



Education Legislation Amendment Bill 2008

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Education Legislation Amendment Bill 2008

Date introduced: 24 September 2008

House: House of Representatives

Portfolio: Education, Employment and Workplace Relations

Commencement: Sections 1 to 3, Schedules 1 and 4 on Royal Assent. Schedules 2 and 3 at the same time the *Schools Assistance Act 2008* commences.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The purpose of the Bill is to amend the *Indigenous Education (Targeted Assistance) Act 2000* to:

- Appropriate funding for 2009–2013 for non ABSTUDY targeted programs—predominately in the non school sectors— and projects, aimed at improving Indigenous education outcomes
- Provide for the continuation of payments for 2009–2013 to education providers for the mixed-mode ‘Away from Base’ element of ABSTUDY
- Appropriate funding for new Indigenous early childhood measures until new arrangements are introduced in 2009
- Cease appropriations from 2009 for six Indigenous education school programs that will transfer to the proposed Schools Assistance Act for non-government schools and to new funding arrangements for government schools through agreements with the States and Territories.

The Bill makes consequential, transitional and technical amendments to the *Indigenous Education (Targeted Assistance) Act 2000*, the *Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Act 2005* and the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004* to reflect the provisions of the proposed Schools Assistance Act.

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The Bill also repeals the *States Grants (Primary and Secondary Education Assistance) Act 2000*.

Background

Since 1989, when Parliament passed the Aboriginal Education (Supplementary Assistance) Amendment Bill, Commonwealth funding for Indigenous education has contained two main elements: assistance to individual students and direct funding to institutions providing courses and training. Although the emphasis has moved towards funding of strategic targeted initiatives through education providers, rather than through support to individuals, the provision of Commonwealth support has continued under the framework of a specific Act, currently the *Indigenous Education (Targeted Assistance) Act 2000* (the IETA Act).

The current IETA Act provides quadrennium funding across all education sectors for the years 2005–2008. Similarly Commonwealth assistance to government and non-government schools is provided on a quadrennium basis through the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004*.

The proposed Schools Assistance Act and future agreements with the States and Territories will, from 2009, provide Commonwealth funding to non-government and government schools.¹ In a major legislative change these new arrangements will now include appropriations for Indigenous school education. Six Indigenous education programs in the school sector currently funded through the IETA Act will be consolidated into one per capita payment—the Indigenous Supplementary Assistance (ISA).² An estimated \$663.4 million in final 2008 prices, or two-thirds of the appropriations for the 2005-2008 quadrennium, will transfer from appropriations under the IETA Act to the new arrangements for school funding.³

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1. Future Commonwealth funding for government schools will be provided through the National Education Agreement which is currently being negotiated with the states and territories through the Council of Australian Governments. For further detail on the new arrangements for the funding of non-government and government schools see Marilyn Harrington, 'Schools Assistance Bill 2008', *Bills Digest*, no 37, Parliamentary Library, Canberra, 2008.
 2. The Indigenous school education elements which will be consolidated are Supplementary Recurrent Assistance; English as a Second Language – Indigenous Language Speaking Students; Indigenous Tutorial Assistance Scheme; Building an Indigenous Workforce; Homework Centres; and Transitional Project Assistance equivalent funding under the National Indigenous English Literacy and Numeracy Strategy.
 3. The Explanatory Memorandum breaks down the figure to \$462.7 million for government schools and \$200.7 million for non-government schools.

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The IETA Act will continue to provide funding for Indigenous education programs and Indigenous students, largely but not exclusively in the non-school sectors. Through the **proposed section 14B** the Bill will appropriate \$640.5 million for 2009–2013. However after funding arrangements for early childhood initiatives (\$160 million) and vocational education and training are finalised in 2009 the IETA Act will fund non-ABSTUDY ‘remnant’ projects which might be described as those not funded on a per capita basis—such as the Parent School Partnerships Initiative, boarding schools, the Indigenous Youth Mobility Program and sporting academies; projects funded through third party providers such as the Indigenous festivals; and funding to assist tertiary students such as the Indigenous Tutorial Assistance Scheme (tertiary component).

Since 1999 the IETA Act has also authorised payments from the Consolidated Revenue Fund for the ‘Mixed-mode’ Away-from-base ABSTUDY payments which are paid to education providers for the costs of ABSTUDY recipients to access intensive residential courses as part of a distance education course.⁴ These payments will continue under **Section 13** of the IETA Act.⁵

Basis of policy commitment

The Labor Government’s policy on Indigenous Affairs is focussed on closing the substantial gaps that exist between the socio-economic outcomes of the Indigenous and non-Indigenous population. In the Prime Minister’s speech on the apology to Indigenous Australians he stated:

Our challenge for the future is [to] ... embrace a new partnership between Indigenous and non-Indigenous Australians ... the core of this partnership for the future is to closing the gap between Indigenous and non-Indigenous Australians on life expectancy, educational achievement and employment opportunities. This new partnership on closing the gap will set concrete targets for the future: within a decade to halve the widening gap in literacy, numeracy and employment outcomes and opportunities for Indigenous children, within a decade to halve the appalling gap in infant mortality rates between Indigenous and non-Indigenous children and, within a

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4. Before 1999 these payments were made to the individual ABSTUDY recipient. For background to the changes see Sean Brennan, Indigenous Education (Supplementary Assistance) Amendment Bill 1999, *Bills Digest* no 16, 1999-2000, Parliamentary Library, Canberra, 1999.
 5. The Explanatory Memorandum estimates these payments to cost \$102.1 million (in 2008 prices) for 2009–2012. The Minister in her second reading speech estimates the cost at \$109 million over four years: Julia Gillard, ‘[Second reading speech: Education Legislation Amendment Bill 2008](#)’, House of Representatives, *Debates*, 24 September 2008, p. 3. This seems to be a reduction considering that in 2006 these payments totalled \$31.1 million. See: *National Report to Parliament on Indigenous Education and Training*, 2006, DEEWR, Canberra, 2008, p. 179.

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generation, to close the equally appalling 17-year life gap between Indigenous and non-Indigenous.⁶

During the election campaign in November 2007 the Australian Labor Party announced a range of measures to improve education outcomes of Indigenous students including a promise to expand ‘intensive literacy and numeracy programs in our schools ... the development of individual learning plans for Indigenous students ... [to] invest in building three new secondary boarding colleges in the Northern Territory .. and [provide funding] for 200 additional teachers for the Northern Territory.’⁷

These commitments totalling \$184.1 million were funded under the 2008–09 Budget measure ‘Closing the gap for Indigenous Australians’.⁸ Appropriations for 2008 were made through amendments to the IETA Act.⁹ Further appropriations to 2012 including the budget measures for intensive literacy and numeracy programs and individual learning plans are included in the new amounts in **proposed section 14B**¹⁰.

Although the Coalition Government did not set a timetable to achieve such a goal, the Labor Government’s aim to close the gaps in outcomes is not unlike that of the previous Government’s. Furthermore the Government continues the policy of providing a greater weighting of resources towards Indigenous students in remote areas where disadvantage is greatest. The Labor Government will continue funding initiatives introduced by the former government such as the Indigenous Youth Mobility Program and sporting academies.¹¹

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6. K. Rudd (Prime Minister) *Apology to Australia’s Indigenous peoples*, [press release](#), 13 February 2008; see also J. Macklin [‘New start is within our grasp’](#) *The Australian* 13 February 2008 where the Minister reiterated the targets.
 7. J. Macklin and W. Snowdon *Indigenous Economic Development* 5 November 2007.
 8. See Australian Government, ‘Part 2: Expense Measures’, *Budget Paper No. 2: Budget Measures 2008–09*, Commonwealth of Australia, Canberra, 2008, pp. 304-305.
 9. See: Coral Dow, Indigenous Education (Targeted Assistance) Amendment (2008 Measures No. 1) Bill 2008 *Bills Digest*, no 65, 2007–2008, Parliamentary Library, Canberra, 2008; Coral Dow, Indigenous Education (Targeted Assistance) Amendment (2008 Budget Measures) Bill 2008, *Bills Digest*, no 119, 2007–2008, Parliamentary Library, Canberra, 2008.
 10. Julia Gillard (Minister for Education) [‘Second reading speech: Education Legislation Amendment Bill 2008’](#), House of Representatives, *Debates*, 24 September 2008, p. 3.
 11. School-based sporting academies and the IYMP were funded in 2006 and 2007 through amendments to the IETA Act; see Coral Dow, ‘Indigenous Education (Targeted Assistance) Amendment Bill 2006’, *Bills Digest*, no 15, 2006–2007, Parliamentary Library, Canberra, 2006 and Coral Dow, ‘Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Bill 2007’, *Bills Digest*, no 162, 2006–2007, Parliamentary Library, Canberra, 2007.

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The major departure in the Bill, together with provisions in the Schools Assistance Act and foreshadowed changes under the National Education Agreement, is the dismantling of the IETA Act as the legislative basis and funding for Indigenous education programmes. This policy change is illustrated by the consolidation of targeted school programs into the Indigenous Supplementary Assistance (ISA) under the new school funding arrangements. The ISA will allow more freedom for schools to spend funds and develop programs in ways best suited to meet the objectives of closing the gap on literacy and numeracy rates, participation and retention. This will benefit those schools (and their students) with enthusiastic staff and communities who know what initiatives work for their school and how to best utilise the one payment. However it is possible targeted initiatives such as Tutorial Assistance, Homework Centres and strategies for students whose second language is English may disappear from other schools.

The policy change will increase funding through a change in the indexation mechanism: from the Wage Cost Index no. 1 used under the IETA Act to the Average Government School Recurrent Costs (AGSRC) used for schools funding.

Financial implications

The Bill provides for a total of \$742.6 million¹² through

- the appropriation of \$640.5 million in final 2008 prices for non-ABSTUDY payments¹³
- an estimated \$102.1 million for ABSTUDY (Away From Base) payments to be made out of the Consolidated Revenue Fund.

Main provisions

Schedule 1

Schedule 1 deals with the amendments to the *Indigenous Education (Targeted Assistance) Act 2000*

Item 6 inserts a **proposed section 14B** with appropriations for non-ABSTUDY payments from January 2009 to June 2013 totalling \$640.5 million.

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12. The Minister's second reading speech states the figure as \$779 million: '[Second reading speech: Education Legislation Amendment Bill 2008](#)', House of Representatives, *Debates*, 24 September 2008, p. 3. The difference between the two figures is the compounded indexation over the four years. The Bill and hence the EM refer to appropriations in constant start 2009 (or end 2008) figures). The Minister's figure includes estimates of indexation for each year of the forward estimates.
 13. The appropriations include \$160 million for early childhood initiatives which will transfer from the IETA Act when new arrangements are finalised in 2009.

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Item 7 substitutes new conditions in section 17A dealing with annual report requirements.

Section 17A of the IETA Act requires a report to Parliament on the progress of Indigenous education and training to be tabled after each funding year. Existing section 17A lists eight areas which must be dealt with in the report. **Proposed section 17A** deletes these detailed requirements, instead stipulating the report deal with ‘payments and performance information under agreements made under this Act’.

Since 2001 the *National Report to Parliament on Indigenous Education and Training* has provided details of equity and access provisions, funding and indicators across all sectors disaggregated to the state and territory level. With the move of school programs, and possible changes to vocational education and early childhood provisions, out of the IETA Act the reporting requirements on Indigenous education and training may prove to be inconsistent across sectors and published in a diverse range of sources dependant on the reporting requirements of other Acts.

Schedule 2 and 4

Schedules 2 and 4 deal with consequential and technical amendments to the *Indigenous Education (Targeted Assistance) Act 2000*, the *Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Act 2005* and the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004* to reflect the provisions of the proposed Schools Assistance Act.

Concluding comments

The Bill, along with the Schools Assistance Bill and foreshadowed changes to be introduced with the National Education Agreement, makes a major departure to the legislative basis and funding for Indigenous education programmes. For the first time since 1989 provision of targeted assistance to Indigenous education will be ‘mainstreamed’ through a number of Acts and agreements and targeted programs for school students will be rolled into one Indigenous Supplementary Assistance.

The diverse sources of reporting, such as various legislative requirements and non legislative mechanisms such as the annual Prime Ministerial statement on closing the gap between Indigenous and non-Indigenous Australians¹⁴, may prove problematic in gaining a concise and consistent understanding of targeted assistance and its outcomes. Yet such data will be crucial in understanding if the Government’s new approach to Indigenous education is on target in meeting its aim of halving gaps within a decade.

14. Kevin Rudd (Prime Minister) *Annual Prime Ministerial statement on closing the gap*, [media release](#), 5 April 2008.

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