STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1988

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A BILL
FOR

An Act relating to the grant of financial assistance to the States and the Northern Territory for schools, and for related matters

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title
1. This Act may be cited as the States Grants (Schools Assistance) Act 1988.

Commencement
2. This Act commences on the day on which it receives the Royal Assent.

Interpretation
3. (1) In this Act, unless the contrary intention appears:
“Aborigine” includes a person of the race to which Torres Strait Islanders belong;
“Aboriginal community school” means a school:

(a) that, in the opinion of the Minister, originates from within, and is supported by, a local Aboriginal community having regard to its organisation, management and curriculum; and

(b) at which at least 50% of the students are Aborigines;

“approved authority”, in relation to a provision of this Act in relation to an approved school system, a non-government school, a non-government body administering a program in connection with a government school, a non-systemic school or a non-government centre, means the person or body that the Minister, by determination in writing, declares to be the approved authority of that school system, of that school, of that non-government body or of that centre, as the case may be, for the purposes of that provision;

“approved education centre”, in relation to a program year, means a body corporate, or an unincorporated body that the Minister is satisfied will, during that year, become a body corporate:

(a) the members, or a majority of the members, of the governing body of which are persons employed as teachers at schools;

(b) the principal object of which is to improve the professional competence of teachers by methods that include the provision of in-service teacher training;

(c) that is not conducted for profit;

(d) the membership of which is not restricted to teachers or to teachers of a particular kind;

(e) that provides opportunities for parents of students at schools, and other persons interested in education, to take part and assist in activities of the centre; and

(f) that is approved by the Minister by determination in writing as an education centre for the purposes of this Act in relation to that year;

and includes an education centre that was an approved education centre under the former Act immediately before the commencing day and that has not been declared by the Minister by determination in writing not to be approved for the purposes of this Act in relation to that year;

“approved ethnic schools authority”, in relation to a program year, means a body that is not an approved authority in relation to a provision of this Act and that is providing or proposes to provide a program of ethnic education in that year, being a body:

(a) that was an approved ethnic schools authority in relation to the year commencing on 1 January 1986 under the former Act; or
(b) that the Minister is satisfied should, because of exceptional circumstances, be approved for the purposes of this definition in relation to that program year;

and that is approved by the Minister by determination in writing as an ethnic schools authority in relation to that program year;

“approved school system” means a school system that is included in the list of approved school systems;

“BGA school” means a non-government school in relation to which there is a block grant authority;

“block grant authority”, in relation to a school, means:

(a) a body corporate in relation to which an approval under section 19 is in force in relation to the school; or

(b) a body corporate that was, immediately before the commencement of this Act, a block grant authority in relation to the school under the former Act and that has not been declared by the Minister by determination in writing not to be a block grant authority;

“body” means any body, whether incorporated or unincorporated;

“building” includes part of a building;

“capital project” includes a project involving:

(a) investigation of the need for:

(i) schools, or schools of particular kinds, in a State or a part of a State; or

(ii) a building or other facilities;

(b) the purchase of land, with or without buildings;

(c) planning for the erection, alteration or extension of a building or other facilities;

(d) the development or preparation of land for building or other purposes;

(e) the installation or upgrading of water, electricity or any other services;

(f) the provision of equipment, library materials or furniture;

(g) obtaining services and goods for cataloguing a library; and

(h) in the case of a project in connection with a non-government school—the taking on lease of land or buildings;

“child with severe disabilities” means:

(a) a child with disabilities who has attained school age:

(i) for whom, because of his or her disabilities, enrolment at a school, at a government centre or at a non-government centre, is not appropriate; or

(ii) who is enrolled at a school, at a government centre or at a non-government centre but who is unable, because of his or her disabilities, to receive a substantial
part of the benefits ordinarily available to children enrolled at that school or centre; or

(b) a child with disabilities who has not attained school age but who, upon attaining that age, is likely to be a person referred to in paragraph (a);

“co-educational school” means a school for both male students and female students;

“commencing day” means the day on which this Act commenced;

“disadvantaged school” means a school in respect of which a declaration under subsection 15 (1) or 27 (1) is in force;

“early special education program for children with disabilities” means a program carried out in relation to the education of children with disabilities who have not attained school age;

“education in English as a second language for eligible new arrivals”, in relation to a program year, means education that is provided for the purpose of teaching, by means of intensive instruction, the English language to persons who are eligible new arrivals in relation to that year;

“eligible new arrival”, in relation to a program year, means a person:

(a) who is a permanent resident;

(b) whose first language is a language (not being the English language) of a country other than Australia; and

(c) who arrived in Australia after 31 July in the year immediately preceding that year;

“former Act” means the States Grants (Schools Assistance) Act 1984;

“full fee paying private overseas secondary student” means a person who:

(a) is receiving secondary education at a school; and

(b) holds a temporary entry permit in force under the Migration Act 1958;

and who pays, whose guardian pays, or who together with his or her guardian pays, the full cost of the person’s education at that school;

“funding level”, in relation to a school or a school system in respect of which financial assistance is provided under this Act in a program year, means the level of assistance specified in column 1 of the parts of Schedule 7 that is applicable to the school or to the system in that year for the purpose of meeting recurrent expenditure;

“general education in English as a second language” means education that is provided to teach the English language to students who are permanent residents and whose first language is not English, whether or not that education is provided with instruction for those students or other students in the culture of Aborigines or of people who have migrated to Australia;
“government centre” means a centre conducted by or on behalf of the Government of a State at which special education is provided;

“government disadvantaged school” means a government school in respect of which a declaration under subsection 15 (1) is in force;

“government school” means a school in a State that is conducted by or on behalf of the Government of the State;

“integration activities” means activities designed to integrate children with disabilities into schools, or other places of education approved by the Minister in writing for the purposes of this definition, at which education is provided for children other than children with disabilities;

“level”, in relation to education provided at a school, means primary education, junior secondary education or senior secondary education or a year in the course of education of that kind;

“list” means the list of schools maintained under section 6;

“minimum number of students”, in relation to a level of education, a combination of levels of education or a school, means the number determined by the Minister under subsection (2) to be the minimum number of students for that level, that combination or that school;

“minor capital project” means a capital project of a kind approved by the Minister for the purposes of this definition;

“non-BGA school” means a non-government school in relation to which there is not a block grant authority;

“non-government body” means a body that is not managed or controlled by or on behalf of the Government of a State;

“non-government centre” means a centre in a State involved in the provision of special education that is not conducted by or on behalf of the Government of the State, but does not include a centre conducted for profit;

“non-government disadvantaged school” means a non-government school in respect of which a declaration under subsection 27 (1) is in force;

“non-government school” means a school in a State that is not conducted by or on behalf of the Government of the State, but does not include a school conducted for profit;

“non-systemic disadvantaged school” means a non-systemic school in respect of which a declaration under subsection 27 (1) is in force;

“non-systemic school” means a non-government school:
(a) that is not included in an approved school system; and
(b) that is included in the list as a non-systemic school;

“permanent resident” means:
(a) an Australian citizen;
(b) a person who holds an entry permit (other than a temporary entry permit) in force under the *Migration Act 1958*;
(c) a person who, under subsection 6 (8) of that Act, is taken to be included in an entry permit (other than a temporary entry permit) in force under that Act;

(d) a person in relation to whom the condition referred to in paragraph 6A (1) (c) of that Act is fulfilled; or

(e) a person who is not an Australian citizen but who has his or her permanent home on Christmas Island;

“prescribed country area” means:

(a) an area in a State in respect of which a declaration under subsection 34 (1) is in force; or

(b) an area that was, immediately before the commencing day, a prescribed country area under the former Act and that the Minister has not declared to be no longer such an area;

“program of ethnic education” means a program of instruction that is provided on a part-time basis the purpose of which is to teach students a language (other than English) that is the first language of Aborigines or of people who have migrated to Australia, whether that program is provided alone or with instruction in the culture of those people, but does not include a program in which political or religious instruction is predominant;

“program year” means the period of 12 months commencing on 1 January 1989, 1 January 1990, 1 January 1991 or 1 January 1992;

“recurrent expenditure” means expenditure relating to the ongoing operating costs of schools;

“residential institution” means an institution or home in a State that provides residential care for children and is conducted for welfare, correction, rehabilitation or similar purposes, being an institution or home:

(a) that the Minister, having regard to any advice given to the Minister by the State Minister for the State in which the institution or home is situated, declares, in writing, to be a residential institution for the purposes of this Act; or

(b) that was a residential institution under the former Act immediately before the commencing day and that the Minister has not declared not to be such an institution for the purposes of this Act;

“school” includes a proposed school, but does not include a school at which education is provided at a standard (however described) that is pre-school standard only;

“school in need of short-term emergency assistance”, in relation to a program year, means a non-government school:

(a) that the Minister is satisfied is, because of any unexpected circumstance, in special need of short-term emergency assistance in that year; and
(b) that is declared by the Minister by determination in writing to be such a school in relation to that year;

"schools census day", in relation to a program year in relation to a State, means the day in that year, being a day as close as possible to 1 July in that year, that the State Minister advises the Minister is the schools census day for that State for that year;

"school serving a predominantly Aboriginal community" means a school that, in the opinion of the Minister, serves a community constituted predominantly by Aborigines or Torres Strait Islanders;

"special education" means education under special programs designed specifically for children with disabilities;

"special school" means a school in a State that:

(a) has been, or is likely to be, recognised by the State Minister as a special school; and

(b) that provides special education;

"State" includes the Northern Territory;

"State Minister" means:

(a) in relation to a State—the Minister of the Crown of the State who is responsible, or primarily responsible, for education matters in the State; or

(b) in relation to the Northern Territory—the Minister of the Northern Territory who is responsible, or primarily responsible, for education matters in the Northern Territory;

"student", in relation to a program of ethnic education approved under section 32 in a program year, means a permanent resident who:

(a) is undertaking, either on a full-time or part-time basis, primary education or secondary education at a school; or

(b) not being a person who has attained, or will, before 1 January in the year following that year, attain, the age of 20 years, is undertaking, either on a full-time or part-time basis, technical and further education within the meaning of the Employment, Education and Training Act 1988;

"systemic disadvantaged school" means a systemic school in respect of which a declaration under subsection 27 (1) is in force;

"systemic school" means a non-government school:

(a) that is included in an approved school system; and

(b) that is included in the list as a systemic school.

(2) The Minister may, from time to time, by determination in writing, specify:

(a) in respect of a level, or a combination of levels, at which education is provided by schools generally, or by schools included in a specified class of schools; or

(b) in respect of special schools;
a number of students to be the minimum acceptable number of students for the purposes of this Act.

(3) The Minister shall cause a copy of each determination under subsection (2) to be published in the Gazette as soon as practicable after the determination is made.

(4) For the purposes of this Act, a capital project carried out for purposes connected with a school, an approved education centre or the education of certain students shall be treated as a capital project notwithstanding that it is also carried out for other educational purposes or for community purposes.

(5) For the purposes of this Act, where an object of a project, program or expenditure is to secure the adequate advancement of persons of one sex who require special assistance in order to ensure equal opportunity with persons of the other sex in education or training, the benefits of, or the opportunities created by, the project, program or expenditure shall be taken to be equally available to males and females.

(6) Where the Minister is empowered to specify in the list a maximum number of students eligible for general recurrent funding in relation to a school, or in relation to a location in respect of which the school is included in the list, the Minister may specify in the list in relation to the school or the location any one or more of the following:

(a) a maximum number of primary students;
(b) a maximum number of junior secondary students;
(c) a maximum number of senior secondary students;
(d) a maximum number of special students.

(7) Where a determination relating to the maximum number of primary, junior secondary, senior secondary or special students eligible for general recurrent funding in respect of the whole of a school that is included in the list in respect of 2 or more locations is in force, the Minister shall not determine a maximum number of primary, junior secondary, senior secondary or special students eligible for general recurrent funding, as the case may be, in relation to a location in respect of which the school is included in the list.

(8) Where a determination relating to the maximum number of primary, junior secondary, senior secondary or special students eligible for general recurrent funding in respect of a location in respect of which a school is included in the list is in force, the Minister shall not determine a maximum number of primary, junior secondary, senior secondary or special students eligible for general recurrent funding, as the case may be, in relation to the whole school.

(9) A school shall not be taken to have changed its location or part of its location if:
(a) the whole or part of the school is relocated to a site adjacent to the site at which the school, or the part of the school, as the case may be, provided education before the relocation; and

(b) education at the new location is provided at the same levels at which it was provided at the school or at the part of the school, as the case may be, before the change.

(10) Full fee paying private overseas secondary students shall be disregarded for the purposes of this Act.

Determinations by Minister

4. A determination made by the Minister under a provision of this Act takes effect on the day on which the determination was made or on the day specified for the purpose in the determination, and the day of effect may, if the provision so permits, be a day before the making of the determination.

Funding of non-government schools

5. Financial assistance under this Act will only be provided to a State for education at a particular level, or at a particular location, at a non-government school if the school is included in the list in respect of that level or that location, as the case may be.

PART II—LIST OF NON-GOVERNMENT SCHOOLS AND SYSTEMS

List of non-government schools

6. (1) The Minister shall maintain a list of non-government schools in respect of which financial assistance is provided under this Act.

(2) Subject to subsections (3) and (4), the list shall be kept in such manner as the Minister determines.

(3) The list shall be divided into 2 parts, one relating to systemic schools and the other to non-systemic schools, and shall contain:

(a) the name of each school (in this subsection called a "list school") in respect of which financial assistance is provided under this Act;

(b) the address of each location at which each list school provides education, being education in respect of which financial assistance is provided under this Act;

(c) a description of:

(i) the levels at which education is provided at each list school, being levels of education in respect of which financial assistance is provided under this Act; or

(ii) if more than one location is included in the list under paragraph (b) in relation to a list school—the levels at which education is provided at each of those locations, being levels of education in respect of which financial assistance is provided under this Act;
(d) the funding level of each non-systemic school included in the list;
(e) the maximum number of students (if any) eligible for general recurrent funding applicable to each list school;
(f) in the case of systemic schools included in an approved school system—the name of the system; and
(g) a statement identifying whether each list school is:
   (i) a single sex school or a co-educational school; or
   (ii) a day school, a boarding school or a day and boarding school.

(4) The list shall also contain:
(a) the schools included in the list of systemic schools in force under the former Act immediately before the commencing day; and
(b) the schools included in the list of non-systemic schools in force under the former Act immediately before the commencing day.

(5) The Minister may, having regard to any significant change in the need of a non-systemic school for financial assistance for recurrent expenditure of the school, being a change that occurred due to circumstances outside the control of the approved authority, by determination in writing, vary the list by specifying a different funding level of the school.

(6) Where a school in a State that is included in the list:
(a) ceases to be recognised by the State Minister; or
(b) becomes conducted for profit;
the Minister may vary the list by removing the school.

(7) Where a non-systemic school becomes a systemic school, or a systemic school becomes a non-systemic school, the Minister may, by determination in writing, vary the list and the list of approved school systems to take account of the change.

(8) Where a systemic school becomes a non-systemic school, the Minister shall, having regard to the need of the school for financial assistance, by determination in writing, determine the funding level of the school and include in the list the level so determined.

(9) A variation under subsection (5), (6), (7), (8) or (10) may be expressed to take effect from a day before the day on which the determination was made.

(10) The Minister may vary the list:
(a) in accordance with another provision of this Act; or
(b) to correct clerical errors or to make alterations of a formal kind, including the removal from the list of a school that has ceased to exist.

(11) Where the Minister varies the list under this section, the Minister shall notify the relevant approved authority in writing accordingly.
(12) The Minister shall, as soon as practicable after 1 January in each program year, cause the name and funding level of each non-systemic school to be published in the Gazette.

List of approved school systems

5 7. (1) The Minister shall maintain a list of approved school systems.

(2) Subject to subsection (3), the list shall be kept in such manner as the Minister determines.

(3) The list shall contain:

(a) the funding level of each system included in the list; and
(b) the school systems included in the list of approved school systems in force under the former Act immediately before the commencing day.

(4) The Minister may, by determination in writing, vary the list of approved school systems to include a new school system that consists of non-government schools in a State.

(5) Where the Minister varies the list of approved school systems to include a school system, the Minister shall, having regard to the need of the system for financial assistance, determine, and specify in the list of approved school systems, the funding level of the system.

(6) Where:

(a) a significant change occurs in the need of an approved school system for financial assistance, being a change that occurred due to circumstances outside the control of the approved authority; or
(b) a school that is included in the list becomes part of an approved school system;

the Minister may, by determination in writing, vary the list of approved school systems by specifying a different funding level of the system.

(7) A variation under subsection (4), (5), (6) or (8) may be expressed to take effect from a day before the day on which the determination was made.

(8) The Minister may vary the list of approved school systems:

(a) in accordance with another provision of this Act; or
(b) to correct clerical errors or to make alterations of a formal kind, including the removal from the list of approved school systems of a school system that has ceased to exist.

(9) Where the Minister varies the list of approved school systems under this section, the Minister shall notify the relevant approved authority in writing accordingly.

(10) The Minister shall, as soon as practicable after 1 January in each program year cause the name, funding level and the names of the member
schools, of each school system included in the list of approved school systems to be published in the Gazette.

PART III—CHANGES TO NON-GOVERNMENT SCHOOLS AND NEW NON-GOVERNMENT SCHOOLS

Changes to non-government schools and proposals for new non-government schools

8. (1) A reference in this section to the approved authority of a school that is not part of an approved school system and is not included in the list, in relation to a change, or a proposal, to which this section applies, is a reference to the person or body principally responsible for the school.

(2) This section applies to a change as a result of which a systemic school or a non-systemic school will:
(a) change its location;
(b) provide a new level of education at a location at which the school already provides education;
(c) amalgamate with another school that is included in the list;
(d) separate into 2 or more schools;
(e) change from a single sex school to a co-educational school or from a co-educational school to a single sex school;
(f) change from a day school to a boarding school or to a day and boarding school;
(g) change from a boarding school to a day school or to a day and boarding school;
(h) change from a day and boarding school to a day school or to a boarding school;
(j) become included in the list in respect of an additional level of education in respect of which the school is already providing education; or
(k) become included in the list in so far as it provides education at an additional location, being a location at which the school is already providing education.

(3) This section applies to a proposal under which the approved authority of an approved school system or of a non-systemic school seeks to have the list changed so that:
(a) a new school, or an existing school that is not included in the list, becomes included in the list; or
(b) the list recognises the amalgamation of a school that is included in the list with a school that is not included in the list.

(4) Where the approved authority of an approved school system or of a non-systemic school proposes to make a change referred to in subsection (2), or makes a proposal referred to in subsection (3), the authority shall give to the Minister, not later than 2 years, or such shorter period as the
Minister, in special circumstances, may have allowed (in this section called the "notification period"), before 1 March in the year in which the change is intended to occur or the proposal is intended to take effect, a notice in writing:

(a) setting out particulars of the proposed change or proposal in accordance with a form approved in writing by the Minister; and

(b) requesting the Minister to give provisional approval to the proposed change or proposal.

(5) Where:

(a) the approved authority of an approved school system or of a non-systemic school has notified the Minister (whether under this Act or the former Act) of a proposed change referred to in subsection (2) in the manner specified in subsection (4); and

(b) the Minister is satisfied that the clientele of the school after the change will not be significantly different to the clientele of the school before the change;

the Minister shall give provisional approval to the change.

(6) Where:

(a) the approved authority of an approved school system or of a non-systemic school has notified the Minister (whether under this Act or the former Act) of a proposed change referred to in subsection (2) (other than a change to which subsection (5) applies), or of a proposal referred to in subsection (3), to which this section in the manner specified in subsection (4);

(b) in the case of a change to which this section applies—the Minister is satisfied that the clientele of the school after the change will be significantly different to the clientele of the school before the change;

(c) the Minister is satisfied that the change or proposal meets the eligibility criteria set out in subsection (7) or (8), as the case may be; and

(d) the Minister is satisfied that, having regard to the matters set out in subsection (9), the change or proposal should be approved;

the Minister shall give provisional approval to the change or proposal.

(7) The eligibility criteria referred to in paragraph (6) (c) in relation to a proposed change referred to in subsection (2) are that:

(a) such government and non-government education authorities for the State in which the school is situated as the Minister considers appropriate have been given notice of the proposed change;

(b) if the change is made, the school or schools after the change will have reasonable prospects of being recognised by the State Minister for the State in which the school is situated;

(c) if the change is of the kind referred to in paragraph (2) (b) or (j)—the school has reasonable prospects of having, within the period of 2 years from the beginning of the year in which the change is
proposed to be initiated, a number of students enrolled at the relevant level that is not fewer than the minimum number of students for that level; and

(d) if the change involves the separation of the school into 2 or more schools—each of the schools that will emerge from the separation has reasonable prospects of having, within the period of 2 years from the beginning of the year in which the change is proposed to be initiated, a number of students enrolled at each level at which education is provided at the school that is not fewer than the minimum number of students for that level.

(8) The eligibility criteria referred to in paragraph (6) (c) in relation to a proposal referred to in subsection (3) in relation to a school are that:

(a) such government and non-government education authorities for the State in which the school is situated as the Minister considers appropriate have been given notice of the proposal;

(b) the school, or the school in so far as it provides education at a particular level or at a particular location, has reasonable prospects of being recognised by the relevant State Minister; and

(c) the school, or the school in so far as it provides education at a particular level, has reasonable prospects of having, within the period of 2 years from the beginning of the year in which the proposal is intended to take effect, a number of students enrolled at the relevant level that is not fewer than the minimum number of students for that level.

(9) The Minister shall, in deciding whether or not to give provisional approval to a proposed change (other than a change to which subsection (5) applies), or to a proposal, in relation to a school, have regard to:

(a) the plans (including the plans of the relevant government and non-government education authorities) for the provision of education in the State, and in the locality, in which the school operates or will operate;

(b) the past, current and projected characteristics of that locality so far as the provision of education is concerned; and

(c) the priority that the proposed change or proposal should, in the opinion of the Minister, be accorded in relation to funding from the Commonwealth.

(10) Subject to subsection (11), where:

(a) the approved authority of an approved school system or of a non-systemic school makes a change referred to in subsection (2) in relation to a school;

(b) the Minister has given provisional approval to the change;

(c) the change is recognised by the State Minister of the State in which the school is situated;
(d) if paragraph (7) (c) or (d) is applicable—the school or schools that emerge from the change have a number of students enrolled at the relevant level that is not fewer than the number referred to in that paragraph; and

(e) if the change consists of the amalgamation of a school with another school or the separation of a school into 2 or more schools—the school or schools that emerge from the change are not conducted for profit;

the Minister shall, by determination in writing, vary the list to take account of the change.

(11) The Minister shall not vary the list under subsection (10) in a case where a matter referred to in that subsection occurs after the end of 2 years from the beginning of the year in which the change was proposed to be initiated unless the Minister is satisfied there are exceptional circumstances justifying the variation.

(12) Subject to subsection (13), where:

(a) the Minister has given provisional approval to a proposal referred to in subsection (3) in relation to a school;

(b) the change involved in the proposal is recognised by the State Minister of the State in which the school is situated;

(c) the school has a number of students enrolled at the relevant level that is not fewer than the minimum number of students for that level;

(d) the school is not conducted for profit; and

(e) in the case of a non-systemic school—the approved authority of the school is a body corporate;

the Minister shall, by determination in writing, vary the list to take account of the change.

(13) The Minister shall not vary the list under subsection (12) in relation to a school in a case where a matter referred to in that subsection occurs after the end of 2 years from the beginning of the year in which financial assistance was sought in respect of the school unless the Minister is satisfied there are exceptional circumstances justifying the variation.

(14) Where the Minister varies the list to take account of a change of the kind referred to in paragraph (2) (c) or (d) or of the change involved in a proposal to which this section applies by including in the list a non-systemic school, or a non-systemic school in so far as it provides education at a particular level or location, the Minister shall, having regard to the need of the school for financial assistance, determine in writing the funding level of the school and include in the list the level so determined.

(15) A funding level determined under subsection (14) in respect of a new non-systemic school or a non-systemic school that was not included in the list before the variation, other than:

(a) a special school;
(b) an Aboriginal community school;
(c) a school the proposal in relation to which was provisionally approved before 25 May 1988 under the former Act; or
(d) a school the proposal in relation to which was refused provisional approval before 25 May 1988 under the former Act where that decision is later reversed;

shall be any of the levels 1 to 6 specified in column 1 of Schedule 7 and no other level, and the level so determined shall not, at any time, be increased to a level greater than level 6 specified in that column.

(16) Where:
(a) the approved authority of an approved school system or of a non-systemic school makes a change to which this section applies in relation to a school; and
(b) the Minister had not given provisional approval to that change;
the Minister may, by determination in writing, remove the school from the list.

(17) Where:
(a) the approved authority of an approved school system or of a non-systemic school proposes to make a change, or makes a proposal, to which this section applies; and
(b) the Minister is not satisfied that he or she should give provisional approval to the change or the proposal;
the Minister shall, by notice in writing given to the approved authority, inform the authority of the decision, stating the reasons for the decision and inviting the authority to make, within such reasonable period as is specified in the notice, submissions in relation to the change or proposal.

(18) Where the approved authority of an approved school system or of a non-systemic school makes submissions in accordance with subsection (17), the Minister shall reconsider the decision not to give provisional approval to the change or the proposal, taking those submissions into account, and shall notify the authority, in writing, of the decision on reconsideration and of the reasons for the decision.

(19) The reference in paragraph (2) (a) to a change in the location of a school includes a reference to a change in the location of a part of the school.

(20) Where the Minister makes a determination under this section, the Minister shall notify the relevant approved authority of the decision and of the reasons for the decision.

(21) A determination under this section may be expressed to take effect from a day before the day on which the determination was made.
Maximum number of students eligible for general recurrent funding

9. (1) Where the Minister varies the list under subsection 8 (10) or (12) in relation to a school, the Minister may, by determination in writing, vary the list by:

(a) specifying in the list in relation to the school or to a location in respect of which the school is included in the list a maximum number of students eligible for general recurrent funding; or

(b) if such a maximum number is already specified in the list—varying that number.

(2) If:

(a) an approved authority makes a change to which section 8 applies in relation to a school; and

(b) the authority did not, whether or not under this Act but before the commencement of the period that is the notification period under that section, notify the Minister, in the manner specified in subsection 8 (4), of the proposed change;

the Minister may, by determination in writing, vary the list by:

(c) specifying in the list in relation to the school or to a location in respect of which the school is included in the list a maximum number of students eligible for general recurrent funding; or

(d) if such a maximum number is already specified in the list—varying that number.

(3) Where the Minister makes a determination under this section, the Minister shall notify the relevant approved authority of the decision.

(4) A variation of the list under this section may be expressed to take effect from a day before the day on which the determination was made.

Changes to maximum number of students at request of approved authority

10. (1) Where a maximum number of students eligible for general recurrent funding is specified in the list in relation to a systemic school or a non-systemic school or to a location in respect of which such a school is included in the list, the approved authority may make an application to the Minister, in accordance with a form approved in writing by the Minister, not later than 2 years, or such shorter period as the Minister, in special circumstances, allows, before 1 March in the year in which the proposed variation would take effect for a variation of the list so as to increase or decrease the number so specified.

(2) Where:

(a) the Minister receives an application in accordance with subsection (1) from an approved authority in relation to a proposed variation of the list in relation to a school; and

(b) the Minister is satisfied that the clientele of the school after the variation will not be significantly different to the clientele of the school before the variation;
the Minister shall, by determination in writing, vary the list in accordance with the application.

(3) Where:
(a) the Minister receives an application in accordance with subsection (1) from an approved authority in relation to a proposed variation of the list in relation to a school;
(b) the Minister is satisfied that the clientele of the school after the variation will be significantly different to the clientele of the school before the variation; and
(c) the Minister is satisfied that:
   (i) such government and non-government education authorities for the State in which the school is situated as the Minister considers appropriate have been given notice of the proposed variation; and
   (ii) having regard to the matters set out in subsection (4), the variation should be made;

the Minister shall, by determination in writing, vary the list in accordance with the application.

(4) The Minister shall, in deciding whether or not to make a variation of the list under subsection (3) in relation to a school, have regard to:
(a) the plans (including the plans of the relevant government and non-government education authorities) for the provision of education in the State, and in the locality, in which the school operates;
(b) the past, current and projected characteristics of that locality so far as the provision of education is concerned; and
(c) the priority that the proposed variation should, in the opinion of the Minister, be accorded in relation to funding from the Commonwealth.

(5) Where:
(a) the Minister receives an application, in accordance with subsection (1), from an approved authority in relation to a proposed variation of the list in relation to a school; and
(b) the Minister is not satisfied that he or she should vary the list in accordance with the application;

the Minister shall, by notice in writing given to the authority, inform the authority of the decision, stating the reasons for the decision and inviting the approved authority to make, within such reasonable period as is specified in the notice, submissions in relation to the proposed variation.

(6) Where the approved authority of an approved school system or of a school makes submissions in relation to a proposed variation after being invited to do so under subsection (5), the Minister shall reconsider the decision not to vary the list in accordance with the application, taking those submissions into account, and shall notify the approved authority, in writing, of the decision on reconsideration and of the reasons for the decision.
(7) Where the Minister makes a determination under this section, the Minister shall notify the relevant approved authority of the decision and of the reasons for the decision.

(8) A variation of the list under this section may be expressed to take effect from a day before the day on which the determination was made.

(9) Where:
(a) an approved authority had made a request, in accordance with the former Act, for an increase in the maximum number of students applicable to a systemic school or a non-systemic school or a location of the school; and
(b) the request had not been determined before the commencement of this section;
the request may be dealt with under this section.

Non-government schools—failure to meet minimum enrolments

11. (1) Subject to subsection (2), where the number of students enrolled at a particular level, or at a particular combination of levels, at a systemic or non-systemic school in a State, being a school that is included in the list in respect of the provision of education at that level or those levels, is fewer than the minimum number of students for that level or that combination of levels, as the case may be, on the schools census day for that State in a program year, the Minister may, by determination in writing, vary the list by:
(a) removing the school from the list; or
(b) including the school in the list only in so far as it provides education at a specified level.

(2) Where the Minister proposes to take action under this section in relation to a school, the Minister shall, by notice in writing given to the approved authority, inform the authority of the proposed action, stating the reasons for the proposed action and inviting the approved authority, to make, if it considers that there is a special justification for the low enrolment, within such reasonable period as is specified in the notice, submissions in relation to the proposed action.

(3) Where the approved authority makes submissions in accordance with subsection (2), the Minister shall reconsider the decision to take action under this section, taking those submissions into account, and shall notify the approved authority, in writing, of the decision on reconsideration and of the reasons for the decision.

PART IV—GOVERNMENT SCHOOLS PROGRAMS

Grants for capital projects in connection with government schools

12. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of
financial assistance to the State in respect of a program year, in relation to capital projects in connection with government schools in the State, of an amount not exceeding the amount set out opposite to the name of the State in the column of Schedule 1 that relates to that year.

(2) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(3) Financial assistance is granted to a State under this section on the conditions set out in the agreement and on the additional conditions applicable under section 18.

Grants for general recurrent expenditure of government schools

13. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of government schools in the State in respect of a program year, of an amount not exceeding the sum of:

(a) the product of the amount set out in the column of part 1 of Schedule 2 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving primary education at government schools in the State on the schools census day for the State for that year or such other day as the Minister, in special circumstances, determines; and

(b) the product of the amount set out in the column of part 2 of Schedule 2 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving secondary education at government schools in the State on the schools census day for the State for that year or such other day as the Minister, in special circumstances, determines.

(2) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(3) Financial assistance is granted to a State under this section on the conditions set out in the agreement and on the additional conditions applicable under section 18.

Grants for recurrent expenditure on education in English as a second language provided in government schools

14. (1) Subject to subsection (4), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure in respect of a
program year on general education in English as a second language provided at or in connection with government schools in the State, of an amount not exceeding the amount specified opposite to the name of the State in column 2 of the part of Schedule 3 that relates to that year.

(2) Subject to subsection (4), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure in respect of a program year on education in English as a second language for eligible new arrivals in that year provided at or in connection with government schools in the State of an amount not exceeding the amount calculated under subsection (3) in relation to the State for that year.

(3) The limit on grants to a State under subsection (2) in a program year is the amount obtained by multiplying the amount specified in column 3 of the part of Schedule 3 that relates to that year by the number of persons who are receiving education to which that subsection applies in that year at or in connection with government schools in the State.

(4) The Minister shall not authorise a payment to a State under subsection (1) or (2) in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under that subsection.

(5) Financial assistance is granted to a State under this section on the conditions set out in the relevant agreement and on the additional conditions applicable under section 18.

Grants for expenditure in connection with government disadvantaged schools

15. (1) Subject to subsection (2), the Minister may, by determination in writing, declare a government school in a State to be a disadvantaged school for the purposes of this Act.

(2) The Minister shall not declare a government school in a State to be a disadvantaged school for the purposes of this Act if the Minister is of the opinion that the total number of students at schools in the State that are, or may become, government disadvantaged schools, is, or will be, at any time during a program year, greater than the approved maximum number of students in relation to government disadvantaged schools in that State in respect of that year.

(3) The Minister shall determine in writing, in relation to each State, the number of students that is, for the purposes of this Act, the approved maximum number of students in relation to government disadvantaged schools in the State for each program year, and shall notify the State Minister of that number.
Subject to subsection (5), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure or for expenditure on minor capital projects in respect of a program year in connection with government disadvantaged schools in the State, of an amount not exceeding the amount set out opposite to the name of the State in column 2 of the part of Schedule 4 that relates to that year.

The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

Financial assistance is granted to a State under this section on the conditions set out in the agreement and on the additional conditions applicable under section 18.

Grants for expenditure in connection with special education at government schools and centres

Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure in respect of a program year in connection with special education provided at or in connection with government schools or government centres in the State or other special education provided by, or on behalf, of the State, of an amount not exceeding the amount set out opposite to the name of the State in column 2 of the part of Schedule 5 that relates to that year.

The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

Financial assistance is granted to a State under this section:

(a) on the conditions set out in the agreement;

(b) on the condition that the State will ensure that not less than the amount set out opposite to the name of the State in column 3 of the part of Schedule 5 that relates to that year is applied by the State:

(i) for the purpose of meeting recurrent expenditure in respect of that year; or

(ii) for the purpose of meeting expenditure, in respect of commitments undertaken not later than 31 December in that year, on minor capital projects;
in connection with integration activities conducted at government schools in the State, or at places of education approved by the Minister for the purposes of the definition of "integration activities" in subsection 3 (1) at which special education is provided by, or on behalf of, the State; and

(c) on the additional conditions applicable under section 18.

Variations of Schedule 5

17. (1) Subject to subsection (2), the Minister may, by determination in writing, vary during a program year some or all of the amounts set out opposite to the name of a State in columns 2, 3, 4, 5, 6, 7 and 8 of the part of Schedule 5 that relates to that year.

(2) The Minister shall not vary amounts set out opposite to the name of a State in columns of the part of Schedule 5 that relates to a year in a way that, after the variation, the total of those amounts is greater or less than the total of those amounts before the variation.

(3) As soon as practicable after making a determination under this section, the Minister shall:

(a) send a copy of the determination to the relevant State Minister; and

(b) cause a copy of the determination to be laid before each House of the Parliament.

Additional conditions of grants under Part

18. (1) In addition to any conditions specified in an agreement under this Part, financial assistance is granted to a State under a provision of this Part in respect of a program year on the additional condition that, if the State does not fulfil a condition specified in such an agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:

(a) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under that provision in respect of that year) as the Minister specifies in the determination; and

(b) the Minister may delay the making of any further payment to the State under that provision until the State fulfils that condition.

(2) Where:

(a) financial assistance:

(i) was granted to a State under a provision of the former Act in connection with government schools; or

(ii) is granted to a State under a provision of this Part in connection with government schools;

(b) under a condition of that grant that corresponds with subsection (1), or under subsection (1), as the case may be, the Minister has
determined that the State should repay an amount to the Commonwealth; and

(c) an amount (in this subsection called the “repayable amount”), being the whole or a part of the amount referred to in paragraph (b), remains unpaid;

the Minister may reduce an amount that is payable to the State under the relevant provision of this Part in a program year by an amount not greater than the repayable amount.

PART V—NON-GOVERNMENT SCHOOLS PROGRAMS

Approval of block grant authorities

19. The Minister may, by determination in writing, approve a body corporate as a block grant authority in relation to the schools specified in the approval if the body corporate enters into an agreement of a kind specified by the Minister.

Approval of capital projects

20. (1) Subject to this section, the Minister may, for the purposes of section 21, approve by instrument in writing a capital project in respect of a program year in connection with a non-government school or a non-government centre in a State.

(2) Where the Minister approves a capital project in respect of a program year in connection with a non-BGA school or a non-government centre in a State, the Minister may, in the instrument of approval, specify the amount to be paid under section 21 in respect of that project in respect of that year.

(3) The Minister may, from time to time, by determination in writing, vary an amount specified under subsection (2).

(4) The Minister may, by determination in writing, fix the maximum amount to be paid to each block grant authority in respect of a program year in respect of projects approved under subsection (1).

(5) Where the Minister approves a capital project in respect of a program year in connection with a BGA school, the Minister may, in the instrument of approval, specify the amount to be paid under section 21 in respect of that project in respect of that year.

(6) Subject to subsection (7), the relevant block grant authority may, from time to time, by notice in writing given to the Minister, vary an amount specified under subsection (5).

(7) A block grant authority shall not vary an amount in respect of a project in respect of a year under subsection (6) if to do so would have the effect of:
(a) varying the amount originally specified under subsection (5) or, if the amount has been varied under subsection (8), the amount as so varied, by more than 10%; or

(b) requiring a payment to a block grant authority in respect of that year that exceeds the amount determined in relation to the block grant authority under subsection (4) in respect of that year.

(8) The Minister may, from time to time, by determination in writing, vary an amount specified under subsection (5), but not so as to require a payment to the block grant authority in respect of that year that exceeds the amount determined in relation to the block grant authority under subsection (4) in respect of that year.

Grants for capital projects in connection with non-government schools and non-government centres

21. (1) The Minister may, by determination in writing, authorise the payment to the States under this section, by way of financial assistance to the States in respect of expenditure in respect of a program year in relation to projects approved under section 20 in respect of that year, of amounts not exceeding in the aggregate the amount set out in column 2 of Schedule 6 opposite to that year.

(2) The Minister may, by determination in writing, authorise the payment to the States under this section, by way of financial assistance to the States in respect of expenditure in respect of a program year in relation to projects approved under section 20 in respect of that year, being projects for the benefit of children with disabilities, of amounts not exceeding in the aggregate the amount set out in column 3 of Schedule 6 opposite to that year.

(3) Financial assistance is granted to a State under this section in respect of expenditure in relation to projects approved under section 20 in respect of a program year in connection with non-government schools or non-government centres in the State:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the relevant block grant authority or approved authority an amount equal to each amount paid to the State under this section and, in making the payment, will describe the amount paid to the authority as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not pay to a block grant authority in the State in respect of that year an amount in accordance with paragraph (a) that exceeds the amount determined in relation to the block grant authority under subsection 20 (4) in respect of that year;

(c) on the condition that the State will not make a payment to the authority under this section in respect of that year in relation to the project unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of
that year or in respect of a number of years including that year; and

d) on the additional conditions applicable under section 29.

(4) The reference in subsection (1) to expenditure on projects approved under section 20 includes, in the case of a block grant authority, a reference to expenditure for administrative purposes.

Grants for general recurrent expenditure of non-government schools

22. (1) The Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of an approved school system, or of a non-systemic school, in the State in respect of a program year of an amount not exceeding the sum of:

(a) the product of the amount set out in the column of part 1 of Schedule 7 that relates to that year opposite to the funding level of the school system or the school, as the case may be, and the number of students (including the full-time equivalent of part-time students) receiving primary education at systemic schools in that system or at that school, as the case may be, on the schools census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing; and

(b) the product of the amount set out in the column of part 2 of Schedule 7 that relates to that year opposite to the funding level of the school system or the school, as the case may be, and the number of students (including the full-time equivalent of part-time students) receiving secondary education at systemic schools in that system or at that school, as the case may be, on the schools census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing.

(2) Where an amount was payable to the approved authority of an approved school system, or of a non-systemic school, in a State under paragraph 28 (1) (g) or (h) or 29 (1) (g) or (h) of the former Act in respect of the year commencing on 1 January 1986 or a later year (in this subsection called the "establishment year") in respect of a school, the Minister may, by determination in writing, authorise the payment to the State under this section, by way of financial assistance to the State for recurrent expenditure of the school in respect of a program year (not being a year commencing more than 3 years after the commencement of the establishment year) of an amount not exceeding the sum of:

(a) the product of the amount set out in the column of part 1 of Schedule 8 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving primary education at the school on the schools census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing; and
(b) the product of the amount set out in the column of part 2 of Schedule 8 that relates to that year and the number of students (including the full-time equivalent of part-time students) receiving secondary education at the school on the schools census day for the State for that year or on such other day as the Minister, in special circumstances, determines in writing.

(3) Where:
(a) an approved school system was included in the list of approved school systems referred to in section 23 of the *States Grants (Schools Assistance) Act 1983*; and

(b) the amount specified in column 2 or 3 of Schedule 8 to that Act opposite to the level of assistance in column 1 of that Schedule that was the level of assistance specified in that list for the system is greater than the amount applicable to the system in a program year under paragraph (1) (a) or (b), as the case may be, of this section; the first-mentioned amount shall be substituted for that other amount in the application of this section to the system in that program year.

(4) Where:
(a) a non-systemic school was included in the list of non-systemic schools referred to in section 24 of the *States Grants (Schools Assistance) Act 1983*; and

(b) the amount specified in column 2 or 3 of Schedule 8 to that Act opposite to the level of assistance in column 1 of that Schedule that was the level of assistance specified in that list for the school is greater than the amount applicable to the school in a program year under paragraph (1) (a) or (b), as the case may be, of this section; the first-mentioned amount shall be substituted for that other amount in the application of this section to the school in that program year.

(5) Financial assistance is granted to a State under this section in respect of recurrent expenditure of an approved school system, or a school, in the State in a program year:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the approved authority of the approved school system or of the school, as the case may be, an amount equal to each amount paid to the State under this section in relation to the school system or the school in respect of that year and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not make a payment to the authority under this section in respect of that year unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year, or in respect of a number of years including that year; and

(c) on the additional conditions applicable under section 29.
(6) Where, during a program year:

(a) a non-systemic school becomes a systemic school; and

(b) the level at which financial assistance is payable in respect of the approved school system to which the school belongs exceeds the level at which financial assistance would have been payable in respect of the school if it had remained a non-systemic school;

the Minister may, having regard to the need of the school and of the school system for financial assistance and to whether the school became a part of the school system primarily for the purpose of improving the quality of the education provided at the school, direct that the amount calculated under subsection (1) in relation to the school system be reduced by the difference between:

(c) the part of that amount that is referrable to the number of students receiving primary education or secondary education at the school in that year; and

(d) the amount that would have been calculated under subsection (1) in relation to the school in respect of that year if the school had remained a non-systemic school.

Limits on funding where maximum number of students specified

23. (1) Where:

(a) a maximum number of primary students, junior secondary students, senior secondary students or special students eligible for general recurrent funding is specified in the list in relation to a school; and

(b) the number of students receiving primary, junior secondary, senior secondary or special education, as the case may be, at the school in a program year is greater than that maximum number;

the number of students receiving primary, junior secondary, senior secondary or special education, as the case may be, at the school shall, for the purposes of subsections 22 (1) and (2), be taken to be that maximum number.

(2) Where:

(a) a maximum number of primary students, junior secondary students, senior secondary students or special students eligible for general recurrent funding is specified in the list in relation to a location of a school; and

(b) the number of students receiving primary, junior secondary, senior secondary or special education, as the case may be, at the location is greater than that maximum number;

the number of students receiving primary, junior secondary, senior secondary or special education, as the case may be, at the location shall, for the purposes of subsections 22 (1) and (2), be taken to be that maximum number.
Grants for short-term emergency assistance for non-government schools

24. (1) Subject to subsection (2), if a systemic school or a non-systemic school in a State is, in relation to a program year, a school in need of short-term emergency assistance, the Minister may, by determination in writing, authorise the payment to the State, by way of financial assistance to the State to provide short-term emergency assistance for the school in respect of that year of such amounts as the Minister determines.

(2) The Minister shall not authorise payments under subsection (1) in respect of a program year that exceed, in the aggregate, the amount set out in the column of Schedule 9 that relates to that year.

(3) Financial assistance is granted to a State under subsection (1) in respect of a systemic school or a non-systemic school in respect of a program year:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the approved authority of the approved school system or of the school, as the case may be, an amount equal to each amount paid to the State under this section in respect of that school and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not make a payment to the authority under this section in respect of that year unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(c) on the additional conditions applicable under section 29.

Grants for recurrent expenditure on general education in English as a second language provided in non-government schools

25. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of an approved school system, or of a non-systemic school, in the State in connection with general education in English as a second language provided at or in connection with systemic schools in the school system, or the school, in respect of a program year of such amounts as the Minister determines.

(2) The Minister shall not authorise payments under subsection (1) in respect of a program year that exceed, in the aggregate, the amount set out in column 2 of Schedule 10 opposite to that year.

(3) Financial assistance is granted to a State under this section in respect of an approved school system, or a school, in the State in respect of a program year:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the approved authority of the approved school system or of the school, as the case may be, an amount equal
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to each amount paid to the State under this section in relation to the school system or the school in respect of that year and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) the State will not make a payment to the approved authority under this section in respect of that year unless the approved authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(c) on the additional conditions applicable under section 29.

Grants for recurrent expenditure on education in English as a second language for eligible new arrivals provided in non-government schools

26. (1) The Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of an approved school system, or of a non-systemic school, in the State in respect of a program year in connection with education in English as a second language for eligible new arrivals in respect of that year provided at or in connection with systemic schools in the school system, or the school, of an amount not exceeding the amount calculated under subsection (2) in relation to the State for that year.

(2) The limit on grants to a State under subsection (1) in a program year is the amount obtained by multiplying the amount set out in column 3 of Schedule 10 opposite to that year by the number of persons who are receiving education to which that subsection applies in that year at or in connection with systemic schools or non-systemic schools in the State.

(3) Financial assistance is granted to a State under this section in respect of an approved school system, or a school, in the State in respect of a program year:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the approved authority of the school system or of the school, as the case may be, an amount equal to each amount paid to the State under this section in relation to the school system or the school in respect of that year and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not make a payment to the authority under this section in respect of that year unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(c) on the additional conditions applicable under section 29.
Grants for expenditure of non-government disadvantaged schools

27. (1) Subject to subsection (2), the Minister may, by determination in writing, declare a non-government school in a State to be a disadvantaged school for the purposes of this Act.

(2) The Minister shall not declare a non-government school in a State to be a disadvantaged school for the purposes of this Act if the Minister is of the opinion that the total number of students at schools in the State that are, or may become, non-government disadvantaged schools, is, or will be, at any time during a program year, greater than the approved maximum number of students in relation to non-government disadvantaged schools in that State in respect of that year.

(3) The Minister shall determine, in relation to each State, the number of students that is, for the purposes of this Act, the approved maximum number of students in relation to non-government disadvantaged schools in the State for each program year.

(4) The Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State in respect of recurrent expenditure or for expenditure on minor capital projects of:

(a) approved school systems in the State in connection with systemic disadvantaged schools; or

(b) non-systemic disadvantaged schools in the State;

in respect of a program year of an amount not exceeding the amount set out opposite to the name of the State in column 3 of the part of Schedule 4 that relates to that year.

(5) Financial assistance is granted to a State under this section in respect of a program year for a systemic or a non-systemic disadvantaged school in the State:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the relevant approved authority an amount equal to each amount paid to the State under this section in relation to the school in respect of that year and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not make a payment to the authority under this section in respect of that year unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(c) on the additional conditions applicable under section 29.

Grants for recurrent expenditure in connection with special education at non-government schools etc.

28. (1) The Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State in respect of recurrent expenditure or expenditure on minor capital
projects in connection with special education provided at or in connection with a non-government school or non-government centre in the State, in respect of a program year, of an amount not exceeding the amount set out opposite to the name of the State in column 4 of the part of Schedule 5 that relates to that year.

(2) The Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State in respect of recurrent expenditure or expenditure on minor capital projects in connection with special education services provided at or in connection with a non-government school or non-government centre in the State, in respect of a program year, of an amount not exceeding the amount set out opposite to the name of the State in column 6 of the part of Schedule 5 that relates to that year.

(3) Financial assistance is granted to a State under this section in respect of expenditure in connection with special education provided at or in connection with a non-government school or non-government centre in the State in respect of a program year:

(a) on the condition that, subject to paragraph (c), the State will, as soon as possible, pay to the approved authority of the school or centre an amount equal to each amount paid to the State under this section in relation to the school or centre in respect of that year and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will, in making the payment, specify the part (if any) of that amount that is paid in connection with integration activities conducted at the school in respect of that year;

(c) on the condition that the State will not make a payment to the approved authority of the school or centre under this section in respect of that year unless the approved authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year;

(d) on the condition that the State will ensure that the total of all amounts specified by the State for the purposes of paragraph (b) in connection with integration activities conducted by the approved authorities of schools in the State in respect of that year is not less than the amount set out opposite to the name of the State in column 5 of the part of Schedule 5 that relates to that year; and

(e) on the additional conditions applicable under section 29.

Additional conditions of grants under Part

29. (1) Financial assistance is granted to a State under a provision of this Part in respect of a program year on the additional conditions that:

(a) if the State does not fulfil a condition specified in that provision with respect to the grant, the State will, if the Minister so determines,
repay to the Commonwealth an amount (not being greater than the sum of the amounts of financial assistance paid to the State under that provision in respect of that year) as the Minister specifies in the determination; and

(b) if a block grant authority or the approved authority of an approved school system, of a school or of a non-government centre in the State does not fulfil an obligation under an agreement between the authority and the Commonwealth made for the purposes of a section in this Part, the Minister may delay the making of any further payment to the State in respect of the authority under this Act until the authority fulfils that obligation.

(2) Nothing in this section authorises the recovery by the Commonwealth, in respect of financial assistance granted to a State under a provision of this Part, of any amount from that State under that provision or of any amount under an agreement entered into for the purpose of that provision, if the aggregate of that amount and:

(a) any amount previously recovered from that State under that provision; and

(b) any amount previously recovered under such an agreement; would exceed the amount of that financial assistance.

(3) Where:

(a) financial assistance:

(i) was granted to a State under a provision of the former Act in connection with non-government schools; or

(ii) is granted to a State under a provision of this Part in connection with non-government schools;

(b) under a condition of that grant that corresponds with subsection (1), or under subsection (1), as the case may be, the Minister has determined that the State should repay an amount to the Commonwealth; and

(c) an amount (in this subsection called the “repayable amount”), being the whole or a part of the amount referred to in paragraph (b), remains unpaid;

the Minister may reduce an amount that is payable to the State under the relevant provision of this Part in a program year by an amount not greater than the repayable amount.

PART VI—GRANTS FOR SCHOOLS SERVING PREDOMINANTLY ABORIGINAL OR TORRES STRAIT ISLANDER COMMUNITIES

Approval of capital projects

30. The Minister may, for the purposes of section 31, approve by instrument in writing a capital project in respect of a program year in connection with a school serving a predominantly Aboriginal community in a State.
Grants for capital projects in connection with schools serving predominantly Aboriginal or Torres Strait Islander communities

31. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to the States under this section, by way of financial assistance to the States in respect of a program year, in relation to projects approved under section 30 in respect of that year, of an amount not exceeding the sum of:

- the amount set out in column 2 of Schedule 11 opposite to that year in relation to government schools; and
- the amount set out in column 3 of Schedule 11 opposite to that year in relation to non-government schools.

(2) The Minister shall not authorise a payment to a State under this section in respect of a program year in relation to a project in connection with a government school (other than a project administered by a non-government body) unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section in relation to projects of that kind.

(3) Financial assistance is granted to a State under this section in relation to a project approved under section 30 in connection with a government school (other than a project administered by a non-government body):

- on the conditions set out in the agreement referred to in subsection (2); and
- on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:
  - (i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year in connection with that project) as the Minister specifies in the determination; and
  - (ii) the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

(4) Financial assistance is granted to a State under this section in relation to a project in connection with a non-government school or a project in connection with a government school that is administered by a non-government body:

- on the condition that, subject to paragraph (c), the State will, as soon as possible, pay to the approved authority of the school or body an amount equal to each amount paid to the State under this section in relation to the project, and, in making the payment, will
describe the amount paid as a payment in relation to the project made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that, if the State does not fulfil the condition referred to in paragraph (a), the State will, if the Minister so determines, repay to the Commonwealth an amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year in connection with that project) as the Minister specifies in the determination;

(c) on the condition that the State will not make a payment to the authority under this section in respect of that year in relation to the project unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(d) on the condition that, if the authority does not fulfil an obligation under the agreement, the Minister may delay the making of any further payment to the State in respect of the authority under this Act until the authority fulfils that obligation.

(5) Nothing in subsection (4) authorises the recovery by the Commonwealth, in respect of financial assistance granted to a State under this section, of any amount from that State under that subsection or of any amount under an agreement entered into for the purpose of that subsection, if the aggregate of that amount and:

(a) any amount previously recovered from that State under that subsection; and

(b) any amount previously recovered under such an agreement; would exceed the amount of that financial assistance.

PART VII—JOINT PROGRAMS FOR GOVERNMENT AND NON-GOVERNMENT SCHOOLS

Approval of programs of ethnic education

32. (1) Subject to this section, the Minister may, by determination in writing, approve a program of ethnic education provided, otherwise than for profit, by a body that is an approved ethnic schools authority in a program year.

(2) The Minister shall not approve a program under subsection (1) unless the Minister is satisfied that:

(a) the program is the same as, or substantially the same as, a program that was approved under subsection 60 (1) of the former Act in respect of the year commencing on 1 January 1986; or

(b) there are exceptional circumstances justifying the granting of the approval.
(3) Without limiting the matters to which the Minister may have regard in deciding whether to approve a program of ethnic education in respect of a program year or in determining a level of assistance in respect of a program year, the Minister shall have regard to:

(a) the nature of the program;
(b) the number of hours per week during which direct instruction is to be given to students under the program; and
(c) the intended duration of the program.

(4) The Minister shall not approve a program of ethnic education of an approved ethnic schools authority in respect of a program year unless the Minister is satisfied that:

(a) that program is open to persons irrespective of their ethnic origin;
(b) except in so far as the program is provided in a school that is not a co-educational school—the program is open to persons irrespective of their sex;
(c) no other financial assistance has been or will be provided by the Commonwealth towards the recurrent expenditure of the authority for the program; and
(d) the authority has complied with any obligations that were applicable to the authority in respect of a preceding year, whether under this Act or the former Act.

Grants for programs of ethnic education

33. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure of an approved ethnic schools authority in respect of a program year in providing, in that State in that year, an approved program of ethnic education in respect of that year, of an amount determined by the Minister, being an amount not exceeding the product of:

(a) the amount set out in column 2 of Schedule 12 opposite to that year; and
(b) the number of students applicable to the program under subsection (2).

(2) Subject to subsection (3), the number of students applicable to a program of ethnic education for the purposes of paragraph (1) (b) is:

(a) in the case of a program (in this paragraph called the "existing program") that had been approved by the Minister under the former Act in respect of the year commencing on 1 January 1986, or a program that is, in the opinion of the Minister, the same as, or substantially the same as, the existing program—the number applicable to the existing program under paragraph 61 (1) (b) of the former Act;
(b) in the case of a program approved by the Minister under subsection 32 (1)—a number determined by the Minister in writing; or
(c) if the number of students enrolled in the program is fewer than the number applicable under paragraph (a) or (b), as the case requires—the number of students enrolled in the program.

(3) The Minister may, in exceptional circumstances, determine a number of students applicable to a program that is greater than the number applicable to the program under subsection (2).

(4) Financial assistance is granted to a State under this section in respect of recurrent expenditure of an approved ethnic schools authority in respect of a program year in connection with the provision in the State in that year of an approved program of ethnic education:

(a) on the condition that, subject to paragraph (c), the State will, as soon as possible, pay to the authority an amount equal to each amount paid to the State under this section in relation to the program in respect of that year, and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that, if the State does not fulfil the condition referred to in paragraph (a), the State will, if the Minister so determines, repay to the Commonwealth an amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination;

(c) on the condition that the State will not make a payment to the authority under this section in respect of that year unless the authority has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(d) on the condition that, if the authority does not fulfil an obligation under the agreement, the Minister may delay the making of any further payment to the State in respect of the authority under this section until the authority fulfils that obligation.

(5) Nothing in subsection (4) authorises the recovery by the Commonwealth, in respect of financial assistance granted to a State under this section, of any amount from that State under that subsection or of any amount under an agreement entered into for the purpose of that subsection, if the aggregate of that amount and:

(a) any amount previously recovered from that State under that subsection; and

(b) any amount previously recovered under such an agreement;

would exceed the amount of that financial assistance.

**Grants for primary or secondary education in prescribed country areas**

34. (1) Where the Minister is of the opinion that the students, or a substantial number of the students, receiving primary or secondary education in a country area in a State would benefit from:
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(a) a program of education designed to alleviate educational disadvantages as a result of restricted access to social and cultural activities and educational services; or

(b) an experimental program of education designed to improve methods of providing education to students in that country area;

the Minister may, by determination in writing, declare the area to be a prescribed country area for the purposes of this Act.

(2) Subject to subsection (3), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure or expenditure on minor capital projects in respect of a program year in connection with the education of students receiving primary or secondary education in prescribed country areas in the State, of an amount not exceeding the amount set out opposite to the name of the State in the column of Schedule 13 that relates to that year.

(3) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(4) Financial assistance is granted to a State under this section:

(a) on the conditions set out in the agreement; and

(b) on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:

(i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination; and

(ii) the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

Grants for recurrent expenditure for the education of children residing in residential institutions

35. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for recurrent expenditure in connection with the education of children residing in residential institutions in the State in respect of a program year of an amount not exceeding the amount set out opposite to the name of the State in the column of Schedule 14 that relates to that year.
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(2) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(3) Financial assistance is granted to a State under this section:
(a) on the conditions set out in the agreement; and
(b) on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:
   (i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination; and
   (ii) the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

Grants for expenditure in relation to approved programs for education of children with severe disabilities

36. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for expenditure on programs for or in connection with the education of children with severe disabilities carried out by or in the State, in respect of a program year, of an amount not exceeding the amount set out opposite to the name of the State in column 7 of the part of Schedule 5 that relates to that year.

(2) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(3) Financial assistance is granted to a State under this section:
(a) on the conditions set out in the agreement; and
(b) on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:
   (i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination; and
the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

Grants for programs of early special education

37. (1) The Minister may, by determination in writing, approve, for the purposes of this section, a program of early special education for children with disabilities provided by the approved authority of a non-government school or a non-government centre in a State in a program year.

(2) Subject to subsection (3), the Minister may, by determination in writing, authorise the payment to a State under this subsection, by way of financial assistance to the State for expenditure in relation to programs of early special education for children with disabilities provided in the State in a program year, being:

(a) programs approved under subsection (1) in relation to that State in respect of that year; or

(b) programs provided by the State or an instrumentality of the State in that year;

of an amount not exceeding the amount set out opposite to the name of the State in column 8 of the part of Schedule 5 that relates to that year.

(3) The Minister shall not authorise a payment to a State under this section in respect of a program year unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(4) Financial assistance is granted to a State under this section:

(a) on the conditions set out in the agreement; and

(b) on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:

(i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination; and

(ii) the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

Grants for expenditure of approved education centres

38. (1) Subject to subsection (2), the Minister may, by determination in writing, authorise the payment to a State under this section, by way of financial assistance to the State for expenditure in respect of a program year...
in respect of an approved education centre in the State of such amounts as the Minister determines.

(2) The Minister shall not authorise payments to the States under subsection (1) in respect of a program year that exceed, in the aggregate, the amount specified in column 2 of Schedule 15 opposite to that year.

(3) Financial assistance is granted to a State under this section in respect of a program year:

(a) on the condition that, subject to paragraph (b), the State will, as soon as possible, pay to the governing body of the approved education centre an amount equal to each amount paid to the State under this section in respect of that centre and, in making the payment, will describe the amount paid as a payment made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that the State will not make a payment to the governing body under this section in respect of that year unless the governing body has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year, or in respect of a number of years including that year; and

(c) on the condition that, if the State does not fulfil a condition specified in this subsection with respect to that grant:

(i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year) as the Minister specifies in the determination; and

(ii) if the governing body does not fulfil an obligation under the agreement, the Minister may delay the making of any further payment to the State in respect of the approved education centre under this section until the governing body fulfils that obligation.

Grants for projects of national significance

39. (1) Subject to subsection (2), where:

(a) a project is carried out in Australia with the sole or principal object of promoting change or innovation in, or in relation to, primary or secondary education in Australia or of improving the experience, knowledge or skills of teachers and other persons in relation to primary or secondary education in Australia; and

(b) the Minister is satisfied that the project is of national significance and that it is desirable that assistance in connection with the project be provided under this section;

the Minister may, by determination in writing, approve the project for the purposes of this section.

(2) Subject to subsections (3) and (4), the Minister may, by determination in writing, authorise the payment to a State under this section,
by way of financial assistance to the State for expenditure in respect of a program year in relation to a project approved under subsection (1).

(3) The Minister shall not authorise payments to the States under subsection (1) in respect of a program year that exceed, in the aggregate, the amount set out in column 2 of Schedule 16 opposite to that year.

(4) The Minister shall not authorise a payment to a State under this section in respect of a program year in relation to a project conducted by the State unless the State has entered into an agreement of a kind specified by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year, being an agreement that sets out conditions on which financial assistance is granted to the State under this section.

(5) Financial assistance is granted to a State under this section in relation to a project conducted by a State in respect of a program year:

(a) on the conditions set out in the agreement referred to in subsection (4); and

(b) on the condition that, if the State does not fulfil a condition specified in the agreement with respect to that grant within the time (if any) specified for fulfilment of the condition:

(i) the State will, if the Minister so determines, repay to the Commonwealth such amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year in connection with that project) as the Minister specifies in the determination; and

(ii) the Minister may delay the making of any further payment to the State under this section until the State fulfils that condition.

(6) Financial assistance is granted to a State under this section in relation to a project conducted by a person other than the State in respect of a program year:

(a) on the condition that, subject to paragraph (c), the State will, as soon as possible, pay to the person an amount equal to each amount paid to the State under this section in relation to the project, and, in making the payment, will describe the amount paid as a payment in relation to the project made out of money provided to the State by the Commonwealth under this section;

(b) on the condition that, if the State does not fulfil the condition referred to in paragraph (a), the State will, if the Minister so determines, repay to the Commonwealth an amount (not being greater than the sum of the amounts of financial assistance paid to the State under this section in respect of that year in connection with that project) as the Minister specifies in the determination;

(c) on the condition that the State will not make a payment to the person under this section in respect of that year in relation to the
project unless that the person has entered into an agreement of a kind determined by the Minister with the Commonwealth in respect of that year or in respect of a number of years including that year; and

(d) on the condition that, if the person does not fulfil an obligation under the agreement, the Minister may delay the making of any further payment to the State in respect of the person under this Act until the person fulfils that obligation.

Limit on recovery

10. Nothing in this Part authorises the recovery by the Commonwealth, in respect of financial assistance granted to a State under a provision of this Part, of any amount from that State under that provision or of any amount under an agreement entered into for the purpose of that provision, if the aggregate of that amount and:

(a) any amount previously recovered from that State under that provision; and
(b) any amount previously recovered under such an agreement; would exceed the amount of that financial assistance.

PART VIII—MISCELLANEOUS

20. Minister for Finance may fix amounts, and time of payment, of financial assistance

41. Financial assistance payable to a State under this Act shall be paid in such amounts, and at such times, as the Minister for Finance determines in writing.

25. Amounts payable by the States to the Commonwealth

42. An amount payable by a State to the Commonwealth in accordance with this Act is a debt due by the State to the Commonwealth.

Reductions for false or misleading statements

43. (1) If:

(a) a statement made to the Minister under this Act, under the former Act or under an agreement under that Act by the approved authority of a non-systemic school, or of an approved school system, is false or misleading in a material particular; and

(b) in reliance on the statement, a payment has been made to a State under a provision of this Act in respect of the school or the approved school system, as the case may be, of an amount that, in the opinion of the Minister, exceeds the amount that would have been authorised to be paid if the statement had not been false or misleading in a material particular;

the Minister may, by determination in writing, reduce any amount payable to the State under this Act in respect of the school or the approved school
system, as the case may be, in a particular program year or during 2 or
more program years, by the amount of that excess.

(2) If:
   (a) a statement made to the Minister under this Act, under the former
       Act or under an agreement under that Act by the approved authority
       of a non-systemic school, or of an approved school system, is false
       or misleading in a material particular; and
   (b) as a result of the statement, the school or the system obtains a
       higher funding level for the purpose of meeting recurrent expenditure
       than the school would have obtained if the statement had not been
       made;

the Minister may, by determination in writing, vary the list by specifying a
different funding level of the school or the system.

(3) A determination under this section may be expressed to take effect
   from a day before the day on which the determination was made.

Advances

44. The Minister may make advances to a State, by way of financial
    assistance to the State on account of an amount that is expected to become
    payable under this Act to the State, and any conditions that would be
    applicable to the payment are applicable to any such advance.

Payments to be made out of Consolidated Revenue Fund or Loan Fund

45. Payments to a State under this Act may be made out of:
   (a) in the case of payments under section 12, 21 or 31 and advances
       under section 44 on account of payments of that kind—the
       Consolidated Revenue Fund or the Loan Fund; or
   (b) in any other case—the Consolidated Revenue Fund.

Authority to borrow

46. The Treasurer may, from time to time, in accordance with the
    provisions of the Commonwealth Inscribed Stock Act 1911, or in accordance
    with the provisions of an Act authorising the issue of Treasury Bills, borrow
    amounts not exceeding in the aggregate the sum of the amounts that may
    become payable to the States under sections 12, 21 and 31 of this Act.

Application of money borrowed

47. Money borrowed under section 46 shall be applied only for the
    expenses of borrowing and for:
    (a) making payments to the States under section 12, 21 or 31;
    (b) making advances under section 44 on account of payments of that
        kind; and
    (c) making payments to the Consolidated Revenue Fund in accordance
        with section 48.
Reimbursement of Consolidated Revenue Fund from Loan Fund

48. (1) Where a payment under section 12, 21 or 31, or an advance under section 44 on account of a payment of that kind, has been made out of the Consolidated Revenue Fund, the Minister for Finance may authorise the payment to the Consolidated Revenue Fund, out of the Loan Fund, of an amount not exceeding the amount so paid.

(2) In any statement prepared by the Minister for Finance under section 50 of the Audit Act 1901, amounts paid to the Consolidated Revenue Fund under subsection (1) of this section shall not be shown as receipts of that Fund but shall be shown as having reduced the total of the amounts expended from that Fund under this Act.

Appropriation

49. The Consolidated Revenue Fund and the Loan Fund are appropriated as necessary for the purposes of this Act.

Delegation

50. The Minister may, by signed instrument, delegate to an officer of the Department all or any of the Minister's powers and functions under this Act.

Report by Minister

51. The Minister shall, as soon as practicable after 30 June 1990 and after 30 June in each of the 3 following years, cause a report with respect to the financial assistance granted, and other payments authorised, by the Minister under this Act in the year ending on the preceding 31 December, and with respect to the application of that financial assistance and those payments in that year, to be laid before each House of the Parliament.

Regulations

52. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
### SCHEDULE 1

**CAPITAL PROJECTS FOR GOVERNMENT SCHOOLS**

<table>
<thead>
<tr>
<th>State</th>
<th>1989</th>
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<tbody>
<tr>
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<tr>
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<td>Northern Territory</td>
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### SCHEDULE 2

**GENERAL RECURRENT EXPENDITURE OF GOVERNMENT SCHOOLS**

#### PART 1—PRIMARY EDUCATION

<table>
<thead>
<tr>
<th>Column 1</th>
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<th>Column 4</th>
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<td>$</td>
<td>$</td>
<td>$</td>
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<tr>
<td>219</td>
<td>224</td>
<td>234</td>
<td>245</td>
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#### PART 2—SECONDARY EDUCATION

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SCHEDULE 3
EDUCATION IN ENGLISH AS A SECOND LANGUAGE—GOVERNMENT SCHOOLS

PART 1—1989

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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<tr>
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<td>ESL-general education</td>
<td>ESL-new arrivals</td>
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<tr>
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SCHEDULE 4
DISADVANTAGED SCHOOLS

PART 1—1989

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</tr>
</thead>
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<tr>
<td>State</td>
<td>Disadvantaged non-government schools</td>
<td>Disadvantaged government schools</td>
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# SCHEDULE 5
## SPECIAL EDUCATION

### PART 1—1989

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<tr>
<th>State</th>
<th>Column 1</th>
<th>Column 2 Government special education (including integration activities)</th>
<th>Column 3 Government integration activities</th>
<th>Column 4 Non-government special education (including integration activities)</th>
<th>Column 5 Non-government integration activities</th>
<th>Column 6 Special Education Services</th>
<th>Column 7 Children with severe disabilities</th>
<th>Column 8 Early special education</th>
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<tr>
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### SCHEDULE 6

NON-GOVERNMENT SCHOOLS AND CENTRES—CAPITAL PROJECTS

<table>
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<tr>
<th>Year</th>
<th>General capital projects</th>
<th>Capital projects for children with disabilities</th>
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<tr>
<td>1989</td>
<td>55,761,000</td>
<td>2,273,000</td>
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### SCHEDULE 7

GENERAL RECURRENT EXPENDITURE OF NON-GOVERNMENT SCHOOLS

PART 1—PRIMARY EDUCATION

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<th>Level of assistance</th>
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## SCHEDULE 7—continued

### PART 2—SECONDARY EDUCATION

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<td>1873</td>
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### SCHEDULE 8

**Subsection 22 (2)**

#### ESTABLISHMENT GRANTS

##### PART 1—NON-GOVERNMENT PRIMARY SCHOOLS

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##### PART 2—NON-GOVERNMENT SECONDARY SCHOOLS

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<td>265</td>
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<td>88</td>
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### SCHEDULE 9
Section 24

SHORT-TERM EMERGENCY ASSISTANCE FOR NON-GOVERNMENT SCHOOLS

<table>
<thead>
<tr>
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### SCHEDULE 10
Sections 25 and 26

EDUCATION IN ENGLISH AS A SECOND LANGUAGE—NON-GOVERNMENT SCHOOLS

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<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Year</strong></td>
<td><strong>ESL-general education</strong></td>
<td><strong>ESL-new arrivals</strong></td>
</tr>
<tr>
<td>1989</td>
<td><strong>$</strong></td>
<td><strong>$</strong></td>
</tr>
<tr>
<td></td>
<td><strong>11,139,000</strong></td>
<td><strong>2,142</strong></td>
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### SCHEDULE 11
Section 31

CAPITAL PROJECTS FOR SCHOOLS SERVING PREDOMINANTLY ABORIGINAL OR TORRES STRAIT ISLANDER COMMUNITIES

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<thead>
<tr>
<th>Column 1</th>
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<th>Column 3</th>
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</thead>
<tbody>
<tr>
<td><strong>Year</strong></td>
<td>Non-Government Schools</td>
<td>Government Schools</td>
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<td><strong>$</strong></td>
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### SCHEDULE 12

**PROGRAMS OF ETHNIC EDUCATION**

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<td>Year</td>
<td>Maximum amount per student</td>
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### SCHEDULE 13

**PRESCRIBED COUNTRY AREAS**

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</tr>
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### SCHEDULE 14

**CHILDREN IN RESIDENTIAL INSTITUTIONS**

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<tbody>
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<td>South Australia</td>
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</tr>
<tr>
<td>Tasmania</td>
<td>80,000</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>33,000</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>2,700,000</strong></td>
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### SCHEDULE 15

**APPROVED EDUCATION CENTRES**

<table>
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<tr>
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### SCHEDULE 16

**PROJECTS OF NATIONAL SIGNIFICANCE**

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