



New South Wales

Education Amendment (Financial Assistance to Non-Government Schools) Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Education Act 1990* so as to prohibit non-government schools that operate for profit from receiving financial assistance from the State.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Education Act 1990* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts a new section 21A. The proposed section contains the following provisions:

- (a) a provision that prohibits the payment of financial assistance to a non-government school that operates for profit (**proposed subsection (1)**),
- (b) a provision that declares that a non-government school is taken to operate for profit if any part of its proprietor's assets or income is paid to any other person (**proposed subsection (2)**),
- (c) a provision that declares that, despite proposed subsection (2), a non-government school is not taken to operate for profit as a result of certain kinds of payments being made to other persons, such as payments not exceeding reasonable market value for property, goods or services required in relation to the running of the school (**proposed subsection (3)**),
- (d) a provision that enables the Minister administering the Act to require a non-government school that receives financial assistance to furnish the Minister with information as to its contracts and other arrangements for the provision of goods and services (**proposed subsection (4)**).

Schedule 1 [2] amends clause 2 of Schedule 3 so as to enable savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [3] inserts a new Part 7 into Schedule 3. The proposed Part contains a clause that provides for proposed section 21A to apply to new non-government schools immediately and to existing non-government schools as from 1 January 2007.

First print



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New South Wales

Education Amendment (Financial Assistance to Non-Government Schools) Bill 2006

No. , 2006

A Bill for

An Act to amend the *Education Act 1990* with respect to the provision of financial assistance to non-government schools.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Education Amendment (Financial Assistance to Non-Government Schools) Act 2006</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Education Act 1990 No 8	7
The <i>Education Act 1990</i> is amended as set out in Schedule 1.	8
4 Repeal of Act	9
(1) This Act is repealed on the day following the date of assent to this Act.	10
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	11 12

Schedule 1 Amendments

	1
(Section 3)	2
[1] Section 21A	3
Insert after section 21:	4
21A Financial assistance not to be paid to non-government schools operating for profit	5 6
(1) Financial assistance under section 21 may not be paid (whether by way of per capita grant or otherwise) to or for the benefit of a non-government school that operates for profit.	7 8 9
(2) A non-government school is taken to operate for profit if any part of its proprietor's assets (in so far as they relate to the school) or income (in so far as it arises from the running of the school) is paid to any other person.	10 11 12 13
(3) Despite subsection (2), a non-government school is not taken to operate for profit just because of:	14 15
(a) any payment that its proprietor makes to a person in connection with the person's activities as a member of the governing body of the school, being a payment made by way of an honorarium or as reimbursement for out-of-pocket expenses, or	16 17 18 19 20
(b) any payment that its proprietor makes to a student of the school in connection with any prize, scholarship or other activity as a student of the school, or	21 22 23
(c) any payment that its proprietor makes to a person in connection with the provision, at no more than reasonable market value, of property, goods or services required in relation to the running of the school, or	24 25 26 27
(d) any payment that its proprietor makes to a related organisation that does not operate for profit, within the meaning of this section, in connection with the provision of property, goods or services required in relation to the running of the school.	28 29 30 31 32
(4) If the Minister is of the opinion that a non-government school receiving financial assistance under section 21 may be operating for profit, the Minister may, by order in writing, require its proprietor to furnish the Minister with information concerning any contracts or other arrangements entered into by the proprietor for the provision of property, goods or services in relation to the running of the school.	33 34 35 36 37 38 39

[2] Schedule 3 Savings, transitional and other provisions	1
Insert at the end of clause 2 (1):	2
<i>Education Amendment (Financial Assistance to</i>	3
<i>Non-Government Schools) Act 2006</i>	4
[3] Schedule 3	5
Insert after Part 6 of Schedule 3:	6
Part 7 Provision consequent on enactment of	7
Education Amendment (Financial	8
Assistance to Non-Government Schools)	9
Act 2006	10
14 Application of section 21A	11
Section 21A, as inserted by the <i>Education Amendment (Financial</i>	12
<i>Assistance to Non-Government Schools) Act 2006</i> , applies:	13
(a) in relation to any school that, immediately before the	14
commencement of that section, was a registered	15
non-government school—as from 1 January 2007, and	16
(b) in relation to any school that is registered as a	17
non-government school after the commencement of that	18
section—as from the date on which it is registered.	19