

## Education, Employment and Training Committee

### Report No. 19, 57th Parliament

#### Subordinate legislation tabled between 1 December 2021 and 29 March 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 1 December 2021 and 29 March 2022. It reports on any issues identified by the committee relating to the policy to be given effect by the legislation, fundamental legislative principles (FLPs),<sup>1</sup> its compatibility with human rights,<sup>2</sup> and its lawfulness.<sup>3</sup> It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA),<sup>4</sup> and the compliance of the human rights certificate with the *Human Rights Act 2019* (HRA).<sup>5</sup>

#### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
29	Education (General Provisions) (Winton State School) Amendment Regulation 2022	29 March 2022	17 August 2022

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

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> *Parliament of Queensland Act 2001*, s 93.

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

<sup>5</sup> 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 policy, consistency with fundamental legislative principles or the lawfulness of the Education (General Provisions) (Winton State School) Amendment Regulation 2022 (SL No. 29).

The committee considers 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. 29 – Education (General Provisions) (Winton State School) Amendment Regulation 2022

##### 4.1 Objectives

The objective of SL No. 29 is to add Winton State School to the list of prescribed state schools that provide a kindergarten learning program under s 419A of the *Education (General Provisions) Act 2006*.<sup>6</sup>

This is in addition to the 104 state schools currently prescribed to provide a state delivered kindergarten program.

The Queensland Government has committed, under the Preschool Reform Funding Agreement, to ensure that from 2022 all Queensland children have the opportunity to attend kindergarten in the year before they begin full time school.<sup>7</sup>

While kindergarten attendance across the state stands at over 95 per cent, the number of children in rural and remote areas who have access to kindergarten is much lower. This is largely due to the difficulty of attracting and retaining early childhood teachers in these areas, and the fluctuating numbers of kindergarten aged children in remote and rural communities.<sup>8</sup>

Between 2016 and 2018, the government introduced the State Delivered Kindergarten (SDK) program to provide this essential service through state schools. One of the criteria for the program was that the nearest approved kindergarten provider should be more than 50 kilometres away. Following feedback that many families were unable to participate in kindergarten due to transport, road or other barriers, the program was extended in 2020 to include schools more than 40 kilometres from an existing kindergarten.

Until 2021, the Winton Shire Council provided a kindergarten program through its Little Swaggies Child Care Centre. This centre ceased to be an approved provider in December 2021 due to its inability to attract a qualified early childhood teacher,<sup>9</sup> leaving the Winton community without access to an approved kindergarten provider within 40 kilometres by road.

As there is no longer an approved provider in the town of Winton, Winton State School is now eligible under the distance criterion of 40 kilometres to deliver an SDK program.<sup>10</sup>

According to the explanatory notes, 'a state school must be prescribed under the *Education (General Provisions) Regulation 2017*...for the school to commence to deliver a kindergarten learning

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<sup>6</sup> SL No. 29, explanatory notes, p 2.

<sup>7</sup> SL No. 29, explanatory notes, p 1.

<sup>8</sup> SL No. 29, explanatory notes, p 1.

<sup>9</sup> SL No. 29, explanatory notes, p 2.

<sup>10</sup> SL No. 29, explanatory notes, p 2.

program',<sup>11</sup> and this subordinate legislation will prescribe Winton State School to deliver a kindergarten program.<sup>12</sup>

## 5 Recommendation

The committee recommends that the House notes this report.



Kim Richards MP

**Chair**

**April 2022**

### **Education, Employment and Training Committee**

Chair	Kim Richards MP, Member for Redlands
Deputy Chair	James Lister MP, Member for Southern Downs
Members	Mark Boothman MP, Member for Theodore Nick Dametto MP, Member for Hinchinbrook Barry O'Rourke MP, Member for Rockhampton Jimmy Sullivan MP, Member for Stafford

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<sup>11</sup> Explanatory notes, p 2.

<sup>12</sup> Explanatory notes, p 2.