



Better and Fairer Schools (Funding and Reform) Act 2024

No. 97, 2024

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

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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

[Assented to 29 November 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Better and Fairer Schools (Funding and Reform) Act 2024*.

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
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	30 November 2024
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	30 November 2024
3. Schedule 1, Part 2	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	
4. Schedule 1, Parts 3 and 4	The day after this Act receives the Royal Assent.	30 November 2024
5. Schedule 2	The day after this Act receives the Royal Assent.	30 November 2024

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule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—Grants of financial assistance to States and Territories

Part 1—Agreements relating to school education reform

Australian Education Act 2013

1 Paragraph 22(2)(a)

Repeal the paragraph, substitute:

- (a) that the State or Territory is party to an agreement that satisfies all of the following:
 - (i) the Commonwealth and one or more States or Territories are parties to the agreement;
 - (ii) it is open to any State or Territory to become a party to the agreement;
 - (iii) the agreement relates to school education reform;

2 Application provision—agreements

The amendment of the *Australian Education Act 2013* made by this Part applies in relation to a payment of financial assistance to a State or Territory if:

- (a) the payment is for 2025 or a later year; and
- (b) the payment is made on or after the commencement of this Part.

Part 2—Commonwealth share

Australian Education Act 2013

3 Preamble (after the paragraph beginning “The Commonwealth will deliver”)

Insert:

The Commonwealth’s investment in a better and fairer education system, as set out in this Act, provides a pathway to full and fair funding for Australian schools. It embeds a Commonwealth funding floor for government schools in all States and the Australian Capital Territory, by specifying that the Commonwealth share for such schools must be a minimum of 20 per cent; and it enables the Commonwealth to increase this funding share where there is an agreement in place to do so. Further, the Act embeds a Commonwealth funding floor of a minimum Commonwealth share of 40 per cent for government schools in the Northern Territory from 2029. This floor applies certainty and surety to the Commonwealth’s investment in government schools. It establishes a mechanism to protect the funding shares for government schools in Australia to make sure that Commonwealth funding shares cannot go backwards.

4 Section 6 (paragraph (a) of the definition of *Commonwealth share*)

Repeal the paragraph, substitute:

- (a) for a school not covered by paragraph (b) or (c)—has the meaning given by:
 - (i) for a government school—subsection 35A(1); or
 - (ii) for a non-government school—subsection 35A(6); and

5 Section 6 (paragraph (a) of the definition of *transition year*)

Omit “2027”, substitute “2024”.

6 Section 6 (at the end of the definition of *transition year*)

Add:

Note: *Transition year* has a modified meaning in section 69B: see subsection 69B(6).

7 Section 35A

Repeal the section, substitute:

35A Commonwealth share

Commonwealth share—government schools

- (1) The **Commonwealth share** for a government school for a year (subject to subsection (2) and section 35B) is the percentage prescribed by regulations made for the purposes of this subsection.

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) Regulations made for the purposes of subsection (1) must not prescribe a Commonwealth share for a government school for a year that is:
- (a) less than the following:
 - (i) if the school is located in the Northern Territory and the year is 2029 or a later year—40%;
 - (ii) otherwise—20%; or
 - (b) less than a percentage (the ***past percentage***) that has previously been prescribed, by regulations made for the purposes of subsection (1), as the Commonwealth share for the school for that year or the previous year (whether or not the regulations that prescribed the past percentage are still in force).
- (3) Without limiting the regulations that may be made for the purposes of subsection (1), those regulations may prescribe different Commonwealth shares (or different methods for working out Commonwealth shares) for government schools located in different States or Territories.
- (4) Subsection (3) does not limit the operation of:
- (a) subsection 33(3A) of the *Acts Interpretation Act 1901*; or
 - (b) subsection 13(3) of the *Legislation Act 2003*.

- (5) Section 42 (disallowance) of the *Legislation Act 2003* does not apply to regulations made for the purposes of subsection (1).

Commonwealth share—non-government schools

- (6) Unless regulations made for the purposes of this subsection prescribe otherwise, the **Commonwealth share** for a non-government school for a year (subject to section 35C) is 80%.

8 At the end of section 69B

Add:

Modified meaning of transition year for certain government schools

- (6) For the purposes of this section, and despite paragraph (a) of the definition of **transition year** in section 6, a transition year for a government school other than a 6-year transitioning government school is taken to be a year from 2018 to 2027 (inclusive).

9 At the end of subparagraph 130(5)(a)(ii)

Add “or”.

10 At the end of paragraph 130(5)(a)

Add:

or (iv) subsection 35A(1) (Commonwealth share—government schools);

11 Application provision—definition of *transition year*

To avoid doubt, the effect of the amendment by this Part of paragraph (a) of the definition of **transition year** in section 6 of the *Australian Education Act 2013* is that, on and after the commencement of this Part, the years 2025 to 2027 (inclusive) are (except for the purposes of section 69B of that Act) taken not to be transition years for a government school other than a 6-year transitioning government school, even if this Part commences on or after the start of one of those years.

Note: **Transition year** has a modified meaning in section 69B of the *Australian Education Act 2013*: see subsection 69B(6) of that Act.

12 Application provision—Commonwealth share

- (1) The repeal and substitution of section 35A of the *Australian Education Act 2013* by this Part applies in relation to 2025 and later years.
- (2) Subject to subitem (1), regulations made for the purposes of subsection 35A(1) or (6) of the *Australian Education Act 2013*, as amended by this Part, may prescribe the Commonwealth share for a school for a year whether the year starts before, on or after the commencement of this Part.

Part 3—State and Territory contributions

Australian Education Act 2013

13 Subsection 22A(3) (definition of *final State-Territory share*)

Repeal the definition, substitute:

final State-Territory share means the State-Territory share for government schools or non-government schools, as the case requires, for the State or Territory for 2024 (see subsection (4)).

14 After subsection 22A(4)

Insert:

- (4A) However, despite subsection (4), unless the Northern Territory's school education reform agreement specifies otherwise, the *State-Territory share* for the Northern Territory for 2029 or a later year is:
- (a) for government schools—60%; and
 - (b) for non-government schools—20%.

Part 4—Other amendments

Australian Education Act 2013

15 At the end of section 24

Add:

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

16 Subsection 77(3) (note)

Omit “Note”, substitute “Note 1”.

17 At the end of subsection 77(3)

Add:

Note 2: Before regulations are made for the purposes of this section that will affect an approved authority for a government school, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council (see subsection 130(5)).

18 At the end of subsection 78(2)

Add:

Note: Before regulations are made for the purposes of this section that will affect an approved authority for a government school, the Minister must consult, and have regard to any relevant decisions of, the Ministerial Council (see subsection 130(5)).

Schedule 2—Transparency and accountability of school funding

Australian Education Act 2013

1 At the end of section 3

Add:

- ; and (c) to support transparency and accountability in relation to funding arrangements for school education in Australia.

2 At the end of section 125 (after the note)

Add:

- (4) Without limiting subsection (2), the regulations may prescribe kinds of school education information (except personal information) that may be published under that subsection.

3 After section 127

Insert:

127A Annual statement by Minister

- (1) By the end of each year, the Minister must prepare a statement relating to the progress made, or to be made, in relation to:
 - (a) any agreement mentioned in paragraph 22(2)(a); or
 - (b) any proposed agreement that would satisfy the requirements of that paragraph.
- (2) The Minister must cause a copy of the statement to be tabled in each House of the Parliament within 15 sitting days of that House after the statement is completed.
- (3) If the statement under subsection (1) is made in writing, the statement is not a legislative instrument.

4 Application provision—annual statement

The first statement prepared by the Minister under section 127A of the *Australian Education Act 2013*, as inserted by this Schedule, must be completed before 1 January 2027.

*[Minister's second reading speech made in—
House of Representatives on 10 October 2024
Senate on 18 November 2024]*

(123/24)
