



Australian Education Amendment (2020 Measures No. 1) Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 16 April 2020

David Hurley
Governor-General

By His Excellency's Command

Dan Tehan
Minister for Education

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1 Name

This instrument is the *Australian Education Amendment (2020 Measures No. 1) Regulations 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	18 April 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Australian Education Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Commonwealth share for non-government schools for transition years

Australian Education Regulation 2013

1 Subsection 4(1)

Insert:

2023 transition period for a transition year means the number of years from the transition year to 2023 (not including the transition year).

Example: If the transition year is 2020, the number of years from the transition year to 2023 is 3.
If the transition year is 2023, the number of years from the transition year to 2023 is 0.

2029 transition period for a transition year means the number of years from the transition year to 2029 (not including the transition year).

Example: If the transition year is 2024, the number of years from the transition year to 2029 is 5.
If the transition year is 2029, the number of years from the transition year to 2029 is 0.

basis of a school's CTC score for a year means whichever of the following is the basis of the number that is the CTC score for the school for the year:

- (a) the average DMI score;
- (b) the 2016 SES score;
- (c) the 2011 SES score;
- (d) a determination made by the Minister other than in accordance with this regulation for the reason mentioned in subsection 52(4) of the Act.

Note: The basis of a school's CTC score is the same in successive years if the number that is the school's CTC score is determined on the same basis for each of those years. The number itself need not be the same each year. For example, the basis of a school's CTC score for 2021 is the same as in 2020 if in both years the basis of the CTC score was a determination made by the Minister other than in accordance with this regulation for the reason mentioned in subsection 52(4) of the Act.

CTC-adjusted SRS amount for the school for the year has the meaning given by section 19F.

first funding year for a school means the year for which the Minister first makes a determination under section 25 of the Act for the school.

notional funding amount for the school for the year has the meaning given by section 19G.

notional starting share has the meaning given by section 19E.

2 Section 16A

Repeal the section.

3 After Division 1 of Part 3

Insert:

Division 1A—Commonwealth share for non-government schools for transition years for the schools

19 Transition years for non-government schools

- (1) For the purposes of paragraph (c) of the definition of *transition year* in section 6 of the Act, the prescribed year is (subject to subsection (2) of this regulation):
 - (a) for a non-government school that has a Commonwealth share of 80% for 2023—2023; or
 - (b) for any other non-government school—2029.
- (2) However, for a non-government school that has its first funding year for the school in 2022 or later (but no later than 2029), the prescribed year for the school is the first funding year for the school.

19A Commonwealth share for non-government schools worked out using the notional starting share for 2019

Scope

- (1) For the purposes of section 35C of the Act, this section applies to a non-government school (subject to section 19D of this regulation) for a transition year for the school if:
 - (a) the transition year is 2020; or
 - (b) the transition year is 2021 and the basis of the school's CTC score for 2021 is the same as for 2020; or
 - (c) the transition year is 2022 and the basis of the school's CTC score for the school for 2022 is the same as for both 2020 and 2021; or
 - (d) the transition year is 2023 or later and this section applied to the school in 2022.

Notional starting share is less than or equal to 80%

- (2) If the notional starting share for the school for 2019 is less than or equal to 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2019} + \frac{1}{4} \left(4 - \frac{2023 \text{ transition}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2019} \right)$$

Note: If a non-government school's Commonwealth share in 2023 is 80%, this is also its last transition year: see paragraph 19(1)(a).

Notional starting share is greater than 80%

- (3) If the notional starting share for the school for 2019 is greater than 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2019} + \frac{1}{10} \left(10 - \frac{2029 \text{ transition}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2019} \right)$$

19B Commonwealth share for non-government schools worked out using the notional starting share for 2020

Scope

- (1) For the purposes of section 35C of the Act, this section applies to a non-government school (subject to section 19D of this regulation) for a transition year for the school if:
- (a) the transition year is 2021 and the basis of the school's CTC score for 2021 is not the same as for 2020; or
 - (b) the transition year is 2022, this section applied to the school in 2021 and the basis of the school's CTC score for 2022 is the same as for 2021; or
 - (c) the transition year is 2023 or later and this section applied to the school in 2022.

Notional starting share is less than or equal to 80%

- (2) If the notional starting share for the school for 2020 is less than or equal to 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2020} + \frac{1}{3} \left(3 - \frac{\text{2023 transition period}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2020} \right)$$

Note: If a non-government school's Commonwealth share in 2023 is 80%, this is also its last transition year: see paragraph 19(1)(a).

Notional starting share is greater than 80%

- (3) If the notional starting share for the school for 2020 is greater than 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2020} + \frac{1}{9} \left(9 - \frac{\text{2029 transition period}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2020} \right)$$

19C Commonwealth share for non-government schools worked out using the notional starting share for 2021

Scope

- (1) For the purposes of section 35C of the Act, this section applies to a non-government school (subject to section 19D of this regulation) if the transition year for the school is 2022 or later and the school is covered by neither section 19A nor 19B of this regulation for the transition year.

Notional starting share is less than or equal to 80%

- (2) If the notional starting share for the school for 2021 is less than or equal to 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2021} + \frac{1}{2} \left(2 - \frac{\text{2023 transition period}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2021} \right)$$

Note: If a non-government school's Commonwealth share in 2023 is 80%, this is also its last transition year: see paragraph 19(1)(a).

Notional starting share is greater than 80%

- (3) If the notional starting share for the school for 2021 is greater than 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act), the Commonwealth share for the school for the transition year is the percentage worked out using the following formula:

$$\text{Notional starting share for 2021} + \frac{1}{8} \left(8 - \frac{\text{2029 transition period}}{\text{period}} \right) \times \left(0.8 - \text{Notional starting share for 2021} \right)$$

19D Commonwealth share for new non-government schools

Scope

- (1) For the purposes of section 35C of the Act, this section applies to a non-government school whose first funding year is 2020 or later.

Commonwealth share for new non-government schools

- (2) The Commonwealth share for the school for the school's first funding year is 80% (which is the Commonwealth share for a non-government school under paragraph 35A(b) of the Act).
- (3) If the school's first funding year is 2020 or 2021, the Commonwealth share for the school for a transition year after the first funding year is worked out in accordance with section 19A, 19B or 19C, as applicable.

Note: If a non-government school's first funding year is 2022 or later, this is also its last transition year: see subsection 19(2).

19E Notional starting share for non-government schools

The *notional starting share* for a non-government school for a year for the school is the percentage worked out using the following formula:

$$\frac{\text{Notional funding amount for the school for the year}}{\text{CTC-adjusted SRS amount for the school for the year}}$$

where:

CTC-adjusted SRS amount for the school for the year has the meaning given by section 19F.

notional funding amount for the school for the year has the meaning given by section 19G.

19F CTC-adjusted SRS amount

The *CTC-adjusted SRS amount for the school for the year* is the amount that would have been the school's total entitlement for the year if:

- (a) the Commonwealth share for the school had been 100%; and
- (b) the SES score or the CTC score for the school had been the CTC score of the school for the next year.

Note: **SES score** was defined in the Act as previously in force before the commencement of the *Australian Education Amendment (Direct Measure of Income) Act 2020*.

19G Notional funding amount

Notional funding amount for the school

- (1) The **notional funding amount for the school for the year** is (subject to subsection (2)) the school's total entitlement for the year.

Note: See section 12 of the Act for the definition of a school's **total entitlement** for a year.

Exception—schools with a certain approved authority

- (2) However, in 2019 the **notional funding amount for the school for the year** is the amount worked out under subsection (4) if the person who was the approved authority for the school in 2019 was also:
- (a) the school's approved authority in 2017; and
 - (b) the school's approved system authority within the meaning of section 5 of this regulation as in force immediately before 1 January 2018.
- (3) For the purposes of subsection (2), if:
- (a) the school's approved authority in 2017 was the school's approved system authority within the meaning of section 5 of this regulation as in force immediately before 1 January 2018; and
 - (b) the school's approved authority changed legal entity status after 2017; the school's approved authority in 2017 is taken to be the approved authority for the school in 2019.
- (4) For the purposes of subsection (2), the amount is worked out under this subsection using the following formula:

2017 school funding proportion × 2019 approved authority total entitlement
where:

2017 school funding proportion for the school is the amount worked out by:

- (a) identifying the amount of financial assistance paid to the school's approved authority in accordance with Part 3 of the Act for 2017 that was allocated to the school for the year; and
- (b) dividing that amount by the sum of the total entitlements of the approved authority's schools for 2017 (not including a school for which the Minister has not made a determination under section 25 of the Act that applies to the school in either or both 2018 and 2019).

2019 approved authority total entitlement for the school is the sum of the total entitlements of the approved authority's schools for 2019 (not including a school whose first funding year is 2018 or 2019).

4 Schedule 4

Repeal the Schedule.

Schedule 2—CTC score

Australian Education Regulation 2013

1 Subsection 4(1)

Insert:

2011 SES score has the meaning given by subsection 24(1).

2016 SES score has the meaning given by subsection 24(4).

average DMI score has the meaning given by subsection 22(1).

DMI methodology document means the *Direct Measure of Income Methodology Document* issued by the Department, as in force from time to time.

Note: The DMI methodology document could in 2020 be viewed on the Department's website (<http://www.dese.gov.au>).

DMI score (short for direct measure of income score) has the meaning given by subsection 22(4).

refined area based score has the meaning given by subsection 23(2).

2 Subsection 4(1) (definition of *statement of addresses*)

Repeal the definition.

3 Subsection 4(1)

Insert:

statement of student addresses, for a school, means:

- (a) a statement provided in relation to the school that contains the information in paragraph 58B(2)(aa), so far as the statement relates to students who are not distance education students; or
- (b) a statement provided in relation to the school in accordance with section 21 as in force before the commencement of the *Australian Education Amendment (2020 Measures No. 1) Regulations 2020*.

4 Division 2 of Part 3

Repeal the Division, substitute:

Division 2—CTC score

21 CTC score

- (1) For the purposes of subsection 52(4) of the Act, a school's CTC score to be determined by the Minister must be the number worked out in accordance with this section.

CTC score for 2020 or 2021

- (2) The number that is the CTC score for a school for 2020 or for 2021 is whichever of the following would, if it were the CTC score for the school for the year,

result in the highest amount of financial assistance being payable to a State or Territory for the school for the year under Division 2 of Part 3 of the Act:

- (a) the average DMI score;
- (b) the 2016 SES score;
- (c) the 2011 SES score.

CTC score for 2022 or later years

- (3) In working out the CTC score for a school for 2022 or a later year, the number is:
 - (a) the average DMI score for the school for the year; or
 - (b) the refined area based score for the school for the year worked out in accordance with section 23, if the Minister is satisfied that:
 - (i) it is not reasonably practicable to use the average DMI score for the school for the year; and
 - (ii) if less than 95% of the residential addresses included in a school's statement of student addresses can be assigned to the Statistical Area Level 1 in which the addresses are located—it is still appropriate to work out a refined area based score for the school for the year.

Note: This section does not apply to a school if the Minister is satisfied that determining the school's CTC score in accordance with this section would result in a CTC score that does not accurately reflect the capacity of the persons responsible for students at the school to contribute financially to the operation of the school (see subsection 52(4) of the Act).

22 Average DMI score

- (1) A school's **average DMI score** is:
 - (a) for 2020—the average of the DMI scores for the school for 2018 and 2019; or
 - (b) for a later year—the average of the DMI scores for the school for the 3 years before that year.
- (2) A number worked out under subsection (1) must be rounded to the nearest whole number, rounding up a number that ends in .5.
- (3) However, if, for 2022 or a later year, the number worked out under subsection (1) for a small school or a very small school for the year is 3 or more higher or 3 or more lower than the school's CTC score for the previous year, the average DMI score is taken to be 2 higher or 2 lower (as applicable) than the school's CTC score for the previous year.
- (4) A school's **DMI score** for a year is worked out as follows:

Method statement

- Step 1. Use the DMI methodology document to determine the annual income of each person responsible for a student at the school for the year.
- Step 2. Add the annual incomes of each person responsible for each student at the school for the year to work out the family income for each student.
- Step 3. Use the family income for each student at the school for the year to calculate the median family income for the school for the year.

Step 4. Calculate the standardised and weighted family income for the school using the median family income of all schools for the year, the number of students at the school for the year and the number of students at all schools for the year as set out in the DMI methodology document. The result is the school's **DMI score** for the year.

23 Refined area based score

- (1) For the purposes of subparagraph 21(3)(b)(i), and without limiting that subparagraph, the Minister may be satisfied that it is not reasonably practicable to use the average DMI score for the school if:
- (a) there is less than 3 years of information to calculate the average DMI score for the school for the year; or
 - (b) the number of persons responsible for students at the school for the year is too low to ensure that the CTC score does not identify information relating to a particular student or a person responsible for that student; or
 - (c) the information available to calculate step 2 of the method statement for the DMI score does not meet the standards in the document titled *Capacity to Contribute Data Validation and Quality Assurance Process* published by the Department and as in force from time to time.

Note: The *Capacity to Contribute Data Validation and Quality Assurance Process* document could in 2020 be viewed on the Department's website (<http://www.dese.gov.au>).

Refined area based score

- (2) The **refined area based score** for a school for a year is worked out using the following formula:

$$\frac{\text{School's average SES dimension score for the family income dimension}}{2} + \frac{\text{School's average SES dimension score for the household income dimension}}{2}$$

- (3) A number worked out under subsection (2) must be rounded to the nearest whole number, rounding up a number that ends in .5.

Working out the school's average SES dimension score for an SES dimension

- (4) The school's **average SES dimension score** for an SES dimension is, subject to subsection (5), worked out by:
- (a) adding, for each residential address represented in the latest statement of student addresses, the SES dimension score for the SES dimension of the Statistical Area Level 1 to which the address has been assigned; and
 - (b) dividing the result by the total number of those SES dimension scores.

Note: The SES dimension score of a Statistical Area Level 1 for an SES dimension:

- (a) is worked out by the Department; and
- (b) could in 2020 be viewed on the Department's website (<http://www.dese.gov.au>).

- (5) In working out an average SES dimension score under subsection (4), the Minister may include a residential address in the school's statement of student addresses that was not included in that statement, but the Minister considers ought to have been.

24 SES score

2011 SES score

- (1) The **2011 SES score** for a school for a year is the number worked out using the formula in subsection (7) and the following information:
 - (a) if statements of student addresses were provided for the school between 2012 and 2016 (inclusive)—the most recent of those statements;
 - (b) otherwise—the oldest of the statements of student addresses provided for the school after 2016.
- (2) A number worked out under subsection (1) must be rounded to the nearest whole number, rounding up a number that ends in .5.
- (3) For each residential address represented in a statement of student addresses mentioned in subsection (1), the Minister must use the SES dimension score for the SES dimension of the Statistical Area Level 1 to which the address has been assigned, as determined in the 2011 Census of Population and Housing.

Note: Information about the 2011 Census of Population and Housing could in 2020 be viewed on the Australian Bureau of Statistics website (<http://www.abs.gov.au>).

2016 SES score

- (4) The **2016 SES score** for a school for a year is the number worked out using the formula in subsection (7) and the oldest of the statement of student addresses for the school provided for 2017 or a later year.
- (5) A number worked out under subsection (4) must be rounded to the nearest whole number, rounding up a number that ends in .5.
- (6) For each residential address represented in a statement of student addresses mentioned in subsection (4), the Minister must use the SES dimension score for the SES dimension of the Statistical Area Level 1 to which the address has been assigned, as determined in the 2016 Census of Population and Housing.

Note: Information about the 2016 Census of Population and Housing could in 2020 be viewed on the Australian Bureau of Statistics website (<http://www.abs.gov.au>).

Formula

- (7) The following formula is to be used for the purposes of the 2011 SES score and the 2016 SES score:

$$\frac{\text{School's average SES dimension score for the education dimension}}{3} + \frac{\text{School's average SES dimension score for the family income dimension}}{6} + \frac{\text{School's average SES dimension score for the household income dimension}}{6} + \frac{\text{School's average SES dimension score for the occupation dimension}}{3}$$

Working out the school's average SES dimension score for an SES dimension

- (8) The school's **average SES dimension score** for an SES dimension is, subject to subsection (9), worked out by:

- (a) adding, for each residential address represented in a statement of student addresses, the SES dimension score for the SES dimension of the Statistical Area Level 1 to which the address has been assigned; and
- (b) dividing the result by the total number of those SES dimension scores.

Note: The SES dimension score of a Statistical Area Level 1 for an SES dimension:

- (a) is worked out by the Department; and
- (b) could in 2020 be viewed on the Department's website (<http://www.dese.gov.au>).

- (9) In working out an average SES dimension score under subsection (8), the Minister may include a residential address in the school's statement of student addresses that was not included in that statement, but the Minister considers ought to have been.

24AAA Publication of CTC score if determined other than in accordance with this regulation

If the Minister makes a determination of a CTC score for a school other than in accordance with this regulation for the reason mentioned in subsection 52(4) of the Act, the Minister must:

- (a) publish, in a way the Minister considers appropriate, the CTC score for the school and the reasons for making the determination; and
- (b) do so within 30 days of making the determination.

Note: The Minister must determine a school's CTC score in accordance with this regulation unless the Minister is satisfied doing so would result in a CTC score that does not accurately reflect the capacity of the persons responsible for students at the school to contribute financially to the operation of the school: see subsection 52(4) of the Act.

5 Subsection 58B(1)

Repeal the subsection, substitute:

- (1) The information in subsection (2) must be provided, as mentioned in section 52, in relation to each student at a school unless the school is:
 - (a) a government school; or
 - (b) a special school; or
 - (c) a special assistance school; or
 - (d) a school that is a majority Aboriginal and Torres Strait Islander school for a year; or
 - (e) a sole provider school.

6 After paragraph 58B(2)(a)

Insert:

- (aa) the residential address of the student; and
- (ab) whether the student is a distance education student; and

7 After subsection 65(2)

Insert:

- (2A) Without limiting subsection (1) or (2), the Minister may disclose school education information to the Australian Bureau of Statistics for the purposes of its assistance in determining a CTC score for a school.

Note: For requirements in relation to information disclosed by the Australian Bureau of Statistics: see the *Census and Statistics Act 1905*.

8 In the appropriate position in Part 8

Insert:

75 Application provision for the *Australian Education Amendment (2020 Measures No. 1) Regulations 2020*

The amendments made by items 1, 4 and 7 of Schedule 2 to the *Australian Education Amendment (2020 Measures No. 1) Regulations 2020* apply in relation to financial assistance for 2020 and each later year.

9 At the end of clause 14 of Schedule 1

Add:

Note: *SES score* was defined in the Act as previously in force in relation to 2017.

10 At the end of subclause 15(2) of Schedule 1

Add:

Note: *SES score* was defined in the Act as previously in force in relation to 2017.

11 At the end of subclause 17(3) of Schedule 1

Add:

Note: *SES score* was defined in the Act as previously in force in relation to 2017.