Australian Education Amendment Bill 2017

No. , 2017

(Education and Training)

A Bill for an Act to amend the Australian Education Act 2013, and for related purposes
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A Bill for an Act to amend the *Australian Education Act 2013*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Australian Education Amendment Act 2017*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
### Commencement information

<table>
<thead>
<tr>
<th>Provisions</th>
<th>Commencement</th>
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<tbody>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1, items 1 to 108</td>
<td>1 January 2018.</td>
<td>1 January 2018</td>
</tr>
<tr>
<td>3. Schedule 1, item 109</td>
<td>The day this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>4. Schedule 1, items 110 to 176</td>
<td>1 January 2018.</td>
<td>1 January 2018</td>
</tr>
</tbody>
</table>

**Note:** This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Part 1—Funding for schools

Australian Education Act 2013

1 Section 6 (definition of Commonwealth share)
   Repeal the definition, substitute:
   
   Commonwealth share:
   (a) for a school not covered by paragraph (b)—has the meaning given by section 35A; and
   (b) for a transitioning school for a transition year—has the meaning given by subsection 35B(1).

2 Section 6 (definition of low socioeconomic status student loading)
   Repeal the definition.

3 Section 6 (definition of SES score)
   Omit “52(2) or (3)”, substitute “52(1).

4 Section 6
   Insert:
   
   socio-educational disadvantage loading has the meaning given by subsection 38(1).

5 Section 6
   Insert:
   
   SRS indexation factor, for a year, means the SRS indexation factor worked out in accordance with, or prescribed under, section 11A.

6 Section 6
   Insert:
   
   transitioning school means:
(a) a school for which financial assistance was payable under Part 3 or 4 of this Act for 2017; or
(b) a school prescribed by the regulations.

_transition year_ means a year from 2018 to 2027 (inclusive).

7 After subsection 9(6A)

Insert:

(6B) A payment is an _overpayment_ under this Act if:

(a) the Commonwealth makes the payment to a State or Territory for a school for a year as a result of a determination made under paragraph 29(1)(ab); and

(b) the total of the amount of the payment, and any previous payments made, as a result of the determination, to the State or Territory for the school for the year, exceeds the amount determined for the school for the year under section 69B.

8 After section 11

Insert:

11A Definition of SRS indexation factor

(1) The _SRS indexation factor_ for a year is the higher of the following:

(a) 1.03;

(b) the number worked out under subsection (2) for the year.

(2) The number is worked out using the following formula:

\[
\left(0.75 \times \frac{\text{Wage index number for the reference quarter}}{\text{Wage index number for the base quarter}}\right) + \left(0.25 \times \frac{\text{Consumer index number for the reference quarter}}{\text{Consumer index number for the base quarter}}\right)
\]

where:

_base quarter_ means the June quarter in the previous year.

_consumer index number_, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the
8 capital cities) published by the Australian Statistician for that quarter.

*reference quarter* means the June quarter in the year.

*wage index number*, for a quarter, means the Wage Price Index (total hourly rates of pay excluding bonuses/all sectors/all Australia/original) number published by the Australian Statistician for that quarter.

(3) An SRS indexation factor worked out under subsection (2) is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

(4) Calculations under subsection (2):

(a) are to be made using only the index numbers published in terms of the most recently published index reference period; and

(b) are to be made disregarding index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

(5) The regulations may prescribe the *SRS indexation factor* for a year.

(6) If the regulations prescribe the SRS indexation factor for a year, subsections (1) to (4) do not apply in relation to the year.

(7) Amounts worked out using an SRS indexation factor are to be rounded to the nearest whole dollar (rounding 50 cents upwards).

9 *After paragraph 29(1)(aa)*

Insert:

(ab) an amount or amounts of payments of financial assistance that have been determined under section 69B (transition adjustment funding) to be payable to a State or Territory for a year for a school that is located in the State or Territory; and

10 *Paragraph 29(1)(b)*

Omit “and (aa)”, substitute “to (ab)”.

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No. 2, 2017

Australian Education Amendment Bill 2017 5
11 **Section 32 (formula)**  
Repeal the formula, substitute:

\[
\frac{\text{The school's base amount for the year}}{\text{The school's total loading for the year}} \times \text{The Commonwealth share for the school for the year}
\]

12 **Paragraph 34(1)(a)**  

13 **Paragraph 34(2)(a)**  

14 **Subsection 34(3) (formula)**  
Repeal the formula, substitute:

\[
\text{The SRS funding amount for SRS indexation factor such a student for the year for the previous year} \times \text{SRS indexation factor for the year}
\]

15 **Paragraph 35(c)**  
Omit “low socioeconomic status student”, substitute “socio-educational disadvantage”.

16 **After section 35**  
Insert:

**35A Commonwealth share**  
Unless the regulations prescribe otherwise, the *Commonwealth share* for a school for a year (subject to section 35B) is:

(a) for a government school—20%; and  
(b) for a non-government school—80%.

**35B Commonwealth share for transitioning schools**  

(1) The *Commonwealth share* for a transitioning school for a transition year is the percentage worked out using the following formula:
(2) Unless the regulations prescribe otherwise, the starting Commonwealth share is the amount worked out using the following formula (expressed as a percentage):

\[
\text{Starting Commonwealth share} = \left( \frac{\text{Final Commonwealth share} - \text{Starting Commonwealth share}}{\text{Transition rate}} \right) + \text{Starting Commonwealth share}
\]

(3) The 2017 recurrent funding for the relevant approved authority is:

(a) if financial assistance was payable under Division 2 of Part 3 for schools of the relevant approved authority for 2017—the sum of the total entitlements for those schools for that year; or

(b) if financial assistance was payable under Division 5 of Part 3, or under Part 4, for schools of the relevant approved authority for 2017—the relevant approved authority’s total entitlement for that year.

(4) The adjusted SRS amount for the relevant approved authority is the sum of the amounts of financial assistance that would be payable under Division 2 of Part 3 for the schools of the relevant approved authority for 2017 if:

(a) Division 2 of Part 3 as in force immediately before the commencement of this paragraph applied for the purposes of working out those amounts; and

(b) Divisions 3 and 4 of Part 3 as in force immediately after the commencement of this paragraph applied in relation to 2017; and

(c) the Commonwealth share were 100%.

(5) The relevant approved authority is:

(a) for a school for which financial assistance was payable under Part 3 or 4 of this Act for 2017—the authority that was the approved authority for the transitioning school immediately before the commencement of this subsection; and
(b) for a school prescribed as a transitioning school by the regulations—the authority prescribed by the regulations.

(6) The final Commonwealth share is:
(a) unless a percentage is prescribed under paragraph (b)—the percentage that would be the Commonwealth share if the school was not a transitioning school; or
(b) the percentage prescribed by the regulations.

Note: For paragraph (a), see section 35A.

(7) Unless the regulations otherwise provide, the transition rate:
(a) for the transition year 2018 is 10%; and
(b) for each later transition year is the transition rate for the previous transition year increased by 10 percentage points.

(8) The regulations may prescribe a transition rate for a transition year that is:
(a) more than the rate that would apply for the year under subsection (7) if no regulations had been made for the purposes of this subsection; and
(b) no more than 100%.

17 Section 36
Repeal the section, substitute:

36 Student with disability loading

(1) A school’s student with disability loading for a year is the sum of the following:
(a) the school’s supplementary disability loading for the year;
(b) the school’s substantial disability loading for the year;
(c) the school’s extensive disability loading for the year.

(2) The school’s supplementary disability loading for the year is the amount worked out using the following formula:

\[
\text{Supplementary Disability Loading} = \text{The SRS} \times \frac{\text{The number of students classified as needing a supplementary level of adjustment}}{\text{The number of students classified as needing a supplementary level of adjustment}}
\]
(3) The school’s **substantial disability loading** for the year is the amount worked out using the following formula:

\[ \text{The substantial disability loading percentage} \times \left( \frac{\text{The SRS funding amount for the year for a student at the school}}{\text{The number of students classified as needing a substantial level of adjustment}} \right) \]

(4) The school’s **extensive disability loading** for the year is the amount worked out using the following formula:

\[ \text{The extensive disability loading percentage} \times \left( \frac{\text{The SRS funding amount for the year for a student at the school}}{\text{The number of students classified as needing an extensive level of adjustment}} \right) \]

(5) The **supplementary disability loading percentage**, the **substantial disability loading percentage** and the **extensive disability loading percentage** are those percentages as prescribed for the school for the year by the regulations.

(6) The number of students classified as needing a **supplementary level of adjustment**, a **substantial level of adjustment** or an **extensive level of adjustment** are the numbers of those students, so classified in accordance with the regulations, at the school for the year.

18 **Section 38 (heading)**

Repeal the heading, substitute:

38 Socio-educational disadvantage loading

19 **Subsection 38(1)**

Omit “**low socioeconomic status student**”, substitute “**socio-educational disadvantage**”.

20 **Paragraph 44(1)(a)**

Omit “2014—$150,000”, substitute “2018—$172,728”.

21 **Paragraph 44(1)(b)**

Omit “2014—$240,000”, substitute “2018—$276,365”.
22 Subsection 44(2)
   Omit “after 2014”.

23 Subsection 44(2) (formula)
   Repeal the formula, substitute:
   \[ \text{The school's maximum size loading} \times \text{SRS indexation factor} \]
   for the year
   \[ \text{for the previous year} \]

24 Subsection 44(3)
   Repeal the subsection.

25 Paragraph 49(1)(a)
   Omit “2014—$10,000”, substitute “2018—$11,515”.

26 Paragraph 49(1)(b)
   Omit “2014—$20,000”, substitute “2018—$23,030”.

27 Subsection 49(2) (formula)
   Repeal the formula, substitute:
   \[ \text{The school's starting amount} \times \text{SRS indexation factor} \]
   for the year
   \[ \text{for the previous year} \]

28 Subsection 49(3)
   Repeal the subsection.

29 Subsection 52(1)
   Omit “each participating school’s SES score”, substitute “the SES score for a school”.

30 Subsection 52(2)
   Repeal the subsection.

31 Subsection 52(3)
   Repeal the subsection (not including the note).

32 Subsections 52(4) and (5)
   Omit “subsection (3)”, substitute “subsection (1)”.

10 Australian Education Amendment Bill 2017 No., 2017
33 Subsection 53(1)
Omit “52(2) or (3)”, substitute “52(1)”.

34 Subsection 53(2)
Omit “52(3)”, substitute “52(1)”.

35 Subsection 53(4)
Repeal the subsection.

36 Subsection 54(3) (table)
Repeal the table, substitute:

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<tr>
<th>Item</th>
<th>Capacity to contribute percentage</th>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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Schedule 1  Amendments
Part 1  Funding for schools

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<td>125 or higher</td>
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<td>80.00</td>
</tr>
</tbody>
</table>

37  Subsection 68(4)
   Omit “indexes”.

38  Paragraph 68(4)(a)
   Omit “an index of building prices”, insert “indexes of building prices and wage costs”.

39  Paragraph 68(4)(b)
   Repeal the paragraph, substitute:
   (b) student enrolment in non-government schools.

40  At the end of Division 3 of Part 5
   Add:

69B  Transition adjustment funding
   (1) The Minister may, in writing, determine an amount of financial assistance that is payable under this section to a State or Territory
for a transitioning school for a transition year if the Minister is satisfied that prescribed circumstances apply in relation to the school for that year.

Note: The regulations may prescribe matters that the Minister may or must have regard to in making a decision under this subsection (see paragraph 130(2)(b)).

(2) The regulations may do either or both of the following:
   (a) prescribe an amount payable for a school for a year under a determination under subsection (1) or prescribe a method for working out that amount;
   (b) prescribe a maximum amount that is payable for a school for a year under a determination under subsection (1) or prescribe a method for working out that maximum amount.

(3) The regulations may prescribe different amounts, or different methods for working out amounts, for different circumstances.

(4) The total of the amounts that the Minister determines under subsection (1) for a year in relation to particular prescribed circumstances must not exceed the amount:
   (a) prescribed by the regulations; or
   (b) worked out in accordance with a method prescribed by the regulations.

(5) A determination under subsection (1) is not a legislative instrument.

41 Subsection 118(1) (table item 4)
Omit “52(3)”, substitute “52(1)”.

42 Paragraph 129(2)(a)
Repeal the paragraph.

43 Transitional provision—Saving SES scores
Despite the amendment of sections 52 and 53 of the Australian Education Act 2013 (the Act) by this Schedule, an SES score in effect for a school immediately before the commencement of this item continues in effect for the school until the Minister determines another SES score for the school under subsection 52(1) of the Act.
44 Transitional provision—funding for previous years

The *Australian Education Act 2013* as in force immediately before the commencement of this item continues to apply in relation to financial assistance for years before 2018.
Part 2—Other policy changes

*Australian Education Act 2013*

45 Preamble

Repeal the preamble, substitute:

Preamble

The Parliament of Australia acknowledges the following matters.

Education is the foundation of a skilled workforce and a creative community. A strong and sustainable schooling system is critical for Australia’s future prosperity. A good education prepares students for full participation in society, both in employment and in civic life. Education also has a role to play in overcoming social and economic disadvantage.

If Australia is to be a prosperous nation with a high standard of living in the 21st Century, our schooling system must provide children with the skills needed to participate fully in a knowledge-based economy. The performance of Australia’s schools, and school students, must continuously improve; our capacity to innovate, to embrace change and to seize new opportunities will depend more and more on the education and skills of our community.

There is an ongoing and essential role for the Commonwealth in school education through its unique position to provide national policy leadership and facilitate national performance assessment and reporting. Transparency and accountability ensure public confidence in the education system and promote excellence in teaching and school leadership.

The Commonwealth will deliver record and growing levels of investment in schools. To help education authorities provide every child with a quality education, regardless of where they live and what school they attend, this investment will be fairly and transparently distributed and allocated according to need.
In its role as a national policy leader, the Australian Government will work collaboratively with States and Territories to achieve agreed national objectives and priorities for schools through the Council of Australian Governments and the Education Council.

To drive improvement in school outcomes, State and Territory education authorities will be required to deliver evidence-based reforms in schools.

46 Section 3
Repeal the section, substitute:

3 Objects of this Act

The objects of this Act are:
(a) to provide a Commonwealth needs-based funding model for school education that:
   (i) includes a base amount of funding for every student and loadings for students and schools who need extra support; and
   (ii) is affordable, simple, predictable and fair; and
   (iii) invests in evidence-based reforms that will improve student outcomes; and
(b) to support the objectives of intergovernmental agreements on school education.

47 Section 4
Repeal the section, substitute:

4 Guide to this Act

This Act provides Commonwealth financial assistance for schools. The financial assistance is provided to States under section 96 of the Constitution, and to Territories under section 122 of the Constitution. The Act imposes requirements on States and Territories as conditions of this financial assistance, including requirements to comply with intergovernmental agreements on school education, and to implement nationally-agreed policy initiatives on school education.
Each school has an approved authority, which is approved by the Minister. For a government school located in a State or Territory, the approved authority is the State or Territory. For a non-government school, the approved authority is a body corporate that is approved by the Minister for the school.

Financial assistance is provided directly to a State or Territory for its government schools. Financial assistance for a non-government school located in a State or Territory is provided to the State or Territory which must give it to the approved authority for the school.

The amount of financial assistance that a school attracts for a year is worked out using the formula in Division 2 of Part 3. The financial assistance consists of a base amount for all schools, plus loadings for schools with students with greater needs. The base amount and most of the loadings are worked out by reference to an amount per student called the SRS funding amount. (SRS is short for schooling resource standard.)

The formula produces the Commonwealth share of a total amount of funding. Not all schools will attract the final Commonwealth share immediately. Most schools (called transitioning schools) will move to that share over a period of 10 transition years.

The Minister can determine other kinds of funding for any school under Part 5. The Minister can determine capital funding for non-government schools, which is ultimately provided to capital grants authorities and block grant authorities. The Minister can determine funding for schools in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to schools. In addition, the Minister can determine additional adjustment funding for transitioning schools for transition years, in accordance with the regulations.

The Minister can also determine funding for non-government representative bodies for non-government schools. Non-government representative bodies are bodies that represent approved authorities for non-government schools. A block grant authority or non-government representative body is approved by the Minister.
The Minister may require an amount to be repaid, reduce an amount that would otherwise be payable, or delay making a payment, if an amount is owed to the Commonwealth under this Act (or other similar Acts) or there is a failure to comply with particular requirements.

48 Section 6
Repeal the following definitions:
(a) definition of *highly equitable*;
(b) definition of *implementation plan*;
(c) definition of *National Education Reform Agreement*;
(d) definition of *new approved authority*;
(e) definition of *new Commonwealth per student amount*;
(f) definition of *new per student amount*;
(g) definition of *non-participating school*;
(h) definition of *non-participating States and Territories*;
(i) definition of *old Commonwealth per student amount*;
(j) definition of *old per student amount*;
(k) definition of *participating government school*;
(l) definition of *participating school*;
(m) definition of *participating State or Territory*;
(n) definition of *relevant arrangement*.

49 Section 6 (note 2 at the end of the definition of school)
Omit “funding for participating”, substitute “recurrent funding for”.

50 Section 6 (definition of total entitlement)
Omit “subsections 12(1) to (3)”, substitute “section 12”.

51 Section 6 (definition of transition school)
Repeal the definition.

52 Subsection 9(1) (heading)
Repeal the heading, substitute:
Recurrent funding

53 Paragraph 9(1)(a)
Omit “participating”.

54 Subsections 9(2) and (3)
Repeal the subsections.

55 Subsections 12(1) to (3)
Repeal the subsections, substitute:

A school’s total entitlement for a year is the amount payable to a State or Territory under Division 2 of Part 3 for the school for the year.

Note: In some circumstances, section 27 may affect a school’s total entitlement.

56 Section 14
Repeal the section.

57 Paragraph 21(a)
Omit “(recurrent funding) for a participating”, substitute “(funding formula for schools) for a”.

58 Paragraphs 21(b) and (c)
Repeal the paragraphs.

59 Section 22
Repeal the section, substitute:

22 Conditions of financial assistance—implementing national policy initiatives and agreements relating to school education

(1) A payment of financial assistance under this Act to a State or Territory is subject to the condition that the State or Territory implements national policy initiatives for school education:

(a) agreed by the Ministerial Council from time to time; or
(b) prescribed by the regulations.
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Note: Before regulations are made for the purposes of this subsection, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council (see subsection 130(5)).

(2) A payment of financial assistance under this Act to a State or Territory is also subject to the following conditions:
   (a) that the State or Territory is party to a national agreement relating to school education reform;
   (b) that the State or Territory is party to an agreement with the Commonwealth relating to implementation by the State or Territory of school education reform;
   (c) that the State or Territory complies with the agreements mentioned in paragraphs (a) and (b).

(3) The regulations may prescribe agreements for the purposes of paragraphs (2)(a) and (b).

60 After section 22

Insert:

22A Conditions of financial assistance—maintaining State and Territory contributions

A payment of financial assistance under this Act to a State or Territory is subject to the condition that the State or Territory maintains funding levels for school education in accordance with the regulations.

61 Paragraph 23(1)(a)

Omit “recurrent funding for participating schools”, substitute “funding formula for schools”.

62 Paragraphs 23(1)(b) and (2)(b)

Repeal the paragraphs.

63 Paragraph 25(1)(a)

Omit “(recurrent funding for participating schools) to a State or Territory for a year for a participating”, substitute “(funding formula for schools) to a State or Territory for a year for a”.

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64 Paragraphs 25(1)(b) and (c)  
Repeal the paragraphs.

65 Paragraph 25(1)(d)  
Omit “referred to in paragraphs (a) to (c)”.

66 Subsection 26(1)  
Omit “participating”.

67 Subsections 26(2) to (4)  
Repeal the subsections, substitute:

(4) The Minister must, in writing, determine an amount that the Minister is satisfied is the total entitlement for a school covered by Division 2 of Part 3 (funding formula for schools).  
Note: A decision under this subsection is a reviewable decision (see Division 3 of Part 9).

68 Subsection 27(1)  
Omit “participating school, or an approved authority for a participating school,”, substitute “school”.

69 Part 3 (heading)  
Repeal the heading, substitute:

Part 3—Recurrent funding for schools

70 Division 1 of Part 3 (heading)  
Repeal the heading, substitute:

Division 1—Preliminary

71 Section 31  
Repeal the section, substitute:
31 Guide to this Part

Financial assistance for schools is payable by the Commonwealth each year, based on a formula in Division 2 of this Part. The formula produces the Commonwealth share of a total amount of funding. Most schools (called transitioning schools) will move to that share over a period of 10 transition years.

All schools are entitled to a base amount of funding for every student. Students and schools who need extra support will also attract additional loadings.

The base amount, and most of the loadings, are worked out by reference to an amount per student called the SRS funding amount. (SRS is short for schooling resource standard). There is a different SRS funding amount for primary and secondary students, which is indexed yearly.

The base amount for a school for a year reflects:
(a) the number of students at the school for the year; and
(b) the SRS funding amount for the year for a student at the school; and
(c) the capacity of the school’s community to contribute financially to the school.

The following loadings are also provided:
(a) a loading for students with disability;
(b) a loading for Aboriginal and Torres Strait Islander students;
(c) a loading for socio-educational disadvantage;
(d) a loading for students who have low English proficiency;
(e) a loading for schools that are not in major cities;
(f) a loading for schools that are not large schools.

The loadings (except the size loading) are a percentage of the relevant SRS funding amount multiplied by the number of students at a school that qualify for that loading. The size loading provides an amount based on the total number of students at a school. Small
schools, and very small schools in very remote areas with a certain number of students, are entitled to the maximum size loading while large schools are not entitled to any size loading. All other schools are entitled to a proportion of the maximum size loading.

72 At the end of Division 1 of Part 3
Add:

31A Eligibility for funding under this Part

Financial assistance is not payable under this Part for a school unless:
(a) there is an approved authority for the school; and
(b) the approved authority is approved in relation to:
   (i) one or more locations of the school; and
   (ii) a level of education provided by the school at any of those locations.

73 Division 2 of Part 3 (heading)
Repeal the heading, substitute:

Division 2—The funding formula for schools

74 Section 32 (heading)
Repeal the heading, substitute:

32 The amount payable for a school

75 Section 32
Omit “participating”.

76 Section 32 (note 1)
Repeal the note.

77 Section 32 (note 2)
Omit “2”.

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Part 2 Other policy changes

78 Paragraph 56(a)
Omit “for a year for a participating school, as worked out under section 32”, substitute “under Division 2 of Part 3 for a school for a year”.

79 Division 5 of Part 3
Repeal the Division.

80 Part 4
Repeal the Part.

81 Section 66
Omit:

This Part provides additional discretionary funding for any school (whether the school is a participating school or not).

substitute:

This Part provides additional discretionary funding for schools.

82 Section 66
Omit:

The Minister may also determine that financial assistance is payable for a school in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to the school.

substitute:

The Minister may also determine that financial assistance is payable for a school in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to the school. In addition, the Minister can determine additional adjustment funding for transitioning schools for transition years, in accordance with the regulations.
83 **Subsection 73(4)**
Repeal the subsection.

84 **Paragraphs 77(2)(a), (d) and (e)**
Repeal the paragraphs.

85 **After subsection 77(2)**
Insert:

(2A) In addition, the ongoing policy requirements for an approved authority for the non-government schools for which the authority is approved include the following:

(a) the approved authority cooperates with the States and Territories in which the schools are located in implementing:
   (i) the national policy initiatives mentioned in subsection 22(1); and
   (ii) the agreements mentioned in paragraphs 22(2)(a) and (b); and

(b) the approved authority implements policy initiatives in accordance with the regulations.

86 **Paragraph 77(3)(d)**
Repeal the paragraph.

87 **Paragraph 78(2)(a)**
Omit “or 5 of Part 3 (recurrent funding for participating schools), Part 4 (recurrent funding for non-participating schools),”, substitute “of Part 3 (funding formula for schools)”.

88 **Paragraph 78(2)(b)**
Omit “, and with any implementation plan required by Part 7”.

89 **Subsection 78(3)**
Repeal the subsection, substitute:

(3) An ongoing funding requirement for an approved authority for more than one school is to distribute all financial assistance received in accordance with Division 2 of Part 3 in accordance
with a needs-based funding arrangement that complies with any requirements prescribed by the regulations.

90 **Paragraph 81(1)(d)**
    After “section 22”, insert “, 22A”.

91 **Subsection 81(6)**
    Repeal the subsection.

92 **Part 7**
    Repeal the Part.

93 **Paragraph 108(a)**
    After “section 22”, insert “or 22A”.

94 **Paragraph 110(2)(b)**
    Repeal the paragraph.

95 **Subsection 110(4)**
    Repeal the subsection.

96 **Paragraph 111(2)(b)**
    Repeal the paragraph.

97 **Paragraph 111(3)(a)**
    Omit “recurrent funding for participating schools”, substitute “funding formula for schools”.

98 **Paragraphs 111(3)(b) and (c)**
    Repeal the paragraphs.

99 **Subsection 118(1) (table item 3A)**
    Repeal the item.

100 **Subsection 118(1) (table item 24)**
    Repeal the item.
101 **Subsection 122(2)**
Repeal the subsection.

102 **Paragraph 126(a)**
Omit “recurrent funding for schools”, substitute “timing and amounts of recurrent funding”.

103 **Paragraphs 127(a) and (b)**
After “paid”, insert “for a school”.

104 **Subparagraph 127(c)(iv)**
Repeal the subparagraph.

105 **At the end of section 127**
Add:
(d) any other matter prescribed by the regulations.

106 **Section 128 (heading)**
Repeal the heading, substitute:

128 Review of, or for the purposes of, intergovernmental agreements

107 **Section 128**
Omit “the National Education Reform Agreement”, substitute “an agreement mentioned in paragraph 22(2)(a) or (b)”.

*Australian Education (Consequential and Transitional Provisions) Act 2013*

108 **Item 9 of Schedule 2**
Repeal the item.

109 **Transitional provision—regulations commencing on or after 1 January 2018**

(1) Paragraph 22(2)(b) of the *Australian Education Act 2013*, as in force at the commencement of this item, does not apply to regulations made for
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the purposes of section 22 of that Act that commence on or after 1 January 2018.

(2) Subsection 77(4) of the *Australian Education Act 2013*, as in force at the commencement of this item, does not apply to regulations made for the purposes of section 77 of that Act that commence on or after 1 January 2018.
Part 3—Miscellaneous technical amendments

Australian Education Act 2013

110 Section 6 (definition of census day)
Repeal the definition.

111 Section 6
Insert:

continuing requirement has the meaning given by subsection 96A(2).

112 Section 6 (definition of distance education)
Repeal the definition.

113 Section 6
Insert:

distance education student: a person is a distance education student at a school located in a State or Territory only if:
   (a) the person resides in the State or Territory; and
   (b) the State or Territory provides funding for the school (other than financial assistance provided to the State or Territory for the school in accordance with this Act) for students enrolled at the school who receive distance education (however described) from the school; and
   (c) the person is not approved as a home education student (however described) in accordance with the law of the State or Territory in which the person resides.

114 Section 6 (definition of primary education)
Repeal the definition, substitute:

primary education: see subsections 15(1) and (3).

115 Section 6 (definition of protected information)
Repeal the definition.
116 **Section 6 (definition of receives)**
Repeal the definition.

117 **Section 6 (paragraph (a) of the definition of relevant person)**
Repeal the paragraph, substitute:
(a) for a reviewable decision referred to in an item of the table in subsection 118(1)—the person referred to in column 3 of that item; and

118 **Section 6 (note 1 at the end of the definition of school)**
Omit “only distance education”, substitute “education to distance education students only”.

119 **Section 6**
Insert:

*school education information* means information obtained under or for the purposes of this Act.

120 **Section 6 (definition of secondary education)**
Repeal the definition, substitute:

*secondary education*: see subsections 15(1) and (3).

121 **Section 7**
Repeal the section.

122 **Paragraph 8(1)(b)**
Omit “students receiving primary education or secondary education at the school on the school’s census day for the previous year are”, substitute “primary and secondary students at the school for the previous year were”.

123 **Subsection 8(1) (note)**
Repeal the note, substitute:

Note: For the number of students at the school, see section 16.
124 **Paragraph 8(2)(b)**

Omit “students receiving primary education or secondary education at the school on the school’s census day for the previous year are”, substitute “primary and secondary students at the school for the previous year were”.

125 **Section 10**

Repeal the section.

126 **Subsections 15(1) and (3)**

Omit “primary education or secondary education”, substitute “primary education or secondary education”.

127 **Sections 16 and 17**

Repeal the sections, substitute:

16 **Working out the number of students at a school for a year**

(1) The regulations must prescribe a method for working out the number of students at a school for a year.

(2) A reference in this Act to the number of students at a school for a year is a reference to the number worked out in accordance with the regulations.

128 **Subsection 19(1)**

Omit “only by distance education”, substitute “to distance education students only”.

129 **Paragraph 25(2)(a)**

Omit “(including information from a census day of a previous year)”.

130 **Subsection 33(1) (note)**

Repeal the note, substitute:

Note: For the number of students at a school for a year, see section 16.

131 **Subsection 33(3)**

Omit “at which students receive distance education”, substitute “at which there are distance education students”.

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32 Australian Education Amendment Bill 2017 No. , 2017
142 Subsection 47(1) (note 2)
Repeal the note, substitute:

Note 2: For the number of students at a school for a year, see section 16.

143 Sections 48 and 51 (note)
Repeal the note, substitute:

Note: For the number of students at a school for a year, see section 16.

144 Subsections 54(2) and (3) (note)
Omit “students who receive distance education at the school”, substitute “distance education students”.

145 Subsection 77(4)
Repeal the subsection.

146 Subsections 81(4), 88(4) and 96(3)
Repeal the subsections.

147 At the end of Part 6
Add:

Division 5—Former approved authorities and bodies

96A Continuing requirements

(1) The regulations may prescribe continuing requirements that must be met by a person who was:

(a) an approved authority for a school; or
(b) a block grant authority for a school; or
(c) a non-government representative body for a school.

(2) A continuing requirement is a requirement that would or could be imposed on the person if the person were still the approved authority, block grant authority or non-government representative body for the school.

148 Section 108
After “This Division applies to a State or Territory if”, insert “the Minister is satisfied that”.
Schedule 1  Amendments
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149 At the end of section 108
Add:

; (h) a person who was an approved authority, a block grant
authority or a non-government representative body does not
comply, is not complying or has not complied with a
continuing requirement.

150 Subsections 109(1) and (2)
Omit “the Commonwealth makes”, substitute “the Minister is satisfied
that the Commonwealth has made”.

151 Subsections 109(3) and (4)
Omit “State or Territory if:”, substitute “State or Territory if the
Minister is satisfied that:.”.

152 Paragraph 109(4)(a)
Omit “is paid”, substitute “has been paid”.

153 Paragraph 109(4)(b)
Omit “is spent”, substitute “has been spent”.

154 Paragraph 109(4)(c)
Omit “ceases”, substitute “has ceased”.

155 Subsection 118(1)
Omit “of the decisions referred to in column 1 of the following table”,
substitute “decision of a kind referred to in column 1 of an item in the
following table made under the provision referred to in column 2 of the
item”.

156 Subsection 118(1) (table, heading to column 1)
Repeal the heading, substitute:

<table>
<thead>
<tr>
<th>Column 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision</td>
</tr>
</tbody>
</table>

157 Subsection 118(1) (table, heading to column 2)
Repeal the heading, substitute:
Column 2
Provision under which the decision is made

158 Subsection 118(1) (table item 1)
Repeal the item.

159 Subsection 120(1)
Omit all the words after “unless the decision”, substitute:

was made:
(a) by the Minister or Secretary personally; or
(b) under paragraph 81(1)(a), (b) or (d) or subsection 88(1) or 96(1).

160 Subsection 120(3)
Omit “Secretary must either”, substitute “reviewable decision must be reviewed by”.

161 Paragraph 120(3)(a)
Repeal the paragraph, substitute:

(a) the Secretary personally; or

162 Paragraph 120(3)(b)
Omit “cause the reviewable decision to be reviewed by a”, substitute “another”.

163 At the end of subsection 122(1)
Add:

; or (c) a reviewable decision made under paragraph 81(1)(a), (b) or (d) or subsection 88(1) or 96(1).

164 Subsection 122(3)
Omit “(1)(a) or (b)”, substitute “(1)(a), (b) or (c)”.

165 Section 125 (heading)
Repeal the heading, substitute:
125 Using, disclosing or publishing school education information

166 Paragraph 125(1)(a)
Omit “make a record of, use or disclose protected information (including protected information”, substitute “use or disclose school education information (including school education information”.

167 Paragraph 125(1)(b)
Omit “record, use or disclosure of protected information”, substitute “use or disclosure of school education information”.

168 Subsection 125(2)
Omit “protected information”, substitute “school education information”.

169 Paragraph 125(3)(a)
Omit “protected information”, substitute “school education information”.

170 Paragraph 125(3)(b)
Omit “protected information may be recorded,”, substitute “school education information may be”.

171 Paragraph 125(3)(c)
Omit “record, use or disclosure of protected information”, substitute “use or disclosure of school education information”.

172 Subsection 125(3) (note)
Omit “making records of, using or disclosing protected information”, substitute “using or disclosing school education information”.

173 Subsection 129(3)
Omit “an SES employee or acting SES employee”, substitute “an APS employee”.

174 Subparagraph 130(2)(a)(ii)
Repeal the subparagraph, substitute:
(ii) using or disclosing school education information;
175 **Subsection 130(5)**

Repeal the subsection, substitute:

*Requirement to consult Ministerial Council*

(5) Before the Governor-General makes one of the following, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council:

(a) a regulation for the purposes of:

   (i) subsection 22(1) (conditions of financial assistance—implementing national policy initiatives relating to school education); or

   (ii) section 22A (conditions of financial assistance—maintaining State and Territory contributions);

   (iii) section 24 (condition of financial assistance—recovering amounts);

(b) a regulation that will affect an approved authority for a government school for the purposes of:

   (i) section 77 (ongoing policy requirements for approved authorities); or

   (ii) section 78 (ongoing funding requirements for approved authorities).

176 **Transitional provision—review of decisions made before 1 January 2018**

Division 3 of Part 9 (review of decisions) of the *Australian Education Act 2013*, as in force immediately before the commencement of this item, continues to apply in relation to a decision made before that commencement.