

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Education

Subject: - *Schools Assistance Act 2008*
Determination of Classes of Persons Who Are Not Overseas
Students 2008

Authority

The *Schools Assistance Act 2008* (the Act) provides, among other things, for the Commonwealth to give financial assistance to States for non-government schools. The calculation of this financial assistance is, in various provisions, made with respect to the numbers of students, other than overseas students, receiving a level of education at a school.

Section 173(4) of the Act provides that the Minister may, by legislative instrument, determine that a person or class of persons is not an overseas student.

Background

Non-government schools may enrol as students from time to time persons who could be classified as overseas students. Section 173(1) of the Act specifies that financial assistance is not to be provided to States for overseas students. Schools are not eligible to receive funding under the Act for those students in these circumstances.

However the Minister may decide that a person or classes of persons are not overseas students for the purposes of the Act. Where the Minister determines a person not to be an overseas student an approved school would be eligible to receive financial assistance for that student under the Act.

Purpose and operation

The purpose of this instrument is to determine that certain persons or class of persons are not overseas students for the purposes of receiving financial assistance under the Act.

Explanation of Provisions

The Schedule outlines which persons or classes of persons are to be so determined.

Commencement

This determination commences on 1 January 2009.

Consultation

Consultations were not undertaken with stakeholders for this instrument as the determination confers a benefit to schools and students. The applicable visa information with respect to the *Migration Act 1958* was provided by the Department of Immigration and Citizenship.