

Education, Employment and Training Committee

Report No. 16, 57th Parliament

Subordinate legislation tabled between 1 September 2021 and
12 October 2021

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 1 September 2021 and 12 October 2021. 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 (FLPs),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 certificate with the *Human Rights Act 2019* (HRA).⁵

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
147	Education Legislation (Fees) Amendment Regulation 2021	12 October 2021	24 February 2022

*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* states that FLPs 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 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 FLPs, human rights compatibility, or lawfulness of the Education Legislation (Fees) Amendment Regulation 2021 (SL No. 147).

The committee considered that the explanatory notes tabled with the subordinate legislation comply with the requirements of part 4 of the LSA. Further, the human rights certificate tabled with the subordinate legislation provides a sufficient level of information to facilitate understanding of the subordinate legislation in relation to its compatibility with the HRA.

A brief overview of the subordinate legislation is provided below.

4 SL No. 147 – Education Legislation (Fees) Amendment Regulation 2021

4.1 Objectives

The objective of SL No. 147 is to increase prescribed fees in the following regulations in accordance with the Queensland Government's policy on the annual indexation of fees and charges:

- Education (General Provisions) Regulation 2017 (EGP Regulation) – increased from 1 January 2022
- Education (Overseas Students) Regulation 2018 - increased from 1 January 2022
- Education (Queensland College of Teachers) Regulation 2016 (QCT Regulation) – increased from 1 October 2021
- Education (Queensland Curriculum and Assessment Authority) Regulation 2014 – increased from 1 January 2022.⁶

The government indexation rate for the 2021-22 financial year is 1.7%.⁷ The increases in the fees are within the indexation rate of 1.7% (rounded to the nearest 5 cents).

The EGP Regulation and the QCT Regulation prescribe the application fees for undertaking a criminal history check for mature age students and teachers respectively. The explanatory notes advise that the prescribed application fees 'reflect the exact amount charged by the Queensland Police Service (QPS) to undertake a criminal history check, which the QPS increased from \$27.05 to \$27.15 on 1 July 2021'.⁸

The prescribed fees in the QCT Regulation, which relate to teacher registration, increased from 1 October 2021 to enable the Queensland College of Teachers 'to apply the revised fees to the 2022 round of teacher registration which commences prior to the end of 2021'.⁹

SL No. 147 does not increase the application fees in the QCT Regulation for certification of teachers as highly accomplished teachers or lead teachers for either state school teachers or teachers employed by employing authorities represented by the Queensland Catholic Education Commission (QCEC). In 2018 the Queensland Government determined that the certification fees for state school teachers are not to be indexed annually (with the decision to be reviewed in 2023). The QCEC also did not seek an increase in the application fees for certification of teachers as highly accomplished teachers or lead teachers in schools represented by the QCEC in 2021.¹⁰

⁶ SL No. 147, explanatory notes, p 1.

⁷ SL No. 147, explanatory notes, p 1.

⁸ SL No. 147, explanatory notes, p 2; see SL No. 147 ss 5 and 9.

⁹ SL No. 147, explanatory notes, p 3.

¹⁰ SL No. 147, explanatory notes, p 2.

5 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Kim Richards MP

Chair

February 2022

Education, Employment and Training Committee

Chair

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Deputy Chair

Mr James Lister MP, Member for Southern Downs

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Mr Nick Dametto MP, Member for Hinchinbrook

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