



Australian Education Amendment Act 2017

No. 78, 2017

**An Act to amend the *Australian Education Act 2013*,
and for related purposes**

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No. 78, 2017

An Act to amend the *Australian Education Act 2013*, and for related purposes

[Assented to 27 June 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Australian Education Amendment Act 2017*.

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
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column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. 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 2017
2. Schedule 1, items 1 to 105	1 January 2018.	1 January 2018
3. Schedule 1, item 106	The day this Act receives the Royal Assent.	27 June 2017
4. Schedule 1, item 108	1 January 2018.	1 January 2018
5. Schedule 1, item 109	The day this Act receives the Royal Assent.	27 June 2017
6. Schedule 1, items 110 to 176	1 January 2018.	1 January 2018

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Funding for schools

Australian Education Act 2013

1 Section 6 (definition of *Commonwealth share*)

Repeal the definition, substitute:

Commonwealth share:

- (a) for a school not covered by paragraph (b)—has the meaning given by section 35A; and
- (b) for a transitioning school for a transition year for the school—has the meaning given by subsection 35B(1).

1A Section 6

Insert:

6-year transitioning school means a transitioning school whose starting Commonwealth share is less than its final Commonwealth share.

1B Section 6

Insert:

final Commonwealth share has the meaning given by subsection 35B(6).

2 Section 6 (definition of *low socioeconomic status student loading*)

Repeal the definition.

3 Section 6 (definition of *SES score*)

Omit “52(2) or (3)”, substitute “52(1).”

4 Section 6

Insert:

socio-educational disadvantage loading has the meaning given by subsection 38(1).

5 Section 6

Insert:

SRS indexation factor, for a year, means the SRS indexation factor worked out in accordance with, or prescribed under, section 11A.

5A Section 6

Insert:

starting Commonwealth share has the meaning given by subsection 35B(2).

6 Section 6

Insert:

transitioning school means:

- (a) a school for which financial assistance was payable under Part 3 or 4 of this Act for 2017; or
- (b) a school prescribed by the regulations.

transition year means:

- (a) for a school other than a 6-year transitioning school—a year from 2018 to 2027 (inclusive); or
- (b) for a 6-year transitioning school—a year from 2018 to 2023 (inclusive).

7 After subsection 9(6A)

Insert:

(6B) A payment is an *overpayment* under this Act if:

- (a) the Commonwealth makes the payment to a State or Territory for a school for a year as a result of a determination made under paragraph 29(1)(ab); and
- (b) the total of the amount of the payment, and any previous payments made, as a result of the determination, to the State or Territory for the school for the year, exceeds the amount determined for the school for the year under section 69B.

8 After section 11

Insert:

11A Definition of SRS indexation factor

- (1) The **SRS indexation factor** for a year is the higher of the following:
- 1.03;
 - the number worked out under subsection (2) for the year.

- (2) The number is worked out using the following formula:

$$\left(0.75 \times \frac{\text{Wage index number for the reference quarter}}{\text{Wage index number for the base quarter}} \right) + \left(0.25 \times \frac{\text{Consumer index number for the reference quarter}}{\text{Consumer index number for the base quarter}} \right)$$

where:

base quarter means the June quarter in the previous year.

consumer index number, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

reference quarter means the June quarter in the year.

wage index number, for a quarter, means the Wage Price Index (total hourly rates of pay excluding bonuses/all sectors/all Australia/original) number published by the Australian Statistician for that quarter.

- (3) An SRS indexation factor worked out under subsection (2) is to be calculated to 3 decimal places (rounding up if the fourth decimal place is 5 or more).
- (4) Calculations under subsection (2):
- are to be made using only the index numbers published in terms of the most recently published index reference period; and
 - are to be made disregarding index numbers that are published in substitution for previously published index numbers

(except where the substituted numbers are published to take account of changes in the index reference period).

- (5) The regulations may prescribe the *SRS indexation factor* for a year.
- (6) If the regulations prescribe the SRS indexation factor for a year, subsections (1) to (4) do not apply in relation to the year.
- (7) Amounts worked out using an SRS indexation factor are to be rounded to the nearest whole dollar (rounding 50 cents upwards).

9 After paragraph 29(1)(aa)

Insert:

- (ab) an amount or amounts of payments of financial assistance that have been determined under section 69B (transition adjustment funding) to be payable to a State or Territory for a year for a school that is located in the State or Territory; and

10 Paragraph 29(1)(b)

Omit “and (aa)”, substitute “to (ab)”.

11 Section 32 (formula)

Repeal the formula, substitute:

$$\left(\begin{array}{l} \text{The school's base} \\ \text{amount for the year} \end{array} + \begin{array}{l} \text{The school's total} \\ \text{loading for the year} \end{array} \right) \times \begin{array}{l} \text{The Commonwealth share} \\ \text{for the school for the year} \end{array}$$

12 Paragraph 34(1)(a)

Omit “2014—\$9,271”, substitute “2018—\$10,953”.

13 Paragraph 34(2)(a)

Omit “2014—\$12,193”, substitute “2018—\$13,764”.

14 Subsection 34(3) (formula)

Repeal the formula, substitute:

$$\begin{array}{l} \text{The SRS funding} \\ \text{amount for} \\ \text{such a student} \\ \text{for the previous year} \end{array} \times \begin{array}{l} \text{SRS indexation factor} \\ \text{for the year} \end{array}$$

15 Paragraph 35(c)

Omit “low socioeconomic status student”, substitute “socio-educational disadvantage”.

16 After section 35

Insert:

35A Commonwealth share

Unless the regulations prescribe otherwise, the *Commonwealth share* for a school for a year (subject to section 35B) is:

- (a) for a government school—20%; and
- (b) for a non-government school—80%.

35B Commonwealth share for transitioning schools

- (1) The *Commonwealth share* for a transitioning school for a transition year for the school is the percentage worked out using the following formula:

$$\text{Starting Commonwealth share} + \left[\left(\frac{\text{Final Commonwealth share} - \text{Starting Commonwealth share}}{\text{Transition rate}} \right) \right]$$

- (2) Unless the regulations prescribe otherwise, the *starting Commonwealth share* is the amount worked out using the following formula (expressed as a percentage):

$$\frac{\text{The 2017 recurrent funding for the relevant approved authority}}{\text{The adjusted SRS amount for the relevant approved authority}}$$

- (3) The *2017 recurrent funding* for the relevant approved authority is:
- (a) if financial assistance was payable under Division 2 of Part 3 for schools of the relevant approved authority for 2017—the sum of the total entitlements for those schools for that year; or
 - (b) if financial assistance was payable under Division 5 of Part 3, or under Part 4, for schools of the relevant approved authority

for 2017—the relevant approved authority’s total entitlement for that year.

- (4) The **adjusted SRS amount** for the relevant approved authority is the sum of the amounts of financial assistance that would be payable under Division 2 of Part 3 for the schools of the relevant approved authority for 2017 if:
- (a) Division 2 of Part 3 as in force immediately before the commencement of this paragraph applied for the purposes of working out those amounts; and
 - (b) Divisions 3 and 4 of Part 3 as in force immediately after the commencement of this paragraph applied in relation to 2017; and
 - (c) for the purposes of the operation of paragraphs (a) and (b) in relation to 2017:
 - (i) the Commonwealth share for each school were 100%; and
 - (ii) the SRS funding amount for a primary student were \$10,576; and
 - (iii) the SRS funding amount for a secondary student were \$13,290; and
 - (iv) the SES score for each school were the score for the school for 2018; and
 - (v) the maximum size loading for a primary school were \$166,790; and
 - (vi) the maximum size loading for a secondary school were \$266,864; and
 - (vii) the starting amount for a primary school were \$11,119; and
 - (viii) the starting amount for a secondary school were \$22,239.
- (5) The **relevant approved authority** is:
- (a) for a school for which financial assistance was payable under Part 3 or 4 of this Act for 2017—the authority that was the approved authority for the transitioning school immediately before the commencement of this subsection; and
 - (b) for a school prescribed as a transitioning school by the regulations—the authority prescribed by the regulations.

- (6) The **final Commonwealth share** is:
- (a) unless a percentage is prescribed under paragraph (b)—the percentage that would be the Commonwealth share if the school was not a transitioning school; or
 - (b) the percentage prescribed by the regulations.

Note: For paragraph (a), see section 35A.

- (7) Unless the regulations otherwise provide, the **transition rate** for a school other than a 6-year transitioning school:
- (a) for the transition year 2018 is 10%; and
 - (b) for each later transition year is the transition rate for the previous transition year increased by 10 percentage points.
- (7A) Unless the regulations otherwise provide, the **transition rate** for a 6-year transitioning school:
- (a) for the transition year 2018 is 16.67%; and
 - (b) for each transition year from 2019 to 2022 (inclusive) is the transition rate for the previous year increased by 16.67 percentage points; and
 - (c) for the transition year 2023 is 100%.
- (8) The regulations may prescribe a **transition rate** for a transition year for a school that is:
- (a) more than the rate that would apply for the year under subsection (7) or (7A) if no regulations had been made for the purposes of this subsection; and
 - (b) no more than 100%.

17 Section 36

Repeal the section, substitute:

36 Student with disability loading

- (1) A school's **student with disability loading** for a year is the sum of the following:
- (a) the school's supplementary disability loading for the year;
 - (b) the school's substantial disability loading for the year;
 - (c) the school's extensive disability loading for the year.

- (2) The school's **supplementary disability loading** for the year is the amount worked out using the following formula:

$$\begin{array}{ccc} \text{The supplementary} & & \text{The number of students} \\ \text{disability loading} & \times & \text{classified as needing a} \\ \text{percentage} & & \text{supplementary level of} \\ & & \text{adjustment} \\ & \times & \\ & \text{The SRS} & \\ & \text{funding amount} & \\ & \text{for the year} & \\ & \text{for a student} & \\ & \text{at the school} & \end{array}$$

- (3) The school's **substantial disability loading** for the year is the amount worked out using the following formula:

$$\begin{array}{ccc} \text{The substantial} & & \text{The number of students} \\ \text{disability loading} & \times & \text{classified as needing a} \\ \text{percentage} & & \text{substantial level of} \\ & & \text{adjustment} \\ & \times & \\ & \text{The SRS} & \\ & \text{funding amount} & \\ & \text{for the year} & \\ & \text{for a student} & \\ & \text{at the school} & \end{array}$$

- (4) The school's **extensive disability loading** for the year is the amount worked out using the following formula:

$$\begin{array}{ccc} \text{The extensive} & & \text{The number of students} \\ \text{disability loading} & \times & \text{classified as needing an} \\ \text{percentage} & & \text{extensive level of} \\ & & \text{adjustment} \\ & \times & \\ & \text{The SRS} & \\ & \text{funding amount} & \\ & \text{for the year} & \\ & \text{for a student} & \\ & \text{at the school} & \end{array}$$

- (5) The **supplementary disability loading percentage**, the **substantial disability loading percentage** and the **extensive disability loading percentage** are those percentages as prescribed for the school for the year by the regulations.
- (6) The number of students classified as needing a **supplementary level of adjustment**, a **substantial level of adjustment** or an **extensive level of adjustment** are the numbers of those students, so classified in accordance with the regulations, at the school for the year.

18 Section 38 (heading)

Repeat the heading, substitute:

38 Socio-educational disadvantage loading

19 Subsection 38(1)

Omit “*low socioeconomic status student*”, substitute
“*socio-educational disadvantage*”.

20 Paragraph 44(1)(a)

Omit “2014—\$150,000”, substitute “2018—\$172,728”.

21 Paragraph 44(1)(b)

Omit “2014—\$240,000”, substitute “2018—\$276,365”.

22 Subsection 44(2)

Omit “after 2014”.

23 Subsection 44(2) (formula)

Repeal the formula, substitute:

$$\frac{\text{The school's maximum size loading for the previous year}}{\times} \frac{\text{SRS indexation factor for the year}}$$

24 Subsection 44(3)

Repeal the subsection.

25 Paragraph 49(1)(a)

Omit “2014—\$10,000”, substitute “2018—\$11,515”.

26 Paragraph 49(1)(b)

Omit “2014—\$20,000”, substitute “2018—\$23,030”.

27 Subsection 49(2) (formula)

Repeal the formula, substitute:

$$\frac{\text{The school's starting amount for the previous year}}{\times} \frac{\text{SRS indexation factor for the year}}$$

28 Subsection 49(3)

Repeal the subsection.

29 Subsection 52(1)

Omit “each participating school’s *SES score*”, substitute “the *SES score* for a school”.

30 Subsection 52(2)

Repeal the subsection.

31 Subsection 52(3)

Repeal the subsection (not including the note).

32 Subsections 52(4) and (5)

Omit “subsection (3)”, substitute “subsection (1)”.

33 Subsection 53(1)

Omit “52(2) or (3)”, substitute “52(1)”.

34 Subsection 53(2)

Omit “52(3)”, substitute “52(1)”.

35 Subsection 53(4)

Repeal the subsection.

36 Subsection 54(3) (table)

Repeal the table, substitute:

Capacity to contribute percentage			
Item	Column 1 SES score	Column 2 Primary school	Column 3 Secondary school
1	93 or lower	10.00	10.00
2	94	10.86	12.19
3	95	11.71	14.38
4	96	12.57	16.56
5	97	13.43	18.75
6	98	14.29	20.94
7	99	15.14	23.13
8	100	16.00	25.31

Capacity to contribute percentage			
Item	Column 1 SES score	Column 2 Primary school	Column 3 Secondary school
9	101	17.90	27.50
10	102	19.80	29.69
11	103	21.70	31.88
12	104	23.60	34.06
13	105	25.50	36.25
14	106	27.40	38.44
15	107	29.30	40.63
16	108	31.20	42.81
17	109	33.10	45.00
18	110	35.00	47.19
19	111	37.62	49.38
20	112	40.23	51.56
21	113	42.85	53.75
22	114	45.46	55.94
23	115	48.08	58.13
24	116	50.69	60.31
25	117	53.31	62.50
26	118	55.92	64.69
27	119	58.54	66.88
28	120	61.15	69.06
29	121	64.92	71.25
30	122	68.69	73.44
31	123	72.46	75.63
32	124	76.23	77.81
33	125 or higher	80.00	80.00

37 Subsection 68(4)

Omit “indexes”.

38 Paragraph 68(4)(a)

Omit “an index of building prices”, insert “indexes of building prices and wage costs”.

39 Paragraph 68(4)(b)

Repeal the paragraph, substitute:

- (b) student enrolment in non-government schools.

40 At the end of Division 3 of Part 5

Add:

69B Transition adjustment funding

- (1) The Minister may, in writing, determine an amount of financial assistance that is payable under this section to a State or Territory for a transitioning school for a year from 2018 to 2027 (inclusive) if the Minister is satisfied that prescribed circumstances apply in relation to the school for that year.

Note: The regulations may prescribe matters that the Minister may or must have regard to in making a decision under this subsection (see paragraph 130(2)(b)).

- (2) The regulations may do either or both of the following:
- (a) prescribe an amount payable for a school for a year under a determination under subsection (1) or prescribe a method for working out that amount;
 - (b) prescribe a maximum amount that is payable for a school for a year under a determination under subsection (1) or prescribe a method for working out that maximum amount.
- (3) The regulations may prescribe different amounts, or different methods for working out amounts, for different circumstances.
- (4) The total of the amounts that the Minister determines under subsection (1) for a year in relation to particular prescribed circumstances must not exceed the amount:
- (a) prescribed by the regulations; or
 - (b) worked out in accordance with a method prescribed by the regulations.

(5) A determination under subsection (1) is not a legislative instrument.

41 Subsection 118(1) (table item 4)

Omit “52(3)”, substitute “52(1)”.

42 Paragraph 129(2)(a)

Repeal the paragraph.

43 Transitional provision—Saving SES scores

Despite the amendment of sections 52 and 53 of the *Australian Education Act 2013* (the Act) by this Schedule, an SES score in effect for a school immediately before the commencement of this item continues in effect for the school until the Minister determines another SES score for the school under subsection 52(1) of the Act.

44 Transitional provision—funding for previous years

The *Australian Education Act 2013* as in force immediately before the commencement of this item continues to apply in relation to financial assistance for years before 2018.

Part 2—Other policy changes

Australian Education Act 2013

45 Preamble

Repeal the preamble, substitute:

Preamble

The Parliament of Australia acknowledges the following matters.

Education is the foundation of a skilled workforce and a creative community. A strong and sustainable schooling system is critical for Australia's future prosperity. A good education prepares students for full participation in society, both in employment and in civic life. Education also has a role to play in overcoming social and economic disadvantage.

If Australia is to be a prosperous nation with a high standard of living in the 21st Century, our schooling system must provide children with the skills needed to participate fully in a knowledge-based economy. The performance of Australia's schools, and school students, must continuously improve; our capacity to innovate, to embrace change and to seize new opportunities will depend more and more on the education and skills of our community.

There is an ongoing and essential role for the Commonwealth in school education through its unique position to provide national policy leadership and facilitate national performance assessment and reporting. Transparency and accountability ensure public confidence in the education system and promote excellence in teaching and school leadership.

The Commonwealth will deliver record and growing levels of investment in schools. To help education authorities provide every child with a quality education, regardless of where they live and what school they attend, this investment will be fairly and transparently distributed and allocated according to need.

In its role as a national policy leader, the Australian Government will work collaboratively with States and Territories to achieve agreed national objectives and priorities for schools through the Council of Australian Governments and the Education Council.

To drive improvement in school outcomes, State and Territory education authorities will be required to deliver evidence-based reforms in schools.

46 Section 3

Repeal the section, substitute:

3 Objects of this Act

The objects of this Act are:

- (a) to provide a Commonwealth needs-based funding model for school education that:
 - (i) includes a base amount of funding for every student and loadings for students and schools who need extra support; and
 - (ii) is affordable, simple, predictable and fair; and
 - (iii) invests in evidence-based reforms that will improve student outcomes; and
- (b) to support the objectives of intergovernmental agreements on school education.

47 Section 4

Repeal the section, substitute:

4 Guide to this Act

This Act provides Commonwealth financial assistance for schools. The financial assistance is provided to States under section 96 of the Constitution, and to Territories under section 122 of the Constitution. The Act imposes requirements on States and Territories as conditions of this financial assistance, including requirements to comply with intergovernmental agreements on school education, and to implement nationally-agreed policy initiatives on school education.

Each school has an approved authority, which is approved by the Minister. For a government school located in a State or Territory, the approved authority is the State or Territory. For a non-government school, the approved authority is a body corporate that is approved by the Minister for the school.

Financial assistance is provided directly to a State or Territory for its government schools. Financial assistance for a non-government school located in a State or Territory is provided to the State or Territory which must give it to the approved authority for the school.

The amount of financial assistance that a school attracts for a year is worked out using the formula in Division 2 of Part 3. The financial assistance consists of a base amount for all schools, plus loadings for schools with students with greater needs. The base amount and most of the loadings are worked out by reference to an amount per student called the SRS funding amount. (SRS is short for schooling resource standard.)

The formula produces the Commonwealth share of a total amount of funding. Not all schools will attract the final Commonwealth share immediately. Most schools (called transitioning schools) will move to that share over a period of 6 to 10 years.

The Minister can determine other kinds of funding for any school under Part 5. The Minister can determine capital funding for non-government schools, which is ultimately provided to capital grants authorities and block grant authorities. The Minister can determine funding for schools in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to schools. In addition, the Minister can determine additional adjustment funding for transitioning schools for 6 to 10 years, in accordance with the regulations.

The Minister can also determine funding for non-government representative bodies for non-government schools. Non-government representative bodies are bodies that represent approved authorities for non-government schools. A block grant authority or non-government representative body is approved by the Minister.

The Minister may require an amount to be repaid, reduce an amount that would otherwise be payable, or delay making a payment, if an amount is owed to the Commonwealth under this Act (or other similar Acts) or there is a failure to comply with particular requirements.

47A Section 6

Insert:

approved system authority has the meaning given by subsection 78(6).

48 Section 6

Repeal the following definitions:

- (a) definition of *highly equitable*;
- (b) definition of *implementation plan*;
- (c) definition of *National Education Reform Agreement*;
- (d) definition of *new approved authority*;
- (e) definition of *new Commonwealth per student amount*;
- (f) definition of *new per student amount*;
- (g) definition of *non-participating school*;
- (h) definition of *non-participating States and Territories*;
- (i) definition of *old Commonwealth per student amount*;
- (j) definition of *old per student amount*;
- (k) definition of *participating government school*;
- (l) definition of *participating school*;
- (m) definition of *participating State or Territory*;
- (n) definition of *relevant arrangement*;
- (o) definition of *student with disability*.

49 Section 6 (note 2 at the end of the definition of school)

Omit “funding for participating”, substitute “recurrent funding for”.

49A Section 6

Insert:

school education reform agreement has the meaning given by subsection 22A(6).

State-Territory contribution amount has the meaning given by subsection 22A(2).

50 Section 6 (definition of *total entitlement*)

Omit “subsections 12(1) to (3)”, substitute “section 12”.

51 Section 6 (definition of *transition school*)

Repeal the definition.

52 Subsection 9(1) (heading)

Repeal the heading, substitute:

Recurrent funding

53 Paragraph 9(1)(a)

Omit “participating”.

54 Subsections 9(2) and (3)

Repeal the subsections.

55 Subsections 12(1) to (3)

Repeal the subsections, substitute:

A school’s *total entitlement* for a year is the amount payable to a State or Territory under Division 2 of Part 3 for the school for the year.

Note: In some circumstances, section 27 may affect a school’s total entitlement.

56 Section 14

Repeal the section.

57 Paragraph 21(a)

Omit “(recurrent funding) for a participating”, substitute “(funding formula for schools) for a”.

58 Paragraphs 21(b) and (c)

Repeal the paragraphs.

59 Section 22

Repeal the section, substitute:

22 Conditions of financial assistance—implementing national policy initiatives and agreements relating to school education

- (1) A payment of financial assistance under this Act to a State or Territory is subject to the condition that the State or Territory implements national policy initiatives for school education:
 - (a) agreed by the Ministerial Council from time to time; or
 - (b) prescribed by the regulations.

Note: Before regulations are made for the purposes of this subsection, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council (see subsection 130(5)).

- (2) A payment of financial assistance under this Act to a State or Territory is also subject to the following conditions:
 - (a) that the State or Territory is party to a national agreement relating to school education reform;
 - (b) that the State or Territory is party to an agreement with the Commonwealth relating to implementation by the State or Territory of school education reform;
 - (c) that the State or Territory complies with the agreements mentioned in paragraphs (a) and (b).
- (3) The regulations may prescribe agreements for the purposes of paragraphs (2)(a) and (b).

60 After section 22

Insert:

22A Conditions of financial assistance—State-Territory contributions

- (1) A payment of financial assistance under this Act to a State or Territory is subject to the following conditions:
 - (a) the total amount of funding provided by the State or Territory for a year for government schools located in the State or Territory must equal or exceed the State-Territory contribution amount for government schools in the State or Territory for the year;

- (b) the total amount of funding provided by the State or Territory for a year for non-government schools located in the State or Territory must equal or exceed the State-Territory contribution amount for non-government schools in the State or Territory for the year.
- (2) The **State-Territory contribution amount** for government schools or non-government schools in a State or Territory for a year is the amount worked out using the following formula:

$$\text{State-Territory share for the State or Territory} \times \text{Total SRS amount for the State or Territory}$$

- (3) Unless the State or Territory's school education reform agreement specifies otherwise, the **State-Territory share** for the State or Territory for a year from 2018 to 2023 (inclusive) is the percentage worked out using the following formula:

$$\text{Starting State-Territory share} + \left[\left(\frac{\text{Final State-Territory share} - \text{Starting State-Territory share}}{\text{Transition rate}} \right) \right]$$

where:

final State-Territory share means the State-Territory share (within the meaning of subsection (4)) for government schools or non-government schools, as the case requires, for the State or Territory for a year after 2023.

starting State-Territory share means the percentage prescribed by the regulations for the year for government schools or non-government schools, as the case requires, in the State or Territory.

transition rate means:

- (a) for 2018—0%; and
- (b) for each later year—the transition rate for the previous year increased by 20 percentage points.
- (4) Unless the State or Territory's school education reform agreement specifies otherwise, the **State-Territory share** for the State or Territory for a year after 2023:
- (a) for government schools is:

- (i) if the starting State-Territory share (within the meaning of subsection (3)) for the State or Territory for government schools is 75% or less—75%; or
 - (ii) if the starting State-Territory share for the State or Territory for government schools is more than 75% but less than 80%—the starting State-Territory share; or
 - (iii) if the starting State-Territory share for the State or Territory for government schools is 80% or more—80%; and
- (b) for non-government schools is:
- (i) if the starting State-Territory share for the State or Territory for non-government schools is 15% or less—15%; or
 - (ii) if the starting State-Territory share for the State or Territory for non-government schools is more than 15% but less than 20%—the starting State-Territory share; or
 - (iii) if the starting State-Territory share for the State or Territory for non-government schools is 20% or more—20%.
- (5) The **total SRS amount** for the State or Territory is:
- (a) for government schools—the sum of the amounts worked out under Division 2 of Part 3 for the year for each government school located in the State or Territory, as if the Commonwealth share for the year were 100%; and
 - (b) for non-government schools—the sum of the amounts worked out under Division 2 of Part 3 for the year for each non-government school located in the State or Territory, as if the Commonwealth share for the year were 100%.
- (6) The **school education reform agreement** for a State or Territory is the agreement between the State or Territory and the Commonwealth relating to implementation by the State or Territory of school education reform mentioned in paragraph 22(2)(b).

61 Paragraph 23(1)(a)

Omit “recurrent funding for participating schools”, substitute “funding formula for schools”.

62 Paragraphs 23(1)(b) and (2)(b)

Repeal the paragraphs.

63 Paragraph 25(1)(a)

Omit “(recurrent funding for participating schools) to a State or Territory for a year for a participating”, substitute “(funding formula for schools) to a State or Territory for a year for a”.

64 Paragraphs 25(1)(b) and (c)

Repeal the paragraphs.

65 Paragraph 25(1)(d)

Omit “referred to in paragraphs (a) to (c)”.

66 Subsection 26(1)

Omit “participating”.

67 Subsections 26(2) to (4)

Repeal the subsections, substitute:

- (4) The Minister must, in writing, determine an amount that the Minister is satisfied is the total entitlement for a school covered by Division 2 of Part 3 (funding formula for schools).

Note: A decision under this subsection is a reviewable decision (see Division 3 of Part 9).

68 Subsection 27(1)

Omit “participating school, or an approved authority for a participating school,”, substitute “school”.

69 Part 3 (heading)

Repeal the heading, substitute:

Part 3—Recurrent funding for schools

70 Division 1 of Part 3 (heading)

Repeal the heading, substitute:

Division 1—Preliminary

71 Section 31

Repeal the section, substitute:

31 Guide to this Part

Financial assistance for schools is payable by the Commonwealth each year, based on a formula in Division 2 of this Part. The formula produces the Commonwealth share of a total amount of funding. Most schools (called transitioning schools) will move to that share over a period of 6 to 10 years.

All schools are entitled to a base amount of funding for every student. Students and schools who need extra support will also attract additional loadings.

The base amount, and most of the loadings, are worked out by reference to an amount per student called the SRS funding amount. (SRS is short for schooling resource standard). There is a different SRS funding amount for primary and secondary students, which is indexed yearly.

The base amount for a school for a year reflects:

- (a) the number of students at the school for the year; and
- (b) the SRS funding amount for the year for a student at the school; and
- (c) the capacity of the school's community to contribute financially to the school.

The following loadings are also provided:

- (a) a loading for students with disability;
- (b) a loading for Aboriginal and Torres Strait Islander students;
- (c) a loading for socio-educational disadvantage;
- (d) a loading for students who have low English proficiency;
- (e) a loading for schools that are not in major cities;
- (f) a loading for schools that are not large schools.

The loadings (except the size loading) are a percentage of the relevant SRS funding amount multiplied by the number of students at a school that qualify for that loading. The size loading provides an amount based on the total number of students at a school. Small schools, and very small schools in very remote areas with a certain number of students, are entitled to the maximum size loading while large schools are not entitled to any size loading. All other schools are entitled to a proportion of the maximum size loading.

72 At the end of Division 1 of Part 3

Add:

31A Eligibility for funding under this Part

Financial assistance is not payable under this Part for a school unless:

- (a) there is an approved authority for the school; and
- (b) the approved authority is approved in relation to:
 - (i) one or more locations of the school; and
 - (ii) a level of education provided by the school at any of those locations.

73 Division 2 of Part 3 (heading)

Repeal the heading, substitute:

Division 2—The funding formula for schools

74 Section 32 (heading)

Repeal the heading, substitute:

32 The amount payable for a school

75 Section 32

Omit “participating”.

76 Section 32 (note 1)

Repeal the note.

77 Section 32 (note 2)

Omit “2”.

78 Paragraph 56(a)

Omit “for a year for a participating school, as worked out under section 32”, substitute “under Division 2 of Part 3 for a school for a year”.

79 Division 5 of Part 3

Repeal the Division.

80 Part 4

Repeal the Part.

81 Section 66

Omit:

This Part provides additional discretionary funding for any school (whether the school is a participating school or not).

substitute:

This Part provides additional discretionary funding for schools.

82 Section 66

Omit:

The Minister may also determine that financial assistance is payable for a school in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to the school.

substitute:

The Minister may also determine that financial assistance is payable for a school in special circumstances or if the Minister is satisfied that prescribed circumstances apply in relation to the school. In addition, the Minister can determine additional

adjustment funding for transitioning schools for the years 2018 to 2027, in accordance with the regulations.

83 Subsection 73(4)

Repeal the subsection.

84 Paragraphs 77(2)(a), (d) and (e)

Repeal the paragraphs.

85 After subsection 77(2)

Insert:

- (2A) In addition, the ongoing policy requirements for an approved authority for the non-government schools for which the authority is approved include the following:
- (a) the approved authority cooperates with the States and Territories in which the schools are located in implementing:
 - (i) the national policy initiatives mentioned in subsection 22(1); and
 - (ii) the agreements mentioned in paragraphs 22(2)(a) and (b); and
 - (b) the approved authority implements policy initiatives in accordance with the regulations.

86 Paragraph 77(3)(d)

Repeal the paragraph.

87 Paragraph 78(2)(a)

Omit “or 5 of Part 3 (recurrent funding for participating schools), Part 4 (recurrent funding for non-participating schools),”, substitute “of Part 3 (funding formula for schools)”.

88 Paragraph 78(2)(b)

Omit “, and with any implementation plan required by Part 7”.

89 Subsection 78(3)

Repeal the subsection, substitute:

- (3) An ongoing funding requirement for an approved authority for more than one school is to distribute all financial assistance received in accordance with Division 2 of Part 3 in accordance with a needs-based funding arrangement determined by the approved authority that complies with subsection (4) or (5).

Funding arrangement based on Division 2 of Part 3

- (4) A needs-based funding arrangement that complies with this subsection distributes to each school for which the authority is approved the amount of financial assistance worked out for the school under Division 2 of Part 3.

Funding arrangement based on other factors

- (5) A needs-based funding arrangement that complies with this subsection:
- (a) provides an amount per student that:
 - (i) represents the recurrent resources required to support a student with minimal educational disadvantage to achieve expected educational outcomes; and
 - (ii) takes account of efficiencies that can be realised while improving educational outcomes; and
 - (b) in addition to the amount per student mentioned in paragraph (a), provides loadings to students and schools with additional needs in order to support student achievement, including loadings for the following:
 - (i) students with disability;
 - (ii) Aboriginal and Torres Strait Islander students;
 - (iii) students with socio-educational disadvantage;
 - (iv) students who have low English proficiency;
 - (v) schools based on location;
 - (vi) schools based on size; and
 - (c) is publicly available and transparent.
- (6) An approved authority that distributes financial assistance in accordance with subsection (5) is an ***approved system authority***.

90 Paragraph 81(1)(d)

After “section 22”, insert “, 22A”.

91 Subsection 81(6)

Repeal the subsection.

92 Part 7

Repeal the Part.

93 Paragraph 108(a)

After “section 22”, insert “or 22A”.

94 Paragraph 110(2)(b)

Repeal the paragraph.

95 Subsection 110(4)

Repeal the subsection.

96 Paragraph 111(2)(b)

Repeal the paragraph.

97 Paragraph 111(3)(a)

Omit “recurrent funding for participating schools”, substitute “funding formula for schools”.

98 Paragraphs 111(3)(b) and (c)

Repeal the paragraphs.

99 Subsection 118(1) (table item 3A)

Repeal the item.

100 Subsection 118(1) (table item 24)

Repeal the item.

101 Subsection 122(2)

Repeal the subsection.

102 Paragraph 126(a)

Omit “recurrent funding for schools”, substitute “timing and amounts of recurrent funding”.

103 Paragraphs 127(a) and (b)

After “paid”, insert “to an approved authority”.

104 Subparagraph 127(c)(iv)

Repeal the subparagraph.

105 At the end of section 127

Add:

- (d) any other matter prescribed by the regulations.

106 Section 128

Repeal the section, substitute:

128 Independent reviews of arrangements and requirements relating to funding

- (1) Independent reviews of the operation of this Act, and in particular of arrangements and requirements relating to funding for schools, are to be conducted by a review board (the *National School Resourcing Board*):
 - (a) on request by the Minister; or
 - (b) on its own initiative.

Review boards

- (2) A review board must consist of at least 6, but no more than 9, members who:
 - (a) are appointed by the Minister; and
 - (b) in the opinion of the Minister, have suitable experience and expertise in the matters to be addressed by the review.
- (3) In appointing members, the Minister must consult with the following:
 - (a) the Ministerial Council;
 - (b) the national representative body for Catholic systemic schools;
 - (c) the national representative body for independent schools.
- (4) A review board must include members nominated by the bodies mentioned in paragraphs (3)(a) to (c).

- (5) The Minister must appoint one member to be the Chair of a review board, and another to be the Deputy Chair of the board.

Reviews to be conducted periodically

- (6) The independent reviews must be conducted periodically.
- (6A) An independent review of the matter mentioned in paragraph (7)(a) must be conducted at least annually.
- (7) A review must address at least one of the following:
- (a) compliance by States and Territories with section 22A;
 - (b) compliance by approved authorities with section 78;
 - (c) the matters set out in written terms of reference given to the review board by the Minister.
- (7A) A review may also address the following:
- (a) whether the Commonwealth, a State, a Territory or an approved authority has:
 - (i) not distributed funding on a needs basis; or
 - (ii) funded a school below its share for a year; or
 - (iii) funded a school above its share for a year;
 - (b) measuring improved educational outcomes for students against the rate of school funding.
- (8) In developing the terms of reference for a review, the Minister must:
- (a) consider the matters (if any) prescribed by regulations for the purposes of this paragraph; and
 - (b) consult the following:
 - (i) the Ministerial Council;
 - (ii) the national representative body for Catholic systemic schools;
 - (iii) the national representative body for independent schools.

Reports of reviews

- (9) The Chair of a review board must give to the Minister a report of a review as soon as practicable after the review is completed. A
-

review board must use its best efforts to provide a consensus report.

- (10) The Minister must:
- (a) give a copy of the report to the following:
 - (i) the Ministerial Council;
 - (ii) the national representative body for Catholic systemic schools;
 - (iii) the national representative body for independent schools; and
 - (b) cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Ministerial Council.
- (11) The Minister:
- (a) may have regard to reports of reviews in deciding:
 - (i) whether to take action in relation to a State or Territory or approved system authority under this Act; and
 - (ii) what action to take; and
 - (b) must consider the results of reviews and any impact of reviews on this Act.

Minister may undertake other reviews and investigations

- (12) This section does not prevent the Minister from undertaking any other review or investigation in relation to the operation of this Act.

Australian Education (Consequential and Transitional Provisions) Act 2013

108 Item 9 of Schedule 2

Repeal the item.

109 Transitional provision—regulations commencing on or after 1 January 2018

- (1) Paragraph 22(2)(b) of the *Australian Education Act 2013*, as in force at the commencement of this item, does not apply to regulations made for

Schedule 1 Amendments

Part 2 Other policy changes

the purposes of section 22 of that Act that commence on or after 1 January 2018.

- (2) Subsection 77(4) of the *Australian Education Act 2013*, as in force at the commencement of this item, does not apply to regulations made for the purposes of section 77 of that Act that commence on or after 1 January 2018.

Part 3—Miscellaneous technical amendments

Australian Education Act 2013

110 Section 6 (definition of *census day*)

Repeal the definition.

111 Section 6

Insert:

continuing requirement has the meaning given by subsection 96A(2).

112 Section 6 (definition of *distance education*)

Repeal the definition.

113 Section 6

Insert:

distance education student: a person is a *distance education student* at a school located in a State or Territory only if:

- (a) the person resides in the State or Territory; and
- (b) the State or Territory provides funding for the school (other than financial assistance provided to the State or Territory for the school in accordance with this Act) for students enrolled at the school who receive distance education (however described) from the school; and
- (c) the person is not approved as a home education student (however described) in accordance with the law of the State or Territory in which the person resides.

114 Section 6 (definition of *primary education*)

Repeal the definition, substitute:

primary education: see subsections 15(1) and (3).

115 Section 6 (definition of *protected information*)

Repeal the definition.

116 Section 6 (definition of *receives*)

Repeal the definition.

117 Section 6 (paragraph (a) of the definition of *relevant person*)

Repeal the paragraph, substitute:

- (a) for a reviewable decision referred to in an item of the table in subsection 118(1)—the person referred to in column 3 of that item; and

118 Section 6 (note 1 at the end of the definition of *school*)

Omit “only distance education”, substitute “education to distance education students only”.

119 Section 6

Insert:

school education information means information obtained under or for the purposes of this Act.

120 Section 6 (definition of *secondary education*)

Repeal the definition, substitute:

secondary education: see subsections 15(1) and (3).

121 Section 7

Repeal the section.

122 Paragraph 8(1)(b)

Omit “students receiving primary education or secondary education at the school on the school’s census day for the previous year are”, substitute “primary and secondary students at the school for the previous year were”.

123 Subsection 8(1) (note)

Repeal the note, substitute:

Note: For the number of students at the school, see section 16.

124 Paragraph 8(2)(b)

Omit “students receiving primary education or secondary education at the school on the school’s census day for the previous year are”, substitute “primary and secondary students at the school for the previous year were”.

125 Section 10

Repeal the section.

126 Subsections 15(1) and (3)

Omit “primary education or secondary education”, substitute “*primary education* or *secondary education*”.

127 Sections 16 and 17

Repeal the sections, substitute:

16 Working out the number of students at a school for a year

- (1) The regulations must prescribe a method for working out the number of students at a school for a year.
- (2) A reference in this Act to the number of students at a school for a year is a reference to the number worked out in accordance with the regulations.

128 Subsection 19(1)

Omit “only by distance education”, substitute “to distance education students only”.

129 Paragraph 25(2)(a)

Omit “(including information from a census day of a previous year)”.

130 Subsection 33(1) (note)

Repeal the note, substitute:

Note: For the number of students at a school for a year, see section 16.

131 Subsection 33(3)

Omit “at which students receive distance education”, substitute “at which there are distance education students”.

132 Paragraph 33(3)(a)

Omit “students receiving distance education at the school”, substitute “the distance education students”.

133 Subparagraph 33(3)(b)(i)

Omit “those students receiving distance education at the school”, substitute “the distance education students”.

134 Subsection 33(4) (note 2)

Omit “students who receive distance education at the school”, substitute “distance education students”.

135 Subsection 34(1) (note)

Omit “students receiving distance education”, substitute “distance education students”.

136 Subsection 37(3)

Repeal the subsection.

137 Subsection 38(3) (note)

Repeal the note, substitute:

Note: For the number of students at a school for a year, see section 16.

138 Subsection 39(2) (note)

Repeal the note.

139 Subsection 40(1) (note 1)

Repeal the note, substitute:

Note 1: For the number of students at a school for a year, see section 16.

140 Subsection 45(1)

Omit “students at the school receiving primary education on the school’s census day”, substitute “primary students at the school”.

141 Subsection 45(2)

Omit “students at the school receiving secondary education on the school’s census day”, substitute “secondary students at the school”.

142 Subsection 47(1) (note 2)

Repeal the note, substitute:

Note 2: For the number of students at a school for a year, see section 16.

143 Sections 48 and 51 (note)

Repeal the note, substitute:

Note: For the number of students at a school for a year, see section 16.

144 Subsections 54(2) and (3) (note)

Omit “students who receive distance education at the school”, substitute “distance education students”.

145 Subsection 77(4)

Repeal the subsection.

146 Subsections 81(4), 88(4) and 96(3)

Repeal the subsections.

147 At the end of Part 6

Add:

Division 5—Former approved authorities and bodies

96A Continuing requirements

- (1) The regulations may prescribe continuing requirements that must be met by a person who was:
 - (a) an approved authority for a school; or
 - (b) a block grant authority for a school; or
 - (c) a non-government representative body for a school.
- (2) A *continuing requirement* is a requirement that would or could be imposed on the person if the person were still the approved authority, block grant authority or non-government representative body for the school.

148 Section 108

After “This Division applies to a State or Territory if”, insert “the Minister is satisfied that”.

149 At the end of section 108

Add:

- ; (h) a person who was an approved authority, a block grant authority or a non-government representative body does not comply, is not complying or has not complied with a continuing requirement.

150 Subsections 109(1) and (2)

Omit “the Commonwealth makes”, substitute “the Minister is satisfied that the Commonwealth has made”.

151 Subsections 109(3) and (4)

Omit “State or Territory if:”, substitute “State or Territory if the Minister is satisfied that:”.

152 Paragraph 109(4)(a)

Omit “is paid”, substitute “has been paid”.

153 Paragraph 109(4)(b)

Omit “is spent”, substitute “has been spent”.

154 Paragraph 109(4)(c)

Omit “ceases”, substitute “has ceased”.

155 Subsection 118(1)

Omit “of the decisions referred to in column 1 of the following table”, substitute “decision of a kind referred to in column 1 of an item in the following table made under the provision referred to in column 2 of the item”.

156 Subsection 118(1) (table, heading to column 1)

Repeal the heading, substitute:

Column 1
Decision

157 Subsection 118(1) (table, heading to column 2)

Repeal the heading, substitute:

Column 2

**Provision under which the
decision is made**

158 Subsection 118(1) (table item 1)

Repeal the item.

159 Subsection 120(1)

Omit all the words after “unless the decision”, substitute:

was made:

- (a) by the Minister or Secretary personally; or
- (b) under paragraph 81(1)(a), (b) or (d) or subsection 88(1) or 96(1).

160 Subsection 120(3)

Omit “Secretary must either”, substitute “reviewable decision must be reviewed by”.

161 Paragraph 120(3)(a)

Repeal the paragraph, substitute:

- (a) the Secretary personally; or

162 Paragraph 120(3)(b)

Omit “cause the reviewable decision to be reviewed by a”, substitute “another”.

163 At the end of subsection 122(1)

Add:

- ; or (c) a reviewable decision made under paragraph 81(1)(a), (b) or (d) or subsection 88(1) or 96(1).

164 Subsection 122(3)

Omit “(1)(a) or (b)”, substitute “(1)(a), (b) or (c)”.

165 Section 125 (heading)

Repeal the heading, substitute:

125 Using, disclosing or publishing school education information

166 Paragraph 125(1)(a)

Omit “make a record of, use or disclose protected information (including protected information”, substitute “use or disclose school education information (including school education information”.

167 Paragraph 125(1)(b)

Omit “record, use or disclosure of protected information”, substitute “use or disclosure of school education information”.

168 Subsection 125(2)

Omit “protected information”, substitute “school education information”.

169 Paragraph 125(3)(a)

Omit “protected information”, substitute “school education information”.

170 Paragraph 125(3)(b)

Omit “protected information may be recorded,”, substitute “school education information may be”.

171 Paragraph 125(3)(c)

Omit “record, use or disclosure of protected information”, substitute “use or disclosure of school education information”.

172 Subsection 125(3) (note)

Omit “making records of, using or disclosing protected information”, substitute “using or disclosing school education information”.

173 Subsection 129(3)

Omit “an SES employee or acting SES employee”, substitute “an APS employee”.

174 Subparagraph 130(2)(a)(ii)

Repeal the subparagraph, substitute:

(ii) using or disclosing school education information;

175 Subsection 130(5)

Repeal the subsection, substitute:

Requirement to consult Ministerial Council

- (5) Before the Governor-General makes one of the following, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council:
- (a) a regulation for the purposes of:
 - (i) subsection 22(1) (conditions of financial assistance—implementing national policy initiatives relating to school education); or
 - (ii) section 22A (conditions of financial assistance—maintaining State and Territory contributions);
 - (iii) section 24 (condition of financial assistance—recovering amounts);
 - (b) a regulation that will affect an approved authority for a government school for the purposes of:
 - (i) section 77 (ongoing policy requirements for approved authorities); or
 - (ii) section 78 (ongoing funding requirements for approved authorities).

176 Transitional provision—review of decisions made before 1 January 2018

Division 3 of Part 9 (review of decisions) of the *Australian Education Act 2013*, as in force immediately before the commencement of this item, continues to apply in relation to a decision made before that commencement.

[*Minister's second reading speech made in—
House of Representatives on 11 May 2017
Senate on 13 June 2017*]

(85/17)
