

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2008 No. 202**

Issued by the authority of the Minister for Education

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

*Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Amendment Regulations 2008 (No. 2)*

#### **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 Regulations amend the *Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Regulations 2005* (the Principal Regulations) to supplement funding for the 2008 program year for primary and secondary education under sections 121, 122, 123, 123A, 124, 126 and 127 of the Act, through adjustments to recurrent grants and capital grants for both government and non-government schools in line with the changes in the Average Government School Costs (AGSC). This will provide estimated additional funding of \$447 million to government and non-government schools for the 2008 calendar year.

Subsections 121(3) and 124(4) of the Act 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 (MCEETYA). The Minister has considered changes to these figures.

Section 123A of the Act provides that the regulations may specify changes to certain grant amounts for particular program years, which includes the guarantee amounts relating to the Schools Grants and Non-government Centre Support elements of the Grants for Literacy, Numeracy and Special Learning Needs specified in Columns 3 and 5 of Part 1 of Schedule 9 for a particular program year.

Subsection 126(3) of the Act 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.

Subsection 127(1) of the Act 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 update amounts in the relevant Schedules to the Act for:

- the Average Government School Recurrent Costs (AGSRC) for primary and secondary levels of education (Schedule 1) [see subsection 121(1) and regulation 4.1];
- the per capita amounts paid under the General Recurrent Grants program (Schedules 2 and 4) [see subsection 121(1), and sections 122 and 123 respectively and regulation 4.1];
- the funding available for the Capital Grants program (Column 2 of Schedules 3 and 5) [see subsection 126(1) and regulation 4.4];
- the funding available for Grants for Non-government Rural Student Hostels (Schedule 6) [see subsection 127(1) and regulation 4.5];
- the funding available for Grants of Short Term Emergency Assistance for Non-government Schools (Schedule 7) [see paragraph 124(1)(b) and regulation 4.3];
- the funding available for Grants for Targeted Assistance (Schedule 8, Part 1) [see paragraph 124(1)(b) and regulation 4.3];
- the per capita amounts paid under the English as a Second Language for New Arrivals program (Schedule 8, Part 2) [see paragraph 124(1)(b) and regulation 4.3];
- the funding available for Grants for Literacy, Numeracy and Special Learning Needs (Schedule 9, Part 1, Columns 2, 4 and 6) [see paragraph 124(1)(b) and regulation 4.3];
- the per capita amounts paid under the Strategic Assistance program (Schedule 9, Part 2) [see paragraph 124(1)(b) and regulation 4.3]; and
- the funding available for Grants for Literacy, Numeracy and Special Learning Needs (Schedule 9, Part 1, Columns 3 and 5) [subsection 123A(1) and subregulation 4.2(1)]

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

### Commencement

Regulations 1, 2 and 3 and Schedule 1 commence the day after they are registered on the Federal Register of Legislative Instruments.

### Consultation

Consultation was not undertaken prior to making the regulations as it was not considered necessary. The regulations have the effect of increasing funding amounts for 2008 under sections 121, 122, 123, 123A, 124, 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 2008 (No. 2)*.

### Regulation 2 – Commencement

This regulation provides that regulations 1, 2 and 3 and Schedule 1 commenced on the day after they were registered on the Federal Register of Legislative Instruments.

### 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] – Regulation 4.1**

Regulation 4.1 deals with changes to Average Government School Recurrent Costs. 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 to the Act and that in accordance with sections 122 and 123 of the Act, each amount mentioned in Schedules 2 and 4 to the Act is to be replaced by an amount worked out using the corresponding amount mentioned in this regulation.

Item [1] replaces ‘Schedule 1 of the Act’ with ‘Schedule 1 to the Act’ in Regulation 4.1. This item has the effect of correcting a drafting error.

#### **Item [2] Regulation 4.1, table, amounts for 2008 program year**

Item [2] amends the table in Regulation 4.1 to provide that for subsection 121(1) of the Act, the amounts of \$7,614 and \$9,724 in Schedule 1 to the Act for the 2008 program year for primary education and secondary education are increased to \$8,044 and \$10,061, respectively.

#### **Item [3] Regulation 4.1, note 2**

Item [3] replaces the words ‘Schedules 2 and 4 of the Act’ with ‘Schedules 2 and 4 to the Act’ in note 2 to in regulation 4.1. This item would have the effect of correcting a drafting error.

**Item [4] Subregulation 4.2(1), table**

Regulation 4.2 deals with changes to grant amounts for a particular program year for literacy, numeracy and special learning needs. The table at subregulation 4.2(1) specifies amounts in column 3 and column 5 of the table at Part 1 of Schedule 9 to the Act to be the ‘guarantee amounts’ for funding recipients. These are specified to ensure that funding recipients are not disadvantaged by changes in the mechanisms by which funding is allocated for the 2005-2008 quadrennium.

Item [4] amends the table in subregulation 4.2(1) to provide that for subsection 123A(1) of the Act, the amounts \$4,342,000 and \$2,169,000 are decreased to \$3,090,000 and \$1,813,000 respectively.

Overall, funding recipients will receive funding up to the sum of columns 2 and 3 of Part 1 of Schedule 9 to the Act for grants for schools, and likewise non-government centres will receive up to the sum of columns 4 and 5 of Part 1, for funding under Part 1 of Schedule 9 to the Act of Schedule to the Act. While the ‘guarantee amounts’ decrease, the overall funding provided for grants for schools and non-government centres for 2008 is increased.

**Item [5] Regulation 4.3, table**

Regulation 4.3 deals with general changes to recurrent grants. Item [5] amends the table in regulation 4.3 to provide that for the definition of *recurrent number for the program year* in paragraph 124(1)(b) of the Act, the number for the 2008 program year is increased from 1.140 to 1.192.

This has the effect of increasing funding by 4.6 per cent for the 2008 program year for:

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

**Item [6] Regulation 4.4, table**

Regulation 4.4 deals with changes to capital grants for government schools and non-government schools. Item [6] amends the table at regulation 4.3 to provide that for the definition of *capital number for the program year* in paragraph 126(1)(b) of the Act, the number for the 2008 program year is increased from 1.244 to 1.315.

This has the effect of increasing the funding amount for capital grants for government schools (Column 2 of Schedule 3 to the Act) and non-government schools (Column 2 of Schedule 5 to the Act) by 5.7 per cent for the 2008 program year.

**Item [7] Regulation 4.5**

Regulation 4.5 deals with changes to other grants for non-government rural student hostels. Item [7] amends regulation 4.5 to insert the words 'to the Act' to clarify the reference to Schedule 6. This item would have the effect of correcting a drafting error.

**Item [8] Regulation 4.5, table**

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, the amount mentioned in the table in Schedule 6 to the Act for the 2008 program year is increased by a factor by which the Wage Costs Index No. 1 has changed from the 2003-2004 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.

Item [8] amends the table at regulation 4.5 to provide that the factor for the 2008 program year is increased from 1.061 to 1.083.

This has the effect of increasing the amount for Grants for Non-government Rural Student Hostels (Column 2 of Schedule 6 to the Act) by 2.1 per cent for the 2008 program year.