



# **Indigenous Education (Targeted Assistance) Act 2000**

**Act No. 147 of 2000 as amended**

This compilation was prepared on 9 September 2011 taking into account amendments up to Act No. 94 of 2011

The text of any of those amendments not in force on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

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# **An Act to provide targeted financial assistance to advance the education of Indigenous persons, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Indigenous Education (Targeted Assistance) Act 2000*.

### **2 Commencement** [see Note 1]

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

### **3 Overview of the Act**

#### *Making of agreements*

- (1) This Act allows the Minister to make an agreement with an education provider or other person or body authorising the making of payments during the 2001 to 2014 calendar years.

#### *Agreements with education providers*

- (2) For an agreement with an education provider, the payments may be for recurrent expenditure of the provider in those years, for ABSTUDY approved courses run by the provider in those years or for particular projects.

#### *Agreements with other persons or bodies*

- (3) For an agreement with another person or body, the payments may be for particular projects.

#### *Payments must be for advancing the objects of this Act*

- (4) The payments under an agreement must be for advancing the objects of this Act.

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*Amount of the payments*

- (5) The amount of the payments must be specified in the agreement or worked out in accordance with the agreement.

*Recovery of payments*

- (6) If there is a breach of a condition in an agreement, the Minister may require an amount to be repaid to the Commonwealth. If the amount is not repaid, other payments under the agreement may be reduced or the Commonwealth may recover an amount as a debt.

#### 4 Definitions

In this Act, unless the contrary intention appears:

***ABSTUDY approved course*** means a course that:

- (a) is provided through a mixture of distance education and either or both of the following:
  - (i) residential education;
  - (ii) face-to-face education; and
- (b) is provided at a higher education provider or a vocational education and training institution; and
- (c) is approved as a mixed mode away-from-base course under the ABSTUDY Scheme.

***ABSTUDY payment*** means a payment of the kind mentioned in paragraph 10(1)(b) that is made under an agreement made under section 10.

***advancing the objects of this Act*** includes, but is not limited to, the following:

- (a) publicising this Act, its objects and how it achieves those objects;
- (b) monitoring or evaluating the effectiveness of this Act in advancing its objects;
- (c) monitoring or evaluating the effectiveness of an agreement made under this Act in advancing the objects of this Act.

***education provider*** means:

- (a) a State or Territory; or
- (b) a university or other institution providing post-secondary education; or
- (c) a person or body conducting, or associated with, an educational system or educational institution; or
- (d) a person qualified to carry out research, or give advice, about education.

***Finance Minister*** means the Minister administering the *Financial Management and Accountability Act 1997*.

***funding year*** means the 2001 calendar year, the 2013 calendar year, or any calendar year between those years.

***higher education provider*** has the same meaning as in section 16-1 of the *Higher Education Support Act 2003*.

***Indigenous person*** means:

- (a) a member of the Aboriginal race of Australia; or
- (b) a descendant of the Indigenous inhabitants of the Torres Strait Islands.

***non-ABSTUDY payment*** means a payment (other than an ABSTUDY payment) that is made under an agreement made under this Act.

***other party***, in relation to an agreement made under section 10, means the party, or each party, making the agreement with the Commonwealth.

Note: If there is only one such party, references in this Act to each other party, or to one of the other parties, are taken to be references to that party.

***performance indicators***, in relation to an agreement made under section 10, means the performance indicators specified in the agreement.

***performance targets***, in relation to an agreement made under section 10, means the performance targets specified in the agreement.

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***Territory*** means the Australian Capital Territory or the Northern Territory.

***vocational education and training institution*** means an institution in a State or Territory that:

- (a) is a registered training organisation (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
- (b) provides VET courses (within the meaning of that Act); and
- (c) is not conducted for profit.



## **Part 2—Objects of the Act**

### **5 Object of Act—equitable and appropriate educational outcomes for Indigenous people**

It is an object of this Act to achieve equitable and appropriate educational outcomes for Indigenous people by:

- (a) arrangements for the adequate preparation of Indigenous children for primary and later schooling through preschool education; and
- (b) arrangements enabling Indigenous children to attain, through compulsory primary and secondary education, commensurate skills and standards of skills as those attained by other Australian children; and
- (c) arrangements enabling Indigenous secondary students to attain the same rate of successful completion of Year 12, or its equivalents, as that attained by other Australian secondary students; and
- (d) arrangements enabling Indigenous students participating in post-secondary education to attain the same graduation rates as those attained by other students so participating; and
- (e) developing programs to support the maintenance and continued use of the languages of Indigenous people; and
- (f) the provision of community education services to enable Indigenous people to manage the development of their communities; and
- (g) arrangements enabling Indigenous students to attain better literacy and numeracy skills, and to attain better attendance outcomes, through access to priority Commonwealth education initiatives and strategic projects; and
- (h) arrangements for education that will enable Indigenous adults with limited or no educational experience to attain proficiency in numeracy, the English language and life skills; and
- (i) education enabling Indigenous students to appreciate the history, culture and identity of Indigenous people; and

- (j) education enabling all Australian students to understand and appreciate the traditional and contemporary culture of Indigenous people.

#### **6 Object of Act—equal access to education by Indigenous people**

It is an object of this Act to ensure that Indigenous people enjoy equality with other Australians in their access to education and, in particular, to ensure:

- (a) that Indigenous children who are below primary school age enjoy equality with other Australian children of that age in their access to preschool education; and
- (b) that all Indigenous children have local access to compulsory primary and secondary schooling; and
- (c) that Indigenous people have equitable access to other secondary and post-secondary education.

#### **7 Object of Act—equity of participation by Indigenous people in education**

It is an object of this Act to ensure equity of participation by Indigenous people in education and, in particular, to ensure:

- (a) the participation of Indigenous children in preschool education for a period similar to that during which other Australian children participate in that education; and
- (b) that all Indigenous children participate in compulsory primary and secondary schooling; and
- (c) that the rate of participation of Indigenous people in other secondary and post-secondary education is equivalent to that of other Australians.

#### **8 Object of Act—increasing involvement of Indigenous people in educational decisions**

It is an object of this Act to increase the involvement of Indigenous people in the making of decisions concerning education by:

- (a) the establishment of effective arrangements for the participation of Indigenous parents and other Indigenous people in decisions concerning the planning, delivery and evaluation of preschool, primary and secondary education for Indigenous children; and

- (b) the establishment of effective arrangements for the participation of Indigenous students and other Indigenous people in decisions concerning the planning, delivery and evaluation of post-school education to Indigenous people; and
- (c) an increase in the number of Indigenous people who are employed or otherwise involved in education:
  - (i) as administrators, teachers, teaching assistants, researchers, student services officers, curriculum advisers and community liaison officers; and
  - (ii) as special teachers of the culture, history, contemporary society and languages of Indigenous people; or otherwise; and
- (d) the provision of education and training to develop the skills of Indigenous people that are relevant to their participation in the making of decisions concerning education; and
- (e) the development of arrangements to secure independent advice from communities of Indigenous people concerning educational decisions to be taken at local, regional, State and Territory, and national levels.

### **9 Object of Act—to develop culturally appropriate education services for Indigenous people**

It is an object of this Act to encourage the development of education services that are culturally appropriate for Indigenous people by:

- (a) the development of curricula that are suited to:
  - (i) the education of Indigenous students; and
  - (ii) the training of professional educators (including administrators, teachers, teaching assistants, researchers, student services officers, curriculum advisers and community liaison officers) who are involved in the education of Indigenous students; and
- (b) the development of teaching methods and techniques that are suited to the learning styles of Indigenous students; and
- (c) the promotion of research to devise innovative methods to deliver education services to Indigenous students; and

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- (d) the promotion of research to devise methods to eliminate barriers to educational attainment encountered by Indigenous students; and
- (e) the conduct of pilot studies to test the effectiveness of the methods referred to in paragraphs (c) and (d).

## **Part 3—Agreements**

### **Division 1—Making agreements**

#### **10 Agreements with education providers**

- (1) The Minister may, on behalf of the Commonwealth, make an agreement with an education provider that does one or more of the following:
  - (a) authorises the making of one or more payments to the provider for its recurrent expenditure in one or more specified funding years that is for the purpose of advancing the objects of this Act;
  - (b) authorises the making of one or more payments to the provider for one or more specified ABSTUDY approved courses that are run by the provider in one or more specified funding years;
  - (c) authorises the making of one or more payments to the provider, or to another person or body, for one or more specified projects whose purpose is to advance the objects of this Act.

*Amount of payments for recurrent expenditure*

- (2) The amount or amounts of the one or more payments for recurrent expenditure for each funding year covered by the agreement must be:
  - (a) specified in the agreement; or
  - (b) worked out in accordance with the agreement.

*Amount of payments for ABSTUDY approved courses*

- (3) The amount or amounts of the one or more payments for each ABSTUDY approved course covered by the agreement must be:
  - (a) specified in the agreement; or
  - (b) worked out in accordance with the agreement.

*Amount of payments for particular projects*

- (4) The amount or amounts of the one or more payments for each project covered by the agreement must be:
- (a) specified in the agreement; or
  - (b) worked out in accordance with the agreement.

*Notice in Gazette*

- (5) The Minister must, by notice in the *Gazette*, publish details of any agreement made under this section.

**11 Agreements with any persons or bodies**

- (1) The Minister may, on behalf of the Commonwealth, make an agreement with a person or body (including an education provider) authorising the making of one or more payments to the person or body for one or more specified projects whose purpose is to advance the objects of this Act.

*Amount of the payments*

- (2) The amount or amounts of the one or more payments for each project covered by the agreement must be:
- (a) specified in the agreement; or
  - (b) worked out in accordance with the agreement.

## **Division 2—Accountability for section 10 agreements**

### **Subdivision A—Commitments and general conditions**

#### **11A Agreements are subject to commitments**

- (1) The Minister must not make an agreement under section 10 unless the agreement specifies the following commitments by each other party:
  - (a) a commitment to advance the objects of this Act;
  - (b) a commitment to achieve the performance targets.
- (2) The agreement may also specify other commitments.

#### **11B Agreements are subject to conditions**

- (1) The Minister must not make an agreement under section 10 unless the agreement specifies the following conditions:
  - (a) a condition that payments received under the agreement by each other party be spent by the party for the purposes specified in the agreement;
  - (b) the conditions mentioned in Subdivisions B and C;
  - (c) a condition that reports covered by paragraph (b) must be given to the Secretary of the Department at the times, and in the manner, required by the agreement;
  - (d) a condition that each other party give to the Minister any reports:
    - (i) of a kind or kinds required by the Minister; and
    - (ii) at the times, and in the manner, required by the Minister.
- (2) The Minister must not make the agreement unless the agreement specifies that the payments under the agreement are made on the conditions described in subsection (1).
- (3) The agreement may also specify other conditions, and that the payments under the agreement are made on those conditions.

**Subdivision B—Specific conditions about financial accountability**

**11C Certifying agreement payments duly spent or committed**

There must be a condition that, for each funding year covered by the agreement, each other party give the Secretary of the Department a certificate:

- (a) made by a person authorised to do so by the agreement; and
- (b) specifying whether the payments to the party for the funding year have been spent (or committed to be spent) in that year for the purposes specified in the agreement.

**Subdivision C—Specific conditions about educational accountability**

**11E Reporting on performance**

- (1) There must be a condition that each other party complies with the requirements specified in the agreement about reporting on performance against the performance indicators and performance targets.
- (2) This condition may include a requirement to report on performance against the performance indicators in a way that gives data for different geographical regions. This subsection does not limit subsection (1).

**11F Minister may intervene if under-performance**

- (1) If the Minister thinks one of the other parties is not achieving the performance targets, the Minister may direct the party to take the action specified in the direction.
- (2) There must be a condition that the party complies with the requirements specified in the agreement about reporting on the action taken in response to such a direction.

**11G Participation in evaluation and data validation exercises**

There must be a condition that each other party does each of the following:

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- (a) participate in evaluating how effectively projects, and initiatives, covered by the agreement advance the objects of this Act;
  - (b) participate in data validation exercises;
- in the manner, and by the times, specified in the agreement.

## Division 3—Contravening conditions

### 12 Recovery of payments

*Notice requiring repayment of amount*

- (1) If:
- (a) a payment is made to an education provider (the **recipient**), or to another person or body (also the **recipient**), under an agreement made under this Act; and
  - (b) the agreement sets out one or more conditions on which the payment is made; and
  - (c) one or more of those conditions is breached;
- the Minister may, by notice sent to the recipient, require the recipient to repay to the Commonwealth the amount (the **recoverable amount**) stated in the notice.

*Limit on amount stated in the notice*

- (2) The recoverable amount cannot be more than the payment made to the recipient.

*Reduction in other payments*

- (3) The Minister may, by determination in writing, reduce any other payment or payments authorised to be made under the agreement by an amount or amounts not more than the outstanding balance (if any) of the recoverable amount.

*Commonwealth may recover an amount as a debt*

- (4) The Commonwealth may recover, as a debt in a court of competent jurisdiction:
- (a) the outstanding balance (if any) of the recoverable amount; less:
  - (b) the total of any reductions to a payment or payments under subsection (3).

## **Part 4—Appropriations**

### **13 Appropriations for ABSTUDY payments**

ABSTUDY payments are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

### **14 Appropriations for non-ABSTUDY payments—2001 to 2004 quadrennium**

*1 January 2001 to 30 June 2002*

- (1) \$129,897,000 is appropriated out of the Consolidated Revenue Fund in respect of the period that starts on 1 January 2001 and ends on 30 June 2002 for the purpose of making non-ABSTUDY payments during that period.

*1 January 2002 to 30 June 2003*

- (2) \$128,605,000 is appropriated out of the Consolidated Revenue Fund in respect of the period that starts on 1 January 2002 and ends on 30 June 2003 for the purpose of making non-ABSTUDY payments during that period.

*1 January 2003 to 30 June 2004*

- (3) \$132,942,000 is appropriated out of the Consolidated Revenue Fund in respect of the period that starts on 1 January 2003 and ends on 30 June 2004 for the purpose of making non-ABSTUDY payments during that period.

*1 January 2004 to 30 June 2005*

- (4) \$134,005,000 is appropriated out of the Consolidated Revenue Fund in respect of the period that starts on 1 January 2004 and ends on 30 June 2005 for the purpose of making non-ABSTUDY payments during that period.

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*Increasing the amount of the appropriations*

- (5) The regulations may make provision for increasing the amounts mentioned in this section by reference to changes in an index determined in writing by the Finance Minister for the purposes of this section.

**14A Appropriations for non-ABSTUDY payments—2005 to 2008 quadrennium**

*Appropriations—starting amounts*

- (1) Each amount specified in the following table (as increased in accordance with subsection (2)) is appropriated out of the Consolidated Revenue Fund for the purpose of making non-ABSTUDY payments during the specified period.

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<b>Appropriations for non-ABSTUDY payments</b>			
<b>Item</b>	<b>Starting amount</b>	<b>for the period starting on...</b>	<b>and ending on...</b>
1	\$231,890,000	1 January 2005	30 June 2006
2	\$228,350,000	1 January 2006	30 June 2007
3	\$259,188,000	1 January 2007	30 June 2008
4	\$277,260,000	1 January 2008	30 June 2009

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*Increasing starting amounts*

- (2) The regulations may make provision for increasing an amount mentioned in subsection (1) by reference to changes in a specified index.

**14B Appropriations for non-ABSTUDY payments—2009 to 2012 quadrennium**

*Appropriations—starting amounts*

- (1) Each amount specified in the following table (as increased in accordance with subsection (2)) is appropriated out of the Consolidated Revenue Fund for the purpose of making non-ABSTUDY payments during the specified period.

**Appropriations for non-ABSTUDY payments**

Item	Starting amount	for the period starting on	and ending on ...
		...	
1	\$130,305,000	1 January 2009	30 June 2010
2	\$126,206,000	1 January 2010	30 June 2011
3	\$117,200,000	1 January 2011	30 June 2012
4	\$120,020,000	1 January 2012	30 June 2013

*Increasing starting amounts*

- (2) The regulations may make provision for increasing an amount mentioned in the table in subsection (1) by reference to changes in a specified index.

**14C Appropriations for non-ABSTUDY payments—2013***Appropriations—starting amounts*

- (1) Each amount specified in the following table (as increased in accordance with subsection (2)) is appropriated out of the Consolidated Revenue Fund for the purpose of making non-ABSTUDY payments during the specified period.

**Appropriations for non-ABSTUDY payments**

Item	Starting amount	for the period starting on	and ending on ...
		...	
1	\$133,527,000	1 January 2013	30 June 2014

*Increasing starting amounts*

- (2) The regulations may make provision for increasing an amount mentioned in the table in subsection (1) by reference to changes in a specified index.

**15 Appropriations operate separately**

Each provision of this Part that appropriates money out of the Consolidated Revenue Fund operates separately from the other provisions that so appropriate money.

## **Part 5—Other matters**

### **17 Delegation**

The Minister may, by writing, delegate any of the Minister's powers under this Act to:

- (a) the Secretary of the Department; or
- (b) an APS employee in the Department.

### **17A Annual report**

As soon as practicable after the end of each funding year, the Minister must cause to be laid before each House of the Parliament a report dealing, in relation to the year, with payments and performance information under agreements made under this Act.

### **18 Regulations**

The Governor-General may make regulations prescribing 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.

**Table of Acts****Notes to the *Indigenous Education (Targeted Assistance) Act 2000*****Note 1**

The *Indigenous Education (Targeted Assistance) Act 2000* as shown in this compilation comprises Act No. 147, 2000 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Indigenous Education (Targeted Assistance) Act 2000</i>	147, 2000	19 Dec 2000	19 Dec 2000	
<i>Indigenous Education (Targeted Assistance) Amendment Act 2001</i>	154, 2001	1 Oct 2001	1 Oct 2001	—
<i>Indigenous Education (Targeted Assistance) Amendment Act 2004</i>	145, 2004	14 Dec 2004	14 Dec 2004	Sch. 1 (item 10)
<i>Indigenous Education (Targeted Assistance) Amendment Act 2005</i>	149, 2005	14 Dec 2005	Schedule 1 (items 1–3): Royal Assent	—
<i>Indigenous Education (Targeted Assistance) Amendment Act 2006</i>	142, 2006	6 Dec 2006	6 Dec 2006	—
<i>Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Act 2007</i>	77, 2007	21 June 2007	21 June 2007	—
<i>Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Act 2007</i>	176, 2007	28 Sept 2007	28 Sept 2007	—
<i>Indigenous Education (Targeted Assistance) Amendment (2008 Measures No. 1) Act 2008</i>	4, 2008	20 Mar 2008	20 Mar 2008	—
<i>Indigenous Education (Targeted Assistance) Amendment (2008 Budget Measures) Act 2008</i>	47, 2008	25 June 2008	25 June 2008	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Education Legislation Amendment Act 2008</i>	142, 2008	9 Dec 2008	Schedule 1: Royal Assent Schedule 2 (items 8, 9): 1 Jan 2009 (see s. 2(1))	Sch. 1 (item 8)
<b>as amended by</b>				
<i>Statute Law Revision Act 2010</i>	8, 2010	1 Mar 2010	Schedule 2 (item 4): (a)	—
<i>Indigenous Education (Targeted Assistance) Amendment Act 2010</i>	87, 2010	29 June 2010	1 Jan 2010	—
<i>National Vocational Education and Training Regulator (Consequential Amendments) Act 2011</i>	14, 2011	12 Apr 2011	Schedule 1 (item 55): (b)	—
<i>Indigenous Education (Targeted Assistance) Amendment Act 2011</i>	94, 2011	8 Sept 2011	Schedule 1: Royal Assent	—



**Act Notes**

(a) Subsection 2(1) (item 7) of the *Statute Law Revision Act 2010* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
7. Schedule 2, item 4	Immediately after the time specified in the <i>Education Legislation Amendment Act 2008</i> for the commencement of item 9 of Schedule 2 to that Act.	1 January 2009

(b) Subsection 2(1) (item 10) of the *National Vocational Education and Training Regulator (Consequential Amendments) Act 2011* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
10. Schedule 1, items 36 to 55	Immediately after the commencement of section 3 of the <i>National Vocational Education and Training Regulator Act 2011</i> .	1 July 2011



**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted	
Provision affected	How affected
<b>Part 1</b>	
S. 3.....	am. No. 145, 2004; No. 142, 2008; No. 94, 2011
S. 4.....	am. No. 145, 2004; No. 142, 2008; No. 14, 2011
<b>Part 3</b>	
<b>Division 1</b>	
Heading to Div. 1 of ..... Part 3	ad. No. 145, 2004
Heading to s. 11.....	am. No. 145, 2004
S. 11.....	am. No. 145, 2004
<b>Division 2</b>	
Div. 2 of Part 3.....	ad. No. 145, 2004
<b>Subdivision A</b>	
Ss. 11A, 11B.....	ad. No. 145, 2004
<b>Subdivision B</b>	
S. 11C.....	ad. No. 145, 2004
S. 11D.....	ad. No. 145, 2004 am. No. 142, 2008 (as am. by No. 8, 2010) rep. No. 94, 2011
<b>Subdivision C</b>	
Ss. 11E–11G.....	ad. No. 145, 2004
<b>Division 3</b>	
Heading to Div. 3 of ..... Part 3	ad. No. 145, 2004
<b>Part 4</b>	
Heading to s. 14.....	am. No. 145, 2004
S. 14.....	am. No. 154, 2001
S. 14A.....	ad. No. 145, 2004 am. No. 149, 2005; No. 142, 2006; Nos. 77 and 176, 2007; Nos. 4 and 47, 2008
S. 14B.....	ad. No. 142, 2008 am. No. 87, 2010; No. 94, 2011
S. 14C.....	ad. No. 94, 2011
S. 16.....	rep. No. 145, 2004
<b>Part 5</b>	
S. 17A.....	rs. No. 142, 2008

**Table A**

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**Table A**

**Application, saving or transitional provisions**

*Indigenous Education (Targeted Assistance) Amendment Act 2004*  
(No. 145, 2004)

**Schedule 1**

**10 Application of amendments to agreements**

The amendments of the *Indigenous Education (Targeted Assistance) Act 2000* made by this Part apply in relation to agreements made under that Act after the commencement of this Part.

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*Education Legislation Amendment Act 2008* (No. 142, 2008)

**Schedule 1**

**8 Application**

The amendment made by item 7 of this Schedule applies in relation to the 2009 funding year and later funding years.