

Education (Capital Assistance) Regulation 2025

Explanatory notes for SL 2025 No. 113

made under the *Education (Capital Assistance) Act 1993*

General Outline

Short title

Education (Capital Assistance) Regulation 2025

Authorising law

Section 25 of the *Education (Capital Assistance) Act 1993*

Policy objectives and the reasons for them

School education in Queensland is provided through the state and non-state schooling sectors. Non-state schools are an important part of Queensland's education system representing diverse educational philosophies and religious and other organisational affiliations.

In recognition of this role, the Queensland Government provides capital assistance to eligible non-state schools to assist with capital projects under the following schemes:

- State Capital Assistance Scheme (SCAS) funding assists with planning, construction, alteration, extension, renovation, relocation or upgrading of educational facilities, boarding facilities including accommodation, or residential accommodation for teachers in remote areas of the State, subject to Ministerial approval;
- External Infrastructure Subsidy Scheme funding assists with external infrastructure costs associated with capital projects; and
- Capital Assistance Supplementary Scheme (CASS) funding assists with the construction of new schools and upgrading existing schools. This scheme was introduced in 2015 to boost funding for non-state school capital projects and uses the same methodology as the SCAS, including being administered under the SCAS Guideline. CASS was introduced as a three-year program and has been extended four times (two three-year extensions and two one-year extensions) and is set to expire on 30 June 2026.

The basis for the Queensland Government's capital assistance schemes is contained in the *Education (Capital Assistance) Act 1993* (ECA Act) and the *Education (Capital Assistance) Regulation 2015* (expiring Regulation 2015), authorising the provision of capital assistance to eligible non-state schools, based on need, for capital projects that consist of work for:

- educational facilities for students;
- boarding facilities for students including accommodations in the facilities for persons supervising students in the facilities; or

- residential accommodation for teachers in a remote area of the State.

Capital assistance funding is administered on behalf of the Queensland Government by Capital Assistance Authorities (CAA), namely the Independent Schools Queensland Block Grant Authority and the Queensland Catholic Capital Assistance Authority, nominated by the Association of Independent Schools of Queensland Inc. and the Queensland Catholic Education Commission, respectively.

Each CAA receives and assesses applications for capital assistance, makes recommendations to the Minister, makes payments to approved authorities of schools, monitors the progress of projects and carries out other functions as set out in the ECA Act.

A non-state school is eligible to receive funding if the non-state school's governing body is eligible for government funding for the school under the *Education (Accreditation of Non-State Schools) Act 2017*, and the non-state school is listed with a CAA for the purposes of the ECA Act.

The ECA Act describes the administration and granting of State Government capital assistance to eligible non-state schools and requires that a regulation prescribe certain matters. As such, the expiring Regulation 2015 prescribes matters which includes: dates for notice to be given to approved authorities; information to be provided in or with an application for capital assistance; prescribed criteria for assessment of applications; and dates for recommendation and return to be given to the Minister.

In accordance with section 54 of the *Statutory Instruments Act 1992*, the expiring Regulation 2015 will automatically expire on 1 September 2025, unless remade. Statutory expiry ensures regulations are regularly reviewed and continue to be relevant to the economic, social and general wellbeing of Queensland.

The Department of Education, which administers the ECA Act and expiring Regulation 2015, undertook a sunset review of the expiring Regulation 2015 to evaluate its continuing relevance, effectiveness and efficiency. On completion of the sunset review and targeted consultation with key stakeholders, namely the CAAs, it was determined that the expiring Regulation 2015 be remade as the matters prescribed remain relevant to the administration of the schemes.

Minor amendments were identified to improve the effectiveness of the expiring Regulation 2015, including clarifying intent and modernising language in accordance with contemporary drafting processes, however, no policy concerns or changes were identified.

Fundamentally, the objective of the *Education (Capital Assistance) Regulation 2025* (new ECA Regulation) is to replace the expiring Regulation 2015 when it expires on 1 September 2025 and to maintain the legislative framework supporting CAAs.

Achievement of policy objectives

The new ECA Regulation achieves the policy objectives by repealing and replacing the expiring Regulation 2015, and prescribing the following matters relevant to the ECA Act:

- dates for notice to be given to approved authorities;
- information to be provided in or with an application for capital assistance;
- prescribed criteria for assessment of applications; and
- dates for recommendation and return to be given to the Minister.

In accordance with contemporary drafting practices, the new ECA Regulation has been revised and structured to improve its effectiveness, clarify intent and modernise language.

The CAAs requested a change to Schedule 1, Part 1 to apply a reference to year levels of students, as this is more relevant than the reference to ages of students shown in the expiring Regulation 2015. Schedule 1, Part 1 was amended to reflect this and to support CAAs.

Schedule 1, Part 1 was also updated to better reflect the intent of sections 16 and 19 of the ECA Act.

Consistency with policy objectives of authorising law

The new ECA Regulation is consistent with the objectives of the ECA Act.

Inconsistency with policy objectives of other legislation

The new ECA Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

As the new ECA Regulation continues existing practice, it is not expected that there will be any costs associated with implementation. CAAs are already operating within the framework and the new ECA Regulation does not impose any new or altered requirements for CAAs.

Consistency with fundamental legislative principles

The new ECA Regulation is consistent with fundamental legislative principles.

Consultation

Targeted consultation has been undertaken with the CAAs. The CAAs have confirmed that the expiring Regulation 2015 continues to be relevant, effective and efficient, and support the making of the new ECA Regulation. The proposal to replace the expiring Regulation 2015 with the new ECA Regulation was positively received and supported by the CAAs.

The Office of Best Practice Regulation has been notified of the new ECA Regulation. In line with *The Queensland Government Better Regulation Policy*, a Summary Impact Analysis Statement (IAS) has been completed for the new ECA Regulation.

The new ECA Regulation maintains matters prescribed in the expiring ECA Regulation and does not create regulatory considerations for the community or stakeholders other than CAAs. The IAS is published on the department's website.