

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Education

Subject: - *Schools Assistance Act 2008*  
*Determination of Criteria to Define 'Eligible New Arrivals'*

### **Authority**

The *Schools Assistance Act 2008* (the "Act") provides, among other things, for the Commonwealth to give financial assistance to States for non-government schools in order to assist with the provision of intensive English tuition for newly arrived primary and secondary school students whose language backgrounds are other than English.

Section 92(3) of the Act provides that the Minister may determine criteria for being a person newly arrived in Australia for the purposes of paragraph (b) of the definition of 'eligible new arrival' under subsection 92(1) of the Act.

### **Purpose and operation**

This instrument determines the definition of an 'eligible new arrival' for the purposes of receiving financial assistance under the Act.

### **Background**

Support for a particular group of newly arrived students who require English tuition is provided through the Act. Financial assistance under the English as a Second Language – New Arrivals program must be provided to those who are newly arrived in Australia and require intensive English tuition. This is intended so that those in most need of assistance in order to get started in Australian education and society will receive specific targeted funding from the Australian Government.

The Minister for Education has previously defined specific visa sub-classes as eligible for funding under the Act. See Determinations 2010-268 and 2010-269 dated 14 July 2010. Non-government education authorities have been provided with lists of these eligible sub-classes.

The Minister may make these determinations in order to specify additional criteria for the program.

### **Explanation of Provisions**

These criteria provide clear advice to non-governmental education authorities as to the scope of funding eligibility in line with the purpose of supporting newly arrived students in their schooling.

## **Commencement**

This determination is taken to have commenced on 1 January 2009. Retrospective commencement is required to ensure that, during the period prior to the making of this Determination, no person was disadvantaged as a result of the definition of “Eligible New Arrival” under paragraph 92(1)(b) of the Act not having been determined since the enactment of the Act.

The retrospective commencement of this Determination does not infringe subsection 12(2) of the *Legislative Instruments Act 2003* because the matters determined are beneficial in nature and do not affect the rights of a person (other than the Commonwealth) as at the date of commencement so as to disadvantage any person. Nor does the retrospective commencement of this Determination impose any liabilities on any person (other than the Commonwealth) in respect of anything done or omitted to be done before the date of commencement.

## **Consultation**

Consultations were not undertaken with stakeholders for this instrument as the determination confers a benefit to schools and students.