

Education (Capital Assistance) Regulation 2025

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable John-Paul Langbroek MP, Minister for Education and the Arts, provide this human rights certificate with respect to the *Education (Capital Assistance) Regulation 2025* made under section 25 of the *Education (Capital Assistance) Act 1993*.

In my opinion, the *Education (Capital Assistance) Regulation 2025*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

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 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 include: 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 the expiring Regulation 2015, has undertaken 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 adjustments 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* is to replace the expiring Regulation 2015 when it expires on 1 September 2025 and maintain the legislative framework supporting CAAs.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the *Education (Capital Assistance) Regulation 2025* engages section 36(1) of the *Human Rights Act 2019* with respect to right to education by increasing access to education

by providing capital assistance to eligible non-state schools to improve educational facilities to meet school communities' needs.

In my opinion, the *Education (Capital Assistance) Regulation 2025* does not limit or restrict the right to education.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The *Education (Capital Assistance) Regulation 2025* does not limit any human rights protected under the *Human Rights Act 2019*. Therefore, it is not necessary to consider section 13 of the *Human Rights Act 2019*.

Conclusion

I consider that the *Education (Capital Assistance) Regulation 2025* is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

JOHN-PAUL LANGBROEK MP
MINISTER FOR EDUCATION AND THE ARTS

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