

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 216

Issued by the authority of the Minister for Education, Science and Training

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

Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Amendment Regulations 2005 (No. 1)

Background

The *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004* (the Act) provides for financial assistance to the States and Territories for government and non-government schools for the 2005-2008 funding quadrennium.

Authority

Section 140 of the Act provides that the Governor-General may make regulations prescribing all 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.

Purpose and operation

The purpose of the Regulations is to amend the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005* (the Principal Regulations) to supplement funding for primary and secondary education under sections 121, 122, 123, 124, 125, 126 and 127 of the Act, through adjustments to recurrent grants and capital grants for both government and non-government schools for 2005 in line with the changes in the Average Government School Costs (AGSC).

Subsections 121(3) and 124(4) provide that before the Governor-General makes regulations for the purposes of subsections 121(1) or 124(1), the Minister must consider changes in the relevant figures known as the AGSC published from time to time by the Ministerial Council on Education, Employment, Training and Youth Affairs. The Minister has considered changes to these figures.

Subsection 126(3) provides that before the Governor-General makes regulations for the purposes of subsection 126(1), the Minister must consider changes in an index of building prices, and an index of wage costs, published by the Australian Statistician. The Minister has considered changes in these indices.

The Regulations replace amounts in the relevant Schedules to the Act for:

- Average Government School Recurrent Costs (AGSRC) for primary and secondary levels of education (Schedule 1);
- the per capita amounts paid under the General Recurrent Grants program (Schedules 2 and 4);
- the funding available for the Capital Grants Program (Column 2 of Schedules 3 and 5);
- the funding available for Grants for Non-government Rural Student Hostels (Schedule 6);

- the funding available for Grants of Short Term Emergency Assistance for Non-government Schools (Schedule 7);
- the funding available for the Grants for Targeted Assistance (Schedule 8, Part 1);
- the per capita amounts paid under the English as a Second Language New Arrivals program (Schedule 8, Part 2);
- the funding available for Grants for Literacy, Numeracy and Special Learning Needs (Schedule 9, Part 1); and
- the per capita amounts paid under the Strategic Assistance program (Schedule 9, Part 2).

Subsection 127(1) provides that the regulations may provide for an amount in the table in Schedule 6 to the Act to be increased by reference to an index determined in writing by the Finance Minister for the purposes of this section. The Index to be used for this purpose is the Wage Cost Index Number 1 (WC11). The Finance Minister has determined in writing the changes in the WC11.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Commencement

The Regulations are taken to have commenced retrospectively on 1 October 2005. This is to ensure that the supplemented amounts of financial assistance can be paid to funding recipients in October 2005. The Regulations provide for increases in the grants paid under the Act and consequently do not disadvantage recipients in any way. The Office of Legislative Drafting and Publishing has advised that retrospective commencement of the regulations would not contravene subsection 12(2) of the *Legislative Instruments Act 2003*.

Consultation

Consultation was not undertaken prior to making the regulations as it was not considered necessary. The regulations have the effect of increasing the amounts payable under sections 121, 122, 123, 124, 125, 126 and 127 of the Act.

Details of the Regulations

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Amendment Regulations 2005 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that the Regulations are taken to have commenced on 1 October 2005.

Regulation 3 – Amendment of *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005*

This regulation provides that the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1– Amendments

Item [1] – After Part 3

Item 1 inserts *Part 4 – Changes to amounts and costs*, into the Principal Regulations.

Regulation 4.1 deals with changes to Average Government School Recurrent Costs and provides that for subsection 121(1) of the Act, each amount mentioned in Schedule 1 of the Act for a program year and a type of education is replaced by the amount mentioned in the table set out in regulation 4.1 for that type of education and program year.

Notes at the end of the table explain that section 121 of the Act provides for changes to Average Government School Recurrent Costs mentioned in Schedule 1 of the Act and that in accordance with sections 122 and 123 of the Act, each amount mentioned in Schedules 2, 3 and 4 of the Act is replaced by an amount worked out using the corresponding amount mentioned in this regulation.

Regulation 4.2 deals with general changes to recurrent grants and provides that for paragraph (b) of the definition of ***recurrent number for the program year*** in section 124 of the Act, the number for the 2005 program year is 1.038.

A note at the end of this regulation explains that section 124 of the Act provides for an indexation process for cost supplementation for recurrent grants, based on the value of the recurrent number for the program year.

Regulation 4.3 deals with changes to guarantee amounts for recurrent grants and provides that for subsection 125 (1) of the Act, the amounts mentioned in the table are specified for columns 3 and 5 of the table in Part 1 of Schedule 9 of the Act.

A note at the end of the table explains that section 125 of the Act provides for changes to the guarantee amounts for recurrent costs of grants for literacy, numeracy and special learning needs mentioned in Schedule 9 of the Act.

The amounts in column 3 and column 5 of the table at Part 1 of Schedule 9 of the Act are the ‘guarantee amounts’ for funding recipients which are intended to ensure that funding recipients are not disadvantaged by changes in the mechanisms by which funding is allocated for the 2005-2008 quadrennium.

Overall, funding recipients will receive funding up to the sum of columns 2 and 3 for Grants for schools, and likewise non-government centres will receive up to the sum of columns 4 and 5. Even though amounts at column 3 and column 5 have decreased, overall funding available for Grants for Schools (the total of columns 2 and 3) and Grants for Non-government Centres (the total of columns 4 and 5) have increased.

Regulation 4.4 deals with changes to capital grants for government schools and non-government schools, and provides that for paragraph (b) of the definition of *capital number for the program year* in section 126 of the Act, the number for the 2005 program year is 1.117.

A note at the end of this regulation explains that section 126 of the Act provides for indexation of capital grants for government schools and non-government schools based on the value of the capital number for the program year.

Regulation 4.5 deals with changes to other grants for non-government rural student hostels and provides that for subsection 127(1) of the Act, each amount mentioned in the table in Schedule 6 of the Act is increased by a factor of 1.021, which is the factor by which the Wage Cost Index No. 1 has changed from the 2003-2004 financial year to the 2004-2005 financial year.

A note at the end of the regulation explains that the Wage Cost Index No. 1 is the index determined in writing by the Finance Minister for subsection 127(1) of the Act.