

2022

The Parliament of the
Commonwealth of Australia¹

HOUSE OF REPRESENTATIVES

Presented and read a first time

Australian Education Amendment (Education Reform) Bill 2022

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No. , 2022

A Bill to amend the *Australian Education Act 2013*, and for related purposes.

¹ This publication is a part of AustraliaSim (r/AustraliaSim), a reddit based simulation of Australian politics. This has no connection with the Australian Government, nor intends to imply such a connection.

The Parliament of Australia enacts:

1 - Short title

This Bill is the *Australian Education Amendment (Education Reform) Bill 2022*.

2 - Commencement

This Bill commences, or is taken to have commenced, on the day it receives Presidential assent.

Schedule 1—Amendments

Part 1—Funding Reform

Australian Education Act 2013

1 - Preamble

Omit "non-government education authorities".

2 - Subsection 3(2)

Omit "non-government education authorities."

3 - Subsection 3(2)(Note 1)

Omit "non-government education authorities."

4 - Section 4

Repeal the section, substitute:

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.

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. Financial assistance is provided directly to a State or Territory for its government schools. Non-government schools are not recognised as schools for the purposes of the Act.

A participating State or Territory is a State or Territory that is a party to the National Education Reform Agreement and has a bilateral agreement with the Commonwealth in relation to implementing that Agreement. An approved authority for more than one participating school must develop an implementation plan that explains how the authority intends to implement those reforms.

Financial assistance for participating schools 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.) All participating schools will attract the amount worked out using the formula immediately.

The Minister can determine other kinds of funding for any school under Part 5. The Minister can determine capital funding, which is ultimately provided to capital grants 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.

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.

5 - Section 5

Repeal the section, substitute:

5 - Binding the Commonwealth

- (1) This Act binds the Commonwealth in each of its capacities.
- (2) This Act does not make the Commonwealth liable to be prosecuted for an offence.

6 - Section 6(Definition of *capital grants authority*)

Repeal the section, substitute:

capital grants authority for a school means the approved authority for the school.

7 - Section 6(Definition of *Commonwealth share*)

Repeal the definition, substitute:

Commonwealth share has the meaning given by section 36.

8 - Section 6

Repeal the following definitions:

- (a) definition of *new approved authority*.
- (b) definition of *new Commonwealth per student amount*.
- (c) definition of *new per student amount*.
- (d) definition of *non-government representative body*.
- (e) definition of *non-government school*.
- (f) definition of *old Commonwealth per student amount*.
- (g) definition of *old per student amount*.
- (h) definition of *transition school*.
- (i) definition of *block grant authority*.
- (j) definition of *capacity to contribute percentage*.

9 - Section 6 (Definition of *participating school*)

Repeal the definition, substitute:

participating school: a school is a *participating school* if:

- (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; and
- (c) the school is a government school located in a State or Territory in relation to which a determination is in force under section 14 (Minister to determine participating States and Territories)

Note: Non-government schools are not taken to be participating schools.

10 - Section 6(Definition of *school*)(Note 1)

Repeal the note.

11 - Paragraph 9(4)(a)

Omit "or block grant authority".

12 - Subsection 9(5)

Repeal the subsection.

13 - Subsection 9(7)

Repeal the subsection.

14 - Section 19

Repeal the section.

15 - Subsection 21(d)

Omit "or block grant authority".

16 - Subsection 21(f)

Repeal the subsection.

17 - Subsection 22(1) (Note)

Omit "and non-government education authorities".

18 - Section 23

Repeal the section.

19 - Subsection 24(b)

Repeal the subsection, substitute:

(b) an approved authority or a capital grants authority.

20 - Paragraph 28(1)(b)

Repeal the paragraph.

21 - Section 30

Repeal the section.

22 - Section 31

Repeal the section, substitute:

Financial assistance for participating 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.

All participating 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

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 students with a low socioeconomic status;
- (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.

All participating schools will attract the amount worked out using the formula immediately.

23 - Section 32(Note 1)

Repeal the note.

24 - Subsection 33(1) (formula)

Repeal the formula, substitute:

$$\begin{array}{ccc} \text{The number of} & & \text{The SRS funding} \\ \text{students at the} & \times & \text{amount for the year for} \\ \text{school for the year} & & \text{a student at the school} \end{array}$$

25 - Subsection 33(3)

Repeal the subsection.

26 - Subsection 33(4)

Repeal the subsection.

27 - Subsection 34(1)

Repeal the subsection, substitute:

- (1) The ***SRS funding amount*** for a year for a primary student is:
 - (a) for 2022—\$15,000; or
 - (b) if the regulations prescribe another amount greater than that specified in paragraph (a) for a primary student for the year—that other amount; or
 - (c) otherwise—the SRS funding amount for a primary student for the year, as indexed under subsection (3).

28 - Subsection 34(2)

Repeal the subsection, substitute:

- (2) The ***SRS funding amount*** for a year for a secondary student is:
 - (a) for 2022—\$20,000; or
 - (b) if the regulations prescribe another amount greater than that specified in paragraph (a) for a secondary student for the year—that other amount; or
 - (c) otherwise—the SRS funding amount for a secondary student for the year, as indexed under subsection (3).

29 - Subsection 34(3) (formula)

Repeal the formula, substitute:

$$\frac{\text{The SRS funding amount for such a student for the previous year}}{\text{for the previous year}} \times 105\%$$

30 - Paragraph 36

After paragraph 35, insert:

The *Commonwealth share* for a participating school for a year is 100%.

31 - Subdivision A of Division 4 of Part A

Repeal the subdivision.

32 - Division 5 of Part 3

Repeal the division.

33 - Subsection 67(1)

Omit "(including a capital grants authority that is also a block grant authority for the school)."

34 - Subsection 67(2)

Repeal the subsection.

35 - Subsection 67(3)

Repeal the subsection, substitute:

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

36 - Division 4 of Part 5

Repeal the Division.

37 - Section 71

Repeal the section, substitute:

The Minister approves approved authorities under this Part.

An approved authority is the body to which recurrent funding under this Act is ultimately paid. The approved authority is the relevant State or Territory.

An approved authority must satisfy basic requirements (such as being fit and proper), as well as ongoing requirements (such as requirements relating to dealing with financial assistance and providing information).

38 - Division 3 of Part 6

Repeal the Division.

39 - Division 4 of Part 6

Repeal the Division.

40 - Section 107

Repeal the section, substitute:

This Part gives the Minister the power to take action if an approved authority or a State or Territory fails to comply with particular requirements or does not repay an amount that it owes to the Commonwealth. The Minister may require a State or Territory to pay an amount, reduce an amount that would otherwise be payable under this Act or delay a payment.

Division 3 deals with recoverable payments (which are payments that the Commonwealth does not otherwise have the power to make). The Secretary must report on any recoverable payments that are made.

41 - Subsection 108(c)

Repeal the subsection.

42 - Subsection 108(d)

Repeal the subsection.

43 - Subsection 108(e)

Omit "or block grant authority."

44 - Subsection 108(f)

Repeal the subsection.

45 - Subsection 108(g)

Omit "or block grant authority."

46 - Subparagraph 109(3)(a)(ii)

Omit "or block grant authority."

47 - Subparagraph 109(3)(a)(iii)

Omit "or block grant authority."

48 - Paragraph 109(4)(a)

Omit "block grant authority or."

49 - Paragraph 110(2)(c)

Omit "or block grant authority."

50 - Paragraph 110(2)(d)

Repeal the paragraph.

51 - Paragraph 111(2)(c)

Omit "or block grant authority."

52 - Paragraph 110(2)(d)

Repeal the paragraph.

53 - Paragraph 110(3)(e)

Repeal the paragraph.

54 - Paragraph 110(3)(g)

Repeal the paragraph.

55 - Subsection 118(1) (table)

Repeal the following items:

- (a) table item 12.
- (b) table item 13.
- (c) table item 14.
- (d) table item 15.
- (e) table item 17.
- (f) table item 18.
- (g) table item 19.
- (h) table item 20.
- (i) table item 21.
- (j) table item 22.
- (k) table item 23.

56 - Subsection 118(1) (table, column 3 of item 25A)

Omit "block grant authority or non-government representative body."

57 - Subsection 118(1) (table, column 1 of item 27)

Omit "a block grant authority or a non-government representative body."

58 - Subsection 126(b)

Repeal the subsection.

Part 2—Capital Grants

Australian Education Act 2013

59 - Section 66

Repeal the section, substitute:

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

The Minister may determine capital funding to be paid to a State or Territory under this Part. The capital funding is to be paid by the State or Territory to a capital grants authority, as determined by the Minister. A school's capital grants authority is its approved authority.

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.

The total amount of capital funding payable to capital grant authorities for a year is capped. The cap is indexed for inflation and will increase every year.

60 - Section 68

Repeal the heading, substitute:

68 - Limit on total amount available for capital funding for capital grant authorities

61 - Subsection 68(1)

Repeal the subsection, substitute:

(1) The total of the amounts that the Minister determines under subsection 67(2) for a year for capital grants authorities must not exceed:

(a) for 2022—\$300,000,000 (the *base assistance amount*); and

(b) for any other year:

(i) the base assistance amount for the year, as indexed under subsection (2) of this section; or

(ii) if the regulations prescribe another amount (greater than the base assistance amount for the previous year) as the base assistance amount for the current year for the purposes of this section—that other amount.

62 - Subsection 68(2) (formula)

Repeal the formula, substitute:

$$\begin{array}{l} \text{The SRS funding} \\ \text{amount for} \\ \text{such a student} \\ \text{for the previous year} \end{array} \times 105\%$$

63 - Paragraph 68(3)(b)

Repeal the paragraph.

64 - Subsection 68(4)

Repeal the subsection.

Part 3—Teacher Wages

Australian Education Act 2013

65 - Section 20

Repeal the section, substitute:

This Part sets out the financial assistance that is payable by the Commonwealth to States and Territories under this Act, and the conditions that apply when that financial assistance is provided.

The conditions include requiring States and Territories to implement national policy initiatives for school education, as well as requiring a State or Territory to give any financial assistance provided to the State or Territory to the appropriate approved authority or capital grants authority.

The conditions also require that participating States and Territories abolish caps on the wages of employees at participating schools and deliver employees a wage that is 25 percent above the federal award wage.

The Minister may determine the amounts and timing of individual payments of financial assistance.

66 - After Section 24

Insert:

25 - Condition of financial assistance—Teacher wages

A payment of financial assistance under this Act to a State or Territory is subject to the condition conditions:

- (1) The State or Territory must not put in place or have in place any cap, limit, ceiling, freeze or other related mechanism limiting the wages of employees at participating schools; and
- (2) The State or Territory must not pay employees, whether engaged in casual, full-time, part-time or fixed term employment, working at a participating school, less than 125% of the minimum rate of pay set by their respective Award by the Fair Work Commission.