

Education (Accreditation of Non-State Schools) Amendment Regulation (No. 1) 2014

Explanatory Notes for SL 2014 No. 16

made under the

Education (Accreditation of Non-State Schools) Act 2001

General Outline

Short title

Education (Accreditation of Non-State Schools) Amendment Regulation (No. 1) 2014

Authorising law

Section 177(1) of the *Education (Accreditation of Non-State Schools) Act 2001*

Policy objectives and the reasons for them

The Non-State School Accreditation Board (NSSAB) collects a range of data annually from governing bodies of non-state schools, under section 166 of the *Education (Accreditation of Non-State Schools) Act 2001* (Accreditation Act). The provision of this data is necessary to allow the calculation of government allowances paid by the Minister of Education, Training and Employment under section 368 of the *Education (General Provisions) Act 2006*.

Schedule 3 of the Accreditation Act defines the school survey data which can be collected by NSSAB. The data relates to: the number of full-time and part-time students at the school; the number of distance education students; the number of students with a disability; the details of the sites from which the school operates; and other details about the school prescribed under a regulation.

An amendment to the *Education (Accreditation of Non-State Schools) Regulation 2001* (Accreditation Regulation) is required to ensure the definition of school survey data in the legislation is consistent with the data required to be provided to NSSAB.

Achievement of policy objectives

The objectives are achieved by inserting a new Part 2A into the Accreditation Regulation to prescribe other details about the non-state school to be school survey data in accordance with paragraph (g) of the definition of 'school survey data' in Schedule 3 of the Accreditation Act.

The data required to be provided under the existing definition of 'school survey data' in the Accreditation Act relates to data for enrolled students. The data required for funding purposes must also include details about the number of students who have attended the school regularly during the 'relevant period' between the commencement of the school year and the last Friday of February, because certain government allowances are contingent upon the student attending the school regularly, rather than merely being enrolled in the school.

The *Education (Accreditation of Non-State Schools) Amendment Regulation (No. 1) 2014* (the Amendment Regulation) prescribes the following information which must be provided to the NSSAB:

- a) the number of enrolled full-time students who are taken to have met the minimum attendance requirements for students during the relevant period; and
- b) the number of enrolled part-time students who are taken to have met the minimum attendance requirements for students during the relevant period.

From the number of full-time and part-time students who have attended the school during the relevant period, the following detailed data must be provided:

- a) the number of students whose principal place of residence is located in an 'isolated zone'; with 'isolated zone' defined by reference to a map published on the NSSAB website;
- b) the number of students who, in the opinion of the school's principal, require English as a second language tuition;
- c) the number of students with a disability;
- d) the number of students who identify as being of Aboriginal or Torres Strait Islander descent;
- e) the number of students who are overseas students; and
- f) the number of students who are boarding students, either at the non-state school or at another non-state school if the student boards at a different school as approved by NSSAB.

From the number of boarding students, the following data must be provided:

- a) the boarding fees paid in relation to the students, which does not include tuition fees; and
- b) the boarding fee concessions given to reduce the fees payable in relation to the students for reasons of economic hardship.

The Amendment Regulation explains how to determine whether a student is attending the school based on the current funding policy for non-state schools.

For full-time students, the student is taken to be attending the school if the student attends at least 11 days of the educational program between the commencement of the school term and the last Friday of February. The requirement to attend 11 days applies irrespective of when the school opens for the year.

For part-time students, the student is taken to be attending the school if they attend for the minimum period. The minimum period of attendance is calculated by using a formula which takes into account the number of days the part-time student is required to attend in accordance with their program and multiplying that by a fraction calculated by dividing 11 days by the number of days in the 'relevant period' i.e. $MP = (11/RP) \times PTD$. To determine **MP** (the minimum period for which a part-time student must attend), the non-state school will be required to divide 11 by the number of days in the 'relevant period' (**RP**), being the days between the commencement of the school year and the last Friday of February. This number will then be multiplied by the number of days the student is enrolled to attend the school on a part-time basis (**PTD**). An example of this calculation is provided below:

*A part-time student is enrolled to attend a non-state school on Monday, Tuesday and Wednesday of each week. The school opened on Tuesday 28 January 2014 so the relevant period (**RP**) for that school is 24 days, which is the number of days from Tuesday 28 January to Friday 28 February 2014. For the student there are 14 days in their educational program over the relevant period. The minimum period (**MP**) for this student is calculated as $MP = (11/24) \times 14$ days. The MP is calculated as approximately 6.4 days which is rounded up to 7 days. The student is therefore required to attend for a minimum period of 7 days over the relevant period in order to be taken to be attending the school for the purpose of school survey data.*

The formula is intended to ensure that a part-time student's attendance requirement is similar to a full-time student's attendance requirement, taking into account the nature of a part-time student's participation in an educational program. To calculate attendance requirements the minimum period must be rounded up to a whole number.

If the full-time or part-time student is absent from the school and this absence is outside the control of the student's parent or guardian (e.g. absence due to illness, death in the family, natural disaster or other intervening circumstance) the student will still be counted as 'attending' for those days that were missed. Where it is not appropriate for a parent to be responsible for the student's attendance, for example the child lives independently of a parent or guardian, the absence must be outside the control of this student.

The data prescribed in the Amendment Regulation does not change the amount of data that governing bodies of non-state schools are required to provide. The purpose of the amendment is to align the legislative requirement with the data that is already provided for the purpose of calculating government allowances.

Consistency with policy objectives of authorising law

The Explanatory Notes for the Accreditation Act state that the purpose of collecting school survey data is to require schools to give information that is used to calculate government payments to the school and any other information reasonably required by NSSAB to perform its functions. It is consistent that the school survey data collected should include comprehensive data which allows the accurate calculation of allowances and benefits.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of legislation.

Benefits and costs of implementation

The benefit of the Amendment Regulation is that it aligns the definition of school survey data with the data required to be collected for funding purposes. There are no costs to implement this Amendment Regulation, as there is no increase in the amount of data to be provided.

Consistency with fundamental legislative principles

This Amendment Regulation may breach the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament. The Amendment Regulation will require governing bodies of non-state schools to provide data about students living in isolated zones in accordance with a map published by NSSAB on the internet. The map will not be included in the Amendment Regulation. Data about students living in isolated zones is used to calculate a small component of special needs funding for non-state schools.

This potential breach can be justified on the basis that the level of detail included in the map and the frequency of changes in the map make it unsuitable for inclusion in subordinate legislation. The determination of an isolated zone is complex and can only be expressed through the use of a map. NSSAB will maintain such a map with the current details of isolated zones which will be accessible on its web page.

Consultation

The NSSAB, Queensland Catholic Education Commission and Independent Schools Queensland were consulted about the Amendment Regulation.