



## Education, Employment and Small Business Committee

### Report No. 27, 56<sup>th</sup> Parliament

#### Subordinate legislation tabled between 21 August and 3 September 2019

#### 1 Background and aim of this report

This report summarises the committee's examination of subordinate legislation tabled from 21 August to 3 September 2019. In this role, the committee considers the policy to be given effect, consistency of the legislation with fundamental legislative principles (FLPs), compliance of the explanatory notes with the requirements of the *Legislative Standards Act 1992* (Legislative Standards Act), and the lawfulness of the subordinate legislation.

#### 2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
169	Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019	3 September 2019	28 November 2019
170	Education (General Provisions) (Audit Requirements) Amendment Regulation 2019	3 September 2019	28 November 2019

#### 3 Committee consideration of the subordinate legislation

The committee has examined the policy to be given effect by the subordinate legislation, the application of FLPs, and its lawfulness. No issues regarding consistency with FLPs or the lawfulness of the subordinate legislation were identified in the Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019, or the Education (General Provisions) (Audit Requirements) Amendment Regulation 2019.

#### 4 Education (Capital Assistance) (Criteria for Assessment) Amendment Regulation 2019 – SL 169

The *Education (Capital Assistance) Act 1993* (the Act) and Education (Capital Assistance) Regulation 2015 (the Regulation) provide for the administration of State capital assistance for non-state schools.<sup>1</sup> Existing Part 2, section 7 of the Act establishes two Capital Assistance Authorities (CAAs) to administer grant funding: the Queensland Catholic Capital Assistance Authority and Queensland Independent Schools Block Grant Authority.

Existing Schedule 1 of the Education Regulation prescribes the criteria a CAA must use for assessing applications for capital assistance under different funding schemes and the information that must be included in schools' applications for funding. The CAA's assess capital funding

<sup>1</sup> Explanatory notes, p 1.

applications against the prescribed criteria and provide a recommendation to the Minister, who then makes a final decision.<sup>2</sup>

There are three capital assistance schemes funded by the Queensland Government: State Capital Assistance Scheme, the Capital Assistance Supplementary Scheme, and the External Infrastructure Subsidy Scheme (EIS). The amendments concern the EIS which meets external infrastructure costs, associated with local government approval requirements, of capital works projects.<sup>3</sup>

The amendment regulation will expand the criteria by which EIS scheme applications are assessed. The criteria will include assistance for work or payment required by Government entities, ministers, or local government for the area in which the school is located, as part of an approval of a capital project at the school. Without the amendment, non-State schools would be limited to applying for funding to meet external infrastructure costs associated with local government approvals.<sup>4</sup>

## **5 Education (General Provisions) (Audit Requirements) Amendment Regulation 2019 – SL No. 170**

Existing Chapter 7 of the *Education (General Provisions) Act 2006* (Education Act) provides for the formation and regulation of parents and citizens associations (P&Cs) for Queensland State schools. Current section 120 of the Education Act provides the objective P&Cs are to promote the interests of, and facilitate the development and further improvement of the State instructional institutional for which it is formed.<sup>5</sup>

A P&C is a statutory body under the *Statutory Bodies Financial Administration Arrangements Act 1982*. Auditing of P&C accounts for each financial year is currently prescribed in section 4 of the Auditor-General Regulation 2009 (AG Regulation), which lapsed on 1 September 2019. A Queensland Audit Office review concluded that P&Cs do not fit the definition of public sector entity under the *Auditor-General Act 2009* (the AG Act).<sup>6</sup>

Existing section 135 of the Education Act provides a P&C must be audited as prescribed under a regulation.<sup>7</sup> While section 135 provides that any auditing process must be subject to the AG Act, it does not specify that auditing requirements be provided under the AG Act or AG Regulation.<sup>8</sup> To ensure the financial integrity of P&Cs, the amendment regulation seeks to include the relevant auditing provisions in the expiring AG Regulation, in the Education Regulation.

The amendment regulation achieves this by inserting provisions requiring P&Cs be audited each year by a suitably qualified person who is appointed by the association. Proposed new section 47(4) of the Education Regulation provides a suitably qualified person is a member of any of the following organisations:

- Certified Practising Accountants (CPA) Australia (entitled to use letter ‘CPA’ or ‘FCPA’)
- Chartered Accountants Australian and New Zealand (entitled to use letters ‘CA’ or ‘FCA’)
- the Institute of Chartered Accountants in Australia (entitled to use letters ‘MIPA’ or ‘FIPA’).

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<sup>2</sup> Explanatory notes, p 1.

<sup>3</sup> Explanatory notes, p 1.

<sup>4</sup> Explanatory notes, p 3.

<sup>5</sup> *Education (General Provisions) Act 2006*, section 120.

<sup>6</sup> Explanatory notes, p 2.

<sup>7</sup> *Education (General Provisions) Act 2006*, section 135.

<sup>8</sup> Explanatory notes, p 3.

The section also provides, a suitably qualified person can include an employee of a public sector entity or an insurance company, financial institution or other financial or commercial organisation, who has the commercial skills and experience to examine the books and accounts of the association.

## 6 Recommendation

The committee recommends that the Legislative Assembly note this report.



Ms Leanne Linard MP

**Chair**

November 2019

### **Education, Employment and Small Business Committee**

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