

Education and Care Services National Law (Queensland) Regulation 2022

Explanatory notes for SL 2022 No. 98

made under the
Education and Care Services National Law (Queensland) Act 2011

General Outline

Short title

Education and Care Services National Law (Queensland) Regulation 2022

Authorising law

Sections 32 and 45 of the *Education and Care Services National Law (Queensland) Act 2011* (the Enabling Act).

Policy objectives and the reasons for them

In December 2009, Queensland agreed at the Council of Australian Governments to establish a National Quality Framework for Early Childhood Education and Care services to provide a consistent, national approach to the regulation of early childhood providers and set minimum quality standards for service delivery. This included the adoption of the Education and Care Services National Law (National Law) by participating jurisdictions. On 1 January 2012, the Enabling Act commenced, giving effect to the National Law in Queensland.

The *Education and Care Services National Law (Queensland) Regulation 2011* (expiring Regulation) is made under the Enabling Act. It is due to expire on 1 September 2022 in accordance with section 54 of the *Statutory Instruments Act 1992*. In anticipation of this expiry, the Department of Education (department) completed a sunset review of the expiring Regulation to evaluate its continuing relevance, effectiveness and efficiency.

The expiring Regulation has only three sections, with the first two sections being preliminary relating to the short title and commencement. Section 3 gives meaning to the definition of central governing body (CGB) in section 32 of the Enabling Act, which states that a CGB is an entity, prescribed under a regulation, that receives funding from the department for an approved kindergarten program provided by one or more relevant services to which the entity provides all or part of the funding.

Five entities are currently prescribed in the expiring Regulation (making them CGBs):

- the Association of Independent Schools of Queensland Inc;
- the Corporation of the Roman Catholic Bishops of Queensland;
- the Creche and Kindergarten Association Limited ACN 150 737 849;
- Queensland Lutheran Early Childhood Services;
- the Gowrie (Qld) Inc.

Given it is the CGB's role to distribute government subsidies to kindergarten services, it is important that sufficient regulatory controls are in place to ensure there is no ambiguity in relation to who a CGB is and for this reason they are prescribed in the expiring Regulation.

If the expiring Regulation was to expire, no entities would be able to be CGBs, without amendment to the Enabling Act. The Government would have to create a new model to distribute funding and support to kindergarten services. The current model allows the distribution of funding and the provision of support by CGBs who have a close relationship with the kindergarten services and can more readily provide support than a single central government agency.

The current regulatory framework for early childhood education in Queensland has not changed significantly in the last ten years. The National Law remains the primary regulatory instrument regulating early childhood. The Enabling Act ensures that the National Law has effect in Queensland, and the provisions in the expiring Regulation still provide an important role in prescribing CGBs, as required by section 32 of the enabling Act.

Further, the prescription of CGBs in a regulation, rather than in an Act, allows for new CGBs to be added or existing CGBs to be removed more efficiently, should it be necessary.

For these reasons, a Regulation is required to be made that will replace the expiring Regulation.

Achievement of policy objectives

The *Education and Care Services National Law (Queensland) Regulation 2022* (the Regulation) has been made to replace the expiring Regulation.

The Regulation continues to prescribe five entities as CGBs, with four unchanged from the expiring Regulation. The one change is to replace the Association of Independent Schools of Queensland Inc, which was deregistered in 2016, with the entity that now represents independent schools, namely Independent Schools Queensland Ltd.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the authorising legislation.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

As the Regulation continues the status quo in relation to the prescribed CGBs, there are no cost associated with implementation.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

In the past two years, the department has consulted with key community and industry stakeholders on the regulatory framework for early childhood in Queensland. Stakeholders including: Independent Schools Queensland Ltd; Queensland Catholic Education Commission; Queensland Lutheran Early Childhood Services; Crèche and Kindergarten Association; Lady Gowrie; Isolated Children's Parents Association Queensland; Queensland Teachers' Union; Queensland Independent Education Union; and Queensland Association of State School Principals. No issues were raised by stakeholders in relation to the expiring Regulation.

The Office of Best Practice Regulation was consulted on the department's sunset review for the remake of the expiring Regulation and advised that, as it will not add to the burden of regulation and is unlikely to result in significant adverse impacts, no further regulatory impact analysis is required under the Queensland Government Guide to Better Regulation.

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