



# **Indigenous Education (Targeted Assistance) Act 2000**

**No. 147, 2000 as amended**

**Compilation start date:** 17 October 2014

**Includes amendments up to:** Act No. 109, 2014

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### **This compilation**

This is a compilation of the *Indigenous Education (Targeted Assistance) Act 2000* as in force on 17 October 2014. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 28 October 2014.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of each amended provision.

### **Uncommenced amendments**

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### **Provisions ceasing to have effect**

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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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**

This Act may be cited as the *Indigenous Education (Targeted Assistance) Act 2000*.

### **2 Commencement**

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.

#### *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.

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*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.

*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 provider 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 *Public Governance, Performance and Accountability Act 2013*.

***funding year*** means the 2001 calendar year or a later calendar year.

***higher education provider*** has the same meaning as in section 16-1 of the *Higher Education Support Act 2003*.

***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.

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***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.

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

- (a) is a registered training organisation (within the meaning of the *National Vocational Education and Training Regulator Act 2011*); and
- (b) provides VET courses (within the meaning of that Act); and
- (c) 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
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- 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
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- (c) the promotion of research to devise innovative methods to deliver education services to Indigenous students; and
- (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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**Division 1** Making agreements

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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.

**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.

**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.

Note: The appropriation for non-ABSTUDY payments is included in annual Appropriation Acts.

## **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.

### **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.

## Endnotes

### Endnote 1—About the endnotes

The endnotes provide details of the history of this legislation and its provisions. The following endnotes are included in each compilation:

- Endnote 1—About the endnotes
- Endnote 2—Abbreviation key
- Endnote 3—Legislation history
- Endnote 4—Amendment history
- Endnote 5—Uncommenced amendments
- Endnote 6—Modifications
- Endnote 7—Misdescribed amendments
- Endnote 8—Miscellaneous

If there is no information under a particular endnote, the word “none” will appear in square brackets after the endnote heading.

### Abbreviation key—Endnote 2

The abbreviation key in this endnote sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended the compiled law. The information includes commencement information for amending laws and details of application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision level. It also includes information about any provisions that have expired or otherwise ceased to have effect in accordance with a provision of the compiled law.

### Uncommenced amendments—Endnote 5

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in endnote 5.

## Endnotes

Endnote 1—About the endnotes

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### **Modifications—Endnote 6**

If the compiled law is affected by a modification that is in force, details of the modification are included in endnote 6.

### **Misdescribed amendments—Endnote 7**

An amendment is a misdescribed amendment if the effect of the amendment cannot be incorporated into the text of the compilation. Any misdescribed amendment is included in endnote 7.

### **Miscellaneous—Endnote 8**

Endnote 8 includes any additional information that may be helpful for a reader of the compilation.

**Endnote 2—Abbreviation key**

ad = added or inserted	pres = present
am = amended	prev = previous
c = clause(s)	(prev) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expired or ceased to have effect	rep = repealed
hdg = heading(s)	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
mod = modified/modification	Sdiv = Subdivision(s)
No = Number(s)	SLI = Select Legislative Instrument
o = order(s)	SR = Statutory Rules
Ord = Ordinance	Sub-Ch = Sub-Chapter(s)
orig = original	SubPt = Subpart(s)
par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)	

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Indigenous Education (Targeted Assistance) Act 2000	147, 2000	19 Dec 2000	19 Dec 2000	
Indigenous Education (Targeted Assistance) Amendment Act 2001	154, 2001	1 Oct 2001	1 Oct 2001	—
Indigenous Education (Targeted Assistance) Amendment Act 2004	145, 2004	14 Dec 2004	Schedule 1 (items 1–10, 12): Royal Assent	Sch. 1 (item 10)
Indigenous Education (Targeted Assistance) Amendment Act 2005	149, 2005	14 Dec 2005	Schedule 1 (items 1–3): Royal Assent	—
Indigenous Education (Targeted Assistance) Amendment Act 2006	142, 2006	6 Dec 2006	6 Dec 2006	—
Indigenous Education (Targeted Assistance) Amendment (2007 Budget Measures) Act 2007	77, 2007	21 June 2007	21 June 2007	—
Indigenous Education (Targeted Assistance) Amendment (Cape York Measures) Act 2007	176, 2007	28 Sept 2007	28 Sept 2007	—
Indigenous Education (Targeted Assistance) Amendment (2008 Measures No. 1) Act 2008	4, 2008	20 Mar 2008	20 Mar 2008	—



## Endnote 3—Legislation history

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Indigenous Education (Targeted Assistance) Amendment (2008 Budget Measures) Act 2008	47, 2008	25 June 2008	25 June 2008	—
Education Legislation Amendment Act 2008	142, 2008	9 Dec 2008	Schedule 1: Royal Assent Schedule 2 (items 8, 9): 1 Jan 2009 ( <i>see</i> s. 2(1))	Sch. 1 (item 8)
<b>as amended by</b>				
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 2 (item 4): 1 Jan 2009 (s 2(1) item 7)	—
Indigenous Education (Targeted Assistance) Amendment Act 2010	87, 2010	29 June 2010	1 Jan 2010	—
National Vocational Education and Training Regulator (Consequential Amendments) Act 2011	14, 2011	12 Apr 2011	Sch 1 (item 55): 1 July 2011 (s 2(1) item 10)	—
Indigenous Education (Targeted Assistance) Amendment Act 2011	94, 2011	8 Sept 2011	Sch 1: 8 Sept 2011 (s 2)	—
Social Security and Other Legislation Amendment (Income Support and Other Measures) Act 2012	52, 2012	26 May 2012	Sch 8 (item 1): 26 May 2012 (s 2(1) item 8)	—
Social Security and Other Legislation Amendment (Further 2012 Budget and Other Measures) Act 2012	154, 2012	17 Nov 2012	Sch 2: 17 Nov 2012 (s 2(1) item 2)	—

## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Indigenous Education (Targeted Assistance) Amendment Act 2013	66, 2013	27 June 2013	27 June 2013 (s 2)	—
Indigenous Education (Targeted Assistance) Amendment Act (No. 2) 2013	148, 2013	17 Dec 2013	Sch 1 (items 1, 2, 4): 18 Dec 2013 (s 2(1) items 2, 4) Sch 1 (items 3, 5): 1 July 2014 (s 2(1) items 3, 5) Remainder: 17 Dec 2013 (s 2(1) item 1)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (item 162) and Sch 14 (items 1–4): 1 July 2014 (s 2(1) items 6, 14)	Sch 14 (items 1–4)
Omnibus Repeal Day (Autumn 2014) Act 2014	109, 2014	16 Oct 2014	Sch 8 (items 4, 5): 17 Oct 2014 (s 2(1) item 5)	Sch 8 (item 5)

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**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 1</b>	
s. 3 .....	am. No. 145, 2004; No. 142, 2008; No. 94, 2011; No 148, 2013
s. 4 .....	am. No. 145, 2004; No. 142, 2008; No. 14, 2011; No 148, 2013; No 62, 2014
<b>Part 3</b>	
<b>Division 1</b>	
Heading to Div. 1 of .....	ad. No. 145, 2004
Part 3	
Heading to s. 11 .....	am. No. 145, 2004
s. 11 .....	am. No. 145, 2004
<b>Division 2</b>	
Div. 2 of Part 3.....	ad. No. 145, 2004
<b>Subdivision A</b>	
ss. 11A, 11B.....	ad. No. 145, 2004
<b>Subdivision B</b>	
s. 11C.....	ad. No. 145, 2004
s. 11D.....	ad. No. 145, 2004
	am. No. 142, 2008 (as am. by No. 8, 2010)
	rep. No. 94, 2011
<b>Subdivision C</b>	
ss. 11E–11G.....	ad. No. 145, 2004
<b>Division 3</b>	
Heading to Div. 3 of .....	ad. No. 145, 2004
Part 3	
<b>Part 4</b>	
Note to s 13.....	ad No 148, 2013
Heading to s. 14.....	am. No. 145, 2004
	rep No 148, 2013
s. 14 .....	am. No. 154, 2001
	rep No 148, 2013

## Endnotes

### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s. 14A.....	ad. No. 145, 2004 am. No. 149, 2005; No. 142, 2006; Nos. 77 and 176, 2007; Nos. 4 and 47, 2008 rep No 148, 2013
s. 14B.....	ad. No. 142, 2008 am. No. 87, 2010; No. 94, 2011; Nos. 52 and 154, 2012; No 66, 2013 rep No 148, 2013
s. 14C.....	ad. No. 94, 2011 am. No. 154, 2012; No 66, 2013 rep No 148, 2013
s 15 .....	rep No 148, 2013
s. 16 .....	rep. No. 145, 2004
<b>Part 5</b>	
s. 17A.....	rs. No. 142, 2008 rep No 109, 2014

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Endnote 5—Uncommenced amendments [none]

**Endnote 5—Uncommenced amendments [none]**

**Endnote 6—Modifications [none]**

**Endnote 7—Misdescribed amendments [none]**

**Endnote 8—Miscellaneous [none]**