

## Education, Employment and Training Committee

Report No. 33, 57<sup>th</sup> Parliament

Subordinate legislation tabled between 30 November 2022 and 21 February 2023

### 1 Aim of this report

This report summarises the findings of the Education, Employment and Training Committee (the committee) following its examination of subordinate legislation within its portfolio areas.

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
- its compatibility with human rights
- its lawfulness.

It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA), and the human rights certificates with the *Human Rights Act 2019* (HRA).

### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
--	Education and Care Services National Amendment Regulations 2022	15 February 2023	10 May 2023
196	Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022	21 February 2023	11 May 2023

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

### 3 Committee consideration of the subordinate legislation



The committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, human rights compatibility, or lawfulness of the subordinate legislation covered by this report.

The committee considers 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.

The following sections provide a brief overview of the subordinate legislation.

## 4 Education and Care Services National Amendment Regulations 2022

The objective of the Education and Care Services National Amendment Regulations 2022 (amendment regulations) is to improve the safety of children on buses to and from early childhood education centres.



The amendment regulations are a response to a number of incidents in which young children were left on buses being used to transport them to and from early childhood education centres, including an incident in Cairns that led to the death of a young boy in 2020.<sup>1</sup>

The amendment regulations achieve their objective by amending the Education and Care Services National Regulations (National Regulations) in relation to the ‘regular transportation’<sup>2</sup> of children by, or arranged by, a centre-based early childhood education and care service to strengthen requirements relating to the embarking and disembarking of children on a means of transport.<sup>3</sup> These changes require:

- that someone other than the driver be present while children get on and off the vehicle
- that a full check of the vehicle take place after all children have disembarked to ensure that no children remain on the vehicle
- that service providers account for children as they get on or off the vehicle at the childhood education and care service
- that service providers notify the regulatory authority when they provide, or arrange, regular transportation for children.

These amendments commenced on 1 March 2023.<sup>4</sup>

### 4.1 Legislative background

The amendment regulations were made under the Education and Care Services National Law (National Law). As required by the National Law, the amendment regulations were published on the New South Wales legislation website on 13 January 2023.

### 4.2 Impact on rights and liberties of individuals is reasonable and proportionate

The amendment regulations affect the rights and liberties of individuals because they introduce new offences into the National Regulations. Approved providers and nominated supervisors of a service who fail to ensure compliance with any of the requirements set out above will be guilty of an offence subject to a penalty of \$2,000.

The committee considers that this penalty is appropriate because it is proportionate to the offence and with other penalties in the National Regulations. As noted above, the consequences of leaving a child in a vehicle can be extremely serious – even fatal.

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<sup>1</sup> Hon Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, *Tighter child transportation safety rules start today*, media release, 1 March 2023, available at: <https://statements.qld.gov.au/statements/97264>.

<sup>2</sup> ‘Regular transportation in relation to an education and care service is defined in the National Regulations (regulation 4) to mean transportation by the service or arranged by the service (other than as part of an excursion) of a child being educated and cared for by the service, where the circumstances relevant to a risk assessment are substantially the same for each occasion on which the child is transported’: Education and Care Services National Amendment Regulations 2022, human rights certificate, p 2.

<sup>3</sup> Education and Care Services National Amendment Regulations 2022, human rights certificate, p 2.

<sup>4</sup> Education and Care Services National Amendment Regulations 2022, reg 3.

## 5 SL No. 196 – Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022

The objective of the Work Health and Safety (Codes of Practice) (Stevedoring and Other Matters) Amendment Notice 2022 (SL No. 196) is to update and maintain a number of Codes of Practice to ensure they protect workers and other people against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work.

SL No. 196 achieves its objective by:

- replacing the Managing Risks in Stevedoring Code of Practice 2018, which is due to expire on 31 March 2023, with the Managing Risks in Stevedoring Code of Practice 2023, which is substantially similar to its predecessor<sup>5</sup>
- updating 10 Codes of Practice to incorporate definitional changes to the national model Work Health and Safety Regulations regarding hazardous chemicals, including:
  - the Abrasive Blasting Code of Practice 2021
  - the Confined Spaces Code of Practice 2021
  - the How to Manage and Control Asbestos in the Workplace Code of Practice 2021
  - the How to Safely Remove Asbestos Code of Practice 2021
  - the Labelling of Workplace Hazardous Chemicals Code of Practice 2021
  - the Managing Noise and Preventing Hearing Loss at Work Code of Practice 2021
  - the Managing Risks of Hazardous Chemicals in the Workplace Code of Practice 2021
  - the Preparation of Safety Data Sheets for Hazardous Chemicals Code of Practice 2021
  - the Spray Painting and Powder Coating Code of Practice 2021
  - the Welding Processes Code of Practice 2021.
- amending the Managing respirable dust hazards in coal fired power stations Code of Practice 2018 to reflect the revised workplace exposure standard (WES) for respirable coal dust. As of 1 October 2022, the WES for respirable coal dust was reduced from a time-weighted average (TWA) of 3 milligrams per cubic metre (mg/m<sup>3</sup>) to a TWA of 1.5mg/m<sup>3</sup>.

## 6 Recommendations

The committee recommends that the Legislative Assembly notes this report.



Kim Richards MP  
**Chair**

**March 2023**

### Education, Employment and Training Committee

**Chair**

**Deputy Chair**

**Members**

Ms Kim Richards MP, Member for Redlands

Mr James Lister MP, Member for Southern Downs

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

<sup>5</sup> According to the Stevedoring Code of Practice 2018, stevedoring involves all activities directly connected with: loading or unloading of vessel cargo; stacking and storing on the wharf; and receiving and delivering cargo within the terminal or facility.