

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 223

Issued by the authority of the Minister for Education

Subject - *Schools Assistance Act 2008*

Schools Assistance Amendment Regulations 2009 (No. 1)

Background

The *Schools Assistance Act 2008* (the Act) provides for Commonwealth financial assistance to the States and Territories for non-government schools for 2009 to 2012.

Authority

Section 174 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 Regulations 2009* (the Principal Regulations) to supplement funding for the 2009 program year for primary and secondary education under sections 36, 67, 69, 85 and 101 of the Act, through adjustments to recurrent, capital and targeted expenditure for non-government schools in line with the changes in the Average Government School Costs (AGSC); and to decrease the guarantee amount for literacy, numeracy and special learning needs under section 99 of the Act. This will provide estimated additional funding of \$346 million to non-government schools for the 2009 calendar year.

Subsection 36(3) of the Act provides that before the Governor-General makes regulations for the purposes of subsection 36(2), the Minister must consider changes in the figures known as the AGSC published by the Ministerial Council on Education, Employment, Training and Youth Affairs, now known as the Ministerial Council on Education, Early Childhood Development and Youth Affairs (MCEECDYA). The Minister has considered changes to these figures.

Subsection 67(3) of the Act provides that the regulations may specify a greater amount of 'assistance amount per student' for the purposes of supplementary assistance for Indigenous primary students at non-remote school campuses and remote and very remote school campuses for the program year (pursuant to paragraphs 67(1)(b) and 67(2)(b) respectively).

Subsection 69(3) of the Act provides that the regulations may specify a greater amount of 'assistance amount per student' for the purposes of supplementary assistance for Indigenous secondary students at non-remote school campuses and remote and very remote school campuses for the program year (pursuant to paragraphs 69(1)(b) and 69(2)(b) respectively).

Subsections 67(1A) and 69(1A) respectively permit additional amounts of assistance to be paid for Indigenous students from remote and/or very remote areas receiving primary or secondary education at non-remote campuses. The purpose of subsections 67(1A) and 69(1A) is to provide an additional level of financial assurance to schools and systems with Indigenous enrolments that they will not lose funding in subsequent program years. This financial assurance is in addition to the assurance already provided by the Indigenous Funding Guarantee.

It is not the purpose of these subsections to create an additional funding entitlement for non-remote schools enrolling Indigenous students from remote and very remote areas. There is no current need to introduce regulations under these subsections as all schools and systems with Indigenous enrolments are expected to receive funding amounts in the 2009 program year greater than the funding amounts they received in the 2008 program year.

Subsection 85(2) of the Act provides that the regulations may specify a number to be the *capital expenditure supplementation number* for a program year. Subsection 85(4) provides that before the Governor-General makes regulations for the purposes of subsection 85(2), the Minister must consider changes in an index of building prices specified in the regulations, and an index of wage costs specified in the regulations. The Minister has considered changes in these indices.

Subsection 99(b) of the Act provides that the regulations may specify a guarantee amount for literacy, numeracy and special learning needs for a program year. The funding guarantee relates to the special education component of the allocative mechanism for the literacy, numeracy and special learning needs program. The decrease in the guarantee amount is due to the increase in funding as a result of supplementation for the 2009 program year.

Subsection 101(2) of the Act provides that the regulations may specify a number to be the *targeted expenditure supplementation number* for a program year. Subsection 101(4) provides that before the Governor-General makes regulations for the purposes of subsection 101(2), the Minister must consider changes in the relevant figures known as the AGSC published by the MCEECDYA. The Minister has considered changes in these figures.

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

Consultation

The regulations have the effect of increasing funding amounts under the Act for the 2009 program year. Consultation was not undertaken prior to their making as it was not considered necessary because the regulations confer a benefit upon the relevant stakeholders.

Commencement

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

Details of the Regulations:

Regulation 1 – Name of Regulations

This regulation provides that the title of the regulations is the *Schools Assistance Amendment Regulations 2009 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that the regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of *Schools Assistance Regulations 2009*

This regulation provides that the Principal Regulations are amended as set out in Schedule 1.

Schedule 1 – Amendment

Item [1] – Part 7

Item [1] amends Part 7 of the Principal Regulations by substituting it with new Parts 7, 8 and 9 as set out in the following provisions:

Part 7 – Grants for recurrent expenditure

Regulation 7.1 – Average Government School Recurrent Costs – meaning of AGSRC

Regulation 7.1 deals with changes to the Average Government School Recurrent Costs (AGSRC). AGSRC is the average recurrent cost of educating a primary student or a secondary student in a government school. It is based on recurrent government schools expenditure data maintained by the Ministerial Council on Education, Early Childhood Development and Youth Affairs (MCEECDYA). The AGSRC was first implemented in 1993 and was designed to ensure that Australian schools recurrent funding is supplemented for real cost increases faced by the government school sector.

Subregulation 7.1(1) provides that for subparagraph 36(1)(a)(ii) of the Act, the AGSRC amount of \$8,044 for primary education for the 2009 program year is increased to \$8,380.

Subregulation 7.1(2) provides that for subparagraph 36(1)(b)(ii) of the Act, the AGSRC amount of \$10,061 for secondary education for the 2009 program year is increased to \$10,646.

Regulation 7.2 – Indigenous supplementary assistance – primary education funding amounts

Regulation 7.2 deals with the primary education funding amounts for Indigenous supplementary assistance.

Subregulation 7.2(1) provides that for paragraph 67(1)(b) of the Act, the assistance amount of \$1,600 for each Indigenous primary student at non-remote school campuses for the 2009 program year is increased to \$1,668.

Subregulation 7.2(2) provides that for paragraph 67(2)(b) of the Act, the assistance amount of \$3,850 for each Indigenous primary student at remote and very remote school campuses for the 2009 program year is increased to \$4,012.

Regulation 7.3 – Indigenous supplementary assistance – secondary education funding amounts

Regulation 7.3 deals with the secondary education funding amounts for Indigenous supplementary assistance.

Subregulation 7.3(1) provides that for paragraph 69(1)(b) of the Act, the assistance amount of \$2,250 for each Indigenous secondary student at non-remote school campuses for the 2009 program year is increased to \$2,381.

Subregulation 7.3(2) provides that for paragraph 69(2)(b) of the Act, the assistance amount of \$4,400 for each Indigenous secondary students at non-remote school campuses for the 2009 program year is increased to \$4,656.

Part 8 – Grants for capital expenditure

Regulation 8.1 – Capital expenditure supplementation number

Regulation 8.1 deals with the capital expenditure supplementation number and provides that, for subsection 85(2) of the Act, the ***capital expenditure supplementation number*** for the 2009 program year is increased to 1.051. This has the effect of increasing the funding amount for capital grants by 5.1 per cent for the 2009 program year.

Subsection 85(4) of the Act provides that before the Governor-General makes regulations for the purposes of the ***capital expenditure supplementation number***, the Minister must consider changes to an index of building prices and an index of wage costs specified in the regulations.

Subregulation 8.1(2) specifies the index of building prices to be the Non-residential Building Construction Index (4113) Australia; Original, produced and published by the Australian Bureau of Statistics in Tables 15 and 16 of the Time Series Spreadsheets within Catalogue No. 6427.0 *Producer Price Indexes Australia*, June 2009.

Subregulation 8.1(3) specifies the index of wage costs to be the Total Hourly Rates of Pay Excluding Bonuses; Australia; Construction; Private and Public; All Occupations; Original, produced and published by the Australian Bureau of Statistics in Table 5b of the Time Series Spreadsheets within Catalogue No. 6345.0 *Labour Price Index Australia*, June 2009.

Part 9 – Grants for targeted expenditure

Regulation 9.1 – Literacy, numeracy and special learning needs – schools grants amounts

Regulation 9.1 was formerly regulation 7.1 under the Principal Regulation. This regulation has been renumbered as regulation 9.1 to ensure the layout of the new regulations follow the numerical order of the Act.

Regulation 9.2 – Literacy, numeracy and special learning needs – guarantee amounts

Regulation 9.2 deals with the guarantee amounts for literacy, numeracy and special learning needs and provides that, for subsection 99(b) of the Act, the guarantee amount for literacy, numeracy and special learning needs for the 2009 program year is reduced to \$1,867,513.

Regulation 9.3 Targeted expenditure supplementation number

Regulation 9.3 deals with the targeted expenditure supplementation number and provides that, for subsection 101(2) of the Act, the ***targeted expenditure supplementation number*** for the 2009 program year is increased to 1.047. This has the effect of increasing the funding amount for targeted expenditure by 4.7 per cent for the 2009 program year.