

EXPLANATORY STATEMENT

Select Legislative Instrument 2011 No. 161

Issued by the authority of the Minister for School Education, Early Childhood and Youth

Schools Assistance Act 2008

Schools Assistance Amendment Regulations 2011 (No. 2)

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 2013 for recurrent expenditure and targeted expenditure and to 2014 for capital expenditure.

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 purpose of the proposed Regulations is to amend the *Schools Assistance Regulations 2009* (the Principal Regulations) to supplement funding for the 2011 program year for primary and secondary education under sections 36, 67, 69, 85 and 101 of the Act.

Supplementation to funding occurs through indexation to recurrent, capital and targeted expenditure for non-government schools in line with the changes in the Average Government School Costs (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 proposed Regulations will decrease the guarantee amount for literacy, numeracy and special learning needs under section 99 of the Act. Overall, the proposed Regulations will provide estimated additional funding of \$396 million to non-government schools for the 2011 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 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 67(1A) of the Act provides that the regulations may specify an additional amount of assistance for an Indigenous student from a remote or very remote area who is receiving primary education at a non-remote school campus. For subsection 67(1A) of the Act, the Regulations set out an additional amount of assistance in relation to an Indigenous student who is:

- a) from a remote area or very remote area; and
- b) receiving primary education as a boarding student at a non-remote campus of a boarding school that has more than 50 Indigenous boarding students from remote Indigenous communities on the schools census day in the program year.

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).

Subsection 69(1A) of the Act provides that the regulations may specify an additional amount of assistance for an Indigenous student from a remote or very remote area who is receiving secondary education at a non-remote school campus. For subsection 69(1A) of the Act, the Regulations set out an additional amount of assistance in relation to an Indigenous student who is:

- a) from a remote or very remote area; and
- b) receiving secondary education as a boarding student at a non-remote campus of a boarding school that has more than 50 Indigenous boarding students from remote Indigenous communities on the schools census day in the 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 indexation covering building prices and wage costs.

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 2011 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 2011 program year. Consultation was not undertaken prior to the regulations being made as the regulations confer an overall benefit upon the relevant stakeholders for recurrent, capital and targeted funding.

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 2011 (No. 2)*.

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] – Regulation 7.1

Item [1] inserts a new item into the table in regulation 7.1 after item 2.

Regulation 7.1 prescribes, for the purposes of subparagraph 36(1)(a)(ii) of the Act, 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 MCEECDYA. The AGSRC was first implemented in 1993 and was designed to ensure that Australian non-government school recurrent funding is indexed for real cost increases faced by the government school sector.

New table item 3 sets out \$9,697 and \$11,945 as the AGSRC amounts for Primary education and Secondary education respectively, for the 2011 program year.

Item [2] – Regulation 7.2

Item [2] inserts a new item into the table in regulation 7.2 after item 2.

Regulation 7.2 deals with primary education funding amounts for Indigenous supplementary assistance. Regulation 7.2 prescribes, for the purposes of subsection 67(3) of the Act, changes to the assistance amount for each Indigenous primary student at non-remote school campuses, and remote and very remote school campuses, respectively.

New table item 3 sets out \$1,930 as the assistance amount for each Indigenous primary student at a non-remote school campus and \$4,643 as the assistance amount for each Indigenous primary student at a remote and very remote school campus for the 2011 program year.

Item [3] – Regulation 7.2A

Item [3] omits and substitutes item 1 in the table in regulation 7.2A.

Regulation 7.2A deals with additional Indigenous supplementary assistance for primary education at a non-remote school campus that is a boarding school. The regulation specifies the assistance amount for an Indigenous student receiving primary education as a boarding student at a non-remote campus of a boarding school that has more than 50 Indigenous boarding students from remote or very remote areas on the school census day.

New table item 1 would provide that, for subsection 67(1A) of the Act, the additional assistance amount is \$2,713 for the 2011 program year for an Indigenous student from a remote area or a very remote area.

Item [4] – Regulation 7.3

Item [4] inserts a new item into the table in regulation 7.3 after item 2.

Regulation 7.3 deals with secondary education funding amounts for Indigenous supplementary assistance. Regulation 7.3 prescribes, for the purposes of subsection 69(3) of the Act, changes to the assistance amount for each Indigenous secondary student at non-remote, remote and very remote school campuses, respectively.

New table item 3 sets out \$2,672 as the assistance amount for each Indigenous secondary student at a non-remote school campus and \$5,224 as the assistance amount for each Indigenous secondary student at a remote and very remote school campus for the 2011 program year.

Item [5] – Regulation 7.3A

Item [5] omits and substitutes item 1 in the table in regulation 7.3A.

Regulation 7.3A deals with additional Indigenous supplementary assistance for secondary education at a non-remote school campus that is a boarding school. The regulation specifies the assistance amount for an Indigenous student receiving secondary education as a boarding student at a non-remote campus of a boarding school that has more than 50 Indigenous boarding students from remote or very remote areas on the school census day.

New table item 1 would provide that, for subsection 69(1A) of the Act, the additional assistance amount is \$2,552 for the 2011 program year for an Indigenous student from a remote area or a very remote area.

Items [6] – Regulation 8.1

Item [6] omits and substitutes regulation 8.1 with a new regulation 8.1 to:

1. insert a new subregulation 8.1(1) to specify the base assistance amount for the 2011 program year; and
2. omit the table from subregulation 8.1(1) and insert the table in new subregulation 8.1(2) with a new table item after item 2; and
3. omit subregulations 8.1(2) and (3) and substitute with new subregulation 8.1(3) to insert the reference to the composite index of building prices and wage costs.

Regulation 8.1 prescribes the base assistance amount and the capital expenditure supplementation number.

Subsection 84(3) of the Act provides that the regulations may specify an amount to be the **base assistance amount** for a program year for capital expenditure. Proposed subregulation 8.1(1) would provide that, for subsection 84(3) of the Act, the base assistance amount for the 2011 program year for capital expenditure is \$128,712,000.

Subregulation 8.1(2) prescribes, for subsection 85(2) of the Act, the capital expenditure supplementation number. New table item 3 sets out 1.0241 as the capital expenditure supplementation number for the 2011 program year.

In accordance with subsection 84(2) of the Act, the sum of the amounts paid to the States for the 2011 program year for capital expenditure must not exceed \$131,814,000 and provides an estimated additional funding of \$3.505 million for the 2011 program year, over and above the previous program year. Subsection 84(2) of the Act requires the amount worked out under subsection 85(2) of the Act be rounded to the nearest \$1,000 (rounding \$500 upwards).

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.

Supplementation for capital expenditure for 2011 has been calculated by applying movements of the index number for the previous calendar years in Index 3020 *Non-Residential Building Construction Australia* published by the Australian Bureau of Statistics in Table 15, Selected output of division E construction, of the Time Series Spreadsheets in the 6427.0 - *Producer Price Indexes, Australia*. For the 2011 program year, the index moved from 153.5 in December 2007 to 157.2 in December 2010, a 2.41 per cent increase. The index is a fixed weight composite index of building prices and wage costs produced by the Australian Bureau of Statistics and covers non-residential new construction using a component cost method, as close as possible to market prices, which reflect labour, material, plant input costs, and subcontractors' margin.

The *6427.0 Producer Price Indexes, Australia* is available at <http://www.abs.gov.au>, by inserting '6427' in the search field on the front page.

Item [7] – Regulation 9.2

Item [7] inserts a new item into the table in regulation 9.2 after item 2.

Regulation 9.2 prescribes, for subsection 99(b) of the Act, the guarantee amount for literacy, numeracy and special learning needs.

New table item 3 sets out \$834,785 as the guarantee amount for the 2011 program year.

Item [8] – Regulation 9.3

Item [8] inserts a new item into the table in regulation 9.3 after item 2.

Regulation 9.3 prescribes, for subsection 101(2) of the Act, the targeted expenditure supplementation number.

New table item 3 sets out 1.0017 as the targeted expenditure supplementation number for the 2011 program year. This has the effect of increasing the funding amount for targeted expenditure by 4.9 per cent for the 2011 program year.

The targeted expenditure supplementation number for 2011 is small when compared to previous program years and simply reflects an adjustment in respect of the shifting base assistance amounts for each targeted program under the Act. The following summary below specifies the sum of the amounts and the respective estimated additional funding for the 2011 program year for each targeted program.

In accordance with subsection 87(2) of the Act, the sum of the amounts paid to the States for the 2011 program year for short term emergency assistance must not exceed \$1,229,000 and provides an estimated additional funding of \$57,000 for the 2011 program year.

In accordance with subsection 88(2) of the Act, the sum of the amounts paid to the States for the 2011 program year for education in country areas must not exceed \$6,101,000 and provides an estimated additional funding of \$285,000 for the 2011 program year.

In accordance with subsection 91(1) of the Act, the sum of the grant amounts paid to the States for the 2011 program year for languages education must not exceed \$14,346,000 and provides an estimated additional funding of \$670,000 for the 2011 program year.

In accordance with subsection 94(2) of the Act, the assistance amount per student for teaching English to eligible new arrivals for the 2011 program year is \$6,731 and provides an additional \$315 per student.

In accordance with subsection 95(2) of the Act, the assistance amount per student for teaching English to eligible humanitarian new arrivals for the 2011 program year is \$13,460 and provides an additional \$629 per student.

In accordance with subsection 96(3) of the Act, the assistance amount per student with disabilities for literacy, numeracy and special learning needs for the 2011 program year is \$994 and provides an additional \$47 per student.

In accordance with subsection 98(1) of the Act, the school grants amount for literacy, numeracy and special learning needs for the 2011 program year is \$170,114,123 and provides an estimated additional funding of \$7,945,227 for the 2011 program year.