



Australian Education (Consequential and Transitional Provisions) Act 2013

No. 68, 2013

**An Act to deal with consequential and transitional
matters in connection with the *Australian Education
Act 2013*, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Australian Education (Consequential and Transitional Provisions) Act 2013

No. 68, 2013

An Act to deal with consequential and transitional matters in connection with the *Australian Education Act 2013*, and for related purposes

[Assented to 27 June 2013]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Australian Education (Consequential and Transitional Provisions) Act 2013*.

Australian Education (Consequential and Transitional Provisions) Act 2013 No. 68, 2013

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2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 June 2013
2. Schedules 1 and 2	At the same time as the <i>Australian Education Act 2013</i> commences.	1 January 2014

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Federal Financial Relations Act 2009

1 Section 11

Repeal the section.

2 Subsections 12(3), 13(3) and 14(3) (notes)

Repeal the notes.

3 Section 15

Repeal the section.

4 Transitional provisions

- (1) Section 11 of the FFR Act continues to apply (subject to subitem (3)) in relation to the financial year starting on 1 July 2013 despite the repeal of that section by this Schedule.
- (2) To avoid doubt, the Minister may do the following in relation to that financial year after section 11 has been repealed:
 - (a) make a determination under subsection 11(4) or (5);
 - (b) if a State has been paid less than the amount that, under section 11, it was entitled to receive for that financial year—make a payment to the State under that section of an amount equal to the shortfall.
- (3) The total amount of all financial assistance payable under subsection 11(1) of the FFR Act to the States for that financial year is half the amount worked out in accordance with paragraph 11(2)(c) of that Act.
- (4) Subitem (3) does not apply in relation to subsection 65(6) (amount payable for non-participating schools) of the *Australian Education Act 2013*.
- (5) In this item:

FFR Act means the *Federal Financial Relations Act 2009*.

State has the meaning given by the *Federal Financial Relations Act 2009*.

Schools Assistance Act 2008

5 Paragraph 3(3)(b)

Omit “2014”, substitute “2013”.

6 Section 4 (paragraph (b) of the definition of *program year*)

Omit “, 2013 or 2014”, substitute “or 2013”.

Schedule 2—Transitional provisions

1 Definitions

- (1) In this Schedule:

the new Act means the *Australian Education Act 2013*.

the old Act means the *Schools Assistance Act 2008*.

- (2) Expressions used in this Schedule that are defined for the purposes of the new Act, and used in relation to the new Act, have the same meaning as in the new Act.
- (3) Expressions used in this Schedule that are defined for the purposes of the old Act, and used in relation to the old Act, have the same meaning as in the old Act.

2 Approved authorities for non-government schools

- (1) This item applies in relation to a body that was an approved authority under the old Act on 31 December 2013.

Deemed approval

- (2) If the body was an approved authority for an approved school system, then for the purposes of the new Act, the Minister is taken to have approved, under subsection 73(1) of that Act, the body to be an approved authority for each approved school that was a member of the system on 31 December 2013.
- (3) If the body was an approved authority for an approved non-systemic school, then for the purposes of the new Act, the Minister is taken to have approved, under subsection 73(1) of that Act, the body to be an approved authority for the school.

When approval is taken to be in force

- (4) An approval under this item is taken to be in force on and after 1 January 2014.

Things taken to be specified in deemed approval

- (5) For the purposes of section 79 (limitation on approval) of the new Act, the following things are taken to be specified in an approval of an approved authority that is taken to be in force under this item:
- (a) each approved school for which the authority is taken to be approved;
 - (b) each location that, on 31 December 2013, was approved for each such school;
 - (c) each level of education that, on 31 December 2013, was approved for each such location.

3 Non-bodies corporate

- (1) Despite subsection 75(2) of the new Act, an approved authority that:
- (a) is taken to be an approved authority for the purposes of the new Act under item 2 of this Schedule; and
 - (b) was not a body corporate on 31 December 2013;
- is required to be a body corporate only on and after 1 January 2015.
- (2) If:
- (a) an approved authority is taken to be an approved authority (the *new approved authority*) for the purposes of the new Act under item 2 of this Schedule; and
 - (b) the new approved authority becomes a body corporate before 1 January 2015;
- then for the purposes of the new Act, the body corporate is taken to be the new approved authority.

Note: The effect of subitem (2) is that if the new approved authority was originally covered by section 59, 61 or 62 of the new Act (transitional recurrent funding for participating schools), those provisions will continue to apply to the body corporate even though it is a new legal entity.

4 Applications for approved authorities that have not been dealt with by 31 December 2013

- (1) This item applies if:
- (a) a body applies for the purposes of the old Act to be approved as an approved authority for a school; and
 - (b) a decision on the application has not been made by 31 December 2013.

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- (2) For the purposes of the new Act, the application is taken to have been made under section 72 of the new Act.
 - (3) Despite subsection 73(6) of the new Act, a day specified under that subsection in relation to an application that is taken, under this item, to have been made under section 72 of the new Act must not be earlier than 1 January 2014.

5 Approved authorities for government schools

- (1) For the purposes of the new Act, the Minister is taken to have approved, under subsection 73(1) of that Act, a State or Territory to be the approved authority for government schools located in the State or Territory.

When approval is taken to be in force

- (2) An approval under this item is taken to be in force on and after 1 January 2014.

Things taken to be specified in deemed approval

- (3) For the purposes of section 79 (limitation on approval) of the new Act, the following things are taken to be specified in an approval of an approved authority for government schools located in a State or Territory that is taken to be in force under this item:
 - (a) each school for which the authority is taken to be approved;
 - (b) each location that, on 31 December 2013, was approved by the State or Territory for each government school;
 - (c) each level of education that, on 31 December 2013, was approved by the State or Territory for each location.

6 Block grant authorities

- (1) This item applies in relation to a body corporate that was a block grant authority under the old Act on 31 December 2013.

Deemed approval

- (2) For the purposes of the new Act, the Minister is taken to have approved, under subsection 83(1) of that Act, the body to be a block grant authority for each school in relation to which the body was, on 31 December 2013, a block grant authority under the old Act.

When approval is taken to be in force

- (3) An approval under this item is taken to be in force on and after 1 January 2014.

Things taken to be specified in deemed approval

- (4) For the purposes of section 86 (limitation on approval) of the new Act, the schools referred to in subitem (2) are taken to be specified in the approval of the block grant authority that is taken to be in force under this item.

7 No notice of decision required

Section 119 (notice of decision) of the new Act does not apply in relation to an approval that is taken to be in force under this Schedule.

8 Variation or revocation of deemed approvals

This Schedule does not prevent an approval that is taken to be in force under this Schedule from being varied or revoked.

9 Implementation plans and school improvement plans

Implementation plans

- (1) An approved authority for more than one participating school must comply with Part 7 of the new Act on and from 1 January 2014.

School improvement framework and plans

- (2) An approved authority for a school must have:
- (a) a school improvement framework in accordance with subparagraph 77(2)(d)(i) of the new Act; and
 - (b) a school improvement plan for the school in accordance with subparagraph 77(2)(d)(ii) of the new Act;
- on and from 1 January 2015.

10 Majority Aboriginal and Torres Strait Islander schools

For the purposes of the definition of *majority Aboriginal and Torres Strait Islander school* in section 8 of the new Act, a school's census day for 2013 is the schools census day for the school for that year under the old Act.

11 SES scores

- (1) If a determination of a school's SES score is in force under subsection 72(2) of the old Act on 31 December 2013, then for the purposes of the new Act, the determination is taken to have been made for the school under section 52 of the new Act.
- (2) A determination that is taken to have been made under subitem (1) is not a reviewable decision.
- (3) A determination under this item is taken to be in force on and after 1 January 2014.
- (4) Subitem (1) does not prevent a new determination being made for the school under section 52 of the new Act.

12 Regulations

- (1) Before 1 January 2015, regulations made under section 130 of the new Act may prescribe modifications of the operation of that Act that are necessary or convenient to deal with transitional matters arising from the enactment of that Act.
- (2) Without limiting subitem (1), a modification of the operation of that Act may result in a different amount of financial assistance being payable under that Act.
- (3) Subsection 130(5) of the new Act (requirement to consult Ministerial Council) does not apply in relation to any regulations made before 1 January 2014.

*[Minister's second reading speech made in—
House of Representatives on 5 June 2013
Senate on 20 June 2013]*

(161/13)

10 *Australian Education (Consequential and Transitional Provisions) Act 2013* No. 68,
2013