



QUEENSLAND PARLIAMENT **COMMITTEES**

**Report on subordinate legislation tabled between 28 November 2024
and 18 February 2025**

Education, Arts and Communities Committee



Report No. 1

58th Parliament, March 2025

1. Overview

This report summarises the committee's findings following its examination of the subordinate legislation within its portfolio areas tabled between 28 November 2024 and 18 February 2025. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles, and lawfulness. It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA).¹

The report also considers compliance with the *Human Rights Act 2019* (HRA) and the human rights certificates tabled with the subordinate legislation.²

2. Subordinate legislation examined

	Subordinate legislation	Date tabled	Disallowance date
206	Education (General Provisions) (Alpha State School) Amendment Regulation 2024	28/11/2024	30/04/2025
246	Education (General Provisions) (Corymbia State School) Amendment Regulation 2024	28/11/2024	30/04/2025
250	Education Legislation (Fees) Amendment Regulation 2024	18/02/2025	22/05/2025

* 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

Committee Comment



The committee did not identify any significant issues regarding the policy, consistency with fundamental legislative principles, the lawfulness of the subordinate legislation or non-compliance with the HRA.

Similarly, the committee considers that the explanatory notes tabled with the subordinate legislation noted in this report comply with the requirements of section 24 of the LSA and that 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.

¹ *Legislative Standards Act 1992*, Part 4.

² *Human Rights Act 2019*, s 41.

4. SL No. 206 Education (General Provisions) (Alpha State School) Amendment Regulation 2024

SL No. 206 prescribes Alpha State School as a state school that can deliver a State Delivered Kindergarten (SDK) program. State schools that are at least 40 kilometres distance from the nearest approved Kindergarten Program Provider (KPP) are approved to provide an SDK program.³

Alpha's sole KPP provider, C&K Jellybeans Kindergarten and Limited Hours Care, permanently closed on 4 March 2024. SL No. 206 inserts Alpha State School into Schedule 4 of the Education (General Provisions) Regulation 2017 as a prescribed State school, as there is no longer another kindergarten service within 40 kilometres.⁴

4.1 Consultation

The explanatory notes detail that targeted consultation was undertaken by the Alpha State School principal with the Alpha State School Parents and Citizens' Association.⁵



4.2 Legislative Standards Act 1992

Assessment of SL No. 206's compliance with the LSA did not identify any issues of fundamental legislative principle.



4.3 Human Rights Act 2019

Section 8 of the 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.

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 deciding whether a limit on a human right is reasonable and justifiable.

The committee's assessment of SL No. 206's compatibility with the *Human Rights Act 2019* did not identify any incompatibilities. The committee concluded that SL No. 206 is compatible with human rights.

³ SL No. 206, explanatory notes, p 1.

⁴ SL No. 206, explanatory notes, p 1; SL No. 206, s 3.

⁵ SL No. 206, explanatory notes, p 3.

4.4 Human Rights Certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. In the human rights certificate accompanying the subordinate legislation, the Minister states ‘In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act’.⁶ The statement contained a level of information to facilitate understanding of SL No. 206 in relation to its compatibility with human rights.

4.5 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

5. SL No. 246 – Education (General Provisions) (Corymbia State School) Amendment Regulation 2024

SL No. 246 prescribes Corymbia State School as a state school that can deliver a State Delivered Kindergarten (SDK) program. If the relevant Minister under the *Education (General Provisions) Act 2006* considers there are barriers or ‘complex and unique challenges in accessing an approved kindergarten program’, they have discretion to approve an SDK program.⁷

SL No. 246 inserts Corymbia State School into Schedule 4 of the Education (General Provisions) Regulation 2017 as a prescribed State school.⁸ The explanatory notes state that the prescription of Corymbia State School will specifically benefit children and families residing in that catchment, which currently has low kindergarten participation rates.⁹

5.1 Consultation

The explanatory notes detail consultation that was undertaken with the local school community, local early childhood providers, peak early childhood providers, representatives of the Queensland Association of State School Principals, and the Queensland Teachers’ Union.¹⁰



5.2 Legislative Standards Act 1992

Assessment of SL No. 246’s compliance with the LSA did not identify any issues of fundamental legislative principle.



5.3 Human Rights Act 2019

Section 8 of the 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.

⁶ SL No. 206, human rights certificate, p 1.

⁷ SL No. 246, explanatory notes, p 1.

⁸ SL No. 246, explanatory notes, p 1; SL No. 246, s 3.

⁹ SL No. 246, explanatory notes, pp 2-3.

¹⁰ SL No. 246, explanatory notes, p 3.

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 deciding whether a limit on a human right is reasonable and justifiable.

The committee's assessment of SL No. 246's compatibility with the *Human Rights Act 2019* did not identify any incompatibilities. The committee concluded that SL No. 246 is compatible with human rights.

5.4 Human rights certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. In the human rights certificate accompanying the subordinate legislation, the Minister states, 'In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act'.¹¹ The statement contained a sufficient level of information to facilitate understanding of SL No. 246 in relation to its compatibility with human rights.

5.5 Explanatory Notes

The explanatory notes comply with part 4 of the LSA.

6. SL No. 250 Education Legislation (Fees) Amendment Regulation 2024

SL No. 250 amends the criminal history check fee (CHC fee) prescribed under the Education (General Provisions) Regulation 2017 (EGP Regulation) and Education (Queensland College of Teachers) Regulation 2016 (QCT Regulation).

The CHC fee in the education portfolio is not in scope of Government's indexation policy. Despite the introduction of the fee unit model in 2021, the CHC fee is maintained as a dollar value.¹² The amendment increases the fee from \$27.50 to \$34.50.¹³ The change reflects a value advised by the Queensland Police Service (QPS). The CHC fee charged by QPS comprises the QPS processing fee as well as the Australian Criminal Intelligence Commission's (ACIC) fee.¹⁴

The amendment ensures that the CHC fees prescribed in the EGP Regulation and the QCT Regulation maintain currency with the fee as advised by the Queensland Police Service (QPS).¹⁵

¹¹ SL No. 246, human rights certificate, p 1.

¹² SL No. 250, explanatory notes, p 1.

¹³ SL No. 250, ss 3 and 5.

¹⁴ The QPS undertakes criminal history checks on behalf of government agencies in Queensland. Criminal history checks are nationally coordinated by ACIC. See SL No. 250, explanatory notes, p 2.

¹⁵ SL No. 250, explanatory notes, pp 1-2.

6.1 Consultation

The explanatory notes detail that consultation occurred with the Queensland College of Teachers (QCT).¹⁶



6.2 Legislative Standards Act 1992

Assessment of SL No. 250's compliance with the LSA did not identify any issues of fundamental legislative principle.



6.3 Human Rights Act 2019

Section 8 of the HRA provides that a statutory provision is compatible with human rights if it does not limit a human right, or it limits a human right only to the extent that is reasonable and demonstrably justifiable.

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 deciding whether a limit on a human right is reasonable and justifiable.

The committee's assessment of SL No. 250's compatibility with the *Human Rights Act 2019* did not identify any incompatibilities. The committee concluded that SL No. 250 is compatible with human rights.

6.4 Human Rights Certificate

Section 41 of the HRA requires that the responsible Minister for the subordinate legislation must prepare a human rights certificate for the legislation. In the human rights certificate accompanying the subordinate legislation, the Minister states 'In my opinion, the amendments in the Amendment Regulation do not engage or limit any human rights'.¹⁷ The statement contained a level of information to facilitate understanding of SL No. 250 in relation to its compatibility with human rights.



Recommendation 1

The committee recommends that the Legislative Assembly note this report.

Nigel Hutton MP

Chair

¹⁶ SL No. 250, explanatory notes, p 3.

¹⁷ SL No. 250, human rights certificate, p 2.

Education, Arts and Communities Committee

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