

Education, Employment and Training Committee

Report No. 29, 57th Parliament

Subordinate legislation tabled between 17 August 2022 and 12 October 2022

1 Aim of this report

This report summarises the findings of the Education, Employment and Training Committee (the committee) following its examination of the subordinate legislation within its portfolio areas tabled between 17 August 2022 and 12 October 2022. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, its consistency with fundamental legislative principles,¹ its compatibility with human rights,² and its lawfulness.³ It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),⁴ and the compliance of the human rights certificates with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
135	Education Legislation Amendment Regulation 2022	12 October 2022	To be confirmed (2023)

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

¹ Section 4 of the *Legislative Standards Act 1992* (LSA) states that fundamental legislative principles are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to: a) the rights and liberties of individuals, and b) the institution of Parliament.

² Section 8 of the *Human Rights Act 2019* (HRA) provides that a statutory provision is compatible with human rights if it does not limit a human right, or limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of the HRA. Section 13 of the HRA provides that a human right may be subject to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom. Section 13 sets out a range of factors that may be relevant in determining whether a limit on a human right is reasonable and justifiable.

³ *Parliament of Queensland Act 2001*, s 93.

⁴ The LSA, part 4. Section 24 sets out the information that must be included in the explanatory notes for subordinate legislation which is required to be tabled in the Legislative Assembly with the subordinate legislation (LSA, s 22).

⁵ Section 41(4) of the HRA provides that the portfolio committee responsible for examining subordinate legislation may, in examining the legislation, also consider the human rights certificate prepared by the responsible Minister for the subordinate legislation. The human rights certificate, which must be tabled in the Legislative Assembly with the subordinate legislation, must state: a) whether, in the responsible Minister's opinion, the subordinate legislation is compatible with human rights, and if so, how it is compatible; and b) if, in the responsible Minister's opinion, a part of the subordinate legislation is not compatible with human rights, the nature and extent of the incompatibility (see HRA, s 41(1)-(3)).

3 Committee consideration of the subordinate legislation

No significant issues were identified by the committee regarding the policy, consistency with fundamental legislative principles, human rights compatibility, or lawfulness of the subordinate legislation.

The committee considered that the explanatory notes tabled with the subordinate legislation comply with the requirements of part 4 of the LSA. The human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

A brief overview of the subordinate legislation is provided below.

4 SL No. 135 – Education Legislation Amendment Regulation 2022

4.1 Objectives

The Education Legislation Amendment Regulation 2022 (SL No. 135) has two policy objectives. These are

- to update certain fees in the education portfolio
- to make permanent temporary arrangements that have allowed parents and citizen's (P&C) associations to make greater use of communication technology.

4.1.1 Updating certain fees in the education portfolio

The first objective of SL No. 135 is to amend certain fees in the Education portfolio legislation that are outside the scope of the fee unit model. These fees continue to be prescribed as dollar values rather than being stated as a fee unit.⁶

SL No. 135 achieves its first objective by:

- amending the Education and Care Services Regulation 2013 to index the fees it prescribes by 3.9% (rounded down to the nearest dollar) in accordance with the *Education and Care Services National Law (Queensland) Act 2011*.
- amending the fee payable for undertaking a criminal history check for enrolment of mature age students and registration of teachers (under the Education (General Provisions) Regulation 2017 and Education (Queensland College of Teachers) Regulation 2016, respectively) from \$27.15 to \$27.30 as advised by the Queensland Police Service.

4.1.2 Allowing parents and citizens associations to make greater use of communication technology

The second objective of SL No. 135 is to allow greater use of communication technology, such as teleconferencing and videoconferencing, to conduct meetings for the formation P&C associations.⁷

During the COVID-19 public health emergency, an extraordinary regulation was made under the *COVID-19 Emergency Response Act 2020* to allow P&C associations to conduct meetings via communication technology.⁸ That regulation expired on 30 April 2022.⁹

During consultations held by the Department of Education, the peak body representing P&C associations, P&Cs Qld, requested the continued ability to conduct meetings via communications technology.

⁶ SL No. 135, explanatory notes, p 1.

⁷ SL No. 135, explanatory notes, p 2.

⁸ Education Legislation (COVID-19 Emergency Response) Regulation 2020.

⁹ SL No. 135, explanatory notes, p 2.

SL No. 135 achieves this objective by amending the Education (General Provisions) Regulation 2017 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.

Amendments have already been made to the *Education General Provisions Act 2006* to allow communication technology to be used at meetings required under that Act for P&C associations that have already been formed.¹⁰

5 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Kim Richards MP

Chair

November 2022

Education, Employment and Training Committee

Chair

Ms Kim Richards MP, Member for Redlands

Deputy Chair

Mr James Lister MP, Member for Southern Downs

Members

Mr Mark Boothman MP, Member for Theodore

Mr Nick Dametto MP, Member for Hinchinbrook

Mr Barry O'Rourke MP, Member for Rockhampton

Mr Jimmy Sullivan MP, Member for Stafford

¹⁰ These amendments were made in the *Trading (Allowable Hours) and Other Legislation Amendment Act 2022*.