States Grants (Primary and Secondary Education Assistance) Act 2000

Act No. 148 of 2000 as amended

[Note: This Act was repealed by Act No. 142 of 2008 on 1 January 2009]

This compilation was prepared on 18 April 2006 taking into account amendments up to Act No. 29 of 2006

The text of any of those amendments not in force on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing, Attorney-General’s Department, Canberra
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Notes
An Act to grant financial assistance to the States for 2001 to 2004 for primary and secondary education, and for related purposes

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the States Grants (Primary and Secondary Education Assistance) Act 2000.

2 Commencement

This Act commences, or is taken to have commenced, on 1 January 2001.

3 Simplified outline of Act

(1) This section is a simplified outline of this Act.

(2) Financial assistance may be paid to the States for both government and non-government schools in the States for:

(a) the 2001 to 2004 calendar years (for grants for general recurrent expenditure and expenditure for specific purposes); and

(b) the 2001 to 2007 calendar years (for grants for capital expenditure).

(3) Payments may be authorised only for the purposes in Parts 5 to 14.

(4) Financial assistance to a State for government schools must not be paid unless there is an agreement with the State. The agreement must set out the conditions on financial assistance, including conditions that this Act requires the agreement to include.

(5) Financial assistance to a State for a non-government school or system of schools must not be paid unless:

(a) there is an agreement with the relevant authority of the school or system that sets out the requirements that this Act requires the agreement to include; and
(b) the list of non-government schools includes the school or the schools in the system.

(6) If there is a breach of a condition, the Minister may require an amount to be repaid to the Commonwealth. Alternatively, the Minister may reduce or delay the amount of other payments under this Act.

4 Definitions

(1) In this Act, unless the contrary intention appears:

adjusted primary distance education amount has the meaning given by subsection 62(2).

adjusted secondary distance education amount has the meaning given by subsection 63(2).

adjusted SES primary amount has the meaning given by subsection 59(7).

adjusted SES secondary amount has the meaning given by subsection 60(7).

adjusted year 2000 primary amount, for a school for a program year, means:
(a) if the school has a year 2000 funding level—the amount in the table in Part 3 of Schedule 4 for the program year and the school’s year 2000 funding level; or
(b) if the school is a special school—the amount in the table in Part 3 of Schedule 4 for the program year and the highest percentage of AGSRC in the table.

adjusted year 2000 secondary amount, for a school for a program year, means:
(a) if the school has a year 2000 funding level—the amount in the table in Part 4 of Schedule 4 for the program year and the school’s year 2000 funding level; or
(b) if the school is a special school—the amount in the table in Part 4 of Schedule 4 for the program year and the highest percentage of AGSRC in the table.

AGSRC, for primary education for a program year, means:
(a) the Average Government School Recurrent Costs in Schedule 1 for primary education for the program year; or

(b) if regulations are made for the purposes of subsection 102(1) for primary education for the program year—the amount in the regulations for that year.

AGSRC, for secondary education for a program year, means:

(a) the Average Government School Recurrent Costs in Schedule 1 for secondary education for the program year; or

(b) if regulations are made for the purposes of subsection 102(1) for secondary education for the program year—the amount in the regulations for that year.

approved authority means a body determined under section 9 to be an approved authority.

approved Catholic school system means a school system:

(a) that is included in the list of approved school systems kept under section 34; and

(b) for which the relevant authority is a Catholic education authority.

approved school system means a school system that is included in the list of approved school systems kept under section 34.

authorised person has the meaning given by subsection 14(4).

block grant authority means a body corporate that the Minister determined to be a block grant authority for the purposes of Division 3 of Part 6 in connection with non-government schools or non-government rural student hostels.

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

capital expenditure includes expenditure relating to any one or more of the following:

(a) investigating the need for:

(i) schools, government rural student hostels or non-government rural student hostels in particular areas; or
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(ii) schools, government rural student hostels or non-government rural student hostels of particular kinds in particular areas; or
(iii) buildings, parts of buildings, 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, part of a building or other 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 other 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;
(j) payment to a block grant authority for its administrative expenses.

*child with disabilities* means a child for whom a disability assessment has been made and to whom one of the following paragraphs applies:

(a) if the child is of school age:
   (i) his or her attendance at a school, a government centre or a non-government centre is not appropriate because of his or her disabilities; or
   (ii) although attending a school, a government centre or a non-government centre, the child is unable (because of his or her disabilities) to receive a substantial part of the benefits ordinarily available to children enrolled there;

(b) if the child has not reached school age, it is likely that, on reaching that age:
   (i) his or her attendance at a school, a government centre or a non-government centre would not be appropriate because of his or her disabilities; or

4  States Grants (Primary and Secondary Education Assistance) Act 2000
(ii) if he or she attended a school, a government centre or a non-government centre, the child would be unable (because of his or her disabilities) to receive a substantial part of the benefits ordinarily available to children enrolled there.

**disability assessment**, for a child or a student, means an assessment, by a person with relevant qualifications, that the child or student has an intellectual impairment, a sensory impairment, a physical impairment, a social impairment, an emotional impairment or more than one of those impairments to a degree that:

(a) for a child of school age or a student—satisfies the criteria for enrolment in special education services, or special education programs, provided by the Government of the State in which the child or student resides; or

(b) for a child who is not of school age—would satisfy those criteria if the child had reached that age.

**education in English as a second language for eligible new arrivals** has the meaning given by subsection 99(3).

**eligible new arrival** has the meaning given by subsection 99(3).

**ESL course** has the meaning given by subsection 99(3).

**ESL new arrivals amount**, for a program year, means the amount in Part 3 of Schedule 8 for the program year.

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

**funding level** has the meaning given by section 5.

**government centre** has the meaning given by subsection 77(3).

**government educational institution** has the meaning given by subsection 90(3).

**government rural student hostel** means a hostel in a State whose primary purpose is to provide accommodation for students from rural areas who are undertaking education at government schools in the State (whether or not it also provides accommodation for other students), but does not include a hostel that is conducted for profit.
government school, in relation to a State, means a school in the State that is conducted by or on behalf of the Government of the State.

level of education means a thing determined under section 6.

list of approved school systems means the list of approved school systems kept under section 34.

list of non-government schools means the list of non-government schools kept under section 33.

location proposal has the meaning given by subsection 45(2).

new school proposal has the meaning given by subsection 45(4).

nominated authority means a body nominated under section 10.

non-government body means a body that is not managed or controlled by or on behalf of the Government of a State and:
(a) includes an approved school system, a systemic school, a non-systemic school, a non-government centre and a non-government rural student hostel; and
(b) for the purposes of grants under section 73 for projects in connection with non-government rural student hostels—includes a local government body.

non-government centre has the meaning given by subsection 87(2).

non-government rural student hostel means a hostel:
(a) that is in a State; and
(b) that is conducted by a non-government body; and
(c) whose primary purpose is to provide accommodation for students from rural areas who are undertaking education at schools in the State (whether or not it also provides accommodation for other students);
but does not include a government rural student hostel or a hostel that is conducted for profit.

non-government school means a school in a State that is not conducted by or on behalf of the Government of a State, but does not include a school conducted for profit.
non-systemic school means a non-government school that:
(a) is not included in an approved school system; and
(b) is in the list of non-government schools as not being included in an approved school system.

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.

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, except students receiving primary distance education.

number of primary students in 2000, for a school, means the number of primary students (within the meaning of section 47 of the former Act) for the 2000 program year (within the meaning of that Act).

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.

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, except students receiving secondary distance education.

number of secondary students in 2000, for a school, means the number of secondary students (within the meaning of section 47 of the former Act) for the 2000 program year (within the meaning of that Act).

overseas student has the meaning given by subsection 52(2).

program year means:

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(a) the 2001, 2002, 2003 or 2004 calendar year; or

_program year percentage_ means:
(a) for the 2001 program year—25%; and
(b) for the 2002 program year—50%; and
(c) for the 2003 program year—75%; and
(d) for the 2004 program year—100%.

_public service employee_ has the meaning given by subsection 110(4).

_qualified accountant_ has the meaning given by subsection 22(2).

_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 (except in a reference to a State Minister) the Minister who administered that provision.

_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.

_schools census day_, for a State for a program year, means the day in that year (being a day as close as possible to 1 August in that year) that the State Minister notifies the Minister is the schools census day for the State for that year.

_schools census day_ means:
(a) for a non-systemic school, or an approved school system, in a State for a program year—the schools census day for the State for that year; or
(b) for a non-systemic school, or an approved school system, for a program year and in relation to which the Minister has,
because of special circumstances, declared a particular day in that year to be the schools census day for the school or system for that year—the day so declared; or

(c) for a non-systemic school, or an approved school system, in a State, for a program year if:
   (i) paragraphs (a) and (b) do not apply; and
   (ii) the State Minister and the Minister have agreed that a particular day in that year is to be the schools census day for the school or system for that year;
   the day so agreed.

**secondary education** means junior secondary education or senior secondary education.

**section 18 agreement** means an agreement made as mentioned in section 18.

**SES funding level**, for a school, means the percentage of AGSRC in column 2 of the table in each of Parts 1 and 2 of Schedule 4 that applies to the school because of a determination under this Act or because of the school’s SES score (as appropriate).

**SES primary amount** means:

(a) for a school (other than a special school)—the amount as at 1 January 2001 in the table in Part 1 of Schedule 4 for the school for the 2001 program year and the school’s SES score; or

(b) for a special school—the amount as at 1 January 2001 in the table in Part 1 of Schedule 4 for the school for the 2001 program year and the SES funding level of 70.0% of AGSRC.

**SES score** has the meaning given by section 7.

**SES secondary amount** means:

(a) for a school (other than a special school)—the amount as at 1 January 2001 in the table in Part 2 of Schedule 4 for the 2001 program year and the school’s SES score; or

(b) for a special school—the amount as at 1 January 2001 in the table in Part 2 of Schedule 4 for the 2001 program year and the SES funding level of 70.0% of AGSRC.
special education means education under special programs, or special activities, designed specifically for children with disabilities and/or students with disabilities.

special school means a school in a State that:
(a) has been, 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 the State.

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

systemic school means a non-government school that:
(a) is included in an approved school system; and
(b) is in the list of non-government schools as being included in an approved school system.

total SES funding amount, for a school, means the amount worked out using the formula:

\[
\text{SES primary amount for the school} \times \frac{\text{Number of primary students in 2000}}{2000} + \text{SES secondary amount for the school} \times \frac{\text{Number of secondary students in 2000}}{2000}
\]

total year 2000 funding amount, for a school, means the amount worked out using the formula:
The year 2000 funding level has the meaning given by section 8.

**Year 2000 primary amount** means:

(a) for a non-systemic school (other than a special school)—the Part 1 amount (within the meaning of subsection 47(2) of the former Act) for the school immediately before 1 January 2001; or

(b) for a school (other than a special school) that was in an approved school system (within the meaning of that Act) immediately before 1 January 2001—the Part 1 amount (within the meaning of subsection 47(2) of that Act) for the system then; or

(c) for a school that was a special school immediately before 1 January 2001—the amount in the table in Part 3 of Schedule 4 on 1 January 2001 for the 2001 program year and the highest percentage of AGSRC in the table.

Note: The Part 1 amount may have been affected by subsection 101(3) of the former Act.

**Year 2000 secondary amount** means:

(a) for a non-systemic school (other than a special school)—the Part 2 amount (within the meaning of subsection 47(2) of the former Act) for the school immediately before 1 January 2001; or

(b) for a school (other than a special school) that was in an approved school system (within the meaning of that Act) immediately before 1 January 2001—the Part 2 amount (within the meaning of subsection 47(2) of that Act) for the system then; or

(c) for a school that was a special school immediately before 1 January 2001—the amount in the table in Part 4 of Schedule 4 on 1 January 2001 for the 2001 program year and the highest percentage of AGSRC in the table.

Note: The Part 2 amount may have been affected by subsection 101(4) of the former Act.
Section 5

(2) For the purposes of this Act, a student is taken not to be receiving primary education or not to be receiving secondary education (as appropriate) at a non-government school unless:
   (a) the student attends, on a daily basis, the school at a location in the list of non-government schools in respect of the school; or
   (b) the Minister has determined that the student is to be treated (because of special circumstances) as so attending the school.

(3) For the purposes of this Act, a student is taken not to be receiving primary distance education or not to be receiving secondary distance education (as appropriate) at a non-government school in a State if:
   (a) the student does not reside in the State; or
   (b) the school is not approved in accordance with the law of the State in which the school is located to provide distance education; or
   (c) the student is approved as a home education student (however described) in accordance with the law of the State in which the student resides.

5 Funding level

(1) For the purposes of this Act, funding level, for a school, means the school’s SES funding level or year 2000 funding level (as appropriate).

(2) For the purposes of this Act, funding level, for an approved Catholic school system, means the percentage of AGSRC specified in section 127 for the system.

6 Levels of education

(1) For the purposes of this Act, the Minister may make a determination declaring what is a level of primary education or a level of secondary education for a State. The determination may relate to:
   (a) education provided at schools generally; or
   (b) education provided at schools included in a particular class of schools.
Section 7

(2) In making a determination under subsection (1), the Minister must have regard to the arrangements made for providing education at government schools in the State. This does not limit the matters to which the Minister may have regard.

(3) The Minister must cause a copy of each determination under subsection (1) to be published in the Gazette as soon as practicable after the determination is made.

(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 that applies to the school.

7 SES score

(1) For the purposes of this Act, an SES score means a whole number determined by the Minister for a school in accordance with guidelines approved by the Minister.

(2) Guidelines approved by the Minister for the purposes of subsection (1) are disallowable instruments for the purposes of section 46A of the Acts Interpretation Act 1901.

8 Year 2000 funding level

(1) For the purposes of this Act, the year 2000 funding level of a non-government school (whether in an approved school system or not) is the percentage:

(a) worked out using the formula in subsection (2) and/or the formula in subsection (3); and

(b) rounded, if necessary, to one decimal place (rounding up if the second decimal place is 5 or more).

(2) One formula is:

\[
\text{School's year 2000 primary amount} \times \frac{100}{\text{AGSRC for primary education in column 2 of the table in Schedule 1 on 1 January 2001}}
\]

(3) The other formula is:
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<th>School’s year 2000 secondary amount</th>
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<tr>
<td>AGSRC for secondary education in column 2 of the table in Schedule 1 on 1 January 2001</td>
<td></td>
</tr>
</tbody>
</table>

9 Approved authority

The Minister may determine that a body is the approved authority of:
(a) an approved school system; or
(b) a non-systemic school; or
(c) a non-government school; or
(d) a non-government rural student hostel; or
(e) another non-government body;
for the purposes of the provision of this Act in which the expression appears.

10 Nominated authority

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 particular provision or particular provisions of this Act.
Part 2—General provisions relating to grants

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 government schools must not be paid unless there is an agreement between the Commonwealth and the State.

(3) The agreement must set out the conditions on financial assistance required by Division 2. The agreement may also set out other conditions.

(4) If there is a breach of a condition, the Minister may require an amount to be repaid to the Commonwealth. Alternatively, the Minister may reduce or delay the amount of other payments under this Act.

(5) Financial assistance to a State for a non-government school or system must not be paid unless there is an agreement between the Commonwealth and the relevant authority of the school or system that sets out the requirements mentioned in Division 3. The agreement may also set out other requirements.

(6) If there is a breach of a requirement, the Minister may require an amount to be repaid to the Commonwealth. Alternatively, the Minister may reduce or delay the amount of other payments for the non-government school under this Act.

(7) The grant to a State of financial assistance for a non-government school for a program year is subject to conditions.
Division 2—Grants for government schools

12 Agreement on conditions of financial assistance

(1) The Minister must not authorise a payment to a State under a provision of this Act for government schools for a program year unless the State has made with the Commonwealth an agreement that sets out:

(a) a commitment by the State to the National Goals for Schooling prepared by the Ministerial Council on Education, Employment, Training and Youth Affairs; and
(b) a commitment by the State to achieve the performance measures (including the performance targets) set out in the regulations as in force from time to time; and
(c) the conditions mentioned in subsection (3); and
(d) the conditions mentioned in sections 14, 15, 16 and 17.

(2) The agreement mentioned in subsection (1) may have been made before the commencement of this Act.

(3) For the purposes of paragraph (1)(c), the conditions must include the following:

(a) a condition that the amount of the payment is to be spent for the purposes determined by the Minister and set out in the condition;
(b) a condition that the State will provide to the Minister reports about the expenditure of the financial assistance that contain information of a kind that the Minister thinks appropriate relating to that assistance to the State;
(c) a condition that the State will provide the reports mentioned in paragraph (b) to the Minister at the times, and in the manner, that the Minister thinks appropriate.

Note: The purposes that may be set out in the condition and determined by the Minister are those in Parts 5 to 14.

(4) The agreement with the State may also include other conditions that the Minister thinks appropriate in relation to financial assistance to the State.
13 General conditions of financial assistance

The grant to a State under this Act of financial assistance for government schools for a program year is subject to the conditions set out in the agreement made between the State and the Commonwealth as mentioned in section 12 in respect of the financial assistance.

14 Specific condition: financial accountability

(1) One condition is that the State will:
   (a) give the Secretary of the Department a certificate by the State Minister (or by an authorised person) stating whether the amount or the sum of the amounts of financial assistance paid to the State under a provision of this Act for the program year has been spent (or committed to be spent) for that year for the purpose for which the assistance was granted; and
   (b) give the certificate to the Secretary of the Department on or before 30 June next following the program year concerned or such other date as the Minister determines.

(2) A further condition is that, if not all the amount or amounts of the assistance were spent (or committed to be spent) by the State for the program year concerned for the purpose for which the assistance was granted, the State will, if the Minister so determines, pay to the Commonwealth the amount stated in the determination within a period determined by the Minister.

(3) The amount stated in the determination must not be more than:
   (a) the unspent or uncommitted amount; or
   (b) the sum of the unspent or uncommitted amounts.

(4) In this Act:

   authorised person, for a State, means:
   (a) the Auditor-General of the State; or
   (b) another person acting with the authority of the State Minister of the State.
Part 2  General provisions relating to grants  
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15  Specific condition: educational accountability

A further condition is that the State will do each of the following not later than a date or dates determined by the Minister for the purposes of each paragraph:

(a) participate in preparing a national report on the outcomes of schooling;

(b) provide to the Minister for inclusion in the report mentioned in paragraph (a) a report or reports, of a kind or kinds required by the Minister, addressing the requirements for performance information that are set out in the regulations as in force from time to time;

(c) provide to the Minister a report or reports, of a kind or kinds required by the Minister, in relation to financial assistance provided to the State under this Act;

(d) participate in evaluating the outcomes of programs of financial assistance provided under this Act;

(e) if the Minister considers that the State has not achieved the performance measures (including the performance targets) set out in the regulations as in force from time to time and the Minister has directed the State to take the action specified in the direction—provide to the Minister a report on the action taken in response to the direction.

16  Specific condition: non-fulfilment of conditions

(1) A further condition is that if the State does not fulfil a condition mentioned in paragraph 12(1)(c) within the period stated in the agreement or does not fulfil a condition mentioned in section 14 or 15 by the date specified in the section or the date determined by the Minister for the purposes of the section:

(a) the State will, if the Minister so determines, repay to the Commonwealth the amount stated in the determination; and

(b) if the State does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance for the State under this Act for government schools by an amount or amounts totalling not more than the amount stated in the determination under paragraph (a); and

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(c) the Minister may delay the making of any further payment to the State under this Act for government schools until the State fulfils this condition.

Note: A determination mentioned in paragraph (1)(b) is made under section 28.

(2) The amount stated in the determination under paragraph (1)(a) must not be more than the sum of the amounts of financial assistance paid to the State under the provision for the program year concerned.

17 Specific condition: overpayment of financial assistance

A further condition is that if the amount of financial assistance paid to the State under a provision of this Act for government schools exceeds the amount that was properly payable:

(a) the State will, if the Minister so determines, pay to the Commonwealth the amount (not more than the excess) stated in the determination; and

(b) if the State does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance for the State under this Act for government schools by an amount or amounts not more than the amount stated in the determination under paragraph (a).

Note: A determination mentioned in paragraph (b) is made under section 28.
Division 3—Grants for non-government bodies

Subdivision A—Requirements for relevant authorities etc.

18 Minister not to authorise payment to a State for a non-government body in certain circumstances

(1) The Minister must not authorise a payment to a State under this Act for a non-government body unless the relevant authority of the non-government body has made with the Commonwealth an agreement that complies with section 19 for the program year for which the payment is to be made.

(2) The agreement mentioned in subsection (1) may have been made before the commencement of this Act.

(3) The Minister may refuse to authorise a payment to a State under this Act for a non-government school, or for a non-government school for a particular level of education, during any period when the State Minister does not recognise:
   (a) the school; or
   (b) the school for that level of education.

(4) The Minister may refuse to authorise, or may delay, a payment to a State under this Act for a non-government body if the relevant authority of the non-government body is a body corporate:
   (a) that is being wound up; or
   (b) in respect of whose property a receiver has been appointed; or
   (c) whose affairs are under the control of a manager.

(5) The Minister may refuse to authorise, or may delay, a payment to a State under this Act for a non-government body if:
   (a) the relevant authority of the non-government body is not a body corporate; and
   (b) the Minister considers that:
      (i) the liabilities of the relevant authority are substantially greater than its assets; or
(ii) the relevant 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.

19 Provisions that must be included in agreements

A section 18 agreement must include the following:
(a) a commitment by the relevant authority to the National Goals for Schooling prepared by the Ministerial Council on Education, Employment, Training and Youth Affairs;
(b) a commitment by the relevant authority to achieve the performance measures (including the performance targets) set out in the regulations as in force from time to time;
(c) the matters required by sections 21, 22, 23, 24 and 25;
(d) any provision required by paragraph 41(2)(d);
(e) any provision required by paragraph 43(4)(b);
(f) any provision required by paragraph 44(4)(e).

20 Provisions that may be included in agreements

A section 18 agreement may also include any other provisions that the Minister thinks appropriate in relation to the relevant authority.

21 General requirements

(1) A section 18 agreement must require amounts received by the authority from the State as a result of the payment to the State for the non-government body to be spent for purposes determined by the Minister and set out in the agreement (which may include the purpose of paying administrative expenses incurred by the authority).

Note: The purposes that may be determined by the Minister and set out in the agreement are those in Parts 5 to 14.

(2) The agreement must require the relevant authority to allow a person authorised in writing by the Minister for the purpose, with such help as the person requires:
(a) to have full and free access, at all reasonable times after giving reasonable notice to the relevant authority, to accounts, records and documents of the relevant authority.
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relating to information that the relevant authority is required under the agreement to give to the Minister; and
(b) to take extracts from, or make copies of, any such accounts, records and documents.

22 Specific requirement: financial accountability

(1) A section 18 agreement must require the relevant authority:
(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 21(1) 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 such other date as the Minister determines.

(2) In this Act:

qualified accountant means a person who:
(a) is registered, or is taken to be registered, as a company auditor under Part 9.2 of the Corporations Law; or
(b) is a member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or any other body prescribed for the purposes of subparagraph 1280(2)(a)(i) of the Corporations Law; or
(c) is approved by the Minister as a qualified accountant for the purposes of this Act.

23 Specific requirement: educational accountability

A section 18 agreement must require the relevant authority to do each of the following not later than a date or dates determined by the Minister for the purposes of each paragraph:
(a) participate in preparing a national report on the outcomes of schooling;
(b) provide to the Minister for inclusion in the report mentioned in paragraph (a) a report or reports, of a kind or kinds required by the Minister, addressing the requirements for performance information that are set out in the regulations as in force from time to time;
(c) provide to the Minister a report or reports, of a kind or kinds required by the Minister, in relation to programs of financial assistance provided under this Act so far as they relate to the authority;

(d) participate in evaluating the outcomes of those programs;

(e) if the Minister considers that the relevant authority has not achieved the performance measures (including the performance targets) set out in the regulations as in force from time to time and the Minister has directed the relevant authority to take the action specified in the direction—provide to the Minister a report on the action taken in response to the direction.

24 Specific requirement: provision dealing with failure to comply within time limit

A section 18 agreement must contain a provision that, if the relevant authority does not comply with a requirement set out in the agreement within the period required by or under the agreement or within such further period as the Minister allows:

(a) the relevant authority will, if the Minister so determines, pay to the Commonwealth an amount (not more than the sum of the amounts mentioned in subsection 21(1)) stated in the determination; and

(b) if the relevant authority does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance for the State under this Act for the non-government body by an amount or amounts totalling not more than the amount stated in the determination under paragraph (a); and

(c) the Minister may delay the making of any further payment to the State under this Act for the non-government body until the relevant authority complies with the requirement.

Note: A determination mentioned in paragraph (b) is made under section 30.

25 Specific requirement: failure to comply with other requirements

A section 18 agreement must contain a provision that, if the sum of the amounts mentioned in subsection 21(1) exceeds the total amount that was properly authorised to be paid to the State for the non-government body:
Part 2  General provisions relating to grants
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(a) the relevant authority will, if the Minister so determines, pay to the Commonwealth an amount equal to the excess; and
(b) if the authority does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance for the State under this Act for the non-government body by an amount or amounts not more than the excess.

Note:  A determination mentioned in paragraph (b) is made under section 30.

Subdivision B—Conditions of grants to States for non-government bodies

26  General conditions of grant to State of financial assistance

The grant to a State because of a provision of this Act of financial assistance for a non-government body for a program year is subject to the following conditions:

(a) a condition that the State will:

(i) as soon as practicable, pay to the relevant authority of the non-government body each amount paid to the State for the body because of the provision; and

(ii) when making such a payment, 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;

(b) the condition in section 27.

27  Specific condition: non-fulfilment of conditions

(1) The grant is subject to the condition that, if the State does not fulfil the condition mentioned in paragraph 26(a) in relation to the grant at the time stated in that paragraph or within such further period as the Minister allows:

(a) the State will, if the Minister so determines, repay to the Commonwealth the amount stated in the determination; and

(b) the Minister may delay making any future payment to the State under this Act for government schools if the State fails to comply with the condition mentioned in paragraph 26(a) because it delays paying an amount to the relevant authority of the non-government body.
(2) The amount stated in the determination under paragraph (1)(a) must not be more than the sum of the amounts of financial assistance paid to the State under the provision for the non-government body for the program year concerned.
Division 4—Miscellaneous

28 Powers of Minister if amounts of grants become repayable

(1) This section applies if:

(a) financial assistance:
   (i) is granted to a State under a provision of this Act; or
   (ii) was granted to a State under a provision of the former Act that corresponds to a provision of this Act; and

(b) under a condition of the grant the Minister or the relevant Minister (as appropriate) has determined that the State is to repay an amount to the Commonwealth; and

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

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

(3) The Minister may make a determination under a provision of this Act increasing the maximum amount that may be paid to the States 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 as the provision mentioned in subsection (3), or a different provision.

29 Amount payable by a State to the Commonwealth is a debt

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

30 Powers of Minister if amounts payable by relevant authorities

(1) This section applies if:

(a) under a provision of an agreement made as mentioned in Division 3 (or a provision of the former Act that corresponds to that Division) between the Commonwealth and the

26 States Grants (Primary and Secondary Education Assistance) Act 2000
relevant authority of a 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.

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

(3) The Minister may make a determination under a provision of this Act increasing the maximum amount that may be paid to the States 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 as the provision mentioned in subsection (3), or a different provision.

**31 Determinations requiring repayments**

If the Minister is considering whether to make:
(a) a determination under subsection 14(2) or paragraph 16(1)(a), 17(a) or 27(1)(a) that a State is to repay an amount to the Commonwealth; or
(b) a determination under a provision of an agreement mentioned in paragraph 24(a) or 25(a) that the relevant authority of a non-government body is to pay an amount to the Commonwealth;

the Minister must take into account all relevant matters, including whether the State or relevant authority gave all relevant information to the Commonwealth before the grant of financial assistance was made.
Part 3—Lists of non-government schools and approved school systems

Division 1—Funding of non-government schools

32 Funding of non-government schools

Financial assistance under this Act is not to be provided to a State for education at a particular level at a particular location at a non-government school unless the school is included in the list of non-government schools for the level and location.
Division 2—List of non-government schools

33 List of non-government schools

(1) The Minister must keep a list of non-government schools for which financial assistance may be provided under this Act.

(2) The list may be kept in any manner that the Minister determines, which may be wholly or partly by means of a computer or any other electronic or other device.

(3) The list is to contain the following details for each school included in the list:

(a) the name of the school;

(b) whether or not the school is included in an approved school system;

(c) if the school is included in an approved school system—the name of the system and the name of each approved authority of the system for the purposes of each relevant provision of this Act;

(d) if the school is not included in an approved school system—the name of each approved authority of the school for the purposes of each relevant provision of this Act;

(e) the address of each location at which the school provides education for which financial assistance may be provided under this Act;

(f) a description of:

(i) each level of education that is provided at the school and for which financial assistance may be provided under this Act; and

(ii) if more than one location is listed under paragraph (e) for the school—each level of education that is provided at each of those locations and for which financial assistance may be provided under this Act;

(g) whether or not the school is approved in accordance with the law of the State in which the school is located to provide distance education for a level of education at a location;

(h) if the school is not included in an approved Catholic school system—the funding level of the school;
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(i) if the school is not a special school or is not included in an approved Catholic school system—the school’s SES score.

(4) As soon as practicable after 1 July in each program year, the Minister must arrange for:
(a) the name of each school in the list; and
(b) the funding level of each school (except a school in an approved Catholic school system);
to be published in the Gazette.
Division 3—List of approved school systems

34 List of approved school systems

(1) The Minister must keep a list of approved school systems.

(2) The list may be kept in any manner that the Minister determines, which may be wholly or partly by means of a computer or any other electronic or other device.

(3) The list is to contain:
   (a) the name of each approved school system; and
   (b) the funding level of each approved Catholic school system.

(4) As soon as practicable after 1 July in each program year, the Minister must arrange for the following to be published in the Gazette:
   (a) the name of each approved school system included in the list;
   (b) the name of each systemic school in each approved school system included in the list;
   (c) the funding level of each approved Catholic school system included in the list.
Part 4—Varying lists

Division 1—Simplified outline of Part

35  Simplified outline

(1) This section is a simplified outline of this Part.

(2) The list of non-government schools and the list of approved school systems may be varied only for a reason specified in this Act. The reasons include the following:
   (a) to change funding levels;
   (b) to change approved authorities;
   (c) to change systemic status;
   (d) to include a new level of education;
   (e) to include a new location;
   (f) to include distance education;
   (g) to include a new school;
   (h) to correct clerical errors.

(3) A variation is to be made by determination by the Minister.
Division 2—Varying lists of non-government schools and approved school systems

36 Varying list of non-government schools

(1) Any variation of the list of non-government schools is to be made by determination by the Minister.

Note: For the circumstances in which a variation of the list of non-government schools may be made, see subsections (2), (3), (4) and (5) and sections 38, 42, 43, 44, 46, 49 and 110.

(2) If a school in a State that is included in the list ceases to be recognised by the State for a particular level of education, the Minister may vary the list to remove the reference to that level of education for the school.

(3) If a school in a State that is included in the list ceases to be approved in accordance with the law of the State to provide distance education for a particular level of education at a particular location, the Minister may vary the list to remove the reference to distance education for that level of education at that location.

(4) If a school in a State that is included in the list:
   (a) ceases to be recognised by the State Minister; or
   (b) starts to be conducted for profit;
the Minister may vary the list to remove the name of the school from the list.

(5) The Minister may vary the list:
   (a) under another provision of this Act; or
   (b) to correct clerical errors or to make alterations of a formal kind, including to remove from the list:
      (i) the name of a school that has ceased to exist; or
      (ii) the address of a location at which a school has ceased to provide education; or
      (iii) a reference to a level of education at a school that has ceased to provide education at that level.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.
37 Varying list of approved school systems

(1) Any variation of the list of approved school systems is to be made by determination by the Minister.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.

(2) The Minister may vary the list to correct clerical errors or to make alterations of a formal kind, including the removal from the list of the name of a school system that has ceased to exist.
Division 3—Change of funding level

38 Change of funding level of non-government school due to incorrect SES score

(1) The approved authority of a school that is included in the list of non-government schools with an SES funding level or a year 2000 funding level may apply to the Minister to vary the list to change that level if the approved authority considers that the school’s SES score:
   (a) has not been determined correctly; or
   (b) is no longer accurate because of a significant change in the school’s circumstances.

(2) An application under this section must:
   (a) be in writing; and
   (b) set out the name and address of the school and of the approved authority of the school; and
   (c) if the school is a systemic school—set out the name of the approved school system; and
   (d) set out the reasons why the approved authority considers the funding level should be changed.

(3) If the Minister is satisfied that the school’s SES score has not been determined correctly or is no longer accurate because of a significant change in the school’s circumstances, the Minister must:
   (a) if the school has an SES funding level—determine a different SES funding level of the school; and
   (b) if the school has a year 2000 funding level—determine an SES funding level of the school; and
   (c) make appropriate variations of the list of non-government schools.

(4) The Minister must refuse the application if the Minister is not satisfied of either of the matters in subsection (3).

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.
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(5) A variation under this section must not take effect for a program year before the program year in which the application is made.
Division 4—Change of approved authority

39 Application of Division

(1) This Division applies in relation to:
   (a) a proposal for a new body to be approved as the approved authority of a non-systemic school; or
   (b) a proposal for a new body to be approved as the approved authority of an approved school system.

(2) However, this Division does not apply to a proposal that is consequential on a proposal to which Division 5 or 6 applies.

40 How to obtain Ministerial approval of proposal

(1) The approved authority (the existing authority) of a non-systemic school or of an approved school system may apply in writing to the Minister for approval of a proposal.

(2) The application must:
   (a) set out details of the school or of the school system (as appropriate) and of the new body; and
   (b) state whether the new body agrees to fulfil obligations (if any) of the existing authority under this Act or the former Act in relation to the school or the school system that have not been fulfilled; and
   (c) request the Minister to approve the new body as the approved authority of the school or of the school system.

41 Decision by the Minister

(1) The Minister may:
   (a) approve the proposal; or
   (b) refuse the application.

(2) The Minister must not approve the proposal unless:
   (a) the new body is recognised by the State Minister under the law of the State in which the non-systemic school or the schools in the approved school system are situated (if that law requires the new body to be recognised); and
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(b) the school, or the schools in the system, are not conducted for profit; and

(c) if the application relates to a non-systemic school—the new body is a body corporate; and

(d) the agreement made by the new body with the Commonwealth as mentioned in subsection 18(1) provides that the new body agrees to fulfil the obligations (if any) of the existing authority under this Act or the former Act that have not been fulfilled in respect of the school or of the schools in the system.

42 Varying list of non-government schools

If the Minister approves the proposal, the Minister must:

(a) determine that the new body is the approved authority of the non-systemic school or of the approved school system (as appropriate); and

(b) make the appropriate variations of the list of non-government schools.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.
Division 5—Change in systemic status

43 Proposal for a non-systemic school to become a member of an approved school system

(1) The approved authority of a non-systemic school may apply in writing to the Minister for approval of a proposal for the school to become a member of an approved school system.

(2) The application must:
   (a) set out the name and address of the school and of the approved school system; and
   (b) be accompanied by evidence that the approved authority of the approved school system agrees to the school becoming a member of the system; and
   (c) state the earliest program year to which the proposal relates; and
   (d) 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; and
   (e) request the Minister to approve the proposal.

(3) The Minister may:
   (a) approve the proposal; or
   (b) refuse the application.

(4) The Minister must not approve the proposal unless:
   (a) the agreement made by the approved authority of the school system with the Commonwealth as mentioned in subsection 18(1) (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 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.
(5) If the Minister approves the proposal, the Minister must make the appropriate variations to the list of non-government schools.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.

44 Proposal for a school to cease to be a member of an approved school system

(1) Either of the following may apply in writing to the Minister to approve a proposal for a school that is a member of an approved school system to cease to be a member of the system:

(a) the body (the responsible body) that is to be principally responsible for the school under the proposal; or

(b) the approved authority of the approved school system.

(2) The application must:

(a) set out the name and address of the school and of the responsible body; and

(b) state the earliest program year to which the proposal relates; and

(c) 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; and

(d) request the Minister to approve the proposal.

(3) The Minister may:

(a) approve the proposal; or

(b) refuse the application.

(4) 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 ceasing to be a member of the 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 an agreement with the Commonwealth as mentioned in subsection 18(1) for the earliest program year to which the proposal relates, and all later program years; and
(e) the 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.

(5) If the Minister approves the proposal, the Minister must:

(a) make the appropriate variations to the list of non-government schools; and
(b) determine that the responsible body is the approved authority of the school.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.
Division 6—Changes to schools or education provided

45 Application to vary list of non-government schools

Location proposal

(1) The approved authority of a school may apply to the Minister to have the list of non-government schools varied to take account of a location proposal.

(2) In this Act:

location proposal means a proposal to vary the list of non-government schools to take account of a change as a result of which a systemic school or a non-systemic school will provide:
(a) a new level of education at a location for which the school is already included in the list for the provision of another level of education; or
(b) education, or a level or education, at another location; or
(c) distance education for a level of education and at a location for which the school is already included in the list.

New school proposal

(3) An application to the Minister to have the list of non-government schools varied to take account of a new school proposal in respect of a school may be made by:
(a) if the school is to be included in an approved school system—the approved authority of the system; or
(b) otherwise—the body principally responsible for the school.

(4) In this Act:

new school proposal means a proposal to include in the list of non-government schools:
(a) a school formed as a result of the amalgamation of a systemic or non-systemic school with another school, whether or not the other school is included in the list; or
(b) a school formed as a result of the separation of a systemic school or a non-systemic school into 2 or more schools; or
(c) a new school; or
(d) an existing school that is not already included in the list.

Application to vary list

(5) An application under this section must:
(a) be in writing; and
(b) set out details of the proposal; and
(c) subject to subsection (6), state the earliest program year to which the variation is to apply; and
(d) if the applicant considers that there are exceptional circumstances that justify the variation applying to the program year immediately preceding the program year in which the application is made—set out those circumstances; and
(e) request the Minister to vary the list to take account of the proposal.

(6) The earliest program year to be stated in an application for the purposes of paragraph (5)(c) is to be:
(a) the program year in which the application is made; or
(b) the program year immediately following the program year in which the application is made.
(c) if the applicant considers that there are exceptional circumstances that justify the variation applying to the program year immediately preceding the program year in which the application is made—that preceding program year.

46 Decision by Minister on application

(1) The Minister may:
(a) make a determination varying the list of non-government schools to take account of the proposal; or
(b) refuse the application.

The Minister’s power under paragraph (a) is subject to the requirements in sections 47 and 48.

Note: Section 49 requires the Minister to also vary the list to include a funding level of a school that is covered by a new school proposal.

(2) If the variation is to take account of a new school proposal under which the school concerned is not included in an approved school
system, the Minister must determine the body that is to be the approved authority of the school.

Note: Section 50 requires the Minister to give notice of the determination to the approved authority.

47 Prerequisites for variation of list

(1) The Minister must not make a determination varying the list of non-government schools to take account of the proposal unless the applicable requirements of this section have been satisfied.

(2) The requirements for a location proposal are:

(a) education has begun to be provided by the school at the location concerned in accordance with the relevant paragraph of the definition of location proposal; and

(b) provision of education by the school at the location concerned in accordance with the relevant paragraph of the definition of location proposal has been recognised by the State Minister of the State in which the school is situated; and

(c) if the proposal relates to distance education—the school is approved in accordance with the law of the State in which it is located to provide distance education; and

(d) the requirements under paragraphs (a), (b) and (c) are satisfied before the schools census day for the school in the earliest program year to which the variation is to apply.

(3) The requirements for a new school proposal are:

(a) education has begun to be provided at the school; and

(b) education at the school has been 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 not included in an approved school system—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 variation is to apply.
48 Application relating to previous program year

The Minister may not vary the list of non-government schools with effect from a date 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.
Part 4  Varying lists
Division 7  Miscellaneous

Section 49

Division 7—Miscellaneous

49  Variation to include funding level in certain circumstances

(1) If the Minister varies the list of non-government schools under this
Part in relation to a school in any of the circumstances set out in
subsection (2), he or she must:

(a) determine the school’s SES funding level; and
(b) vary the list to include that funding level.

(2) The circumstances are the inclusion in the list of:

(a) a school formed as a result of the amalgamation of a
non-systemic school or a systemic school (except a systemic
school in an approved Catholic school system) with another
school that is not included in an approved Catholic school
system, whether or not the other school is included in the list; or

(b) a school formed as a result of the separation of a
non-systemic school or a systemic school (except a systemic
school in an approved Catholic school system) into 2 or more
schools; or

(c) a new school (except a school which is to become a member
of an approved Catholic school system); or

(d) an existing school (except a school which is to become a
member of an approved Catholic school system) that was not
included in the list immediately before the variation of the
list; or

(e) a school that has ceased to be a member of an approved
Catholic school system.

Note: The circumstances do not include the formation of a school as a result
of:

(a) the amalgamation of a systemic school that is a member of an
approved Catholic school system with a non-systemic school or
with another systemic school (whether or not that other school is
a member of an approved Catholic system); or

(b) the separation of a systemic school in an approved Catholic
school system into 2 or more schools;

because the school formed as a result of the amalgamation, or the
schools resulting from the separation, would ordinarily be included in the
relevant approved Catholic school system.

46  States Grants (Primary and Secondary Education Assistance) Act
2000
50 Minister to give notice to authority of determination

If the Minister makes a determination under this Part, the Minister must give written notice of the determination to the approved authority concerned (if any).

51 Determination may be given retrospective effect

Subject to subsection 38(5) and section 48, a determination under this Part may take effect from a day before the day on which the determination was made, but not before 1 January 2001.

52 Overseas students disregarded

(1) Overseas students are to be disregarded for the purposes of this Part.

(2) In this Act:

overseas student means:
(a) a person who:
   (i) has a visa; or
   (ii) is included in 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; or
(b) a person, or a person included in a class of persons, prescribed by the regulations for the purposes of this paragraph; but does not include a person, or a person included in a class of persons, determined by the Minister not to be a person or class of persons to whom this definition applies.

(3) A determination for the purposes of the definition of overseas student in subsection (2) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.
Part 5—Grants for education at government schools

Division 1—Grants for general recurrent expenditure

53 Grants for general recurrent expenditure

The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure of government schools in the State for a program year of an amount that is not more than the amount worked out using the formula:

\[
\text{Primary education amount} \times \frac{\text{Number of government school primary students}}{\text{Secondary education amount}} + \frac{\text{Number of government school secondary students}}{\text{Secondary education amount}}
\]

where:

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

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

- **primary education amount** means the amount for primary education in the table in Schedule 2 for the program year.

- **secondary education amount** means the amount for secondary education in the table in Schedule 2 for the program year.

Note: The operation of sections 102, 103 and 104 may affect the amounts in Schedule 2.
Division 2—Capital grants

54 Authorising payments of capital grants

The Minister may make a determination authorising payment of financial assistance to the States, for capital expenditure for a program year in connection with government schools or government rural school hostels (or both) in the States, of amounts totalling not more than the amount in the table in Schedule 3 for the program year.
Part 6—Grants for non-government schools

Division 1—Simplified outline of Part

55 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:
   (a) recurrent expenditure of non-government schools; and
   (b) recurrent expenditure of approved Catholic school systems; and
   (c) capital expenditure of non-government schools; and
   (d) transitional emergency assistance for non-government schools; and
   (e) establishment assistance.

(3) It also set limits for financial assistance for those purposes.
Division 2—Grants for general recurrent expenditure

Subdivision A—Schools with SES funding levels

56 Simplified outline

(1) This section is a simplified outline of this Subdivision.

(2) Funding for general recurrent expenditure of non-government schools with SES funding levels is worked out on a school by school basis (whether the school is in an approved school system or not).

Note: Subdivision C deals with approved Catholic school systems.

(3) The ceiling on funding is worked out using a series of per student amounts for different kinds of students at the school.

(4) If the SES per student amount (as at 1 January 2001) is more than the year 2000 per student amount (as at that date), the higher funding is phased in over the 2001, 2002, 2003 and 2004 program years.

(5) The phase-in amount is worked out first in each of the method statements, then added to the basic year 2000 per student amount.

(6) If the SES per student amount (as at 1 January 2001) is less than the year 2000 per student amount (as at that date), then the school is not disadvantaged and is funded at year 2000 per student levels (even though it has an SES funding level).

(7) The ceiling for schools is set on full SES funding per student basis if any of the following applies to the school:
   (a) the school is new;
   (b) the school’s funding level is reduced;
   (c) the school is providing a different level of education (primary or secondary) that was not provided at 1 January 2001;
   (d) the school ceased to be a member of an approved Catholic school system.

(8) The distance education students’ contribution to the ceiling is worked out on an SES funding basis.
57 Authorising payments for non-systemic schools

(1) The Minister may make a determination authorising payment of financial assistance to a State, for recurrent expenditure for a program year of an amount for each non-systemic school in the State with an SES funding level, not more than the amount worked out for the school by adding up:

(a) the amounts listed in subsection (2); or

(b) the amounts listed in subsection (3) if:

(i) on the schools census day for the 2000 program year (within the meaning of the former Act), there were students receiving primary education and students receiving secondary education at the school; and

(ii) the school has a year 2000 primary amount and a year 2000 secondary amount.

(2) The amounts for the purposes of paragraph (1)(a) are:

(a) the amount worked out under section 59 for the school’s primary students (if any) for the program year for which financial assistance is being authorised; and

(b) the amount worked out under section 60 for the school’s secondary students (if any) for that program year; and

(c) the amount worked out under section 62 for the school’s primary distance education students (if any) for that program year; and

(d) the amount worked out under section 63 for the school’s secondary distance education students (if any) for that program year.

(3) The amounts for the purposes of paragraph (1)(b) are:

(a) the amount worked out under section 61 for the school for the program year for which financial assistance is being authorised; and

(b) the amount worked out under section 62 for the school’s primary distance education students (if any) for that program year; and

(c) the amount worked out under section 63 for the school’s secondary distance education students (if any) for that program year.

States Grants (Primary and Secondary Education Assistance) Act
2000
58 Authorising payments for approved school systems (except approved Catholic school systems)

(1) This section applies to each approved school system in a State (except an approved Catholic school system) that includes a school that is in the list of non-government schools with an SES funding level.

Note: If the approved school system also includes one or more schools with year 2000 funding levels, Subdivision B will also be relevant.

(2) The Minister may make a determination authorising payment of financial assistance to the State for recurrent expenditure of the approved school system for a program year of an amount for each such school not more than the amount worked out for the school by adding up:

(a) the amounts listed in subsection (3); or
(b) the amounts listed in subsection (4) if:
   (i) on the schools census day for the 2000 program year (within the meaning of the former Act), there were students receiving primary education and students receiving secondary education at the school; and
   (ii) the school has a year 2000 primary amount and a year 2000 secondary amount.

(3) The amounts for the purposes of paragraph (2)(a) are:

(a) the amount worked out under section 59 for the school’s primary students (if any) for the program year for which financial assistance is being authorised; and
(b) the amount worked out under section 60 for the school’s secondary students (if any) for that program year; and
(c) the amount worked out under section 62 for the school’s primary distance education students (if any) for that program year; and
(d) the amount worked out under section 63 for the school’s secondary distance education students (if any) for that program year.

(4) The amounts for the purposes of paragraph (2)(b) are:

(a) the amount worked out under section 61 for the school for the program year for which financial assistance is being authorised; and
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(b) the amount worked out under section 62 for the school’s primary distance education students (if any) for that program year; and

c) the amount worked out under section 63 for the school’s secondary distance education students (if any) for that program year.

59 Primary student amount

General rule

(1) For the purposes of paragraphs 57(2)(a) and 58(3)(a), work out the amount for the school’s primary students using the following method statement.

Method statement

Step 1. Subtract the school’s year 2000 primary amount from the school’s SES primary amount.
   Note: If the school does not have a year 2000 primary amount, go to subsection (5).

Step 2. If the result of step 1 is a positive amount, work out the amount equal to the program year percentage of the result.
   Note: If the result of step 1 is a negative amount, or zero, go to subsection (4).

Step 3. Add up:
   (a) the proportional change in AGSRC for primary education worked out under subsection (2); and
   (b) 1.

Step 4. Multiply the result of step 2 by the result of step 3, and round the product to the next higher dollar if it is not already a whole number of dollars.

Step 5. Add the result of step 4 to the school’s adjusted year 2000 primary amount for the program year.

54 States Grants (Primary and Secondary Education Assistance) Act
2000
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**Step 6.** Multiply the result of step 5 by the number of primary students for the school for the program year.

(2) Work out the proportional change in AGSRC for primary education (which may be negative) using the formula:

\[
\frac{\text{AGSRC for primary education for the program year}}{\text{AGSRC for primary education for the immediately preceding program year}} - 1
\]

The result is to be rounded, if necessary, to 4 decimal places (rounding up if the fifth decimal place is 5 or more).

(3) For the purposes of calculating an amount for a school for the 2001 program year, work out the proportional change in AGSRC for primary education as if the AGSRC for primary education for the immediately preceding program year were $5,056.

(4) If the result of step 1 of the method statement in subsection (1) is a negative amount, or zero, work out the amount for the school’s primary students using the formula:

\[
\text{School’s adjusted year 2000 primary amount for the program year} \times \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}}
\]

**Exceptions to general rule**

(5) For the purposes of paragraphs 57(2)(a) and 58(3)(a), work out the amount for the school’s primary students using the formula:

\[
\text{School’s adjusted SES primary amount for the program year} \times \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}}
\]

if any of the following circumstances apply to the school:

(a) the school is covered by a new school proposal approved under this Act;

(b) the Minister varies the list of non-government schools in relation to the school to include a level of primary education for the school and no level of primary education was included in the list for the school immediately before the variation;

(c) the Minister varies the list of non-government schools under section 38 to include a funding level of the school that is
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...lower than the school’s funding level immediately before the variation;
(d) the school is a non-systemic school and was covered by an application for a new school proposal (within the meaning of the former Act):
   (i) that was made after 11 May 1999 under that Act; and
   (ii) in relation to which the Minister varied the list (within the meaning of that Act) with effect from a day in the 1999 or 2000 program year (within the meaning of that Act);
(e) the school ceased to be a member of an approved Catholic school system with effect on or after 1 January 2001;
(f) the program year for which the amount is being worked out is 2004.

(6) Subsection (5) has effect despite subsections (1) and (4).

(7) In this Act:

adjusted SES primary amount, for a school for a program year, means:
   (a) the amount in the table in Part 1 of Schedule 4 for the program year and the school’s SES funding level; or
   (b) if the school is a special school—the amount in the table in Part 1 of Schedule 4 for the program year and the SES funding level of 70.0% of AGSRC.

60 Secondary student amount

General rule

(1) For the purposes of paragraphs 57(2)(b) and 58(3)(b), work out the amount for a school’s secondary students using the following method statement.

Method statement

Step 1. Subtract the school’s year 2000 secondary amount from the school’s SES secondary amount.

Note: If the school does not have a year 2000 secondary amount, go to subsection (5).
Step 2. If the result of step 1 is a positive amount, work out the amount equal to the program year percentage of the result.

Note: If the result of step 1 is a negative amount, or zero, go to subsection (4).

Step 3. Add up:

(a) the proportional change in AGSRC for secondary education worked out under subsection (2); and

(b) 1.

Step 4. Multiply the result of step 2 by the result of step 3, and round the product to the next higher dollar if it is not already a whole number of dollars.

Step 5. Add the result of step 4 to the school’s adjusted year 2000 secondary amount for the program year.

Step 6. Multiply the result of step 5 by the number of secondary students for the school for the program year.

(2) Work out the proportional change in AGSRC for secondary education (which may be negative) using the formula:

\[
\frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the immediately preceding program year}} - \frac{\text{AGSRC for secondary education for the immediately preceding program year}}{\text{AGSRC for secondary education for the immediately preceding program year}}
\]

The result is to be rounded, if necessary, to 4 decimal places (rounding up if the fifth decimal place is 5 or more).

(3) For the purposes of calculating an amount for a school for the 2001 program year, work out the proportional change in AGSRC for secondary education as if the AGSRC for secondary education for the immediately preceding program year were $6,622.
(4) If the result of step 1 of the method statement in subsection (1) is a negative amount, or zero, work out the amount for the school’s secondary students using the formula:

\[
\text{School’s adjusted year 2000 secondary amount for the program year} \times \frac{\text{Number of secondary students for the school for the program year}}{}
\]

Exceptions to general rule

(5) For the purposes of paragraphs 57(2)(b) and 58(3)(b), work out the amount for the school’s secondary students using the formula:

\[
\text{School’s adjusted SES secondary amount for the program year} \times \frac{\text{Number of secondary students for the school for the program year}}{}
\]

if any of the following circumstances apply to the school:

(a) the school is covered by a new school proposal approved under this Act;

(b) the Minister varies the list of non-government schools in relation to the school to include a level of secondary education for the school and no level of secondary education was included in the list for the school immediately before the variation;

(c) the Minister varies the list of non-government schools under section 38 to include a funding level of the school that is lower than the school’s funding level immediately before the variation;

(d) the school is a non-systemic school and was covered by an application for a new school proposal (within the meaning of the former Act):

(i) that was made after 11 May 1999 under that Act; and

(ii) in relation to which the Minister varied the list (within the meaning of that Act) with effect from a day in the 1999 or 2000 program year (within the meaning of that Act);

(e) the school ceased to be a member of an approved Catholic school system with effect on or after 1 January 2001;

(f) the program year for which the amount is being worked out is 2004.

(6) Subsection (5) has effect despite subsections (1) and (4).
(7) In this Act:

adjusted SES secondary amount, for a school for a program year, means:

(a) the amount in the table in Part 2 of Schedule 4 for the program year and the school’s SES funding level; or
(b) if the school is a special school—the amount in the table in Part 2 of Schedule 4 for the program year and the SES funding level of 70.0% of AGSRC.

61 Combined primary and secondary student amounts

General rule

(1) For the purposes of paragraphs 57(3)(a) and 58(4)(a), work out the amount for the school using the following method statement.

Method statement

Step 1. Subtract the school’s total year 2000 funding amount from the school’s total SES funding amount.

Step 2. Add up:

(a) the number of primary students in 2000 for the school; and

(b) the number of secondary students in 2000 for the school.

Step 3. Divide the result of step 1 by the result of step 2.

Step 4. Work out the amount equal to the program year percentage of the result of step 3.

Step 5. Average:

(a) the proportional change in AGSRC for primary education worked out under section 59; and

(b) the proportional change in AGSRC for secondary education worked out under section 60.
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<th>Step 6.</th>
<th>Add up:</th>
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<td>(a)</td>
<td>the result of step 5 (which may be negative); and</td>
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<td>(b)</td>
<td>1.</td>
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**Step 7.** Multiply the result of step 4 by the result of step 6, and round the product to the next higher dollar if it is not already a whole number of dollars.

**Step 8.** Add up:

(a) the number of primary students (if any) for the school for the program year; and

(b) the number of secondary students (if any) for the school for the program year.

**Step 9.** Multiply the result of step 7 by the result of step 8.

**Step 10.** Multiply the number of primary students (if any) for the school for the program year by the school’s adjusted year 2000 primary amount for the program year.

**Step 11.** Multiply the number of secondary students (if any) for the school for the program year by the school’s adjusted year 2000 secondary amount for the program year.

**Step 12.** Add up the results of steps 9, 10 and 11.

**Results of steps 3, 4 and 5**

(2) The results of steps 3, 4 and 5 of the method statement in subsection (1) are to be rounded, if necessary, to 4 decimal places (rounding up if the fifth decimal place is 5 or more).

**Exceptions to general rule**

(3) For the purposes of paragraphs 57(3)(a) and 58(4)(a), work out the amount for the school by adding up the following amounts if subsection (4) applies to the school:
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(a) the amount for primary students (if any) worked out under subsection (5);
(b) the amount for secondary students (if any) worked out under subsection (6).

(4) For the purposes of subsection (3), this subsection applies if any of the following circumstances apply to the school:
(a) the Minister varies the list of non-government schools under section 38 to include a funding level of the school that is lower than the school’s funding level immediately before the variation;
(b) the school is a non-systemic school and was covered by an application for a new school proposal (within the meaning of the former Act):
   (i) that was made after 11 May 1999 under that Act; and
   (ii) in relation to which the Minister varied the list (within the meaning of that Act) with effect from a day in the 1999 or 2000 program year (within the meaning of that Act);
(c) the program year for which the amounts are being worked out is 2004.

(5) For the purposes of paragraph (3)(a), work out the amount using the formula:

\[
\text{School’s adjusted SES primary amount for the program year} \times \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}}
\]

(6) For the purposes of paragraph (3)(b), work out the amount using the formula:

\[
\text{School’s adjusted SES secondary amount for the program year} \times \frac{\text{Number of secondary students for the school for the program year}}{\text{Number of secondary students for the school for the program year}}
\]

(7) Subsection (3) has effect despite subsection (1).

62 Primary distance education student amount

(1) For the purposes of paragraphs 57(2)(c) and (3)(b) and paragraphs 58(3)(c) and (4)(b), work out the amount for the school’s primary distance education students for the program year using the formula:
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School’s adjusted primary distance education amount × Number of primary distance education students for the school for the program year

(2) In this Act:

adjusted primary distance education amount, for a school for a program year, means the amount in the table in Part 1 of Schedule 4 for the program year and the funding level of 13.7% of AGSRC.

63 Secondary distance education student amount

(1) For the purposes of paragraphs 57(2)(d) and (3)(c) and paragraphs 58(3)(d) and (4)(c), work out the amount for the school’s secondary distance education students for the program year using the formula:

School’s adjusted secondary distance education amount × Number of secondary distance education students for the school for the program year

(2) In this Act:

adjusted secondary distance education amount, for a school for a program year, means the amount in the table in Part 2 of Schedule 4 for the program year and the funding level of 13.7% of AGSRC.

Subdivision B—Schools with year 2000 funding levels

64 Simplified outline

(1) This section is a simplified outline of this Subdivision.

(2) Funding for general recurrent expenditure of non-government schools with year 2000 funding levels is worked out on a school by school basis (whether the school is in an approved school system or not).

Note: Subdivision C deals with approved Catholic school systems.

(3) The ceiling on funding is worked out using a series of per student amounts for different kinds of students at the school.
65 Authorising payments for non-systemic schools

The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure for a program year of an amount for each non-systemic school in the State with a year 2000 funding level not more than the amount worked out for the school by adding up:

(a) the amount worked out under section 67 for the school’s primary students (if any) for the program year; and
(b) the amount worked out under section 68 for the school’s secondary students (if any) for the program year; and
(c) the amount worked out under section 69 for the school’s primary distance education students (if any) for the program year; and
(d) the amount worked out under section 70 for the school’s secondary distance education students (if any) for the program year.

66 Authorising payments for schools in approved school systems (except approved Catholic school systems)

(1) This section applies to each approved school system in a State (except an approved Catholic school system) that includes a school with a year 2000 funding level.

Note: If the approved school system also includes one or more schools with SES funding levels, Subdivision A will also be relevant.

(2) The Minister may make a determination authorising payment of financial assistance to the State for recurrent expenditure of the approved school system for a program year of an amount for each such school not more than the amount worked out for the school by adding up:

(a) the amount worked out under section 67 for the school’s primary students (if any) for the program year; and
(b) the amount worked out under section 68 for the school’s secondary students (if any) for the program year; and
(c) the amount worked out under section 69 for the school’s primary distance education students (if any) for the program year; and
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(d) the amount worked out under section 70 for the school’s secondary distance education students (if any) for the program year.

67 Primary student amount

For the purposes of paragraphs 65(a) and 66(2)(a), work out the amount for a school’s primary students for the program year using the formula:

\[
\text{School’s adjusted year 2000 primary amount for the program year} \times \frac{\text{Number of primary students for the school for the program year}}{}.
\]

68 Secondary student amount

For the purposes of paragraphs 65(b) and 66(2)(b), work out the amount for a school’s secondary students for the program year using the formula:

\[
\text{School’s adjusted year 2000 secondary amount for the program year} \times \frac{\text{Number of secondary students for the school for the program year}}{}.
\]

69 Primary distance education student amount

For the purposes of paragraphs 65(c) and 66(2)(c), work out the amount for a school’s primary distance education students for the program year using the formula:

\[
\text{School’s adjusted primary distance education amount for the program year} \times \frac{\text{Number of primary distance education students for the school for the program year}}{}.
\]

70 Secondary distance education student amount

For the purposes of paragraphs 65(d) and 66(2)(d), work out the amount for a school’s secondary distance education students for the program year using the formula:

\[
\text{School’s adjusted secondary distance education amount for the program year} \times \frac{\text{Number of secondary distance education students for the school for the program year}}{}.
\]
Subdivision C—Approved Catholic school systems

71 Simplified outline

(1) This section is a simplified outline of this Subdivision.

(2) Funding for general recurrent expenditure of approved Catholic school systems is worked out on a system by system basis.

(3) The ceiling on funding is worked out using a series of per student amounts for different kinds of students at schools in the system.

72 Authorising payments for approved Catholic school systems

Application of section

(1) This section applies to the approved Catholic school system in each State.

Determination authorising payment

(2) The Minister may make a determination authorising payment of financial assistance to the State for recurrent expenditure of the system for a program year of an amount not more than the amount worked out for the system by adding up:

(a) the amount worked out under subsection (3) for the system’s primary students (if any) for the program year; and

(b) the amount worked out under subsection (4) for the system’s secondary students (if any) for the program year; and

(c) the amount worked out under subsection (5) for the system’s primary distance education students (if any) for the program year; and

(d) the amount worked out under subsection (6) for the system’s secondary distance education students (if any) for the program year.

Primary student amount

(3) Work out the amount for the system’s primary students for the program year using the formula:

\[
\text{System’s primary system amount for the program year} = \text{Number of primary students for the system} \times \text{Number of primary students for the program year}
\]
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where:

**number of primary students**, for an approved Catholic school system 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 schools in the system on the schools census day for the system for the program year, except students receiving primary distance education.

**primary system amount** means:

(a) for the approved Catholic school system in the Australian Capital Territory for a program year—the amount in the table in Part 1 of Schedule 4 for the program year and the funding level of 51.2% of AGSRC; and

(b) for an approved Catholic school system in another State for a program year—the amount in the table in Part 1 of Schedule 4 for the program year and the funding level of 56.2% of AGSRC.

Secondary student amount

(4) Work out the amount for the system’s secondary students for the program year using the formula:

\[
\text{System’s secondary system amount for the program year} = \text{Number of secondary students for the system for the program year} \times \frac{\text{primary system amount}}{50.2%}\]

where:

**number of secondary students**, for an approved Catholic school system 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 schools in the system on the schools census day for the system for the program year, except students receiving secondary distance education.

**secondary system amount** means:

(a) for the approved Catholic school system in the Australian Capital Territory for a program year—the amount in the table in Part 2 of Schedule 4 for the program year and the funding level of 53.2% of AGSRC; and

(b) for an approved Catholic school system in another State for a program year—the amount in the table in Part 2 of
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Schedule 4 for the program year and the funding level of 56.2% of AGSRC.

Primary distance education student amount

(5) Work out the amount for the system’s primary distance education students for the program year using the formula:

\[
\text{System’s adjusted primary distance education amount for the program year} \times \frac{\text{Number of primary distance education students for the system for the program year}}{100}
\]

where:

- \(\text{adjusted primary distance education amount}\), for an approved Catholic school system for a program year, means the amount in the table in Part 1 of Schedule 4 for the program year and the funding level of 13.7% of AGSRC.
- \(\text{number of primary distance education students}\), for an approved Catholic school system 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 schools in the system on the schools census day for the system for the program year.

Secondary distance education student amount

(6) Work out the amount for the system’s secondary distance education students for the program year using the formula:

\[
\text{System’s adjusted secondary distance education amount for the program year} \times \frac{\text{Number of secondary distance education students for the system for the program year}}{100}
\]

where:

- \(\text{adjusted secondary distance education amount}\), for an approved Catholic school system for a program year, means the amount in the table in Part 2 of Schedule 4 for the program year and the funding level of 13.7% of AGSRC.
- \(\text{number of secondary distance education students}\), for an approved Catholic school system 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
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schools in the system on the schools census day for the system for the program year.
Division 3—Capital grants

73 Authorisation of payment of capital grants

(1) The Minister may make a determination authorising payment of financial assistance to the States for:
   (a) capital expenditure for a program year in connection with:
       (i) non-government schools or non-government rural student hostels in the State; or
       (ii) groups of non-government schools or non-government rural student hostels (or both) in the States; or
   (b) capital expenditure for a program year in connection with block grants authorities and non-government schools or non-government rural student hostels in the States.

(2) The sum of the amounts determined under subsection (1) for a program year must not be more than the amount in the table in Schedule 5 for the program year.
Division 4—Grants of transitional emergency assistance

74 Grants of transitional emergency assistance

(1) The Minister may make a determination authorising payment of financial assistance to a State to provide transitional 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) However, the sum of the amounts paid to the States under subsection (1) for a program year must not be more than the amount in the table in Schedule 6 for the program year.
Division 5—Grants to provide establishment assistance

75 Grants to provide establishment assistance

Non-systemic school

(1) The Minister may make a determination authorising payment of financial assistance to a State to provide establishment assistance for a non-systemic school in the State for one or 2 program years if the circumstance in subsection (3) or (4) applies to the school.

Note: The amount must not exceed the maximum amount worked out under subsection (5) or (6).

School system

(2) The Minister may make a determination authorising payment of financial assistance to a State to provide establishment assistance for an approved school system in the State for one or 2 program years in relation to a school included in the system if the circumstance in subsection (3) or (4) applies to the school.

Note: The amount must not exceed the maximum amount worked out under subsection (5) or (6).

Subsection (3) circumstance

(3) One circumstance is that the Minister varies the list of non-government schools in relation to the school because the school is covered by paragraph (c) of the definition of new school proposal.

Subsection (4) circumstance

(4) The other circumstance is that the Minister varied the list (within the meaning of the former Act) with effect from a day in 1999 or 2000 in relation to the school because:

(a) the school was a non-systemic school; and
(b) the school was covered by paragraph (c) of the definition of new school proposal in section 36 of that Act; and
(c) the application for that proposal was made after 11 May 1999.
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*Maximum amount if subsection (3) circumstance applies*

(5) The amount under subsection (1) or (2) for a program year in relation to a school to which the circumstance in subsection (3) applies must not exceed the amount worked out using the formula:

\[
\text{Establishment amount for the program year} \times \left( \frac{\text{Number of primary students for the school for the program year}}{\text{Number of secondary students for the school for the program year}} \right)
\]

where:

*establishment amount* for the program year is:

(a) if the program year is the year in which the Minister varies the list of non-government schools in relation to the school—$500; and  
(b) if the program year is the year after the year referred to in paragraph (a)—$250.

*Maximum amount if subsection (4) circumstance applies*

(6) The amount under subsection (1) or (2) for a program year in relation to a school to which the circumstance in subsection (4) applies must not exceed the amount worked out using the formula:

\[
\text{Establishment amount for the program year} \times \left( \frac{\text{Number of primary students for the school for the program year}}{\text{Number of secondary students for the school for the program year}} \right)
\]

where:

*establishment amount* for the program year is:

(a) for the 2001 program year—$500; and  
(b) for the 2002 program year—$250.

**75A Review of grants to provide establishment assistance**

(1) The Minister must cause a review of establishment grants to be conducted by the Department of Education, Science and Training.

(2) The review is to include an assessment of the extent to which payments made in accordance with this Act have been successful in meeting the recurrent establishment costs of new schools, with particular reference to the:

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(a) eligibility; and
(b) accountability and transparency; and
(c) administration of the payment of establishment grants.

(3) In conducting the review required by this section, the Department must establish and consult with an external reference group representative of school authorities and organisations.

(4) A report of the review conducted in accordance with this section must be made publicly available before the expiration of the 2003 calendar year.
Part 7—Grants to provide strategic assistance to improve student outcomes

76 Object of Part

(1) The object of this Part is to help schools and school communities to improve the learning outcomes of students who are educationally disadvantaged (including because they are students with disabilities, Indigenous, of a low socio-economic background, of a language background other than English or geographically isolated).

(2) In this Act:

*Indigenous* means:
(a) a member of the Aboriginal race of Australia; or
(b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

77 Grants for strategic assistance for government schools etc. and non-government schools

(1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with:
(a) government schools (including schools providing special education) or government centres in the State; or
(b) non-government schools (including schools providing special education) in the State;
to improve the learning outcomes of students who are educationally disadvantaged.

(2) The total amount authorised to be paid to the States under this section for a program year must not be more than the amount in column 2 of the table in Part 1 of Schedule 8 for the program year.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

(3) In this Act:
78 Grants for strategic assistance for government schools

(1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with government schools (including schools providing special education) in the State to improve the learning outcomes of students who are educationally disadvantaged.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

(2) The total amount authorised to be paid to a State under this section for a program year must not be more than the amount worked out using the formula:

\[ \text{Strategic assistance amount} \times \text{Number of students with disabilities} \]

where:

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

- strategic assistance amount means the amount in column 2 of the table in Part 2 of Schedule 8 for the program year.

79 Grants for strategic assistance for non-government schools

(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.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

(2) The total amount authorised to be paid to a State under this section for a program year must not be more than the amount worked out using the formula:

\[ \text{Strategic assistance amount} \times \text{Number of students with disabilities} \]
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where:

**number of students with disabilities** 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 program year.

**strategic assistance amount** means the amount in column 3 of the table in Part 2 of Schedule 8 for the program year.
Part 8—Grants for education in country areas

80 Object of Part

The object of this Part is to help schools and school communities to improve the educational outcomes and opportunities of students who are educationally disadvantaged because of their geographical isolation.

81 Grants for government schools in country areas

The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure, or for capital expenditure approved by the Minister, for a program year connected with the education of students at government schools in country areas of the State.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

82 Grants for non-government schools in country areas

The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure, or for capital expenditure approved by the Minister, for a program year connected with the education of students at non-government schools in country areas of the State.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

83 Ceiling for grants under this Part

(1) The sum of the amounts paid to the States under this Part for a program year must not be more than the amount in column 3 of the table in Part 1 of Schedule 8 for the program year.

(2) This section has effect despite sections 81 and 82.
Part 9—Grants to foster literacy and numeracy

84 Object of Part

The object of this Part is to help with the acquisition of appropriate literacy or numeracy skills by students who are likely to be at risk of being ill-equipped, when leaving school, to receive further education and training or to engage in sustainable employment.

85 Grants for national projects to foster literacy or numeracy

(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 assist the development of literacy or numeracy skills; and
(b) the project is to be carried out in Australia.

(2) A project approved under subsection (1) may be a project relating to expenditure mentioned in Part 7. This does not limit subsection (1).

(3) It does not matter whether:

(a) the project is conducted by the State or by a non-government body established in the State; or
(b) the project is conducted within, or outside, or within and outside, the State.

(4) The Minister may make a determination authorising payment of financial assistance to a State for a program year for:

(a) expenditure on a project approved under subsection (1); and
(b) expenditure to publicise a project approved under that subsection by disseminating information about the project, conducting seminars in connection with the project or carrying out other related activities in connection with the project.
(5) The sum of the amounts authorised to be paid to the States under this section for a program year must not be more than the amount in column 4 of the table in Part 1 of Schedule 8 for the program year.
Part 10—Grants for special education at non-government centres

86 Object of Part

The object of this Part is to provide financial assistance to the States to help non-government centres provide education, therapeutic and other essential services and capital facilities to improve:

(a) the participation level by young people with disabilities in education; and

(b) the learning outcomes of those young people.

87 Grants for special education at non-government centres

(1) The Minister may make a determination authorising payment of financial assistance to a State for a program year for expenditure connected with special education provided at or in connection with non-government centres in the State.

Note: Certain amounts paid to a State under section 101 are taken to be paid under this section.

(2) In this Act:

*non-government centre* means a place in a State at which special education is provided by a non-government body (except a non-government body that is conducted for profit) and that is not a school.

88 Ceiling for grants under this Part

(1) The sum of the amounts paid to the States under this Part for a program year must not be more than the amount in column 5 of the table in Part 1 of Schedule 8 for the program year.

(2) This section has effect despite section 87.
Part 11—Grants to foster the learning of languages other than English

89 Object of Part

The object of this Part is to help schools and school communities to improve the learning outcomes of students who are learning languages other than English.

90 Grants for government schools etc.

(1) The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year connected with government schools, government educational institutions or any other body (except the relevant authority of a school mentioned in section 91) in the State to improve the learning outcomes of students learning languages other than English.

Note 1: Certain amounts paid to a State under section 101 are taken to be paid under this section.

Note 2: Section 92 sets a ceiling on grants to the States under this Part for a program year.

(2) In this Act:

government educational institution means an educational institution in a State:

(a) that is not a government school; and

(b) that is conducted by or on behalf of the Government of the State.

91 Grants for non-government schools

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.
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Note 1: Certain amounts paid to a State under section 101 are taken to be paid under this section.

Note 2: Section 92 sets a ceiling on grants to the States under this Part for a program year.

92 Ceiling for grants under this Part

(1) The sum of the amounts authorised to be paid to the States under this Part for a program year must not be more than the amount in column 6 of the table in Part 1 of Schedule 8 for the program year.

(2) This section has effect despite sections 90 and 91.
Part 12—Grants to foster the learning of Asian languages and studies of Asia

93 Object of Part

The object of this Part is to foster the learning of Asian languages and studies of Asia.

94 Grants to foster the learning of Asian languages and studies of Asia in government schools

The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year in connection with government schools in the State with the objective of fostering the learning of Asian languages or studies of Asia.

95 Grants to foster the learning of Asian languages and studies of Asia in non-government schools

The Minister may make a determination authorising payment of financial assistance to a State for expenditure for a program year in connection with non-government schools in the State with the objective of fostering the learning of Asian languages or studies of Asia.

96 Grants for national projects to foster the learning of Asian languages and studies of Asia

(1) The Minister may approve a project for the purposes of this section if the sole or principal object of the project is to foster the learning of Asian languages or studies of Asia.

(2) A project approved under subsection (1) may be a project relating to expenditure mentioned in section 94 or 95. This does not limit subsection (1).

(3) The Minister may make a determination authorising the payment to a State for a program year of an amount of financial assistance for:
(a) expenditure on a project approved under subsection (1); and

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(b) expenditure to publicise a project approved under subsection (1) by disseminating information about the project, conducting seminars in connection with the project or carrying out other related activities in connection with the project.

(4) It does not matter whether:
   (a) the project is conducted by the State or not; or
   (b) the project is conducted within, or outside, or within and outside, the State.

97 Ceiling for grants under this Part

(1) The sum of the amounts paid to the States under this Part for a program year must not be more than the amount in column 7 of the table in Part 1 of Schedule 8 for the program year.

(2) This section has effect despite sections 94, 95 and 96.
Part 13—Grants for teaching English to new arrivals

98 Object of Part

The object of this Part is to help with the provision of intensive teaching of the English language to certain students who recently arrived in Australia.

99 Grants for teaching English as a second language in government schools

(1) The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure for a program year connected with providing education in English as a second language for eligible new arrivals enrolled in ESL courses:

(a) beginning or continuing in the program year; and

(b) provided at or in connection with government schools in the State.

(2) However, the total amount authorised to be paid to a State under subsection (1) for a program year must not be more than the amount worked out using the formula:

\[
\text{ESL new arrivals amount for the program year} \times \frac{\text{Number of eligible new arrivals in government schools}}{\text{Number of eligible new arrivals in government schools}}
\]

where:

- \text{number of eligible new arrivals in government schools} means the number of eligible new arrivals enrolled in ESL courses in the State described in subsection (1).

(3) In this Act:

- \text{education in English as a second language for eligible new arrivals} means education that is provided for the purpose of teaching the English language to eligible new arrivals by means of intensive instruction.
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eligible new arrival means a person:

(a) whose first language is not English; and
(b) who satisfies criteria determined by the Minister for the purposes of this paragraph 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 visa (other than a temporary visa) in force under the Migration Act 1958;
(iii) the person is included in a visa (other than a temporary visa) in force under that Act;
(iv) the person is not an Australian citizen but 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 by the Minister for the purposes of this subparagraph.

ESL course means a course designed to teach English as a second language.

100 Grants for teaching English as a second language in non-government schools

(1) The Minister may make a determination authorising payment of financial assistance to a State for recurrent expenditure for a program year connected with providing education in English as a second language for eligible new arrivals enrolled in ESL courses:

(a) beginning or continuing in the program year; and
(b) provided at or in connection with non-government schools in the State.

(2) However, the total amount paid to a State under subsection (1) for a program year must not be more than the amount worked out using the formula:

\[
\text{ESL new arrivals amount for the program year} \times \frac{\text{Number of eligible new arrivals in non-government schools}}{\text{Number of eligible new arrivals in non-government schools}}
\]

where:

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number of eligible new arrivals in non-government schools
means the number of eligible new arrivals enrolled in ESL courses in the State described in subsection (1).
Part 14—Grants for national projects

101 Minister may approve grants for national projects

(1) The Minister may approve, for the purposes of this section, a project that is to be carried out in Australia if the sole or principal object of the project is to provide support for a purpose for which financial assistance is authorised under any of the following:
   (a) section 77, 78 or 79 (about grants for strategic assistance);
   (b) section 81 or 82 (about grants for schools in country areas);
   (c) section 87 (about grants for special education at non-government centres);
   (d) sections 90 and 91 (about grants for languages other than English).

(2) It does not matter whether:
   (a) the project is conducted by the State or not; or
   (b) the project is conducted within, or outside, or within and outside, the State.

(3) The Minister may make a determination authorising payment of financial assistance to a State for a program year of an amount for expenditure on a project approved under subsection (1). This subsection is subject to subsection (5).

(4) Any amount authorised to be paid to a State under this section for a program year for a project whose sole or principal object is to provide support for a purpose for which financial assistance is authorised under a section mentioned in subsection (1) is taken to be an amount authorised to be paid to the State for the program year under that section.

(5) The sum of amounts authorised to be paid under this section for a program year in connection with a purpose for which financial assistance may be authorised under a section mentioned in subsection (1) must not exceed 10% of the amount available for the program year under the Part concerned (apart from this section).
Part 15—Miscellaneous

Division 1—Average Government School Recurrent Costs

102 Changes to Average Government School Recurrent Costs

(1) The regulations may provide that an amount specified in the regulations for a program year replaces an amount in Schedule 1 for the program year.

(2) The regulations have effect according to their terms.

(3) Before the Governor-General makes regulations for the purposes of subsection (1), the Minister must consider changes in the relevant figures known as Average Government School Costs published from time to time by:

   (a) the Ministerial Council on Education, Employment, Training and Youth Affairs; or

   (b) a prescribed body that has a corresponding function.

103 Changes to amounts for primary education

(1) This section applies if an amount in Schedule 1 for primary education is replaced for a program year by an amount (the primary AGSRC amount) under regulations made for the purposes of subsection 102(1).

(2) The amount in Schedule 2 for primary education for the program year is replaced by the amount worked out using the formula:

\[
\text{% of AGSRC} \times \text{Primary AGSRC amount}
\]

where:

\[
\text{% of AGSRC}
\]

means the percentage of AGSRC in column 2 of Schedule 2 for primary education.

(3) Each amount opposite a percentage of AGSRC in Parts 1 and 3 of Schedule 4 for the program year is replaced by the amount worked out using the formula:

\[
\text{The percentage of AGSRC} \times \text{Primary AGSRC amount}
\]
(4) If an amount worked out under subsection (2) or (3) is an amount of dollars and cents, the amount is to be rounded to the next higher dollar.

104 Changes to amounts for secondary education

(1) This section applies if an amount in Schedule 1 for secondary education is replaced for a program year by an amount (the secondary AGSRC amount) under regulations made for the purposes of subsection 102(1).

(2) The amount in Schedule 2 for secondary education for the program year is replaced by the amount worked out using the formula:

\[ \% \text{ of AGSRC} \times \text{Secondary AGSRC amount} \]

where:

\[ \% \text{ of AGSRC} \]

means the percentage of AGSRC in column 2 of Schedule 2 for secondary education.

(3) Each amount opposite a percentage of AGSRC in Parts 2 and 4 of Schedule 4 for the program year is replaced by the amount worked out using the formula:

\[ \text{The percentage of AGSRC} \times \text{Secondary AGSRC amount} \]

(4) If an amount worked out under subsection (2) or (3) is an amount of dollars and cents, the amount is to be rounded to the next higher dollar.
Division 2—Cost supplementation

105 Recurrent grants

(1) Each of the following amounts (the \textit{recurrent amount}):
\begin{itemize}
  \item[(a)] an amount in the table in Schedule 6 for a program year;
  \item[(c)] an amount in the table in Part 1 of Schedule 8 for a program year;
  \item[(d)] an amount in the table in Part 2 of Schedule 8 for a program year;
  \item[(e)] the amount in the table in Part 3 of Schedule 8 for a program year;
\end{itemize}
is replaced for the program year by the amount worked out using the formula:

\[
\text{Recurrent amount} \times \text{Recurrent number for the program year}
\]

where:

\textit{recurrent number for the program year} means:
\begin{itemize}
  \item[(a)] 1; or \\
  \item[(b)] if the regulations set out another number for the program year—\text{that other number}.
\end{itemize}

(2) If an amount worked out under paragraph (1)(a) or (c) is not a multiple of $1,000, the amount is to be rounded to the nearest $1,000 (rounding $500 upwards).

(3) If an amount worked out under paragraph (1)(d) or (e) is an amount of dollars and cents, the amount is to be rounded to the next higher dollar.

(4) Before the Governor-General makes regulations for the purposes of subsection (1), the Minister must consider changes in the relevant figures known as Average Government School Costs published from time to time by:
\begin{itemize}
  \item[(a)] the Ministerial Council on Education, Employment, Training and Youth Affairs; or \\
  \item[(b)] a prescribed body that has a corresponding function.
106 Capital grants for government schools and non-government schools

(1) Each amount (the capital amount) in Schedule 3 or 5 for a program year is replaced by the amount worked out using the formula:

\[
\text{Capital amount} \times \text{Capital number for the program year}
\]

where:

**capital number for the program year** means:

(a) 1; or

(b) if the regulations set out another number for the program year—that number.

(2) If an amount worked out under subsection (1) is not a multiple of $1,000, the amount is to be rounded to the nearest $1,000 (rounding $500 upwards).

(3) Before the Governor-General makes regulations for the purposes of subsection (1), the Minister must consider changes in an index of building prices, and an index of wage costs, published from time to time by the Australian Statistician.
Division 3—Timing of payments etc.

107 Minister may fix amounts and times of payment of financial assistance

(1) 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.

(2) A determination under subsection (1) may apply generally to all financial assistance payable under this Act or may be limited to particular financial assistance, including the following:
   (a) financial assistance payable to a particular State or States;
   (b) financial assistance payable under a particular provision or provisions of this Act;
   (c) financial assistance payable for a particular program year or program years;
   (d) a combination of any of the above.

108 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.

109 Determination authorising the making of payments may authorise Minister to determine amounts of payments

Whenever 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 4—False or misleading statements

110 Payment reduction for false or misleading statement

(1) If:

(a) a person made a statement for the purposes of:
   (i) an Education Assistance Act; or
   (ii) an agreement made as mentioned in such an Act;
   relating to the grant of financial assistance for schools, hostels or other bodies involved in primary education or secondary education; 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) a public service employee in the Department administering that Act; or
   (iv) a block grant authority for the purposes of that Act; or
   (v) a person employed by or acting on behalf of such an authority; 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 the State or for a non-government body (including a block grant authority and 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;

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

(2) If:

(a) the approved authority of a non-systemic school, or of an approved school system, made a statement for the purposes of:
(i) an Education Assistance Act; or
(ii) the making of an agreement as mentioned in such an
Act;
relating to the grant of financial assistance for schools or
other bodies involved in primary education or secondary
education; 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) a public service 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:
   (i) the school; or
   (ii) a school in the approved school system;
   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;
the Minister may make a determination varying the list of
non-government schools by setting out a different funding level of
the school.

Note: The Minister may determine an SES funding level or a year 2000
funding level.

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

(4) In this Act:

**Education Assistance Act** means this Act, the former Act or the

**public service employee** means:

(a) an APS employee; and
(b) a person appointed or employed under the **Public Service Act 1922**.

Note: **APS employee** is defined in the Acts Interpretation Act 1901.
Division 5—Appropriation and authority to borrow

111 Appropriation

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

112 Authority to borrow

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 sections 54 and 73 and subsection 87(1) of this Act.
Division 6—Administrative matters

113 Determinations, approvals etc. by Minister

(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 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 day of effect of the determination or approval to be a day before the day on which the determination is made, or the approval is given.

(4) If:
   (a) a provision of this Act refers to a determination made, approval given or other act or thing done by the Minister; and
   (b) no other provision of this Act expressly authorises the Minister to make such a determination, give such an approval or do such an act or thing;
then this subsection authorises the Minister to make such a determination, give such an approval or do such an act or thing.

(5) In this Act, unless the contrary intention appears, a reference to a determination or approval by the Minister is a reference to such a determination or approval that is in force.

114 Revocation or variation of determinations or approvals by Minister

(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) 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.

(3) 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 though it does not specifically refer to the previous instruments of variation.

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

(5) An instrument of revocation or variation takes effect 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.

(6) The day of effect of an instrument revoking or varying a determination or approval may be a day 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 on a day before it was made or given.

(7) Subsection (6) has effect despite subsection (5).

115 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.

116 Report by Minister

(2) As soon as practicable after 30 June next following the year, the Minister must cause a report dealing with the following to be laid before each House of the Parliament:
   (a) financial assistance (if any) granted in the year under this Act for recurrent expenditure;
   (b) the application of the financial assistance granted in the year under this Act (including financial assistance by way of capital grants).
Division 7—Overseas students

117 Overseas students

Financial assistance under this Act is not to be provided to a State for overseas students.
Division 8—Regulations

118 Regulations

(1) The Governor-General may make regulations prescribing all 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.

(2) Despite section 48 of the Acts Interpretation Act 1901, regulations made for the purposes of section 12, 15, 19 or 23 of this Act take effect not earlier than on the first day on which they are no longer liable to be disallowed, or to have been taken to have been disallowed, under section 48 of that Act.

102 States Grants (Primary and Secondary Education Assistance) Act 2000
Part 16—Transitional provisions

119 Application of this Part

(1) This Part has effect despite any other provision of this Act.

(2) If, under this Part, a determination, approval, declaration, list or other instrument made, given or kept under the former Act is taken to be made, given or kept under this Act, subsection (1) does not prevent the application of this Act other than this Part in relation to that determination, approval, declaration, list or other instrument as it has effect because of this Part.

120 Approved authority

A determination in force immediately before 1 January 2001 for the purposes of any of the following provisions of the former Act:

(a) paragraph 31(a);
(b) paragraph 35(a);
(c) subsection 38(2);
(d) paragraph (a) of the definition of approved authority in Schedule 9;

is taken to be a determination made by the Minister for the purposes of section 9 of this Act.

121 Levels of education

A determination made by the relevant Minister under section 4 of the former Act and in force immediately before 1 January 2001 is taken to be a determination made by the Minister under section 6 of this Act.

122 Previous list of non-government schools

(1) The list that was kept by the relevant Minister immediately before 1 January 2001 under subsection 24(1) of the former Act (apart from any matters included in that list because of paragraph 24(3)(f)) is taken to be the list of non-government schools kept by the Minister under subsection 33(1) of this Act.
Part 16 Transitional provisions

Section 123

(2) A determination made by the Minister for the purposes of subsection 24(2) of the former Act and in force immediately before 1 January 2001 is taken to be a determination made by the Minister for the purposes of subsection 33(2) of this Act.

(3) An approved authority that is taken (because of section 120) to have been determined by the Minister under section 9 of this Act as the approved authority of an approved school system, or of a non-systemic school, is taken to be included in the list of non-government schools as a matter mentioned in paragraph 33(3)(c) or (d) for the appropriate system or school.

123 Previous list of approved school systems

(1) The list that was kept by the relevant Minister immediately before 1 January 2001 under subsection 26(1) of the former Act (apart from the funding level within the meaning of the former Act) is taken to be the list of approved school systems kept by the Minister under subsection 34(1) of this Act.

(2) A determination made by the Minister for the purposes of subsection 26(2) of the former Act and in force immediately before 1 January 2001 is taken to be a determination made by the Minister for the purposes of subsection 34(2) of this Act.

124 Overseas students

A determination made by the relevant Minister for the purposes of the definition of overseas student in Schedule 9 to the former Act and in force immediately before 1 January 2001 is taken to be a determination made by the Minister for the purposes of the definition of overseas student in subsection 52(2) of this Act.

125 Funding levels of existing non-systemic schools

(1) This section applies to a non-systemic school included in the list of non-government schools because of subsection 122(1) if the Minister has determined an SES score for the school. However, this section does not apply to a school that is covered by section 128 or 129.

Note: Section 128 deals with special schools (except schools in approved Catholic systems). Section 129 deals with certain new schools.
(2) The Minister must vary the list by setting out the school’s SES funding level for the school’s SES score as the funding level of the school if:
   (a) the school’s SES primary amount (if any) is more than the school’s year 2000 primary amount (if any); and
   (b) the school’s SES secondary amount (if any) is more than the school’s year 2000 secondary amount (if any).

(3) The Minister must vary the list by setting out the school’s year 2000 funding level as the funding level of the school if:
   (a) the school’s year 2000 primary amount (if any) is more than the school’s SES primary amount (if any); and
   (b) the school’s year 2000 secondary amount (if any) is more than the school’s SES secondary amount (if any).

(4) If neither of subsections (2) and (3) applies, the Minister must vary the list by setting out the school’s year 2000 funding level as the funding level of the school if the school’s total year 2000 funding amount is more than, or equal to, the school’s total SES funding amount.

(5) If none of subsections (2), (3) and (4) applies, the Minister must vary the list by setting out the school’s SES funding level for the school’s SES score as the funding level of the school if the school’s total SES funding amount is more than the school’s total year 2000 funding amount.

(6) A variation under this section takes effect on 1 January 2001.

126 Funding levels of existing systemic schools

(1) This section applies to each systemic school in an approved school system that is included in the list of approved school systems because of subsection 123(1) if the Minister has determined an SES score for the school. However, this section does not apply to:
   (a) a school in an approved Catholic school system; or
   (b) a school that is covered by section 128.

Note: Section 128 deals with special schools (except schools in approved Catholic systems).

(2) The Minister must vary the list by setting out the school’s SES funding level for the school’s SES score as the funding level of the school if:
Section 127

(a) the school’s SES primary amount (if any) is more than the school’s year 2000 primary amount (if any); and
(b) the school’s SES secondary amount (if any) is more than the year 2000 secondary amount (if any) that applied to the system.

(3) The Minister must vary the list by setting out the year 2000 funding level that applied to the system as the funding level of the school if:
   (a) the school’s year 2000 primary amount (if any) is more than the school’s SES primary amount; and
   (b) the school’s year 2000 secondary amount (if any) is more than the school’s SES secondary amount.

(4) If neither of subsections (2) and (3) applies, the Minister must vary the list by setting out the school’s year 2000 funding level as the funding level of the school if the school’s total year 2000 funding amount is more than, or equal to, the school’s total SES funding amount.

(5) If none of subsections (2), (3) and (4) applies, the Minister must vary the list by setting out the school’s SES funding level for the school’s SES score as the funding level of the school if the school’s total SES funding amount is more than the school’s total year 2000 funding amount.

(6) A variation under this section takes effect on 1 January 2001.

127 Funding levels of approved Catholic school systems

(1) This section applies to each approved Catholic school system that is included in the list of approved school systems because of subsection 123(1).

(2) The Minister must vary the list to set out the following as the funding level of the system:
   (a) 56.2% of AGSRC in the table in each of Parts 1 and 2 of Schedule 4 that applies to the system;
   (b) if the system is in the Australian Capital Territory—51.2% of AGSRC in the table in each of Parts 1 and 2 of Schedule 4 that applies to the system.

(3) A variation under this section takes effect on 1 January 2001.
128 Funding levels of existing special schools (except schools in approved Catholic school systems)

(1) This section applies to each special school that is a non-systemic school and that is included in the list of non-government schools because of subsection 122(1).

(2) This section also applies to each special school that is a systemic school in an approved school system (except an approved Catholic school system) that is included in the list of approved school systems because of subsection 123(1).

(3) The Minister must vary the list to set out as the school’s funding level an SES funding level of 70.0% of AGSRC.

(4) A variation under this section takes effect on 1 January 2001.

129 Funding levels of certain new schools

(1) This section applies to each non-systemic school (other than a special school):
   (a) that is included in the list of non-government schools because of subsection 122(1); and
   (b) that was covered by an application for a new school proposal (within the meaning of the former Act):
      (i) that was made after 11 May 1999 under that Act; and
      (ii) in relation to which the Minister varied the list (within the meaning of that Act) with effect from a day in the 1999 or 2000 program year (within the meaning of that Act); and
   (c) for which the Minister has determined an SES score.

(2) The Minister must vary the list to set out the SES funding level for the school’s SES score as the funding level of the school.

(3) A variation under this section takes effect on 1 January 2001.

130 Once only operation

(1) Sections 125, 126, 127, 128 and 129 require the Minister to vary a list kept under this Act only once in relation to each school or approved school system.
Section 130

(2) Sections 125, 126 and 129 operate in relation to the SES score first determined by the Minister for the school.

(3) This section does not prevent the Minister varying the list of non-government schools for the purposes of section 110.
### Schedule 1—Average Government School Recurrent Costs (AGSRC)

**Note:** See the definitions of *AGSRC* in subsection 4(1).

<table>
<thead>
<tr>
<th>AGSRC amounts</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of education</td>
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<td>2002 program year</td>
<td>2003 program year</td>
<td>2004 program year</td>
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<td>($5,056)</td>
<td>($5,056)</td>
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**Note:** The operation of section 102 may affect the amounts in this Schedule.
### Schedule 2—General recurrent grants for government schools

Note: See section 53.

<table>
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<tr>
<th>Level of education</th>
<th>Column 1 Funding entitlement (% of AGSRC)</th>
<th>Column 2 2001 program year ($)</th>
<th>Column 3 2002 program year ($)</th>
<th>Column 4 2003 program year ($)</th>
<th>Column 5 2004 program year ($)</th>
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</thead>
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<td>Primary education</td>
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Note: The operation of sections 102, 103 and 104 may affect the amounts in columns 3, 4, 5 and 6.
Schedule 3—Capital grants for government schools

Note: See section 54.

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<tr>
<th>Column 1</th>
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<td>Program year</td>
<td>Amount of grants ($’000)</td>
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<td>2007</td>
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Note: The operation of section 106 may affect the amount of the grants.
Schedule 4—General recurrent grants for non-government schools

Note: See subsection 4(1) and sections 59, 60, 61, 62, 63, 72, 125, 126, 127, 128 and 129.

Part 1—SES funding for primary education

<table>
<thead>
<tr>
<th>SES score</th>
<th>SES funding level (% of AGSRC)</th>
<th>Column 2 Amount for 2001 program year ($)</th>
<th>Column 3 Amount for 2002 program year ($)</th>
<th>Column 4 Amount for 2003 program year ($)</th>
<th>Column 5 Amount for 2004 program year ($)</th>
<th>Column 6 Amount for 2004 program year ($)</th>
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<tr>
<td>130 or greater</td>
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### SES funding for primary education

<table>
<thead>
<tr>
<th>SES score</th>
<th>SES funding level (% of AGSRC)</th>
<th>SES funding level</th>
<th>Amount for 2001 program year ($)</th>
<th>Amount for 2002 program year ($)</th>
<th>Amount for 2003 program year ($)</th>
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Note: The operation of sections 102 and 103 may affect the amounts in columns 3, 4, 5 and 6.
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Note: The operation of sections 102 and 103 may affect the amounts in columns 2, 3, 4 and 5.
## Part 4—Year 2000 funding for secondary education

<table>
<thead>
<tr>
<th>Year 2000 funding level (% of AGSRC)</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amount for 2001 program year ($)</td>
<td>Amount for 2002 program year ($)</td>
<td>Amount for 2003 program year ($)</td>
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Note: The operation of sections 102 and 104 may affect the amounts in columns 2, 3, 4 and 5.
Schedule 5—Capital grants for non-government schools

Note: See section 73.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
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</thead>
<tbody>
<tr>
<td>Program year</td>
<td>Amount of grants ($'000)</td>
</tr>
<tr>
<td>2001</td>
<td>87,401</td>
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<td>2002</td>
<td>87,401</td>
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<td>2005</td>
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<tr>
<td>2007</td>
<td>87,400</td>
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Note: The operation of section 106 may affect the amount of the grants.
Schedule 6—Grants of transitional emergency assistance for non-government schools

Note: See section 74.

<table>
<thead>
<tr>
<th>Grants of transitional emergency assistance</th>
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</thead>
<tbody>
<tr>
<td>Column 1 Program year</td>
<td>Column 2 Amount of grants ($’000)</td>
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<td>2001</td>
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<td>2002</td>
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<td>2004</td>
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Note: The operation of section 105 may affect the amount of the grants.
## Schedule 8—Grants for targeted assistance

Note: See sections 76 to 100.

### Part 1—Grants for targeted assistance

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
<th>Column 4</th>
<th>Column 5</th>
<th>Column 6</th>
<th>Column 7</th>
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</thead>
<tbody>
<tr>
<td><strong>Program year</strong></td>
<td><strong>Grants for strategic assistance ($'000)</strong></td>
<td><strong>Grants for education in country areas ($'000)</strong></td>
<td><strong>Grants to foster literacy and numeracy ($'000)</strong></td>
<td><strong>Grants for special education at non-gov’t centres ($'000)</strong></td>
<td><strong>Grants to foster learning of languages other than English ($'000)</strong></td>
<td><strong>Grants to foster the learning of Asian languages and studies of Asia ($'000)</strong></td>
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<tr>
<td>2001</td>
<td>290,788</td>
<td>20,092</td>
<td>8,596</td>
<td>24,307</td>
<td>19,611</td>
<td>28,605</td>
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<tr>
<td>2002</td>
<td>290,788</td>
<td>20,092</td>
<td>7,452</td>
<td>24,307</td>
<td>19,611</td>
<td>27,565</td>
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<td>290,788</td>
<td>20,092</td>
<td>7,750</td>
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<td>19,611</td>
<td>Nil</td>
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<td>19,611</td>
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Note: The operation of section 105 may affect the amount of the grants.
## Part 2—Strategic assistance amounts

<table>
<thead>
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<th>Column 1</th>
<th>Column 2</th>
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<tr>
<td>Program year</td>
<td>Government schools ($)</td>
<td>Non-government schools ($)</td>
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<tr>
<td>2001</td>
<td>110</td>
<td>561</td>
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<tr>
<td>2002</td>
<td>110</td>
<td>561</td>
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<td>2004</td>
<td>110</td>
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Note: The operation of section 105 may affect the amount of the grants.
### ESL new arrivals amount

<table>
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<th>Column 1</th>
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<td>Amount ($)</td>
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<tr>
<td>2004</td>
<td>3,810</td>
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</tbody>
</table>

Note: The operation of section 105 may affect the amount of the grants.
Notes to the States Grants (Primary and Secondary Education Assistance) Act 2000

Table of Acts

Notes to the States Grants (Primary and Secondary Education Assistance) Act 2000

Note 1

The States Grants (Primary and Secondary Education Assistance) Act 2000 as shown in this compilation comprises Act No. 148, 2000 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

Table of Acts

<table>
<thead>
<tr>
<th>Act</th>
<th>Number and year</th>
<th>Date of Assent</th>
<th>Date of commencement</th>
<th>Application, saving or transitional provisions</th>
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</table>
### Table of Amendments

<table>
<thead>
<tr>
<th>Provision affected</th>
<th>How affected</th>
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<td>Ss. 59–61</td>
<td>am. No. 137, 2004</td>
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<tr>
<td><strong>Division 5</strong></td>
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<td>S. 75</td>
<td>rs. No. 14, 2002</td>
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<td>S. 75A</td>
<td>ad. No. 14, 2002</td>
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<td>am. No. 14, 2002</td>
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<td>Schedule 7</td>
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<td>Schedule 8</td>
<td>am. No. 110, 2001; No. 145, 2003; No. 137, 2004; No. 29, 2006</td>
</tr>
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</table>
Table A

Application, saving or transitional provisions

*States Grants (Primary and Secondary Education Assistance) Amendment Act 2002* (No. 14, 2002)

Schedule 1

5 Definitions

In this Part:

- commencement means the commencement of this Act.
- new Act means the *States Grants (Primary and Secondary Education Assistance) Act 2000* after it is amended by this Act.
- old Act means the *States Grants (Primary and Secondary Education Assistance) Act 2000* before it was amended by this Act.

6 2001 program year

(1) This item applies if, before commencement, the Minister determined an amount (the first amount) in relation to a school for the 2001 program year under section 75 of the old Act.

(2) After commencement, the Minister may determine an additional amount in relation to the school for the 2001 program year under section 75 of the new Act.

(3) However, the additional amount must not exceed the amount that remains after subtracting the first amount from the maximum amount under subsection 75(5) or (6) of the new Act in relation to the school for the 2001 program year.

7 2002 program year

(1) This item applies if, before commencement, the Minister determined an amount (the first amount) in relation to a school for the 2002 program year under section 75 of the old Act.

(2) After commencement, the Minister may determine an additional amount in relation to the school for the 2002 program year under section 75 of the new Act.
(3) However, the additional amount must not exceed the amount that remains after subtracting the first amount from the maximum amount under subsection 75(5) or (6) of the new Act in relation to the school for the 2002 program year.