
AUSTRALIAN EDUCATION AMENDMENT ACT 2017

1. On 23 June 2017, the Australian Education Amendment Bill 2017 (the Bill) completed its passage through the Australian Parliament with amendments. It is now an Act of Parliament that amends the *Australian Education Act 2013* (the Act). The final vote in the Senate was 34 ayes and 31 noes.

Overview of the legislation

2. The Act retains the Schooling Resource Standard (SRS), which will comprise a base per-student amount, discounted by the school community's capacity to contribute for non-government schools and supplemented by loadings for disadvantage.
3. The legislation will now move to a funding approach in which the Commonwealth will provide a consistent Commonwealth share of the SRS—20% for all government schools and 80% for all non-government schools.
4. The legislation will now allow for the indexation of base amounts to be tied to an indexation rate to ensure that funding growth keeps pace with cost and wages growth in the broader economy, but never drops below 3 per cent. A new floating indexation rate will generally apply from 2021, and will be a composite of 75 per cent of the Wage Price Index and 25 per cent of the All Groups Consumer Price Index number published by the Australian Bureau of Statistics.
5. The legislation enshrines the Nationally Consistent Collection of Data on School Students with Disability in the Act, which fundamentally changes the calculation of the disability loading.
6. The legislation will require the Minister to determine individual non-government school SES (socio-economic status) scores. It also removes the power of the Minister to determine system-weighted SES scores for non-government schools.
7. The legislation also reduces the benefit afforded to non-government primary schools under capacity to contribute calculations.

Overview of the amendments moved in the Senate

8. Several amendments to the Bill were moved in the Senate and confirmed by the House of Representatives. The amendments that were successful are outlined below and detailed in the attached schedule (Attachment A).
9. State and Territory contributions—new provisions will strengthen requirements on States and Territories to contribute their share of funding for school education with the aim of reaching at least 95% of the SRS for all schools by 2023. These amendments require states and territories to transition by 2023 to their share of funding for both government and non-government schools.
10. Accelerated transition for schools below the SRS—new provisions add the definition of a six-year transitioning school as one whose starting Commonwealth share is less than the relevant final share (20% for a government school or 80% for a non-government school). Such schools will transition to their relevant Commonwealth share in six equal steps from 2018 until 2023. The value of the accelerated transition for Catholic schools is an additional \$350 million in comparison to the original 10-year transition period. Further analysis on this matter will be undertaken as soon as practicable.

11. Calculation of schools' starting Commonwealth share—new provisions confirm that the adjusted SRS amount should use the new SRS funding amounts that have been recalculated using up-to-date data; not the current amounts for 2017 under the Act. The SES scores used in working out the adjusted SRS amount need to be the SES scores that will be in effect for 2018. The indexation arrangements applying to the maximum size loadings and 2016 starting amounts are clarified to be those worked out under current indexation arrangements (3.6%) rather than the proposed section 11A of the Act.
12. Approved system authorities and needs-based funding—new provisions require that approved authorities for more than one school distribute Commonwealth financial assistance in one of two ways: in accordance with the Commonwealth funding model as set out in the Act; or in accordance with their own funding arrangement based on other factors. Such arrangements must comply with a number of requirements and take account of efficiencies that can be realised while improving educational outcomes. Any such arrangement must also include loadings to recognise additional need. In determining their own needs-based funding arrangements, the approved authority is able to consider any matters it considers relevant in determining the needs of its schools, including consideration of the sustainability of the schools for which the authority is approved. The proposed amendments also require that the approved authority's needs-based funding arrangement is publicly available and transparent. These amendments will need to be analysed further.
13. Independent reviews and the National School Resourcing Board—new provisions stipulate that the National School Resourcing Board must conduct reviews and monitor compliance with the Act. These provisions will commence on Royal Assent so that the Board and its first independent review begins as soon as practicable. The Minister for Education and Training must provide any reports of reviews undertaken by the Board to the COAG Education Council and must table the reports in the Parliament. The National School Resourcing Board will be funded \$7.2 million over 4 years and is intended to be an ongoing entity under the Act. The nature of this new entity will be explored further. However, it is understood at this stage that it will have representation from the States and Territories, the Catholic education system representatives and the independent school system representative bodies. The first task of this new entity will be to review the SES methodology, including the capacity to contribute arrangements.
14. Amendments by the Greens that affect the National School Resourcing Board—the Senate adopted amendments moved by the Greens that ensure the National School Resourcing Board can conduct reviews on its own initiative (not just on request by the Minister). Moreover, a review board must consist of at least six, but no more than nine, members who are appointed by the Minister and, in the opinion of the Minister, have suitable experience and expertise in the matters to be addressed by the review. A review by the Board may also assess whether the Commonwealth, a State, a Territory or an approved authority has: not distributed funding on a needs basis; or funded a school below its share for a year; or funded a school above its share for a year; measuring improved educational outcomes for students against the rate of school funding.

Commencement

15. Although the aspects of the legislation related to funding will commence on 1 January 2018, some elements of the Act will commence on Royal Assent: the National School Resourcing Board; certain transitional provisions (schedule 1, item 109); and certain definitions (sections 1–3).

System-weighted average

16. Although the Act will not retain the power of the Minister to determine a system-weighted average SES score, the Commonwealth Government has decided to retain the system-weighted average arrangements in 2018 through another mechanism. The Minister told the Senate on 22 June 2017 that

he has made a determination using section 69 of the *Australian Education Act*, providing for additional funding equivalent to the system-weighted average in 2018 for all relevant school systems across Australia. This will provide approximately \$38.2 million to Catholic school systems.

17. The Minister also advised the Senate that the expected division of funding for Catholic systems under the section 69 determination will be as follows:
 - a. NSW—\$10.5 million;
 - b. Victoria—\$9.2 million;
 - c. Queensland—\$7.5 million;
 - d. Western Australia—\$2.5 million;
 - e. South Australia—\$2.5 million;
 - f. Tasmania—\$0.8 million;
 - g. ACT—\$5 million;
 - h. Northern Territory—\$0.2 million.
18. Section 69 of the Act is the special circumstances funding clause under which the Minister may, in writing, determine an amount of financial assistance that is payable to a State or Territory for a school for a year if the Minister is satisfied that special circumstances justify the determination.

Further analysis of the legislation

19. The NCEC will be analysing the legal, policy and financial implications of the legislation more closely over the next few days and further detail will be provided in due course.