



Australian Education Amendment (2014 Measures No. 1) Regulation 2014

Select Legislative Instrument No. 188, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 11 December 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Christopher Pyne
Minister for Education

OPC60808 - B

Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules.....	1
Schedule 1—Amendments commencing day after registration		2
	<i>Australian Education Regulation 2013</i>	2
Schedule 2—Amendments commencing 1 January 2015		6
	<i>Australian Education Regulation 2013</i>	6
Schedule 3—Amendments for the collection of data on students who are persons with a disability		7
	<i>Australian Education Regulation 2013</i>	7
Schedule 4—Amendments relating to amendments to the Act		9
	Part 1—Amendments relating to prescribed circumstances	9
	<i>Australian Education Regulation 2013</i>	9
	Part 2—Amendments relating to total entitlements	14
	<i>Australian Education Regulation 2013</i>	14

1 Name

This is the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014*.

2 Commencement

Each provision of this instrument 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
Provisions	Commencement
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.
2. Schedule 1	The day after this instrument is registered.
3. Schedule 2	1 January 2015.
4. Schedules 3 and 4	The day after this instrument is registered.

3 Authority

This instrument is made under the *Australian Education Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments commencing day after registration

Australian Education Regulation 2013

1 Paragraphs 6(a) and (c)

Omit “dependent”, substitute “dependant”.

2 Subsection 16(2)

Omit “2014, for”.

3 Before section 25

Insert:

Division 1—Capital funding

24B Indexes of building prices and wage costs

For paragraphs 68(4)(a) and (b) of the Act, the index of building prices and the index of wage costs is the composite index of construction activity costs in the Index Number for Australian and New Zealand Standard Industrial Classification, 2006 Class 3020 Non-residential Building Construction Australia, published by the Australian Bureau of Statistics in Table 17 (Output of the Construction industries) in the *Producer Price Indexes, Australia* (Catalogue No. 6427.0), as it exists from time to time.

Division 2—Special circumstances funding

4 At the end of section 29

Add:

Interest earned on financial assistance

- (8) Any interest earned on financial assistance mentioned in subsection (1) or (4) must be spent, or committed to be spent, in the same way as the financial assistance.

5 Subsection 30(1)

Repeal the subsection, substitute:

- (1) For paragraph 85(2)(a) of the Act, a block grant authority for a school must spend, or commit to spend, financial assistance that is payable to the authority under Division 2 of Part 5 of the Act (capital funding):
 - (a) for the purpose of capital expenditure relating to the provision of school education at a school for which the block grant authority is approved; and
 - (b) in accordance with any written directions of the Minister.

6 Subsection 30(3)

Repeal the subsection, substitute:

- (3) Subsection (3A) applies to financial assistance that:
 - (a) is paid to a block grant authority in accordance with the Act; and
 - (b) is recovered from:
 - (i) savings on capital expenditure; or
 - (ii) capital expenditure that has not proceeded.
- (3A) The financial assistance must be spent, or committed to be spent:
 - (a) on alternative capital expenditure, in relation to a school for which the block grant authority is approved, within:
 - (i) 1 year of the financial assistance being recovered; or
 - (ii) any other period determined by the Minister; and
 - (b) in accordance with any written directions of the Minister.

7 Subsection 30(5)

Omit “subsection”, insert “subsections (1), (3A) and”.

8 Section 31

Before “For”, insert “(1)”.

9 At the end of section 31

Add:

- (2) The financial assistance paid to a non-government representative body in 2014 must be spent, or committed to be spent, by the end of 2015.
- (3) The financial assistance paid to a non-government representative body in 2015 or a subsequent year must be spent, or committed to be spent, in the year in which the financial assistance is paid to the body.
- (4) Any interest earned on the financial assistance must be spent, or committed to be spent, in the same way as the financial assistance.

10 At the end of paragraph 34(3)(a)

Add:

- (iii) for an approved authority or a non-government representative body—interest earned on financial assistance has been spent, or committed to be spent, in accordance with subsection 29(8) or 31(4) (as the case requires); and

11 Subparagraph 34(3)(b)(ii)

Omit “allowed”, substitute “determined”.

12 Paragraph 37(1)(c)

Repeal the paragraph, substitute:

- (c) for an approved authority for a non-government school—the following:
 - (i) the financial administration of the school;
 - (ii) capital expenditure in relation to land or buildings at or for the school, including expenditure by contractors and sub-contractors carrying out works in relation to that capital expenditure.

13 At the end of the regulation

Add:

Part 8—Application and transitional provisions

67 Application provisions for the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014*

- (1) The amendments made by items 5, 6, 7 and 8 of Schedule 1 to the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014* apply in relation to financial assistance that has not been spent, or committed to be spent, at the commencement time.
- (2) The following apply in relation to interest (earned on financial assistance) that has not been spent, or committed to be spent, at the commencement time:
 - (a) item 4 of Schedule 1 to the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014*;
 - (b) subsection 31(4) as inserted by item 9 of that Schedule.
- (3) The amendment made by item 12 of Schedule 1 to the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014* applies in relation to capital expenditure that occurs after the commencement time.
- (4) In this section:

commencement time means the time when Schedule 1 to the *Australian Education Amendment (2014 Measures No. 1) Regulation 2014* commences.

Schedule 2—Amendments commencing 1 January 2015

Australian Education Regulation 2013

1 Section 7 (table item 1)

After “Victoria,” insert “Queensland, Western Australia,”.

2 Section 7 (table item 2)

Omit “Queensland, Western Australia and”.

3 Section 8 (table item 1)

After “Victoria,” insert “Queensland, Western Australia,”.

4 Section 8 (table item 2)

Omit “Queensland, Western Australia and”.

5 Paragraphs 9(1)(a) and (2)(a)

Omit “Queensland, Western Australia and”.

Schedule 3—Amendments for the collection of data on students who are persons with a disability

Australian Education Regulation 2013

1 Subsection 4(1)

Insert:

Ministerial Council disability guidelines for the year means the guidelines:

- (a) for the Nationally Consistent Collection of Data on School Students with Disability; and
- (b) approved by the Ministerial Council for the year mentioned in paragraph 58A(1)(a).

2 Subsection 52(1)

Omit “57”, substitute “58A”.

3 After subsection 52(3)

Insert:

- (3A) Information mentioned in section 58A must be given:
- (a) to the Department, or a person determined by the Minister for the purposes of this paragraph; and
 - (b) by the day determined by the Minister; and
 - (c) in the way determined by the Minister.
- (3B) In determining a matter under subsection (3A), the Minister must have regard to the Ministerial Council disability guidelines for the year.

4 After section 58

Insert:

58A Required information—students who are persons with a disability

- (1) The information in subsection (2) must be provided, as mentioned in section 52, in relation to each student at a school who:
- (a) is receiving primary education or secondary education at the school on the school's census day for a year; and
 - (b) is a person with a disability; and
 - (c) is a student about whom the information must be provided, as specified in the Ministerial Council disability guidelines for the year.

Note: A student who is a person with a disability is a different concept to a student with disability (as defined in the Act, and see also subsection 16(2) of this regulation).

- (2) The information is:
- (a) the student's level of education; and
 - (b) the student's category of disability; and
 - (c) the student's level of adjustment; and
 - (d) any other information required, by the Ministerial Council disability guidelines for the year, to be reported; and
 - (e) any other information determined by the Minister, by legislative instrument, for the purposes of this paragraph.
- (3) The information must not explicitly identify a student.
- (4) In this section:

category of disability has the same meaning as in the Ministerial Council disability guidelines for the year.

disability has the same meaning as in the *Disability Discrimination Act 1992*.

level of adjustment has the same meaning as in the Ministerial Council disability guidelines for the year.

Schedule 4—Amendments relating to amendments to the Act

Part 1—Amendments relating to prescribed circumstances

Australian Education Regulation 2013

1 Subsection 4(1)

Insert:

boarding Aboriginal and Torres Strait Islander student, in relation to a school, means an Aboriginal and Torres Strait Islander student who:

- (a) boards at the school; and
- (b) when the student is not boarding—has a residential address located in remote Australia or very remote Australia, as described in Volume 5 (Remoteness Structure) of the Australian Statistical Geography Standard.

2 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Capital and other funding

3 At the end of Part 4

Add:

Division 3—Funding in prescribed circumstances

Subdivision A—Indigenous boarders at non-government schools

25A Circumstances

For subsection 69A(1) of the Act, the circumstances for a school for 2014 are:

- (a) the school is a non-government school; and

- (b) the number of boarding Aboriginal and Torres Strait Islander students at the school for 2014 is at least:
- (i) 51; or
 - (ii) 50% of the number of students who board at the school.

Note: For the definition of *boarding Aboriginal and Torres Strait Islander student*, see subsection 4(1).

25B Amounts payable

Maximum amount payable for a school

- (1) For paragraph 69A(2)(b) of the Act, if the circumstances mentioned in section 25A of this regulation apply in relation to a school, the maximum amount that is payable for the school (the *relevant school*) for 2014 is the amount worked out using the formula:

$$0.4 \times \text{Sum of ATSI loading for 2014} \times \frac{\text{Total entitlement for 2014}}{\text{Total public funding for 2014}}$$

where:

sum of ATSI loading for 2014 means the sum of the Aboriginal and Torres Strait Islander loading for 2014 for all schools for which the approved authority of the relevant school (the *relevant approved authority*) is the approved authority.

total entitlement for 2014 means the relevant approved authority's total entitlement for 2014.

total public funding for 2014 means the relevant approved authority's total public funding amount (within the meaning of subsection 58(4) of the Act) for 2014.

- (2) For the definition of *sum of ATSI loading for 2014* in subsection (1), a reference to the Aboriginal and Torres Strait Islander loading for a school includes a reference to the Aboriginal and Torres Strait Islander loading that would be worked out for the school if section 37 of the Act were to apply to the school.

Total amount of funding for 2014

- (3) For paragraph 69A(4)(b) of the Act, the total of the amounts determined by the Minister for 2014, in relation to the circumstances mentioned in section 25A of this regulation, is the amount that is the sum of all the maximum amounts worked out under subsection (1) for 2014 for all relevant schools.

25C Matters that Minister must have regard to

- (1) For paragraph 130(2)(b) of the Act, this section sets out matters that the Minister must have regard to in making a decision under subsection 69A(1) of the Act about the amount of financial assistance that is payable for a school for 2014 in the circumstances mentioned in section 25A of this regulation.
- (2) The matters are the following:
- (a) the amount of financial assistance that:
 - (i) is payable to the approved authority for the school for 2014 under Division 5 of Part 3 of the Act; and
 - (ii) the Minister is satisfied is attributable to the school;
 - (b) if section 37 of the Act does not apply to the school for 2014—the amount of financial assistance mentioned in paragraph (a) that the Minister is satisfied would be attributable to the Aboriginal and Torres Strait Islander loading for the school for 2014 if section 37 of the Act were to apply to the school.

25D Purpose for which funding is spent or committed to be spent

- (1) For paragraph 78(2)(a) of the Act, an approved authority for a school must spend, or commit to spend, financial assistance that is payable for the school under subsection 69A(1) of the Act in the circumstances mentioned in section 25A of this regulation:
- (a) for the purpose of providing school education; and
 - (b) in accordance with any written directions of the Minister.
- (2) Subsections 29(2) and (3) have effect as if a reference in those subsections to subsection (1) included a reference to subsection (1) of this section.

Schedule 4 Amendments relating to amendments to the Act

Part 1 Amendments relating to prescribed circumstances

- (3) For the purposes of paragraph (1)(b), the Minister may give written directions to an approved authority.
- (4) A direction given under subsection (3) is not a legislative instrument.
- (5) Financial assistance mentioned in subsection (1) must be spent, or committed to be spent:
 - (a) in the year in which the financial assistance is paid to the approved authority; or
 - (b) as otherwise directed by the Minister under paragraph (1)(b).
- (6) Any interest earned on financial assistance mentioned in subsection (1) must be spent, or committed to be spent, in the same way as the financial assistance.

Subdivision B—National school for travelling show children

25E Circumstances

- (1) For subsection 69A(1) of the Act, the circumstances for a school for a relevant year are that the school is the Dubbo School of Distance Education.

Note: The Dubbo School of Distance Education is a government school in New South Wales.

- (2) In this Subdivision:

relevant year means each of 2015 and 2016.

25F Amounts payable

Maximum amount payable for a school

- (1) For paragraph 69A(2)(b) of the Act, if the circumstances mentioned in section 25E of this regulation apply in relation to a school, the maximum amount that is payable for the school for a relevant year is \$100 000.

Total amount of funding for a relevant year

- (2) For paragraph 69A(4)(a) of the Act, the total of the amounts determined by the Minister for a relevant year, in relation to the

circumstances mentioned in section 25E of this regulation, is \$100 000.

25G Purpose for which funding is spent or committed to be spent

- (1) For paragraph 78(2)(a) of the Act, an approved authority for a school must spend, or commit to spend, financial assistance that is payable for the school under subsection 69A(1) of the Act in the circumstances mentioned in section 25E of this regulation:
 - (a) for the purpose of providing school education; and
 - (b) in accordance with any written directions of the Minister.
- (2) Subsections 29(2) and (3) have effect as if a reference in those subsections to subsection (1) included a reference to subsection (1) of this section.
- (3) For the purposes of paragraph (1)(b), the Minister may give written directions to an approved authority.
- (4) A direction given under subsection (3) is not a legislative instrument.
- (5) Financial assistance mentioned in subsection (1) must be spent, or committed to be spent:
 - (a) in the year in which the financial assistance is paid to the approved authority; or
 - (b) as otherwise directed by the Minister under paragraph (1)(b).
- (6) Any interest earned on financial assistance mentioned in subsection (1) must be spent, or committed to be spent, in the same way as the financial assistance.

4 Subsection 29(4)

Omit “Division 3 of Part 5”, substitute “section 69”.

5 Subparagraph 34(3)(a)(i)

After “31”, insert “or Division 3 of Part 4”.

Part 2—Amendments relating to total entitlements

Australian Education Regulation 2013

6 Subsection 12(1)

Omit “an amount of financial assistance”, substitute “the total entitlement”.

7 Subsections 12(2), (3) and (4)

Omit “for the school”, substitute “in relation to the school”.

8 At the end of section 12

Add:

- (5) If an approved authority is the approved authority for more than one participating school, this section applies in relation to working out the approved authority’s total entitlement only to the extent that the total entitlement is attributable to the school in relation to which the event occurs.

9 Subsection 13(1)

Omit “an amount of financial assistance”, substitute “the total entitlement”.

10 Subsections 13(2), (3) and (4)

Omit “for the school”, substitute “in relation to the school”.

11 At the end of section 13

Add:

- (5) If an approved authority is the approved authority for more than one participating school, this section applies in relation to working out the approved authority’s total entitlement only to the extent that the total entitlement is attributable to the school in relation to which the event occurs.