



States Grants (Primary and Secondary Education Assistance) Act 1996

No. 70, 1996

An Act to grant financial assistance to the States, the Australian Capital Territory and the Northern Territory to maintain stability in funding for the 1997-2000 quadrennium for primary and secondary education, and for related purposes

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No. 70, 1996

An Act to grant financial assistance to the States, the Australian Capital Territory and the Northern Territory to maintain stability in funding for the 1997-2000 quadrennium for primary and secondary education, and for related purposes

[Assented to 5 December 1996]

The Parliament of Australia enacts:

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *States Grants (Primary and Secondary Education Assistance) Act 1996*.

2 Commencement

This Act commences on 1 January 1997.

3 Dictionary

- (1) A dictionary of expressions used in this Act is contained in Schedule 9.
- (2) Unless the contrary intention appears, an expression used in this Act that is defined in the dictionary has the meaning given by the dictionary.

4 Levels of education

- (1) The Minister may make a determination declaring, for the purposes of this Act, in relation to education provided at schools generally, or at schools included in a particular class of schools, what is a level of primary education or a level of secondary education for a State.
- (2) Without limiting the matters to which the Minister may have regard in making a determination under subsection (1), the Minister must have regard to the arrangements made for the provision of education at government schools in the State.
- (3) The Minister must cause a copy of each determination under subsection (1) to be published in the *Gazette* as soon as practicable after the determination is made.
- (4) A reference in this Act to a level of education at a school in a State includes a reference to a year in a course of primary education or secondary education provided at the school at a level determined by the Minister under subsection (1) that applies to the school.

5 Nominated authority

An aggregation of non-government schools may nominate a body to be the nominated authority of the aggregation for the purposes of this Act or of a particular provision or particular provisions of this Act.

6 Overseas students

Financial assistance under this Act is not to be provided to a State in respect of overseas students and those students are to be disregarded for the purposes of Part 4.

7 Determinations, approvals etc. by Minister

- (1) A determination or approval by the Minister under this Act is to be in writing.
- (2) A determination or approval takes effect on the day on which the determination or approval is made or given or on the day stated for the purpose in the determination or approval.
- (3) The day of effect of a determination or approval may be a day before the day of the making of the determination or the giving of the approval if the provision under or for the purposes of which the determination is made or the approval is given so permits.
- (4) If a provision of this Act refers to a determination made, approval given or other act or thing done by the Minister and there is no other provision of this Act expressly authorising the Minister to make such a determination, give such an approval or do such an act or thing, the Minister is authorised by this subsection to make such a determination, give such an approval or do such an act or thing.
- (5) In this Act, unless the contrary intention appears, a reference to a determination or approval by the Minister is a reference to such a determination or approval that is in force.

8 Revocation or variation of determinations or approvals by Minister

- (1) The power of the Minister under this Act to make a determination or give an approval includes the power, by writing, to revoke or vary a previous determination made, or previous approval given, in the exercise of the power.

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- (2) An instrument that is expressed to revoke a determination as previously varied or to revoke an approval as previously varied has effect as the revocation of the determination or approval and of every later instrument in so far as that later instrument varied the determination or approval or varied the determination or approval as previously varied.
- (3) An instrument that is expressed to vary a determination as previously varied or to vary an approval as previously varied has effect according to its terms even though it does not specifically refer to the previous instruments of variation.
- (4) The one instrument may contain one or more revocations or one or more variations, or both.
- (5) An instrument of revocation or variation takes effect on the day on which it is made or, subject to subsection (6), if another day is stated for the purpose in the instrument, on the other day.
- (6) The day of effect of an instrument revoking or varying a determination or approval may be a day before the day of the making of the instrument only if the provision under or for the purposes of which the determination or approval was made or given so permits.

Part 2—General provisions relating to grants

Division 1—Grants for government schools

9 Agreement relating to conditions of financial assistance

- (1) The Minister must not authorise a payment to a State under a provision of this Act for government schools for a program year unless the State has (whether before or after the commencement of this Act) made with the Commonwealth an agreement that sets out conditions on which financial assistance is granted to the State under that provision for the program year and:
 - (a) which are required by subsection (2); or
 - (b) which the Minister thinks are appropriate in relation to financial assistance to the State.
- (2) The conditions that may be set out in an agreement referred to in subsection (1) must include:
 - (a) a condition that the amount of the payment is to be spent for purposes determined by the Minister and set out in the condition; and
 - (b) a condition requiring reports about the expenditure of the amounts of the assistance to be made by the State to the Minister at times, in a manner, and containing information of a kind, that the Minister thinks appropriate in relation to financial assistance to the State.

10 General conditions of financial assistance

The grant to a State under a provision of this Act of financial assistance for government schools for a program year is subject to:

- (a) the conditions set out in the agreement made between the State and the Commonwealth under section 9 in respect of the financial assistance; and
- (b) the additional conditions applying under this Division.

11 Specific conditions: financial accountability

The following additional conditions apply for the purposes of paragraph 10(b):

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- (a) a condition that the State will give the Department, on or before 30 June next following the relevant program year or such other date as the Minister determines, a certificate by the State Minister, or by an authorised person, stating whether the amount or the sum of the amounts of financial assistance paid to the State under the relevant provision of this Act for that year has been spent in respect of that year for the purpose for which the assistance was granted;
- (b) a condition that, if not all the amount or amounts of the assistance were spent by the State in respect of the relevant program year for the purpose for which the assistance was granted, the State will, if the Minister so determines, pay to the Commonwealth, within a period determined by the Minister, such amount (not being greater than the unspent amount or the sum of the unspent amounts) as is stated in the determination.

12 Specific condition: educational accountability

An additional condition applying for the purposes of paragraph 10(b) is a condition that the State will, not later than a date or dates determined by the Minister, do any of the following:

- (a) take part in the preparation of a national report on the outcomes of schooling;
- (b) provide to the Minister a report or reports, of a kind or kinds agreed to between the State Minister and the Minister, on matters agreed to between them;
- (c) take part in evaluations of the outcomes of programs of financial assistance provided under this Act.

13 Specific condition: non-fulfilment of conditions

An additional condition applying for the purposes of paragraph 10(b) is a condition that, if the State does not fulfil a condition referred to in paragraph 10(a) within the period stated in the relevant agreement or does not fulfil a condition referred to in section 11 or 12 as required by or under that section:

- (a) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under the relevant provision for the relevant program year) as the Minister states in the determination; and

- (b) if the State does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance payable to the State under this Act for government schools by an amount or amounts not greater than the amount stated in the determination under paragraph (a); and
- (c) the Minister may delay the making of any further payment to the State under this Act for government schools until the State fulfils the condition.

14 Specific condition: overpayment of financial assistance

An additional condition applying for the purposes of paragraph 10(b) is a condition that, if the amount of financial assistance paid to the State under a provision of this Act for government schools exceeded the amount that was properly payable:

- (a) the State will, if the Minister so determines, pay to the Commonwealth such amount (not greater than the excess) as the Minister states in the determination; and
- (b) if the State does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance payable to the State under this Act for government schools by an amount or amounts not greater than the amount stated in the determination under paragraph (a).

Division 2—Grants for non-government bodies

15 Minister not to authorise payment to a State for a non-government body in certain circumstances

- (1) The Minister must not authorise a payment to a State under this Act for a non-government body unless the relevant authority has (whether before or after the commencement of this Act) made with the Commonwealth, for the program year for which the payment is to be made, an agreement that complies with section 16.
- (2) The Minister may refuse to authorise a payment to a State under this Act for a non-government school, or for a non-government school for a particular level of education, during any period when the school is not recognised, or is not recognised for that level of education, by the State Minister.
- (3) The Minister may refuse to authorise, or may delay, a payment to a State under this Act for a non-government body if the relevant authority for the non-government body is a body corporate:
 - (a) that is being wound up; or
 - (b) in respect of whose property a receiver has been appointed; or
 - (c) whose affairs are under the control of a manager.
- (4) The Minister may refuse to authorise, or may delay, a payment to a State under this Act for a non-government body if:
 - (a) the relevant authority for the non-government body is not a body corporate; and
 - (b) it appears to the Minister that:
 - (i) the liabilities of the authority are substantially greater than its assets; or
 - (ii) the authority is, and is likely to continue for a substantial period to be, unable to pay its debts as and when they fall due for payment.

16 Provisions to be included in agreements with approved or nominated authorities

- (1) An agreement made with the Commonwealth under subsection 15(1) by the relevant authority (the *authority*) of a non-government body:
 - (a) must contain:

- (i) the requirements and provisions set out in subsections (2) to (7) of this section; and
 - (ii) any provision required by paragraph 30(2)(d); and
 - (iii) any provision required by paragraph 33(4)(b); and
 - (iv) any provision required by paragraph 34(4)(e); and
 - (b) may contain:
 - (i) the provision set out in subsection (8) of this section; and
 - (ii) any other provisions that the Minister thinks appropriate in relation to the authority.
- (2) The agreement must require the amounts (the *received amounts*) received by the authority from the State as a result of the payment to the State for the non-government body to be spent for purposes determined by the Minister and set out in the agreement (which may include the purpose of paying administrative expenses incurred by the authority).
- (3) The agreement must require the authority to allow a person authorised in writing by the Minister for the purpose, with such help as the person requires:
- (a) to have full and free access, at all reasonable times after giving reasonable notice to the authority, to accounts, records and documents of the authority relating to information that the authority is required under the agreement to give to the Minister; and
 - (b) to take extracts from, or make copies of, any such accounts, records and documents.
- (4) The agreement must require the authority to give the Minister, on or before 30 June next following the relevant program year or such other date as the Minister determines, a certificate by a qualified accountant stating whether an amount equal to the sum of the received amounts has been spent in respect of that year for the purposes mentioned in subsection (2).
- (5) The agreement must require the authority, not later than a date or dates determined by the Minister, to do any of the following:
- (a) take part in the preparation of a national report on the outcomes of schooling;
 - (b) provide to the Minister a report or reports, of a kind or kinds required by the Minister, in relation to programs of financial assistance provided under this Act in so far as they related to the authority;

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- (c) take part in evaluations of the outcomes of those programs.
- (6) The agreement must contain a provision that, if the authority does not comply with a requirement set out in the agreement within the period required by or under the agreement or within such further period as the Minister allows:
- (a) the authority will, if the Minister so determines, pay to the Commonwealth an amount (not greater than the received amounts) stated in the determination; and
 - (b) if the authority does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance payable to the State under this Act for the non-government body by an amount that does not exceed, or amounts the total of which does not exceed, the amount stated in the determination; and
 - (c) the Minister may delay the making of any further payment to the State under this Act for the non-government body until the authority complies with the requirement.
- (7) The agreement must contain a provision that, if the sum of the received amounts exceeded the total amount that was properly payable to the State for the non-government body:
- (a) the authority will, if the Minister so determines, pay to the Commonwealth an amount equal to the excess; and
 - (b) if the authority does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance payable to the State under this Act for the non-government body by an amount or amounts not greater than the excess.
- (8) The agreement may contain a provision that, if:
- (a) the total amount of the payments made to the State for the non-government body for a particular capital project is more than \$50,000; and
 - (b) the asset (being land, a building or equipment) in respect of which the payments were made:
 - (i) is sold or otherwise disposed of; or
 - (ii) ceases to be used; or
 - (iii) ceases to be used principally for the purposes determined by the Minister as mentioned in subsection (2); and
 - (c) the period since the completion of the project is less than 20 years;

the authority will, if the Minister so determines, pay to the Commonwealth or to a block grant authority an amount (not exceeding the total amount referred to in paragraph (a)) determined by the Minister (the *determined amount*) and, if the authority does not do so, the Minister may make a determination reducing any other amount or amounts of financial assistance payable to the State under this Act for the non-government body by an amount or amounts not greater than so much of the determined amount as has not been so paid.

17 General conditions of financial assistance

The grant to a State under a provision of this Act of financial assistance for a non-government body for a program year is subject to the following conditions:

- (a) a condition that the State will:
 - (i) as soon as practicable, pay to the relevant authority of the non-government body each amount paid to the State under the provision for the body; and
 - (ii) when making such a payment, describe the amount paid to the authority as a payment made out of money paid to the State by the Commonwealth under the provision; and
- (b) the additional conditions applying under this Division.

18 Specific condition: non-fulfilment of conditions

An additional condition applying for the purposes of paragraph 17(b) is a condition that, if the State does not fulfil the condition referred to in paragraph 17(a) in relation to a grant under a provision of this Act for a non-government body within the period or at the time stated in that paragraph, or within such further period as the Minister allows:

- (a) the State will, if the Minister so determines, repay to the Commonwealth such amount (not greater than the sum of the amounts of financial assistance paid to the State under the provision for the non-government body for the relevant program year) as the Minister states in the determination; and
- (b) if the non-fulfilment of the condition referred to in paragraph 17(a) consists of or includes delaying payment of an amount to the relevant authority of the non-government body, the Minister may delay the making of any future payment to the State under this Act for government schools.

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Division 3—Miscellaneous

19 Powers of Minister if amounts of grants become repayable

- (1) This section applies if:
 - (a) financial assistance:
 - (i) is granted to a State under a provision of this Act; or
 - (ii) was granted to a State under a provision of the former Act that corresponds to a provision of this Act; and
 - (b) under a condition of the grant the Minister, or the relevant Minister, as the case may be, has determined that the State should repay an amount to the Commonwealth; and
 - (c) an amount (the *repayable amount*) that is the whole or a part of the amount referred to in paragraph (b) remains unpaid.
- (2) The Minister may make a determination reducing an amount that is payable to the State under any provision of this Act in a program year by an amount not greater than the repayable amount.
- (3) The Minister may make a determination increasing the maximum amount that may be paid to the States for any purpose under any provision of this Act in any program year by an amount that is not greater, or amounts the sum of which is not greater, than the amount of any reduction effected under subsection (2) (whether the reduction was effected in relation to the same provision, or a different provision, of this Act).

20 Powers of Minister if amounts payable by relevant authorities

- (1) This section applies if:
 - (a) under a provision of an agreement made under Division 2 between the Commonwealth and the relevant authority of a non-government body, the Minister, or the relevant Minister, as the case may be, has determined that the authority should pay an amount to the Commonwealth; and
 - (b) an amount (the *amount payable*) that is the whole or a part of the amount referred to in paragraph (a) remains unpaid.
- (2) The Minister may make a determination reducing an amount that is payable to a State for the non-government body under any provision of this Act in any program year by an amount not greater than the amount payable.

- (3) The Minister may make a determination increasing the maximum amount that may be paid to the States for any purpose under any provision of this Act in any program year by an amount that is not greater, or amounts the sum of which is not greater, than the amount of any reduction effected under subsection (2) (whether the reduction was effected in relation to the same provision, or a different provision, of this Act).

21 Determinations requiring repayments

If the Minister is considering whether to make:

- (a) a determination under paragraph 11(b), 13(a), 14(a) or 18(a) that a State should repay an amount to the Commonwealth; or
- (b) a determination under a provision of an agreement referred to in paragraph 16(6)(a) or (7)(a) or subsection 16(8) that the relevant authority of a non-government body should pay an amount to the Commonwealth;

the Minister must take into account all relevant matters, including whether the State or authority gave all relevant information to the Commonwealth before the relevant grant of financial assistance was made.

22 Determination authorising the making of payments may authorise Minister to determine amounts of payments

When this Act provides that the Minister may make a determination authorising the making of payments to a State, the determination may either:

- (a) set out the amounts authorised to be paid; or
- (b) authorise the Minister or another person named in the determination to decide those amounts.

Part 3—Lists of non-government schools and approved school systems

23 Funding of non-government schools

Financial assistance under this Act is not to be provided to a State for education at a particular level at a particular location at a non-government school unless the school is included in the list for the level and location.

24 List of non-government schools

- (1) The Minister must keep a list of non-government schools for which financial assistance is provided under this Act.
- (2) The list may be kept in any manner that the Minister determines, which may be wholly or partly by means of a computer or any other electronic or other device.
- (3) The list is to contain the following particulars for each school included in the list:
 - (a) the name of the school;
 - (b) whether or not the school is included in an approved school system;
 - (c) if the school is included in an approved school system—the name of the system;
 - (d) the address of each location at which the school provides education for which financial assistance is provided under this Act;
 - (e) a description of:
 - (i) the levels at which education is provided at the school; and
 - (ii) if more than one location is included under paragraph (d) for the school—the levels at which education is provided at each of those locations; being levels of education for which financial assistance is provided under this Act;
 - (f) if the school is not included in an approved school system—the funding level of the school as determined by the Minister.
- (4) The Minister must, as soon as practicable after 1 July in each program year, cause the name and funding level of each non-systemic school to be published in the *Gazette*.

25 Variation of list of non-government schools

- (1) Any variation of the list to be made under this Act is to be made by determination by the Minister.
- (2) The Minister may, having regard to any significant change in the need of a non-systemic school for financial assistance for recurrent expenditure of the school, vary the list by setting out a different funding level of the school.
- (3) If a school in a State that is included in the list ceases to be recognised by the State Minister for a particular level of education, the Minister may vary the list by removing the reference to that level of education for the school.
- (4) If a school in a State that is included in the list:
 - (a) ceases to be recognised by the State Minister; or
 - (b) becomes conducted for profit;the Minister may vary the list by removing the name of the school from the list.
- (5) The Minister may vary the list:
 - (a) under another provision of this Act; or
 - (b) to correct clerical errors or to make alterations of a formal kind, including the removal from the list of:
 - (i) the name of a school that has ceased to exist; or
 - (ii) the address of a location at which a school has ceased to provide education; or
 - (iii) a reference to a level of education at a school that has ceased to provide education at that level.
- (6) A variation under this section may be expressed to have taken effect from a day before the day on which the determination was made.
- (7) If the Minister varies the list under this section, the Minister must give written notice to the relevant approved authority accordingly.

26 List of approved school systems

- (1) The Minister must keep a list of approved school systems.
- (2) The list of approved school systems may be kept in any manner that the Minister determines, which may be wholly or partly by means of a computer or any other electronic or other device.

Part 3 Lists of non-government schools and approved school systems

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- (3) The list of approved school systems is to contain the funding level, as determined by the Minister, of each system included in the list of approved school systems.
- (4) The Minister must, as soon as practicable after 1 July in each program year, cause the name, the funding level, and the names of the member schools, of each school system included in the list of approved school systems to be published in the *Gazette*.

27 Variation of list of approved school systems

- (1) Any variation of the list of approved school systems to be made under this Act is to be made by determination by the Minister.
- (2) The Minister may vary the list of approved school systems to include a new school system that consists of non-government schools in a State.
- (3) If the Minister varies the list of approved school systems to include a school system, the Minister must, having regard to the need of the system for financial assistance, determine, and set out in the list of approved school systems, the funding level of the system.
- (4) If:
 - (a) a significant change occurs in the need of an approved school system for financial assistance, being a change that occurred due to circumstances outside the control of the approved authority; or
 - (b) a school that is included in the list becomes part of an approved school system;the Minister may vary the list of approved school systems by setting out a different funding level of the system.
- (5) The Minister may vary the list of approved school systems:
 - (a) under another provision of this Act; or
 - (b) to correct clerical errors or to make alterations of a formal kind, including the removal from the list of approved school systems of the name of a school system that has ceased to exist.
- (6) A variation under this section may be expressed to have taken effect from a day before the day on which the determination was made.
- (7) If the Minister varies the list of approved school systems under this section, the Minister must give written notice to the relevant approved authority accordingly.

Part 4—Variations of lists to take account of proposals for changes in relation to non-government schools

Division 1—Change of approved authority

28 Application of Division

- (1) Subject to subsection (2), this Division applies in relation to:
 - (a) a proposal for a new body to be approved as the approved authority of a non-systemic school; or
 - (b) a proposal for a new body to be approved as the approved authority of an approved school system.
- (2) This Division does not apply to a proposal that is consequential on a proposal to which Division 2 applies.

29 How to obtain Ministerial approval to proposal

- (1) The approved authority (the *existing authority*) of a non-systemic school or of an approved school system may apply to the Minister for approval of a proposal.
- (2) The application must:
 - (a) be in writing; and
 - (b) set out particulars of the school or of the school system, as the case may be, and of the new body; and
 - (c) if there are any obligations of the existing authority under this Act in relation to the school or the school system that have not been fulfilled—state whether the new body agrees to fulfil those obligations; and
 - (d) request the Minister to approve the new body as the approved authority of the school or of the school system.

30 Decision by the Minister

- (1) Subject to subsection (2), the Minister may:
 - (a) approve the proposal; or
 - (b) refuse the application.
- (2) The Minister must not approve the proposal unless:

Part 4 Variations of lists to take account of proposals for changes in relation to non-government schools

Division 1 Change of approved authority

Section 31

- (a) if the new body is required, under the law of the State in which the non-systemic school or the schools in the approved school system are situated, to be recognised by the State Minister—the new body is so recognised; and
- (b) the school, or the schools in the system, are not conducted for profit; and
- (c) if the application relates to a non-systemic school—the new body is a body corporate; and
- (d) if there are any obligations of the existing authority under this Act that have not been fulfilled in respect of the school or the schools in the system, and the new body has agreed to fulfil those obligations—the agreement made by the new body with the Commonwealth under subsection 15(1) makes provision for the new body to fulfil those obligations.

31 Variation of lists

If the Minister approves the proposal, the Minister must:

- (a) determine that the new body is the approved authority of the non-systemic school or of the approved school system, as the case may be; and
- (b) make appropriate variations of the list of non-government schools or the list of approved school systems, as the case may be.

Division 2—Change in systemic status

32 Application of Division

This Division applies in relation to:

- (a) a proposal for a non-systemic school to become a member of an approved school system; or
- (b) a proposal for a school that is a member of an approved school system to cease to be a member of that system.

33 Proposal for a non-systemic school to become a member of an approved school system

- (1) In respect of a proposal for a non-systemic school to become a member of an approved school system, the approved authority of the school may apply to the Minister for approval of the proposal.
- (2) The application must:
 - (a) be in writing; and
 - (b) set out particulars of the school and of the approved school system; and
 - (c) be accompanied by evidence that the approved authority of the approved school system agrees to the school becoming a member of the system; and
 - (d) state the earliest program year to which the proposal relates; and
 - (e) if there are any obligations of the approved authority of the school under this Act that have not been fulfilled—state whether the approved authority of the approved school system agrees to fulfil those obligations; and
 - (f) request the Minister to approve the proposal.
- (3) Subject to subsection (4), the Minister may:
 - (a) approve the proposal; or
 - (b) refuse the application.
- (4) The Minister must not approve the proposal unless:
 - (a) the agreement made by the approved authority of the school system with the Commonwealth in accordance with subsection 15(1) applies, or has been varied so as to apply, to the school in respect of the earliest program year to which the proposal relates and all later program years; and

Part 4 Variations of lists to take account of proposals for changes in relation to non-government schools

Division 2 Change in systemic status

Section 34

- (b) if there are any obligations of the approved authority of the school that have not been fulfilled and the approved authority of the school system has agreed to fulfil those obligations—the agreement referred to in paragraph (a) has been varied so as to provide that the approved authority of the approved school system will fulfil those obligations.

34 Proposal for a school to cease to be a member of an approved school system

- (1) In respect of a proposal for a school that is a member of an approved school system to cease to be a member of the system, either:
 - (a) the body (the *responsible body*) that is to be principally responsible for the school under the proposal; or
 - (b) the approved authority of the approved school system; may apply to the Minister for approval of the proposal.
- (2) The application must:
 - (a) be in writing; and
 - (b) set out particulars of the school and of the responsible body; and
 - (c) state the earliest program year to which the proposal relates; and
 - (d) if there are any obligations of the approved authority of the approved school system under this Act in relation to the school that have not been fulfilled—state whether the responsible body agrees to fulfil those obligations; and
 - (e) request the Minister to approve the proposal.
- (3) Subject to subsection (4), the Minister may:
 - (a) approve the proposal; or
 - (b) refuse the application.
- (4) The Minister must not approve the proposal unless:
 - (a) if the application is made by the responsible body:
 - (i) the application is accompanied by evidence that the approved authority of the approved school system agrees to the school ceasing to be a member of the school system; or
 - (ii) the Minister has given notice to the approved authority of the approved school system in relation to the proposal; and

- (b) the school is not conducted for profit; and
- (c) the responsible body is a body corporate; and
- (d) the responsible body has made an agreement with the Commonwealth in accordance with subsection 15(1) for the earliest program year to which the proposal relates and all later program years; and
- (e) if there are any obligations of the approved authority of the approved school system under this Act in relation to the school that have not been fulfilled and the responsible body has agreed to fulfil those obligations—the agreement referred to in paragraph (d) provides that the responsible body will fulfil those obligations.

35 Variation of lists

If the Minister approves the proposal, the Minister must:

- (a) if the proposal is for a school to cease to be a member of an approved school system—determine that the responsible body is the approved authority of the school; and
- (b) in respect of any proposal—make appropriate variations to the list of non-government schools or the list of approved school systems or both, as the case may be.

Part 4 Variations of lists to take account of proposals for changes in relation to non-government schools

Division 3 Changes in relation to provision of education

Section 36

Division 3—Changes in relation to provision of education

36 Definitions

In this Division:

location proposal means a proposal to vary the list to take account of a change as a result of which a systemic school or a non-systemic school will:

- (a) provide a new level of education at a location for which the school is already included in the list for the provision of another level of education; or
- (b) provide education at a new location in substitution for a previous location; or
- (c) provide a level of education at an additional location otherwise than as mentioned in paragraph (b).

new school proposal means a proposal:

- (a) for the inclusion in the list of a school formed as a result of the amalgamation of a systemic or non-systemic school with another school, whether or not the other school is included in the list; or
- (b) for the inclusion in the list of a school formed as a result of the separation of a systemic school or a non-systemic school into 2 or more schools; or
- (c) for the inclusion in the list of a new school; or
- (d) for the inclusion in the list of an existing school that is not included in the list.

37 How application to vary list is to be made

- (1) The approved authority of a school or of an approved school system may apply to the Minister to have the list varied to take account of a location proposal or a new school proposal in respect of the school or in respect of a school that is included in the system, as the case may be.
- (2) The application must:
 - (a) be in writing; and
 - (b) set out particulars of the proposal; and
 - (c) subject to subsection (3):
 - (i) state the earliest program year to which the variation is to apply; and

- (ii) if that program year is the program year referred to in paragraph (3)(c)—set out the circumstances considered by the applicant to be exceptional circumstances referred to in that paragraph; and
 - (d) request the Minister to vary the list to take account of the proposal.
- (3) The earliest program year to be stated in an application as mentioned in subparagraph (2)(c)(i) is to be:
- (a) the program year in which the application is made; or
 - (b) the program year next following the program year in which the application is made; or
 - (c) if the applicant considers that there are exceptional circumstances that justify the variation applying to the program year immediately preceding the program year in which the application is made—that preceding program year.

38 Decision by Minister

- (1) Subject to section 39, the Minister may:
 - (a) make a determination varying the list to take account of the proposal; or
 - (b) refuse the application.
- (2) If the variation is to take account of a new school proposal under which the school concerned is not included in an approved school system, the Minister must determine the body that is to be the approved authority of the school.

39 Prerequisites for variation of list

- (1) The Minister must not make a determination varying the list to take account of the proposal unless the requirements of this section have been satisfied.
- (2) The first requirement is that:
 - (a) if the proposal is a location proposal—education has begun to be provided by the relevant school at the location concerned in accordance with the relevant paragraph of the definition of *location proposal*; or
 - (b) if the application is for a new school proposal—education has begun to be provided at the relevant school.

Part 4 Variations of lists to take account of proposals for changes in relation to non-government schools

Division 3 Changes in relation to provision of education

Section 40

- (3) The second requirement is that:
- (a) if the proposal is a location proposal—provision of education by the relevant school at the location concerned in accordance with the relevant paragraph of the definition of *location proposal* has been recognised by the State Minister of the State in which the school is situated; or
 - (b) if the proposal is a new school proposal—education at the relevant school has been recognised by the State Minister of the State in which the school is situated.
- (4) The third requirement is that, if the proposal is a new school proposal, the relevant school is not conducted for profit.
- (5) The fourth requirement is that, if the proposal is a new school proposal and the relevant school is not included in an approved school system—the approved authority of the school is a body corporate.
- (6) The fifth requirement is that the requirements applicable under subsections (2), (3), (4) and (5) are satisfied before the schools census day in the earliest program year to which the variation is to apply.

40 Where application relates to previous program year

The Minister may not vary the list with effect from a date in the program year preceding the program year in which the application is made unless the Minister is satisfied that there are exceptional circumstances that justify the variation taking effect in that preceding program year.

Division 4—Miscellaneous

41 Variation to include funding level in certain circumstances

If the Minister varies the list under this Part:

- (a) to include a school formed as a result of the amalgamation of a non-systemic school with another school that is not included in an approved school system, whether or not the other school is included in the list; or
- (b) to include a school formed as a result of the separation of a non-systemic school into 2 or more schools; or
- (c) to include a new school that is not included in an approved school system; or
- (d) to include an existing school that is not included in an approved school system and is not included in the list; or
- (e) to include a school that has ceased to be a member of an approved school system;

the Minister must determine the funding level of the school having regard to the need of the school for financial assistance, and must include in the list the level so determined.

Note 1: It is not necessary for the Minister to determine a funding level for a school formed as a result of the amalgamation of a systemic school with a non-systemic school or with another systemic school, or as a result of the separation of a systemic school into 2 or more schools, as the school formed as a result of the amalgamation or the schools resulting from the separation would ordinarily be included in the relevant approved school system.

42 Minister to give notice to authority of determination

If the Minister makes a determination under this Part, the Minister must give written notice of the determination to the relevant approved authority.

43 Determination may be given retrospective effect

Subject to section 40, a determination under this Part may be expressed to have taken effect from a day before the day on which the determination was made but not before the commencing day.

Part 5—Grants in connection with education at government schools

44 Grants for general recurrent expenditure

- (1) The Minister may make a determination authorising the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of government schools in the State for a program year, of an amount that is not greater than the amount worked out using the following formula:

$$\left(\begin{array}{l} \text{Part 1} \\ \text{amount} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \end{array} \right) + \left(\begin{array}{l} \text{Part 2} \\ \text{amount} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{secondary students} \end{array} \right)$$

- (2) In this section:

Part 1 amount means the amount set out in the column of Part 1 of Schedule 1 that relates to the program year.

number of primary students means the number of students (including the full-time equivalent of part-time students) receiving primary education at government schools in the State on the schools census day for the State for the program year.

Part 2 amount means the amount set out in the column of Part 2 of Schedule 1 that relates to the program year.

number of secondary students means the number of students (including the full-time equivalent of part-time students) receiving secondary education at government schools in the State on the schools census day for the State for the program year.

45 Approval of capital grants

- (1) The Minister may make a determination approving a capital grant that may be authorised to be paid to a State under section 46 for a capital project or capital projects in connection with government schools or government rural student hostels, or both, in the State for a program year.
- (2) Without limiting subsection (1), the Minister may make a determination setting out the total amount of the capital grants that may be approved under subsection (1) in respect of a State for a particular program year for projects referred to in that subsection.

- (3) The Minister must not vary the amount of a capital grant approved under subsection (1) for a project or projects if the variation would result in the total amount of the capital grants approved under this section for a State for a program year being greater than the total amount determined for the State under subsection (2) for the program year.

46 Authorisation of payments of capital grants

The Minister may make a determination authorising the payment to the States, by way of financial assistance to the States for expenditure for a program year in respect of capital grants approved under subsection 45(1), of amounts the total of which is not greater than the amount set out in column 2 of Schedule 2 opposite the reference to the program year.

Part 6—Grants for non-government schools and non-government rural student hostels

Division 1—Grants for general recurrent expenditure

47 Authorising of payments

- (1) The Minister may make a determination authorising the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of an approved school system, or of a non-systemic school, in the State for a program year, of an amount not greater than the amount worked out using the following formula:

$$\left(\begin{array}{l} \text{Part 1} \\ \text{amount} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{primary students} \end{array} \right) + \left(\begin{array}{l} \text{Part 2} \\ \text{amount} \end{array} \times \begin{array}{l} \text{Number of} \\ \text{secondary students} \end{array} \right)$$

- (2) In the formula in subsection (1):

Part 1 amount means:

- (a) subject to paragraph (b), the amount set out in the column of Part 1 of Schedule 3 that relates to the program year opposite the reference to the funding level of the school system or of the school, as the case may be; or
- (b) if the amount that was the Part 1 amount applicable for the school system or the school for the calendar year ending on 31 December 1996 under section 55 of the former Act was the guaranteed amount (the *previous guaranteed amount*) referred to in subsection 135(3) of that Act—the greater of:
- (i) the amount applicable under paragraph (a) for the school system or the school for the program year; or
- (ii) the previous guaranteed amount.

number of primary students means the number of students (including the full-time equivalent of part-time students) receiving primary education at systemic schools in the school system or at the non-systemic school, as the case may be, on the schools census day for the State for the program year.

Part 2 amount means:

- (a) subject to paragraph (b), the amount set out in the column of Part 2 of Schedule 3 that relates to the program year opposite

the reference to the funding level of the school system or of the school, as the case may be; or

- (b) if the amount that was the Part 2 amount applicable for the school system or the school for the calendar year ending on 31 December 1996 under section 55 of the former Act was the guaranteed amount (the *previous guaranteed amount*) referred to in subsection 135(4) of that Act—the greater of:
- (i) the amount applicable under paragraph (a) for the school system or the school for the program year; or
 - (ii) the previous guaranteed amount.

number of secondary students means the number of students (including the full-time equivalent of part-time students) receiving secondary education at systemic schools in the school system or at the non-systemic school, as the case may be, on the schools census day for the State for the program year.

- (3) For the purposes of the definitions of *number of primary students* and *number of secondary students* in subsection (2), a student is taken not to be *receiving primary education* or not to be *receiving secondary education* (as the case may be) at a systemic school in the school system or at the non-systemic school unless:
- (a) the student attends, on a daily basis, a systemic school in the system or the non-systemic school (as the case may be) at the location set out in the list of non-government schools in respect of the school; or
 - (b) if paragraph (a) does not apply—the Minister has, because of special circumstances, determined that the student should be treated as so attending the school.

Section 48

Division 2—Grants for capital projects

48 Approval of capital grants

- (1) The Minister may make a determination approving a capital grant that may be authorised to be paid to a State under section 49 for a capital project or capital projects:
 - (a) in connection with a non-government school, a block grant authority or a non-government rural student hostel in the State; or
 - (b) in connection with a group of non-government schools or non-government rural student hostels, or both, in the State; for a program year.
- (2) Without limiting subsection (1), the Minister may make a determination setting out the total amount of the capital grants that may be approved under subsection (1) in respect of a block grant authority for a particular program year for projects referred to in that subsection.
- (3) The Minister must not vary the amount of a capital grant approved under subsection (1) and administered by a block grant authority if the variation would result in the total amount of the capital grants approved under this section for the program year and administered by the block grant authority being greater than the total amount determined for the block grant authority under subsection (2) for the program year.

49 Authorisation of payments of capital grants

The Minister may make a determination authorising the payment to the States, by way of financial assistance to the States for expenditure for a program year in respect of capital grants approved under subsection 48(1), of amounts the total of which is not greater than the amount set out in column 2 of Schedule 4 opposite the reference to the program year.

Division 3—Grants for short-term emergency assistance

50 Grants of short-term emergency assistance

- (1) Subject to subsection (2), if the Minister is satisfied that, because of any unexpected circumstance, a systemic school or a non-systemic school in a State is in special need of short-term emergency assistance in a program year, the Minister may make a determination authorising the making of payments to the State, by way of financial assistance to the State to provide short-term emergency assistance for the school for the program year.
- (2) The sum of the amounts paid to the States under subsection (1) for a program year must not be greater than the amount set out in the column of Schedule 5 that relates to the program year.

Section 51

Part 7—Grants to foster literacy

51 Object of Part

The object of this Part is to help with the acquisition of appropriate literacy, numeracy and related skills by students who are most educationally disadvantaged and are therefore more likely to be at risk, when leaving school, of being ill-equipped to receive further education and training or to engage in sustainable employment.

52 Grants in respect of government schools

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for a program year for expenditure in respect of the program year in connection with government schools in the State with the objective of fostering the development of literacy or numeracy skills, particularly among students who are educationally disadvantaged.
- (2) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 2 of Schedule 6 in relation to the program year.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

53 Grants in respect of non-government schools

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for a program year for expenditure in respect of the program year in connection with non-government schools in the State with the objective of fostering the development of literacy or numeracy skills, particularly among students who are educationally disadvantaged.
- (2) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 3 of Schedule 6 in relation to the program year.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

54 Grants for national projects to foster literacy or numeracy in schools

- (1) The Minister may approve a project for the purposes of this section if:
 - (a) the project is to be carried out in Australia; and
 - (b) the sole or principal object of the project is the development of literacy or numeracy skills.
- (2) Without limiting subsection (1), a project referred to in that subsection may be a project relating to expenditure referred to in section 52 or 53.
- (3) The Minister may make a determination authorising the payment to a State for a program year of an amount by way of financial assistance to the State for expenditure on a project approved under subsection (1):
 - (a) whether the project is conducted by the State or by a non-government body established in the State; and
 - (b) whether the project is conducted within, or outside, or within and outside, the State.
- (4) If an amount is set out in column 4 of Schedule 6 in relation to a program year, the sum of the amounts paid to the States under this section for the program year must not be greater than the amount so set out.
- (5) In this section:

expenditure, in relation to an approved project, includes expenditure in publicising the project concerned, whether by disseminating information about the project, conducting seminars in connection with the project or carrying out other related activities in connection with the project.

Part 8—Grants to expand opportunities to learn certain languages

55 Object of Part

- (1) The object of this Part is to expand opportunities for students to learn certain languages.
- (2) This object is given effect by:
 - (a) providing funding to help schools and school systems to enhance and expand opportunities for students to learn Asian languages and take part in Asian studies; and
 - (b) providing support for the teaching of community languages to students enrolled in primary education or secondary education; and
 - (c) providing support for excellence and growth in the learning of priority languages in the course of receiving primary education or secondary education.

56 Grants to foster the learning of Asian languages, and foster Asian studies, in government schools

Subject to section 66, the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State, for expenditure for a program year in connection with government schools in the State with the objective of fostering the learning of Asian languages or fostering Asian studies.

57 Grants to foster the learning of Asian languages, and foster Asian studies, in non-government schools

Subject to section 66, the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State, for expenditure for a program year in connection with non-government schools in the State with the objective of fostering the learning of Asian languages or fostering Asian studies.

58 Grants for national projects to foster the learning of Asian languages and to foster Asian studies

- (1) The Minister may approve a project for the purposes of this section if the sole or principal object of the project is to foster the learning of Asian languages or to foster Asian studies.
- (2) Without limiting subsection (1) a project referred to in that subsection may be a project relating to expenditure referred to in section 56 or 57.
- (3) Subject to section 66, the Minister may make a determination authorising the payment to a State for a program year of an amount by way of financial assistance to the State for expenditure on a project approved under subsection (1):
 - (a) whether the project is conducted by the State, by a non-government body established in the State or by an individual residing in the State; and
 - (b) whether the project is conducted within, or outside, or within and outside, the State.
- (4) In this section:

expenditure, in relation to an approved project, includes expenditure in publicising the project concerned, whether by disseminating information about the project, conducting seminars in connection with the project or carrying out other related activities in connection with the project.

59 Grants for government schools and certain other bodies in respect of the teaching of community languages

Subject to section 66, the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for recurrent expenditure for a program year in respect of the teaching of community languages:

- (a) at or in connection with government schools in the State; or
- (b) by any other body (other than the relevant authority of a school or school system referred to in section 60) in the State.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

Section 60

60 Grants for non-government schools in respect of the teaching of community languages

Subject to section 66, the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for recurrent expenditure for a program year in respect of the teaching of community languages:

- (a) at or in connection with a non-government school or non-government schools in the State; or
- (b) at or in connection with schools in an approved school system in the State.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

61 Priority languages

- (1) The Minister must make and keep a written list of the languages that the Minister considers should be priority languages for the purposes of this Act.
- (2) As soon as practicable after a change is made to the list, the Minister must send a copy of the list as changed to each State Minister.

62 Grants for government schools and educational institutions in respect of the teaching of priority languages

Subject to section 66, the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for expenditure for a program year on the teaching of priority languages at or in connection with government schools or government educational institutions in the State.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

63 Grants for non-government schools in respect of the teaching of priority languages

- (1) Subject to section 66, the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for expenditure for a program year of an approved school system in the State on the teaching of priority languages at or in connection with the schools in the school system.

- (2) Subject to section 66, the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for expenditure in the State for a program year on the teaching of priority languages at or in connection with:
- (a) a non-government school; or
 - (b) non-government schools within an aggregation of non-government schools.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

64 Broadbanding of certain financial assistance paid to government schools under this Part

- (1) Subject to subsection (2), if, in respect of a program year, the Minister has made a determination under a broadbanded section authorising the making of payments to a State by way of financial assistance for the expenditure of the State in respect of the program year under that section, the State may apply some or all of the money paid to the State under another broadbanded section in respect of the same program year to the State's expenditure on matters of the kind set out in the first-mentioned broadbanded section.
- (2) Money applied by a State as set out in this section is taken to have been applied by the State out of amounts paid to it under the broadbanded section under which the money was eventually applied.
- (3) This section has effect despite:
- (a) any other provision of this Act; or
 - (b) anything in any agreement dealing with a grant of financial assistance made to a State under a broadbanded section.
- (4) In this section:
broadbanded section means section 59 or 62.

65 Broadbanding of certain financial assistance paid to non-government schools under this Part

- (1) Subject to subsection (2), if, in respect of a program year, the Minister has made a determination under a broadbanded section authorising the making of payments to a State by way of financial assistance for the expenditure for the program year under that section of:

Part 8 Grants to expand opportunities to learn certain languages

Section 66

- (a) a non-government school in the State; or
- (b) an aggregation of non-government schools in the State; or
- (c) an approved school system in the State;

the relevant authority of the school, aggregation or system may apply some or all of the money paid to the authority, as a result of the financial assistance paid to the State for the authority under another broadbanded section in respect of the same program year, to the authority's expenditure on matters of the kind set out in the first-mentioned broadbanded section.

- (2) Money applied by an authority as set out in this section is taken to have been applied by the authority out of amounts paid to it by the State as a result of the grant of financial assistance to the State for the authority under the broadbanded section under which the money was eventually applied.
- (3) This section has effect despite:
 - (a) any other provision of this Act; or
 - (b) anything in any agreement dealing with a grant of financial assistance made to a State under a broadbanded section.
- (4) In this section:
broadbanded section means section 60 or 63.

66 Ceiling for grants under this Part

The sum of the amounts paid to the States under this Part for a program year must not be greater than the amount set out in Schedule 7 in relation to the program year.

Part 9—Grants to meet special learning needs

67 Object of Part

- (1) The object of this Part is to make grants to meet special learning needs of certain children and students.
- (2) This object is given effect by:
 - (a) improving the education of children with disabilities and students with disabilities by granting financial assistance to the States for the provision of therapeutic and other essential services and the provision of capital facilities; and
 - (b) helping government and non-government schools, at both primary and secondary levels, to meet any additional operating expenses in respect of students with disabilities; and
 - (c) helping with the provision of intensive teaching of the English language to certain students who recently arrived in Australia; and
 - (d) helping schools and school communities to improve the educational outcomes and opportunities of students who are educationally disadvantaged because their geographical isolation restricts their access to social, cultural and educational activities.

68 Grants for recurrent expenditure in connection with special education at government schools or centres

- (1) Subject to subsection (3), the Minister may make a determination authorising the making of payments to a State by way of financial assistance to the State for a program year for recurrent expenditure in connection with special education programs and special education activities provided in the program year by government schools or government centres for children with disabilities.
- (2) In subsection (1):

recurrent expenditure in connection with special education programs and special education activities includes recurrent expenditure on integration activities, and expenditure on minor capital projects in connection with integration activities, conducted:

 - (a) at government schools in the State; or

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(b) at places of education approved by the Minister or the State Minister for the purposes of the definition of *integration activities* in Schedule 9;

where special education is provided at the schools or places by or on behalf of the State.

(3) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 2 of Schedule 8 in relation to the program year.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

69 Grants for expenditure in connection with special education at non-government schools

(1) The Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for a program year for:

(a) recurrent expenditure in connection with special education programs and special education activities provided at or in connection with non-government schools in the State for children with disabilities; or

(b) capital expenditure in respect of eligible projects for non-government schools in the State in connection with special education provided at or in connection with the schools.

(2) In subsection (1):

eligible project means a project:

- (a) the total cost of which is \$30,000 or more; and
- (b) which has been approved by the Minister under subsection (3).

recurrent expenditure in connection with special education programs and special education activities includes recurrent expenditure on integration activities, and expenditure on minor capital projects in connection with integration activities, conducted:

- (a) at non-government schools in the State; or
- (b) at places of education approved by the Minister or the State Minister for the purposes of the definition of *integration activities* in Schedule 9;

where special education is provided at the schools or places by nominated authorities or approved authorities.

- (3) The Minister may make a determination approving a project for the purposes of the definition of *eligible project* in subsection (2) and, if the Minister does so, the Minister must, in the determination, also:
- (a) state the total amount that may be spent on the project for a particular program year or program years; and
 - (b) name the school to which the approval relates.
- (4) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 3 of Schedule 8 in relation to the program year.
- (5) If:
- (a) the Minister has made a determination under this section authorising the making of payments to a State, by way of financial assistance, for capital expenditure for a particular program year or program years on an eligible project for the year or years concerned in respect of a nominated authority or in respect of the approved authority of an approved school system; and
 - (b) a payment has been made by the authority to the school that it represents in respect of the project;
- the financial assistance payable to the State under the Minister's determination under subsection (1) in respect of that project must be so paid.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

70 Grants for students with disabilities attending government schools

- (1) The Minister may make a determination authorising the payment to a State, by way of financial assistance to the State for recurrent expenditure of government schools in the State for a program year, of an amount that is not greater than the amount worked out using the following formula:

$$\left(\$72 \times \frac{\text{Number of primary students with disabilities}}{\text{Number of primary students}} \right) + \left(\$105 \times \frac{\text{Number of secondary students with disabilities}}{\text{Number of secondary students}} \right)$$

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(2) In the formula in subsection (1):

number of primary students with disabilities means the number of students with disabilities (including the full-time equivalent of part-time students with disabilities) receiving primary education at government schools in the State on the schools census day for the State for the program year.

number of secondary students with disabilities means the number of students with disabilities (including the full-time equivalent of part-time students) receiving secondary education at government schools in the State on the schools census day for the State for the program year.

71 Grants for students with disabilities attending non-government schools

(1) If:

- (a) an amount is payable to a State for a program year under section 47 in relation to the number of students receiving education at systemic schools in an approved school system or at a non-systemic school; and
- (b) any of the students are students with disabilities; and
- (c) the funding level of the system or of the non-systemic school is not level 12;

the Minister may make a determination authorising the payment to the State for the program year, for the approved authority of the system or the approved authority of the non-systemic school, of an additional amount equal to the sum of the amounts worked out using the following formulas:

$$\text{Number of primary students with disabilities} \times \left(\frac{\text{Funding level 12 primary amount} - \text{Actual primary amount}}{\text{Funding level 12 primary amount}} \right)$$

$$\text{Number of secondary students with disabilities} \times \left(\frac{\text{Funding level 12 secondary amount} - \text{Actual secondary amount}}{\text{Funding level 12 secondary amount}} \right)$$

- (2) For the purposes of the formulas in subsection (1):

number of primary students with disabilities means the number of primary students (including the full-time equivalent of part-time students) in the system or at the school, as the case may be, who are students with disabilities.

primary student means a student receiving primary education at a systemic school in the system or at the school, as the case may be, on the schools census day for the State for the program year.

funding level 12 primary amount means the amount payable to the State for the program year under section 47 for a primary student receiving education at a systemic school in an approved school system, or at a non-systemic school, for which the funding level of the system or of the non-systemic school is level 12.

actual primary amount means the amount payable to the State for the program year under section 47, for a primary student, for the approved school system or the non-systemic school referred to in paragraph (1)(a).

number of secondary students with disabilities means the number of secondary students (including the full-time equivalent of part-time students) in the system or at the school, as the case may be, who are students with disabilities.

secondary student means a student receiving secondary education at a systemic school in the system or at the school, as the case may be, on the schools census day for the State for the program year.

funding level 12 secondary amount means the amount payable to the State for the program year under section 47 for a secondary student receiving education at a systemic school in an approved school system, or at a non-systemic school, for which the funding level of the system or of the non-systemic school is level 12.

actual secondary amount means the amount payable to the State for the program year under section 47, for a secondary student, for the approved school system or the non-systemic school referred to in paragraph (1)(a).

72 Grants for expenditure in connection with special education at non-government centres

- (1) Subject to subsection (4), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for a program year for:

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- (a) recurrent expenditure in connection with special education (including recurrent expenditure on integration activities), and expenditure on minor capital projects in connection with integration activities, provided at non-government centres in the State for children with disabilities, children in residential care and students with disabilities; or
 - (b) capital expenditure in respect of projects approved under subsection (2) for non-government centres in the State for the benefit of children with disabilities or students with disabilities.
- (2) The Minister may make a determination for a program year approving, in respect of a State, a capital project in connection with a non-government centre in the State for the benefit of children with disabilities or students with disabilities.
- (3) In a determination under subsection (2), the Minister must also:
 - (a) approve the amount to be paid for the project, or for the project for a particular program year or program years; and
 - (b) name the centre to which the approval relates.
- (4) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 4 of Schedule 8 in relation to the program year.
- (5) If:
 - (a) the Minister has made a determination under subsection (1) authorising the making of payments to a State, by way of financial assistance, for expenditure for a particular program year or program years on a capital project approved for the year or years concerned in respect of a nominated authority or in respect of the approved authority of an approved school system; and
 - (b) a payment has been made by the authority to the school that it represents in respect of the project;the financial assistance payable to the State under the Minister's determination under subsection (1) in respect of that project must be so paid.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

73 Grants for recurrent expenditure on education in English as a second language for eligible new arrivals in government schools

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State, for recurrent expenditure during a program year in connection with providing education in English as a second language for eligible new arrivals enrolled in ESL courses beginning or continuing in the program year and provided at or in connection with government schools in the State.
- (2) The total amount paid to a State under subsection (1) for a program year must not be greater than the amount worked out using the formula:

$$\$2,992 \times \text{Number of eligible new arrivals in government schools}$$

where:

number of eligible new arrivals in government schools means the number of eligible new arrivals enrolled in ESL courses provided as mentioned in subsection (1).

74 Grants for recurrent expenditure on education in English as a second language for eligible new arrivals in non-government schools

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State, for recurrent expenditure during a program year in connection with providing education in English as a second language for eligible new arrivals enrolled in ESL courses beginning or continuing in the program year and provided at or in connection with a non-government school or non-government schools.
- (2) The total amount paid to a State under subsection (1) for a program year must not be greater than the amount worked out using the formula:

$$\$2,992 \times \text{Number of eligible new arrivals in non - government schools}$$

where:

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number of eligible new arrivals in non-government schools

means the number of eligible new arrivals enrolled in ESL courses as mentioned in subsection (1).

75 Grants for education provided in government schools in country areas

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for recurrent expenditure, or for expenditure on minor capital projects, for a program year in connection with the education of students in government schools in country areas.
- (2) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 5 of Schedule 8 in relation to the program year.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

76 Grants for education provided in non-government schools in country areas

- (1) Subject to subsection (2), the Minister may make a determination authorising the making of payments to a State, by way of financial assistance to the State for recurrent expenditure, or for expenditure on minor capital projects, for a program year in connection with the education of students in non-government schools in country areas.
- (2) The sum of the amounts paid to the States under this section for a program year must not be greater than the amount set out in column 6 of Schedule 8 in relation to the program year.

Note 1: Certain amounts paid to a State under section 77 are taken to be paid under this section.

Part 10—Grants for national projects

77 Minister may approve grants for national projects

- (1) The Minister may approve, for the purposes of this section, a project that is to be carried out in Australia if the sole or principal object of the project is to provide support for a purpose for which financial assistance is granted under section 52, 53, 59, 60, 62, 63, 68, 69, 72, 75 or 76.
- (2) Subject to subsections (3) and (4), the Minister may make a determination authorising the payment to a State for a program year of an amount by way of financial assistance to the State for expenditure on a project approved under subsection (1):
 - (a) whether the project is conducted by the State or by a non-government body established in the State; and
 - (b) whether the project is conducted within, or outside, or within and outside, the State.
- (3) Any amount paid to a State under this section for a program year in respect of a project whose sole or principal object is to provide support for a purpose for which financial assistance is granted under a section referred to in subsection (1) is taken to be an amount paid to the State for the program year under that section.
- (4) The sum of amounts paid under this section for a program year in connection with a purpose for which financial assistance is granted under a section referred to in subsection (1) must not exceed 10% of the amount available for the program year under the section concerned.

Part 11—Miscellaneous

78 Cost supplementation

- (1) The regulations may state for a program year:
 - (a) a number, determined after considering changes in the amount known as Average Government School Costs published from time to time by the Ministerial Council for Education, Employment, Training and Youth Affairs, to be used for the variation, in accordance with this section, of amounts of recurrent grants set out in the Schedules in relation to that year; and
 - (b) a number, determined after considering changes in the Building Price Index published from time to time by the Australian Statistician, to be used for the variation, in accordance with this section, of amounts of capital grants set out in the Schedules in relation to that year.
- (2) If a number (the *stated recurrent number*) is stated in regulations made for the purposes of paragraph (1)(a) in relation to recurrent grants under this Act for a particular program year, each of the following amounts (a *stated recurrent amount*):
 - (a) an amount that:
 - (i) immediately before the regulations came into force was set out in a Schedule in relation to the program year; and
 - (ii) is declared by subsection (6) to be an amount relating to recurrent grants;
 - (b) an amount set out in the formula in subsection 70(1);
 - (c) the amount set out in the formula in subsection 73(2);
 - (d) the amount set out in the formula in subsection 74(2);is taken to be replaced by the amount worked out using the formula:

$$\text{Stated recurrent number} \times \text{Stated recurrent amount}$$
- (3) If a number (the *stated capital number*) is stated in regulations made for the purposes of paragraph (1)(b) in relation to capital grants under this Act for a particular program year, each amount (a *stated capital amount*) that:

- (a) immediately before the regulations came into force was set out in a Schedule in relation to the program year; and
- (b) is declared by subsection (6) to be an amount relating to capital grants;

is taken to be replaced by the amount worked out using the formula:

Stated capital number × Stated capital amount

- (4) For the purposes of the application of this section in relation to a program year at the time immediately before regulations made for the purposes of paragraphs (1)(a) and (b) for the program year came into force, the amount (the *nominal amount*) set out in column 3 of Schedule 8 in relation to the program year is taken to consist of 2 separate amounts as follows:
 - (a) a *recurrent amount* that is the amount remaining after deducting the capital amount from the nominal amount; and
 - (b) a *capital amount* that is equal to the sum of the amounts stated in determinations made by the Minister under subsection 69(3) in respect of the program year;
 and the recurrent amount and the capital amount are taken to be set out in that column in lieu of the nominal amount.
- (5) For the purposes of the application of this section in relation to a program year at the time immediately before regulations made for the purposes of paragraphs (1)(a) and (b) for the program year came into force, the amount (the *nominal amount*) set out in column 4 of Schedule 8 in relation to the program year is taken to consist of 2 separate amounts as follows:
 - (a) a *recurrent amount* that is the amount remaining after deducting the capital amount from the nominal amount; and
 - (b) a *capital amount* that is equal to the sum of the amounts stated in determinations made by the Minister under subsection 72(2) in respect of the program year;
 and the recurrent amount and the capital amount are taken to be set out in that column in lieu of the nominal amount.
- (6) For the purposes of this section:
 - (a) the amounts set out in Schedules 1, 3, 5, 6 and 7 and in columns 2, 5 and 6 of Schedule 8 and the recurrent amounts referred to in subsections (4) and (5) are declared to be amounts relating to recurrent grants; and

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- (b) the amounts set out in Schedules 2 and 4 and the capital amounts referred to in subsections (4) and (5) are declared to be amounts relating to capital grants.
- (7) Except where subsection (8) applies, if an amount worked out under subsection (2) or (3) is not a multiple of \$1,000, the amount is to be rounded to the nearest \$1,000 (rounding \$500 upwards).
- (8) If:
 - (a) a stated recurrent amount is an amount set out in Schedule 1 or 3 or in the formula in subsection 70(1), subsection 73(2) or subsection 74(2); and
 - (b) the amount worked out under subsection (2) by reference to that stated recurrent amount is an amount of dollars and cents;the amount referred to in paragraph (b) is to be rounded to the next highest dollar.

79 Variation of Schedule 8

- (1) Subject to subsection (2), the Minister may make a determination during a program year varying some or all of the amounts set out in columns 2, 3 and 4 in Schedule 8 in relation to the program year.
- (2) The Minister must not vary under subsection (1) amounts in columns 2, 3 and 4 in Schedule 8 in relation to a program year in such a way that, after the variation, the total of the amounts in those columns would be greater or less than the total of those amounts before the variation.
- (3) As soon as practicable after making a determination under this section, the Minister must:
 - (a) send a copy of the determination to the relevant State Ministers; and
 - (b) cause a copy of the determination to be laid before each House of the Parliament.

80 Minister may fix amounts, and times of payment, of financial assistance

- (1) Financial assistance payable to a State or States under this Act is to be paid in such amounts, and at such times, as the Minister determines.

- (2) A determination under subsection (1) may apply generally to all financial assistance payable under this Act or may be limited to particular financial assistance, including:
- (a) financial assistance payable to a particular State or States;
 - (b) financial assistance payable under a particular provision or provisions of this Act;
 - (c) financial assistance payable for a particular program year or program years;
 - (d) a combination of any of the above.

81 Reductions for false or misleading statements

- (1) If:
- (a) a statement made by any person to the Minister, to an officer of the Department, or to a block grant authority or a person employed by or acting on behalf of such an authority, for the purposes of this Act, the former Act or the 1988 Act relating to the grant of financial assistance for schools, hostels or other bodies involved in primary education or secondary education, or for the purposes of an agreement under such an Act, is false or misleading in a material particular; and
 - (b) in reliance on the statement, a payment has been made to a State under a provision of this Act for the State or for a non-government body (including a block grant authority and a nominated authority) of an amount that, in the Minister's opinion, exceeds the amount that would have been authorised to be paid if the statement had not been false or misleading in a material particular;

the Minister may make a determination reducing any amount payable to the State under this Act for the State or the non-government body, as the case may be, in a particular program year or during 2 or more program years, by the amount of the excess.

- (2) If:
- (a) a statement made to the Minister or to an officer of the Department for the purposes of this Act, the former Act or the 1988 Act relating to the grant of financial assistance for schools or other bodies involved in primary education or secondary education, or for the purposes of the making of an agreement under such an Act, by the approved authority of a non-systemic school, or of an approved school system, is false or misleading in a material particular; and

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(b) as a result of the statement, the school or the system obtains, for the purpose of meeting recurrent expenditure, a higher funding level than, in the Minister's opinion, the school or system may have obtained if the statement had not been made;

the Minister may make a determination varying the list by setting out a different funding level of the school or system.

(3) A determination under this section may be expressed to have taken effect from a day before the day on which the determination was made.

82 Amounts payable by the States to the Commonwealth

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

83 Advances

The Minister may make advances to a State, by way of financial assistance to the State on account of an amount that is expected to become payable under this Act to the State, and any conditions that would apply to the payment apply to any such advance.

84 Payments to be made out of Consolidated Revenue Fund or Loan Fund

Payments to a State under this Act may be made:

- (a) in respect of payments under section 46 or 49 or paragraph 69(1)(b) or 72(1)(b) and advances under section 83 on account of payments of that kind—out of the Consolidated Revenue Fund or the Loan Fund; or
- (b) otherwise—out of the Consolidated Revenue Fund.

85 Authority to borrow

The Treasurer may, from time to time, in accordance with the provisions of the *Commonwealth Inscribed Stock Act 1911*, or in accordance with the provisions of an Act authorising the issue of Treasury Bills, borrow amounts the total of which is not greater than the sum of the amounts that may become payable to the States under sections 46 and 49 and paragraphs 69(1)(b) and 72(1)(b) of this Act.

86 Application of money borrowed

Money borrowed under section 85 is to be applied only for the expenses of borrowing and for:

- (a) making payments to the States under section 46 or 49 or paragraph 69(1)(b) or 72(1)(b); and
- (b) making advances under section 83 on account of payments of that kind; and
- (c) making payments to the Consolidated Revenue Fund in accordance with section 87.

87 Reimbursement of Consolidated Revenue Fund from Loan Fund

- (1) If a payment under section 46 or 49 or paragraph 69(1)(b) or 72(1)(b), or an advance under section 83 on account of a payment of that kind, has been made out of the Consolidated Revenue Fund, the Minister for Finance may authorise the payment to the Consolidated Revenue Fund, out of the Loan Fund, of an amount not greater than the amount so paid.
- (2) In any statement prepared by the Minister for Finance under section 50 of the *Audit Act 1901*, amounts paid to the Consolidated Revenue Fund under subsection (1) of this section are not to be shown as receipts of that Fund but are to be shown as having reduced the total of the amounts paid out of that Fund under this Act.

88 Appropriation

The Consolidated Revenue Fund and Loan Fund are appropriated as necessary for the purposes of this Act.

89 Delegation

- (1) The Minister may, by signed writing, delegate to an officer of the Department all or any of the Minister's powers and functions under this Act or under an agreement made pursuant to this Act.
- (2) The Minister may, by signed writing, delegate to a block grant authority all or any of the Minister's powers under subsection 48(1) in relation to projects administered by the block grant authority.

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90 Report by Minister

(1) In this section:

program year means the calendar year ending on 31 December 1997 or any of the following 6 calendar years.

(2) The Minister must, as soon as practicable after 30 June following a program year, cause a report with respect to:

- (a) approvals given under this Act in the program year to grants for capital projects; and
- (b) financial assistance granted in the program year under this Act (otherwise than in respect of capital projects); and
- (c) the application of the financial assistance granted in the program year under this Act (including financial assistance by way of capital grants);

to be laid before each House of the Parliament.

91 Regulations

The Governor-General may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Part 12—Transitional provisions

92 Application of this Part

- (1) This Part has effect despite any other provision of this Act.
- (2) If, under this Part, a determination, approval, declaration, list or other instrument made, given or kept under the former Act is taken to be made, given or kept under this Act, subsection (1) does not prevent the application of this Act other than this Part in relation to that determination, approval, declaration, list or other instrument as it has effect because of this Part.

93 Approved authority

A determination made by the relevant Minister for the purposes of paragraph (a) of the definition of *approved authority* in section 3 of the former Act and in force immediately before the commencing day is taken to be a determination made by the Minister for the purposes of paragraph (a) of the definition of that expression in Schedule 9 to this Act.

94 Block grant authority

A determination made by the relevant Minister under subsection 51(1) of the former Act and in force immediately before the commencing day is taken to be a determination made by the Minister for the purposes of the definition of *block grant authority* in Schedule 9 to this Act.

95 Integration activities

An approval given by the relevant Minister or the appropriate State Minister for the purposes of the definition of *integration activities* in section 3 of the former Act and in force immediately before the commencing day is taken to be an approval given by the Minister or the State Minister, as the case may be, for the purposes of paragraph (b) of the definition of that expression in Schedule 9 to this Act.

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96 Minor capital project

An approval given by the relevant Minister for the purposes of the definition of *minor capital project* in section 3 of the former Act and in force immediately before the commencing day is taken to be an approval given by the Minister for the purposes of the definition of that expression in Schedule 9 to this Act.

97 Nominated authority

A nomination of a body made by:

- (a) an aggregation of non-government schools; or
- (b) an aggregation of non-systemic schools;

under a provision of the former Act and in force immediately before the commencing day is taken to be a nomination made under section 5 of this Act for the purposes of the corresponding provision of this Act.

98 Levels of education

A determination made by the relevant Minister under section 9 of the former Act and in force immediately before the commencing day is taken to be a determination made by the Minister under section 4 of this Act.

99 Previous list of non-government schools

The list (the *previous list*) of non-government schools that was kept by the relevant Minister immediately before the commencing day under subsection 17(1) of the former Act (apart from any matters included in that list because of paragraphs 17(3)(g), (h) and (j) of that Act) is taken to be the list kept by the Minister under subsection 24(1) of this Act.

100 Previous list of approved school systems

The list of approved school systems (the *previous list of approved school systems*) that was kept by the relevant Minister immediately before the commencing day under subsection 19(1) of the former Act is taken to be the list of approved school systems kept by the Minister under subsection 26(1) of this Act.

101 New funding levels on commencing day for existing non-government schools and approved school systems

- (1) If:
- (a) the Minister has, before the commencing day, carried out a review of the funding levels of non-systemic schools; and
 - (b) as a result of the review the Minister decided that the funding level of a non-systemic school that is included in the list because of section 99 should be a different funding level (the *new funding level*) from the funding level of that school that was set out in the previous list referred to in that section;
- the Minister may vary the list by setting out for that school, with effect on and from the commencing day, the new funding level as the funding level of that school in lieu of the funding level that, apart from this section, would be set out in the list for that school.
- (2) If:
- (a) the Minister has, before the commencing day, carried out a review of the funding levels of approved school systems; and
 - (b) as a result of the review the Minister decided that the funding level of an approved school system that is included in the list of approved school systems because of section 100 should be a different funding level (the *new funding level*) from the funding level of that system that was set out in the previous list of approved school systems referred to in that section;
- the Minister may vary the list of approved school systems by setting out for that system, with effect on and from the commencing day, the new funding level as the funding level of that system in lieu of the funding level that, apart from this section, would be set out in the list of approved school systems for that system.
- (3) If, as a result of a variation made by the Minister under subsection (1) or (2) or section 103 in respect of a non-systemic school or an approved school system, the amount that, apart from this subsection, would be the Part 1 amount applicable for the school or system under section 47 for the 1997 program year is less than the amount (the *guaranteed amount*) that would have been the Part 1 amount applicable for the school or system under that section for that program year if the variation had not been made, the Part 1 amount applicable for the school or system under that section for the 1997 program year or any later program year is to be:

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- (a) the amount that, apart from this subsection, would be the Part 1 amount applicable for the school or system under that section for the program year concerned; or
 - (b) the guaranteed amount;
- whichever is the greater.
- (4) If, as a result of a variation made by the Minister under subsection (1) or (2) or section 103 in respect of a non-systemic school or an approved school system, the amount that, apart from this subsection, would be the Part 2 amount applicable for the school or system under section 47 for the 1997 program year is less than the amount (the *guaranteed amount*) that would have been the Part 2 amount applicable for the school or system under that section for that program year if the variation had not been made, the Part 2 amount applicable for the school or system under that section for the 1997 program year or any later program year is to be:
- (a) the amount that, apart from this subsection, would be the Part 2 amount applicable for the school or system under that section for the program year concerned; or
 - (b) the guaranteed amount;
- whichever is the greater.

102 List of priority languages

The list of languages made by the relevant Minister under subsection 85(1) of the former Act that was in existence immediately before the commencing day is taken to be a list made by the Minister under subsection 61(1) of this Act.

103 Review of funding levels for certain existing non-government schools

- (1) If:
- (a) in making a determination under subsection 32(1) of the former Act in relation to a non-systemic school, the Minister was required to comply with subsection 32(2) of that Act (whether or not the funding level of the school was afterwards reassessed under section 33 of that Act); or
 - (b) in making a determination under subsection 8(14) of the 1988 Act in relation to a non-systemic school, the Minister was required to comply with subsection 8(15) of that Act;

the Minister may make, under this section, one further determination of the funding level of the school having regard to the need of the school for financial assistance.

- (2) A determination under subsection (1) may be expressed to have taken effect from a day earlier than the day on which the determination is made but not earlier than the commencing day.
- (3) If the funding level of a school is altered as a result of a determination under subsection (1), the Minister must vary the list to set out for the school the funding level as so altered.

Schedule 1 General recurrent grants for government schools

**Schedule 1—General recurrent grants for
government schools**

Part 1—Primary education

Column 1 1997 Program year \$	Column 2 1998 Program year \$	Column 3 1999 Program year \$	Column 4 2000 Program year \$
352	352	352	352

General recurrent grants for government schools **Schedule 1**

Part 2—Secondary education

Column 1 1997 Program year \$	Column 2 1998 Program year \$	Column 3 1999 Program year \$	Column 4 2000 Program year \$
520	520	520	520

Schedule 2 Capital grants for government schools

Schedule 2—Capital grants for government schools

Column 1	Column 2
Program year	Grants \$
1997	211,138,000
1998	211,138,000
1999	211,138,000
2000	211,138,000
2001	
2002	
2003	

Note 1: Amounts for program years 2001, 2002 and 2003 will be inserted by later amending Acts

Schedule 3—General recurrent grants for non-government schools

Part 1—Primary education

Column 1	Column 2 1997	Column 3 1998	Column 4 1999	Column 5 2000
Funding level	Program year \$	Program year \$	Program year \$	Program year \$
1	466	466	466	466
2	622	622	622	622
3	778	778	778	778
4	947	947	947	947
5	1,128	1,134	1,142	1,151
6	1,247	1,254	1,262	1,270
7	1,369	1,376	1,384	1,391
8	1,505	1,514	1,525	1,535
9	1,663	1,689	1,712	1,736
10	1,788	1,820	1,852	1,885
11	1,922	1,964	2,006	2,047
12	2,064	2,115	2,168	2,223

Schedule 3 General recurrent grants for non-government schools

Part 2—Secondary education

Column 1	Column 2	Column 3	Column 4	Column 5
	1997	1998	1999	2000
Funding level	Program year \$	Program year \$	Program year \$	Program year \$
1	740	740	740	740
2	981	981	981	981
3	1,137	1,137	1,137	1,137
4	1,492	1,492	1,492	1,492
5	1,642	1,653	1,664	1,673
6	1,819	1,829	1,842	1,853
7	1,998	2,008	2,019	2,031
8	2,203	2,217	2,231	2,244
9	2,435	2,472	2,506	2,540
10	2,611	2,657	2,705	2,755
11	2,806	2,865	2,926	2,989
12	3,015	3,091	3,168	3,247

Schedule 4—Capital grants for non-government schools

Column 1	Column 2
Program year	Grants \$
1997	83,006,000
1998	83,021,000
1999	83,005,000
2000	73,070,000
2001	
2002	
2003	

Note 1: Amounts for program years 2001, 2002 and 2003 will be inserted by later amending Acts

Schedule 5 Grants of short term emergency assistance for non-government schools

Schedule 5—Grants of short term emergency assistance for non-government schools

Column 1 1997 Program year \$	Column 2 1998 Program year \$	Column 3 1999 Program year \$	Column 4 2000 Program year \$
547,000	547,000	547,000	547,000

Schedule 6—Grants under the Literacy Program

Column 1	Column 2	Column 3	Column 4
	Grants to foster literacy and numeracy in government schools	Grants to foster literacy and numeracy in non-government schools	Grants for national projects to foster literacy and numeracy in schools
Program year	\$	\$	\$
1997	110,320,000	36,767,000	5,707,000
1998	109,541,000	37,546,000	5,707,000
1999	108,763,000	38,324,000	5,707,000
2000	100,580,000	37,411,000	nil

Schedule 7 Grants under the Languages Program

Schedule 7—Grants under the Languages Program

Column 1 1997 Program year \$	Column 2 1998 Program year \$	Column 3 1999 Program year \$	Column 4 2000 Program year \$
43,750,000	32,901,000	15,407,000	15,407,000

Schedule 8—Grants under the Special Learning Needs Program

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6
	Grants to support special education in government schools and centres	Grants to support special education in non-government schools	Grants to support special education in non-government centres	Grants for government schools in country areas	Grants for non-government schools in country areas
Program year	\$	\$	\$	\$	\$
1997	33,356,000	25,632,000	21,850,000	13,779,000	2,005,000
1998	33,356,000	25,632,000	21,850,000	13,779,000	2,005,000
1999	33,356,000	25,632,000	21,850,000	13,779,000	2,005,000
2000	33,356,000	25,632,000	21,850,000	13,779,000	2,005,000

No. 70, 1996 *States Grants (Primary and Secondary Education Assistance) Act*
1996

Schedule 9—Dictionary

approved authority means:

- (a) for the purposes of a provision of this Act (other than a provision referred to in paragraph (b)), that relates to an approved school system, a non-systemic school, a non-government school, a non-government centre, a non-government rural student hostel or another non-government body—the body that the Minister determines to be the approved authority of that school system, of that school, of that centre, of that hostel or of that other non-government body, as the case may be, for the purposes of the provision; or
- (b) for the purposes of a provision of Division 3 of Part 4 that relates to a new school proposal:
 - (i) if the school is to be included in an approved school system—the body that, under paragraph (a) is the approved authority of that system; or
 - (ii) otherwise—the body principally responsible for the school.

approved school system means a school system that is included in the list of approved school systems kept under section 26.

authorised person, in relation to a State, means:

- (a) the Auditor-General of the State; or
- (b) another person acting with the authority of the State Minister of the State.

block grant authority means a body corporate that the Minister determines to be a block grant authority for the purposes of the making of payments of capital grants to States under Division 2 of Part 6 in connection with non-government schools or non-government rural student hostels.

body means any organisation or body, whether incorporated or unincorporated, and includes an individual.

building includes part of a building.

capital project includes a project involving any one or more of the following:

- (a) investigation of the need for:
 - (i) schools, non-government centres, government rural student hostels or non-government rural student hostels in particular areas; or
 - (ii) schools, non-government centres, government rural student hostels or non-government rural student hostels of particular kinds in particular areas; or
 - (iii) buildings, other facilities or equipment;
- (b) the purchase of land, with or without buildings;
- (c) planning for the erection, alteration, extension, demolition or refurbishment of a building or other facilities;
- (d) the development or preparation of land for building or other purposes;
- (e) the erection, alteration, extension, demolition or refurbishment of a building or other facilities;
- (f) the installation or upgrading of water, electricity or any other services;
- (g) the provision of equipment, including information technology equipment;
- (h) the provision of furniture or library materials or obtaining services and goods for cataloguing a library;
- (i) payment to a block grant authority for its administrative expenses.

child with disabilities means a child in respect of whom a disability assessment has been made and to whom either of the following paragraphs applies:

- (a) if the child has reached school age:
 - (i) enrolment at a school, at a government centre or at a non-government centre is not appropriate because of his or her disabilities; or
 - (ii) although he or she is enrolled at a school, at a government centre or at a non-government centre, he or she is unable, because of his or her disabilities, to receive a substantial part of the benefits ordinarily available to children enrolled at the school or centre; or
- (b) if the child has not reached school age, it is likely that, upon his or her reaching that age:

- (i) enrolment at a school, at a government centre or at a non-government centre would not be appropriate because of his or her disabilities; or
- (ii) if he or she were enrolled at a school, at a government centre or at a non-government centre, he or she would be unable, because of his or her disabilities, to receive a substantial part of the benefits ordinarily available to children enrolled at that school or centre.

children in residential care means children who:

- (a) are separated from their families for welfare, rehabilitation, corrective or medical purposes; and
- (b) are living in establishments that provide programs that include one or more of the following services:
 - (i) counselling;
 - (ii) education;
 - (iii) guidance;
 - (iv) another service similar to a service mentioned in subparagraph (i), (ii) or (iii); and
- (c) are participating in one or more of those programs.

commencing day means the day on which this Act commenced.

community language means:

- (a) a language of indigenous persons; or
- (b) the first language of people who have migrated to Australia; but does not include English.

disability assessment, in relation to a child or a student, means an assessment, by a person with relevant qualifications, that the child or student has an intellectual impairment, a sensory impairment, a physical impairment, a social impairment, an emotional impairment, or more than one of those impairments, to a degree that:

- (a) in respect of a child who has reached school age or a student—satisfies the criteria for enrolment in special education services, or special education programs, provided by the Government of the State in which the child or student resides; or
- (b) in respect of a child who has not reached school age—would satisfy those criteria if the child had reached that age.

education in English as a second language for eligible new arrivals, in relation to a program year, means education that is provided for the purpose of teaching, by means of intensive

instruction, the English language to people who are eligible new arrivals in relation to the program year.

eligible new arrival, in relation to a program year, means a person:

- (a) whose first language is a language other than English; and
- (b) who is taken in relation to the program year, under criteria determined by the Minister, to have newly arrived in Australia; and
- (c) who is either:
 - (i) a permanent resident; or
 - (ii) taken, under criteria determined by the Minister, to be an eligible person for the purposes of this subparagraph.

ESL course means a course designed to teach English as a second language.

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

funding level, in relation to a non-systemic school, or an approved school system, for which financial assistance is provided under this Act in a program year, means the level of assistance set out in column 1 of the Part or each of the Parts of Schedule 3 that applies to the school or to the system in the program year for the purpose of meeting recurrent expenditure.

government centre means a place conducted by or on behalf of the Government of a State at which special education is provided.

government educational institution means an educational institution in a State:

- (a) that is not a government school; and
- (b) that is conducted by or on behalf of the Government of the State; and
- (c) at which a priority language may be studied at secondary level.

government rural student hostel means a hostel in a State whose primary purpose is to provide accommodation for students from rural areas who are undertaking education at government schools in the State (whether or not it also provides accommodation for other students), but does not include a hostel that is conducted for profit.

government school, in relation to a State, means a school in the State that is conducted by or on behalf of the Government of the State.

indigenous person means a person who is:

- (a) a person of the Aboriginal race of Australia; or
- (b) a descendant of an indigenous inhabitant of the Torres Strait Islands.

integration activities means activities designed to integrate children with disabilities or students with disabilities into:

- (a) schools; or
- (b) other places of education approved by the Minister or the State Minister for the purposes of this definition;

at which education is provided for children or students other than children with disabilities or students with disabilities.

level of education has the meaning given by section 4.

list means the list of non-government schools kept under section 24.

minor capital project means a capital project of a kind approved by the Minister.

nominated authority means a body nominated by an aggregation of non-government schools for the purposes of the provision of this Act in which the expression occurs.

non-government body means a body that is not managed or controlled by or on behalf of the Government of a State and:

- (a) includes an approved school system, a systemic school, a non-systemic school, a non-government centre or a non-government rural student hostel; and
- (b) for the purposes of grants under section 48 for projects in connection with non-government rural student hostels, includes a local government body.

non-government centre means a place in a State that:

- (a) provides special education; and
- (b) is conducted by a non-government body; and
- (c) is not conducted for profit; and
- (d) is not a school.

non-government rural student hostel means a hostel in a State that is conducted by a non-government body and whose primary purpose is to provide accommodation for students from rural areas who are undertaking education at schools in the State (whether or not it also provides accommodation for other students), but does not include a hostel that is conducted for profit or is conducted on behalf of the Government of the State.

non-government school, in relation to a State, means a school in the State that is not conducted by or on behalf of the Government of the State, but does not include a school conducted for profit.

non-systemic school means a non-government school that:

- (a) is not included in an approved school system; and
- (b) is included in the list as a non-systemic school.

overseas student means a person who has a visa, or is included in a visa, issued under regulations under the *Migration Act 1958* that permits the person to travel to Australia for the purpose of undertaking a course provided by an institution or other body or person in Australia, but does not include a person, or a person included in a class of persons, determined by the Minister not to be a person or class of persons to whom this definition applies.

permanent resident means:

- (a) an Australian citizen; or
- (b) a person who holds an entry permit (other than a temporary entry permit) in force under the *Migration Act 1958*; or
- (c) a person who is not an Australian citizen but has his or her permanent home in the Territory of Christmas Island or in the Territory of Cocos (Keeling) Islands.

priority language means a language included in the list kept under subsection 61(1).

program year:

- (a) subject to paragraph (b), means the calendar year beginning on 1 January 1997 or any of the 3 following calendar years and, for the purposes of any provision of this Act that relates to capital grants or any other provision of this Act in its application to capital grants, includes the calendar year beginning on 1 January 2001 and each of the 2 following calendar years; and
- (b) when immediately preceded or followed by figures referring to a specific calendar year, means that calendar year.

qualified accountant means a person who:

- (a) is registered, or is taken to be registered, as a company auditor under Part 9.2 of the Corporations Law; or
- (b) is a member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or any other body prescribed for the purposes of subparagraph 1280(2)(a)(i) of the Corporations Law; or

(c) is approved by the Minister to be a qualified accountant for the purposes of this Act.

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

relevant authority, in relation to a non-government body, means:

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

relevant Minister, in relation to the former Act or a provision of that Act, at a particular time, means (except in a reference to a State Minister) the Minister who administered that Act or provision at that time.

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

schools census day, in relation to a school or schools, or an approved school system, in a State and in relation to a program year, means:

- (a) in respect of a non-systemic school, or an approved school system, in relation to which the Minister has, because of special circumstances, declared a particular day in that year to be the schools census day for the State for that year—the day so declared; or
- (b) in respect of a non-systemic school, or an approved school system, to which paragraph (a) does not apply and in relation to which the State Minister and the Minister have agreed that a particular day in that year is to be the schools census day for the State for that year—the day so agreed; or
- (c) otherwise—the day in that year (being a day as close as possible to 1 August in that year) that the State Minister notifies the Minister is the schools census day for the State for that year.

secondary education means junior secondary education or senior secondary education.

special education means education under special programs designed specifically for children with disabilities or students with disabilities, or both.

special school means a school in a State that:

- (a) has been, or is likely to be, recognised by the State Minister as a special school; and
- (b) provides special education.

State includes:

- (a) the Australian Capital Territory; and
- (b) the Northern Territory.

State Minister means:

- (a) in relation to a State other than the Australian Capital Territory or the Northern Territory—the Minister of the State who is responsible, or primarily responsible, for the administration of matters relating to school education in the State; or
- (b) in relation to the Australian Capital Territory—the Minister of the Australian Capital Territory who is responsible, or primarily responsible, for the administration of matters relating to school education in the Australian Capital Territory; or
- (c) in relation to the Northern Territory—the Minister of the Northern Territory who is responsible, or primarily responsible, for the administration of matters relating to school education in the Northern Territory.

student with disabilities means a student:

- (a) who attends a government school, a government centre, a non-government school or a non-government centre; and
- (b) in respect of whom a disability assessment has been made.

systemic school means a non-government school that:

- (a) is included in an approved school system; and
- (b) is included in the list as a systemic school.

the 1988 Act means the *States Grants (Schools Assistance) Act 1988*.

[*Minister's second reading speech made in—
House of Representatives on 19 September 1996
Senate on 16 October 1996*]