

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 78

Indigenous Education (Targeted Assistance) Act 2000

Indigenous Education (Targeted Assistance) Amendment Regulation 2012 (No. 1)

Authority

The *Indigenous Education (Targeted Assistance) Act 2000* (the Act) provides for Commonwealth financial assistance to advance the education of Indigenous persons.

Section 18 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 14B of the Act sets out the appropriations for non-ABSTUDY payments for the period from 1 January 2009 to 30 June 2013. Non-ABSTUDY payments are payments (other than ABSTUDY payments) made for the purposes of the Act to organisations, institutions and individuals. Payments are made under a number of Indigenous education programs.

Subsection 14B(2) of the Act allows the making of regulations to increase the appropriations provided in section 14B by reference to changes in a specified index. The index specified for this purpose in the Regulation is the Wage Cost Index Number 1 (WCI1).

Purpose and operation

The purpose of the *Indigenous Education (Targeted Assistance) Amendment Regulation 2012* (the Regulation) is to make provision for an increase in the amounts that may be payable to organisations, institutions and individuals under section 14B of the Act in order to supplement the cost of delivering educational services to Indigenous students for the period 1 January 2011 to 30 June 2012 in line with changes in the WCI1. The WCI1 for 2011 is 1.6 %.

The Regulation amends the *Indigenous Education (Targeted Assistance) Regulations 2001* (the Principal Regulations) to provide for increases in the appropriations for non-ABSTUDY payments set out in subsection 14B(1) of the Act. The Regulation has the effect of increasing the amount stated in item 3 of the table in subsection 14B(1) by a factor of 1.056. Because of budget modelling which draws on original funding decisions some of the underpinning programs do not attract indexation. Some 90% of the programs under the Act are indexed. This increase reflects the change in the WCI1 for the 2011 calendar year and has the effect of providing an additional \$5.494 million for the period 1 January 2011 to 30 June 2012.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Commencement

The Regulation commenced on the day after it was registered on the Federal Register of Legislative Instruments.

Consultation

The Regulation has the effect of increasing the funding amounts payable under the Act. As the increase in funding amounts has a beneficial effect on stakeholders, consultation was not undertaken as it was not considered necessary.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Indigenous Education (Targeted Assistance) Amendment Regulation 2012 (No. 1)

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Legislative Instrument makes provision for an increase in the amounts that may be payable to organisations, institutions and individuals under section 14B of the *Indigenous Education (Targeted Assistance) Act 2000 (Act)* in order to supplement the cost of delivering educational services to Indigenous students for the period 1 January 2011 to 30 June 2012 in line with changes in the Wage Cost Index Number 1 (WCII). The WCII for 2011 is 1.6 %.

The Legislative Instrument amends the *Indigenous Education (Targeted Assistance) Regulations 2001* (the Principal Regulations) to provide for increases in the appropriations for non-ABSTUDY payments set out in subsection 14B(1) of the Act. The Legislative Instrument has the effect of increasing the amount stated in item 3 of the table in subsection 14B(1) by a factor of 1.056.

Because of Budget modelling which draws on original funding decisions, some of the underpinning programs do not attract indexation. Some 90% of the programs under the Act are indexed. This increase reflects the change in the WCII for the 2011 calendar year and has the effect of providing an additional \$5.494 million for the period 1 January 2011 to 30 June 2012.

Human Rights Implications

The Legislative Instrument engages the right to education contained in Article 13 of the International Covenant on Economic, Social and Cultural Rights. In particular, the amendment to the Principal Regulations will provide an additional \$5.494 million of funding for non-ABSTUDY payments for the period 1 January 2011 to 30 June 2012. This will have the effect of increasing the funding provided by the Australian Government to improve educational outcomes for Indigenous Australians.

To the extent that the right to education is engaged, this right is promoted as the Instrument will enable an increased level of funding to be available for non-ABSTUDY payments to be made under the Act.

Conclusion

The Legislative Instrument is compatible with human rights because it generally advances the right to education by providing additional funding for non-ABSTUDY payments under the Act.