

Education Legislation Amendment Regulation 2022

Explanatory notes for SL 2022 No. 135

made under the

Education and Care Services Act 2013

Education (General Provisions) Act 2006

Education (Queensland College of Teachers) Act 2005

General Outline

Short title

Education Legislation Amendment Regulation 2022

Authorising law

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

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

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 Principles for Fees and Charges* requires agencies to set fees and charges to accurately reflect the cost of providing their services, and to ensure fees and charges maintain their value over time. Where a regular comprehensive review of fees and charges is not cost effective or no specific indexation method has been otherwise approved, agencies are required to apply the current Government Indexation Rate (GIR) as advised by Queensland Treasury annually.

Since 2021, the GIR has been implemented via the fee unit model under the *Acts Interpretation Act 1954*. Under this model, fees in legislation are to be expressed as fee units rather than in dollar amounts and the dollar value of a fee unit is prescribed in the *Acts Interpretation (Fee Unit) Regulation 2022*.

There are a number of fees in the Education portfolio legislation that are not in scope of the fee unit model that continue to be prescribed as dollar values rather than being stated as a fee unit. The policy objective of the Amendment Regulation is to amend the fees that are not in scope of the fee unit model, as outlined below.

Fees under the *Education and Care Services Regulation 2013*

The *Education and Care Services Regulation 2013* (ECS Regulation) prescribes fees under the *Education and Care Services Act 2013* for 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 under

the ECS Regulation are to be annually indexed at a rate consistent with the indexation of the fees prescribed in the National Law and published by the Australian Children's Education and Care Quality Authority, rather than the GIR. As such, these fees will be indexed in accordance with the National Law indexation.

Criminal History Check Fees

The following Regulations prescribe the fee payable in relation to undertaking a criminal history check for enrolment of mature age students and registration of teachers respectively:

- section 76 and Schedule 5 of the *Education (General Provisions) Regulation 2017* (EGP Regulation); and
- item 13 of Schedule 1 of the *Education (Queensland College of Teachers) Regulation 2016* (QCT Regulation).

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

QPS has advised that the criminal history check fee increased, from 1 July 2022, from \$27.15 to \$27.30.

Meetings for the formation of Parents and Citizens' Associations

The Amendment Regulation also amends the EGP Regulation to modernise particular provisions by clarifying that communication technology (for example, teleconferencing or videoconferencing) can be used to enable the holding of, and attendance at, a meeting for the formation of a parents and citizens' (P&C) association.

The amendments make permanent the temporary arrangements that were put in place during the COVID-19 public health emergency.

The *COVID-19 Emergency Response Act 2020* (COVID Act) was passed in 2020 to protect the health, safety and welfare of persons affected by the COVID-19 health pandemic and facilitate continuation of public administration, judicial process and activities disrupted by the COVID-19 health pandemic. It enables extraordinary Regulations to modify an Act consistent with the purposes of the COVID Act.

The Department of Education has had responsibility for the *Education Legislation (COVID-19 Emergency Response) Regulation 2020* (Education COVID Regulation), an extraordinary Regulation made under the COVID Act to ensure appropriate administration and regulation of the education sector during the pandemic. Among other matters, the Education COVID Regulation enabled P&C association meetings to be conducted via communication technology.

The Education COVID Regulation expired on 30 April 2022. The Department of Education consulted with relevant stakeholders about implications of provisions in the Education COVID Regulation expiring and potential for them to be made permanent.

P&Cs Qld, the peak body representing P&C Associations at state schools, requested the continued ability to conduct meetings via communication technology as it would be helpful given physical attendance can be hampered for a myriad of reasons, such as illness, distance, on-farm commitments, poor roads and natural disasters. P&C associations provide a valuable support network to schools across the State. The increased flexibility these provisions would provide will reduce the burden for the school community, particularly those in remote areas.

Mirror amendments have also been made to the *Education General Provisions Act 2006* (EGP Act) to permanently give effect to provisions under the Education COVID Regulation which

enabled communication technology to be used for attendance at meetings required under the EGP Act for P&C associations that have already been formed. These amendments were made in the *Trading (Allowable Hours) and Other Legislation Amendment Act 2022* (TAH Amendment Act).

Achievement of policy objectives

Changes to fees and charges

The objective of the Amendment Regulation to amend the particular fees in the Education portfolio legislation that are not in scope of the GIR, will be achieved by:

- increasing the fees in the ECS Regulation by 3.9% (rounded down to the nearest dollar), in accordance with the indexation rate for the National Law; and
- increasing the criminal history check fee under the EGP Regulation and QCT Regulation to \$27.30, as advised by the QPS.

The fee changes in the ECS Regulation and EGP Regulation will commence from 1 January 2023 to coincide with the new school year, as per the commencement of changes to most other fees under the Education portfolio legislation.

The change to the criminal history check fee in the QCT Regulation will commence from 1 October 2022. The criminal history check fee relates to teacher registration and increasing the fee by this date enables the Queensland College of Teachers (QCT) sufficient time to apply revised fees to the 2023 round of teacher registration.

Meetings for the formation of Parents and Citizens' Associations

The policy objective to make permanent the temporary arrangements that were put in place in the Education COVID Regulation relating to P&C meetings will be achieved by amending section 35 of the EGP Regulation to clarify that communication technology can be used to enable the holding of, and attendance at, a meeting for the formation of a P&C association.

These amendments will commence once the Amendment Regulation is made to give them immediate effect, in line with the mirror changes made for P&C meetings in the TAH Amendment Act.

Consistency with policy objectives of authorising law

The Regulation is consistent with the objectives of the *Education and Care Services Act 2013*, *Education (General Provisions) Act 2006*, 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

Changes to fees and charges

The Amendment Regulation will ensure that the fees prescribed in education portfolio regulations retain their value over time and accurately reflect the cost of providing services. The Amendment Regulation will not significantly increase the financial burden on the community or stakeholders. There are no anticipated costs to implement indexation of the prescribed fees.

Meetings for the formation of Parents and Citizens' Associations

The amendments to the EGP Regulation relating to meetings for the formation of P&C associations modernise the legislation to ensure there is appropriate flexibility for meetings to be conducted via communication technology where appropriate.

These provisions have been in place on a temporary basis since June 2020 with no adverse impacts identified. The amendments will reduce regulatory burden for school communities by enabling flexibility for attendance of these particular meetings and allow meetings to be conducted efficiently, minimising impacts on persons involved.

Consistency with fundamental legislative principles

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

The amendments relating to meetings for the formation of P&C associations are consistent with fundamental legislative principles as they have sufficient regard to the rights and liberties of individuals and the institution of Parliament. These amendments ensure appropriate authority in the EGP Regulation for the meetings to be conducted via communication technology.

Consultation

Changes to fees and charges

Consultation occurred with the QCT in relation to the criminal history check fee prescribed in the QCT Regulation. The QCT supported the fee increase.

As the Amendment Regulation is machinery in nature, with the fee increases being consistent with the broader government policy in relation to fees and charges, public consultation has not been undertaken on these specific legislative amendments in the Amendment Regulation.

The subordinate legislation has been self-assessed by the Department of Education in accordance with the *Queensland Government Guide to Better Regulation*. The Department of Education has assessed the fee conversion as excluded from further regulatory impact analysis on the basis of Category (h) – *Regulatory proposals that put forward standard annual fee variations in line with or below a government endorsed indexation factor*.

Meetings for the formation of Parents and Citizens' Associations

Public consultation on the amendments relating to P&C associations occurred with the following relevant stakeholder bodies: P&Cs Qld, Isolated Children's Parents Association (ICPA), and Principals' Associations (Queensland Association of Outdoor & Environmental Education Centre Leaders; Queensland Association of Special Education Leaders; Queensland Association of State School Principals; Queensland Secondary Principals Association; and Queensland Association of Combined Sector Leaders). There is overall support for these amendments.

The Office of Best Practice Regulation (OBPR) was also consulted on the amendments relating to P&C associations. OBPR advised that these amendments are excluded from the Regulatory Impact Assessment process as the change will not add to the burden of regulation nor have a significant adverse impact on the community.