) was used to work out the funding for the school's recurrent expenditure for the 2008 program year under the former Act—the 2008 program year (under the former Act); or
- (b) if Subdivision F of Division 2 of Part 6 of the former Act (guaranteed year 2004 funding) was used to work out the funding for the school's recurrent expenditure for the 2008 program year under the former Act—the 2004 program year (under the former Act).

guardian, in relation to a student, includes a person who has been granted (whether alone or jointly with another person or other persons) guardianship of the student under the law of the Commonwealth or of a State or Territory.

Indigenous: a person is **Indigenous** if he or she is:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of an Indigenous inhabitant of the Torres Strait Islands.

intensive ESL course has the meaning given by section 92.

Note: **ESL** is short for English as a Second Language.

level of education means a level of primary education or secondary education determined under section 7.

Section 4

maintained funding level, for a non-government school, for a particular level of education, means the school's 2008 funding level for that level of education.

majority Indigenous student school has the meaning given by section 53.

maximum SES funded school has the meaning given by section 52.

member, of an approved school system, has the meaning given by section 127.

moderately accessible school campus: a school campus of a non-government school is a ***moderately accessible school campus*** for a program year if the school campus is, on either of the following days, in a location categorised under the Remoteness Structure as Outer Regional Australia:

- (a) the school campus census day for the school campus in the previous calendar year;
- (b) the school campus census day for the school campus in the program year.

nominated authority has the meaning given by section 10.

non-government body means a body that is not managed or controlled by or on behalf of the Government of a State, including the following:

- (a) a non-government school (whether the school is a systemic school or a non-systemic school);
- (b) an approved school system.

non-government school means a school in a State:

- (a) that is not conducted by or on behalf of the Government of a State; and
- (b) that is not conducted for profit.

non-remote school campus, of a school, means a school campus of the school other than a remote school campus or a very remote school campus.

non-systemic school means a non-government school that is not a systemic school.

number of Indigenous primary students, at a school campus for a program year, has the meaning given by section 65.

number of Indigenous secondary students, at a school campus for a program year, has the meaning given by section 65.

number of primary distance education students, for a non-government school in a State for a program year, means the number of students (including the full-time equivalent of part-time students) receiving primary distance education at the school on the schools census day for the school for the program year.

Note: For when a student receives primary distance education at a non-government school, see section 5.

number of primary students, for a non-government school in a State for a program year, means the number of students (including the full-time equivalent of part-time students) receiving primary education at the school on the schools census day for the school for the program year, but not including students receiving primary distance education.

Note: For when a student receives primary education, or primary distance education, at a non-government school, see section 5.

number of secondary distance education students, for a non-government school in a State for a program year, means the number of students (including the full-time equivalent of part-time students) receiving secondary distance education at the school on the schools census day for the school for the program year.

Note: For when a student receives secondary distance education at a non-government school, see section 5.

number of secondary students, for a non-government school in a State for a program year, means the number of students (including the full-time equivalent of part-time students) receiving secondary education at the school on the schools census day for the school for the program year, but not including students receiving secondary distance education.

Section 4

Note: For when a student receives secondary education, or secondary distance education, at a non-government school, see section 5.

overseas student has the meaning given by section 173.

person responsible, for a student, means:

- (a) a parent of the student; or
- (b) a guardian of the student; or
- (c) any other person who has the care and control of the student.

primary education, at a school in a State, means education at the school at the level of primary education determined for the State under section 7.

program year means the 2009, 2010, 2011 or 2012 calendar year.

receives: a student *receives* primary education, secondary education, primary distance education or secondary distance education at a non-government school in the circumstances mentioned in section 5.

recurrent expenditure means expenditure relating to the ongoing operating costs of schools.

relevant authority, for a non-government body, means:

- (a) the approved authority or nominated authority for the body; or
- (b) in respect of a payment for a project administered by a block grant authority—the block grant authority.

relevant Minister, in relation to a provision of the former Act, means the Minister who administered that provision.

Remoteness Structure means the Remoteness Structure described in the document entitled “Statistical Geography Volume 1 Australian Standard Geographical Classification (ASGC) July 2006”, published by the Australian Statistician in July 2006, that was effective 1 July 2006.

remote school campus: a school campus of a non-government school is a *remote school campus* for a program year if the school

campus is, on either of the following days, in a location categorised under the Remoteness Structure as Remote Australia:

- (a) the school campus census day for the school campus in the previous calendar year;
- (b) the school campus census day for the school campus in the program year.

responsible body has the meaning given by paragraph 138(1)(a).

school includes a proposed school, but does not include a school at which education is provided at a standard (however described) that is pre-school standard only.

school campus: a location is a *school campus* of a non-government school if the location is one at which students receive primary education or secondary education at the school.

school campus census day has the meaning given by section 9.

schools census day has the meaning given by section 8.

secondary education, at a school in a State, means education (whether junior secondary education or senior secondary education) at the school at the level of secondary education determined for the State under section 7.

SES score (short for Socio-Economic Status score) has the meaning given by section 72.

SES score determination means a determination (including a transitional SES score determination) made under subsection 72(2).

special assistance school means a non-government school in a State that:

- (a) is, or is likely to be, recognised by the State Minister as a special assistance school; and
- (b) primarily caters for students with social, emotional or behavioural difficulties.

special education means education under special programs, or special activities, designed specifically for students with disabilities.

Section 4

special school means a non-government school in a State that:

- (a) is, or is likely to be, recognised by the State Minister as a special school; and
- (b) provides special education.

State includes the Australian Capital Territory and the Northern Territory.

State Minister, for a State, means the Minister of the State who is responsible, or primarily responsible, for the administration of matters relating to school education in that State.

student with disabilities means a student:

- (a) who attends a non-government school (whether or not as a distance education student); and
- (b) in respect of whom a disability assessment has been made.

systemic school means an approved school that is approved as a member of an approved school system.

targeted expenditure supplementation number has the meaning given by section 101.

transitional approved authority determination has the meaning given by subsection 150(2).

transitional approved school determination has the meaning given by subsection 104(2).

transitional approved school system determination has the meaning given by subsection 128(2).

transitional SES score determination has the meaning given by subsection 73(2).

very remote school campus: a school campus of a non-government school is a **very remote school campus** for a program year if the school campus is, on either of the following days, in a location categorised under the Remoteness Structure as Very Remote Australia:

- (a) the school campus census day for the school campus in the previous calendar year;

- (b) the school campus census day for the school campus in the program year.

Division 2—Other important concepts

5 Students receiving education at non-government schools

Primary and secondary education

(1) In this Act:

receives: a student **receives** primary education or secondary education (as the case may be) at a non-government school (or at a school campus of a non-government school) only if:

- (a) the student attends, on a daily basis, the school (or campus) at a location approved for the school, for that level of education, under this Act; or
- (b) the Minister determines that the student is to be treated (because of special circumstances) as so attending the school (or campus).

Distance education

(2) In this Act:

receives: a student **receives** primary distance education or secondary distance education (as the case may be) at a non-government school (or at a school campus of a non-government school) located in a State only if:

- (a) the student resides in the State; and
- (b) the State provides funding for the school (otherwise than as a result of the operation of this Act), for that level of education, for students enrolled at the school who receive distance education (however described) from the school; and
- (c) the student is not approved as a home education student (however described) in accordance with the law of the State in which the student resides.

6 Meaning of *funding level*

In this Act:

funding level, for a non-government school, for a particular level of education, for a program year, has the meaning set out in the following table:

Funding levels—general		
Item	If the following Division of Part 4 applies to the school for that level of education for that program year ...	the funding level for that level of education, for that program year, is ...
1	Division 3 (current SES funding)	the school's current SES funding level.
2	Division 4 (maintained funding)	the school's maintained funding level.
3	Division 5 (guaranteed year 2008 funding)	the school's guaranteed funding level.
4	Division 6 (maximum SES funding)	70% of AGSRC for that level of education for the program year.

7 Levels of education

- (1) For the purposes of this Act, the Minister may, by legislative instrument, determine a level of primary education or a level of secondary education for a State.
- (2) A determination under subsection (1) may relate to:
 - (a) education provided at schools generally; or
 - (b) education provided at schools included in a particular class of schools.
- (3) In making a determination under subsection (1), the Minister must have regard to the arrangements made for providing education at schools in the State conducted by or on behalf of the Government of the State. This does not limit the matters to which the Minister may have regard.
- (4) A reference in this Act to a level of education at a school in a State includes a reference to a year in a course of primary education or secondary education provided at the school at a level, determined by the Minister under subsection (1), that applies to the school.

8 Meaning of *schools census day*

- (1) In this Act:

schools census day, for a calendar year, for a non-systemic school or approved school system, means:

- (a) for the 2008 calendar year—the schools census day for the school or system for that year under the former Act; or
 - (b) for any other calendar year:
 - (i) if, under subsection (2), the Minister has declared a particular day in the year to be the schools census day for the school or system—the day so declared; or
 - (ii) if subparagraph (i) does not apply to the school or system—a day in the year agreed between the Minister and the State Minister, under subsection (3), to be the schools census day for that school or system.
- (2) For the purpose of subparagraph (b)(i) of the definition of *schools census day* in subsection (1), the Minister may declare a particular day in a calendar year to be the schools census day for that year, for a non-systemic school or an approved school system, if the Minister is satisfied that special circumstances exist justifying the declaration.
- (3) For the purpose of subparagraph (b)(ii) of the definition of *schools census day* in subsection (1), the Minister may agree with the State Minister that a particular day in a calendar year is to be the schools census day for that year, for a non-systemic school or an approved school system.

9 Meaning of *school campus census day*

- (1) In this Act:

school campus census day, for a calendar year, for a school campus of a non-government school, means:

- (a) for the year 2008—the schools campus census day for the school campus for that year under the former Act; or
- (b) for any other calendar year:
 - (i) the schools census day for the school for that year; or

- (ii) if, under subsection (2), the Minister has declared a particular day in the year to be the school campus census day—the day so declared.
- (2) For the purpose of subparagraph (b)(ii) of the definition of *school campus census day* in subsection (1), the Minister may declare a particular day in a calendar year to be the school campus census day for the school campus for the year, if the Minister is satisfied that special circumstances exist justifying the declaration.

10 Meaning of *nominated authority*

- (1) For the purposes of this Act, or a provision (or provisions) of this Act specified under subsection (2), a body nominated under that subsection by a group of non-government schools is the *nominated authority* of the group.
- (2) A group of non-government schools may make a written nomination to the Secretary of the Department of a body to be the nominated authority of the group for the purposes of this Act, or of a specified provision or provisions of this Act.

Part 3—Authorisation of financial assistance

Division 1—Simplified outline of Part

11 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) Financial assistance to a State for a non-government school, or another non-government body, must not be paid unless there is an agreement between the Commonwealth and the relevant authority of the school or body.
- (3) The agreement must cover matters including the following:
 - (a) national performance and transparency requirements (see Subdivision B of Division 3);
 - (b) grant acquittal and reporting requirements (see Subdivision C of Division 3);
 - (c) monitoring, evaluation and compliance requirements (see Subdivision D of Division 3).
- (4) The following additional conditions apply to the grant of financial assistance to a State for a non-government school or another non-government body (see Divisions 2 and 4):
 - (a) in the case of financial assistance for a school—the school must be an approved school;
 - (b) the school or body must be financially viable;
 - (c) the State must pay amounts of assistance to the relevant authority of the school or body as soon as practicable (or within an extended period allowed by the Minister).
- (5) If a non-government school, or another non-government body, breaches a funding agreement, the Minister may (under the agreement) require the school or body to repay an amount to the Commonwealth. The Minister may also reduce or delay the amount of other payments for the school or body under this Act.

Note: See section 27.

- (6) If a State fails to pass on an amount of financial assistance to a non-government school, or another non-government body, for which financial assistance is granted under this Act, the Minister may require the State to repay an amount to the Commonwealth.

Note: See Division 4.

Division 2—Authorised financial assistance

12 Authorised financial assistance—funding agreements

- (1) The Minister must not authorise a payment to a State under this Act for a non-government school, or another non-government body, unless the relevant authority of the school or body has made an agreement (a ***funding agreement***) with the Commonwealth that complies with Division 3 (Funding agreements).
- (2) A funding agreement may have been made before the commencement of this Act.

13 Authorised financial assistance—schools must be approved

The Minister must not authorise a payment to a State under this Act for education at a particular level at a particular location at a non-government school unless the school is an approved school for that level and location.

Note: Part 7 deals with the approval of schools.

14 Authorised financial assistance—State recognition of schools etc.

Recognition of school

- (1) The Minister may refuse to authorise a payment to a State under this Act for a non-government school during any period when the State Minister does not recognise the school.

Note: The Minister must revoke the school's approved school determination (see section 122).

Recognition of level of education at school

- (2) The Minister may refuse to authorise a payment to a State under this Act for a non-government school for a particular level of education provided at a non-government school during any period when the State Minister does not recognise the school for that level of education.

Recognition of location for level of education

- (3) The Minister may refuse to authorise a payment to a State under this Act for a non-government school for provision of a level of education by the school at a particular location during any period when the State Minister does not recognise the school for that level of education provided at the location.

Non-recognition under State law

- (4) For the purposes of this section, without limiting subsections (1) to (3), a period during which the State Minister concerned does not recognise a school includes a period (including a temporary period) during which the school is not permitted under the law of the State concerned to provide:
- (a) in relation to the condition in subsection (1)—education (at whatever level) at the school; or
 - (b) in relation to the condition in subsection (2)—the level of education concerned at the school; or
 - (c) in relation to the condition in subsection (3)—the level of education concerned at the school, at the location concerned.

15 Authorised financial assistance—financial viability

- (1) The Minister may refuse to authorise, or may delay, a payment to a State under this Act for a non-government body (including a non-government school), or the relevant authority of such a body, if:
- (a) either (or both) of the following applies:
 - (i) the body or authority is a body corporate that is being wound up;
 - (ii) the affairs of the body or authority are under any form of external control (for example, the control of a manager) under a law of the Commonwealth or a State; or
 - (b) the Minister considers that:
 - (i) the liabilities of the body or authority are greater than its assets; or

Part 3 Authorisation of financial assistance

Division 2 Authorised financial assistance

Section 15

- (ii) the body or authority is (and is likely to continue for a substantial period to be) unable to pay its debts as and when they fall due for payment; or
 - (c) a law of the Commonwealth or a State requires the body or authority to be audited, and the Minister determines that this paragraph applies because the relevant audit:
 - (i) is expressed to be qualified; or
 - (ii) expresses concern about the financial viability of the body or authority.
- (2) A determination made under paragraph (1)(c) is not a legislative instrument, but is a disallowable instrument for the purposes of section 46B of the *Acts Interpretation Act 1901*.

Division 3—Funding agreements

Subdivision A—Purpose of grants

16 Funding agreements—purpose of grants

- (1) A funding agreement must require the relevant authority for the non-government school, or other non-government body, to ensure that amounts received by the relevant authority from the State, as a result of the payment to the State for the school or body, are spent for purposes that are:
 - (a) determined by the Minister; and
 - (b) set out in the agreement.
- (2) Without limiting subsection (1), the purposes for which an amount may be spent include the purpose of paying administrative expenses incurred by the relevant authority.

Note: Financial assistance under this Act may be given for recurrent expenditure, capital expenditure or targeted expenditure (see Parts 4, 5 and 6).

Subdivision B—National school performance and transparency requirements

17 Funding agreements—national student assessments

National student assessments

- (1) For the purposes of this section, the regulations may prescribe assessments (*national student assessments*) against specified educational standards, including (but not limited to) an assessment against national standards in reading, writing, language conventions and numeracy for students in years 3, 5, 7 and 9 at school.

Requirement for national student assessments

- (2) A funding agreement for a non-systemic school, or for an approved school system, must require the relevant authority for the school or

Section 18

system to ensure that each national student assessment specified in the regulations as applying to the school (or to the schools in the system) is carried out:

- (a) no later than a day or days (if any) determined by the Minister; and
- (b) as prescribed by the regulations.

Note: The regulations may provide that the assessments are to be carried out only for schools of a particular class, and may make different provisions for assessments at schools of different classes (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

- (3) Without limiting subsection (2), regulations made for the purposes of that subsection may require a national student assessment to be carried out:

- (a) for the students specified in the regulations; and
- (b) in a way prescribed by the regulations; and
- (c) with the frequency prescribed by the regulations.

Note: The regulations may provide that any particular assessment is to be carried out only for students of a particular class, and may make different provisions for students of different classes (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

Applying, adopting or incorporating matter contained in other instruments

- (4) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

18 Funding agreements—national reports on the outcomes of schooling

- (1) A funding agreement for a non-systemic school, or for an approved school system, must require the relevant authority for the school or system to do each of the following:

- (a) in the case of an agreement for a non-systemic school—ensure that the school participates in preparing a national report (or reports) on the outcomes of schooling;
 - (b) in the case of an agreement for an approved school system—ensure that the system, and each school in the system, participates in preparing a national report (or reports) on the outcomes of schooling;
 - (c) give the Minister (for inclusion in a report mentioned in paragraph (a) or (b)) a report (or reports), of a kind (or kinds) required by the Minister, addressing the requirements for performance information prescribed by the regulations.
- (2) A requirement mentioned in paragraph (1)(a), (b) or (c) must be satisfied not later than:
- (a) if the Minister determines a day or days for the purposes of that paragraph—that day or days; or
 - (b) in any other case—a day or days that will allow publication of any report mentioned in paragraphs (1)(a) and (b) within one year after the end of each program year.

19 Funding agreements—individual school information

- (1) A funding agreement for a non-systemic school, or an approved school system, must require the relevant authority for the school or system to ensure that the school, or each school in the system, gives the Minister, or another person or body determined by the Minister, a report (or reports) about individual school information, specified by the regulations, for the school.
- (2) The report (or reports) mentioned in subsection (1):
 - (a) must be of a kind (or kinds) required by the Minister; and
 - (b) must be given to the Minister:
 - (i) from time to time, as required by the Minister; and
 - (ii) in the way (if any) determined by the Minister; and
 - (iii) no later than a day or days (if any) required by the Minister.

20 Funding agreements—reporting to parents etc.

Scope

- (1) This section applies in relation to a student who attends a non-systemic school, or a school that is a member of an approved school system.

Reports about student attending school

- (2) A funding agreement for the school or system must require the relevant authority for the school or system to give each person responsible for the student a report (or reports) concerning the student that complies with this section.
- (3) A report complies with this section if the report:
- (a) uses plain language, and is readily understandable by each person responsible for the student; and
 - (b) gives an accurate and objective assessment of the student's progress and achievement; and
 - (c) includes an assessment of the student's achievement:
 - (i) against any available national standards; and
 - (ii) relative to the performance of the student's peer group at the school; and
 - (d) meets any other requirements that are specified in the regulations; and
 - (e) is given to each person responsible for the student:
 - (i) in a way prescribed by the regulations; and
 - (ii) with the frequency prescribed by the regulations.

21 Funding agreements—publication by schools of information relating to schools

- (1) A funding agreement for a non-systemic school, or an approved school system, must require the relevant authority for the school or system to ensure that the school, or each school in the system, makes the information specified in the regulations relating to the school for a program year publicly available within 6 months after the end of the program year.

- (2) The information mentioned in subsection (1) must be made publicly available in the way (if any) specified by the regulations.

22 Funding agreements—national curriculum

- (1) A funding agreement for a non-systemic school, or an approved school system, must require the relevant authority for the school or system to ensure that the school, or each school in the system, implements the national curriculum prescribed by the regulations for primary education or secondary education (or both, as applicable).
- (2) The requirement mentioned in subsection (1) must be satisfied on or before 31 January 2012.

Subdivision C—Grant acquittal and reporting requirements

23 Funding agreements—acquittal of grants

- (1) A funding agreement must require the relevant authority for the non-government school, or other non-government body:
- (a) to give the Secretary of the Department a certificate by a qualified accountant stating whether an amount equal to the sum of the amounts mentioned in subsection 16(1) (purpose of grants) has been spent (or committed to be spent) for the program year for the purposes mentioned in that subsection; and
 - (b) to give the Secretary of the Department the certificate on or before 30 June next following the program year concerned, or another day allowed by the Minister.
- (2) In this section:
- qualified accountant*** means:
- (a) a qualified accountant within the meaning of the *Corporations Act 2001*; or
 - (b) a person registered (or taken to be registered) as a company auditor under the *Corporations Act 2001*; or
 - (c) a person approved by the Minister as a qualified accountant under subsection (3).

- (3) The Minister may approve a person as a qualified accountant for the purposes of subsection (2).

24 Funding agreements—reports on programs and financial operations

- (1) A funding agreement must require the relevant authority for the non-government school, or other non-government body, to ensure that a report (or reports), of a kind (or kinds) required by the Minister, is given to the Minister in relation to each of the following:
- (a) programs of financial assistance provided under this Act, so far as they relate to the relevant authority;
 - (b) the financial operations (including the financial viability and funding sources) of:
 - (i) in any case—the school or other body; and
 - (ii) in the case of an approved school system—the schools (including each particular school) in the system.
- (1A) A funding agreement must not require a report mentioned in subsection (1) to include any information that would identify a particular donor as a funding source of any non-government school or non-government body.
- (2) A report mentioned in subsection (1) must be given to the Minister no later than a day or days (if any) determined by the Minister.

Subdivision D—Monitoring, evaluation and compliance

25 Funding agreements—monitoring

Monitoring relevant authority

- (1) A funding agreement must require the relevant authority for the non-government school, or other non-government body, to allow a person (an **authorised person**) authorised in writing by the Minister for the purpose to do either or both of the following:
- (a) to have full and free access to accounts, records and documents of the relevant authority relating to information

that the authority is required under the agreement to give to the Minister;

- (b) to take extracts from, or make copies of, any such accounts, records and documents.

Monitoring schools

- (2) Without limiting subsection (1), a funding agreement for a non-systemic school, or an approved school system, must allow an authorised person to have full and free access to each campus of the school, or of each school in the system, for the following purposes:
 - (a) the purposes mentioned in paragraphs (1)(a) and (b);
 - (b) to undertake any reasonable inspection of the campus, and of the students at the campus, including an inspection for the purpose of counting the number of students at the campus.

Reasonable notice, access times and assistance

- (3) For the purposes of this section, the funding agreement:
 - (a) must allow for access mentioned in this section to be given only on condition that:
 - (i) in the case of a non-systemic school—the authorised person gives reasonable notice to the relevant authority for the school; and
 - (ii) in the case of a systemic school—the authorised person gives reasonable notice to the relevant authority for the approved school system concerned, and to a person responsible for the operation of the school; and
 - (iii) in any case—the access is given at reasonable times; and
 - (b) must provide for the authorised person to be given such help as he or she requires to exercise any power mentioned in this section.

26 Funding agreements—evaluation

- (1) A funding agreement must require the relevant authority for the non-government school, or other non-government body, to ensure

that the school or body participates in evaluating the outcomes of programs of financial assistance provided under this Act for the school or body.

- (2) Without limiting subsection (1), if that subsection applies to a relevant authority for an approved school system, the funding agreement must require the authority to ensure that each school in the system participates in evaluating the outcomes of programs of financial assistance provided under this Act for the school.

27 Funding agreements—failure to comply

Failure to comply with funding agreement

- (1) A funding agreement must contain a provision to the effect that any or all of the consequences set out in this section may apply if the relevant authority does not comply with a requirement of the agreement:
- (a) within the period required by or under the agreement; or
 - (b) within a further period allowed by the Minister (whether the Minister allows this before or after the end of the period required by or under the agreement).

Consequences of failure to comply

- (2) If the Minister so determines, the relevant authority must pay to the Commonwealth a specified amount (not more than the sum of the amounts mentioned in subsection 16(1) (purpose of grants)).
- (3) The Minister may determine that any other amount or amounts of financial assistance to the State under this Act for the school or body is to be reduced by an amount or amounts totalling not more than:
- (a) if the Minister makes a determination under subsection (2)—the amount required to be paid under the determination; or
 - (b) in any other case—the sum of the amounts mentioned in subsection 16(1).

Note: A determination reducing the amount of a payment is made under section 34.

- (4) The Minister may delay the making of any further payment (or a part of a further payment) to the State under this Act for the school or body until the relevant authority complies with the requirement set out in the agreement.

28 Funding agreements—unauthorised amounts

A funding agreement must contain a provision that, if the sum of the amounts mentioned in subsection 16(1) (purpose of grants) exceeds the total amount that was properly authorised to be paid to the State for the school or body:

- (a) the relevant authority must, if the Minister so determines, pay to the Commonwealth an amount (the *determined amount*) equal to the excess; and
- (b) in the event that the authority does not pay the determined amount to the Commonwealth, the Minister may make a further determination reducing any other amount or amounts of financial assistance for the State under this Act for the school or body by an amount or amounts not more than the determined amount.

Note: A further determination mentioned in paragraph (b) is made under section 44.

Subdivision E—Other provisions in funding agreements

29 Funding agreements—other provisions

A funding agreement (or a funding agreement as varied) must include the following provisions:

- (a) the provisions mentioned in any of the following paragraphs of this Act (if applicable):
 - (i) paragraph 135(b) (the inclusion of new schools in an approved school system);
 - (ii) paragraph 140(e) (prerequisites for proposals to end membership of approved school systems);
 - (iii) paragraph 158(d) (changes of approved authorities);

Note: These provisions relate to the carrying-over of obligations under funding agreements when changes are made to the approvals concerned.

Part 3 Authorisation of financial assistance

Division 3 Funding agreements

Section 29

- (b) any provisions prescribed by the regulations;
- (c) any other provisions that the Minister considers appropriate in relation to the relevant authority, school or body.

Division 4—Conditions applying to the States

30 Conditions applying to the States—payment of financial assistance to non-government schools and bodies

- (1) The grant to a State because of a provision of this Act of financial assistance for a non-government school, or another non-government body, for a program year is subject to the condition that the State is required:
 - (a) to pay to the relevant authority of the school or body each amount paid to the State for the school or body because of the provision; and
 - (b) when making such a payment, to describe the amount paid to the relevant authority as a payment made out of money paid to the State by the Commonwealth because of the provision.
- (2) It is also a condition of the grant to the State that the payment of each amount must be made:
 - (a) as soon as practicable after the amount is paid to the State; or
 - (b) within a further period allowed by the Minister (whether the Minister allows this before or after the end of the time mentioned in paragraph (a)).

31 Conditions applying to the States—requirement to repay amounts to Commonwealth

- (1) A grant to a State mentioned in section 30 is subject to the condition that, in the event that the State does not comply with the condition mentioned in subsection 30(1), the State is required, if the Minister so determines, to repay to the Commonwealth the amount stated in the determination.
- (2) The amount stated in a determination under subsection (1) must not exceed the sum of the amounts of financial assistance paid to the State under the provision for the school or body for the program year concerned.

Division 5—Repayment of financial assistance

32 Repayment of financial assistance—relevant considerations

Scope

- (1) This section applies if the Minister is considering whether to make:
 - (a) a determination, under a provision of a funding agreement mentioned in section 27 or 28, that the relevant authority of a school or body is to pay an amount to the Commonwealth; or
 - (b) a determination under subsection 31(1) that a State is to repay an amount to the Commonwealth.

Relevant considerations

- (2) In considering whether to make the determination, the Minister must take into account all relevant matters, including whether the relevant authority or State gave all relevant information to the Commonwealth before the grant of financial assistance was made.

33 Repayment of financial assistance—recovery from States as debts

An amount payable by a State to the Commonwealth under this Act is a debt due by the State to the Commonwealth.

34 Repayment of financial assistance—failure by relevant authorities to repay amounts

Scope

- (1) This section applies if:
 - (a) under a funding agreement (or an agreement under section 30 of the former Act) between the Commonwealth and the relevant authority of a non-government school, or another non-government body, the Minister or the relevant Minister (as appropriate) has determined that the authority is to pay an amount to the Commonwealth; and

- (b) an amount (the *amount repayable*) that is all or a part of the amount mentioned in paragraph (a) remains unpaid.

Reduction of authorised amount

- (2) The Minister may make a determination reducing an amount that is authorised to be paid to a State for the school or body under any provision of this Act in any program year by an amount not more than the amount repayable.

Later increase of authorised amount

- (3) The Minister may make a determination under a provision of this Act increasing the maximum amount that may be paid to a State for the school or body for any purpose under that provision in any program year by an amount or amounts totalling not more than the amount of any reduction under subsection (2).
- (4) It does not matter whether the reduction was made in relation to the same provision of this Act as the provision of this Act mentioned in subsection (3), or a different provision.

Part 4—Grants for recurrent expenditure

Division 1—Simplified outline of Part

35 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) This Part allows the Minister to make determinations authorising the payment of financial assistance to the States for non-government schools, for recurrent expenditure of the following types:
 - (a) current SES funding (see Division 3);
 - (b) maintained funding (see Division 4);
 - (c) guaranteed year 2008 funding (see Division 5);
 - (d) maximum SES funding (see Division 6);
 - (e) distance education funding (see Division 7);
 - (f) remoteness loading (see Division 8);
 - (g) Indigenous supplementary assistance (see Division 9);
 - (h) Indigenous funding guarantee (see Division 10).
- (3) Funding for recurrent expenditure is worked out on a school by school basis (whether the school is a non-systemic school or a systemic school).
- (4) This Part also sets limits on financial assistance for those types of recurrent expenditure, using a series of per student amounts for different categories of students, and different levels of education, at each school.

Division 2—Average Government School Recurrent Costs

36 Average Government School Recurrent Costs—meaning of AGSRC

(1) In this Act:

AGSRC (short for Average Government School Recurrent Costs) means:

- (a) for primary education for a program year:
 - (i) \$8,044; or
 - (ii) if the regulations specify another amount under subsection (2) for the program year—that amount; or
 - (b) for secondary education for a program year:
 - (i) \$10,061; or
 - (ii) if the regulations specify another amount under subsection (2) for the program year—that amount; or
- (2) The regulations may specify amounts for the purposes of subsection (1).
- (3) Before the Governor-General makes regulations for the purposes of subsection (2), the Minister must consider changes in the figures known as the Average Government School Costs published by:
- (a) the Ministerial Council on Education, Employment, Training and Youth Affairs; or
 - (b) a body specified by the regulations that has a corresponding function.

37 Average Government School Recurrent Costs—rounding-up per student funding amounts

Scope

- (1) This section applies in relation to an amount (a **funding amount**) worked out under one of the following provisions (a **funding amount provision**):
- (a) section 40 (current SES funding—primary education);

Part 4 Grants for recurrent expenditure

Division 2 Average Government School Recurrent Costs

Section 37

- (b) section 42 (current SES funding—secondary education);
- (c) section 45 (maintained funding—primary education);
- (d) section 46 (maintained funding—secondary education);
- (e) section 49 (guaranteed year 2008 funding—primary education);
- (f) section 51 (guaranteed year 2008 funding—secondary education);
- (g) section 55 (maximum SES funding—primary education);
- (h) section 56 (maximum SES funding—secondary education).

Rounding-up to next highest dollar (per student amounts)

- (2) If an amount covered by subsection (3) is an amount of dollars and cents, for the purposes of a funding amount provision, the amount is to be rounded to the next highest dollar.
- (3) This subsection covers an amount that is a component of a funding amount, in relation to a level of education and a program year, worked out using a formula of the following kind:

$$\begin{array}{r} \text{Funding level} \\ \text{specified in the} \\ \text{funding amount provision} \end{array} \times \begin{array}{r} \text{AGSRC for} \\ \text{the level of education} \\ \text{for the program year} \end{array}$$

Division 3—Current SES funding

38 Current SES funding—scope

This Division applies to a non-government school in a State for a particular program year and level of education provided at the school, unless one of the following Divisions applies to the school for that program year and for that level of education:

- (a) Division 4 (maintained funding);
- (b) Division 5 (guaranteed year 2008 funding);
- (c) Division 6 (maximum SES funding).

39 Current SES funding—primary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for primary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for primary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under section 40 for the school's primary students; and
 - (b) the amount worked out under section 57 for the school's primary distance education students.

40 Current SES funding—primary education funding amounts

For the purpose of paragraph 39(2)(a), work out the amount for the school's primary students for the program year using the formula:

Part 4 Grants for recurrent expenditure

Division 3 Current SES funding

Section 41

$$\text{School's current SES funding level} \times \text{AGSRC for primary education for the program year} \times \text{Number of primary students for the school for the program year}$$

41 Current SES funding—secondary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for secondary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for secondary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under section 42 for the school's secondary students; and
 - (b) the amount worked out under section 58 for the school's secondary distance education students.

42 Current SES funding—secondary education funding amounts

For the purpose of paragraph 41(2)(a), work out the amount for the school's secondary students for the program year using the formula:

$$\text{School's current SES funding level} \times \text{AGSRC for secondary education for the program year} \times \text{Number of secondary students for the school for the program year}$$

Division 4—Maintained funding

43 Maintained funding—scope

General

- (1) This Division applies to a non-government school in a State for a particular program year if:
 - (a) either of the following Subdivisions of Division 2 of Part 6 of the former Act was used to work out the funding for the school's recurrent expenditure for the 2008 program year under the former Act:
 - (i) Subdivision D (maintained year 2000 funding);
 - (ii) Subdivision E (maintained Catholic school funding);and
 - (b) the school is not a maximum SES funded school for that program year; and
 - (c) subsection (2) covers the school for the program year; and
 - (d) either of the following applies:
 - (i) this Division has applied to the school for each previous program year (if any);
 - (ii) if this Division did not apply to the school in a previous program year (the *majority Indigenous student year*) only because the school was a majority Indigenous student school for that year—this Division has applied to the school for each previous program year (if any) other than any majority Indigenous student year; and

Note: A majority Indigenous student school is a maximum SES funded school (see section 52).

 - (e) the school's SES score has not been changed, or determined, for the purposes of any of the following provisions for that program year or an earlier program year:
 - (i) section 80 (SES score changes on application by school);
 - (ii) section 110 (approved school determination);
 - (iii) section 166 (false or misleading statements).

Part 4 Grants for recurrent expenditure

Division 4 Maintained funding

Section 43

Condition based on 2008 funding

- (2) This subsection covers a non-government school in the following case:

$$\text{School's actual 2008 funding} \geq \left(\begin{array}{l} \text{Notional primary} \\ \text{students amount} \end{array} + \begin{array}{l} \text{Notional secondary} \\ \text{students amount} \end{array} \right)$$

where:

actual 2008 funding, for a school, means the maximum amount of financial assistance for the school authorised under Part 6 of the former Act for the 2008 program year:

- (a) including amounts for the school's primary students and secondary students; but
- (b) excluding the following amounts:
 - (i) any amount for distance education worked out under Subdivision H of Division 2 of Part 6 of the former Act;
 - (ii) any amount for remoteness per capita loading worked out under Subdivision I of that Division of the former Act.

notional primary students amount is the amount worked out using the formula:

$$\text{School's current SES funding level under this Act} \times \text{AGSRC for primary education for the program year 2008 under the former Act} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \\ \text{for the school for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array}$$

notional secondary students amount is the amount worked out using the formula:

$$\text{School's current SES funding level under this Act} \times \text{AGSRC for secondary education for the program year 2008 under the former Act} \times \begin{array}{l} \text{Number of} \\ \text{secondary students} \\ \text{for the school for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array}$$

44 Maintained funding—determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for the school for the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under section 45 for the school's primary students; and
 - (b) the amount worked out under section 46 for the school's secondary students; and
 - (c) the amount worked out under section 57 for the school's primary distance education students; and
 - (d) the amount worked out under section 58 for the school's secondary distance education students.

45 Maintained funding—primary education funding amounts

For the purpose of paragraph 44(2)(a), work out the amount for the school's primary students for the program year using the formula:

$$\text{School's maintained funding level for primary education} \times \text{AGSRC for primary education for the program year} \times \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}}$$

46 Maintained funding—secondary education funding amounts

For the purpose of paragraph 44(2)(b), work out the amount for the school's secondary students for the program year using the formula:

Part 4 Grants for recurrent expenditure

Division 4 Maintained funding

Section 46

School's maintained
funding level for
secondary education

×

AGSRC for secondary
education for the
program year

×

Number of
secondary students
for the school for the
program year

Division 5—Guaranteed year 2008 funding

47 Guaranteed year 2008 funding—scope

- (1) This Division applies to a non-government school for a particular program year and level of education provided at the school if:
- (a) either of the following Subdivisions of Division 2 of Part 6 of the former Act were used to work out the funding for the school's recurrent expenditure for the program year 2008 under the former Act:
 - (i) Subdivision C (current SES funding);
 - (ii) Subdivision F (guaranteed year 2004 SES funding); and
 - (b) the school is not a maximum SES funded school for that program year; and
 - (c) subsection (2) covers the school for the program year; and
 - (d) either of the following applies:
 - (i) this Division has applied to the school for that level of education for each previous program year (if any);
 - (ii) if this Division did not apply to the school for that level of education for a previous program year (the *majority Indigenous student year*) only because the school was a majority Indigenous student school for that year—this Division has applied to the school for that level of education for each previous program year (if any) other than any majority Indigenous student year; and
- Note: A majority Indigenous student school is a maximum SES funded school (see section 52).
- (e) the school's SES score has not been changed, or determined, for the purposes of any of the following provisions for that program year or an earlier program year:
- (i) section 80 (SES score changes on application by school);
 - (ii) section 110 (approved school determination);
 - (iii) section 166 (false or misleading statements).

Section 48

Condition based on 2008 funding

- (2) This subsection covers a non-government school, for a particular level of education provided at the school in a program year (the *current program year*), in the following case:

$$\left(\begin{array}{l} \text{School's} \\ \text{guaranteed} \\ \text{funding level} \\ \text{for that} \\ \text{level of} \\ \text{education} \end{array} \times \begin{array}{l} \text{AGSRC for} \\ \text{that level of} \\ \text{education for} \\ \text{the guarantee} \\ \text{year under the} \\ \text{former Act} \end{array} \right) > \left(\begin{array}{l} \text{School's} \\ \text{current SES} \\ \text{funding level} \\ \text{under this Act} \end{array} \times \begin{array}{l} \text{AGSRC for} \\ \text{that level of} \\ \text{education for} \\ \text{the current} \\ \text{program year} \end{array} \right)$$

48 Guaranteed year 2008 funding—primary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
- (a) if the school is a non-systemic school—of the school for primary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for primary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
- (a) the amount worked out under section 49 for the school's primary students; and
 - (b) the amount worked out under section 57 for the school's primary distance education students.

49 Guaranteed year 2008 funding—primary education funding amounts

For the purpose of paragraph 48(2)(a), work out the amount for the school's primary students for the program year (the *current program year*) using the formula:

$$\begin{array}{l} \text{School's} \\ \text{guaranteed} \\ \text{funding level} \times \\ \text{for primary} \\ \text{education} \end{array} \times \begin{array}{l} \text{AGSRC for primary} \\ \text{education for the} \\ \text{guarantee year under} \\ \text{the former Act} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \\ \text{for the school for the} \\ \text{current program year} \end{array}$$

50 Guaranteed year 2008 funding—secondary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for secondary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for secondary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under section 51 for the school's secondary students; and
 - (b) the amount worked out under section 58 for the school's secondary distance education students.

51 Guaranteed year 2008 funding—secondary education funding amounts

For the purpose of paragraph 50(2)(a), work out the amount for the school's secondary students for the program year (the *current program year*) using the formula:

$$\begin{array}{l} \text{School's} \\ \text{guaranteed} \\ \text{funding level} \times \\ \text{for secondary} \\ \text{education} \end{array} \times \begin{array}{l} \text{AGSRC for secondary} \\ \text{education for the} \\ \text{guarantee year under} \\ \text{the former Act} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{secondary students} \\ \text{for the school for the} \\ \text{current program year} \end{array}$$

Division 6—Maximum SES funding

52 Maximum SES funding—scope

This Division applies to a non-government school for a particular program year if the school (a *maximum SES funded school*) is any of the following for that program year:

- (a) a special school;
- (b) a special assistance school;
- (c) a majority Indigenous student school.

53 Maximum SES funding—meaning of *majority Indigenous student school*

- (1) In this Act:

majority Indigenous student school, for a program year, means a non-government school, if:

- (a) in the case of a school that was not a very remote school on the schools census day for the calendar year before the program year—as counted on that schools census day, 80% or more of the total number of students receiving primary and secondary education at the school were Indigenous; or
- (b) in the case of a school that was a very remote school on the schools census day for the calendar year before the program year—as counted on that schools census day, 50% or more of the total number of students receiving primary and secondary education at the school were Indigenous.

- (2) In this section:

very remote school, for a calendar year, means a school:

- (a) whose only school campus for that calendar year is a very remote school campus (within the meaning of this Act); or
- (b) all of whose school campuses for that calendar year are very remote school campuses (within the meaning of this Act).

Note: The definition of *very remote school campus* in section 4 applies a more up-to-date Remoteness Structure than the Remoteness Structure applied in section 4 of the former Act.

54 Maximum SES funding—determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for the school for the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under section 55 for the school's primary students; and
 - (b) the amount worked out under section 56 for the school's secondary students; and
 - (c) the amount worked out under section 57 for the school's primary distance education students; and
 - (d) the amount worked out under section 58 for the school's secondary distance education students.

55 Maximum SES funding—primary education funding amounts

For the purpose of paragraph 54(2)(a), work out the amount for the school's primary students for the program year using the formula:

$$70\% \times \frac{\text{AGSRC for primary education for the program year}}{\text{program year}} \times \frac{\text{Number of primary students for the school for the program year}}{\text{the program year}}$$

56 Maximum SES funding—secondary education funding amounts

For the purpose of paragraph 54(2)(b), work out the amount for the school's secondary students for the program year using the formula:

Part 4 Grants for recurrent expenditure

Division 6 Maximum SES funding

Section 56

$$70\% \times \text{AGSRC for secondary education for the program year} \times \text{Number of secondary students for the school for the program year}$$

Division 7—Distance education funding

57 Distance education funding—primary distance education funding amounts

Scope

- (1) This section applies in relation to a non-government school for the purposes of the following provisions:
 - (a) paragraph 39(2)(b) (current SES funding);
 - (b) paragraph 44(2)(c) (maintained funding);
 - (c) paragraph 48(2)(b) (guaranteed year 2008 funding);
 - (d) paragraph 54(2)(c) (maximum SES funding).

Funding amount

- (2) Work out the amount for the school's primary distance education students for the program year using the formula:

$$\begin{array}{r} \text{Assistance amount} \\ \text{per student for} \\ \text{the program year} \end{array} \times \begin{array}{r} \text{Number of} \\ \text{primary distance} \\ \text{education students} \\ \text{for the school for} \\ \text{the program year} \end{array}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$13.7\% \times \begin{array}{r} \text{AGSRC for primary} \\ \text{education for the} \\ \text{program year} \end{array}$$

Rounding-up to next highest dollar

- (3) If the assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

58 Distance education funding—secondary distance education funding amounts

Scope

- (1) This section applies in relation to a non-government school for the purposes of the following provisions:
- (a) paragraph 41(2)(b) (current SES funding);
 - (b) paragraph 44(2)(d) (maintained funding);
 - (c) paragraph 50(2)(b) (guaranteed year 2008 funding);
 - (d) paragraph 54(2)(d) (maximum SES funding).

Funding amount

- (2) Work out the amount for the school's secondary distance education students for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of secondary distance education students for the school for the program year}}{\text{Number of secondary distance education students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$13.7\% \times \frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the program year}}$$

Rounding-up to next highest dollar

- (3) If the assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

Division 8—Remoteness loading

59 Remoteness loading—scope

This Division applies to a non-government school in a State for a particular program year if the school campus for the school, or at least one of its school campuses, is, for that program year:

- (a) a moderately accessible school campus; or
- (b) a remote school campus; or
- (c) a very remote school campus.

Note: Assistance under this Division is in addition to the financial assistance that is available under other Divisions of this Part.

60 Remoteness loading—primary education funding determination

- (1) The Minister may make a determination under this subsection authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for primary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for primary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amount worked out under subsection 61(1) for the school's primary students at moderately accessible school campuses; and
 - (b) the amount worked out under subsection 61(2) for the school's primary students at remote school campuses; and
 - (c) the amount worked out under subsection 61(3) for the school's primary students at very remote school campuses.

61 Remoteness loading—primary education funding amounts

Students at a moderately accessible campus

- (1) For the purpose of paragraph 60(2)(a), work out the amount for primary students at any moderately accessible campus of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of moderately accessible campus primary students for the school for the program year}}{\text{Number of moderately accessible campus primary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$5\% \times \frac{\text{School's current SES funding level}}{\text{School's current SES funding level}} \times \frac{\text{AGSRC for primary education for the program year}}{\text{AGSRC for primary education for the program year}}$$

number of moderately accessible campus primary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving primary education at a moderately accessible school campus of the school on the school campus census day for the school campus in the program year.

Students at a remote campus

- (2) For the purpose of paragraph 60(2)(b), work out the amount for primary students at any remote campus of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of remote campus primary students for the school for the program year}}{\text{Number of remote campus primary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$10\% \times \frac{\text{School's current SES funding level}}{\text{AGSRC for primary education for the program year}}$$

number of remote campus primary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving primary education at a remote school campus of the school on the school campus census day for the school campus in the program year.

Students at a very remote campus

- (3) For the purpose of paragraph 60(2)(c), work out the amount for primary students at any very remote campus of the school for the program year using the formula:

$$\frac{\text{Assistance amount per student for the program year}}{\text{Number of very remote campus primary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$20\% \times \frac{\text{School's current SES funding level}}{\text{AGSRC for primary education for the program year}}$$

number of very remote campus primary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving primary education at a very remote school campus of the school on the school campus census day for the school campus in the program year.

Distance education students not counted

- (4) For the purposes of this section, in working out the number of students receiving primary education at a campus of a school, do not count any primary distance education students.

Rounding-up to next highest dollar

- (5) If an assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

62 Remoteness loading—secondary education funding determination

- (1) The Minister may make a determination under this subsection authorising payment of an amount of financial assistance to the State for recurrent expenditure:
- (a) if the school is a non-systemic school—of the school for secondary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for secondary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
- (a) the amount worked out under subsection 63(1) for the school's secondary students at moderately accessible school campuses; and
 - (b) the amount worked out under subsection 63(2) for the school's secondary students at remote school campuses; and
 - (c) the amount worked out under subsection 63(3) for the school's secondary students at very remote school campuses.

63 Remoteness loading—secondary education funding amounts

Students at a moderately accessible campus

- (1) For the purpose of paragraph 62(2)(a), work out the amount for secondary students at any moderately accessible campus of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of moderately accessible campus secondary students for the school for the program year}}{\text{Number of moderately accessible campus secondary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$5\% \times \frac{\text{School's current SES funding level}}{\text{School's current SES funding level}} \times \frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the program year}}$$

number of moderately accessible campus secondary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving secondary education at a moderately accessible school campus of the school on the school campus census day for the school campus in the program year.

Students at a remote campus

- (2) For the purpose of paragraph 62(2)(b), work out the amount for secondary students at any remote campus of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of remote campus secondary students for the school for the program year}}{\text{Number of remote campus secondary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$10\% \times \frac{\text{School's current SES funding level}}{\text{School's current SES funding level}} \times \frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the program year}}$$

number of remote campus secondary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving secondary

education at a remote school campus of the school on the school campus census day for the school campus in the program year.

Students at a very remote campus

- (3) For the purpose of paragraph 62(2)(c), work out the amount for secondary students at any very remote campus of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of very remote campus secondary students for the school for the program year}}{\text{Number of very remote campus secondary students for the school for the program year}}$$

where:

assistance amount per student, for a program year, means the amount worked out using the formula:

$$20\% \times \frac{\text{School's current SES funding level}}{\text{School's current SES funding level}} \times \frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the program year}}$$

number of very remote campus secondary students, for a school for a program year, means the number of students (including the full-time equivalent of part-time students) receiving secondary education at a very remote school campus of the school on the school campus census day for the school campus in the program year.

Distance education students not counted

- (4) For the purposes of this section, in working out the number of students receiving secondary education at a campus of a school, do not count any secondary distance education students.

Rounding-up to next highest dollar

- (5) If an assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

Division 9—Indigenous supplementary assistance

64 Indigenous supplementary assistance—scope

This Division applies to a non-government school in a State for a particular program year and level of education provided at the school, in relation to any Indigenous students receiving that level of education at the school in that year.

Note: Assistance under this Division is in addition to the financial assistance that is available under other Divisions of this Part.

65 Indigenous supplementary assistance—definitions

In this Act:

number of Indigenous primary students, at a school campus for a program year, means the number of Indigenous students (including the full-time equivalent of part-time students) receiving primary education at the school campus on the schools census day for the school for the program year, but not including students receiving primary distance education.

number of Indigenous secondary students, at a school campus for a program year, means the number of Indigenous students (including the full-time equivalent of part-time students) receiving secondary education at the school campus on the schools census day for the school for the program year, but not including students receiving secondary distance education.

66 Indigenous supplementary assistance—primary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for primary education provided by the school in the program year; or

Section 67

- (b) if the school is a member of an approved school system—of the approved school system for primary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amounts worked out under subsections 67(1) and 67(1A) for the school’s Indigenous primary students at non-remote school campuses; and
 - (b) the amount worked out under subsection 67(2) for the school’s Indigenous primary students at remote and very remote school campuses.

67 Indigenous supplementary assistance—primary education funding amounts

Non-remote school campuses

- (1) For the purpose of paragraph 66(2)(a), work out the amount for the school’s Indigenous primary students at non-remote school campuses of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of Indigenous primary students at non-remote school campuses for the program year}}{\text{Number of Indigenous primary students at non-remote school campuses for the program year}}$$

where:

assistance amount per student, for a program year, means:

- (a) \$1,600; or
 - (b) if the regulations specify a greater amount under subsection (3) for the program year—that amount.
- (1A) The regulations may specify, by reference to an amount or a formula for calculating an amount:
 - (a) an additional amount of assistance for each Indigenous student from a remote area receiving primary education at a non-remote campus;

- (b) an additional amount of assistance for each Indigenous student from a very remote area receiving primary education at a non-remote campus.

Remote and very remote school campuses

- (2) For the purpose of paragraph 66(2)(b), work out the amount for the school's Indigenous primary students at remote and very remote school campuses of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of Indigenous primary students at remote and very remote school campuses for the program year}}{\text{Number of Indigenous primary students at remote and very remote school campuses for the program year}}$$

assistance amount per student, for a program year, means:

- (a) \$3,850; or
(b) if the regulations specify a greater amount under subsection (3) for the program year—that amount.

Regulations specifying assistance amounts

- (3) The regulations may specify an amount as an assistance amount per student for the purposes of subsection (1) or (2) for a program year.
- (4) Regulations made for the purposes of subsection (3) may provide for an increase in an assistance amount per student (from one program year to the next) by reference to changes in a specified index.
- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

68 Indigenous supplementary assistance—secondary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
 - (a) if the school is a non-systemic school—of the school for secondary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for secondary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
 - (a) the amounts worked out under subsections 69(1) and 69(1A) for the school's Indigenous secondary students at non-remote school campuses; and
 - (b) the amount worked out under subsection 69(2) for the school's Indigenous secondary students at remote and very remote school campuses.

69 Indigenous supplementary assistance—secondary education funding amounts

Non-remote school campuses

- (1) For the purpose of paragraph 68(2)(a), work out the amount for the school's Indigenous secondary students at non-remote school campuses of the school for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of Indigenous secondary students at non-remote school campuses for the program year}}{\text{Number of Indigenous secondary students at non-remote school campuses for the program year}}$$

where:

assistance amount per student, for a program year, means:

- (a) \$2,250; or

- (b) if the regulations specify a greater amount under subsection (3) for the program year—that amount.
- (1A) The regulations may specify, by reference to an amount or a formula for calculating an amount:
- (a) an additional amount of assistance for each Indigenous student from a remote area receiving secondary education at a non-remote campus;
 - (b) an additional amount of assistance for each Indigenous student from a very remote area receiving secondary education at a non-remote campus.

Remote and very remote school campuses

- (2) For the purpose of paragraph 68(2)(b), work out the amount for the school's Indigenous secondary students at remote and very remote school campuses of the school for the program year using the formula:

$$\begin{array}{r} \text{Assistance amount per} \\ \text{student for the program year} \end{array} \times \begin{array}{r} \text{Number of Indigenous} \\ \text{secondary students at} \\ \text{remote and very remote} \\ \text{school campuses for the} \\ \text{program year} \end{array}$$

assistance amount per student, for a program year, means:

- (a) \$4,400; or
- (b) if the regulations specify a greater amount under subsection (3) for the program year—that amount.

Regulations specifying assistance amounts

- (3) The regulations may specify an amount as an assistance amount per student for the purposes of subsection (1) or (2) for a program year.
- (4) Regulations made for the purposes of subsection (3) may provide for an increase in an assistance amount per student (from one program year to the next) by reference to changes in a specified index.

Part 4 Grants for recurrent expenditure

Division 9 Indigenous supplementary assistance

Section 69

- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

Division 10—Indigenous funding guarantee

70 Indigenous funding guarantee—funding determination

- (1) The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure in relation to Indigenous students receiving education at a non-systemic school, or at schools that are members of an approved school system, in the State, for a program year.
- (2) In making a determination under subsection (1) for a non-systemic school, or an approved school system, the Minister may consider the following amounts of financial assistance received (or to be received) by the school, or all schools in the system:
 - (a) financial assistance authorised for the calendar year 2008 under either or both of the following:
 - (i) Division 2 of Part 6 of the former Act;
 - (ii) the *Indigenous Education (Targeted Assistance) Act 2000*;
 - (b) financial assistance to be authorised for the program year under this Part (apart from under this Division).

Note: Assistance under this Division is in addition to the financial assistance that is available under other Divisions of this Part (including Division 9 (Indigenous supplementary assistance)).

71 Indigenous funding guarantee—funding amounts

The sum of the amounts paid to the States under section 70 for a program year must not exceed:

- (a) the funding amount specified in the following table for the program year; or
- (b) if the regulations specify a different amount for a particular program year—that amount.

Indigenous funding guarantee—funding amounts		
Item	Program year	Funding amount
1	2009	\$5,500,000

Part 4 Grants for recurrent expenditure
Division 10 Indigenous funding guarantee

Section 71

Indigenous funding guarantee—funding amounts		
Item	Program year	Funding amount
2	2010	\$4,500,000
3	2011	\$4,100,000
4	2012	\$4,000,000

Division 11—SES scores**Subdivision A—Definition****72 SES scores—definition**

- (1) In this Act:

SES score, for a non-government school, means:

- (a) an SES score determined for the school, as in effect on 31 December 2008, under section 8 of the former Act; or
 - (b) a whole number determined by the Minister for the school under subsection (2) of this section, in accordance with guidelines approved by the Minister under subsection (3) of this section.
- (2) The Minister may determine an SES score for a non-government school for the purposes of subsection (1), for the program year in which the determination is made.
- Note: The Minister must give notice of the determination to the approved authority of the school (see section 82).
- (3) The Minister may, by legislative instrument, approve guidelines for the determination of SES scores.

Subdivision B—SES scores under former Act**73 SES scores—transitional determinations***Scope*

- (1) This section applies in relation to a school for which a determination of a particular SES score was in effect, as at 31 December 2008, under section 8 of the former Act.

Transitional determinations

- (2) The Minister is taken to have determined that SES score for the school, for the purposes of this Act, by a determination (a

transitional SES score determination) made under subsection 72(2), with effect from 1 January 2009.

- (3) Section 82 (notice of determination) does not apply in relation to a transitional SES score determination.

74 SES scores—transitional guidelines

Scope

- (1) This section applies if guidelines under section 8 of the former Act for the making of SES score determinations (under that section) were in effect as at 31 December 2008.

Transitional guidelines

- (2) The Minister is taken to have approved those guidelines, for the purposes of this Act, by a determination made under subsection 72(3), with effect from 1 January 2009.

Subdivision C—Change of SES score determinations

75 SES scores—determination of changes

- (1) The Minister may, by determination, vary an SES score determination.

Note: The Minister must give notice of the variation to the approved authority of the school concerned (see section 82).

- (2) However, the Minister may only vary an SES score determination if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may vary SES score determinations, see Subdivision D (SES score changes on application by school), section 81 (clerical or formal changes) and section 166 (false or misleading statements).

Subdivision D—SES score changes on application by school**76 SES scores—change proposals**

- (1) This Subdivision applies in relation to a proposal to vary a school's SES score because the approved authority of the school considers that the SES score:
 - (a) has not been determined correctly; or
 - (b) without limiting paragraph (a), does not reflect the socioeconomic circumstances of the school's community (in the way required by the guidelines approved by the Minister under subsection (2)); or
 - (c) is no longer accurate because of a significant change in the school's circumstances.
- (2) The Minister may, by legislative instrument, approve guidelines for the purposes of subsection (1) and section 79.

77 SES scores—change applications*Applicants*

- (1) The approved authority of the school may apply to the Minister for approval of the proposal.

Contents of applications

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) set out the name and location of the school and of the approved authority of the school; and
 - (c) if the school is a member of an approved school system—set out the name of the approved school system; and
 - (d) set out the reasons why the approved authority considers the SES score should be changed.

78 SES scores—decisions on change proposals

The Minister must:

Section 79

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to section 79 (general prerequisites for change proposals).

79 SES scores—general prerequisites for change proposals

The Minister must not approve the proposal unless satisfied that the school's SES score (the *old SES score*):

- (a) has not been determined correctly; or
- (b) without limiting paragraph (a), does not reflect the socioeconomic circumstances of the school's community (in the way required by the guidelines approved by the Minister under section 76); or
- (c) is no longer accurate because of a significant change in the school's circumstances.

80 SES scores—variation of determinations

Variation of SES score determinations

- (1) If the Minister approves the proposal, the Minister must vary the school's SES score determination under section 75 to determine a new SES score for the school.

Note: The Minister must give notice of the determination to the approved authority of the school (see section 82).

Program year of effect

- (2) A variation under this section must be stated to apply for the program year in which the variation is made, if the variation results in the school's funding level being equal to, or exceeding, the funding level that applied to the school at the time the proposal to vary the SES score was made.

Note: A variation that decreases a school's SES score may have the effect of increasing the school's funding level.

- (3) A variation under this section must be stated to apply for the program year immediately following the program year in which the variation is made, if the variation results in the school's funding

level being less than the funding level that applied to the school at the time the proposal to vary the SES score was made.

Note: A variation that increases a school's SES score may have the effect of decreasing the school's funding level.

Subdivision E—Miscellaneous

81 SES scores—clerical or formal changes

The Minister may vary an SES score determination under section 75 to correct clerical errors or to make alterations of a formal kind.

82 SES scores—notice of determinations

If the Minister makes a determination under this Division, the Minister must give written notice of the determination to the approved authority of the school concerned.

Part 5—Grants for capital expenditure

83 Capital expenditure—definitions

(1) In this Act:

block grant authority means a body corporate that the Minister determines under subsection (2) to be a block grant authority for the purposes of this Part in relation to particular non-government schools in a State.

capital expenditure includes expenditure relating to any of the following:

- (a) investigating the need for:
 - (i) non-government schools in particular areas; or
 - (ii) non-government schools of particular kinds in particular areas; or
 - (iii) buildings (or parts of buildings), other facilities (or parts of other facilities) or equipment;
- (b) purchasing land, with or without buildings or parts of buildings;
- (c) planning for the erection, alteration, extension, demolition or refurbishment of a building (or part of a building) or of another facility (or part of another facility);
- (d) developing or preparing land for building or other purposes;
- (e) erecting, altering, extending, demolishing or refurbishing a building, part of a building or another facility or part of a facility;
- (f) installing or upgrading water, electricity or any other services;
- (g) providing equipment, including information technology equipment;
- (h) providing furniture;
- (i) providing library materials or obtaining services and goods for cataloguing a library (or part of a library);
- (j) the administrative expenses of a block grant authority.

- (2) For the purposes of the definition of **block grant authority** in subsection (1), the Minister may determine a body corporate to be a block grant authority.

84 Capital expenditure—funding determination

- (1) The Minister may make a determination authorising payment of financial assistance to a State for:
- (a) capital expenditure for a program year in connection with:
 - (i) a non-government school in the State; or
 - (ii) a group (or groups) of non-government schools in the State; or
 - (b) capital expenditure for a program year in connection with block grant authorities and non-government schools in the State.
- (2) The sum of the amounts paid to the States under subsection (1) for a program year must not exceed the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \frac{\text{Capital expenditure supplementation number for the program year}}{\text{Capital expenditure supplementation number for the program year}}$$

where:

base assistance amount, for a program year, means:

- (a) if the regulations specify an amount under subsection (3) for the program year—that amount; or
 - (b) otherwise:
 - (i) in the case of the 2009 program year—\$128,712,000; or
 - (ii) in the case of a later program year—the amount worked out under this subsection for the previous program year.
- (3) For the purposes of subsection (2), the regulations may specify an amount to be the **base assistance amount** for a program year.
- (4) If the amount worked out under subsection (2) for a program year is not a multiple of \$1,000, the amount is to be rounded to the nearest \$1,000 (rounding \$500 upwards).

85 Capital expenditure—capital expenditure supplementation number

(1) In this Act:

capital expenditure supplementation number, for a program year, means:

- (a) 1; or
 - (b) if the regulations specify a number under subsection (2) for the program year—that number.
- (2) For the purposes of this Act, the regulations may specify a number to be the *capital expenditure supplementation number* for a program year.
- (3) A number specified under subsection (2) may be greater than or less than 1.
- (4) Before the Governor-General makes regulations for the purposes of subsection (2), the Minister must consider changes in the following indexes:
- (a) an index of building prices specified in the regulations;
 - (b) an index of wage costs specified in the regulations.
- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, regulations made for the purposes of this section may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or other writing as in force or existing from time to time.

Part 6—Grants for targeted expenditure

Division 1—Simplified outline of Part

86 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) This Part allows the Minister to make determinations authorising the payment of financial assistance to the States for the following:
 - (a) short term emergency assistance (see Division 2);
 - (b) education in country areas (see Division 3);
 - (c) languages education (see Division 4);
 - (d) teaching English to new arrivals (see Division 5);
 - (e) the literacy, numeracy and special learning needs of students who are educationally disadvantaged (see Division 6);
 - (f) establishment assistance for schools established in 2008 (see Division 7).
- (3) This Part also sets limits for financial assistance for those purposes.

Division 2—Short term emergency assistance

87 Short term emergency assistance—funding determination

- (1) The Minister may make a determination authorising payment of financial assistance to a State to provide short term emergency assistance for a non-government school in the State for one or more program years if the Minister is satisfied that, because of any unexpected circumstance, the school:
- (a) is in severe financial difficulty; and
 - (b) has a special need of that assistance in the program year or years.

- (2) The sum of the amounts paid to the States under subsection (1) for a program year must not exceed the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \frac{\text{Targeted expenditure supplementation number for the program year}}{\text{number for the program year}}$$

where:

base assistance amount, for a program year, means:

- (a) if the regulations specify an amount under subsection (3) for the program year—that amount; or
 - (b) otherwise:
 - (i) in the case of the 2009 program year—\$1,057,000; or
 - (ii) in the case of a later program year—the amount worked out under this subsection for the previous program year.
- (3) For the purposes of subsection (2), the regulations may specify an amount to be the **base assistance amount** for a program year.
- (4) An amount specified under subsection (3) may be nil.
- (5) If the amount worked out under subsection (2) for a program year is not a multiple of \$1,000, the amount is to be rounded to the nearest \$1,000 (rounding \$500 upwards).

Division 3—Education in country areas

88 Education in country areas—funding determination

- (1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure approved by the Minister for a program year connected with the education, at non-government schools in country areas of the State, of students who are educationally disadvantaged because of their geographical isolation.
- (2) The sum of the amounts paid to the States under subsection (1) for a program year must not exceed the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \frac{\text{Targeted expenditure supplementation number for the program year}}{\text{number for the program year}}$$

where:

base assistance amount, for a program year, means:

- (a) if the regulations specify an amount under subsection (3) for the program year—that amount; or
 - (b) otherwise:
 - (i) in the case of the 2009 program year—\$5,246,000; or
 - (ii) in the case of a later program year—the amount worked out under this subsection for the previous program year.
- (3) For the purposes of subsection (2), the regulations may specify an amount to be the **base assistance amount** for a program year.
 - (4) If the amount worked out under subsection (2) for a program year is not a multiple of \$1,000, the amount is to be rounded to the nearest \$1,000 (rounding \$500 upwards).

Note: Financial assistance under this Division is in addition to the assistance that is available under section 97 (students who are educationally disadvantaged).

Division 4—Languages education

89 Languages education—improving learning outcomes

The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with non-government schools in the State to improve the learning outcomes of students who are learning languages other than English.

Note: Section 91 sets a maximum amount for grants to the States under this Division for a program year.

90 Languages education—national projects

- (1) The Minister may approve a project for the purposes of this section if:
 - (a) the sole or principal object of the project is to foster the learning of languages other than English; and
 - (b) the project is conducted by a non-government school or other non-government body.
- (2) The Minister may make a determination authorising payment to a State for a program year of an amount of financial assistance for either or both of the following:
 - (a) expenditure on a project approved under subsection (1);
 - (b) expenditure to publicise a project approved under subsection (1) by disseminating information about the project or carrying out other related activities in connection with the project.

Note: Section 91 sets a maximum amount for grants to the States under this Division for a program year.

- (3) For the purposes of this section, it does not matter whether the project is conducted within, or outside, or within and outside, the State.

91 Languages education—grant amounts

- (1) The sum of the amounts paid to the States under this Division for a program year must not exceed the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

where:

base assistance amount, for a program year, means:

- (a) if the regulations specify an amount under subsection (2) for the program year—that amount; or
- (b) otherwise:
- (i) in the case of the 2009 program year—\$12,334,000; or
 - (ii) in the case of a later program year—the amount worked out under this subsection for the previous program year.
- (2) For the purposes of subsection (1), the regulations may specify an amount to be the **base assistance amount** for a program year.
- (3) If the amount worked out under subsection (1) for a program year is not a multiple of \$1,000, the amount is to be rounded to the nearest \$1,000 (rounding \$500 upwards).

Division 5—Teaching English to new arrivals

92 Teaching English to new arrivals—definitions

Definitions

(1) In this Act:

eligible humanitarian new arrival means a person:

- (a) who is an eligible new arrival; and
- (b) who holds a visa specified in a determination made under subsection (2).

eligible new arrival means a person:

- (a) whose first language is not English; and
- (b) who satisfies criteria determined under subsection (3) for being a person newly arrived in Australia; and
- (c) to whom one or more of the following subparagraphs applies:
 - (i) the person is an Australian citizen;
 - (ii) the person holds a permanent visa in force under the *Migration Act 1958*;
 - (iii) the person is included in a permanent visa in force under that Act;
 - (iv) the person has his or her permanent home in the Territory of Christmas Island or in the Territory of Cocos (Keeling) Islands;
 - (v) the person satisfies criteria determined under subsection (4).

intensive ESL course means a course designed to teach English as a second language to eligible new arrivals by means of intensive instruction.

Determinations

(2) The Minister may, by determination, specify a visa for the purposes of paragraph (b) of the definition of ***eligible humanitarian new arrival*** in subsection (1).

Note: The Minister may specify a visa by reference to a class of visas (see subsection 13(3) of the *Legislative Instruments Act 2003*).

- (3) The Minister may determine criteria for being a person newly arrived in Australia for the purposes of paragraph (b) of the definition of *eligible new arrival* in subsection (1).
- (4) The Minister may determine criteria for the purposes of subparagraph (c)(v) of the definition of *eligible new arrival* in subsection (1).
- (5) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a determination made under subsection (4) may be stated to take effect from a day before the day on which the determination is made, but not before 1 January 2009.
- (6) A determination made under this section is a legislative instrument.

Determinations made under the former Act

- (7) The following table has effect:

Determinations made under the former Act		
Item	A determination, made by the relevant Minister for the purposes of the following provision of section 4 of the former Act and in force on 31 December 2008 ...	is taken to be a determination made under the following subsection of this section ...
1	paragraph (b) of the definition of <i>eligible humanitarian new arrival</i>	subsection (2).
2	paragraph (b) of the definition of <i>eligible new arrival</i>	subsection (3).
3	subparagraph (c)(v) of the definition of <i>eligible new arrival</i>	subsection (4).

93 Teaching English to new arrivals—funding determination

- (1) The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure for a program year connected with intensive ESL courses:

Section 94

- (a) beginning or continuing in the program year; and
 - (b) provided at or in connection with non-government schools in the State.
- (2) The total amount authorised to be paid to a State under subsection (1) for a program year must not exceed the amount worked out by adding up:
- (a) the amount worked out under section 94 for the State's eligible new arrivals; and
 - (b) the amount worked out under section 95 for the State's eligible humanitarian new arrivals.

Note: Financial assistance under this Division is in addition to the assistance that is available under section 97 (students who are educationally disadvantaged).

94 Teaching English to new arrivals—eligible new arrivals amounts

- (1) For the purposes of paragraph 93(2)(a), work out the amount for the State's eligible new arrivals for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \text{Number of eligible new arrivals for the State for the program year}$$

where:

assistance amount per student has the meaning given by subsection (2).

number of eligible new arrivals, for a State for a program year, means the number of eligible new arrivals, other than eligible humanitarian new arrivals, enrolled in intensive ESL courses described in subsection 93(1) in the State for the program year.

- (2) For the purposes of subsection (1), the *assistance amount per student*, for a program year, is the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

where:

base assistance amount means:

- (a) for the 2009 program year—\$5,786; or
 - (b) for a later program year—the assistance amount per student for the previous program year.
- (3) If the assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

95 Teaching English to new arrivals—eligible humanitarian new arrivals amounts

- (1) For the purposes of paragraph 93(2)(b), work out the amount for the State's eligible humanitarian new arrivals for the program year using the formula:

$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of eligible humanitarian new arrivals for the State for the program year}}{\text{Number of eligible humanitarian new arrivals for the State for the program year}}$$

where:

assistance amount per student has the meaning given by subsection (2).

number of eligible humanitarian new arrivals, for a State for a program year, means the number of eligible humanitarian new arrivals enrolled in intensive ESL courses described in subsection 93(1) in the State for the program year.

- (2) For the purposes of subsection (1), the *assistance amount per student*, for a program year, is the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \frac{\text{Targeted expenditure supplementation number for the program year}}{\text{Targeted expenditure supplementation number for the program year}}$$

where:

base assistance amount means:

- (a) for the 2009 program year—\$11,572; or
- (b) for a later program year—the assistance amount per student for the previous program year.

Part 6 Grants for targeted expenditure

Division 5 Teaching English to new arrivals

Section 95

- (3) If the assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

Division 6—Literacy, numeracy and special learning needs

96 Literacy, numeracy and special learning needs—students with disabilities

- (1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with non-government schools (including schools providing special education) in the State to improve the learning outcomes of students with disabilities.
- (2) The total amount authorised to be paid to a State under subsection (1) for a program year must not exceed the amount worked out using the formula:

$$\text{Assistance amount per student for the program year} \times \text{Number of students with disabilities for the State for the program year}$$

where:

assistance amount per student has the meaning given by subsection (3).

number of students with disabilities, for a State for a program year, means the number of students with disabilities (including the full-time equivalent of part-time students with disabilities) receiving primary education, secondary education or distance education at non-government schools in the State on the schools census day for the State for the previous calendar year.

- (3) For the purposes of subsection (2), the *assistance amount per student*, for a program year, is the amount worked out using the formula:

$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

where:

base assistance amount means:

- (a) for the 2009 program year—\$853; or

Part 6 Grants for targeted expenditure

Division 6 Literacy, numeracy and special learning needs

Section 97

- (b) for a later program year—the assistance amount per student for the previous program year.
- (4) If the assistance amount per student for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

Note: Financial assistance under this section is in addition to the assistance that is available under section 97 (students who are educationally disadvantaged).

97 Literacy, numeracy and special learning needs—students who are educationally disadvantaged

- (1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with non-government schools (including schools providing special education) in the State to improve the learning outcomes of students who are educationally disadvantaged.
- (2) The sum of the amounts paid to the States under subsection (1) for a program year must not exceed the amount worked out by adding up:
- (a) the amount worked out under section 98 for the program year (grants for schools); and
 - (b) the amount specified under section 99 for the program year (guarantee amount).
- (3) In this section:
- students who are educationally disadvantaged* includes:
- (a) students who are geographically isolated; and
 - (b) students of a language background other than English; and
 - (c) students with disabilities; and
 - (d) Indigenous students; and
 - (e) students of a low socioeconomic background.

Note: Financial assistance under this section is in addition to the assistance that is available under Division 3 (students who are geographically isolated), Division 5 (teaching English to new arrivals) or section 96 (students with disabilities).

98 Literacy, numeracy and special learning needs—school grants amounts

- (1) For the purposes of paragraph 97(2)(a), work out the amount using the formula:

$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

where:

base assistance amount, for a program year, means:

- (a) if the regulations specify an amount under subsection (2) for the program year—that amount; or
 - (b) otherwise:
 - (i) in the case of the 2009 program year—\$142,375,000; or
 - (ii) in the case of a later program year—the amount worked out under this subsection for the previous program year.
- (2) For the purposes of subsection (1), the regulations may specify an amount to be the *base assistance amount* for a program year.
- (3) If the amount worked out under subsection (1) for a program year is an amount of dollars and cents, the amount is to be rounded to the next highest dollar.

99 Literacy, numeracy and special learning needs—guarantee amounts

For the purposes of paragraph 97(2)(b), the amount is:

- (a) \$1,942,000; or
- (b) if the regulations specify an amount for the program year for the purposes of this paragraph—that amount.

Division 7—Establishment assistance

100 Establishment assistance—funding determination

Scope

- (1) This section applies if, in 2008, the relevant Minister varied the former list of non-government schools in relation to a school in a State because the school was covered by paragraph (c) of the definition of *new school proposal* in the former Act.

Funding determination

- (2) If the school is a non-systemic school, the Minister may make a determination authorising payment of financial assistance to the State to provide establishment assistance for the school for the 2009 program year.
- (3) If the school is a member of an approved school system, the Minister may make a determination authorising payment of financial assistance to the State to provide establishment assistance for the approved school system for the 2009 program year in relation to the school.

Maximum amount

- (4) An amount determined under subsection (2) or (3) in relation to a school must not be more than the amount worked out using the formula:

$$\$250 \times \left(\begin{array}{cc} \text{Number of primary} & \text{Number of secondary} \\ \text{students for the school} & \text{students for the school} \\ \text{for the 2009 program year} & \text{for the 2009 program year} \end{array} \right)$$

Division 8—Targeted expenditure supplementation number

101 Targeted expenditure supplementation number

(1) In this Act:

targeted expenditure supplementation number, for a program year, means:

- (a) 1; or
 - (b) if the regulations specify a number under subsection (2) for the program year—that number.
- (2) For the purposes of this Act, the regulations may specify a number to be the *targeted expenditure supplementation number* for a program year.
- (3) A number specified under subsection (2) may be greater than or less than 1.
- (4) Before the Governor-General makes regulations for the purposes of subsection (2), the Minister must consider changes in the relevant figures known as the Average Government School Costs published by:
- (a) the Ministerial Council on Education, Employment, Training and Youth Affairs; or
 - (b) a body specified by the regulations that has a corresponding function.

Part 7—Approved schools

Division 1—Simplified outline of Part

102 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) A school is approved, for the purposes of this Act, for a level of education at a location if:
 - (a) the school was included in the former list of non-government schools for that level at that location (see Division 3); or
 - (b) the Minister, by determination, approves the school for that level at that location (see Division 4).
- (3) An approved school determination may be changed for a reason specified in this Act, including to add or to remove levels of education and locations (see Divisions 5 and 6).

Division 2—Approved schools

103 Approved schools—definition

In this Act:

approved school means (subject to subsection 121(3) (revocation of approvals)):

- (a) a school that, as at 31 December 2008, was included in the former list of non-government schools; or
- (b) a school approved under an approved school determination.

Division 3—Former listed schools

104 Former listed schools

Scope

- (1) This section applies in relation to a school that, as at 31 December 2008, was included in the former list of non-government schools for:
 - (a) a level of education; and
 - (b) a location for that level of education.

Transitional approvals

- (2) The Minister is taken to have approved the school, for the purposes of this Act, for that level of education at that location, by determination (a ***transitional approved school determination***) made under subsection 110(1), with effect from 1 January 2009.
- (3) The following provisions do not apply in relation to a transitional approved school determination:
 - (a) subsection 110(3) (approved school system or approved authority);
 - (b) subsection 110(4) (SES score);
 - (c) section 123 (notice of determination).

Division 4—Approved school determinations

Subdivision A—Scope of Division

105 Approved school determinations—new school proposals

This Division applies in relation to a proposal that one of the following schools be approved for a level (or levels) of education at a location (or locations) for the purposes of this Act:

- (a) a non-government school formed as a result of the amalgamation of 2 or more schools (at least one of which was an approved school);
- (b) a non-government school formed as a result of the separation of an approved school into 2 or more schools;
- (c) a new non-government school;
- (d) an existing non-government school that is not already an approved school.

Subdivision B—Applications

106 Approved school determinations—new school applications

Applicants

- (1) The following may apply to the Minister for approval of the proposal:
 - (a) if the school is to be a member of an approved school system—the approved authority of the system;
 - (b) otherwise—the body principally responsible for the school.

Contents of applications

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) set out the details of the proposal, including:
 - (i) the information mentioned in section 111; and

- (ii) if the school is to be a member of an approved school system—the information mentioned in subsection 133(2); and
 - (c) subject to subsection (3), state the earliest program year to which the approval is to apply; and
 - (d) if the applicant considers that there are exceptional circumstances that justify the approval applying to the program year preceding the program year in which the application is made—set out those circumstances.
- (3) The earliest program year to be stated in an application for the purposes of paragraph (2)(c) is to be:
 - (a) the program year in which the application is made; or
 - (b) the program year following the program year in which the application is made; or
 - (c) if the applicant considers that there are exceptional circumstances that justify the approval applying to the program year preceding the program year in which the application is made—that preceding program year.

107 Approved school determinations—decisions on new school proposals

The Minister must:

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to sections 108 (general prerequisites for new school proposals) and 109 (prerequisites for new school proposals applying in previous program years).

108 Approved school determinations—general prerequisites for new school proposals

The Minister must not approve the proposal unless:

- (a) education is provided by the school; and
- (b) education provided by the school is recognised by the State Minister of the State in which the school is situated; and
- (c) the school is not conducted for profit; and

- (d) if the school is to be a non-systemic school—the applicant for the proposal is a body corporate; and
- (e) the requirements under paragraphs (a), (b), (c) and (d) are satisfied before the schools census day for the school in the earliest program year to which the approved school determination is to apply.

109 Approved school determinations—prerequisites for new school proposals applying in previous program years

The Minister must not make an approved school determination with effect from a day in the program year preceding the program year in which the application is made unless the Minister is satisfied that there are exceptional circumstances that justify the determination taking effect in that preceding program year.

Subdivision C—Making approved school determinations

110 Approved school determinations—power to determine

- (1) If the Minister approves the proposal, the Minister must, by determination, approve the school for the purposes of this Act in accordance with the proposal.

Note: The Minister must give notice of the determination to the approved authority of the school (see section 123).

- (2) The determination must be stated to apply from the earliest program year stated in the application for the purposes of paragraph 106(2)(c).
- (3) The Minister must:
 - (a) if the school is to be a member of an approved school system—subject to section 135 (prerequisites for membership), vary the system’s approved school system determination under section 131 to approve the school as a member of the system; or
 - (b) otherwise—approve a body as the approved authority of the school under section 151.

Section 111

- (4) The Minister must determine the school's SES score under section 72.
- (5) If paragraph 105(a) or (b) applies (schools formed from the amalgamation or separation of approved schools), the Minister may, in order to take account of the proposal:
 - (a) vary (under section 112) or revoke (under section 121) the approved school determination for any approved school mentioned in that paragraph; or
 - (b) vary (under section 152) or revoke (under section 154) the approved authority determination for any approved school mentioned in that paragraph; or
 - (c) if any approved school mentioned in that paragraph is a member of an approved school system—vary (under section 131) the system's approved school system determination.

111 Approved school determinations—contents

An approved school determination for an approved school must set out the following:

- (a) the name of the school;
- (b) each location for which the school is approved;
- (c) a description of:
 - (i) each level of education for which the school is approved; and
 - (ii) if more than one location is listed under paragraph (b) for the school—each level of education for which the school is approved at each of those locations.

Division 5—Changes to approved school determinations

Subdivision A—General provisions

112 Changes to approved school determinations—power to determine

- (1) The Minister may, by determination, vary an approved school determination.

Note: The Minister must give notice of the variation to the approved authority of the school concerned (see section 123).

- (2) However, the Minister may only vary an approved school determination if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may vary approved school determinations, see section 110 (amalgamation or separation of approved schools), Subdivision B (end of State recognition), Subdivision C (location changes) and section 120 (clerical or formal changes).

Subdivision B—End of State recognition

113 Changes to approved school determinations—end of State recognition

If an approved school in a State stops being recognised by the State for a particular level of education, the Minister may vary the school's approved school determination under section 112 to remove the reference to that level of education.

Subdivision C—Location changes

114 Changes to approved school determinations—location change proposals

- (1) Subsection (2) applies in relation to a school that is approved for the purposes of this Act for a level of education at a location.

Section 115

- (2) This Subdivision applies in relation to a proposal to approve the school for:
 - (a) a new level of education at that location; or
 - (b) education, or a level of education, at another location.

115 Changes to approved school determinations—location change applications

Applicants

- (1) The approved authority of the school may apply to the Minister for approval of the proposal.

Contents of applications

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) set out details of the proposal; and
 - (c) subject to subsection (3), state the earliest program year to which the approval is to apply; and
 - (d) if the applicant considers that there are exceptional circumstances that justify the approval applying to the program year preceding the program year in which the application is made—set out those circumstances.
- (3) The earliest program year to be stated in an application for the purposes of paragraph (2)(c) is to be:
 - (a) the program year in which the application is made; or
 - (b) the program year following the program year in which the application is made; or
 - (c) if the applicant considers that there are exceptional circumstances that justify the approval applying to the program year preceding the program year in which the application is made—that preceding program year.

116 Changes to approved school determinations—decisions on location change proposals

The Minister must:

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to sections 117 (general prerequisites for location change proposals) and 118 (prerequisites for location changes applying in previous program years).

117 Changes to approved school determinations—general prerequisites for location change proposals

The Minister must not approve the proposal unless:

- (a) education is provided by the school at the location concerned in accordance with the proposal; and
- (b) the provision of education by the school at the location concerned in accordance with the proposal is recognised by the State Minister of the State in which the school is situated; and
- (c) the requirements under paragraphs (a) and (b) are satisfied before the schools census day for the school in the earliest program year to which the approval is to apply.

118 Changes to approved school determinations—prerequisites for location change proposals applying in previous program years

The Minister must not, in order to take account of the proposal, vary the approved school determination for the school with effect from a day in the program year preceding the program year in which the application is made unless the Minister is satisfied that there are exceptional circumstances that justify the variation taking effect in that preceding program year.

119 Changes to approved school determinations—location changes

- (1) If the Minister approves the proposal, the Minister must vary the approved school determination for the school under section 112 in accordance with the proposal.

Note: The Minister must give notice of the variation to the approved authority of the school (see section 123).

Part 7 Approved schools

Division 5 Changes to approved school determinations

Section 120

- (2) The variation must be stated to apply from the earliest program year stated in the application for the purposes of paragraph 115(2)(c).

Subdivision D—Miscellaneous

120 Changes to approved school determinations—clerical or formal changes

The Minister may vary an approved school determination for a school under section 112 to correct clerical errors or to make alterations of a formal kind, including to remove from the determination:

- (a) a location at which the school has stopped providing education; or
- (b) a level of education that the school has stopped providing.

Division 6—Revoking approved school determinations

121 Revoking approved school determinations—power to determine

- (1) The Minister may, by determination, revoke an approved school determination.

Note: The Minister must give notice of the revocation to the approved authority of the school concerned (see section 123).

- (2) However, the Minister may only revoke an approved school determination if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may revoke approved school determinations, see section 110 (amalgamation or separation of approved schools) and section 122 (schools ineligible for funding).

- (3) For the purposes of this Act, a school stops being an *approved school* if the Minister revokes the school's approved school determination.

- (4) If the Minister revokes an approved school determination for a school, the Minister may:

- (a) if the school is a member of an approved school system—remove the school from the system's approved school system determination under section 131; or
(b) if the school is a non-systemic school—revoke the approved authority determination for the school under section 154.

122 Revoking approved school determinations—schools ineligible for funding

The Minister must revoke an approved school determination for a school in a State under section 121 if:

- (a) the school stops being recognised by the State Minister; or
(b) the school stops existing; or
(c) the school starts to be conducted for profit.

Division 7—Miscellaneous

123 Minister to give notice of determinations to approved authorities

If the Minister makes any of the following determinations, the Minister must give written notice of the determination to the approved authority of the school concerned:

- (a) an approved school determination;
- (b) a determination varying or revoking an approved school determination.

124 Determinations may be given retrospective effect

Any of the following determinations may take effect from a day before the day on which the determination is made, but not before 1 January 2009:

- (a) an approved school determination;
- (b) a determination varying or revoking an approved school determination.

Note: This section is subject to sections 109 and 118.

125 Publication of list of funded schools

As soon as practicable after 1 July in each program year, the Minister must arrange for a notice to be published setting out:

- (a) the name of each school for which financial assistance is paid under this Act for the program year; and
- (b) for each school, the funding level used to work out the amount of financial assistance the school receives in the program year.

Part 8—Approved school systems

Division 1—Simplified outline of Part

126 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) A school system is approved as a school system, for the purposes of this Act, if:
 - (a) the school system was an approved school system under the former Act (see Division 3); or
 - (b) the Minister, by determination, approves the school system (see Division 4).
- (3) An approved school is a member of an approved school system if:
 - (a) the school was included in the former list of non-government schools as a member of the system (see Division 3); or
 - (b) the Minister, by determination, approves the school as a member of the system (see Division 4).
- (4) An approved school system determination may be changed for a reason specified in this Act, including to add or to remove a member of the system (see Divisions 5 and 6).

Division 2—Approved school systems

127 Approved school systems—definitions

In this Act:

approved school system means (subject to subsection 143(3) (revocation of approvals)):

- (a) a body that, as at 31 December 2008, was an approved school system under the former Act; or
- (b) a body approved as a school system under an approved school system determination.

member, of an approved school system, means (subject to subsection 131(3) (removal from system)):

- (a) an approved school that, as at 31 December 2008, was included in the former list of non-government schools as a member of the system; or
- (b) an approved school approved as a member of the system under the system's approved school system determination.

Division 3—Former approved school systems

128 Former approved school systems

Scope

- (1) This section applies in relation to:
 - (a) a body that, as at 31 December 2008, was an approved school system under the former Act; and
 - (b) each approved school that, as at 31 December 2008, was included in the former list of non-government schools as a member of the system.

Transitional approvals

- (2) The Minister is taken to have approved the system, for the purposes of this Act, by determination (a ***transitional approved school system determination***) made under subsection 129(1), with effect from 1 January 2009.
- (3) The Minister is taken to have approved, by the transitional approved school system determination, each approved school as a member of the system.
- (4) The following provisions do not apply in relation to a transitional approved school system determination:
 - (a) subsection 129(2) (approved authority);
 - (b) section 145 (notice of determination).

Division 4—Approved school system determinations

129 Approved school system determinations—power to determine

- (1) The Minister may, by determination:
 - (a) approve a body as an approved school system for the purposes of this Act; and
 - (b) approve an approved school (or schools) as a member (or members) of the system for the purposes of this Act.
- (2) If the Minister makes an approved school system determination for an approved school system, the Minister must approve a body as the approved authority of the system under section 151.

130 Approved school system determinations—contents

An approved school system determination for an approved school system must contain:

- (a) the name of the approved school system; and
- (b) the name of each member of the system.

Division 5—Changes to approved school system determinations

Subdivision A—General provisions

131 Changes to approved school system determinations—power to determine

Changes to approved school system determinations

- (1) The Minister may, by determination, vary an approved school system determination.

Note: The Minister must give notice of the variation to the approved authority of the system concerned (see section 145).

- (2) However, the Minister may only vary an approved school system determination if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may vary approved school system determinations, see section 110 (amalgamation or separation of approved schools), section 121 (revoking approved school determinations), Subdivision B (new members of approved school systems), Subdivision C (ending membership of approved school systems) and section 142 (clerical or formal changes).

Ending membership

- (3) For the purposes of this Act, a school stops being a *member* of an approved school system if the Minister removes the school from the system's approved school system determination under subsection (1).

Subdivision B—New members of systems

132 Changes to approved school system determinations—new member proposals

- (1) This Subdivision applies in relation to a proposal to approve a non-systemic school as a member of an approved school system.

- (2) However, this Subdivision does not apply in relation to a proposal that is consequential on a proposal:
- (a) to which Division 4 of Part 7 applies (new schools); or
 - (b) to which Division 4 of this Part applies (new school systems).

133 Changes to approved school system determinations—new member applications

Applicants

- (1) Either of the following may apply to the Minister for approval of the proposal:
- (a) the approved authority of the school;
 - (b) the approved authority of the approved school system.

Contents of applications

- (2) An application under this section must:
- (a) be in writing; and
 - (b) set out the name and location of the school and of the approved school system; and
 - (c) be accompanied by evidence that the approved authority of the approved school system agrees to the school becoming a member of the system; and
 - (d) state the earliest program year to which the proposal relates; and
 - (e) state whether the approved authority of the approved school system agrees to fulfil the obligations (if any) of the approved authority of the school under this Act or the former Act that have not been fulfilled.

134 Changes to approved school system determinations—decisions on new member proposals

The Minister must:

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to section 135 (prerequisites for new member proposals).

**135 Changes to approved school system determinations—
prerequisites for new member proposals**

The Minister must not approve the proposal unless:

- (a) the funding agreement made by the approved authority of the approved school system with the Commonwealth (or the agreement as varied) applies to the school for the earliest program year to which the proposal relates, and all later program years; and
- (b) the funding agreement has been varied to provide that the approved authority of the approved school system has agreed to fulfil the obligations (if any) of the approved authority of the school under this Act or the former Act that have not been fulfilled.

**136 Changes to approved school system determinations—new
member changes**

- (1) If the Minister approves the proposal, the Minister must vary the approved school system's approved school system determination under section 131 to approve the school as a member of the system.

Note: The Minister must give notice of the variation to the approved authority of the approved school system (see section 145).

- (2) The variation must be stated to apply from the earliest program year stated in the application for the purposes of paragraph 133(2)(d).
- (3) If the Minister approves the proposal, the Minister may revoke the approved authority determination for the school under section 154.

Subdivision C—Ending membership

137 Changes to approved school system determinations—proposals to end membership

- (1) This Subdivision applies in relation to a proposal for a school to stop being a member of an approved school system.
- (2) However, this Subdivision does not apply in relation to a proposal that is consequential on a proposal to which Division 6 of Part 7 applies (revoking approved school determinations).

138 Changes to approved school system determinations—applications to end membership

Applicants

- (1) Either of the following may apply to the Minister for approval of the proposal:
 - (a) the body (the *responsible body*) that is to be principally responsible for the school under the proposal;
 - (b) the approved authority of the approved school system.

Contents of applications

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) set out the name and location of the school and of the responsible body; and
 - (c) state the earliest program year to which the proposal relates; and
 - (d) state whether the responsible body agrees to fulfil the obligations (if any) of the approved authority of the approved school system under this Act or the former Act in relation to the school that have not been fulfilled.

139 Changes to approved school system determinations—decisions on proposals to end membership

The Minister must:

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to section 140 (prerequisites for proposals to end membership).

140 Changes to approved school system determinations—prerequisites for proposals to end membership

The Minister must not approve the proposal unless:

- (a) if the application is made by the responsible body:
 - (i) the application is accompanied by evidence that the approved authority of the approved school system agrees to the school stopping being a member of the approved school system; or
 - (ii) the Minister has given notice to the approved authority of the approved school system in relation to the proposal; and
- (b) the school is not conducted for profit; and
- (c) the responsible body is a body corporate; and
- (d) the responsible body has made a funding agreement with the Commonwealth for the earliest program year to which the proposal relates, and all later program years; and
- (e) the funding agreement provides that the responsible body agrees to fulfil the obligations (if any) of the approved authority of the approved school system under this Act or the former Act in relation to the school that have not been fulfilled.

141 Changes to approved school system determinations—ending membership

- (1) If the Minister approves the proposal, the Minister must remove the school from the approved school system's approved school system determination under section 131.

Part 8 Approved school systems

Division 5 Changes to approved school system determinations

Section 142

Note: The Minister must give notice of the removal to the approved authority of the approved school system (see section 145).

- (2) The removal must be stated to apply from the earliest program year stated in the application for the purposes of paragraph 138(2)(c).
- (3) If the Minister approves the proposal, the Minister must approve the responsible body as the approved authority of the school under section 151.

Subdivision D—Miscellaneous

142 Changes to approved school system determinations—clerical or formal changes

The Minister may vary an approved school system determination under section 131 to correct clerical errors or to make alterations of a formal kind.

Division 6—Revoking approved school system determinations

143 Revoking approved school system determinations—power to determine

- (1) The Minister may, by determination, revoke an approved school system determination.

Note: The Minister must give notice of the revocation to the approved authority of the approved school system concerned (see section 145).

- (2) However, the Minister may only revoke an approved school system determination if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may revoke approved school system determinations, see section 144 (systems stopped existing).

- (3) For the purposes of this Act, a school system stops being an *approved school system* if the Minister revokes the system's approved school system determination.
- (4) If the Minister revokes an approved school system determination for an approved school system, the Minister may revoke the approved authority determination for the system under section 154.

144 Revoking approved school system determinations—systems stopped existing

The Minister may revoke an approved school system determination for an approved school system under section 143 if the system has stopped existing.

Note: The Minister must give notice of the revocation to the approved authority of the approved school system (see section 145).

Division 7—Miscellaneous

145 Minister to give notice of determinations to approved authorities

If the Minister makes any of the following determinations, the Minister must give written notice of the determination to the approved authority of the approved school system concerned:

- (a) an approved school system determination;
- (b) a determination varying or revoking an approved school system determination.

146 Determinations may be given retrospective effect

Any of the following determinations may take effect from a day before the day on which the determination is made, but not before 1 January 2009:

- (a) an approved school system determination;
- (b) a determination varying or revoking an approved school system determination.

147 Publication of list of approved school systems

As soon as practicable after 1 July in each program year, the Minister must arrange for the following to be published:

- (a) the name of each approved school system;
- (b) for each approved school system, the name of each approved member of the system.

Part 9—Approved authorities

Division 1—Simplified outline of Part

148 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) The approved authority of a systemic school is the approved authority of the approved school system of which the school is a member (see Division 2).
- (3) The approved authority of any other non-government body is:
 - (a) the body that was the approved authority of the non-government body under the former Act (see Division 3 of this Part); or
 - (b) the body that the Minister, by determination, approves for the non-government body (see Division 4).
- (4) An approved authority determination may only be changed for a reason specified in this Act, including to replace one approved authority with another (see Divisions 5 and 6).

Division 2—Approved authorities

149 Approved authorities—definition

In this Act:

approved authority, of a non-government body, means:

- (a) in the case of an approved school that is a member of an approved school system—the approved authority of the system; or
- (b) in the case of any other non-government body—subject to subsection 154(3) (revocation of approvals):
 - (i) if, as at 31 December 2008, there was an approved authority of the non-government body under the former Act—that approved authority; or
 - (ii) the body approved under an approved authority determination for the non-government body.

Division 3—Former approved authorities

150 Former approved authorities

Scope

- (1) This section applies in relation to a body (the *existing authority*) that, as at 31 December 2008, was the approved authority of a non-government body (other than a systemic school) under the former Act.

Transitional approvals

- (2) The Minister is taken to have approved the existing authority as the approved authority of the non-government body, for the purposes of this Act, by determination (a *transitional approved authority determination*) made under section 151, with effect from 1 January 2009.
- (3) Section 160 (notice of determination) does not apply in relation to a transitional approved authority determination.

Part 9 Approved authorities

Division 4 Approved authority determinations

Section 151

Division 4—Approved authority determinations

151 Approved authority determinations—power to determine

For the purposes of this Act, the Minister may, by determination, approve a body as the approved authority of:

- (a) an approved school system; or
- (b) a non-systemic school; or
- (c) another non-government body (other than a systemic school).

Division 5—Changes to approved authority determinations

152 Changes to approved authority determinations—power to determine

- (1) The Minister may, by determination, vary an approved authority determination.

Note: The Minister must give notice of the variation to the approved authority concerned (see section 160).

- (2) However, the Minister may only vary an approved authority determination for a non-systemic school, or for an approved school system, if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may vary approved authority determinations for non-systemic schools and approved school systems, see section 110 (amalgamation or separation of approved schools) and section 153 (clerical or formal changes).

153 Changes to approved authority determinations—clerical or formal changes

The Minister may vary an approved authority determination under section 152 to correct clerical errors or to make alterations of a formal kind.

Division 6—Revoking approved authority determinations

Subdivision A—General provisions

154 Revoking approved authority determinations—power to determine

- (1) The Minister may, by determination, revoke an approved authority determination.

Note: The Minister must give notice of the revocation to the approved authority concerned (see section 160).

- (2) However, the Minister may only revoke an approved authority determination for a non-systemic school, or for an approved school system, if required or permitted to do so by another provision of this Act.

Note: For the circumstances in which the Minister may revoke approved authority determinations for non-systemic schools and approved school systems, see section 110 (amalgamation or separation of approved schools), section 121 (revoking approved school determinations), section 136 (non-systemic schools become systemic schools), section 143 (revoking approved school system determinations) and Subdivision B (change of authorities).

- (3) For the purposes of this Act, a body stops being the *approved authority* of a non-government body if the Minister revokes the approved authority determination for the non-government body.

Subdivision B—Change of authorities

155 Revoking approved authority determinations—change of authorities

- (1) This Subdivision applies in relation to a proposal that the Minister replace the approved authority (the *existing authority*) of a non-systemic school, or of an approved school system, with another body (the *proposed authority*).
- (2) However, this Subdivision does not apply in relation to a proposal that is consequential on a proposal:

- (a) to which Division 4 of Part 7 applies (new schools); or
- (b) to which Division 4 of Part 8 applies (new school systems);
or
- (c) to which Subdivision B or C of Division 5 of Part 8 applies
(changes to membership of approved school systems).

156 Revoking approved authority determinations—change of authority proposals

Applicants

- (1) The existing authority may apply to the Minister for approval of the proposal.

Contents of applications

- (2) An application under this section must:
 - (a) be in writing; and
 - (b) set out details of the school or system and of the proposed authority; and
 - (c) state the earliest program year to which the proposal relates; and
 - (d) state whether the proposed authority agrees to fulfil obligations (if any) of the existing authority under this Act, or the former Act, that have not been fulfilled in relation to:
 - (i) the school; or
 - (ii) the schools in the system.

157 Revoking approved authority determinations—decisions on change of authority proposals

The Minister must:

- (a) approve the proposal; or
- (b) refuse to approve the proposal.

Note: The Minister's power to approve the proposal is subject to section 158 (prerequisites for change of authority proposals).

158 Revoking approved authority determinations—prerequisites for change of authority proposals

The Minister must not approve the proposal unless:

- (a) the proposed authority is recognised by the State Minister under the law of the State in which the school, or the schools in the system, are located (if that law requires the proposed authority to be recognised); and
- (b) the school, or the schools in the system, are not conducted for profit; and
- (c) if the application relates to a school—the proposed authority is a body corporate; and
- (d) the funding agreement made by the proposed authority with the Commonwealth provides that the proposed authority agrees to fulfil the obligations (if any) of the existing authority under this Act, or the former Act, that have not been fulfilled in relation to:
 - (i) the school; or
 - (ii) the schools in the system.

159 Revoking approved authority determinations—change of authority

- (1) If the Minister approves the proposal, the Minister must:
 - (a) revoke the approved authority determination for the school or system under section 154; and
 - (b) approve the proposed authority as the approved authority of the school or system under section 151.

Note: The Minister must give notice of the revocation or approval to the approved authority concerned (see section 160).

- (2) The revocation and approval must be stated to apply from the earliest program year stated in the application for the purposes of paragraph 156(2)(c).

Division 7—Miscellaneous

160 Minister to give notice of determinations to approved authorities

If the Minister makes any of the following determinations, the Minister must give written notice of the determination to the approved authority concerned:

- (a) an approved authority determination;
- (b) a determination varying or revoking an approved authority determination.

161 Determinations may be given retrospective effect

Any of the following determinations may take effect from a day before the day on which the determination is made, but not before 1 January 2009:

- (a) an approved authority determination;
- (b) a determination varying or revoking an approved authority determination.

Part 10 Miscellaneous

Division 1 Timing and amounts of financial assistance

Section 162

Part 10—Miscellaneous

Division 1—Timing and amounts of financial assistance

162 Timing and amounts of financial assistance—general

Financial assistance authorised to be paid to a State or States under this Act is to be paid in such amounts, and at such times, as the Minister determines.

Note: A determination may apply in relation to a particular class or classes of financial assistance (see subsection 33(3A) of the *Acts Interpretation Act 1901*). For example, a determination may cover financial assistance payable to a particular State or States, under a particular provision or provisions, or for a particular program year or program years, or any combination of these.

163 Timing and amounts of financial assistance—advances

- (1) The Minister may make an advance to a State on account of an amount that is expected to become payable under this Act to the State.
- (2) The conditions that would apply to the payment apply to the advance.

164 Timing and amounts of financial assistance—determinations

If this Act provides that the Minister may make a determination authorising the making of payments to a State, the determination may either:

- (a) set out the amounts authorised to be paid; or
- (b) authorise the Minister (or another person named in the determination) to decide those amounts.

Division 2—False or misleading statements

165 False or misleading statements—reduction of payments

Scope

- (1) This section applies if:
 - (a) a person made a statement relating to the grant of financial assistance for a non-government body for the purposes of:
 - (i) an Education Assistance Act; or
 - (ii) an agreement made as mentioned in an Education Assistance Act; and
 - (b) the statement was made to:
 - (i) the Minister administering that Act; or
 - (ii) the Secretary of the Department administering that Act; or
 - (iii) an APS employee in the Department administering that Act; or
 - (iv) a block grant authority or a person employed by or acting on behalf of, a block grant authority, for the purposes of that Act; and
 - (c) the statement was false or misleading in a material particular; and
 - (d) relying on the statement, a payment has been made under this Act to a State, for a non-government body (including a block grant authority or a nominated authority), of an amount that, in the Minister's opinion, exceeds the amount that would have been authorised to be paid if the statement had not been false or misleading in a material particular.

Reducing amounts payable for the non-government body

- (2) The Minister may make a determination reducing any amount payable to the State under this Act for the non-government body (as appropriate), in one or more program years, by the amount of the excess.

- (3) A determination under this section may take effect from a day before the day on which the determination is made.

166 False or misleading statements—variation of SES score

Scope

- (1) This section applies if:
- (a) a person made a statement relating to the grant of financial assistance for a non-government body for the purposes of:
 - (i) an Education Assistance Act; or
 - (ii) an agreement made as mentioned in an Education Assistance Act; and
 - (b) the statement was made to:
 - (i) the Minister administering that Act; or
 - (ii) the Secretary of the Department administering that Act; or
 - (iii) an APS employee in the Department administering that Act; and
 - (c) the statement was false or misleading in a material particular; and
 - (d) as a result of the statement, a non-government school:
 - (i) obtains a higher funding level for the purposes of meeting recurrent expenditure than, in the Minister's opinion, the school may have obtained if the statement had not been made; or
 - (ii) obtains a larger amount under Division 8 (remoteness loading) of Part 4 than, in the Minister's opinion, the school may have obtained if the statement had not been made.

Variation of SES score for the school

- (2) The Minister may make a determination under section 75 varying the SES score for the school.
- (3) A determination mentioned in subsection (2) may be stated to apply for a program year before the program year in which the determination is made.

Division 3—Appropriation and borrowings

167 Appropriation

The Consolidated Revenue Fund is appropriated as necessary for the purposes of this Act.

168 Borrowings for capital expenditure

The Treasurer may, from time to time, in accordance with the provisions of the *Commonwealth Inscribed Stock Act 1911*, or in accordance with the provisions of an Act authorising the issue of Treasury Bills, borrow amounts totalling not more than the sum of the amounts that may become payable to the States under Part 5 (capital expenditure) of this Act.

Division 4—Administration

169 Administration—determinations and approvals

- (1) A determination or approval by the Minister under this Act must be in writing.
- (2) A determination or approval takes effect on:
 - (a) the day stated for the purpose in the determination or approval; or
 - (b) if no day is stated—the day on which the determination is made, or the approval is given.
- (3) The provision of this Act under which, or for the purposes of which, a determination is made or an approval is given may permit the determination or approval to take effect before the day on which the determination is made, or the approval is given.
- (4) This subsection authorises the Minister to do something covered by subsection (5) if:
 - (a) a provision of this Act refers to that thing as being done by the Minister; and
 - (b) no other provision of this Act expressly authorises the Minister to do the thing.
- (5) This subsection covers the following:
 - (a) the making of a determination;
 - (b) the giving of an approval;
 - (c) the doing of an act or any other thing.
- (6) In this Act, a reference to a determination or approval by the Minister is a reference to such a determination or approval that is in force.

170 Administration—general power to vary or revoke determinations and approvals

Determination power includes power to revoke or vary

- (1) The power of the Minister under this Act to make a determination or give an approval includes the power, by writing, to revoke or vary a previous determination made, or previous approval given, in the exercise of the power.
- (2) However, subsection (1) does not apply in relation to the following determinations:
 - (a) an SES score determination;
 - (b) an approved school determination;
 - (c) an approved school system determination;
 - (d) an approved authority determination.

Note: The Minister has express power to revoke or vary the determinations mentioned in subsection (2) under the following provisions:

- (a) for an SES score determination—Division 11 of Part 4;
- (b) for an approved school determination—Part 7;
- (c) for an approved school system determination—Part 8;
- (d) for an approved authority determination—Part 9.

Instruments of revocation or variation

- (3) An instrument that is expressed to revoke a determination as previously varied, or to revoke an approval as previously varied, has effect as the revocation of the determination or approval and of every later instrument so far as that later instrument varied the determination or approval or varied the determination or approval as previously varied.
- (4) An instrument that is expressed to vary a determination as previously varied or to vary an approval as previously varied has effect according to its terms even if it does not specifically refer to the previous instruments of variation.

Section 171

More than one revocation or variation per instrument

- (5) The one instrument may contain one or more revocations or one or more variations, or both.

Date of effect

- (6) An instrument of revocation or variation takes effect, subject to subsection (7), on:
- (a) the day stated for the purpose in the instrument; or
 - (b) if no day is stated—the day on which the instrument is made.
- (7) An instrument revoking or varying a determination or approval may take effect before the day of the making of the instrument only if the provision under (or for the purposes of which) the determination or approval was made or given permits the determination or approval to take effect before it was made or given.

171 Administration—delegation

The Minister may, by written instrument, delegate all or any of the Minister's powers and functions under this Act or under an agreement mentioned in this Act to:

- (a) the Secretary of the Department; or
- (b) an SES employee in the Department.

Note: *SES employee* is defined in the *Acts Interpretation Act 1901*.

172 Administration—annual report by Minister

As soon as practicable after 30 June next following a program year, the Minister must cause a report dealing with the following to be laid before each House of the Parliament:

- (a) the financial assistance (if any) granted in the year under this Act for recurrent expenditure;
- (b) the application of the financial assistance (if any) granted in the year under this Act (including financial assistance by way of capital grants).

Division 5—Overseas students

173 Overseas students not covered

Overseas students not covered

- (1) Financial assistance under this Act is not to be provided to a State for overseas students.

Definition of overseas student

- (2) In this Act:

overseas student means a person:

- (a) to whom one or more of the following subparagraphs applies:
- (i) the person holds a visa in force under the *Migration Act 1958* that permits the person to travel to Australia for the purpose of undertaking a course provided by a body;
 - (ii) the person is included in such a visa in force under that Act;
 - (iii) the person is specified by the regulations made for the purposes of subsection (3); and
- (b) who is not covered by a determination made under subsection (4).
- (3) The regulations may specify a person for the purposes of subparagraph (a)(iii) of the definition of ***overseas student*** in subsection (2).

Note: The regulations may specify a person by reference to a class of persons (see subsection 13(3) of the *Legislative Instruments Act 2003*).

- (4) For the purposes of this Act, the Minister may, by legislative instrument, determine that a person is not an ***overseas student***.

Note: A determination may specify a person by reference to a class of persons (see subsection 13(3) of the *Legislative Instruments Act 2003*).

Transitional regulations and determinations

- (5) Regulations made for the purposes of paragraph (b) of the definition of *overseas student* in subsection 67(2) of the former Act, and in force on 31 December 2008, are taken to have been made for the purposes of subsection (3) of this section.
- (6) A determination made by the relevant Minister for the purposes of the definition of *overseas student* in subsection 67(2) of the former Act, and in force on 31 December 2008, is taken to be a determination made under subsection (4) of this section.

Division 6—Regulations

174 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule 1—Current SES funding level

Note 1: See the definition of *current SES funding level* in section 4.

Note 2: *SES score* is short for Socio-Economic Status score. For the determination of a school's SES score, see Division 11 of Part 4.

Note 3: *AGSRC* is short for Average Government School Recurrence Costs. The *AGSRC* for a particular level of education is set out in section 36.

Current SES funding level		
	Column 1	Column 2
	SES score	Current SES funding level (% of AGSRC)
1	130 or greater	13.7
2	129	15.0
3	128	16.2
4	127	17.5
5	126	18.7
6	125	20.0
7	124	21.2
8	123	22.5
9	122	23.7
10	121	25.0
11	120	26.2
12	119	27.5
13	118	28.7
14	117	30.0
15	116	31.2
16	115	32.5
17	114	33.7
18	113	35.0
19	112	36.2
20	111	37.5
21	110	38.7
22	109	40.0
23	108	41.2

Current SES funding level		
	Column 1	Column 2
	SES score	Current SES funding level
		(% of AGSRC)
24	107	42.5
25	106	43.7
26	105	45.0
27	104	46.2
28	103	47.5
29	102	48.7
30	101	50.0
31	100	51.2
32	99	52.5
33	98	53.7
34	97	55.0
35	96	56.2
36	95	57.5
37	94	58.7
38	93	60.0
39	92	61.2
40	91	62.5
41	90	63.7
42	89	65.0
43	88	66.2
44	87	67.5
45	86	68.7
46	85 or less	70.0

*[Minister's second reading speech made in—
House of Representatives on 24 September 2008
Senate on 10 November 2008]*

(179/08)
