

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 190

Subject - *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004*

Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005

Authority

The *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004* (the Act) provides for Australian Government financial assistance to the States and Territories for government and non-government schools for the 2005-2008 funding quadrennium. Section 140 of the Act provides that the Governor-General may make regulations for the purposes of the Act. Sections 14, 15, 19, 31, 32 and 36 of the Act refer to requirements that may be specified in regulations made under section 140 for a number of commitments and educational accountability requirements under the enhanced performance framework for schools for 2005-2008.

Purpose and operation

The purpose of the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005* (the Regulations) is to specify performance targets and performance measures; requirements related to student reports; requirements for performance information and the requirements for publication of school performance information in accordance with the relevant sections of the Act.

The regulations relevant to the government school sector are contained in Part 2, and the regulations relevant to the non-government school sector are contained in Part 3 of the Regulations. This separation reflects the structure of the Act, but the educational accountability and reporting requirements are the same, and apply equally, for government and non-government schools.

Consultation

A major consultation process occurred with stakeholders in relation to the funding arrangements and legislation for the 2005-2008 funding quadrennium. The Department of Education, Science and Training (the Department) undertook face-to-face consultations with government and non-government stakeholders in all states/territories in April 2004, based on the *Australian Government Funding for Schools for the 2005-2008 Funding Quadrennium Discussion Paper*, which was also available on the Department's website. Consultations on the funding agreements and administrative guidelines were undertaken in late 2004. Education authorities were provided with a draft form of the proposed regulations under the Act in April 2005 and these were made publicly available on the Department's website. The Department also undertook bi-lateral meetings on the draft regulations.

Commencement

In accordance with subsection 140(2) of the Act, the proposed Regulations will commence on the day after they are no longer liable to be disallowed, or to have been taken to have been disallowed, by either house of Parliament.

Detailed description of provisions

Part 1 Preliminary

Regulation 1.1 – Name of Regulations

Provides that the title of the Regulations is the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005*.

Regulation 1.2 – Commencement

Provides for the Regulations to commence on the first day on which subsection 140(2) of the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004* (the Act) is complied with. Subsection 140(2) of the Act provides that the Regulations would commence on the day after the day on which they were no longer liable to be disallowed, or to have been taken to have been disallowed, by either house of Parliament.

Regulation 1.3 – Definitions

This regulation defines ‘Act’ as the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004*; ‘MCEETYA’ as the Ministerial Council on Education, Employment and Training and ‘parent’ as a parent, guardian or other person who has care and control of a child. These definitions are consistent with the definitions in the Act.

Part 2 General provisions relating to grants – government schools

Part 3 General provisions relating to grants – non-government bodies

The regulations relating to grants for government and non-government schools are set out separately to reflect the structure of the Act, but the educational accountability and reporting requirements are the same for government and non-government schools.

Regulations 2.1 and 3.1 – Performance targets

Regulations 2.1 and 3.1 specify performance targets for reading, writing, spelling and numeracy for Years 3, 5 and 7, in accordance with paragraphs 14(1)(b), 31(b), 19(3)(f) and 36(3)(f) of the Act. The regulations also include a provision covering students with severe educational disabilities. Subregulations 2.1(b) and 3.1(b) state that it is recognised that the performance targets may not be met in respect of the very small percentage of students who have severe educational disabilities. Education authorities will not be financially penalised if they fail to achieve targets. However, under sections 19 and 36 the Act the Minister may require an education authority which has failed to meet a target to take certain action and to report on the action taken.

Regulations 2.2 and 3.2 – Conditions of financial assistance and Provisions that must be included in agreements – performance measures

Under paragraphs 14(1)(b) and 31(b) of the Act, education authorities make a commitment to report against the performance measures specified in the regulations. Regulations 2.2 and 3.2 provide that, for the purposes of paragraphs 14(1)(b) and 31(b) of the Act, the performance measures are specified in Parts 1 to 6 of Schedule 1 to the Regulations.

Regulations 2.3 and 3.3 – Student reports

Regulations 2.3 and 3.3 specify requirements in relation to student reports, in accordance with paragraphs 15(f) and 32(f) of the Act. Subregulations 2.3(1) and 3.3(1) provide that a student report must specify, for each program year, a required framework for relative and comparative reporting of a child's progress and achievement against the performance of the child's peer group at the school.

Subregulations 2.3(2) and 3.3(2) specify the content required for student reports, including a requirement that the student report must include, for subject studied, an assessment against achievement levels or bands defined by the education authority or school, being levels or bands that must be labelled as A, B, C, D, E (or an equivalent); and should be clearly defined against specific learning standards.

Paragraphs 2.3(2)(e) and 3.3(2)(e) require the student report to include, for subjects studied, the child's achievement relative to the achievement of the child's peer group at the school by at least quartile bands.

Subregulations 2.3(3) and 3.3(3) require the information mentioned in paragraphs 2.3(2) (e) and 3.3(2)(e) to be presented in a way that does not interfere with the privacy of an individual.

Subregulations 2.3(4) and 3.3(4) provide that the student report is taken to comply with subregulation 2.3(1) or 3.3(1) if the parent of the child has informed the child's school that the parent does not wish to receive reporting that compares or ranks his or her child. The report is also taken to comply with subregulation 2.3(1) or 3.3(1) if the report is prepared in compliance with any arrangements approved by the Minister for subregulation 2.3(4) or 3.3(4). This allows the Minister to consider proposals for reporting arrangements from State/Territory governments and non-government education authorities to determine whether these satisfy requirements for better reporting to parents.

Regulations 2.4 and 3.4 – Educational accountability – performance information (form)

Under paragraphs 19(1)(b) and 36(1)(b) of the Act, State/Territory governments and non-government education authorities are required to provide reports addressing the requirements for performance information specified in the regulations, for inclusion in the Annual National Report on Schooling.

Regulations 2.4 and 3.4 set out the form in which the performance information for the performance measures set out in Schedule 1 to the regulations must be reported. For most performance measures, the information must be reported in a form that enables publication of the information for the relevant program year, for Australia, disaggregated by State and Territory; and for each State and Territory, or for Australia, by the characteristics of sex; Indigenous status; socio-economic background; language background and geographic location.

Subregulations 2.4(6) and 3.4(6) provide that, for the purposes of regulation 2.4 and 3.4, the characteristics of sex, Indigenous status, socio-economic background and language background are as described in the *Data Implementation Manual for Enrolments for the 2005 and 2006 School Years*, published by MCEETYA (and available on the internet at <http://www.mceetya.edu.au/public/dm.htm>), as in force when the Regulations commence; and the characteristic of geographic location is as approved by MCEETYA at its meeting in July 2001.

Regulations 2.5 and 3.5 – Educational accountability – performance information (content)

Under paragraphs 19(1)(b) and 36(1)(b) of the Act, education authorities are required to provide reports addressing the requirements for performance information specified in the regulations, for inclusion in the Annual National Report on Schooling.

Regulations 2.5 and 3.5 provide that for the purposes of paragraph 19(1)(b) and 36(1)(b) of the Act, the performance information includes the performance measures set out in Parts 1 to 6 of Schedule 1 to the Regulations.

Regulations 2.6 and 3.6 – Educational accountability – school performance information

Under paragraphs 19(3)(e) and 36(3)(e) of the Act, education authorities for government and non-government schools must ensure that the school performance information specified in the regulations is made publicly available, and if the regulations specify the manner in which the information is to be made publicly available, ensure the information is made publicly available in that manner.

Regulations 2.6 and 3.6 provide that for the purposes of paragraphs 19(3)(e) and 36(3)(e) of the Act, the school performance information required for each school for each program year must at least include the items set out in Schedule 2 to the Regulations.

Subregulations 2.6(2) and 3.6(2) provide that the school performance information must be made publicly available within 6 months after the end of each program year, and in at least two of the forms set out, including in a hard copy school annual report; a newsletter; a school handbook; on the internet or by means of a billboard or a sign visible to the public inside or outside the school.

Subregulations 2.6(4) and 3.6(4) require that the school performance information mentioned in subregulation 2.6(1) and 3.6(1) be presented in a way that does not interfere with the privacy of an individual.

Subregulations 2.6(5) and 3.6(5) provide that that school performance information is taken to comply with subregulation 2.6(1) or 3.6(1) if it is prepared in compliance with any arrangements approved by the Minister for subregulation 2.6(5) or 3.6(5). This would allow the Minister to consider proposals for provision of school performance information from State/Territory and non-government education authorities to determine whether they satisfy requirements for better reporting to school communities.

Regulations 2.7 and 3.7 – Educational accountability – common national tests

Paragraphs 19(4) and 36(4) of the Act require education authorities to implement the common testing standards before 1 January 2008, in accordance with the regulations, including common national tests in English, mathematics, science, civics and citizenship education and information and communications technology specified in the regulations.

The note at regulations 2.7 and 3.7 indicates that it is intended that common national tests in reading, writing, spelling and numeracy will be administered by each school to each child who is in Year 3, 5, 7 or 9 at the school. The form of the common tests has not yet been finalised. When the tests have been developed and endorsed by MCEETYA, or approved by the Minister, they will be prescribed in the Regulations.

Schedule 1 Performance measures

The performance measures are referred to in proposed regulations 2.1, 2.2, 2.5, 3.1, 3.2 and 3.5.

Part 1 – Measures for English literacy

Items 101 to 113 of Part 1 set out the performance measures for English literacy for students in years 3, 5, 7 and 9, which are the percentage of students in each year achieving the national benchmarks for reading, writing and spelling for the applicable year, and the percentage of students achieving at or above the standard in the Organisation for Economic Co-operation and Development (OECD) Programme for International Student Assessment (PISA) reading literacy assessment for 2006.

Part 2 – Measures for numeracy and mathematics

Items 201 to 207 of Part 2 set out the performance measures for numeracy and mathematics. These measures are the percentage of students in years 3, 5, 7 and 9 achieving the national benchmark for numeracy for the applicable year; the percentage of students achieving at or above the standard in the mathematical literacy assessment of the OECD PISA for 2006 and the percentage of students achieving at or above the standard in the Year 4 and the Year 8 mathematics assessments of the Trends in International Mathematics and Science Study (TIMSS) for 2006.

Part 3 – Measures for science

Items 301 to 304 of Part 3 set out the performance measures for science. These measures are the percentage of students achieving at or above the standard in science literacy in the National Assessment Program — Science Literacy, 2006, Year 6; the percentage of students achieving at or above the standard in the scientific literacy assessment of the OECD PISA for 2006 and the percentage of students achieving at or above the standard in the Year 4 and the Year 8 science assessments of the TIMSS for 2006.

Part 4 – Measures for civics and citizenship

Items 401 to 404 of Part 4 set out the performance measures for civics and citizenship. These measures are the percentage of students achieving at or above the standard in civic knowledge and understanding in the National Assessment Program — Civics and Citizenship, 2007, Year 6; the percentage of students achieving at or above the standard in citizenship participation skills and civic values in the National Assessment Program — Civics and Citizenship, 2007, Year 6; the percentage of students achieving at or above the standard in civic knowledge and understanding in the National Assessment Program — Civics and Citizenship, 2007, Year 10 and the percentage of students achieving at or above the standard in citizenship participation skills and civic values in the National Assessment Program — Civics and Citizenship, 2007, Year 10.

Part 5 – Measures for Information and Communications Technology (ICT) literacy

Items 501 and 502 of Part 5 set out the performance measures for Information and Communications Technology (ICT) literacy. These measures are the percentage of students achieving at or above the standard in the National Assessment Program — ICT Literacy, 2005 and 2008, for Years 6 and 10.

Part 6 – Measures for Vocational Education and Training (VET) in schools

Items 601 and 602 of Part 6 set out the performance measures for vocational education and training (VET) in schools. These measures are school students undertaking VET (with New Apprenticeships and Traineeships disaggregated) as part of their senior secondary school

certificate in a calendar year as a proportion of all school students undertaking a senior secondary school certificate in that year; and school students enrolled in a senior secondary school certificate in a calendar year who have completed at least one VET unit of competency module as a proportion of all school students undertaking a senior secondary school certificate in that year.

Part 7 – National benchmarks

Part 7 identifies the benchmarks referred to in various items in Parts 1 to 6 of Schedule 1. This Part includes a table setting out, where applicable, the relevant benchmarks as against items set out in parts 1 to 6 of Schedule 1. Where an applicable benchmark has not yet been finalised, a note indicates that when the benchmarks have been developed and endorsed by MCEETYA, or approved by the Minister, they will be prescribed in the Regulations.

A note at the end of this table indicates that the national reading, writing, spelling and numeracy benchmarks for Years 3, 5 and 7 are available on the Internet at

<http://www.curriculum.edu.au/projects/numbench.php>

Part 8 – Standards for reporting performance measures

Part 8 identifies the standards for reporting on performance measures referred to in various items in Parts 1 to 6 of Schedule 1. This Part includes a table setting out, where applicable, the relevant standards for relevant items in Parts 1 to 6. Where an applicable standard has not yet been finalised, a note indicates that when the standards have been developed and endorsed by MCEETYA, or approved by the Minister, they will be prescribed in the Regulations.

Schedule 2 School performance information

Schedule 2 sets out the school performance information, required to be reported for each school, as set out in regulations 2.6 and 3.6. This Part includes a table setting out the school performance information required under each of the areas of professional engagement (including staff attendance and retention, teacher qualification and participation in professional learning); key student outcomes (including student attendance, benchmark results and value added) and satisfaction (parent, teacher and student satisfaction).