**FAQs – Australia’s Foreign Relations Act (2020)**

The Commonwealth Government’s [Foreign Relations Act](https://www.foreignarrangements.gov.au/) has implications for how States and Territory governments engage with international counterparts.

# Background

## What is the Australia’s Foreign Relations (State and Territory Arrangements) Act 2020 (Cth)?

Australia’s [Foreign Relations (State and Territory Arrangements) Act 2020](https://www.legislation.gov.au/Details/C2020A00116) (the Act) was enacted on 10 December 2020 by the Commonwealth Government as a review mechanism to ensure written arrangements between State and Territory governments and international counterparts align with Australia’s foreign policy objectives of the day.

## Who does the Act apply to?

The legislation applies to all Australian State and Territory governments, departments and agencies, **government schools**, local governments and public universities.

This includes any written foreign arrangements between the Department of Education (DE), its portfolio agencies and Victorian government schools with foreign entities, including overseas governments, universities, and other government schools.

Independent schools operating on a commercial basis are not within scope of the Act.

# Foreign Arrangements under the Act

## What qualifies as a foreign arrangement under the Act?

Under the Act, foreign arrangements are written arrangements, contracts, memoranda of understandings or undertakings between State and Territories and foreign entities. Written arrangements may be in any form, and do not need to be signed or legally binding to fall within scope of the Act.

Foreign arrangements may be either **core foreign arrangements** or **non-core foreign arrangements.**

## Is my arrangement a core or non-core foreign arrangement?

The Act differentiates between **core** foreign arrangements and **non-core** foreign arrangements.

**Core** foreign arrangements are those arranged between DE, its portfolio agencies and Victorian government schools with overseas **national-level** government departments or agencies. *(e.g. a national Ministry or Department of Education)*

**Non-core** foreign arrangements are those arranged between DE, its portfolio agencies and Victorian government schools with overseas **subnational** government departments, agencies or government schools. *(e.g. at a provincial / prefectural / state, municipal or county level)*

**Examples** of **core** foreign arrangements**:**

* a written Memorandum of Understanding (MoU) between DE and the Goethe-Institut to deliver German language education support to students and teachers in Victorian schools
* a written MoU between the Victorian Space Science Education Centre and NASA to facilitate an international internship program

# Compliance with the Act

**Examples** of **non-core** foreign arrangements:

* a written MoU between DE and the Emirate of Sharjah to operate and deliver the Victorian Curriculum at the Victoria International School of Sharjah in the UAE
* a written MoU between University High School and their sister school Lycée Charles Le Peguy to support language learning, student exchange and intercultural understanding

## What are DE’s obligations under the Act?

From 10 March 2021, DE, its portfolio agencies, Victorian government schools, and school-council run kindergarten and long day care services are required to:

* seek and receive approval from the Australian Minister for Foreign Affairs (the Foreign Minister) before negotiating or entering into a **core** foreign arrangement
* notify the Foreign Minister of a proposal to enter into a **non-core** foreign arrangement
* notify the Foreign Minister of entry into a **core** or **non-core** foreign arrangement within 14 days.

Details of foreign arrangements will be uploaded to the Australian Department of Foreign Affairs and Trade’s (DFAT) [public register for foreign arrangements](https://www.foreignarrangements.gov.au/public-register) listing the title, parties to the arrangement, commencement date and the decision of the Foreign Minister.

## Can the Foreign Minister prohibit DE from negotiating or entering a foreign arrangement?

Under the Act, the Foreign Minister must consider the proposed negotiation or entry of each foreign arrangement and make a decision within 30 days of notification. In some cases, the Minister may prohibit DE from negotiating or entering into a core or non-core foreign arrangement if it:

* would adversely affect, or would be likely to adversely affect, Australia’s foreign relations; or
* would be, or would be likely to be, inconsistent with Australia’s foreign policy.

## What are the consequences for failing to comply with the Act?

If a foreign arrangement is entered into prior to – or without – Commonwealth recognition, or in direct contravention of the Foreign Minister’s decision, a declaration may be made that the arrangement is invalid and unenforceable, required to be terminated, or not in operation.

## Who is coordinating DE’s response to the Act?

The International Education Division (IED) within the School Education Programs and Support (SEPS) Group, is working across DE, its portfolio agencies and Victorian government schools to help ensure compliance with the Act and support good practice when entering prospective foreign arrangements.

The Department of Premier and Cabinet (DPC) is coordinating the Victorian government’s response to the Act, including liaising with DFAT.

# Sister School Arrangements and the Act

## Are all Victorian government sister school partnerships within scope of the Act?

Most sister school arrangements between state government schools and foreign entities are subject to Commonwealth review under the Act.

However, if an overseas school is demonstrably an independent school or institution operating on a commercial basis, it **may not be considered a foreign entity** for the purposes of the Act, thereby exempting any foreign arrangements with that school of obligations under the Act.

(For a comprehensive authoritative definition of foreign entities subject to the Act, see *Section 8* of [Australia’s Foreign Relations (State and Territory Arrangements) Act 2020](https://www.legislation.gov.au/Details/C2020A00116))

IED advises all schools to actively discuss and conclusively determine government affiliation (or lack thereof) with their overseas partners prior to negotiating prospective foreign arrangements and commencing the Commonwealth review process.

***Note:*** *All sister school arrangements involving Victorian government schools – regardless of whether in scope of the Act or not – must be reported to* *the IED’s Stakeholder Engagement team at* *ied.stakeholder.engagement@education.vic.gov.au**.*

## My school wants to establish a new sister school partnership. What do we need to do?

Once a school has determined their overseas partner’s status as a [foreign entity](https://www.legislation.gov.au/Details/C2020A00116) under the Act, the school needs to determine whether their prospective foreign arrangement is a [core or a non-core arrangement](#_Is_my_arrangement). Direct bilateral **government school-to-government school** agreements are typically **non-core** arrangements, though care should be taken to confirm no other parties are involved.

Once parties have agreed in principle the scope and substance of their proposed arrangements, they should consult the [Foreign Arrangement Checklist for Schools](https://www.education.vic.gov.au/PAL/school-foreign-arrangements-form.docx) for an overview of considerations under the Act, compile relevant information and draft their [Sister School MoU](https://www.education.vic.gov.au/PAL/sister-school-mou-template.docx), stating the terms of their proposed arrangements.

Once their unsigned draft MoU finalised, the [Foreign Arrangement Checklist for Schools](https://www.education.vic.gov.au/PAL/school-foreign-arrangements-form.docx) should then be completed and submitted at one of IED’s biannual rounds of submissions for Commonwealth review:

* Round 1 – **February/March** (Term 1)
* Round 2 – **June/July** (Term 2-3)

Schools are reminded of IED’s biannual rounds of submissions via the [department’s weekly School Update](https://eduvic.sharepoint.com/sites/SchoolUpdate/SitePages/Foreign-arrangements-expressions-of-interest-closing-soon.aspx) and the [Global Learning & Education (GL&E) newsletter](https://www.study.vic.gov.au/en/global-learning-programs/global-learning-newsletter/Pages/default.aspx).

***Note:*** *IED strongly recommends schools wishing to enter a new foreign arrangement to factor in the above timeframes and plan accordingly. Due to the endorsements involved, schools should expect processing times averaging 3-4 months from date of submission. Please refer to the* [*process map*](https://www.study.vic.gov.au/Shared%20Documents/en/FRA_process_maps_Schools.pdf) *for more information.*

## My school needs to renew a lapsed (or soon-to-expire) sister school MoU. How can we ensure our new arrangements remain compliant with the Act?

Schools with arrangements due to lapse within a year should liaise with their partner schools to confirm whether they wish to vary their previous arrangements or largely duplicate existing terms – taking care to satisfy all current [Commonwealth requisites](#_Is_my_school). *(See below list.)*

Once parties have agreed in principle, schools need to complete the same process as [new sister school partnerships](#_My_school_wants/I) above.

IED advises schools to actively record and monitor expiry dates of their existing sister school arrangements to ensure these remain compliant under the Act throughout the Commonwealth review process.

For more information about the foreign arrangement review process for schools, see: [FRA Process Maps for Schools.pdf](https://www.study.vic.gov.au/Shared%20Documents/en/FRA_process_maps_Schools.pdf)

## Is my school’s sister school arrangement legally binding?

As goodwill reciprocal arrangements aimed at developing students’ global understanding and intercultural capabilities, sister school partnerships are inherently **legally non-binding**. Victorian schools are encouraged to use [IED’s Template Sister School Memorandum of Understanding (MoU)](https://www.education.vic.gov.au/PAL/sister-school-mou-template.docx) as a template to document their shared objectives and collaborative activities. As good practice, schools should maintain open communication with partner schools and fulfil their roles and responsibilities as set out in the MoU.

## Is my school free to draft its own sister school MoU according to preferences?

Noting that [IED’s Template Sister School MoU](https://www.education.vic.gov.au/PAL/sister-school-mou-template.docx) serves as a guide to be readily amended as needed, schools are free to draft their own sister school MoUs if they so wish provided care is taken to satisfy current Commonwealth requisites, including:

* Expiry date or period of validity of no longer than 5 years
* Accuracy of foreign language text translation *(if applicable)*
* Dispute resolution provisions where *decision-making* roles and responsibilities might be included
* Termination and variation provisions
* Clear, unambiguous statement of its legally non-binding nature
* Full, complete and accurate contact details of all involved parties.

Clauses in [IED’s Template Sister School MoU](https://www.education.vic.gov.au/PAL/sister-school-mou-template.docx) pertaining to the above may be drawn upon and freely replicated in schools’ own draft arrangements.

## Can I draft open-ended sister school arrangements to avoid them lapsing and resubmitting them for FRA recognition?

No. Following recent updates to Commonwealth directives, all new foreign arrangements **must expire within a set timeframe** clearly stated within their MoU.

To avoid frequent resubmission, IED recommends that schools consider a proposed overall period of validity of 3 to 5 years, noting that longer terms may attract processing delays and/or denial of prospective arrangements.

## Can sister school arrangements be signed prior to Commonwealth review?

No. Since 10 March 2021, all new and updated sister school MoUs are deemed **prospective by default prior to Commonwealth review** and therefore **cannot be formally entered prior to formal Commonwealth recognition**.

MoUs signed prior to review are considered invalid under the Act and therefore inadmissible for review. If your school currently holds sister school MoUs signed on or after 10 March 2021 that have yet to be recognised by the Commonwealth, these would be in breach of the Act.

***Note:*** *Once a Commonwealth-recognised sister school arrangement is signed by all involved parties, a signed copy of the agreement must be submitted to DFAT within 14 days of last signature via IED.*

*To ensure timely submission, please ensure to email IED a digital copy of your signed sister school arrangements without delay at* *ied.stakeholder.engagement@education.vic.gov.au**.*

## Is my Confucius Classroom arrangement within the scope of the FRA?

[Confucius Classroom](https://www.confuciusinstitute.unimelb.edu.au/?q=confucius-institute-school-programs-confucius-classrooms) arrangements with a Victorian [Confucius Institute](https://www.confuciusinstitute.unimelb.edu.au/) may be considered subsidiary arrangements, under the auspices of the respective Confucius Institute arrangement. Schools should contact their affiliated Confucius Institute if they have any questions about their current arrangement.

Schools should contact IED’s Stakeholder Engagement team for advice if they wish to enter into a new, or alter their existing Confucius Classroom arrangement.

## How do I know if my sister school partnership constitutes a subsidiary arrangement?

Your arrangement may be a subsidiary arrangement if you entered into it **underneath or pursuant to another arrangement**, for example, between a foreign entity and your local government or a university. [BRIDGE International School partnerships](https://www.asiaeducation.edu.au/programmes/school-partnerships) are an example of a subsidiary arrangement.

If unsure, please contact IED’s Stakeholder Engagement team for further guidance.

## Where can I find out more information about the Act?

DFAT has published further information on the Act, including [fact sheets](https://www.foreignarrangements.gov.au/resources/fact-sheets3) and [FAQs](https://www.foreignarrangements.gov.au/resources/faqs3) on its [Foreign Arrangements Scheme](https://www.foreignarrangements.gov.au/) website.

If you identify a need for a prospective foreign arrangement or have queries regarding your existing or lapsed foreign arrangements, IED’s Stakeholder Engagement team can be reached at ied.stakeholder.engagement@education.vic.gov.au.

For further information on Victorian government schools’ obligations under the Act, please see the following [Policy and Advisory Library](https://www2.education.vic.gov.au/pal) pages:

* [Sister School Partnerships: Policy | education.vic.gov.au](https://www2.education.vic.gov.au/pal/sister-school-partnerships/policy)
* [Sister School Partnerships: Arrangements with overseas partners | education.vic.gov.au](https://www2.education.vic.gov.au/pal/sister-school-partnerships/guidance/arrangements-overseas-partners)