

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION
ASSISTANCE) AMENDMENT BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by the authority of
th Minister for Schools, Vocational Education and
Training,
the Hon Ross V. Free MP)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY
THE HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED



**STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE)
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OUTLINE

This Bill amends the States Grants (Primary and Secondary Education Assistance) Act 1992 to give effect to initiatives announced in the 1993-94 Budget:

- \$3.6 million developmental funding over three years from 1994 to 1996 to support existing and developing hostels for rural school students;
- \$5.1 million from 1994 to 1996 for a pilot program to assist for transition support for students with disabilities; and
- \$13.5 million to extend the Students at Risk program for 1995 and 1996.

The Bill also gives effect to:

changes to strengthen the Commonwealth's New Schools Policy for funding new and changing non-government schools;

limiting eligibility for Commonwealth general recurrent funding to those students enrolled at non-government schools and attending those schools on a regular basis. The Minister is given a discretion not to exclude a student where special circumstances exist e.g. an extended period of illness;

the full implementation of the National Equity Program for Schools in 1994; and

funding schedules for programs under the National Equity Program for Schools and joint programs to support primary and secondary education for the remainder of the 1993 to 1996 funding period.

FINANCIAL IMPACT STATEMENT

The Schedules to the Bill set final grant levels for 1993 and initial grant levels for the 1994 program year. Total funding for schools is estimated to be \$2.901 billion in 1994.

Funds appropriated by the Bill for the 1994 program year are estimated to be some \$2.286 billion for general recurrent grants to government and non-government schools, \$303.7 million for capital grants to government and non-government schools, \$286.0 million for national equity programs, \$18.0 million for the School Language Program and \$6.5 million for other joint programs.

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NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short title

This clause provides for the Bill to be cited as the *States Grants (Primary and Secondary Education Assistance) Amendment Act 1993*.

Clause 2 - Commencement

Act commences upon Royal Assent except for Parts 3, 4, 5, 6, and 7 which commence on 1 January 1994.

**PART 2 - AMENDMENTS ABOUT CHANGES TO NON-GOVERNMENT
SCHOOLS AND PROPOSALS FOR NEW NON-GOVERNMENT SCHOOLS**

Clause 3 - Repeal of sections and substitution of new sections:

- 23. Approved authority to give notice of change or proposal
- 23A. Approved authority must apply to make a change or proposal if change is to occur on or after 1 January 1997
- 24. Provisional approval when no significant change in clientele

This clause repeals sections 23 and 24 of the Principal Act and substitutes new sections 23, 23A and 24:

- . Section 23 introduces a new, longer notification requirement for changes or proposals intended to occur on or after 1 January 1997 which means that notification of a change or proposal to be funded in 1997, will be required by 31 October 1994. It retains the 2 year notification requirement in relation to changes referred to in section 21 and proposals referred to in section 22, where those changes or proposals are intended to occur before 1 January 1997. It means that notification of a change or proposal to be funded in 1996, will still be required before 1 March 1994.
- . Section 23A requires that an application, in a form approved by the Minister, is to be lodged in relation to changes or proposals intended to occur on or after 1 January 1997. Where notification has been given by 31 October in the required year, the application will be required by 1 March of the next year. Section 23A also provides that where the Minister has accepted a late notification, the application must be lodged within 2 months.
- . Section 24 retains the power of the Minister to grant provisional approval to a change involving a non-significant change in clientele, without the need for further assessment. This applies to changes or proposals intended to occur before 1 January 1997 where the required notification has been given, and to changes or proposals

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intended to occur on or after 1 January 1997 where the required notification has been given and an application lodged.

**Clause 4 - Provisional approval when significant change in
cli ntele**

This clause amends section 25 of the Principal Act so that it applies to changes or proposals intended to occur on or after 1 January 1997 where the required notification has been given and an application lodged, as well as to changes or proposals intended to occur before 1 January 1997 where the required notification has been given.

**Clause 5 - Variation to take account of change where there is no
progressive extension into providing secondary
education**

This clause amends section 29 of the principal Act so that it does not apply to cases involving a progressive extension into secondary education. If a school commences all years of an extension into junior or senior secondary education at the same time, the existing minimum enrolment requirements in section 29 continue to apply in the case of the following changes:

- . an extension into a new level of education
- . an amalgamation of 2 schools involving a new level of education
- . a separation of a school into 2 or more schools.

The school must meet minimum enrolment requirements by schools census day for the State in the second year of the provisional approval or the approval will lapse. Section 29 does not apply where a school only commences the first year of an extension into junior or senior secondary education, then the second year in the next year and so on until all of the years have been offered. In this case, section 29A will apply.

Clause 6 - Ins rtion of new section:

**29A. Variation to take account of change to which
paragraph 26(c) or (d) applies if there is a
progressive extension into providing secondary
education**

This clause inserts section 29A in the Principal Act. This new section applies to changes involving a progressive extension into providing junior or senior secondary education where the change is:

- . an extension into a new level of education
- . an amalgamation of 2 schools involving a new level of education
- . a separation of a school into 2 or more schools.

The existing minimum enrolment requirements in section 29 will continue to apply when the school first commences the progressive extension, and the school must meet those requirements by schools census day for the State in the second year of the provisional approval or the approval will lapse. The school must meet those

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requirements in succeeding years by schools census day for the State in that year.

Clause 7 - Variation to take account of proposal if there is no progressive extension into providing secondary education

This clause amends section 30 of the Principal Act so that it does not apply to cases involving new schools progressively introducing secondary education. If a school commences all years of junior or senior secondary education at the same time, the existing minimum enrolment requirements in section 30 will continue to apply in the case of the following changes:

- . a new school or an existing school not in receipt of Commonwealth general recurrent funding; or
- . an amalgamation of a school included in the list with a school not included in the list.

The school must meet minimum enrolment requirements by schools census day for the State in the second year of the provisional approval or the approval will lapse. Section 30 does not apply where a school only commences the first year of junior or senior secondary education, then the second year in the next year and so on until all of the years have been offered. In this case, section 30A will apply.

Clause 8 - Insertion of new section:

30A. Variation to take account of proposal where there is a progressive extension into providing secondary education

This clause inserts section 30A which applies to proposals involving the progressive introduction of junior or senior secondary education. The existing minimum enrolment requirements in section 30 will continue to apply when the school first commences the secondary levels of education, and the school must meet those requirements by schools census day for the State in the second year of the provisional approval or the approval will lapse. The school must meet those requirements in succeeding years by schools census day for the State in that year.

Clause 9 - Repeal of section and substitution of new section:

39. Approved authority to give notice of change

This clause repeals section 39 of the Principal Act and substitutes a new section 39 which allows for late notifications of changes set out in section 38 to be accepted in special circumstances. The normal requirement is for notification to be given by 1 July of the year before the change is intended to occur.

Clause 10 - Minister may change maximum number of students eligible for general recurrent funding

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This clause amends section 44 of the Principal Act to reflect the insertion of new sections 23, 29A and 30A in the Principal Act.

Clause 11 - Insertion of new section:

**44A. Approved authority to give notice of variation
of list if variation to occur on or after
1 January 1997**

This clause inserts section 44A in the Principal Act. This new section requires notification for variations to the maximum enrolment number intended to occur on or after 1 January 1997. It means that notification of a variation to be funded in 1997, will be required by 31 October 1994. If the current provisions were to continue to apply, only an application would be required before 1 March 1995. Under this section the Minister may accept a shorter period of notice in special circumstances.

**Claus 12 - Approved authority must apply to Minister for a
variation of list**

This clause amends section 45 of the Principal Act to require an application, in a form approved by the Minister, for variations to the maximum enrolment number intended to occur on or after 1 January 1997 where the required notification under section 44A has been given. Where notification has been given by 31 October in the required year, the application will be required by 1 March of the next year. Section 45 now provides that, where the Minister has accepted a late notification, the application must be lodged within 2 months. The existing provisions will continue to apply to variations to the maximum enrolment number intended to occur before 1 January 1997. No notification is required but an application, in a form approved by the Minister, must continue to be lodged 2 years in advance.

Clause 13 - Insertion of new section:

**46A. Non-government schools - change if there is a
failure, during the course of a progressive
extension, to meet minimum enrolments**

This clause inserts section 46A in the Principal Act. The new section sets out the process to be followed before a school can be removed from the list for a secondary level of education because, as part of a progressive extension, it has failed to meet minimum enrolment requirements for a particular year by schools census day in the State in that year. As part of the process, the school must be given an opportunity to make a submission on the matter before a decision is made about continued funding for the level of education involved.

**PART 3 - AMENDMENTS ABOUT GRANTS FOR NON-GOVERNMENT
SCHOOLS AND NON-GOVERNMENT RURAL STUDENT HOSTELS**

Claus 14 - Heading to Part 5

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This clause amends the heading of Part 5 of the Principal Act to reflect the insertion of Division 3A which relates to grants for special projects in connection with non-government rural hostels.

Clause 15 - Grants for general recurrent expenditure

This clause amends section 55 of the Principal Act to clarify that in calculating the entitlement of a non-government school to general recurrent funding for its students, only students who attend the school on a regular basis at the approved location are to be included. To allow for special or unusual situations, the Minister is given a discretion not to exclude a student where special circumstances exist e.g. an extended period of illness. As Commonwealth general recurrent funding is provided for non-government schools in respect of the provision of education at approved locations, it is generally not appropriate to provide funding in respect of students who do not regularly attend the school at those locations.

Clause 16 - Insertion of new Division:

Division 3A - Grants for special projects in connection with non-government rural student hostels

60A. Grants for special projects in connection with non-government rural hostels

60B. Additional conditions - if agreement between Commonwealth and a State

60C. Additional conditions - if agreement between Commonwealth and body other than a State

This clause inserts Division 3A in the Principal Act which enables the Minister to approve a grant for a special project in connection with the management and operation of a non-government rural student hostel:

- . Section 60A provides that grants will be made primarily to non-government rural student hostels but payments may be made to State Governments or other bodies should the Minister so determine. It requires an agreement to be made between the Commonwealth and the body conducting the project, setting out the conditions of the grants.
- . Section 60B sets out additional conditions specific to these projects which apply if the agreement is between the Commonwealth and a State.
- . Section 60C sets out additional conditions if the agreement is between the Commonwealth and a body other than a State.

The clause enables the Minister to seek repayment or delay further payments until conditions in the agreement are met. It also requires the State to pass on funds for special projects to a body other than a State and to describe such funds as funds from the Commonwealth.

Clause 17 - Heading to Division 4 of Part 5

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This clause reflects the intention for the additional conditions in Division 4 to apply only to provisions in Divisions 1, 2 and 3 of the Principal Act and not to those in Division 3A.

Clause 18 - Additional conditions

This clause amends section 61 of the Principal Act to reflect the insertion of Division 3A. The additional conditions under section 61 in the Principal Act do not apply for assistance provided for rural student hostels described in Division 3A as separate additional conditions are set out in sections 60B and 60C.

**PART 4 - AMENDMENTS ABOUT GRANTS TO PROMOTE
EQUITY IN SCHOOL EDUCATION**

Clause 19 - Disadvantaged schools - government schools

This clause allows for State Ministers to nominate disadvantaged government schools in their State for the program years 1994, 1995 and 1996 in circumstances where the Commonwealth Minister has chosen not to do so.

Claus 20 - Disadvantaged schools - non-government schools

This clause allows for non-government education authorities to nominate disadvantaged non-government schools for their own educational sectors in their State for the program years 1994, 1995 and 1996 in the circumstances where the Commonwealth Minister has chosen not to do so.

Clause 21 - Insertion of new section:

**13A. Geographically isolated areas - government and
non-government schools**

This clause provides that State Ministers may declare areas in the relevant State which are geographically isolated for the purposes of funding under Section 72 for the program years 1994, 1995 and 1996.

**Claus 22 - Grants for expenditure in connection with government
disadvantaged schools**

This clause provides that the Commonwealth Minister may make a determination authorising payment to a State for the program years 1994, 1995 and 1996 in connection with disadvantaged government schools.

This clause also allows for some or all of the funds received by States under this section for disadvantaged government schools to be applied to government schools which are either in prescribed country areas or declared geographically isolated areas.

Clause 23 - Insertion of new section:

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71A. Grants for expenditure in connection with non-government disadvantaged schools in program years 1994, 1995 and 1996

This clause allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section.

This clause also allows for the Commonwealth Minister to make a determination authorising payment to a State for the program years 1994, 1995 and 1996 in connection with disadvantaged non-government schools.

This clause also allows for some or all of the funds received by States under this section to be applied to non-government schools either in prescribed country areas or declared geographically isolated areas.

Clause 24 - Insertion of new sections:

72A. Grants for primary and secondary education provided in government schools in prescribed country areas or geographically isolated areas in program years 1994, 1995 and 1996

72B. Grants for primary or secondary education provided in non-government schools in prescribed country areas or geographically isolated areas in program years 1994, 1995 and 1996

This clause inserts section 72A which provides that the Commonwealth Minister may make a determination authorising payment to a State for the program years 1994, 1995 and 1996 in connection with government schools which are either in prescribed country areas or in areas which have been declared as geographically isolated by the relevant State Minister. Section 72A also allows for some or all of the funds received by States in respect of government schools either in prescribed country areas or in declared geographically isolated areas to be applied to disadvantaged government schools.

This clause also inserts section 72B which allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section. Section 72B provides that the Commonwealth Minister may make a determination authorising payment to a State for the program years 1994, 1995 and 1996 for the expenditure of non-government education authorities in connection with non-government schools which are either in prescribed country areas or in areas which have been declared as geographically isolated by the relevant State Minister.

This clause also allows for some or all of the funds received by non-government education authorities in respect of schools in prescribed country areas or declared geographically isolated areas to be applied to disadvantaged non-government schools in the relevant educational sector.

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**Clause 25 - Grants for national projects assisting secondary
education in country areas**

This clause provides for the Minister to approve a project under this Section for the program years 1993 and 1994. The Country Areas National Component referred to in this Section is due to finish at the end of 1994.

**Claus 26 - Grants for national projects enhancing literacy and
learning**

This clause provides for the Minister to approve a project under this Section for a program year (other than program year 1996). The Literacy and Learning National Component is due to finish at the end of 1995.

**Clause 27 - Grants for projects in connection with government
secondary schools to assist students at risk**

This clause provides for the Commonwealth Minister to approve projects under this Section for the program years 1993, 1994, 1995 and 1996.

**PART 5 - AMENDMENTS ABOUT GRANTS FOR RECURRENT EXPENDITURE
ON GENERAL EDUCATION IN ENGLISH AND
ENGLISH AS A SECOND LANGUAGE**

**Claus 28 - Grants for recurrent expenditure on general education
in English as a second language in government schools**

This clause provides that the Minister may make a determination authorising payment to a State for recurrent expenditure on general education in English as a Second Language (ESL) in government schools for the program years 1993 -1996.

This clause also allows for some or all of the funds received by the States in respect of ESL general education in government schools to be applied to ESL courses for eligible new arrivals in government schools for the program years 1994, 1995 and 1996.

**Claus 29 - Grants for recurrent expenditure on education in
English as a second language for eligible new
arrivals in government schools**

This clause provides that the Minister may make a determination authorising payment to a State for recurrent expenditure on education in English as a Second Language (ESL) for new arrivals in government schools for the program years 1993 -1996.

This clause also allows for some or all of the funds received by States in respect of ESL new arrivals in government schools to be applied to ESL general education in government schools for the program years 1994, 1995 and 1996.

Claus 30 - Ins rtion of n w s ctions:

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- 65A. Grants for recurrent expenditure on general education in English as a second language in non-government schools in program years 1994, 1995 and 1996**
- 65B. Grants for recurrent expenditure on education in English as a second language for eligible new arrivals in non-government schools in program years 1994, 1995 and 1996**

This clause inserts section 65A which allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section. Section 65A provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with general education in English as a Second Language (ESL) for the program years 1994, 1995 and 1996. It also allows for some or all of the funds received by non-government education authorities in respect of ESL general education in non-government schools to be applied to ESL courses for eligible new arrivals in non-government schools in the relevant educational sector for the program years 1994, 1995 and 1996.

This clause also inserts section 65B which allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section. Section 65B also provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with education in English as a Second Language (ESL) for eligible new arrivals for the program years 1994, 1995 and 1996. It also allows for some or all of the funds received by non-government education authorities in respect of ESL education for eligible new arrivals in non-government schools to be applied to ESL general education in non-government schools in the relevant sector for the program years 1994, 1995 and 1996.

**PART 6 - AMENDMENTS ABOUT GRANTS FOR FACILITATING ACCESS OF
PEOPLE WITH DISABILITIES TO SCHOOL EDUCATION**

- Clause 31 - Grants for recurrent expenditure in connection with special education at government schools or centres**

This clause enables the Minister to make these grants for the program years 1993, 1994, 1995 and 1996.

- Clause 32 - Insertion of new section:**

- 67A. Grants in connection with special education at non-government schools or centres - program years 1994, 1995 and 1996**

This clause allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section.

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This clause also provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with providing special education programs and integration activities at non-government schools or centres in program years 1994, 1995 and 1996.

Clause 33 - Insertion of new section:

**68A. Grants for recurrent expenditure on
intervention support - program years 1994, 1995
and 1996**

This clause allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section.

This clause also provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with providing special education programs for young children with disabilities, children with severe disabilities and children in residential care in program years 1994, 1995 and 1996.

Claus 34 - Insertion of new sections:

**69A. Capital grants in connection with special
education at non-government schools or centres
- program years 1994, 1995 and 1996**

**69B. Grants for capital projects for children or
students with disabilities - program years
1994, 1995 and 1996**

**69C. Broadbanding of certain financial assistance
paid under sections 67A, 68A and 69A**

This clause inserts section 69A in the Principal Act. The new section allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section. Section 69A also provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with capital projects for children and students with disabilities in program years 1994, 1995 and 1996.

This clause also inserts section 69B in the Principal Act. Section 69B allows for an aggregation of non-government schools to nominate a body to be the nominated authority of the aggregation for the purposes of this section. Section 69B also provides that the Minister may make a determination authorising payment to a State for the expenditure of non-government education authorities in the State in connection with capital projects for children and students with disabilities in program years 1994, 1995 and 1996.

This clause also inserts section 69C in the Principal Act. This new section allows for some or all of the funds received by a nominated authority or the approved authority to be used interchangeably between grants for special education programs at non-government schools or centres, grants for special education

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intervention support and capital grants in connection with special education at non-government schools or centres for the program years 1994, 1995 and 1996. Section 69C allows the Minister to determine the amount of grant for capital projects that cannot be transferred into grants for special education at non-government schools or centres or into grants for intervention support, in the case of capital projects extending over a number of years where funds are already forward committed to the project. The amount that is forward committed cannot be transferred in the relevant year.

PART 7 - OTHER AMENDMENTS OF THE PRINCIPAL ACT

Clause 35 - Interpretation

Paragraphs (a) and (b) of this clause provide for the definition of "disadvantaged school" to apply in new sections 5A and 6A inserted in the Principal Act. Paragraph (c) extends the definition of "nominated authority" to apply in the specified sections in the Principal Act. Paragraphs (d) and (e) extend the definitions of the terms "nominated authority" and "relevant institution" so that they relate to non-government schools. Paragraph (f) defines "geographically isolated area" for the purposes of the Bill to mean an area which a State Minister determines as described in section 13A.

Clause 36 - Insertion of new section:

78A. Grants for national projects to assist students with disabilities in secondary schooling to make the transition from secondary education to further education, employment or adult life

This clause provides for the Commonwealth Minister to approve projects on transition services for students with a disability in secondary schooling to access further education, employment and adult life for program years 1994, 1995 and 1996.

Clause 37 - Grants for initiatives to improve the learning experiences of girls

This clause provides for the extension of initiatives to improve the learning experiences of girls to the program years 1994, 1995 and 1996.

Clause 38 - Grants - non-systemic schools or aggregations of non-government schools

This clause reflects changes made to the definition of "nominated authority" under another clause of the Bill.

Clause 39 - Conditions - non-systemic schools and aggregations of non-government schools

This clause reflects changes made to the definition of "nominated authority" under another clause of the Bill.

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Claus 40 - Variation to Schedule 6

This clause extends the previous section 107 to apply to the program years 1994, 1995, and 1996. It allows the Minister to transfer funding between capital grants in connection with special education at non-government schools or centres and other special education programs for program years 1994, 1995 and 1996. Under this clause a copy of the determination for the transfer of funds must be sent to the relevant State Minister and laid before each House of Parliament.

Claus 41 - Reductions for false or misleading statements

This clause amends paragraph 109(2)(a) of the Principal Act so that section 109 provisions in connection with false and misleading statements made to the Minister apply to aggregations of non-government schools which are referred to in the above two clauses.

Claus 42 - Further amendments of the Principal Act

This clause provides for various minor amendments as listed in Schedule 1 of the Bill. These amendments correct errors or reflect changes to definitions made under other clauses of the Bill. A number of the Schedule 1 amendments reflect the inclusion in the Principal Act, of new financial schedules with funding provision for program years 1993, 1994, 1995 and 1996.

Claus 43 - Replacement of Schedules

This clause substitutes new financial schedules to provide for increases in price levels and to include funding provision for 1993, 1994, 1995 and 1996.

NOTES ON AMENDMENT TO SCHEDULES

The Amendment rectifies an error in Part 2 of Schedule 1 - Capital Grants for Government Schools on page 35 of the Bill. The figures in Column 2 for State and Territory allocations for 1994 are amended to reflect calculations based on 1992 enrolment figures which are the most recent available and therefore the correct figures to use. The Column 2 total of \$199,552,000 remains the same.

