



Indigenous Education (Targeted Assistance) Act 2000

Act No. 147 of 2000 as amended

This compilation was prepared on 20 December 2005
taking into account amendments up to Act No. 149 of 2005

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

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

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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 2009 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 institution 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 2009 calendar year, or any calendar year between those years.

higher education institution means an institution within the meaning of section 4 of the *Higher Education Funding Act 1988*.

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.

Territory means the Australian Capital Territory or the Northern Territory.

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

- (a) is registered as an institution providing vocational education and training by the appropriate State or Territory authority; and
- (b) is receiving or is eligible to receive funding from the appropriate State or Territory authority; and
- (c) provides courses that are accredited under State or Territory requirements for the accreditation of vocational education and training courses; and
- (d) 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

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- (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.

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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.

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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.

11D Reporting other funds used to advance the objects of this Act

- (1) There must be a condition that each other party report how the party has advanced, and intends to advance, the objects of this Act from funds coming from sources other than the following:
 - (a) this Act;
 - (b) the *States Grants (Primary and Secondary Education Assistance) Act 2000* (the *States Grants Act*);
 - (c) any Act:
 - (i) applying to periods ending after the last period covered by the States Grants Act; and
 - (ii) having purposes similar to the States Grants Act.
- (2) This condition must require, for each funding year covered by the agreement, a report covering:
 - (a) such funds spent (or committed to be spent) by the party in the funding year; and
 - (b) such funds expected to be spent (or to be committed for spending) by the party in the next funding year; and
 - (c) the information required by the agreement about those funds.

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:

- (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.

Appropriations for non-ABSTUDY payments			
Item	Starting amount	for the period starting on...	and ending on...
1	\$231,890,000	1 January 2005	30 June 2006
2	\$225,670,000	1 January 2006	30 June 2007
3	\$226,543,000	1 January 2007	30 June 2008
4	\$225,370,000	1 January 2008	30 June 2009

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.

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 a report dealing with the following, in relation to that year, to be laid before each House of the Parliament:

- (a) performance information, in relation to each State and Territory and in relation to the government and non-government sector, contained in the National Report on Schooling in Australia;
- (b) information relating to Indigenous students contained in any performance reports of the Ministerial Council for Employment, Education, Training and Youth Affairs;
- (c) the progress of the National Indigenous Literacy and Numeracy Strategy;
- (d) the number of Indigenous enrolments in the pre-school sector;
- (e) the year 10 and year 12 retention rates for Indigenous students;
- (f) the number of Indigenous enrolments in post-compulsory education and training;
- (g) the number of Indigenous students completing post-compulsory education and training;
- (h) payments made under agreements made under this Act, including totals of such payments in relation to each State and Territory and in relation to the government and non-government sector.

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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 (tems 1–3): Royal Assent	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted	
Provision affected	How affected
Part 1	
Ss. 3, 4.....	am. No. 145, 2004
Part 3	
Division 1	
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
Division 2	
Div. 2 of Part 3.....	ad. No. 145, 2004
Subdivision A	
Ss. 11A, 11B.....	ad. No. 145, 2004
Subdivision B	
Ss. 11C, 11D	ad. No. 145, 2004
Subdivision C	
Ss. 11E–11G	ad. No. 145, 2004
Division 3	
Heading to Div. 3 of Part 3	ad. No. 145, 2004
Part 4	
Heading to s. 14.....	am. No. 145, 2004
S. 14	am. No. 154, 2001
S. 14A.....	ad. No. 145, 2004 am. No. 149, 2005
S. 16	rep. No. 145, 2004

Table A

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.