

Education Legislation (Fees) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 184

made under the

Education and Care Services Act 2013

Education (General Provisions) Act 2006

Education (Overseas Students) Act 2018

Education (Queensland College of Teachers) Act 2005

General Outline

Short title

Education Legislation (Fees) Amendment Regulation 2019

Authorising law

Sections 244(1) and 244(2)(o) of the *Education and Care Services Act 2013*

Sections 434(1) and 434(2)(a) of the *Education (General Provisions) Act 2006*

Sections 104(1) and 104(2)(a) of the *Education (Overseas Students) Act 2018*

Sections 298(1) and 298(2) of the *Education (Queensland College of Teachers) Act 2005*

Policy objectives and the reasons for them

Changes to fees and charges

The Queensland Government's policy on the annual indexation of fees and charges, for the year 1 July 2019 to 30 June 2020, is that fees and charges should be increased by 2.25% (rounded to the nearest five cents), unless specific approval has been sought to vary the rate of indexation.

The *Education Legislation (Fees) Amendment Regulation 2019* (the Regulation) will index the fees prescribed in the following Regulations according to the Government's policy:

- *Education (General Provisions) Regulation 2017* (EGP Regulation);
- *Education (Overseas Students) Regulation 2018* (EOS Regulation); and
- *Education (Queensland College of Teachers) Regulation 2016* (QCT Regulation).

The Regulation will also increase the fees in the *Education and Care Services Regulation 2013* (ECS Regulation). The ECS Regulation prescribes the fees under the *Education and Care Services Act 2013* (ECS Act) required to be paid by Queensland education and care providers not covered by the *Education and Care Services National Law (Queensland) Act 2011* (National Law).

In 2014, the Queensland Government decided that the fees prescribed in the ECS Regulation are to be indexed at a rate consistent with the indexation of fees prescribed under the National Law. The indexation of fees under the National Law for the 2019/20 financial year is 1.8% (rounded down to the nearest whole dollar). The Regulation will increase fees in the ECS Regulation by this rate of indexation.

Criminal History Check Fees

The following regulations prescribe the fee payable in relation to undertaking criminal history checks for mature age students and for teachers respectively:

- Section 76 and Schedule 5 of the EGP Regulation; and
- Item 10 of Schedule 1 of the QCT Regulation.

The prescribed fees reflect the exact amount charged by the Queensland Police Service (QPS) to undertake the criminal history checks. The prescribed criminal history check fees must be increased only when QPS advises.

QPS advised that their fee for undertaking a criminal history check will increase from 1 July 2019 to be \$26.95.

Exclusion of application fees in the QCT Regulation for certification of highly accomplished and lead teachers from indexation

On 7 May 2019, the Education (Queensland College of Teachers) Amendment Act 2019 (the Amendment Act) commenced to amend the Education (Queensland College of Teachers) Act 2005 (QCT Act) to provide for a new function of the Queensland College of Teachers (QCT) to certify teachers as a highly accomplished or lead teacher (HAT and LT).

To ensure that teachers apply to the appropriate certifying authority for their sector, the QCT Act also allows a regulation to prescribe who can apply for certification through QCT, limiting it to State school teachers, and teachers working in schools represented by the Queensland Catholic Education Commission (QCEC).

The Amendment Act also amended the QCT Regulation to provide for application fees for the certification of teachers for HAT and LT. There are separate fee components for teachers employed at State Schools and teachers employed by employing authorities represented by QCEC. This was on the basis to allow flexibility and to be reflective of the level of assistance provided by particular employing authorities in the assessment process to the QCT.

In accordance with the Queensland Government decision, the certification fees for State school teachers are not to be indexed annually in accordance with Government policy. However, the fees must be reviewed every 5 years, with the first review occurring in 2023.

The QCEC has been consulted about whether they require an increase in the application fees for certification of HAT and LT for teachers in schools represented by QCEC. The QCEC has confirmed they will not be seeking an increase in the application fees for certification of HAT and LT.

The HAT and LT certification fees in the QCT Regulation, therefore, will not be indexed.

Achievement of policy objectives

Changes to fees and charges

The objective of the Regulation to implement the Government's annual indexation of fees and charges policy will be achieved by increasing the fees prescribed in the following Regulations by 2.25% from 1 January 2020:

- EGP Regulation, which prescribes fees for the provision of distance education and specialised educational programs, the provision of a report about a State school student, and for an application for enrolment of a mature age student;
- EOS Regulation, which prescribes fees relating to applications by a school for approval (or amendment or renewal of approval) to provide a course or courses to overseas students, and applications by a school or not-for-profit organisation for approval (or amendment or renewal of approval) to provide an international secondary student exchange program.

The policy objective relating to fees and charges will also be achieved by increasing the prescribed fees in the QCT Regulation by 2.25% from 1 October 2019. These fees relate to the registration of teachers, including for initial registration or permission to teach, renewal or restoration of registration, renewal of permission to teach, replacement of certificate of registration or permission to teach, and annual registration fees. Increasing the fees in the QCT Regulation from 1 October 2019 will enable the Queensland College of Teachers to apply the revised fees to the 2020 round of teacher registration.

Finally, the policy objective relating to fees and charges will be achieved by increasing the fees prescribed in the ECS Regulation by 1.8%, rounded down to the nearest whole dollar, from 1 January 2020. The ECS Regulation prescribes fees for regulation of Queensland education and care services, including applications for provider and service approvals, amendment and transfer of a service approval, service and temporary waivers, cancellation of a prohibition notice, inspection of the register of approved providers, and obtaining copies of the register of approved authorities or part of it.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the *Education and Care Services Act 2013*, the *Education (General Provisions) Act 2006*, the *Education (Overseas Students) Act 2018*, and the *Education (Queensland College of Teachers) Act 2005*.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation and with the Government's policy on indexation of fees and charges.

Benefits and costs of implementation

There are minimal costs incurred through implementing the indexation of prescribed fees.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles. The Regulation will only change fees prospectively from commencement.

Consultation

Consultation has occurred with the Queensland College of Teachers, who supports the proposed fee increases.

Consultation also occurred with the QCEC who confirmed they will not be seeking an increase in their application fees for HAT and LT certification, as prescribed in the QCT Regulation, in 2019.

As the Regulation is machinery in nature further public consultation has not been undertaken.

The Office of Best Practice Regulation has not been consulted on the Regulation because it has been assessed by the Department of Education as excluded from the Regulatory Impact Assessment system under:

- category (h) because it increases fees in line with, or below, the Government endorsed indexation factor.