



Australian Education Amendment (2015 Measures No. 1) Regulation 2015

Select Legislative Instrument No. 140, 2015

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 20 August 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Christopher Pyne
Minister for Education and Training

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1 Name

This is the *Australian Education Amendment (2015 Measures No. 1) Regulation 2015*.

2 Commencement

- (1) 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 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The day after this instrument is registered. | 25 August 2015 |

Note: This table relates only to the provisions of this instrument as originally made.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

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

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Australian Education Regulation 2013

1 Subsection 4(1) (note at the end of the definition of *Data Standards Manual: Student Background Characteristics*)

Repeal the note, substitute:

Note: The Data Standards Manual: Student Background Characteristics could in 2015 be viewed on ACARA's website (<http://www.acara.edu.au>).

2 Subsection 4(1) (definition of *participating non-government school*)

Repeal the definition.

3 Subsection 4(1) (definition of *reporting period*)

Omit "52(3)", substitute "52(4)".

4 Paragraph 4(2)(b)

Omit "the entire", substitute "any part of the".

5 Subsection 11(2)

Repeal the subsection, substitute:

- (2) A State or Territory must ensure that there is in force an arrangement (whether by or under a law, or otherwise) that complies with subsection (3) in relation to each approved authority, block grant authority or non-government representative body to whom the State or Territory may pay an amount of financial assistance in accordance with the Act.

6 Subsection 11(3)

Omit "The arrangement", substitute "An arrangement in relation to an approved authority, a block grant authority or a non-government representative body".

7 At the end of sections 12 and 13

Add:

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- (6) This section applies subject to section 13A (schools for which special circumstances exist).

8 At the end of Part 2

Add:

13A Pro-rating of recurrent funding—schools for which special circumstances exist

- (1) For section 27 of the Act, the total entitlement is to be determined in accordance with this section for a year if:
- (a) one or more of the following events occurs during the year:
 - (i) a school begins to provide primary education or secondary education;
 - (ii) a school (other than a school to which subparagraph (i) applies) becomes entitled to financial assistance under Part 3 of the Act;
 - (iii) a school ceases to provide primary education or secondary education;
 - (iv) a school (other than a school to which subparagraph (iii) applies) ceases to be entitled to financial assistance under Part 3 of the Act; and
 - (b) the Minister is satisfied that special circumstances exist for the school.

Note: An example of special circumstances would be if a school both begins and ceases to provide primary education or secondary education during the same year.

- (2) The amount of financial assistance that is to be determined in relation to the school for the year is the lesser of:
- (a) the amount the Minister considers appropriate; and
 - (b) the full amount of financial assistance.
- (3) 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 Sections 18 and 19

Repeal the sections, substitute:

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18 Other loadings

Low socioeconomic status student loading—students in quartile 1

- (1) For subsection 38(4) of the Act, the number of students at a school for a year who are in quartile 1 is the number worked out using the following formula:

$$\text{Number of students at the school for the year} \times \frac{\text{ACARA quartile 1 students for the school for the year}}{\text{Total ACARA students for the school for the year}}$$

Low socioeconomic status student loading—students in quartile 2

- (2) For subsection 38(7) of the Act, the number of students at a school for a year who are in quartile 2 is the number worked out using the following formula:

$$\text{Number of students at the school for the year} \times \frac{\text{ACARA quartile 2 students for the school for the year}}{\text{Total ACARA students for the school for the year}}$$

Low English proficiency loading

- (3) For subsection 39(2) of the Act, the number of students at a school for a year who have low English proficiency is the number worked out using the following formula:

$$\text{Number of students at the school for the year} \times \frac{\text{ACARA low English proficiency students for the school for the year}}{\text{Total ACARA students for the school for the year}}$$

Definitions

- (4) In this section:

ACARA low English proficiency students for the school for the year means the number of students at the school for the year identified by ACARA as disadvantaged language background other than English students.

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- Note 1: ACARA identifies a student as a disadvantaged language background other than English student if:
- (a) ACARA identifies the student as having a language background other than English; and
 - (b) at least one of the student's parents completed school education only to year 9 (or equivalent) or below.

Note 2: ACARA uses the definitions in the Data Standards Manual: Student Background Characteristics to determine language background and school education.

ACARA quartile 1 students for the school for the year means the number of students at the school for the year identified by ACARA as being in the lowest Socio-Educational Advantage quarter.

Note: ACARA identifies a student as being in a quarter by allocating all students in a school to a scale of socio-educational advantage and segmenting the scale into quarters. Information about socio-educational advantage could in 2015 be viewed on ACARA's website (<http://www.acara.edu.au>).

ACARA quartile 2 students for the school for the year means the number of students at the school for the year identified by ACARA as being in the second lowest Socio-Educational Advantage quarter.

total ACARA students for the school for the year means the number of students at the school for the year as identified by ACARA.

Note: The total ACARA students for the school for the year may be different from the number of students at the school for the year worked out under sections 16 and 17 of the Act.

10 Before section 24B

Insert:

24A Indexation percentage

For paragraph 68(3)(b) of the Act, the indexation percentage for 2015 is 102.30%.

11 Section 25A

Before "For subsection", insert "(1)".

12 Section 25A

Omit "2014" (first occurring), substitute "a relevant year".

13 Paragraph 25A(b)

Omit “2014”, substitute “the relevant year”.

14 At the end of section 25A

Add:

(2) In this Subdivision:

relevant year means each of 2014, 2015 and 2016.

15 Subsection 25B(1)

Repeal the subsection, substitute:

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 for a relevant year, the maximum amount that is payable for the school (the *relevant school*) for the relevant year is the amount worked out using the formula:

$$\text{Relevant decimal fraction} \times \text{Sum of ATSI loading} \times \frac{\text{Total entitlement}}{\text{Total public funding}}$$

where:

relevant decimal fraction means:

- (a) if the relevant year is 2014—0.4; or
- (b) if the relevant year is 2015—0.2; or
- (c) if the relevant year is 2016—0.1.

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

total entitlement means the relevant approved authority’s total entitlement for the relevant year.

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

16 Subsection 25B(2)

Omit “*for 2014*”.

17 Subsection 25B(3) (heading)

Repeal the heading, substitute:

Total amount of funding for relevant year

18 Subsection 25B(3)

Omit “2014” (first occurring), substitute “a relevant year”.

19 Subsection 25B(3)

Omit “2014” (last occurring), substitute “the relevant year”.

20 Subsection 25C(1)

Omit “2014”, substitute “a relevant year”.

21 Subsection 25C(2)

Omit “2014” (wherever occurring), substitute “the relevant year”.

22 Paragraphs 28(1)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the experience and expertise of the person, and key individuals of the person, in administering a school and providing education at a school; and
- (b) the person’s governance arrangements, including:
 - (i) arrangements for managing and supervising the provision of education at the school; and
 - (ii) arrangements to ensure compliance with the laws of the Commonwealth, a State or a Territory relating to the provision of school education; and

23 Paragraphs 28(2)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the person’s governance arrangements, including arrangements to receive independent and professional advice about the way in which the person complies with its obligations under the Act; and

- (aa) whether there is in force an arrangement of a kind mentioned in subsections 11(2) and (3) (recovering debts) in relation to the person; and
- (b) the record of financial management of the person, and key individuals of the person, taking into account whether the person or individual has been:
 - (i) bankrupt or insolvent; or
 - (ii) placed under external administration; and

24 Paragraph 29(2)(g)

Repeal the paragraph, substitute:

- (g) in any case—administrative costs associated with the authority's compliance with the Act and this regulation.

25 Subsection 30(2)

Repeal the subsection, substitute:

- (2) The financial assistance must (subject to subsections (3) and (3A)) be spent, or committed to be spent:
 - (a) in the year in which the financial assistance is paid to the block grant authority; or
 - (b) before a day, or within a period, determined by the Minister for the block grant authority.

26 Paragraph 30(3A)(a)

Repeal the paragraph, substitute:

- (a) on alternative capital expenditure, in relation to a school for which the block grant authority is approved:
 - (i) within 12 months of the financial assistance being recovered; or
 - (ii) before a day, or within a period, determined by the Minister for the block grant authority; and

27 Paragraph 35(1)(b)

Repeal the paragraph, substitute:

- (b) for each of the schools—the amount of financial assistance paid in accordance with the Act that is allocated by the authority to the school for the year;

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- (c) for each participating government school—information showing how the amount mentioned in paragraph (b) was determined in accordance with the authority’s needs-based funding arrangement;
 - (d) for each non-participating school—information showing how the amount mentioned in paragraph (b) was determined, including:
 - (i) whether a base amount was allocated and, if so, what that amount was; and
 - (ii) whether a per student amount was allocated and, if so, what that amount was; and
 - (iii) whether additional amounts were allocated targeting areas of additional need and, if so, what those amounts were;
 - (e) the total amount of financial assistance paid in accordance with the Act to the authority that is not allocated by the authority to the schools.

Note: For paragraph (c), see section 61 of this regulation and paragraph 78(3)(a) of the Act in relation to needs-based funding arrangements for approved authorities for more than one school.

28 Paragraph 36(1)(b)

Repeal the paragraph.

29 Paragraph 36(1)(c)

Omit “in any case—”.

30 At the end of subsection 36(1)

Add:

- ; (f) for an approved authority—the total amount of financial assistance paid in accordance with the Act to the authority that is not allocated by the authority to a school;
- (g) for an approved authority for more than one school—information showing how each amount mentioned in paragraph (a) for a school was determined in accordance with the authority’s needs-based funding arrangement.

Note: For paragraph (g), see section 61 of this regulation and paragraph 78(3)(a) of the Act in relation to needs-based funding arrangements for approved authorities for more than one school.

31 Subsection 43(1) (table item 4)

Repeal the item, substitute:

| | | | |
|---|---|---|--------------------------------|
| 4 | NAP sample assessment in science literacy | Once every 3 years beginning in 2015 | Selected students in year 6 |
|---|---|---|--------------------------------|

32 Section 46 (heading)

Repeal the heading, substitute:

46 Providing information about a school's census

33 Subsections 46(1), (2) and (4)

Omit "participating".

34 Section 47 (heading)

Repeal the heading, substitute:

47 Government schools—information about the schools

35 Section 47

Omit "participating".

36 Section 48 (heading)

Repeal the heading, substitute:

48 Government schools—information about students

37 Subsections 48(1) and (2)

Omit "participating".

38 Section 49 (heading)

Repeal the heading, substitute:

49 Non-government schools—information about the school

39 Section 49

Omit "participating".

40 Section 50 (heading)

Repeal the heading, substitute:

50 Non-government schools—information about students**41 Subsections 50(1) and (2)**

Omit “participating”.

42 Section 51

Repeal the section.

43 Section 53 (table item 3, column headed “Performance measures”, paragraph (a))

Omit “for 2015,”.

44 Section 53 (table item 7)

Repeal the item, substitute:

- 7 The performance measures for student participation are:
- (a) the attendance rate for students in the reporting period; and
 - (b) the proportion of students who attended school 90% or more of the time during the reporting period; and
 - (c) the apparent retention rates from year 10 to year 12 for the reporting period.

45 Subsection 60(1) (note 1)

Repeal the note, substitute:

Note 1: The information need not be made separately publicly available for the purposes of this section if it has been made publicly available for some other purpose, provided that subsection (3) is also complied with.

46 Subsection 65(1)

Omit “or use”, substitute “, use or disclose”.

47 Subsection 65(2)

After “Minister may”, insert “also”.

48 After paragraph 65(2)(c)

Insert:

- (ca) a State or Territory body responsible for school education in the State or Territory, for the purposes of its functions;

49 At the end of section 65

Add:

- (4) To avoid doubt, this section does not limit any other lawful use or disclosure of protected information.

50 Paragraph 66(1)(c)

Omit “subsection 110(1)”, substitute “paragraph 110(1)(a) or (b)”.

51 At the end of Part 8

Add:

68 Application provisions for the *Australian Education Amendment (2015 Measures No. 1) Regulation 2015*

Attendance rate

- (1) Paragraph 4(2)(b), as in force at the commencement time, applies in relation to reporting periods that start at or after that time.

Agreements about debt recovery

- (2) Subsections 11(2) and (3), as in force at the commencement time, apply in relation to financial assistance that is paid to a State or Territory under the Act at or after that time.

Pro-rating of recurrent funding

- (3) Sections 12, 13 and 13A, as in force at the commencement time, apply in relation to the 2015 year and later years.

Loadings

- (4) Section 18, as in force at the commencement time, applies in relation to the 2015 year and later years.

Spending financial assistance—administrative costs for approved authorities associated with compliance

- (5) Paragraph 29(2)(g), as in force at the commencement time, applies in relation to financial assistance whether it is paid to an approved authority before, at or after that time.

Spending financial assistance—time within which block grant authorities are to spend assistance

- (6) Subsections 30(2) and (3A), as in force at the commencement time, apply in relation to financial assistance whether it is paid to a block grant authority before, at or after that time.

Reports relating to financial assistance and financial operations

- (7) Sections 35 and 36, as in force at the commencement time, apply in relation to the 2015 year and later years.

Information relating to a school's census

- (8) Subdivision E of Division 3 of Part 5, as in force at the commencement time, applies in relation to the 2015 year and later years.

Information for the purposes of a national program to collect data on schools and school education

- (9) Subdivision F of Division 3 of Part 5, as in force at the commencement time, applies in relation to a reporting period that starts at or after that time.

Protected information

- (10) Section 65, as in force at the commencement time, applies in relation to protected information whether the information is obtained before, at or after that time.

Definitions

- (11) In this section:

commencement time means the time when the *Australian Education Amendment (2015 Measures No. 1) Regulation 2015* commences.