

# Education and Care Services (Removal of Rest Periods) Amendment 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 and Care Services (Removal of Rest Periods) Amendment Regulation 2025* (Amendment Regulation) made under the *Education and Care Services Act 2013* (ECS Act).

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

### Overview of the Subordinate Legislation

The objective of the *Education and Care Services (Removal of Rest Periods) Amendment Regulation 2025* (Amendment Regulation) is to amend the *Education and Care Services Regulation 2013* (ECS Regulation) to remove provisions that prescribe reduced educator-to-child ratios and relaxed educator qualifications during rest periods for Queensland education and care (QEC) services with rest period conditions.

These are consequential amendments required to support amendments to the *Education and Care Services Act 2013* (ECS Act), made in the *Education (General Provisions) Amendment Act 2025* (Amendment Act), to remove rest period conditions from service approvals for QEC approved services from 1 January 2026.

The ECS Act and ECS Regulation provide the regulatory framework for a small number of QEC services that provide education and care of children under 13 years of age. These services include limited hours care services, occasional care, particular services receiving funding under the budget-based funded program administered by the Australian Government and early childhood services that are also disability services.

The objective of the ECS Act is to ensure the safety, health and wellbeing of children attending a QEC service. It does this by establishing a provider approval and service approval system for QEC approved services and setting standards for persons who provide education and care for children attending these services.

Currently under the ECS Act, a service approval for a QEC service may include a rest period condition. A rest period condition allows for one or more periods during the day, totalling not more than two hours, to be designated as rest periods. During rest periods, significantly reduced educator-to-child ratios and relaxed educator qualification requirements apply from the minimum baseline ratio and qualification requirements for children aged over 24 months prescribed for QEC approved services at all other times.

The recent national Review of Child Safety Arrangements under the National Quality Framework (Child Safety Review) and resulting program of child safety reforms being rolled out by Education Ministers nationally have highlighted the critical importance of adequate supervision in keeping children safe in early childhood services at all times. Reduced staffing oversight during sleep and rest times is no longer considered appropriate, as both contemporary safe sleep practices and the emerging findings of a number of investigations identify sleep and rest as a time of heightened risk requiring additional vigilance.

In August 2022, the Australian Federal Police launched Operation Tenterfield after arresting a former childcare worker charged with 1623 child abuse offences against 91 children, alleged to have been committed in Brisbane, Sydney and overseas between 2007 and 2022. In December 2023, the Australian Children's Education and Care Quality Authority released the Child Safety Review which made 16 recommendations to strengthen the National Quality Framework with respect to child safety, including for a supplementary review within two years informed by Operation Tenterfield.

As a result of Operation Tenterfield and the Child Safety Review, and in light of other recent high-profile incidents of alleged child sexual abuse in childcare services by former childcare workers, legislatively removing rest period conditions is a necessary and critical step to creating a child safe environment in early childhood settings and minimise risk of harm to children during rest periods.

The Amendment Act, which received assent on 24 October 2025 amended the ECS Act to remove the provision of rest period conditions for QEC approved services from 1 January 2026. Specifically, the amendments to the ECS Act:

- removed the ability for an approved provider of a QEC service to request a rest period condition to be included in a service approval from 1 January 2026;
- if an existing service approval had a rest period condition immediately before 1 January 2026, then from 1 January 2026 the rest period condition is of no effect and the service approval is taken to not include the condition; and
- where an application for service approval or exceptional circumstances service approval, or an amendment of a service approval, had not been decided before 1 January 2026 and the application included a request for a service approval, from 1 January 2026 the application must be decided as if it had not included the request for the rest period condition.

As the ECS Regulation prescribes the reduced educator-to-child ratio and relaxed educator qualification requirements for rest periods for QEC approved services, the Amendment Regulation removes these provisions from 1 January 2026. Specifically, the Amendment Regulation amends the ECS Regulation to:

- omit sections 41(3), 41(4), 46, 47, 48 and Schedule 2, which prescribe the reduced educator-to-child ratios and relaxed qualification requirements during rest periods; and
- omit references to rest periods and make minor consequential amendments in sections 51, 53 and Schedule 3.

This will maintain consistency between the ECS Act and ECS Regulation and ensure minimum baseline educator-to-child ratios and educator qualification requirements are required to be maintained in QEC approved services during all operating hours. By standardising supervision and staffing requirements across all operational hours, the Amendment Regulation improves child safety outcomes and upholds Queensland's commitment to ensuring that children attending QEC services are cared for in environments that prioritise their best interests.

## Human Rights Issues

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

In my opinion, the human right relevant to the Amendment Regulation is the right to protection of families and children under section 26 of the HR Act.

#### *Protection of families and children*

Section 26(2) of the HR Act recognises that every child has the right, without discrimination, to the protection that is in their best interests as a child. This right imposes a positive obligation on the State to adopt measures that ensure the safety, wellbeing and development of children.

The Amendment Regulation positively engages and promotes this right by strengthening supervision and safeguards for children in QEC approved services. It removes regulatory provisions that previously permitted reduced educator-to-child ratios and relaxed qualification requirements during rest periods. The change ensures that all children attending QEC approved services receive continuous supervision from suitably qualified educators at all times, including during times of sleep and rest, when risks may otherwise be heightened.

By enhancing supervision and qualification requirements, the amendments promote children's right to protection from harm and their right to be cared for in environments that support their health, safety and wellbeing. Accordingly, the Amendment Regulation positively engages and promotes section 26(2) of the HR Act and strengthens the State's capacity to safeguard children consistent with Queensland's obligations under the *United Nations Convention on the Rights of the Child*.

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

The Amendment Regulation does not limit any human rights protected under the HR Act. Therefore, it is not necessary to consider section 13 of the HR Act.

## Conclusion

I consider that the *Education and Care Services (Removal of Rest Periods) Amendment 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