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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Schools Assistance Bill 2008

No. , 2008

(Education, Employment and Workplace Relations)

**A Bill for an Act to grant financial assistance for
non-government primary and secondary education
for 2009 to 2012, and for related purposes**

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1 **A Bill for an Act to grant financial assistance for**
2 **non-government primary and secondary education**
3 **for 2009 to 2012, and for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Schools Assistance Act 2008*.

9 **2 Commencement**

10 This Act commences on 1 January 2009.

1 **3 Simplified outline of Act**

- 2 (1) This section is a simplified outline of this Act.
- 3 (2) Financial assistance may be paid to a State for, or in connection
4 with, non-government schools (or approved school systems) in the
5 State for the following:
- 6 (a) recurrent expenditure (see Part 4);
7 (b) capital expenditure (see Part 5);
8 (c) targeted expenditure (see Part 6).
- 9 (3) Financial assistance may be paid for the 2009 to 2012 program
10 years.
- 11 (4) Financial assistance for a non-government school, or another
12 non-government body, may only be paid if there is a funding
13 agreement with the relevant authority of the school or body that
14 sets out the requirements that must, under this Act, be included in
15 the agreement.

16 Note: See Divisions 2 and 3 of Part 3.

- 17 (5) If a non-government school, or another non-government body,
18 breaches a funding agreement, the Minister may (under the
19 agreement) require the school or body to repay an amount to the
20 Commonwealth. The Minister may also reduce or delay the amount
21 of other payments for the school or body under this Act.

22 Note: See section 27.

- 23 (6) If a State fails to pass on an amount of financial assistance to a
24 non-government school, or another non-government body, for
25 which financial assistance is granted under this Act, the Minister
26 may require the State to repay an amount to the Commonwealth.

27 Note: See Division 4 of Part 3.

1

2 **Part 2—Interpretation**

3 **Division 1—Definitions**

4 **4 Definitions**

5 In this Act:

6 *1992 Act* means the *States Grants (Primary and Secondary*
7 *Education Assistance) Act 1992.*

8 *1996 Act* means the *States Grants (Primary and Secondary*
9 *Education Assistance) Act 1996.*

10 *2000 Act* means the *States Grants (Primary and Secondary*
11 *Education Assistance) Act 2000.*

12 *2008 funding level*, for a school, for a particular level of education,
13 means the funding level that was used to work out the funding for
14 the school's recurrent expenditure for the 2008 program year, for
15 that level of education, under the former Act.

16 *AGSRC* (short for Average Government School Recurrent Costs)
17 has the meaning given by section 36.

18 *amount* includes a nil amount.

19 *approved authority* has the meaning given by section 149.

20 *approved authority determination* means a determination
21 (including a transitional approved authority determination) made
22 under section 151.

23 *approved school* has the meaning given by section 103.

24 *approved school determination* means a determination (including
25 a transitional approved school determination) made under
26 subsection 110(1).

27 *approved school system* has the meaning given by section 127.

Section 4

- 1 ***approved school system determination*** means a determination
2 (including a transitional approved school system determination)
3 made under subsection 129(1).
- 4 ***block grant authority*** has the meaning given by section 83.
- 5 ***body*** means any organisation or body, whether incorporated or not,
6 or an individual.
- 7 ***capital expenditure*** has a meaning affected by section 83.
- 8 ***capital expenditure supplementation number*** has the meaning
9 given by section 85.
- 10 ***current SES funding level***, for a school with a particular SES
11 score, means the percentage of AGSRC specified in column 2 of
12 the table in Schedule 1 for that SES score.
- 13 ***disability assessment***, for a student, means an assessment, by a
14 person with relevant qualifications, that:
- 15 (a) the student has one or more of the following impairments:
16 (i) an intellectual impairment;
17 (ii) a sensory impairment;
18 (iii) a physical impairment;
19 (iv) a social impairment;
20 (v) an emotional impairment; and
- 21 (b) the student has the impairment or impairments to a degree
22 that satisfies the criteria for eligibility to access special
23 education services, or special education programs, provided
24 by the Government of the State in which the student resides.
- 25 ***Education Assistance Act*** means this Act, the former Act, the 2000
26 Act, the 1996 Act or the 1992 Act.
- 27 ***eligible humanitarian new arrival*** has the meaning given by
28 section 92.
- 29 ***eligible new arrival*** has the meaning given by section 92.
- 30 ***former Act*** means the *Schools Assistance (Learning Together—*
31 *Achievement Through Choice and Opportunity) Act 2004*.

1 **former list of non-government schools** means the list of
2 non-government schools kept under Division 2 of Part 3 of the
3 former Act.

4 **funding agreement** has the meaning given by section 12.

5 **funding level**, for a non-government school, for a particular level
6 of education, has the meaning given by section 6.

7 **guaranteed funding level**, for a non-government school, for a
8 particular level of education, means the school's 2008 funding
9 level for that level of education.

10 **guarantee year**, for a non-government school, means:

- 11 (a) if Subdivision C of Division 2 of Part 6 of the former Act
12 (current SES funding) was used to work out the funding for
13 the school's recurrent expenditure for the 2008 program year
14 under the former Act—the 2008 program year (under the
15 former Act); or
16 (b) if Subdivision F of Division 2 of Part 6 of the former Act
17 (guaranteed year 2004 funding) was used to work out the
18 funding for the school's recurrent expenditure for the 2008
19 program year under the former Act—the 2004 program year
20 (under the former Act).

21 **guardian**, in relation to a student, includes a person who has been
22 granted (whether alone or jointly with another person or other
23 persons) guardianship of the student under the law of the
24 Commonwealth or of a State or Territory.

25 **Indigenous**: a person is **Indigenous** if he or she is:

- 26 (a) a member of the Aboriginal race of Australia; or
27 (b) a descendant of an Indigenous inhabitant of the Torres Strait
28 Islands.

29 **intensive ESL course** has the meaning given by section 92.

30 Note: **ESL** is short for English as a Second Language.

31 **level of education** means a level of primary education or secondary
32 education determined under section 7.

Section 4

1 ***maintained funding level***, for a non-government school, for a
2 particular level of education, means the school's 2008 funding
3 level for that level of education.

4 ***majority Indigenous student school*** has the meaning given by
5 section 53.

6 ***maximum SES funded school*** has the meaning given by
7 section 52.

8 ***member***, of an approved school system, has the meaning given by
9 section 127.

10 ***moderately accessible school campus***: a school campus of a
11 non-government school is a ***moderately accessible school campus***
12 for a program year if the school campus is, on either of the
13 following days, in a location categorised under the Remoteness
14 Structure as Outer Regional Australia:

- 15 (a) the school campus census day for the school campus in the
16 previous calendar year;
17 (b) the school campus census day for the school campus in the
18 program year.

19 ***nominated authority*** has the meaning given by section 10.

20 ***non-government body*** means a body that is not managed or
21 controlled by or on behalf of the Government of a State, including
22 the following:

- 23 (a) a non-government school (whether the school is a systemic
24 school or a non-systemic school);
25 (b) an approved school system.

26 ***non-government school*** means a school in a State:

- 27 (a) that is not conducted by or on behalf of the Government of a
28 State; and
29 (b) that is not conducted for profit.

30 ***non-remote school campus***, of a school, means a school campus of
31 the school other than a remote school campus or a very remote
32 school campus.

1 ***non-systemic school*** means a non-government school that is not a
2 systemic school.

3 ***number of Indigenous primary students***, at a school campus for a
4 program year, has the meaning given by section 65.

5 ***number of Indigenous secondary students***, at a school campus for
6 a program year, has the meaning given by section 65.

7 ***number of primary distance education students***, for a
8 non-government school in a State for a program year, means the
9 number of students (including the full-time equivalent of part-time
10 students) receiving primary distance education at the school on the
11 schools census day for the school for the program year.

12 Note: For when a student receives primary distance education at a
13 non-government school, see section 5.

14 ***number of primary students***, for a non-government school in a
15 State for a program year, means the number of students (including
16 the full-time equivalent of part-time students) receiving primary
17 education at the school on the schools census day for the school for
18 the program year, but not including students receiving primary
19 distance education.

20 Note: For when a student receives primary education, or primary distance
21 education, at a non-government school, see section 5.

22 ***number of secondary distance education students***, for a
23 non-government school in a State for a program year, means the
24 number of students (including the full-time equivalent of part-time
25 students) receiving secondary distance education at the school on
26 the schools census day for the school for the program year.

27 Note: For when a student receives secondary distance education at a
28 non-government school, see section 5.

29 ***number of secondary students***, for a non-government school in a
30 State for a program year, means the number of students (including
31 the full-time equivalent of part-time students) receiving secondary
32 education at the school on the schools census day for the school for
33 the program year, but not including students receiving secondary
34 distance education.

Part 2 Interpretation
Division 1 Definitions

Section 4

1 Note: For when a student receives secondary education, or secondary
2 distance education, at a non-government school, see section 5.

3 ***overseas student*** has the meaning given by section 173.

4 ***person responsible***, for a student, means:

- 5 (a) a parent of the student; or
6 (b) a guardian of the student; or
7 (c) any other person who has the care and control of the student.

8 ***primary education***, at a school in a State, means education at the
9 school at the level of primary education determined for the State
10 under section 7.

11 ***program year*** means the 2009, 2010, 2011 or 2012 calendar year.

12 ***receives***: a student ***receives*** primary education, secondary
13 education, primary distance education or secondary distance
14 education at a non-government school in the circumstances
15 mentioned in section 5.

16 ***recurrent expenditure*** means expenditure relating to the ongoing
17 operating costs of schools.

18 ***relevant authority***, for a non-government body, means:

- 19 (a) the approved authority or nominated authority for the body;
20 or
21 (b) in respect of a payment for a project administered by a block
22 grant authority—the block grant authority.

23 ***relevant Minister***, in relation to a provision of the former Act,
24 means the Minister who administered that provision.

25 ***Remoteness Structure*** means the Remoteness Structure described
26 in the document entitled “Statistical Geography Volume 1
27 Australian Standard Geographical Classification (ASGC) July
28 2006”, published by the Australian Statistician in July 2006, that
29 was effective 1 July 2006.

30 ***remote school campus***: a school campus of a non-government
31 school is a ***remote school campus*** for a program year if the school

1 campus is, on either of the following days, in a location categorised
2 under the Remoteness Structure as Remote Australia:

- 3 (a) the school campus census day for the school campus in the
4 previous calendar year;
5 (b) the school campus census day for the school campus in the
6 program year.

7 **responsible body** has the meaning given by paragraph 138(1)(a).

8 **school** includes a proposed school, but does not include a school at
9 which education is provided at a standard (however described) that
10 is pre-school standard only.

11 **school campus**: a location is a **school campus** of a
12 non-government school if the location is one at which students
13 receive primary education or secondary education at the school.

14 **school campus census day** has the meaning given by section 9.

15 **schools census day** has the meaning given by section 8.

16 **secondary education**, at a school in a State, means education
17 (whether junior secondary education or senior secondary
18 education) at the school at the level of secondary education
19 determined for the State under section 7.

20 **SES score** (short for Socio-Economic Status score) has the
21 meaning given by section 72.

22 **SES score determination** means a determination (including a
23 transitional SES score determination) made under subsection 72(2).

24 **special assistance school** means a non-government school in a
25 State that:

- 26 (a) is, or is likely to be, recognised by the State Minister as a
27 special assistance school; and
28 (b) primarily caters for students with social, emotional or
29 behavioural difficulties.

30 **special education** means education under special programs, or
31 special activities, designed specifically for students with
32 disabilities.

Section 4

1 **special school** means a non-government school in a State that:

2 (a) is, or is likely to be, recognised by the State Minister as a
3 special school; and

4 (b) provides special education.

5 **State** includes the Australian Capital Territory and the Northern
6 Territory.

7 **State Minister**, for a State, means the Minister of the State who is
8 responsible, or primarily responsible, for the administration of
9 matters relating to school education in that State.

10 **student with disabilities** means a student:

11 (a) who attends a non-government school (whether or not as a
12 distance education student); and

13 (b) in respect of whom a disability assessment has been made.

14 **systemic school** means an approved school that is approved as a
15 member of an approved school system.

16 **targeted expenditure supplementation number** has the meaning
17 given by section 101.

18 **transitional approved authority determination** has the meaning
19 given by subsection 150(2).

20 **transitional approved school determination** has the meaning given
21 by subsection 104(2).

22 **transitional approved school system determination** has the
23 meaning given by subsection 128(2).

24 **transitional SES score determination** has the meaning given by
25 subsection 73(2).

26 **very remote school campus**: a school campus of a non-government
27 school is a **very remote school campus** for a program year if the
28 school campus is, on either of the following days, in a location
29 categorised under the Remoteness Structure as Very Remote
30 Australia:

31 (a) the school campus census day for the school campus in the
32 previous calendar year;

1
2

(b) the school campus census day for the school campus in the program year.

1

2 **Division 2—Other important concepts**

3 **5 Students receiving education at non-government schools**

4 *Primary and secondary education*

5 (1) In this Act:

6 *receives*: a student *receives* primary education or secondary
7 education (as the case may be) at a non-government school (or at a
8 school campus of a non-government school) only if:

- 9 (a) the student attends, on a daily basis, the school (or campus) at
10 a location approved for the school, for that level of education,
11 under this Act; or
12 (b) the Minister determines that the student is to be treated
13 (because of special circumstances) as so attending the school
14 (or campus).

15 *Distance education*

16 (2) In this Act:

17 *receives*: a student *receives* primary distance education or
18 secondary distance education (as the case may be) at a
19 non-government school (or at a school campus of a
20 non-government school) located in a State only if:

- 21 (a) the student resides in the State; and
22 (b) the State provides funding for the school (otherwise than as a
23 result of the operation of this Act), for that level of education,
24 for students enrolled at the school who receive distance
25 education (however described) from the school; and
26 (c) the student is not approved as a home education student
27 (however described) in accordance with the law of the State
28 in which the student resides.

29 **6 Meaning of *funding level***

30 In this Act:

1 *funding level*, for a non-government school, for a particular level
2 of education, for a program year, has the meaning set out in the
3 following table:
4

Funding levels—general		
Item	If the following Division of Part 4 applies to the school for that level of education for that program year ...	the funding level for that level of education, for that program year, is ...
1	Division 3 (current SES funding)	the school's current SES funding level.
2	Division 4 (maintained funding)	the school's maintained funding level.
3	Division 5 (guaranteed year 2008 funding)	the school's guaranteed funding level.
4	Division 6 (maximum SES funding)	70% of AGSRC for that level of education for the program year.

5 **7 Levels of education**

- 6 (1) For the purposes of this Act, the Minister may, by legislative
7 instrument, determine a level of primary education or a level of
8 secondary education for a State.
- 9 (2) A determination under subsection (1) may relate to:
10 (a) education provided at schools generally; or
11 (b) education provided at schools included in a particular class of
12 schools.
- 13 (3) In making a determination under subsection (1), the Minister must
14 have regard to the arrangements made for providing education at
15 schools in the State conducted by or on behalf of the Government
16 of the State. This does not limit the matters to which the Minister
17 may have regard.
- 18 (4) A reference in this Act to a level of education at a school in a State
19 includes a reference to a year in a course of primary education or
20 secondary education provided at the school at a level, determined
21 by the Minister under subsection (1), that applies to the school.

1 **8 Meaning of *schools census day***

2 (1) In this Act:

3 *schools census day*, for a calendar year, for a non-systemic school
4 or approved school system, means:

5 (a) for the 2008 calendar year—the schools census day for the
6 school or system for that year under the former Act; or

7 (b) for any other calendar year:

8 (i) if, under subsection (2), the Minister has declared a
9 particular day in the year to be the schools census day
10 for the school or system—the day so declared; or

11 (ii) if subparagraph (i) does not apply to the school or
12 system—a day in the year agreed between the Minister
13 and the State Minister, under subsection (3), to be the
14 schools census day for that school or system.

15 (2) For the purpose of subparagraph (b)(i) of the definition of *schools*
16 *census day* in subsection (1), the Minister may declare a particular
17 day in a calendar year to be the schools census day for that year,
18 for a non-systemic school or an approved school system, if the
19 Minister is satisfied that special circumstances exist justifying the
20 declaration.

21 (3) For the purpose of subparagraph (b)(ii) of the definition of *schools*
22 *census day* in subsection (1), the Minister may agree with the State
23 Minister that a particular day in a calendar year is to be the schools
24 census day for that year, for a non-systemic school or an approved
25 school system.

26 **9 Meaning of *school campus census day***

27 (1) In this Act:

28 *school campus census day*, for a calendar year, for a school
29 campus of a non-government school, means:

30 (a) for the year 2008—the schools campus census day for the
31 school campus for that year under the former Act; or

32 (b) for any other calendar year:

33 (i) the schools census day for the school for that year; or

1 (ii) if, under subsection (2), the Minister has declared a
2 particular day in the year to be the school campus
3 census day—the day so declared.

4 (2) For the purpose of subparagraph (b)(ii) of the definition of *school*
5 *campus census day* in subsection (1), the Minister may declare a
6 particular day in a calendar year to be the school campus census
7 day for the school campus for the year, if the Minister is satisfied
8 that special circumstances exist justifying the declaration.

9 **10 Meaning of *nominated authority***

10 (1) For the purposes of this Act, or a provision (or provisions) of this
11 Act specified under subsection (2), a body nominated under that
12 subsection by a group of non-government schools is the *nominated*
13 *authority* of the group.

14 (2) A group of non-government schools may make a written
15 nomination to the Secretary of the Department of a body to be the
16 nominated authority of the group for the purposes of this Act, or of
17 a specified provision or provisions of this Act.

1

2 **Part 3—Authorisation of financial assistance**

3 **Division 1—Simplified outline of Part**

4 **11 Simplified outline**

- 5 (1) This section is a simplified outline of this Part.
- 6 (2) Financial assistance to a State for a non-government school, or
7 another non-government body, must not be paid unless there is an
8 agreement between the Commonwealth and the relevant authority
9 of the school or body.
- 10 (3) The agreement must cover matters including the following:
- 11 (a) national performance and transparency requirements (see
12 Subdivision B of Division 3);
- 13 (b) grant acquittal and reporting requirements (see Subdivision C
14 of Division 3);
- 15 (c) monitoring, evaluation and compliance requirements (see
16 Subdivision D of Division 3).
- 17 (4) The following additional conditions apply to the grant of financial
18 assistance to a State for a non-government school or another
19 non-government body (see Divisions 2 and 4):
- 20 (a) in the case of financial assistance for a school—the school
21 must be an approved school;
- 22 (b) the school or body must be financially viable;
- 23 (c) the State must pay amounts of assistance to the relevant
24 authority of the school or body as soon as practicable (or
25 within an extended period allowed by the Minister).
- 26 (5) If a non-government school, or another non-government body,
27 breaches a funding agreement, the Minister may (under the
28 agreement) require the school or body to repay an amount to the
29 Commonwealth. The Minister may also reduce or delay the amount
30 of other payments for the school or body under this Act.

31 Note: See section 27.

- 1 (6) If a State fails to pass on an amount of financial assistance to a
2 non-government school, or another non-government body, for
3 which financial assistance is granted under this Act, the Minister
4 may require the State to repay an amount to the Commonwealth.

5 Note: See Division 4.

1

2 **Division 2—Authorised financial assistance**

3 **12 Authorised financial assistance—funding agreements**

- 4 (1) The Minister must not authorise a payment to a State under this
5 Act for a non-government school, or another non-government
6 body, unless the relevant authority of the school or body has made
7 an agreement (a *funding agreement*) with the Commonwealth that
8 complies with Division 3 (Funding agreements).
- 9 (2) A funding agreement may have been made before the
10 commencement of this Act.

11 **13 Authorised financial assistance—schools must be approved**

12 The Minister must not authorise a payment to a State under this
13 Act for education at a particular level at a particular location at a
14 non-government school unless the school is an approved school for
15 that level and location.

16 Note: Part 7 deals with the approval of schools.

17 **14 Authorised financial assistance—State recognition of schools etc.**

18 *Recognition of school*

- 19 (1) The Minister may refuse to authorise a payment to a State under
20 this Act for a non-government school during any period when the
21 State Minister does not recognise the school.

22 Note: The Minister must revoke the school's approved school determination
23 (see section 122).

24 *Recognition of level of education at school*

- 25 (2) The Minister may refuse to authorise a payment to a State under
26 this Act for a non-government school for a particular level of
27 education provided at a non-government school during any period
28 when the State Minister does not recognise the school for that level
29 of education.

1 *Recognition of location for level of education*

- 2 (3) The Minister may refuse to authorise a payment to a State under
3 this Act for a non-government school for provision of a level of
4 education by the school at a particular location during any period
5 when the State Minister does not recognise the school for that level
6 of education provided at the location.

7 *Non-recognition under State law*

- 8 (4) For the purposes of this section, without limiting subsections (1) to
9 (3), a period during which the State Minister concerned does not
10 recognise a school includes a period (including a temporary period)
11 during which the school is not permitted under the law of the State
12 concerned to provide:
13 (a) in relation to the condition in subsection (1)—education (at
14 whatever level) at the school; or
15 (b) in relation to the condition in subsection (2)—the level of
16 education concerned at the school; or
17 (c) in relation to the condition in subsection (3)—the level of
18 education concerned at the school, at the location concerned.

19 **15 Authorised financial assistance—financial viability**

20 The Minister may refuse to authorise, or may delay, a payment to a
21 State under this Act for a non-government body (including a
22 non-government school), or the relevant authority of such a body,
23 if:

- 24 (a) either (or both) of the following applies:
25 (i) the body or authority is a body corporate that is being
26 wound up;
27 (ii) the affairs of the body or authority are under any form
28 of external control (for example, the control of a
29 manager) under a law of the Commonwealth or a State;
30 or
31 (b) the Minister considers that:
32 (i) the liabilities of the body or authority are greater than its
33 assets; or

Part 3 Authorisation of financial assistance

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- 1 (ii) the body or authority is (and is likely to continue for a
2 substantial period to be) unable to pay its debts as and
3 when they fall due for payment; or
4 (c) if a law of the Commonwealth or a State requires the body or
5 authority to be audited—the relevant audit:
6 (i) is expressed to be qualified; or
7 (ii) expresses concern about the financial viability of the
8 body or authority.

1

2 **Division 3—Funding agreements**

3 **Subdivision A—Purpose of grants**

4 **16 Funding agreements—purpose of grants**

5 (1) A funding agreement must require the relevant authority for the
6 non-government school, or other non-government body, to ensure
7 that amounts received by the relevant authority from the State, as a
8 result of the payment to the State for the school or body, are spent
9 for purposes that are:

- 10 (a) determined by the Minister; and
11 (b) set out in the agreement.

12 (2) Without limiting subsection (1), the purposes for which an amount
13 may be spent include the purpose of paying administrative
14 expenses incurred by the relevant authority.

15 Note: Financial assistance under this Act may be given for recurrent
16 expenditure, capital expenditure or targeted expenditure (see Parts 4, 5
17 and 6).

18 **Subdivision B—National school performance and transparency**
19 **requirements**

20 **17 Funding agreements—national student assessments**

21 *National student assessments*

22 (1) For the purposes of this section, the regulations may prescribe
23 assessments (*national student assessments*) against specified
24 educational standards, including (but not limited to) an assessment
25 against national standards in reading, writing, language
26 conventions and numeracy for students in years 3, 5, 7 and 9 at
27 school.

28 *Requirement for national student assessments*

29 (2) A funding agreement for a non-systemic school, or for an approved
30 school system, must require the relevant authority for the school or

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1 system to ensure that each national student assessment specified in
2 the regulations as applying to the school (or to the schools in the
3 system) is carried out:

- 4 (a) no later than a day or days (if any) determined by the
5 Minister; and
6 (b) as prescribed by the regulations.

7 Note: The regulations may provide that the assessments are to be carried out
8 only for schools of a particular class, and may make different
9 provisions for assessments at schools of different classes (see
10 subsection 33(3A) of the *Acts Interpretation Act 1901*).

11 (3) Without limiting subsection (2), regulations made for the purposes
12 of that subsection may require a national student assessment to be
13 carried out:

- 14 (a) for the students specified in the regulations; and
15 (b) in a way prescribed by the regulations; and
16 (c) with the frequency prescribed by the regulations.

17 Note: The regulations may provide that any particular assessment is to be
18 carried out only for students of a particular class, and may make
19 different provisions for students of different classes (see subsection
20 33(3A) of the *Acts Interpretation Act 1901*).

21 *Applying, adopting or incorporating matter contained in other*
22 *instruments*

23 (4) Despite subsection 14(2) of the *Legislative Instruments Act 2003*,
24 regulations made for the purposes of this section may make
25 provision in relation to a matter by applying, adopting or
26 incorporating, with or without modification, any matter contained
27 in any other instrument or other writing as in force or existing from
28 time to time.

29 **18 Funding agreements—national reports on the outcomes of**
30 **schooling**

31 (1) A funding agreement for a non-systemic school, or for an approved
32 school system, must require the relevant authority for the school or
33 system to do each of the following:

- 1 (a) in the case of an agreement for a non-systemic school—
2 ensure that the school participates in preparing a national
3 report (or reports) on the outcomes of schooling;
- 4 (b) in the case of an agreement for an approved school system—
5 ensure that the system, and each school in the system,
6 participates in preparing a national report (or reports) on the
7 outcomes of schooling;
- 8 (c) give the Minister (for inclusion in a report mentioned in
9 paragraph (a) or (b)) a report (or reports), of a kind (or kinds)
10 required by the Minister, addressing the requirements for
11 performance information prescribed by the regulations.
- 12 (2) A requirement mentioned in paragraph (1)(a), (b) or (c) must be
13 satisfied not later than:
- 14 (a) if the Minister determines a day or days for the purposes of
15 that paragraph—that day or days; or
- 16 (b) in any other case—a day or days that will allow publication
17 of any report mentioned in paragraphs (1)(a) and (b) within
18 one year after the end of each program year.

19 **19 Funding agreements—individual school information**

- 20 (1) A funding agreement for a non-systemic school, or an approved
21 school system, must require the relevant authority for the school or
22 system to ensure that the school, or each school in the system,
23 gives the Minister, or another person or body determined by the
24 Minister, a report (or reports) about individual school information,
25 specified by the regulations, for the school.
- 26 (2) The report (or reports) mentioned in subsection (1):
- 27 (a) must be of a kind (or kinds) required by the Minister; and
- 28 (b) must be given to the Minister:
- 29 (i) from time to time, as required by the Minister; and
- 30 (ii) in the way (if any) determined by the Minister; and
- 31 (iii) no later than a day or days (if any) required by the
32 Minister.

1 **20 Funding agreements—reporting to parents etc.**

2 *Scope*

- 3 (1) This section applies in relation to a student who attends a
4 non-systemic school, or a school that is a member of an approved
5 school system.

6 *Reports about student attending school*

- 7 (2) A funding agreement for the school or system must require the
8 relevant authority for the school or system to give each person
9 responsible for the student a report (or reports) concerning the
10 student that complies with this section.
- 11 (3) A report complies with this section if the report:
- 12 (a) uses plain language, and is readily understandable by each
13 person responsible for the student; and
- 14 (b) gives an accurate and objective assessment of the student’s
15 progress and achievement; and
- 16 (c) includes an assessment of the student’s achievement:
- 17 (i) against any available national standards; and
- 18 (ii) relative to the performance of the student’s peer group
19 at the school; and
- 20 (d) meets any other requirements that are specified in the
21 regulations; and
- 22 (e) is given to each person responsible for the student:
- 23 (i) in a way prescribed by the regulations; and
- 24 (ii) with the frequency prescribed by the regulations.

25 **21 Funding agreements—publication by schools of information**
26 **relating to schools**

- 27 (1) A funding agreement for a non-systemic school, or an approved
28 school system, must require the relevant authority for the school or
29 system to ensure that the school, or each school in the system,
30 makes the information specified in the regulations relating to the
31 school for a program year publicly available within 6 months after
32 the end of the program year.

- 1 (2) The information mentioned in subsection (1) must be made
2 publicly available in the way (if any) specified by the regulations.

3 **22 Funding agreements—national curriculum**

- 4 (1) A funding agreement for a non-systemic school, or an approved
5 school system, must require the relevant authority for the school or
6 system to ensure that the school, or each school in the system,
7 implements the national curriculum prescribed by the regulations
8 for primary education or secondary education (or both, as
9 applicable).
- 10 (2) The requirement mentioned in subsection (1) must be satisfied on
11 or before 31 January 2012.

12 **Subdivision C—Grant acquittal and reporting requirements**

13 **23 Funding agreements—acquittal of grants**

- 14 (1) A funding agreement must require the relevant authority for the
15 non-government school, or other non-government body:
- 16 (a) to give the Secretary of the Department a certificate by a
17 qualified accountant stating whether an amount equal to the
18 sum of the amounts mentioned in subsection 16(1) (purpose
19 of grants) has been spent (or committed to be spent) for the
20 program year for the purposes mentioned in that subsection;
21 and
- 22 (b) to give the Secretary of the Department the certificate on or
23 before 30 June next following the program year concerned,
24 or another day allowed by the Minister.
- 25 (2) In this section:
- 26 ***qualified accountant*** means:
- 27 (a) a qualified accountant within the meaning of the
28 *Corporations Act 2001*; or
- 29 (b) a person registered (or taken to be registered) as a company
30 auditor under the *Corporations Act 2001*; or
- 31 (c) a person approved by the Minister as a qualified accountant
32 under subsection (3).
-

- 1 (3) The Minister may approve a person as a qualified accountant for
2 the purposes of subsection (2).

3 **24 Funding agreements—reports on programs and financial**
4 **operations**

- 5 (1) A funding agreement must require the relevant authority for the
6 non-government school, or other non-government body, to ensure
7 that a report (or reports), of a kind (or kinds) required by the
8 Minister, is given to the Minister in relation to each of the
9 following:
- 10 (a) programs of financial assistance provided under this Act, so
11 far as they relate to the relevant authority;
 - 12 (b) the financial operations (including the financial viability and
13 funding sources) of:
 - 14 (i) in any case—the school or other body; and
 - 15 (ii) in the case of an approved school system—the schools
16 (including each particular school) in the system.
- 17 (2) A report mentioned in subsection (1) must be given to the Minister
18 no later than a day or days (if any) determined by the Minister.

19 **Subdivision D—Monitoring, evaluation and compliance**

20 **25 Funding agreements—monitoring**

21 *Monitoring relevant authority*

- 22 (1) A funding agreement must require the relevant authority for the
23 non-government school, or other non-government body, to allow a
24 person (an *authorised person*) authorised in writing by the
25 Minister for the purpose to do either or both of the following:
- 26 (a) to have full and free access to accounts, records and
27 documents of the relevant authority relating to information
28 that the authority is required under the agreement to give to
29 the Minister;
 - 30 (b) to take extracts from, or make copies of, any such accounts,
31 records and documents.

1 *Monitoring schools*

- 2 (2) Without limiting subsection (1), a funding agreement for a
3 non-systemic school, or an approved school system, must allow an
4 authorised person to have full and free access to each campus of
5 the school, or of each school in the system, for the following
6 purposes:
7 (a) the purposes mentioned in paragraphs (1)(a) and (b);
8 (b) to undertake any reasonable inspection of the campus, and of
9 the students at the campus, including an inspection for the
10 purpose of counting the number of students at the campus.

11 *Reasonable notice, access times and assistance*

- 12 (3) For the purposes of this section, the funding agreement:
13 (a) must allow for access mentioned in this section to be given
14 only on condition that:
15 (i) in the case of a non-systemic school—the authorised
16 person gives reasonable notice to the relevant authority
17 for the school; and
18 (ii) in the case of a systemic school—the authorised person
19 gives reasonable notice to the relevant authority for the
20 approved school system concerned, and to a person
21 responsible for the operation of the school; and
22 (iii) in any case—the access is given at reasonable times;
23 and
24 (b) must provide for the authorised person to be given such help
25 as he or she requires to exercise any power mentioned in this
26 section.

27 **26 Funding agreements—evaluation**

- 28 (1) A funding agreement must require the relevant authority for the
29 non-government school, or other non-government body, to ensure
30 that the school or body participates in evaluating the outcomes of
31 programs of financial assistance provided under this Act for the
32 school or body.
33 (2) Without limiting subsection (1), if that subsection applies to a
34 relevant authority for an approved school system, the funding

1 agreement must require the authority to ensure that each school in
2 the system participates in evaluating the outcomes of programs of
3 financial assistance provided under this Act for the school.

4 **27 Funding agreements—failure to comply**

5 *Failure to comply with funding agreement*

- 6 (1) A funding agreement must contain a provision to the effect that
7 any or all of the consequences set out in this section may apply if
8 the relevant authority does not comply with a requirement of the
9 agreement:
10 (a) within the period required by or under the agreement; or
11 (b) within a further period allowed by the Minister (whether the
12 Minister allows this before or after the end of the period
13 required by or under the agreement).

14 *Consequences of failure to comply*

- 15 (2) If the Minister so determines, the relevant authority must pay to the
16 Commonwealth a specified amount (not more than the sum of the
17 amounts mentioned in subsection 16(1) (purpose of grants)).
- 18 (3) The Minister may determine that any other amount or amounts of
19 financial assistance to the State under this Act for the school or
20 body is to be reduced by an amount or amounts totalling not more
21 than:
22 (a) if the Minister makes a determination under subsection (2)—
23 the amount required to be paid under the determination; or
24 (b) in any other case—the sum of the amounts mentioned in
25 subsection 16(1).

26 Note: A determination reducing the amount of a payment is made under
27 section 34.

- 28 (4) The Minister may delay the making of any further payment (or a
29 part of a further payment) to the State under this Act for the school
30 or body until the relevant authority complies with the requirement
31 set out in the agreement.

28 Funding agreements—unauthorised amounts

A funding agreement must contain a provision that, if the sum of the amounts mentioned in subsection 16(1) (purpose of grants) exceeds the total amount that was properly authorised to be paid to the State for the school or body:

- (a) the relevant authority must, if the Minister so determines, pay to the Commonwealth an amount (the *determined amount*) equal to the excess; and
- (b) in the event that the authority does not pay the determined amount to the Commonwealth, the Minister may make a further determination reducing any other amount or amounts of financial assistance for the State under this Act for the school or body by an amount or amounts not more than the determined amount.

Note: A further determination mentioned in paragraph (b) is made under section 44.

Subdivision E—Other provisions in funding agreements**29 Funding agreements—other provisions**

A funding agreement (or a funding agreement as varied) must include the following provisions:

- (a) the provisions mentioned in any of the following paragraphs of this Act (if applicable):
 - (i) paragraph 135(b) (the inclusion of new schools in an approved school system);
 - (ii) paragraph 140(e) (prerequisites for proposals to end membership of approved school systems);
 - (iii) paragraph 158(d) (changes of approved authorities);

Note: These provisions relate to the carrying-over of obligations under funding agreements when changes are made to the approvals concerned.

- (b) any provisions prescribed by the regulations;
- (c) any other provisions that the Minister considers appropriate in relation to the relevant authority, school or body.

1

2 **Division 4—Conditions applying to the States**

3 **30 Conditions applying to the States—payment of financial**
4 **assistance to non-government schools and bodies**

- 5 (1) The grant to a State because of a provision of this Act of financial
6 assistance for a non-government school, or another
7 non-government body, for a program year is subject to the
8 condition that the State is required:
- 9 (a) to pay to the relevant authority of the school or body each
10 amount paid to the State for the school or body because of
11 the provision; and
 - 12 (b) when making such a payment, to describe the amount paid to
13 the relevant authority as a payment made out of money paid
14 to the State by the Commonwealth because of the provision.
- 15 (2) It is also a condition of the grant to the State that the payment of
16 each amount must be made:
- 17 (a) as soon as practicable after the amount is paid to the State; or
 - 18 (b) within a further period allowed by the Minister (whether the
19 Minister allows this before or after the end of the time
20 mentioned in paragraph (a)).

21 **31 Conditions applying to the States—requirement to repay**
22 **amounts to Commonwealth**

- 23 (1) A grant to a State mentioned in section 30 is subject to the
24 condition that, in the event that the State does not comply with the
25 condition mentioned in subsection 30(1), the State is required, if
26 the Minister so determines, to repay to the Commonwealth the
27 amount stated in the determination.
- 28 (2) The amount stated in a determination under subsection (1) must not
29 exceed the sum of the amounts of financial assistance paid to the
30 State under the provision for the school or body for the program
31 year concerned.

1

2 **Division 5—Repayment of financial assistance**

3 **32 Repayment of financial assistance—relevant considerations**

4 *Scope*

- 5 (1) This section applies if the Minister is considering whether to make:
6 (a) a determination, under a provision of a funding agreement
7 mentioned in section 27 or 28, that the relevant authority of a
8 school or body is to pay an amount to the Commonwealth; or
9 (b) a determination under subsection 31(1) that a State is to
10 repay an amount to the Commonwealth.

11 *Relevant considerations*

- 12 (2) In considering whether to make the determination, the Minister
13 must take into account all relevant matters, including whether the
14 relevant authority or State gave all relevant information to the
15 Commonwealth before the grant of financial assistance was made.

16 **33 Repayment of financial assistance—recovery from States as debts**

17 An amount payable by a State to the Commonwealth under this
18 Act is a debt due by the State to the Commonwealth.

19 **34 Repayment of financial assistance—failure by relevant
20 authorities to repay amounts**

21 *Scope*

- 22 (1) This section applies if:
23 (a) under a funding agreement (or an agreement under section 30
24 of the former Act) between the Commonwealth and the
25 relevant authority of a non-government school, or another
26 non-government body, the Minister or the relevant Minister
27 (as appropriate) has determined that the authority is to pay an
28 amount to the Commonwealth; and

Section 34

1 (b) an amount (the *amount repayable*) that is all or a part of the
2 amount mentioned in paragraph (a) remains unpaid.

3 *Reduction of authorised amount*

4 (2) The Minister may make a determination reducing an amount that is
5 authorised to be paid to a State for the school or body under any
6 provision of this Act in any program year by an amount not more
7 than the amount repayable.

8 *Later increase of authorised amount*

9 (3) The Minister may make a determination under a provision of this
10 Act increasing the maximum amount that may be paid to a State
11 for the school or body for any purpose under that provision in any
12 program year by an amount or amounts totalling not more than the
13 amount of any reduction under subsection (2).

14 (4) It does not matter whether the reduction was made in relation to the
15 same provision of this Act as the provision of this Act mentioned
16 in subsection (3), or a different provision.

1

2

Part 4—Grants for recurrent expenditure

3

Division 1—Simplified outline of Part

4

35 Simplified outline

5

(1) This section is a simplified outline of this Part.

6

(2) This Part allows the Minister to make determinations authorising the payment of financial assistance to the States for non-government schools, for recurrent expenditure of the following types:

7

8

9

10

(a) current SES funding (see Division 3);

11

(b) maintained funding (see Division 4);

12

(c) guaranteed year 2008 funding (see Division 5);

13

(d) maximum SES funding (see Division 6);

14

(e) distance education funding (see Division 7);

15

(f) remoteness loading (see Division 8);

16

(g) Indigenous supplementary assistance (see Division 9);

17

(h) Indigenous funding guarantee (see Division 10).

18

(3) Funding for recurrent expenditure is worked out on a school by school basis (whether the school is a non-systemic school or a systemic school).

19

20

21

(4) This Part also sets limits on financial assistance for those types of recurrent expenditure, using a series of per student amounts for different categories of students, and different levels of education, at each school.

22

23

24

1

2 **Division 2—Average Government School Recurrent Costs**

3 **36 Average Government School Recurrent Costs—meaning of**
4 **AGSRC**

5 (1) In this Act:

6 **AGSRC** (short for Average Government School Recurrent Costs)
7 means:

8 (a) for primary education for a program year:

9 (i) \$8,044; or

10 (ii) if the regulations specify another amount under
11 subsection (2) for the program year—that amount; or

12 (b) for secondary education for a program year:

13 (i) \$10,061; or

14 (ii) if the regulations specify another amount under
15 subsection (2) for the program year—that amount; or

16 (2) The regulations may specify amounts for the purposes of
17 subsection (1).

18 (3) Before the Governor-General makes regulations for the purposes of
19 subsection (2), the Minister must consider changes in the figures
20 known as the Average Government School Costs published by:

21 (a) the Ministerial Council on Education, Employment, Training
22 and Youth Affairs; or

23 (b) a body specified by the regulations that has a corresponding
24 function.

25 **37 Average Government School Recurrent Costs—rounding-up per**
26 **student funding amounts**

27 *Scope*

28 (1) This section applies in relation to an amount (a *funding amount*)
29 worked out under one of the following provisions (a *funding*
30 *amount provision*):

31 (a) section 40 (current SES funding—primary education);

- 1 (b) section 42 (current SES funding—secondary education);
2 (c) section 45 (maintained funding—primary education);
3 (d) section 46 (maintained funding—secondary education);
4 (e) section 49 (guaranteed year 2008 funding—primary
5 education);
6 (f) section 51 (guaranteed year 2008 funding—secondary
7 education);
8 (g) section 55 (maximum SES funding—primary education);
9 (h) section 56 (maximum SES funding—secondary education).

10 *Rounding-up to next highest dollar (per student amounts)*

- 11 (2) If an amount covered by subsection (3) is an amount of dollars and
12 cents, for the purposes of a funding amount provision, the amount
13 is to be rounded to the next highest dollar.
- 14 (3) This subsection covers an amount that is a component of a funding
15 amount, in relation to a level of education and a program year,
16 worked out using a formula of the following kind:

17
$$\frac{\text{Funding level specified in the funding amount provision}}{\text{AGSRC for the level of education for the program year}} \times \text{AGSRC for the level of education for the program year}$$

1

2 **Division 3—Current SES funding**

3 **38 Current SES funding—scope**

4 This Division applies to a non-government school in a State for a
5 particular program year and level of education provided at the
6 school, unless one of the following Divisions applies to the school
7 for that program year and for that level of education:

- 8 (a) Division 4 (maintained funding);
9 (b) Division 5 (guaranteed year 2008 funding);
10 (c) Division 6 (maximum SES funding).

11 **39 Current SES funding—primary education funding determination**

12 (1) The Minister may make a determination authorising payment of an
13 amount of financial assistance to the State for recurrent
14 expenditure:

- 15 (a) if the school is a non-systemic school—of the school for
16 primary education provided by the school in the program
17 year; or
18 (b) if the school is a member of an approved school system—of
19 the approved school system for primary education provided
20 by the school in the program year.

21 (2) The amount determined under subsection (1) must not exceed the
22 amount worked out for the school by adding up:

- 23 (a) the amount worked out under section 40 for the school's
24 primary students; and
25 (b) the amount worked out under section 57 for the school's
26 primary distance education students.

27 **40 Current SES funding—primary education funding amounts**

28 For the purpose of paragraph 39(2)(a), work out the amount for the
29 school's primary students for the program year using the formula:

$$1 \quad \text{School's current SES funding level} \times \text{AGSRC for primary education for the program year} \times \text{Number of primary students for the school for the program year}$$

2 **41 Current SES funding—secondary education funding** 3 **determination**

4 (1) The Minister may make a determination authorising payment of an
5 amount of financial assistance to the State for recurrent
6 expenditure:

7 (a) if the school is a non-systemic school—of the school for
8 secondary education provided by the school in the program
9 year; or

10 (b) if the school is a member of an approved school system—of
11 the approved school system for secondary education provided
12 by the school in the program year.

13 (2) The amount determined under subsection (1) must not exceed the
14 amount worked out for the school by adding up:

15 (a) the amount worked out under section 42 for the school's
16 secondary students; and

17 (b) the amount worked out under section 58 for the school's
18 secondary distance education students.

19 **42 Current SES funding—secondary education funding amounts**

20 For the purpose of paragraph 41(2)(a), work out the amount for the
21 school's secondary students for the program year using the
22 formula:

$$23 \quad \text{School's current SES funding level} \times \text{AGSRC for secondary education for the program year} \times \text{Number of secondary students for the school for the program year}$$

1

2 **Division 4—Maintained funding**

3 **43 Maintained funding—scope**

4

General

5

(1) This Division applies to a non-government school in a State for a particular program year if:

6

7

(a) either of the following Subdivisions of Division 2 of Part 6 of the former Act was used to work out the funding for the school's recurrent expenditure for the 2008 program year under the former Act:

8

9

10

11

(i) Subdivision D (maintained year 2000 funding);

12

(ii) Subdivision E (maintained Catholic school funding);

13

and

14

(b) the school is not a maximum SES funded school for that program year; and

15

16

(c) subsection (2) covers the school for the program year; and

17

(d) either of the following applies:

18

(i) this Division has applied to the school for each previous program year (if any);

19

20

(ii) if this Division did not apply to the school in a previous program year (the *majority Indigenous student year*)

21

22

only because the school was a majority Indigenous student school for that year—this Division has applied

23

24

to the school for each previous program year (if any)

25

other than any majority Indigenous student year; and

26

Note: A majority Indigenous student school is a maximum SES funded school (see section 52).

27

28

(e) the school's SES score has not been changed, or determined, for the purposes of any of the following provisions for that program year or an earlier program year:

29

30

31

(i) section 80 (SES score changes on application by school);

32

33

(ii) section 110 (approved school determination);

34

(iii) section 166 (false or misleading statements).

1 *Condition based on 2008 funding*

- 2 (2) This subsection covers a non-government school in the following
3 case:

4 School's actual 2008 funding \geq $\left(\begin{array}{l} \text{Notional primary} \\ \text{students amount} \end{array} + \begin{array}{l} \text{Notional secondary} \\ \text{students amount} \end{array} \right)$

5 where:

6 **actual 2008 funding**, for a school, means the maximum amount of
7 financial assistance for the school authorised under Part 6 of the
8 former Act for the 2008 program year:

- 9 (a) including amounts for the school's primary students and
10 secondary students; but
11 (b) excluding the following amounts:
12 (i) any amount for distance education worked out under
13 Subdivision H of Division 2 of Part 6 of the former Act;
14 (ii) any amount for remoteness per capita loading worked
15 out under Subdivision I of that Division of the former
16 Act.

17 **notional primary students amount** is the amount worked out using
18 the formula:

19
$$\begin{array}{l} \text{School's current} \\ \text{SES funding level} \\ \text{under this Act} \end{array} \times \begin{array}{l} \text{AGSRC for primary} \\ \text{education for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \\ \text{for the school for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array}$$

20 **notional secondary students amount** is the amount worked out
21 using the formula:

22
$$\begin{array}{l} \text{School's current} \\ \text{SES funding level} \\ \text{under this Act} \end{array} \times \begin{array}{l} \text{AGSRC for secondary} \\ \text{education for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{secondary students} \\ \text{for the school for the} \\ \text{program year 2008} \\ \text{under the former Act} \end{array}$$

1 **44 Maintained funding—determination**

2 (1) The Minister may make a determination authorising payment of an
3 amount of financial assistance to the State for recurrent
4 expenditure:

5 (a) if the school is a non-systemic school—of the school for the
6 program year; or

7 (b) if the school is a member of an approved school system—of
8 the approved school system for the school for the program
9 year.

10 (2) The amount determined under subsection (1) must not exceed the
11 amount worked out for the school by adding up:

12 (a) the amount worked out under section 45 for the school’s
13 primary students; and

14 (b) the amount worked out under section 46 for the school’s
15 secondary students; and

16 (c) the amount worked out under section 57 for the school’s
17 primary distance education students; and

18 (d) the amount worked out under section 58 for the school’s
19 secondary distance education students.

20 **45 Maintained funding—primary education funding amounts**

21 For the purpose of paragraph 44(2)(a), work out the amount for the
22 school’s primary students for the program year using the formula:

$$23 \quad \begin{array}{l} \text{School's maintained} \\ \text{funding level for} \\ \text{primary education} \end{array} \times \begin{array}{l} \text{AGSRC for primary} \\ \text{education for the} \\ \text{program year} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \\ \text{for the school for the} \\ \text{program year} \end{array}$$

24 **46 Maintained funding—secondary education funding amounts**

25 For the purpose of paragraph 44(2)(b), work out the amount for the
26 school’s secondary students for the program year using the
27 formula:

$$1 \quad \text{School's maintained funding level for secondary education} \times \text{AGSRC for secondary education for the program year} \times \text{Number of secondary students for the school for the program year}$$

1

2 **Division 5—Guaranteed year 2008 funding**

3 **47 Guaranteed year 2008 funding—scope**

- 4 (1) This Division applies to a non-government school for a particular
5 program year and level of education provided at the school if:
- 6 (a) either of the following Subdivisions of Division 2 of Part 6 of
7 the former Act were used to work out the funding for the
8 school's recurrent expenditure for the program year 2008
9 under the former Act:
- 10 (i) Subdivision C (current SES funding);
11 (ii) Subdivision F (guaranteed year 2004 SES funding); and
- 12 (b) the school is not a maximum SES funded school for that
13 program year; and
- 14 (c) subsection (2) covers the school for the program year; and
- 15 (d) either of the following applies:
- 16 (i) this Division has applied to the school for that level of
17 education for each previous program year (if any);
18 (ii) if this Division did not apply to the school for that level
19 of education for a previous program year (the *majority*
20 *Indigenous student year*) only because the school was a
21 majority Indigenous student school for that year—this
22 Division has applied to the school for that level of
23 education for each previous program year (if any) other
24 than any majority Indigenous student year; and
- 25 Note: A majority Indigenous student school is a maximum SES funded
26 school (see section 52).
- 27 (e) the school's SES score has not been changed, or determined,
28 for the purposes of any of the following provisions for that
29 program year or an earlier program year:
- 30 (i) section 80 (SES score changes on application by
31 school);
32 (ii) section 110 (approved school determination);
33 (iii) section 166 (false or misleading statements).

Condition based on 2008 funding

- (2) This subsection covers a non-government school, for a particular level of education provided at the school in a program year (the *current program year*), in the following case:

$$\left(\begin{array}{l} \text{School's} \\ \text{guaranteed} \\ \text{funding level} \\ \text{for that} \\ \text{level of} \\ \text{education} \end{array} \times \begin{array}{l} \text{AGSRC for} \\ \text{that level of} \\ \text{education for} \\ \text{the guarantee} \\ \text{year under the} \\ \text{former Act} \end{array} \right) > \left(\begin{array}{l} \text{School's} \\ \text{current SES} \\ \text{funding level} \\ \text{under this Act} \end{array} \times \begin{array}{l} \text{AGSRC for} \\ \text{that level of} \\ \text{education for} \\ \text{the current} \\ \text{program year} \end{array} \right)$$

48 Guaranteed year 2008 funding—primary education funding determination

- (1) The Minister may make a determination authorising payment of an amount of financial assistance to the State for recurrent expenditure:
- (a) if the school is a non-systemic school—of the school for primary education provided by the school in the program year; or
 - (b) if the school is a member of an approved school system—of the approved school system for primary education provided by the school in the program year.
- (2) The amount determined under subsection (1) must not exceed the amount worked out for the school by adding up:
- (a) the amount worked out under section 49 for the school's primary students; and
 - (b) the amount worked out under section 57 for the school's primary distance education students.

49 Guaranteed year 2008 funding—primary education funding amounts

For the purpose of paragraph 48(2)(a), work out the amount for the school's primary students for the program year (the *current program year*) using the formula:

Section 50

1

$$\text{School's guaranteed funding level for primary education} \times \text{AGSRC for primary education for the guarantee year under the former Act} \times \text{Number of primary students for the school for the current program year}$$

2 **50 Guaranteed year 2008 funding—secondary education funding**
3 **determination**

4 (1) The Minister may make a determination authorising payment of an
5 amount of financial assistance to the State for recurrent
6 expenditure:

7 (a) if the school is a non-systemic school—of the school for
8 secondary education provided by the school in the program
9 year; or

10 (b) if the school is a member of an approved school system—of
11 the approved school system for secondary education provided
12 by the school in the program year.

13 (2) The amount determined under subsection (1) must not exceed the
14 amount worked out for the school by adding up:

15 (a) the amount worked out under section 51 for the school's
16 secondary students; and

17 (b) the amount worked out under section 58 for the school's
18 secondary distance education students.

19 **51 Guaranteed year 2008 funding—secondary education funding**
20 **amounts**

21 For the purpose of paragraph 50(2)(a), work out the amount for the
22 school's secondary students for the program year (the *current*
23 *program year*) using the formula:

24

$$\text{School's guaranteed funding level for secondary education} \times \text{AGSRC for secondary education for the guarantee year under the former Act} \times \text{Number of secondary students for the school for the current program year}$$

1

2 **Division 6—Maximum SES funding**

3 **52 Maximum SES funding—scope**

4 This Division applies to a non-government school for a particular
5 program year if the school (a *maximum SES funded school*) is any
6 of the following for that program year:

- 7 (a) a special school;
8 (b) a special assistance school;
9 (c) a majority Indigenous student school.

10 **53 Maximum SES funding—meaning of *majority Indigenous student***
11 ***school***

12 (1) In this Act:

13 *majority Indigenous student school*, for a program year, means a
14 non-government school, if:

- 15 (a) in the case of a school that was not a very remote school on
16 the schools census day for the calendar year before the
17 program year—as counted on that schools census day, 80%
18 or more of the total number of students receiving primary and
19 secondary education at the school were Indigenous; or
20 (b) in the case of a school that was a very remote school on the
21 schools census day for the calendar year before the program
22 year—as counted on that schools census day, 50% or more of
23 the total number of students receiving primary and secondary
24 education at the school were Indigenous.

25 (2) In this section:

26 *very remote school*, for a calendar year, means a school:

- 27 (a) whose only school campus for that calendar year is a very
28 remote school campus (within the meaning of this Act); or
29 (b) all of whose school campuses for that calendar year are very
30 remote school campuses (within the meaning of this Act).

Part 4 Grants for recurrent expenditure

Division 6 Maximum SES funding

Section 54

1 Note: The definition of *very remote school campus* in section 4 applies a
2 more up-to-date Remoteness Structure than the Remoteness Structure
3 applied in section 4 of the former Act.

4 **54 Maximum SES funding—determination**

5 (1) The Minister may make a determination authorising payment of an
6 amount of financial assistance to the State for recurrent
7 expenditure:

8 (a) if the school is a non-systemic school—of the school for the
9 program year; or

10 (b) if the school is a member of an approved school system—of
11 the approved school system for the school for the program
12 year.

13 (2) The amount determined under subsection (1) must not exceed the
14 amount worked out for the school by adding up:

15 (a) the amount worked out under section 55 for the school's
16 primary students; and

17 (b) the amount worked out under section 56 for the school's
18 secondary students; and

19 (c) the amount worked out under section 57 for the school's
20 primary distance education students; and

21 (d) the amount worked out under section 58 for the school's
22 secondary distance education students.

23 **55 Maximum SES funding—primary education funding amounts**

24 For the purpose of paragraph 54(2)(a), work out the amount for the
25 school's primary students for the program year using the formula:

26
$$70\% \times \frac{\text{AGSRC for primary education for the program year}}{\text{AGSRC for primary education for the program year}} \times \frac{\text{Number of primary students for the school for the program year}}{\text{Number of primary students for the school for the program year}}$$

27 **56 Maximum SES funding—secondary education funding amounts**

28 For the purpose of paragraph 54(2)(b), work out the amount for the
29 school's secondary students for the program year using the
30 formula:

$$1 \quad 70\% \times \text{AGSRC for secondary education for the program year} \times \text{Number of secondary students for the school for the program year}$$

1

2 **Division 7—Distance education funding**

3 **57 Distance education funding—primary distance education funding**
4 **amounts**

5 *Scope*

6 (1) This section applies in relation to a non-government school for the
7 purposes of the following provisions:

- 8 (a) paragraph 39(2)(b) (current SES funding);
9 (b) paragraph 44(2)(c) (maintained funding);
10 (c) paragraph 48(2)(b) (guaranteed year 2008 funding);
11 (d) paragraph 54(2)(c) (maximum SES funding).

12 *Funding amount*

13 (2) Work out the amount for the school's primary distance education
14 students for the program year using the formula:

15
$$\begin{array}{l} \text{Assistance amount} \\ \text{per student for} \\ \text{the program year} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary distance} \\ \text{education students} \\ \text{for the school for} \\ \text{the program year} \end{array}$$

16 where:

17 *assistance amount per student*, for a program year, means the
18 amount worked out using the formula:

19
$$13.7\% \times \begin{array}{l} \text{AGSRC for primary} \\ \text{education for the} \\ \text{program year} \end{array}$$

20 *Rounding-up to next highest dollar*

21 (3) If the assistance amount per student for a program year is an
22 amount of dollars and cents, the amount is to be rounded to the
23 next highest dollar.

1 **58 Distance education funding—secondary distance education**
2 **funding amounts**

3 *Scope*

- 4 (1) This section applies in relation to a non-government school for the
5 purposes of the following provisions:
6 (a) paragraph 41(2)(b) (current SES funding);
7 (b) paragraph 44(2)(d) (maintained funding);
8 (c) paragraph 50(2)(b) (guaranteed year 2008 funding);
9 (d) paragraph 54(2)(d) (maximum SES funding).

10 *Funding amount*

- 11 (2) Work out the amount for the school's secondary distance education
12 students for the program year using the formula:

13
$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of secondary distance education students for the school for the program year}}{\text{Number of secondary distance education students for the school for the program year}}$$

14 where:

15 ***assistance amount per student***, for a program year, means the
16 amount worked out using the formula:

17
$$13.7\% \times \frac{\text{AGSRC for secondary education for the program year}}{\text{AGSRC for secondary education for the program year}}$$

18 *Rounding-up to next highest dollar*

- 19 (3) If the assistance amount per student for a program year is an
20 amount of dollars and cents, the amount is to be rounded to the
21 next highest dollar.

1

2 **Division 8—Remoteness loading**

3 **59 Remoteness loading—scope**

4 This Division applies to a non-government school in a State for a
5 particular program year if the school campus for the school, or at
6 least one of its school campuses, is, for that program year:

- 7 (a) a moderately accessible school campus; or
8 (b) a remote school campus; or
9 (c) a very remote school campus.

10 Note: Assistance under this Division is in addition to the financial assistance
11 that is available under other Divisions of this Part.

12 **60 Remoteness loading—primary education funding determination**

13 (1) The Minister may make a determination under this subsection
14 authorising payment of an amount of financial assistance to the
15 State for recurrent expenditure:

- 16 (a) if the school is a non-systemic school—of the school for
17 primary education provided by the school in the program
18 year; or
19 (b) if the school is a member of an approved school system—of
20 the approved school system for primary education provided
21 by the school in the program year.

22 (2) The amount determined under subsection (1) must not exceed the
23 amount worked out for the school by adding up:

- 24 (a) the amount worked out under subsection 61(1) for the
25 school's primary students at moderately accessible school
26 campuses; and
27 (b) the amount worked out under subsection 61(2) for the
28 school's primary students at remote school campuses; and
29 (c) the amount worked out under subsection 61(3) for the
30 school's primary students at very remote school campuses.

1 **61 Remoteness loading—primary education funding amounts**

2 *Students at a moderately accessible campus*

- 3 (1) For the purpose of paragraph 60(2)(a), work out the amount for
4 primary students at any moderately accessible campus of the
5 school for the program year using the formula:

6
$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of moderately accessible campus primary students for the school for the program year}}{\text{Number of moderately accessible campus primary students for the school for the program year}}$$

7 where:

8 *assistance amount per student*, for a program year, means the
9 amount worked out using the formula:

10
$$5\% \times \frac{\text{School's current SES funding level}}{\text{School's current SES funding level}} \times \frac{\text{AGSRC for primary education for the program year}}{\text{AGSRC for primary education for the program year}}$$

11 *number of moderately accessible campus primary students*, for a
12 school for a program year, means the number of students
13 (including the full-time equivalent of part-time students) receiving
14 primary education at a moderately accessible school campus of the
15 school on the school campus census day for the school campus in
16 the program year.

17 *Students at a remote campus*

- 18 (2) For the purpose of paragraph 60(2)(b), work out the amount for
19 primary students at any remote campus of the school for the
20 program year using the formula:

21
$$\text{Assistance amount per student for the program year} \times \frac{\text{Number of remote campus primary students for the school for the program year}}{\text{Number of remote campus primary students for the school for the program year}}$$

22 where:

23 *assistance amount per student*, for a program year, means the
24 amount worked out using the formula:

Part 4 Grants for recurrent expenditure

Division 8 Remoteness loading

Section 61

1 $10\% \times \frac{\text{School's current SES funding level}}{\text{AGSRC for primary education for the program year}}$

2 ***number of remote campus primary students***, for a school for a
3 program year, means the number of students (including the
4 full-time equivalent of part-time students) receiving primary
5 education at a remote school campus of the school on the school
6 campus census day for the school campus in the program year.

7 *Students at a very remote campus*

8 (3) For the purpose of paragraph 60(2)(c), work out the amount for
9 primary students at any very remote campus of the school for the
10 program year using the formula:

11 $\frac{\text{Assistance amount per student for the program year}}{\text{Number of very remote campus primary students for the school for the program year}}$

12 where:

13 ***assistance amount per student***, for a program year, means the
14 amount worked out using the formula:

15 $20\% \times \frac{\text{School's current SES funding level}}{\text{AGSRC for primary education for the program year}}$

16 ***number of very remote campus primary students***, for a school for
17 a program year, means the number of students (including the
18 full-time equivalent of part-time students) receiving primary
19 education at a very remote school campus of the school on the
20 school campus census day for the school campus in the program
21 year.

22 *Distance education students not counted*

23 (4) For the purposes of this section, in working out the number of
24 students receiving primary education at a campus of a school, do
25 not count any primary distance education students.

1 *Rounding-up to next highest dollar*

- 2 (5) If an assistance amount per student for a program year is an
3 amount of dollars and cents, the amount is to be rounded to the
4 next highest dollar.

5 **62 Remoteness loading—secondary education funding**
6 **determination**

- 7 (1) The Minister may make a determination under this subsection
8 authorising payment of an amount of financial assistance to the
9 State for recurrent expenditure:
10 (a) if the school is a non-systemic school—of the school for
11 secondary education provided by the school in the program
12 year; or
13 (b) if the school is a member of an approved school system—of
14 the approved school system for secondary education provided
15 by the school in the program year.
- 16 (2) The amount determined under subsection (1) must not exceed the
17 amount worked out for the school by adding up:
18 (a) the amount worked out under subsection 63(1) for the
19 school's secondary students at moderately accessible school
20 campuses; and
21 (b) the amount worked out under subsection 63(2) for the
22 school's secondary students at remote school campuses; and
23 (c) the amount worked out under subsection 63(3) for the
24 school's secondary students at very remote school campuses.

25 **63 Remoteness loading—secondary education funding amounts**

26 *Students at a moderately accessible campus*

- 27 (1) For the purpose of paragraph 62(2)(a), work out the amount for
28 secondary students at any moderately accessible campus of the
29 school for the program year using the formula:

Part 4 Grants for recurrent expenditure

Division 8 Remoteness loading

Section 63

1 Assistance amount per student for the program year \times Number of moderately accessible campus secondary students for the school for the program year

2 where:

3 ***assistance amount per student***, for a program year, means the
4 amount worked out using the formula:

5 5% \times School's current SES funding level \times AGSRC for secondary education for the program year

6 ***number of moderately accessible campus secondary students***, for
7 a school for a program year, means the number of students
8 (including the full-time equivalent of part-time students) receiving
9 secondary education at a moderately accessible school campus of
10 the school on the school campus census day for the school campus
11 in the program year.

12 *Students at a remote campus*

13 (2) For the purpose of paragraph 62(2)(b), work out the amount for
14 secondary students at any remote campus of the school for the
15 program year using the formula:

16 Assistance amount per student for the program year \times Number of remote campus secondary students for the school for the program year

17 where:

18 ***assistance amount per student***, for a program year, means the
19 amount worked out using the formula:

20 10% \times School's current SES funding level \times AGSRC for secondary education for the program year

21 ***number of remote campus secondary students***, for a school for a
22 program year, means the number of students (including the
23 full-time equivalent of part-time students) receiving secondary

1 education at a remote school campus of the school on the school
2 campus census day for the school campus in the program year.

3 *Students at a very remote campus*

4 (3) For the purpose of paragraph 62(2)(c), work out the amount for
5 secondary students at any very remote campus of the school for the
6 program year using the formula:

$$7 \quad \begin{array}{c} \text{Assistance amount per} \\ \text{student for the program year} \end{array} \times \begin{array}{c} \text{Number of} \\ \text{very remote campus} \\ \text{secondary students} \\ \text{for the school} \\ \text{for the program year} \end{array}$$

8 where:

9 ***assistance amount per student***, for a program year, means the
10 amount worked out using the formula:

$$11 \quad 20\% \times \begin{array}{c} \text{School's} \\ \text{current SES} \\ \text{funding level} \end{array} \times \begin{array}{c} \text{AGSRC for secondary} \\ \text{education for the} \\ \text{program year} \end{array}$$

12 ***number of very remote campus secondary students***, for a school
13 for a program year, means the number of students (including the
14 full-time equivalent of part-time students) receiving secondary
15 education at a very remote school campus of the school on the
16 school campus census day for the school campus in the program
17 year.

18 *Distance education students not counted*

19 (4) For the purposes of this section, in working out the number of
20 students receiving secondary education at a campus of a school, do
21 not count any secondary distance education students.

22 *Rounding-up to next highest dollar*

23 (5) If an assistance amount per student for a program year is an
24 amount of dollars and cents, the amount is to be rounded to the
25 next highest dollar.

1

2 **Division 9—Indigenous supplementary assistance**

3 **64 Indigenous supplementary assistance—scope**

4 This Division applies to a non-government school in a State for a
5 particular program year and level of education provided at the
6 school, in relation to any Indigenous students receiving that level
7 of education at the school in that year.

8 Note: Assistance under this Division is in addition to the financial assistance
9 that is available under other Divisions of this Part.

10 **65 Indigenous supplementary assistance—definitions**

11 In this Act:

12 *number of Indigenous primary students*, at a school campus for a
13 program year, means the number of Indigenous students (including
14 the full-time equivalent of part-time students) receiving primary
15 education at the school campus on the schools census day for the
16 school for the program year, but not including students receiving
17 primary distance education.

18 *number of Indigenous secondary students*, at a school campus for
19 a program year, means the number of Indigenous students
20 (including the full-time equivalent of part-time students) receiving
21 secondary education at the school campus on the schools census
22 day for the school for the program year, but not including students
23 receiving secondary distance education.

24 **66 Indigenous supplementary assistance—primary education
25 funding determination**

26 (1) The Minister may make a determination authorising payment of an
27 amount of financial assistance to the State for recurrent
28 expenditure:

29 (a) if the school is a non-systemic school—of the school for
30 primary education provided by the school in the program
31 year; or

- 1 (b) if the school is a member of an approved school system—of
2 the approved school system for primary education provided
3 by the school in the program year.
- 4 (2) The amount determined under subsection (1) must not exceed the
5 amount worked out for the school by adding up:
6 (a) the amount worked out under subsection 67(1) for the
7 school's Indigenous primary students at non-remote school
8 campuses; and
9 (b) the amount worked out under subsection 67(2) for the
10 school's Indigenous primary students at remote and very
11 remote school campuses.

12 **67 Indigenous supplementary assistance—primary education**
13 **funding amounts**

14 *Non-remote school campuses*

- 15 (1) For the purpose of paragraph 66(2)(a), work out the amount for the
16 school's Indigenous primary students at non-remote school
17 campuses of the school for the program year using the formula:

18 Assistance amount per student for the program year \times Number of Indigenous primary students at non-remote school campuses for the program year

19 where:

20 *assistance amount per student*, for a program year, means:

- 21 (a) \$1,600; or
22 (b) if the regulations specify a greater amount under
23 subsection (3) for the program year—that amount.

24 *Remote and very remote school campuses*

- 25 (2) For the purpose of paragraph 66(2)(b), work out the amount for the
26 school's Indigenous primary students at remote and very remote
27 school campuses of the school for the program year using the
28 formula:

Section 68

1 Assistance amount per student for the program year × Number of Indigenous primary students at remote and very remote school campuses for the program year

2 ***assistance amount per student***, for a program year, means:

- 3 (a) \$3,850; or
4 (b) if the regulations specify a greater amount under
5 subsection (3) for the program year—that amount.

6 *Regulations specifying assistance amounts*

- 7 (3) The regulations may specify an amount as an assistance amount
8 per student for the purposes of subsection (1) or (2) for a program
9 year.
- 10 (4) Regulations made for the purposes of subsection (3) may provide
11 for an increase in an assistance amount per student (from one
12 program year to the next) by reference to changes in a specified
13 index.
- 14 (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*,
15 regulations made for the purposes of this section may make
16 provision in relation to a matter by applying, adopting or
17 incorporating, with or without modification, any matter contained
18 in any other instrument or other writing as in force or existing from
19 time to time.

20 **68 Indigenous supplementary assistance—secondary education**
21 **funding determination**

- 22 (1) The Minister may make a determination authorising payment of an
23 amount of financial assistance to the State for recurrent
24 expenditure:
- 25 (a) if the school is a non-systemic school—of the school for
26 secondary education provided by the school in the program
27 year; or
28 (b) if the school is a member of an approved school system—of
29 the approved school system for secondary education provided
30 by the school in the program year.

- 1 (2) The amount determined under subsection (1) must not exceed the
2 amount worked out for the school by adding up:
3 (a) the amount worked out under subsection 69(1) for the
4 school's Indigenous secondary students at non-remote school
5 campuses; and
6 (b) the amount worked out under subsection 69(2) for the
7 school's Indigenous secondary students at remote and very
8 remote school campuses.

9 **69 Indigenous supplementary assistance—secondary education**
10 **funding amounts**

11 *Non-remote school campuses*

- 12 (1) For the purpose of paragraph 68(2)(a), work out the amount for the
13 school's Indigenous secondary students at non-remote school
14 campuses of the school for the program year using the formula:

15
$$\begin{array}{r} \text{Assistance amount per} \\ \text{student for the program year} \end{array} \times \begin{array}{r} \text{Number of Indigenous} \\ \text{secondary students at} \\ \text{non-remote school} \\ \text{campuses for the} \\ \text{program year} \end{array}$$

16 where:

17 *assistance amount per student*, for a program year, means:

- 18 (a) \$2,250; or
19 (b) if the regulations specify a greater amount under
20 subsection (3) for the program year—that amount.

21 *Remote and very remote school campuses*

- 22 (2) For the purpose of paragraph 68(2)(b), work out the amount for the
23 school's Indigenous secondary students at remote and very remote
24 school campuses of the school for the program year using the
25 formula:

26
$$\begin{array}{r} \text{Assistance amount per} \\ \text{student for the program year} \end{array} \times \begin{array}{r} \text{Number of Indigenous} \\ \text{secondary students at} \\ \text{remote and very remote} \\ \text{school campuses for the} \\ \text{program year} \end{array}$$

Section 69

1 ***assistance amount per student***, for a program year, means:

- 2 (a) \$4,400; or
3 (b) if the regulations specify a greater amount under
4 subsection (3) for the program year—that amount.

5 *Regulations specifying assistance amounts*

- 6 (3) The regulations may specify an amount as an assistance amount
7 per student for the purposes of subsection (1) or (2) for a program
8 year.
- 9 (4) Regulations made for the purposes of subsection (3) may provide
10 for an increase in an assistance amount per student (from one
11 program year to the next) by reference to changes in a specified
12 index.
- 13 (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*,
14 regulations made for the purposes of this section may make
15 provision in relation to a matter by applying, adopting or
16 incorporating, with or without modification, any matter contained
17 in any other instrument or other writing as in force or existing from
18 time to time.

1

2 **Division 10—Indigenous funding guarantee**

3 **70 Indigenous funding guarantee—funding determination**

- 4 (1) The Minister may make a determination authorising payment of
5 financial assistance to a State for recurrent expenditure in relation
6 to Indigenous students receiving education at a non-systemic
7 school, or at schools that are members of an approved school
8 system, in the State, for a program year.
- 9 (2) In making a determination under subsection (1) for a non-systemic
10 school, or an approved school system, the Minister may consider
11 the following amounts of financial assistance received (or to be
12 received) by the school, or all schools in the system:
- 13 (a) financial assistance authorised for the calendar year 2008
14 under either or both of the following:
- 15 (i) Division 2 of Part 6 of the former Act;
16 (ii) the *Indigenous Education (Targeted Assistance) Act*
17 *2000*;
- 18 (b) financial assistance to be authorised for the program year
19 under this Part (apart from under this Division).

20 Note: Assistance under this Division is in addition to the financial assistance
21 that is available under other Divisions of this Part (including
22 Division 9 (Indigenous supplementary assistance)).

23 **71 Indigenous funding guarantee—funding amounts**

24 The sum of the amounts paid to the States under section 70 for a
25 program year must not exceed:

- 26 (a) the funding amount specified in the following table for the
27 program year; or
28 (b) if the regulations specify a different amount for a particular
29 program year—that amount.

30

Indigenous funding guarantee—funding amounts

Item	Program year	Funding amount
1	2009	\$5,500,000

Part 4 Grants for recurrent expenditure
Division 10 Indigenous funding guarantee

Section 71

Indigenous funding guarantee—funding amounts		
Item	Program year	Funding amount
2	2010	\$4,500,000
3	2011	\$4,100,000
4	2012	\$4,000,000

1

2 **Division 11—SES scores**3 **Subdivision A—Definition**4 **72 SES scores—definition**

5 (1) In this Act:

6 *SES score*, for a non-government school, means:

- 7 (a) an SES score determined for the school, as in effect on
-
- 8 31 December 2008, under section 8 of the former Act; or
-
- 9 (b) a whole number determined by the Minister for the school
-
- 10 under subsection (2) of this section, in accordance with
-
- 11 guidelines approved by the Minister under subsection (3) of
-
- 12 this section.

13 (2) The Minister may determine an SES score for a non-government
14 school for the purposes of subsection (1), for the program year in
15 which the determination is made.16 Note: The Minister must give notice of the determination to the approved
17 authority of the school (see section 82).18 (3) The Minister may, by legislative instrument, approve guidelines for
19 the determination of SES scores.20 **Subdivision B—SES scores under former Act**21 **73 SES scores—transitional determinations**22 *Scope*23 (1) This section applies in relation to a school for which a
24 determination of a particular SES score was in effect, as at
25 31 December 2008, under section 8 of the former Act.26 *Transitional determinations*27 (2) The Minister is taken to have determined that SES score for the
28 school, for the purposes of this Act, by a determination (a

Part 4 Grants for recurrent expenditure

Division 11 SES scores

Section 74

1 *transitional SES score determination*) made under subsection
2 72(2), with effect from 1 January 2009.

3 (3) Section 82 (notice of determination) does not apply in relation to a
4 transitional SES score determination.

5 **74 SES scores—transitional guidelines**

6 *Scope*

7 (1) This section applies if guidelines under section 8 of the former Act
8 for the making of SES score determinations (under that section)
9 were in effect as at 31 December 2008.

10 *Transitional guidelines*

11 (2) The Minister is taken to have approved those guidelines, for the
12 purposes of this Act, by a determination made under subsection
13 72(3), with effect from 1 January 2009.

14 **Subdivision C—Change of SES score determinations**

15 **75 SES scores—determination of changes**

16 (1) The Minister may, by determination, vary an SES score
17 determination.

18 Note: The Minister must give notice of the variation to the approved
19 authority of the school concerned (see section 82).

20 (2) However, the Minister may only vary an SES score determination
21 if required or permitted to do so by another provision of this Act.

22 Note: For the circumstances in which the Minister may vary SES score
23 determinations, see Subdivision D (SES score changes on application
24 by school), section 81 (clerical or formal changes) and section 166
25 (false or misleading statements).

Subdivision D—SES score changes on application by school**76 SES scores—change proposals**

(1) This Subdivision applies in relation to a proposal to vary a school's SES score because the approved authority of the school considers that the SES score:

(a) has not been determined correctly; or

(b) without limiting paragraph (a), does not reflect the socioeconomic circumstances of the school's community (in the way required by the guidelines approved by the Minister under subsection (2)); or

(c) is no longer accurate because of a significant change in the school's circumstances.

(2) The Minister may, by legislative instrument, approve guidelines for the purposes of subsection (1) and section 79.

77 SES scores—change applications*Applicants*

(1) The approved authority of the school may apply to the Minister for approval of the proposal.

Contents of applications

(2) An application under this section must:

(a) be in writing; and

(b) set out the name and location of the school and of the approved authority of the school; and

(c) if the school is a member of an approved school system—set out the name of the approved school system; and

(d) set out the reasons why the approved authority considers the SES score should be changed.

78 SES scores—decisions on change proposals

The Minister must:

Part 4 Grants for recurrent expenditure

Division 11 SES scores

Section 79

- 1 (a) approve the proposal; or
2 (b) refuse to approve the proposal.

3 Note: The Minister's power to approve the proposal is subject to section 79
4 (general prerequisites for change proposals).

5 **79 SES scores—general prerequisites for change proposals**

6 The Minister must not approve the proposal unless satisfied that
7 the school's SES score (the *old SES score*):

- 8 (a) has not been determined correctly; or
9 (b) without limiting paragraph (a), does not reflect the
10 socioeconomic circumstances of the school's community (in
11 the way required by the guidelines approved by the Minister
12 under section 76); or
13 (c) is no longer accurate because of a significant change in the
14 school's circumstances.

15 **80 SES scores—variation of determinations**

16 *Variation of SES score determinations*

- 17 (1) If the Minister approves the proposal, the Minister must vary the
18 school's SES score determination under section 75 to determine a
19 new SES score for the school.

20 Note: The Minister must give notice of the determination to the approved
21 authority of the school (see section 82).

22 *Program year of effect*

- 23 (2) A variation under this section must be stated to apply for the
24 program year in which the variation is made, if the variation results
25 in the school's funding level being equal to, or exceeding, the
26 funding level that applied to the school at the time the proposal to
27 vary the SES score was made.

28 Note: A variation that decreases a school's SES score may have the effect of
29 increasing the school's funding level.

- 30 (3) A variation under this section must be stated to apply for the
31 program year immediately following the program year in which the
32 variation is made, if the variation results in the school's funding

1 level being less than the funding level that applied to the school at
2 the time the proposal to vary the SES score was made.

3 Note: A variation that increases a school's SES score may have the effect of
4 decreasing the school's funding level.

5 **Subdivision E—Miscellaneous**

6 **81 SES scores—clerical or formal changes**

7 The Minister may vary an SES score determination under
8 section 75 to correct clerical errors or to make alterations of a
9 formal kind.

10 **82 SES scores—notice of determinations**

11 If the Minister makes a determination under this Division, the
12 Minister must give written notice of the determination to the
13 approved authority of the school concerned.

1

2

Part 5—Grants for capital expenditure

3

4

83 Capital expenditure—definitions

5

(1) In this Act:

6

block grant authority means a body corporate that the Minister determines under subsection (2) to be a block grant authority for the purposes of this Part in relation to particular non-government schools in a State.

7

8

9

10

capital expenditure includes expenditure relating to any of the following:

11

12

(a) investigating the need for:

13

(i) non-government schools in particular areas; or

14

(ii) non-government schools of particular kinds in particular areas; or

15

16

(iii) buildings (or parts of buildings), other facilities (or parts of other facilities) or equipment;

17

18

(b) purchasing land, with or without buildings or parts of buildings;

19

20

(c) planning for the erection, alteration, extension, demolition or refurbishment of a building (or part of a building) or of another facility (or part of another facility);

21

22

23

(d) developing or preparing land for building or other purposes;

24

25

(e) erecting, altering, extending, demolishing or refurbishing a building, part of a building or another facility or part of a facility;

26

27

(f) installing or upgrading water, electricity or any other services;

28

29

(g) providing equipment, including information technology equipment;

30

31

(h) providing furniture;

32

33

(i) providing library materials or obtaining services and goods for cataloguing a library (or part of a library);

34

(j) the administrative expenses of a block grant authority.

- 1 (2) For the purposes of the definition of *block grant authority* in
 2 subsection (1), the Minister may determine a body corporate to be
 3 a block grant authority.

4 **84 Capital expenditure—funding determination**

- 5 (1) The Minister may make a determination authorising payment of
 6 financial assistance to a State for:
 7 (a) capital expenditure for a program year in connection with:
 8 (i) a non-government school in the State; or
 9 (ii) a group (or groups) of non-government schools in the
 10 State; or
 11 (b) capital expenditure for a program year in connection with
 12 block grant authorities and non-government schools in the
 13 State.
- 14 (2) The sum of the amounts paid to the States under subsection (1) for
 15 a program year must not exceed the amount worked out using the
 16 formula:
 17
$$\frac{\text{Base assistance amount for the program year}}{\text{Capital expenditure supplementation number for the program year}} \times$$

 18 where:
 19 *base assistance amount*, for a program year, means:
 20 (a) if the regulations specify an amount under subsection (3) for
 21 the program year—that amount; or
 22 (b) otherwise:
 23 (i) in the case of the 2009 program year—\$128,712,000; or
 24 (ii) in the case of a later program year—the amount worked
 25 out under this subsection for the previous program year.
- 26 (3) For the purposes of subsection (2), the regulations may specify an
 27 amount to be the *base assistance amount* for a program year.
- 28 (4) If the amount worked out under subsection (2) for a program year
 29 is not a multiple of \$1,000, the amount is to be rounded to the
 30 nearest \$1,000 (rounding \$500 upwards).

1 **85 Capital expenditure—capital expenditure supplementation**
2 **number**

3 (1) In this Act:

4 *capital expenditure supplementation number*, for a program year,
5 means:

6 (a) 1; or

7 (b) if the regulations specify a number under subsection (2) for
8 the program year—that number.

9 (2) For the purposes of this Act, the regulations may specify a number
10 to be the *capital expenditure supplementation number* for a
11 program year.

12 (3) A number specified under subsection (2) may be greater than or
13 less than 1.

14 (4) Before the Governor-General makes regulations for the purposes of
15 subsection (2), the Minister must consider changes in the following
16 indexes:

17 (a) an index of building prices specified in the regulations;

18 (b) an index of wage costs specified in the regulations.

19 (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*,
20 regulations made for the purposes of this section may make
21 provision in relation to a matter by applying, adopting or
22 incorporating, with or without modification, any matter contained
23 in any other instrument or other writing as in force or existing from
24 time to time.

1

2 **Part 6—Grants for targeted expenditure**

3 **Division 1—Simplified outline of Part**

4 **86 Simplified outline**

- 5 (1) This section is a simplified outline of this Part.
- 6 (2) This Part allows the Minister to make determinations authorising
7 the payment of financial assistance to the States for the following:
- 8 (a) short term emergency assistance (see Division 2);
- 9 (b) education in country areas (see Division 3);
- 10 (c) languages education (see Division 4);
- 11 (d) teaching English to new arrivals (see Division 5);
- 12 (e) the literacy, numeracy and special learning needs of students
13 who are educationally disadvantaged (see Division 6);
- 14 (f) establishment assistance for schools established in 2008 (see
15 Division 7).
- 16 (3) This Part also sets limits for financial assistance for those purposes.

1

2 **Division 2—Short term emergency assistance**

3 **87 Short term emergency assistance—funding determination**

- 4 (1) The Minister may make a determination authorising payment of
5 financial assistance to a State to provide short term emergency
6 assistance for a non-government school in the State for one or
7 more program years if the Minister is satisfied that, because of any
8 unexpected circumstance, the school:
9 (a) is in severe financial difficulty; and
10 (b) has a special need of that assistance in the program year or
11 years.

- 12 (2) The sum of the amounts paid to the States under subsection (1) for
13 a program year must not exceed the amount worked out using the
14 formula:

15
$$\frac{\text{Base assistance amount for the program year}}{\text{Targeted expenditure supplementation number for the program year}} \times$$

16 where:

17 **base assistance amount**, for a program year, means:

- 18 (a) if the regulations specify an amount under subsection (3) for
19 the program year—that amount; or
20 (b) otherwise:
21 (i) in the case of the 2009 program year—\$1,057,000; or
22 (ii) in the case of a later program year—the amount worked
23 out under this subsection for the previous program year.

- 24 (3) For the purposes of subsection (2), the regulations may specify an
25 amount to be the **base assistance amount** for a program year.

- 26 (4) An amount specified under subsection (3) may be nil.

- 27 (5) If the amount worked out under subsection (2) for a program year
28 is not a multiple of \$1,000, the amount is to be rounded to the
29 nearest \$1,000 (rounding \$500 upwards).

1

2 **Division 3—Education in country areas**

3 **88 Education in country areas—funding determination**

4 (1) The Minister may make a determination authorising payment of
5 financial assistance to a State for expenditure approved by the
6 Minister for a program year connected with the education, at
7 non-government schools in country areas of the State, of students
8 who are educationally disadvantaged because of their geographical
9 isolation.

10 (2) The sum of the amounts paid to the States under subsection (1) for
11 a program year must not exceed the amount worked out using the
12 formula:

13
$$\frac{\text{Base assistance amount for the program year}}{\text{Targeted expenditure supplementation number for the program year}} \times$$

14 where:

15 ***base assistance amount***, for a program year, means:

16 (a) if the regulations specify an amount under subsection (3) for
17 the program year—that amount; or

18 (b) otherwise:

19 (i) in the case of the 2009 program year—\$5,246,000; or

20 (ii) in the case of a later program year—the amount worked
21 out under this subsection for the previous program year.

22 (3) For the purposes of subsection (2), the regulations may specify an
23 amount to be the ***base assistance amount*** for a program year.

24 (4) If the amount worked out under subsection (2) for a program year
25 is not a multiple of \$1,000, the amount is to be rounded to the
26 nearest \$1,000 (rounding \$500 upwards).

27 Note: Financial assistance under this Division is in addition to the assistance
28 that is available under section 97 (students who are educationally
29 disadvantaged).

1

2 **Division 4—Languages education**

3 **89 Languages education—improving learning outcomes**

4 The Minister may make a determination authorising payment of
5 financial assistance to a State for expenditure for a program year
6 connected with non-government schools in the State to improve the
7 learning outcomes of students who are learning languages other
8 than English.

9 Note: Section 91 sets a maximum amount for grants to the States under this
10 Division for a program year.

11 **90 Languages education—national projects**

12 (1) The Minister may approve a project for the purposes of this section
13 if:

- 14 (a) the sole or principal object of the project is to foster the
15 learning of languages other than English; and
16 (b) the project is conducted by a non-government school or other
17 non-government body.

18 (2) The Minister may make a determination authorising payment to a
19 State for a program year of an amount of financial assistance for
20 either or both of the following:

- 21 (a) expenditure on a project approved under subsection (1);
22 (b) expenditure to publicise a project approved under
23 subsection (1) by disseminating information about the project
24 or carrying out other related activities in connection with the
25 project.

26 Note: Section 91 sets a maximum amount for grants to the States under this
27 Division for a program year.

28 (3) For the purposes of this section, it does not matter whether the
29 project is conducted within, or outside, or within and outside, the
30 State.

1 **91 Languages education—grant amounts**

- 2 (1) The sum of the amounts paid to the States under this Division for a
3 program year must not exceed the amount worked out using the
4 formula:

5
$$\frac{\text{Base assistance amount for the program year}}{\text{Targeted expenditure supplementation number for the program year}} \times$$

6 where:

7 ***base assistance amount***, for a program year, means:

- 8 (a) if the regulations specify an amount under subsection (2) for
9 the program year—that amount; or
10 (b) otherwise:
11 (i) in the case of the 2009 program year—\$12,334,000; or
12 (ii) in the case of a later program year—the amount worked
13 out under this subsection for the previous program year.

- 14 (2) For the purposes of subsection (1), the regulations may specify an
15 amount to be the ***base assistance amount*** for a program year.

- 16 (3) If the amount worked out under subsection (1) for a program year
17 is not a multiple of \$1,000, the amount is to be rounded to the
18 nearest \$1,000 (rounding \$500 upwards).

1

2 **Division 5—Teaching English to new arrivals**

3 **92 Teaching English to new arrivals—definitions**

4 *Definitions*

5 (1) In this Act:

6 *eligible humanitarian new arrival* means a person:

- 7 (a) who is an eligible new arrival; and
8 (b) who holds a visa specified in a determination made under
9 subsection (2).

10 *eligible new arrival* means a person:

- 11 (a) whose first language is not English; and
12 (b) who satisfies criteria determined under subsection (3) for
13 being a person newly arrived in Australia; and
14 (c) to whom one or more of the following subparagraphs applies:
15 (i) the person is an Australian citizen;
16 (ii) the person holds a permanent visa in force under the
17 *Migration Act 1958*;
18 (iii) the person is included in a permanent visa in force under
19 that Act;
20 (iv) the person has his or her permanent home in the
21 Territory of Christmas Island or in the Territory of
22 Cocos (Keeling) Islands;
23 (v) the person satisfies criteria determined under
24 subsection (4).

25 *intensive ESL course* means a course designed to teach English as
26 a second language to eligible new arrivals by means of intensive
27 instruction.

28 *Determinations*

29 (2) The Minister may, by determination, specify a visa for the
30 purposes of paragraph (b) of the definition of *eligible*
31 *humanitarian new arrival* in subsection (1).

- 1 Note: The Minister may specify a visa by reference to a class of visas (see
2 subsection 13(3) of the *Legislative Instruments Act 2003*).
- 3 (3) The Minister may determine criteria for being a person newly
4 arrived in Australia for the purposes of paragraph (b) of the
5 definition of *eligible new arrival* in subsection (1).
- 6 (4) The Minister may determine criteria for the purposes of
7 subparagraph (c)(v) of the definition of *eligible new arrival* in
8 subsection (1).
- 9 (5) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a
10 determination made under subsection (4) may be stated to take
11 effect from a day before the day on which the determination is
12 made, but not before 1 January 2009.
- 13 (6) A determination made under this section is a legislative instrument.

14 *Determinations made under the former Act*

- 15 (7) The following table has effect:
16

Determinations made under the former Act

Item	A determination, made by the relevant Minister for the purposes of the following provision of section 4 of the former Act and in force on 31 December 2008 ...	is taken to be a determination made under the following subsection of this section ...
1	paragraph (b) of the definition of <i>eligible humanitarian new arrival</i>	subsection (2).
2	paragraph (b) of the definition of <i>eligible new arrival</i>	subsection (3).
3	subparagraph (c)(v) of the definition of <i>eligible new arrival</i>	subsection (4).

17 **93 Teaching English to new arrivals—funding determination**

- 18 (1) The Minister may make a determination authorising payment of
19 financial assistance to a State for recurrent expenditure for a
20 program year connected with intensive ESL courses:

Section 94

- 1 (a) beginning or continuing in the program year; and
2 (b) provided at or in connection with non-government schools in
3 the State.

4 (2) The total amount authorised to be paid to a State under
5 subsection (1) for a program year must not exceed the amount
6 worked out by adding up:

- 7 (a) the amount worked out under section 94 for the State's
8 eligible new arrivals; and
9 (b) the amount worked out under section 95 for the State's
10 eligible humanitarian new arrivals.

11 Note: Financial assistance under this Division is in addition to the assistance
12 that is available under section 97 (students who are educationally
13 disadvantaged).

14 **94 Teaching English to new arrivals—eligible new arrivals amounts**

15 (1) For the purposes of paragraph 93(2)(a), work out the amount for
16 the State's eligible new arrivals for the program year using the
17 formula:

18
$$\text{Assistance amount per student for the program year} \times \text{Number of eligible new arrivals for the State for the program year}$$

19 where:

20 *assistance amount per student* has the meaning given by
21 subsection (2).

22 *number of eligible new arrivals*, for a State for a program year,
23 means the number of eligible new arrivals, other than eligible
24 humanitarian new arrivals, enrolled in intensive ESL courses
25 described in subsection 93(1) in the State for the program year.

26 (2) For the purposes of subsection (1), the *assistance amount per*
27 *student*, for a program year, is the amount worked out using the
28 formula:

29
$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

30 where:

31 *base assistance amount* means:

- 1 (a) for the 2009 program year—\$5,786; or
2 (b) for a later program year—the assistance amount per student
3 for the previous program year.
- 4 (3) If the assistance amount per student for a program year is an
5 amount of dollars and cents, the amount is to be rounded to the
6 next highest dollar.

7 **95 Teaching English to new arrivals—eligible humanitarian new**
8 **arrivals amounts**

- 9 (1) For the purposes of paragraph 93(2)(b), work out the amount for
10 the State's eligible humanitarian new arrivals for the program year
11 using the formula:

12
$$\frac{\text{Assistance amount per student}}{\text{for the program year}} \times \frac{\text{Number of eligible humanitarian}}{\text{new arrivals for the State}} \text{ for the program year}$$

13 where:

14 *assistance amount per student* has the meaning given by
15 subsection (2).

16 *number of eligible humanitarian new arrivals*, for a State for a
17 program year, means the number of eligible humanitarian new
18 arrivals enrolled in intensive ESL courses described in subsection
19 93(1) in the State for the program year.

- 20 (2) For the purposes of subsection (1), the *assistance amount per*
21 *student*, for a program year, is the amount worked out using the
22 formula:

23
$$\frac{\text{Base assistance amount}}{\text{for the program year}} \times \frac{\text{Targeted expenditure supplementation}}{\text{number for the program year}}$$

24 where:

25 *base assistance amount* means:

- 26 (a) for the 2009 program year—\$11,572; or
27 (b) for a later program year—the assistance amount per student
28 for the previous program year.

Part 6 Grants for targeted expenditure

Division 5 Teaching English to new arrivals

Section 95

- 1 (3) If the assistance amount per student for a program year is an
2 amount of dollars and cents, the amount is to be rounded to the
3 next highest dollar.

1

2 **Division 6—Literacy, numeracy and special learning needs**

3 **96 Literacy, numeracy and special learning needs—students with**
4 **disabilities**

5 (1) The Minister may make a determination authorising payment of
6 financial assistance to a State for expenditure for a program year
7 connected with non-government schools (including schools
8 providing special education) in the State to improve the learning
9 outcomes of students with disabilities.

10 (2) The total amount authorised to be paid to a State under
11 subsection (1) for a program year must not exceed the amount
12 worked out using the formula:

13
$$\text{Assistance amount per student for the program year} \times \text{Number of students with disabilities for the State for the program year}$$

14 where:

15 *assistance amount per student* has the meaning given by
16 subsection (3).

17 *number of students with disabilities*, for a State for a program
18 year, means the number of students with disabilities (including the
19 full-time equivalent of part-time students with disabilities)
20 receiving primary education, secondary education or distance
21 education at non-government schools in the State on the schools
22 census day for the State for the previous calendar year.

23 (3) For the purposes of subsection (2), the *assistance amount per*
24 *student*, for a program year, is the amount worked out using the
25 formula:

26
$$\text{Base assistance amount for the program year} \times \text{Targeted expenditure supplementation number for the program year}$$

27 where:

28 *base assistance amount* means:

29 (a) for the 2009 program year—\$853; or

Part 6 Grants for targeted expenditure

Division 6 Literacy, numeracy and special learning needs

Section 97

1 (b) for a later program year—the assistance amount per student
2 for the previous program year.

3 (4) If the assistance amount per student for a program year is an
4 amount of dollars and cents, the amount is to be rounded to the
5 next highest dollar.

6 Note: Financial assistance under this section is in addition to the assistance
7 that is available under section 97 (students who are educationally
8 disadvantaged).

9 **97 Literacy, numeracy and special learning needs—students who**
10 **are educationally disadvantaged**

11 (1) The Minister may make a determination authorising payment of
12 financial assistance to a State for expenditure for a program year
13 connected with non-government schools (including schools
14 providing special education) in the State to improve the learning
15 outcomes of students who are educationally disadvantaged.

16 (2) The sum of the amounts paid to the States under subsection (1) for
17 a program year must not exceed the amount worked out by adding
18 up:

19 (a) the amount worked out under section 98 for the program year
20 (grants for schools); and

21 (b) the amount specified under section 99 for the program year
22 (guarantee amount).

23 (3) In this section:

24 *students who are educationally disadvantaged* includes:

25 (a) students who are geographically isolated; and

26 (b) students of a language background other than English; and

27 (c) students with disabilities; and

28 (d) Indigenous students; and

29 (e) students of a low socioeconomic background.

30 Note: Financial assistance under this section is in addition to the assistance
31 that is available under Division 3 (students who are geographically
32 isolated), Division 5 (teaching English to new arrivals) or section 96
33 (students with disabilities).

1 **98 Literacy, numeracy and special learning needs—school grants**
2 **amounts**

- 3 (1) For the purposes of paragraph 97(2)(a), work out the amount using
4 the formula:

5 Base assistance amount × Targeted expenditure supplementation
 for the program year number for the program year

6 where:

7 **base assistance amount**, for a program year, means:

- 8 (a) if the regulations specify an amount under subsection (2) for
9 the program year—that amount; or
10 (b) otherwise:
11 (i) in the case of the 2009 program year—\$142,375,000; or
12 (ii) in the case of a later program year—the amount worked
13 out under this subsection for the previous program year.

- 14 (2) For the purposes of subsection (1), the regulations may specify an
15 amount to be the **base assistance amount** for a program year.

- 16 (3) If the amount worked out under subsection (1) for a program year
17 is an amount of dollars and cents, the amount is to be rounded to
18 the next highest dollar.

19 **99 Literacy, numeracy and special learning needs—guarantee**
20 **amounts**

21 For the purposes of paragraph 97(2)(b), the amount is:

- 22 (a) \$1,942,000; or
23 (b) if the regulations specify an amount for the program year for
24 the purposes of this paragraph—that amount.

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2 **Division 7—Establishment assistance**

3 **100 Establishment assistance—funding determination**

4 *Scope*

- 5 (1) This section applies if, in 2008, the relevant Minister varied the
6 former list of non-government schools in relation to a school in a
7 State because the school was covered by paragraph (c) of the
8 definition of *new school proposal* in the former Act.

9 *Funding determination*

- 10 (2) If the school is a non-systemic school, the Minister may make a
11 determination authorising payment of financial assistance to the
12 State to provide establishment assistance for the school for the
13 2009 program year.
- 14 (3) If the school is a member of an approved school system, the
15 Minister may make a determination authorising payment of
16 financial assistance to the State to provide establishment assistance
17 for the approved school system for the 2009 program year in
18 relation to the school.

19 *Maximum amount*

- 20 (4) An amount determined under subsection (2) or (3) in relation to a
21 school must not be more than the amount worked out using the
22 formula:

23
$$\$250 \times \left(\begin{array}{l} \text{Number of primary} \\ \text{students for the school} \\ \text{for the 2009 program year} \end{array} + \begin{array}{l} \text{Number of secondary} \\ \text{students for the school} \\ \text{for the 2009 program year} \end{array} \right)$$

1

2 **Division 8—Targeted expenditure supplementation**
3 **number**

4 **101 Targeted expenditure supplementation number**

5 (1) In this Act:

6 *targeted expenditure supplementation number*, for a program
7 year, means:

8 (a) 1; or

9 (b) if the regulations specify a number under subsection (2) for
10 the program year—that number.

11 (2) For the purposes of this Act, the regulations may specify a number
12 to be the *targeted expenditure supplementation number* for a
13 program year.

14 (3) A number specified under subsection (2) may be greater than or
15 less than 1.

16 (4) Before the Governor-General makes regulations for the purposes of
17 subsection (2), the Minister must consider changes in the relevant
18 figures known as the Average Government School Costs published
19 by:

20 (a) the Ministerial Council on Education, Employment, Training
21 and Youth Affairs; or

22 (b) a body specified by the regulations that has a corresponding
23 function.

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Part 7—Approved schools

Division 1—Simplified outline of Part

102 Simplified outline

- (1) This section is a simplified outline of this Part.
- (2) A school is approved, for the purposes of this Act, for a level of education at a location if:
 - (a) the school was included in the former list of non-government schools for that level at that location (see Division 3); or
 - (b) the Minister, by determination, approves the school for that level at that location (see Division 4).
- (3) An approved school determination may be changed for a reason specified in this Act, including to add or to remove levels of education and locations (see Divisions 5 and 6).

1

2 **Division 2—Approved schools**

3 **103 Approved schools—definition**

4

In this Act:

5

approved school means (subject to subsection 121(3) (revocation
6 of approvals)):

6

7

(a) a school that, as at 31 December 2008, was included in the
8 former list of non-government schools; or

8

9

(b) a school approved under an approved school determination.

1

2 **Division 3—Former listed schools**

3 **104 Former listed schools**

4 *Scope*

- 5 (1) This section applies in relation to a school that, as at 31 December
6 2008, was included in the former list of non-government schools
7 for:
8 (a) a level of education; and
9 (b) a location for that level of education.

10 *Transitional approvals*

- 11 (2) The Minister is taken to have approved the school, for the purposes
12 of this Act, for that level of education at that location, by
13 determination (a *transitional approved school determination*)
14 made under subsection 110(1), with effect from 1 January 2009.
- 15 (3) The following provisions do not apply in relation to a transitional
16 approved school determination:
17 (a) subsection 110(3) (approved school system or approved
18 authority);
19 (b) subsection 110(4) (SES score);
20 (c) section 123 (notice of determination).

1

2 **Division 4—Approved school determinations**

3 **Subdivision A—Scope of Division**

4 **105 Approved school determinations—new school proposals**

5 This Division applies in relation to a proposal that one of the
6 following schools be approved for a level (or levels) of education
7 at a location (or locations) for the purposes of this Act:

- 8 (a) a non-government school formed as a result of the
9 amalgamation of 2 or more schools (at least one of which
10 was an approved school);
11 (b) a non-government school formed as a result of the separation
12 of an approved school into 2 or more schools;
13 (c) a new non-government school;
14 (d) an existing non-government school that is not already an
15 approved school.

16 **Subdivision B—Applications**

17 **106 Approved school determinations—new school applications**

18 *Applicants*

- 19 (1) The following may apply to the Minister for approval of the
20 proposal:
21 (a) if the school is to be a member of an approved school
22 system—the approved authority of the system;
23 (b) otherwise—the body principally responsible for the school.

24 *Contents of applications*

- 25 (2) An application under this section must:
26 (a) be in writing; and
27 (b) set out the details of the proposal, including:
28 (i) the information mentioned in section 111; and

Section 107

- 1 (ii) if the school is to be a member of an approved school
2 system—the information mentioned in subsection
3 133(2); and
- 4 (c) subject to subsection (3), state the earliest program year to
5 which the approval is to apply; and
- 6 (d) if the applicant considers that there are exceptional
7 circumstances that justify the approval applying to the
8 program year preceding the program year in which the
9 application is made—set out those circumstances.
- 10 (3) The earliest program year to be stated in an application for the
11 purposes of paragraph (2)(c) is to be:
- 12 (a) the program year in which the application is made; or
13 (b) the program year following the program year in which the
14 application is made; or
- 15 (c) if the applicant considers that there are exceptional
16 circumstances that justify the approval applying to the
17 program year preceding the program year in which the
18 application is made—that preceding program year.

19 **107 Approved school determinations—decisions on new school**
20 **proposals**

21 The Minister must:

- 22 (a) approve the proposal; or
23 (b) refuse to approve the proposal.

24 Note: The Minister's power to approve the proposal is subject to
25 sections 108 (general prerequisites for new school proposals) and 109
26 (prerequisites for new school proposals applying in previous program
27 years).

28 **108 Approved school determinations—general prerequisites for new**
29 **school proposals**

30 The Minister must not approve the proposal unless:

- 31 (a) education is provided by the school; and
32 (b) education provided by the school is recognised by the State
33 Minister of the State in which the school is situated; and
34 (c) the school is not conducted for profit; and

- 1 (d) if the school is to be a non-systemic school—the applicant
2 for the proposal is a body corporate; and
3 (e) the requirements under paragraphs (a), (b), (c) and (d) are
4 satisfied before the schools census day for the school in the
5 earliest program year to which the approved school
6 determination is to apply.

7 **109 Approved school determinations—prerequisites for new school**
8 **proposals applying in previous program years**

9 The Minister must not make an approved school determination
10 with effect from a day in the program year preceding the program
11 year in which the application is made unless the Minister is
12 satisfied that there are exceptional circumstances that justify the
13 determination taking effect in that preceding program year.

14 **Subdivision C—Making approved school determinations**

15 **110 Approved school determinations—power to determine**

- 16 (1) If the Minister approves the proposal, the Minister must, by
17 determination, approve the school for the purposes of this Act in
18 accordance with the proposal.

19 Note: The Minister must give notice of the determination to the approved
20 authority of the school (see section 123).

- 21 (2) The determination must be stated to apply from the earliest
22 program year stated in the application for the purposes of
23 paragraph 106(2)(c).
- 24 (3) The Minister must:
- 25 (a) if the school is to be a member of an approved school
26 system—subject to section 135 (prerequisites for
27 membership), vary the system’s approved school system
28 determination under section 131 to approve the school as a
29 member of the system; or
30 (b) otherwise—approve a body as the approved authority of the
31 school under section 151.

Section 111

- 1 (4) The Minister must determine the school's SES score under
2 section 72.
- 3 (5) If paragraph 105(a) or (b) applies (schools formed from the
4 amalgamation or separation of approved schools), the Minister
5 may, in order to take account of the proposal:
- 6 (a) vary (under section 112) or revoke (under section 121) the
7 approved school determination for any approved school
8 mentioned in that paragraph; or
- 9 (b) vary (under section 152) or revoke (under section 154) the
10 approved authority determination for any approved school
11 mentioned in that paragraph; or
- 12 (c) if any approved school mentioned in that paragraph is a
13 member of an approved school system—vary (under
14 section 131) the system's approved school system
15 determination.

16 **111 Approved school determinations—contents**

- 17 An approved school determination for an approved school must set
18 out the following:
- 19 (a) the name of the school;
- 20 (b) each location for which the school is approved;
- 21 (c) a description of:
- 22 (i) each level of education for which the school is
23 approved; and
- 24 (ii) if more than one location is listed under paragraph (b)
25 for the school—each level of education for which the
26 school is approved at each of those locations.

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2 **Division 5—Changes to approved school determinations**

3 **Subdivision A—General provisions**

4 **112 Changes to approved school determinations—power to**
5 **determine**

6 (1) The Minister may, by determination, vary an approved school
7 determination.

8 Note: The Minister must give notice of the variation to the approved
9 authority of the school concerned (see section 123).

10 (2) However, the Minister may only vary an approved school
11 determination if required or permitted to do so by another
12 provision of this Act.

13 Note: For the circumstances in which the Minister may vary approved
14 school determinations, see section 110 (amalgamation or separation of
15 approved schools), Subdivision B (end of State recognition),
16 Subdivision C (location changes) and section 120 (clerical or formal
17 changes).

18 **Subdivision B—End of State recognition**

19 **113 Changes to approved school determinations—end of State**
20 **recognition**

21 If an approved school in a State stops being recognised by the State
22 for a particular level of education, the Minister may vary the
23 school's approved school determination under section 112 to
24 remove the reference to that level of education.

25 **Subdivision C—Location changes**

26 **114 Changes to approved school determinations—location change**
27 **proposals**

28 (1) Subsection (2) applies in relation to a school that is approved for
29 the purposes of this Act for a level of education at a location.

Section 115

- 1 (2) This Subdivision applies in relation to a proposal to approve the
2 school for:
3 (a) a new level of education at that location; or
4 (b) education, or a level of education, at another location.

5 **115 Changes to approved school determinations—location change**
6 **applications**

7 *Applicants*

- 8 (1) The approved authority of the school may apply to the Minister for
9 approval of the proposal.

10 *Contents of applications*

- 11 (2) An application under this section must:
12 (a) be in writing; and
13 (b) set out details of the proposal; and
14 (c) subject to subsection (3), state the earliest program year to
15 which the approval is to apply; and
16 (d) if the applicant considers that there are exceptional
17 circumstances that justify the approval applying to the
18 program year preceding the program year in which the
19 application is made—set out those circumstances.
- 20 (3) The earliest program year to be stated in an application for the
21 purposes of paragraph (2)(c) is to be:
22 (a) the program year in which the application is made; or
23 (b) the program year following the program year in which the
24 application is made; or
25 (c) if the applicant considers that there are exceptional
26 circumstances that justify the approval applying to the
27 program year preceding the program year in which the
28 application is made—that preceding program year.

29 **116 Changes to approved school determinations—decisions on**
30 **location change proposals**

31 The Minister must:

- 1 (a) approve the proposal; or
2 (b) refuse to approve the proposal.

3 Note: The Minister's power to approve the proposal is subject to
4 sections 117 (general prerequisites for location change proposals) and
5 118 (prerequisites for location changes applying in previous program
6 years).

7 **117 Changes to approved school determinations—general**
8 **prerequisites for location change proposals**

9 The Minister must not approve the proposal unless:

- 10 (a) education is provided by the school at the location concerned
11 in accordance with the proposal; and
12 (b) the provision of education by the school at the location
13 concerned in accordance with the proposal is recognised by
14 the State Minister of the State in which the school is situated;
15 and
16 (c) the requirements under paragraphs (a) and (b) are satisfied
17 before the schools census day for the school in the earliest
18 program year to which the approval is to apply.

19 **118 Changes to approved school determinations—prerequisites for**
20 **location change proposals applying in previous program**
21 **years**

22 The Minister must not, in order to take account of the proposal,
23 vary the approved school determination for the school with effect
24 from a day in the program year preceding the program year in
25 which the application is made unless the Minister is satisfied that
26 there are exceptional circumstances that justify the variation taking
27 effect in that preceding program year.

28 **119 Changes to approved school determinations—location changes**

- 29 (1) If the Minister approves the proposal, the Minister must vary the
30 approved school determination for the school under section 112 in
31 accordance with the proposal.

32 Note: The Minister must give notice of the variation to the approved
33 authority of the school (see section 123).

Part 7 Approved schools

Division 5 Changes to approved school determinations

Section 120

- 1 (2) The variation must be stated to apply from the earliest program
2 year stated in the application for the purposes of paragraph
3 115(2)(c).

4 **Subdivision D—Miscellaneous**

5 **120 Changes to approved school determinations—clerical or formal**
6 **changes**

7 The Minister may vary an approved school determination for a
8 school under section 112 to correct clerical errors or to make
9 alterations of a formal kind, including to remove from the
10 determination:

- 11 (a) a location at which the school has stopped providing
12 education; or
13 (b) a level of education that the school has stopped providing.

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2 **Division 6—Revoking approved school determinations**

3 **121 Revoking approved school determinations—power to determine**

4 (1) The Minister may, by determination, revoke an approved school
5 determination.

6 Note: The Minister must give notice of the revocation to the approved
7 authority of the school concerned (see section 123).

8 (2) However, the Minister may only revoke an approved school
9 determination if required or permitted to do so by another
10 provision of this Act.

11 Note: For the circumstances in which the Minister may revoke approved
12 school determinations, see section 110 (amalgamation or separation of
13 approved schools) and section 122 (schools ineligible for funding).

14 (3) For the purposes of this Act, a school stops being an *approved*
15 *school* if the Minister revokes the school's approved school
16 determination.

17 (4) If the Minister revokes an approved school determination for a
18 school, the Minister may:
19 (a) if the school is a member of an approved school system—
20 remove the school from the system's approved school system
21 determination under section 131; or
22 (b) if the school is a non-systemic school—revoke the approved
23 authority determination for the school under section 154.

24 **122 Revoking approved school determinations—schools ineligible**
25 **for funding**

26 The Minister must revoke an approved school determination for a
27 school in a State under section 121 if:

- 28 (a) the school stops being recognised by the State Minister; or
29 (b) the school stops existing; or
30 (c) the school starts to be conducted for profit.

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2 **Division 7—Miscellaneous**

3 **123 Minister to give notice of determinations to approved**
4 **authorities**

5 If the Minister makes any of the following determinations, the
6 Minister must give written notice of the determination to the
7 approved authority of the school concerned:

- 8 (a) an approved school determination;
9 (b) a determination varying or revoking an approved school
10 determination.

11 **124 Determinations may be given retrospective effect**

12 Any of the following determinations may take effect from a day
13 before the day on which the determination is made, but not before
14 1 January 2009:

- 15 (a) an approved school determination;
16 (b) a determination varying or revoking an approved school
17 determination.

18 Note: This section is subject to sections 109 and 118.

19 **125 Publication of list of funded schools**

20 As soon as practicable after 1 July in each program year, the
21 Minister must arrange for a notice to be published setting out:

- 22 (a) the name of each school for which financial assistance is paid
23 under this Act for the program year; and
24 (b) for each school, the funding level used to work out the
25 amount of financial assistance the school receives in the
26 program year.

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2 **Part 8—Approved school systems**

3 **Division 1—Simplified outline of Part**

4 **126 Simplified outline**

5 (1) This section is a simplified outline of this Part.

6 (2) A school system is approved as a school system, for the purposes
7 of this Act, if:

8 (a) the school system was an approved school system under the
9 former Act (see Division 3); or

10 (b) the Minister, by determination, approves the school system
11 (see Division 4).

12 (3) An approved school is a member of an approved school system if:

13 (a) the school was included in the former list of non-government
14 schools as a member of the system (see Division 3); or

15 (b) the Minister, by determination, approves the school as a
16 member of the system (see Division 4).

17 (4) An approved school system determination may be changed for a
18 reason specified in this Act, including to add or to remove a
19 member of the system (see Divisions 5 and 6).

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Division 2—Approved school systems

127 Approved school systems—definitions

In this Act:

approved school system means (subject to subsection 143(3) (revocation of approvals)):

- (a) a body that, as at 31 December 2008, was an approved school system under the former Act; or
- (b) a body approved as a school system under an approved school system determination.

member, of an approved school system, means (subject to subsection 131(3) (removal from system)):

- (a) an approved school that, as at 31 December 2008, was included in the former list of non-government schools as a member of the system; or
- (b) an approved school approved as a member of the system under the system's approved school system determination.

1

2 **Division 3—Former approved school systems**

3 **128 Former approved school systems**

4

Scope

5

(1) This section applies in relation to:

6

(a) a body that, as at 31 December 2008, was an approved school system under the former Act; and

7

8

(b) each approved school that, as at 31 December 2008, was included in the former list of non-government schools as a member of the system.

9

10

11

Transitional approvals

12

(2) The Minister is taken to have approved the system, for the purposes of this Act, by determination (a ***transitional approved school system determination***) made under subsection 129(1), with effect from 1 January 2009.

13

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(3) The Minister is taken to have approved, by the transitional approved school system determination, each approved school as a member of the system.

17

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(4) The following provisions do not apply in relation to a transitional approved school system determination:

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21

(a) subsection 129(2) (approved authority);

22

(b) section 145 (notice of determination).

1

2 **Division 4—Approved school system determinations**

3 **129 Approved school system determinations—power to determine**

- 4 (1) The Minister may, by determination:
- 5 (a) approve a body as an approved school system for the
- 6 purposes of this Act; and
- 7 (b) approve an approved school (or schools) as a member (or
- 8 members) of the system for the purposes of this Act.
- 9 (2) If the Minister makes an approved school system determination for
- 10 an approved school system, the Minister must approve a body as
- 11 the approved authority of the system under section 151.

12 **130 Approved school system determinations—contents**

13 An approved school system determination for an approved school

14 system must contain:

- 15 (a) the name of the approved school system; and
- 16 (b) the name of each member of the system.

1
2 **Division 5—Changes to approved school system**
3 **determinations**

4 **Subdivision A—General provisions**

5 **131 Changes to approved school system determinations—power to**
6 **determine**

7 *Changes to approved school system determinations*

- 8 (1) The Minister may, by determination, vary an approved school
9 system determination.

10 Note: The Minister must give notice of the variation to the approved
11 authority of the system concerned (see section 145).

- 12 (2) However, the Minister may only vary an approved school system
13 determination if required or permitted to do so by another
14 provision of this Act.

15 Note: For the circumstances in which the Minister may vary approved
16 school system determinations, see section 110 (amalgamation or
17 separation of approved schools), section 121 (revoking approved
18 school determinations), Subdivision B (new members of approved
19 school systems), Subdivision C (ending membership of approved
20 school systems) and section 142 (clerical or formal changes).

21 *Ending membership*

- 22 (3) For the purposes of this Act, a school stops being a *member* of an
23 approved school system if the Minister removes the school from
24 the system's approved school system determination under
25 subsection (1).

26 **Subdivision B—New members of systems**

27 **132 Changes to approved school system determinations—new**
28 **member proposals**

- 29 (1) This Subdivision applies in relation to a proposal to approve a
30 non-systemic school as a member of an approved school system.

Part 8 Approved school systems

Division 5 Changes to approved school system determinations

Section 133

- 1 (2) However, this Subdivision does not apply in relation to a proposal
2 that is consequential on a proposal:
3 (a) to which Division 4 of Part 7 applies (new schools); or
4 (b) to which Division 4 of this Part applies (new school systems).

5 **133 Changes to approved school system determinations—new**
6 **member applications**

7 *Applicants*

- 8 (1) Either of the following may apply to the Minister for approval of
9 the proposal:
10 (a) the approved authority of the school;
11 (b) the approved authority of the approved school system.

12 *Contents of applications*

- 13 (2) An application under this section must:
14 (a) be in writing; and
15 (b) set out the name and location of the school and of the
16 approved school system; and
17 (c) be accompanied by evidence that the approved authority of
18 the approved school system agrees to the school becoming a
19 member of the system; and
20 (d) state the earliest program year to which the proposal relates;
21 and
22 (e) state whether the approved authority of the approved school
23 system agrees to fulfil the obligations (if any) of the
24 approved authority of the school under this Act or the former
25 Act that have not been fulfilled.

26 **134 Changes to approved school system determinations—decisions**
27 **on new member proposals**

- 28 The Minister must:
29 (a) approve the proposal; or
30 (b) refuse to approve the proposal.

1 Note: The Minister's power to approve the proposal is subject to section 135
2 (prerequisites for new member proposals).

3 **135 Changes to approved school system determinations—**
4 **prerequisites for new member proposals**

5 The Minister must not approve the proposal unless:

- 6 (a) the funding agreement made by the approved authority of the
7 approved school system with the Commonwealth (or the
8 agreement as varied) applies to the school for the earliest
9 program year to which the proposal relates, and all later
10 program years; and
11 (b) the funding agreement has been varied to provide that the
12 approved authority of the approved school system has agreed
13 to fulfil the obligations (if any) of the approved authority of
14 the school under this Act or the former Act that have not
15 been fulfilled.

16 **136 Changes to approved school system determinations—new**
17 **member changes**

- 18 (1) If the Minister approves the proposal, the Minister must vary the
19 approved school system's approved school system determination
20 under section 131 to approve the school as a member of the
21 system.

22 Note: The Minister must give notice of the variation to the approved
23 authority of the approved school system (see section 145).

- 24 (2) The variation must be stated to apply from the earliest program
25 year stated in the application for the purposes of paragraph
26 133(2)(d).
27 (3) If the Minister approves the proposal, the Minister may revoke the
28 approved authority determination for the school under section 154.

1 **Subdivision C—Ending membership**

2 **137 Changes to approved school system determinations—proposals**
3 **to end membership**

4 (1) This Subdivision applies in relation to a proposal for a school to
5 stop being a member of an approved school system.

6 (2) However, this Subdivision does not apply in relation to a proposal
7 that is consequential on a proposal to which Division 6 of Part 7
8 applies (revoking approved school determinations).

9 **138 Changes to approved school system determinations—**
10 **applications to end membership**

11 *Applicants*

12 (1) Either of the following may apply to the Minister for approval of
13 the proposal:

14 (a) the body (the *responsible body*) that is to be principally
15 responsible for the school under the proposal;

16 (b) the approved authority of the approved school system.

17 *Contents of applications*

18 (2) An application under this section must:

19 (a) be in writing; and

20 (b) set out the name and location of the school and of the
21 responsible body; and

22 (c) state the earliest program year to which the proposal relates;
23 and

24 (d) state whether the responsible body agrees to fulfil the
25 obligations (if any) of the approved authority of the approved
26 school system under this Act or the former Act in relation to
27 the school that have not been fulfilled.

1 **139 Changes to approved school system determinations—decisions**
2 **on proposals to end membership**

3 The Minister must:

- 4 (a) approve the proposal; or
5 (b) refuse to approve the proposal.

6 Note: The Minister's power to approve the proposal is subject to section 140
7 (prerequisites for proposals to end membership).

8 **140 Changes to approved school system determinations—**
9 **prerequisites for proposals to end membership**

10 The Minister must not approve the proposal unless:

- 11 (a) if the application is made by the responsible body:
12 (i) the application is accompanied by evidence that the
13 approved authority of the approved school system
14 agrees to the school stopping being a member of the
15 approved school system; or
16 (ii) the Minister has given notice to the approved authority
17 of the approved school system in relation to the
18 proposal; and
19 (b) the school is not conducted for profit; and
20 (c) the responsible body is a body corporate; and
21 (d) the responsible body has made a funding agreement with the
22 Commonwealth for the earliest program year to which the
23 proposal relates, and all later program years; and
24 (e) the funding agreement provides that the responsible body
25 agrees to fulfil the obligations (if any) of the approved
26 authority of the approved school system under this Act or the
27 former Act in relation to the school that have not been
28 fulfilled.

29 **141 Changes to approved school system determinations—ending**
30 **membership**

- 31 (1) If the Minister approves the proposal, the Minister must remove
32 the school from the approved school system's approved school
33 system determination under section 131.

Part 8 Approved school systems

Division 5 Changes to approved school system determinations

Section 142

1 Note: The Minister must give notice of the removal to the approved
2 authority of the approved school system (see section 145).

3 (2) The removal must be stated to apply from the earliest program year
4 stated in the application for the purposes of paragraph 138(2)(c).

5 (3) If the Minister approves the proposal, the Minister must approve
6 the responsible body as the approved authority of the school under
7 section 151.

8 **Subdivision D—Miscellaneous**

9 **142 Changes to approved school system determinations—clerical or**
10 **formal changes**

11 The Minister may vary an approved school system determination
12 under section 131 to correct clerical errors or to make alterations of
13 a formal kind.

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2 **Division 6—Revoking approved school system**
3 **determinations**

4 **143 Revoking approved school system determinations—power to**
5 **determine**

6 (1) The Minister may, by determination, revoke an approved school
7 system determination.

8 Note: The Minister must give notice of the revocation to the approved
9 authority of the approved school system concerned (see section 145).

10 (2) However, the Minister may only revoke an approved school system
11 determination if required or permitted to do so by another
12 provision of this Act.

13 Note: For the circumstances in which the Minister may revoke approved
14 school system determinations, see section 144 (systems stopped
15 existing).

16 (3) For the purposes of this Act, a school system stops being an
17 *approved school system* if the Minister revokes the system's
18 approved school system determination.

19 (4) If the Minister revokes an approved school system determination
20 for an approved school system, the Minister may revoke the
21 approved authority determination for the system under section 154.

22 **144 Revoking approved school system determinations—systems**
23 **stopped existing**

24 The Minister may revoke an approved school system determination
25 for an approved school system under section 143 if the system has
26 stopped existing.

27 Note: The Minister must give notice of the revocation to the approved
28 authority of the approved school system (see section 145).

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2 **Division 7—Miscellaneous**

3 **145 Minister to give notice of determinations to approved**
4 **authorities**

5 If the Minister makes any of the following determinations, the
6 Minister must give written notice of the determination to the
7 approved authority of the approved school system concerned:

- 8 (a) an approved school system determination;
9 (b) a determination varying or revoking an approved school
10 system determination.

11 **146 Determinations may be given retrospective effect**

12 Any of the following determinations may take effect from a day
13 before the day on which the determination is made, but not before
14 1 January 2009:

- 15 (a) an approved school system determination;
16 (b) a determination varying or revoking an approved school
17 system determination.

18 **147 Publication of list of approved school systems**

19 As soon as practicable after 1 July in each program year, the
20 Minister must arrange for the following to be published:

- 21 (a) the name of each approved school system;
22 (b) for each approved school system, the name of each approved
23 member of the system.

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2 **Part 9—Approved authorities**

3 **Division 1—Simplified outline of Part**

4 **148 Simplified outline**

5 (1) This section is a simplified outline of this Part.

6 (2) The approved authority of a systemic school is the approved
7 authority of the approved school system of which the school is a
8 member (see Division 2).

9 (3) The approved authority of any other non-government body is:

10 (a) the body that was the approved authority of the
11 non-government body under the former Act (see Division 3
12 of this Part); or

13 (b) the body that the Minister, by determination, approves for the
14 non-government body (see Division 4).

15 (4) An approved authority determination may only be changed for a
16 reason specified in this Act, including to replace one approved
17 authority with another (see Divisions 5 and 6).

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Division 2—Approved authorities

149 Approved authorities—definition

In this Act:

approved authority, of a non-government body, means:

- (a) in the case of an approved school that is a member of an approved school system—the approved authority of the system; or
- (b) in the case of any other non-government body—subject to subsection 154(3) (revocation of approvals):
 - (i) if, as at 31 December 2008, there was an approved authority of the non-government body under the former Act—that approved authority; or
 - (ii) the body approved under an approved authority determination for the non-government body.

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2 **Division 3—Former approved authorities**

3 **150 Former approved authorities**

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Scope

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- (1) This section applies in relation to a body (the *existing authority*) that, as at 31 December 2008, was the approved authority of a non-government body (other than a systemic school) under the former Act.

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Transitional approvals

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- (2) The Minister is taken to have approved the existing authority as the approved authority of the non-government body, for the purposes of this Act, by determination (a *transitional approved authority determination*) made under section 151, with effect from 1 January 2009.

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- (3) Section 160 (notice of determination) does not apply in relation to a transitional approved authority determination.

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2 **Division 4—Approved authority determinations**

3 **151 Approved authority determinations—power to determine**

4 For the purposes of this Act, the Minister may, by determination,
5 approve a body as the approved authority of:

- 6 (a) an approved school system; or
7 (b) a non-systemic school; or
8 (c) another non-government body (other than a systemic school).

1

2 **Division 5—Changes to approved authority determinations**

3 **152 Changes to approved authority determinations—power to**
4 **determine**

5 (1) The Minister may, by determination, vary an approved authority
6 determination.

7 Note: The Minister must give notice of the variation to the approved
8 authority concerned (see section 160).

9 (2) However, the Minister may only vary an approved authority
10 determination for a non-systemic school, or for an approved school
11 system, if required or permitted to do so by another provision of
12 this Act.

13 Note: For the circumstances in which the Minister may vary approved
14 authority determinations for non-systemic schools and approved
15 school systems, see section 110 (amalgamation or separation of
16 approved schools) and section 153 (clerical or formal changes).

17 **153 Changes to approved authority determinations—clerical or**
18 **formal changes**

19 The Minister may vary an approved authority determination under
20 section 152 to correct clerical errors or to make alterations of a
21 formal kind.

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2 **Division 6—Revoking approved authority determinations**

3 **Subdivision A—General provisions**

4 **154 Revoking approved authority determinations—power to**
5 **determine**

- 6 (1) The Minister may, by determination, revoke an approved authority
7 determination.

8 Note: The Minister must give notice of the revocation to the approved
9 authority concerned (see section 160).

- 10 (2) However, the Minister may only revoke an approved authority
11 determination for a non-systemic school, or for an approved school
12 system, if required or permitted to do so by another provision of
13 this Act.

14 Note: For the circumstances in which the Minister may revoke approved
15 authority determinations for non-systemic schools and approved
16 school systems, see section 110 (amalgamation or separation of
17 approved schools), section 121 (revoking approved school
18 determinations), section 136 (non-systemic schools become systemic
19 schools), section 143 (revoking approved school system
20 determinations) and Subdivision B (change of authorities).

- 21 (3) For the purposes of this Act, a body stops being the *approved*
22 *authority* of a non-government body if the Minister revokes the
23 approved authority determination for the non-government body.

24 **Subdivision B—Change of authorities**

25 **155 Revoking approved authority determinations—change of**
26 **authorities**

- 27 (1) This Subdivision applies in relation to a proposal that the Minister
28 replace the approved authority (the *existing authority*) of a
29 non-systemic school, or of an approved school system, with
30 another body (the *proposed authority*).

- 31 (2) However, this Subdivision does not apply in relation to a proposal
32 that is consequential on a proposal:

- 1 (a) to which Division 4 of Part 7 applies (new schools); or
2 (b) to which Division 4 of Part 8 applies (new school systems);
3 or
4 (c) to which Subdivision B or C of Division 5 of Part 8 applies
5 (changes to membership of approved school systems).

6 **156 Revoking approved authority determinations—change of**
7 **authority proposals**

8 *Applicants*

- 9 (1) The existing authority may apply to the Minister for approval of
10 the proposal.

11 *Contents of applications*

- 12 (2) An application under this section must:
13 (a) be in writing; and
14 (b) set out details of the school or system and of the proposed
15 authority; and
16 (c) state the earliest program year to which the proposal relates;
17 and
18 (d) state whether the proposed authority agrees to fulfil
19 obligations (if any) of the existing authority under this Act, or
20 the former Act, that have not been fulfilled in relation to:
21 (i) the school; or
22 (ii) the schools in the system.

23 **157 Revoking approved authority determinations—decisions on**
24 **change of authority proposals**

25 The Minister must:

- 26 (a) approve the proposal; or
27 (b) refuse to approve the proposal.

28 Note: The Minister's power to approve the proposal is subject to section 158
29 (prerequisites for change of authority proposals).

1 **158 Revoking approved authority determinations—prerequisites for**
2 **change of authority proposals**

3 The Minister must not approve the proposal unless:

- 4 (a) the proposed authority is recognised by the State Minister
5 under the law of the State in which the school, or the schools
6 in the system, are located (if that law requires the proposed
7 authority to be recognised); and
8 (b) the school, or the schools in the system, are not conducted for
9 profit; and
10 (c) if the application relates to a school—the proposed authority
11 is a body corporate; and
12 (d) the funding agreement made by the proposed authority with
13 the Commonwealth provides that the proposed authority
14 agrees to fulfil the obligations (if any) of the existing
15 authority under this Act, or the former Act, that have not
16 been fulfilled in relation to:
17 (i) the school; or
18 (ii) the schools in the system.

19 **159 Revoking approved authority determinations—change of**
20 **authority**

- 21 (1) If the Minister approves the proposal, the Minister must:
22 (a) revoke the approved authority determination for the school or
23 system under section 154; and
24 (b) approve the proposed authority as the approved authority of
25 the school or system under section 151.

26 Note: The Minister must give notice of the revocation or approval to the
27 approved authority concerned (see section 160).

- 28 (2) The revocation and approval must be stated to apply from the
29 earliest program year stated in the application for the purposes of
30 paragraph 156(2)(c).

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2 **Division 7—Miscellaneous**

3 **160 Minister to give notice of determinations to approved**
4 **authorities**

5 If the Minister makes any of the following determinations, the
6 Minister must give written notice of the determination to the
7 approved authority concerned:

- 8 (a) an approved authority determination;
9 (b) a determination varying or revoking an approved authority
10 determination.

11 **161 Determinations may be given retrospective effect**

12 Any of the following determinations may take effect from a day
13 before the day on which the determination is made, but not before
14 1 January 2009:

- 15 (a) an approved authority determination;
16 (b) a determination varying or revoking an approved authority
17 determination.

Part 10 Miscellaneous

Division 1 Timing and amounts of financial assistance

Section 162

1

2 **Part 10—Miscellaneous**

3 **Division 1—Timing and amounts of financial assistance**

4 **162 Timing and amounts of financial assistance—general**

5 Financial assistance authorised to be paid to a State or States under
6 this Act is to be paid in such amounts, and at such times, as the
7 Minister determines.

8 Note: A determination may apply in relation to a particular class or classes
9 of financial assistance (see subsection 33(3A) of the *Acts*
10 *Interpretation Act 1901*). For example, a determination may cover
11 financial assistance payable to a particular State or States, under a
12 particular provision or provisions, or for a particular program year or
13 program years, or any combination of these.

14 **163 Timing and amounts of financial assistance—advances**

15 (1) The Minister may make an advance to a State on account of an
16 amount that is expected to become payable under this Act to the
17 State.

18 (2) The conditions that would apply to the payment apply to the
19 advance.

20 **164 Timing and amounts of financial assistance—determinations**

21 If this Act provides that the Minister may make a determination
22 authorising the making of payments to a State, the determination
23 may either:

- 24 (a) set out the amounts authorised to be paid; or
25 (b) authorise the Minister (or another person named in the
26 determination) to decide those amounts.

1
2 **Division 2—False or misleading statements**

3 **165 False or misleading statements—reduction of payments**

4 *Scope*

- 5 (1) This section applies if:
- 6 (a) a person made a statement relating to the grant of financial
7 assistance for a non-government body for the purposes of:
- 8 (i) an Education Assistance Act; or
9 (ii) an agreement made as mentioned in an Education
10 Assistance Act; and
- 11 (b) the statement was made to:
- 12 (i) the Minister administering that Act; or
13 (ii) the Secretary of the Department administering that Act;
14 or
15 (iii) an APS employee in the Department administering that
16 Act; or
17 (iv) a block grant authority or a person employed by or
18 acting on behalf of, a block grant authority, for the
19 purposes of that Act; and
- 20 (c) the statement was false or misleading in a material particular;
21 and
- 22 (d) relying on the statement, a payment has been made under this
23 Act to a State, for a non-government body (including a block
24 grant authority or a nominated authority), of an amount that,
25 in the Minister's opinion, exceeds the amount that would
26 have been authorised to be paid if the statement had not been
27 false or misleading in a material particular.

28 *Reducing amounts payable for the non-government body*

- 29 (2) The Minister may make a determination reducing any amount
30 payable to the State under this Act for the non-government body
31 (as appropriate), in one or more program years, by the amount of
32 the excess.

Section 166

- 1 (3) A determination under this section may take effect from a day
2 before the day on which the determination is made.

3 **166 False or misleading statements—variation of SES score**

4 *Scope*

- 5 (1) This section applies if:
6 (a) a person made a statement relating to the grant of financial
7 assistance for a non-government body for the purposes of:
8 (i) an Education Assistance Act; or
9 (ii) an agreement made as mentioned in an Education
10 Assistance Act; and
11 (b) the statement was made to:
12 (i) the Minister administering that Act; or
13 (ii) the Secretary of the Department administering that Act;
14 or
15 (iii) an APS employee in the Department administering that
16 Act; and
17 (c) the statement was false or misleading in a material particular;
18 and
19 (d) as a result of the statement, a non-government school:
20 (i) obtains a higher funding level for the purposes of
21 meeting recurrent expenditure than, in the Minister's
22 opinion, the school may have obtained if the statement
23 had not been made; or
24 (ii) obtains a larger amount under Division 8 (remoteness
25 loading) of Part 4 than, in the Minister's opinion, the
26 school may have obtained if the statement had not been
27 made.

28 *Variation of SES score for the school*

- 29 (2) The Minister may make a determination under section 75 varying
30 the SES score for the school.
31 (3) A determination mentioned in subsection (2) may be stated to
32 apply for a program year before the program year in which the
33 determination is made.

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2 **Division 3—Appropriation and borrowings**

3 **167 Appropriation**

4 The Consolidated Revenue Fund is appropriated as necessary for
5 the purposes of this Act.

6 **168 Borrowings for capital expenditure**

7 The Treasurer may, from time to time, in accordance with the
8 provisions of the *Commonwealth Inscribed Stock Act 1911*, or in
9 accordance with the provisions of an Act authorising the issue of
10 Treasury Bills, borrow amounts totalling not more than the sum of
11 the amounts that may become payable to the States under Part 5
12 (capital expenditure) of this Act.

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2 **Division 4—Administration**

3 **169 Administration—determinations and approvals**

4 (1) A determination or approval by the Minister under this Act must be
5 in writing.

6 (2) A determination or approval takes effect on:

7 (a) the day stated for the purpose in the determination or
8 approval; or

9 (b) if no day is stated—the day on which the determination is
10 made, or the approval is given.

11 (3) The provision of this Act under which, or for the purposes of
12 which, a determination is made or an approval is given may permit
13 the determination or approval to take effect before the day on
14 which the determination is made, or the approval is given.

15 (4) This subsection authorises the Minister to do something covered by
16 subsection (5) if:

17 (a) a provision of this Act refers to that thing as being done by
18 the Minister; and

19 (b) no other provision of this Act expressly authorises the
20 Minister to do the thing.

21 (5) This subsection covers the following:

22 (a) the making of a determination;

23 (b) the giving of an approval;

24 (c) the doing of an act or any other thing.

25 (6) In this Act, a reference to a determination or approval by the
26 Minister is a reference to such a determination or approval that is
27 in force.

1 **170 Administration—general power to vary or revoke**
2 **determinations and approvals**

3 *Determination power includes power to revoke or vary*

- 4 (1) The power of the Minister under this Act to make a determination
5 or give an approval includes the power, by writing, to revoke or
6 vary a previous determination made, or previous approval given, in
7 the exercise of the power.
- 8 (2) However, subsection (1) does not apply in relation to the following
9 determinations:
- 10 (a) an SES score determination;
 - 11 (b) an approved school determination;
 - 12 (c) an approved school system determination;
 - 13 (d) an approved authority determination.

14 Note: The Minister has express power to revoke or vary the determinations
15 mentioned in subsection (2) under the following provisions:

- 16 (a) for an SES score determination—Division 11 of Part 4;
- 17 (b) for an approved school determination—Part 7;
- 18 (c) for an approved school system determination—Part 8;
- 19 (d) for an approved authority determination—Part 9.

20 *Instruments of revocation or variation*

- 21 (3) An instrument that is expressed to revoke a determination as
22 previously varied, or to revoke an approval as previously varied,
23 has effect as the revocation of the determination or approval and of
24 every later instrument so far as that later instrument varied the
25 determination or approval or varied the determination or approval
26 as previously varied.
- 27 (4) An instrument that is expressed to vary a determination as
28 previously varied or to vary an approval as previously varied has
29 effect according to its terms even if it does not specifically refer to
30 the previous instruments of variation.

Section 171

1 *More than one revocation or variation per instrument*

2 (5) The one instrument may contain one or more revocations or one or
3 more variations, or both.

4 *Date of effect*

5 (6) An instrument of revocation or variation takes effect, subject to
6 subsection (7), on:

7 (a) the day stated for the purpose in the instrument; or

8 (b) if no day is stated—the day on which the instrument is made.

9 (7) An instrument revoking or varying a determination or approval
10 may take effect before the day of the making of the instrument only
11 if the provision under (or for the purposes of which) the
12 determination or approval was made or given permits the
13 determination or approval to take effect before it was made or
14 given.

15 **171 Administration—delegation**

16 The Minister may, by written instrument, delegate all or any of the
17 Minister's powers and functions under this Act or under an
18 agreement mentioned in this Act to:

19 (a) the Secretary of the Department; or

20 (b) an SES employee in the Department.

21 Note: *SES employee* is defined in the *Acts Interpretation Act 1901*.

22 **172 Administration—annual report by Minister**

23 As soon as practicable after 30 June next following a program year,
24 the Minister must cause a report dealing with the following to be
25 laid before each House of the Parliament:

26 (a) the financial assistance (if any) granted in the year under this
27 Act for recurrent expenditure;

28 (b) the application of the financial assistance (if any) granted in
29 the year under this Act (including financial assistance by way
30 of capital grants).

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2 **Division 5—Overseas students**

3 **173 Overseas students not covered**

4 *Overseas students not covered*

- 5 (1) Financial assistance under this Act is not to be provided to a State
6 for overseas students.

7 *Definition of overseas student*

- 8 (2) In this Act:

9 *overseas student* means a person:

- 10 (a) to whom one or more of the following subparagraphs applies:
11 (i) the person holds a visa in force under the *Migration Act*
12 *1958* that permits the person to travel to Australia for
13 the purpose of undertaking a course provided by a body;
14 (ii) the person is included in such a visa in force under that
15 Act;
16 (iii) the person is specified by the regulations made for the
17 purposes of subsection (3); and
18 (b) who is not covered by a determination made under
19 subsection (4).

- 20 (3) The regulations may specify a person for the purposes of
21 subparagraph (a)(iii) of the definition of *overseas student* in
22 subsection (2).

23 Note: The regulations may specify a person by reference to a class of
24 persons (see subsection 13(3) of the *Legislative Instruments Act*
25 *2003*).

- 26 (4) For the purposes of this Act, the Minister may, by legislative
27 instrument, determine that a person is not an *overseas student*.

28 Note: A determination may specify a person by reference to a class of
29 persons (see subsection 13(3) of the *Legislative Instruments Act*
30 *2003*).

Section 173

1

Transitional regulations and determinations

2

(5) Regulations made for the purposes of paragraph (b) of the definition of *overseas student* in subsection 67(2) of the former Act, and in force on 31 December 2008, are taken to have been made for the purposes of subsection (3) of this section.

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(6) A determination made by the relevant Minister for the purposes of the definition of *overseas student* in subsection 67(2) of the former Act, and in force on 31 December 2008, is taken to be a determination made under subsection (4) of this section.

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2 **Division 6—Regulations**

3 **174 Regulations**

4 The Governor-General may make regulations prescribing matters:

5 (a) required or permitted by this Act to be prescribed; or

6 (b) necessary or convenient to be prescribed for carrying out or
7 giving effect to this Act.

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Schedule 1—Current SES funding level

Note 1: See the definition of *current SES funding level* in section 4.

Note 2: *SES score* is short for Socio-Economic Status score. For the determination of a school's SES score, see Division 11 of Part 4.

Note 3: *AGSRC* is short for Average Government School Recurrence Costs. The *AGSRC* for a particular level of education is set out in section 36.

Current SES funding level		
	Column 1	Column 2
	SES score	Current SES funding level (% of AGSRC)
1	130 or greater	13.7
2	129	15.0
3	128	16.2
4	127	17.5
5	126	18.7
6	125	20.0
7	124	21.2
8	123	22.5
9	122	23.7
10	121	25.0
11	120	26.2
12	119	27.5
13	118	28.7
14	117	30.0
15	116	31.2
16	115	32.5
17	114	33.7
18	113	35.0
19	112	36.2
20	111	37.5
21	110	38.7
22	109	40.0
23	108	41.2

Current SES funding level		
	Column 1	Column 2
	SES score	Current SES funding level
		(% of AGSRC)
24	107	42.5
25	106	43.7
26	105	45.0
27	104	46.2
28	103	47.5
29	102	48.7
30	101	50.0
31	100	51.2
32	99	52.5
33	98	53.7
34	97	55.0
35	96	56.2
36	95	57.5
37	94	58.7
38	93	60.0
39	92	61.2
40	91	62.5
41	90	63.7
42	89	65.0
43	88	66.2
44	87	67.5
45	86	68.7
46	85 or less	70.0

Schedule 1 Current SES funding level

Division 6 Regulations

Section 174

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