



Queensland

Education (General Provisions) Amendment Regulation (No. 1) 2008

Explanatory Notes for SL 2008 No. 281

made under the

Education (General Provisions) Act 2006

GENERAL OUTLINE

Short Title

Education (General Provisions) Amendment Regulation (No. 1) 2008.

Authorising Law

The proposed Education (General Provisions) Amendment Regulation (No. 1) 2008 (the amendment Regulation) will be made under the *Education (General Provisions) Act 2006* (the Act).

Policy Objective of the Subordinate Legislation

The policy objective of the amendment Regulation is to ensure the efficient and equitable use of State education resources.

How policy objectives will be achieved

To achieve the policy objectives, the amendment Regulation introduces a fee based on recovery of all costs for direct teaching of the distance education subject and a percentage of the costs associated with administrative and curriculum support from Heads of Departments and

Support Teachers. The costs do not include any fixed costs which the State would incur regardless of any non-State school (NSS) enrolments (i.e. costs such as building maintenance, depreciation and materials development). The fee structure is based on 50% of a single flat fee that reflects the average of the full cost recovery less fixed costs for providing any subject of distance education per student, per annum for Years 8 - 12 and for all language other than English (LOTE) subjects Years 1 - 12 i.e. \$1000 (approximately 50% of \$2012).

The fee will apply to students enrolled to study on or after 1 January 2009, with a transition period exempting Year 11 students enrolled in a distance education subject in 2008 from paying the fee in 2009 for the same subject. This enables Year 11 students in studying distance education subjects in 2008 to complete those subjects in Year 12 in 2009, without paying the proposed fee.

Consistency with authorising Act

The Regulation is consistent with the Authorising Act.

Possible alternative approach

A proposed full cost recovery fee for non-State school students enrolled at a State School of Distance Education (SSDE) was considered in the Regulatory Impact Statement (RIS) which was released for consultation in March 2008. The proposed full cost recovery fees outlined in the RIS were—

- for any LOTE subject (regardless of year level) – \$2947 per student, per annum; and
- for any senior subject other than LOTE – \$2543 per student, per annum; and
- for any junior subject other than LOTE – \$1939 per student, per annum.

As a result of feedback from the consultation a revised fee structure was approved by the Government. It is based on 50% of a single flat fee that reflects the average of the full cost recovery less fixed costs for providing any subject of distance education per student, per annum for Years 8 - 12 and for all LOTE subjects Years 1 - 12 (i.e. \$1000).

Benefits and costs of implementing the legislation

A full analysis of the costs and benefits of a proposed full cost recovery fee for non-State school students enrolled at a SSDE was considered in the Regulatory Impact Statement.

As a result of the consultation process, a revised fee structure approved by the Government has been prescribed in the amendment Regulation. Impacts on stakeholders of this revised fee are summarised in the following table, relative to the status quo (i.e. no fee).

Stakeholder	Cost	Benefit
Non-State Schools (NSS)	<p>The introduction of the proposed new fee structure may result in some NSS choosing not to extend their subject offerings through use of distance education provided by SSDE.</p> <p>The impact of the fees is potentially greater for schools where teaching resources are limited (e.g. smaller, less affluent, rural or remote NSS). However, given that rural or remote schools represent only 15% of the total non-State schools using the service (impacting on only approximately 0.1% of the overall NSS population), any impact is likely to be very small.</p> <p>Based on current SSDE enrolments, excluding waivers under section 54 of the Act, the cost to NSS that use SSDE services will be approx \$1.979m pa. However, it is anticipated that some schools may choose not to access SSDE thereby reducing the cost to NSS.</p> <p>There will be costs associated with administering the new fees. While these costs are unable to be quantified, they are likely to be low as only a small proportion of all enrolled NSS access SSDE (impacting on only approximately 0.1% of the overall NSS population).</p> <p>In terms of other schools that rely heavily on SSDE, these schools have the option of accessing the services of private providers of distance education. They may also choose to make a reciprocal arrangement with another school for the sharing of teachers, or they may decide not to extend subject offerings.</p>	<p>SSDE services would be provided only to those schools that place a value on them equal to the fee.</p> <p>The competitive environment for those schools that do not rely on SSDE will be fairer.</p>

Stakeholder	Cost	Benefit
<p>Non-State School Parents/ Students</p>	<p>To the extent non-State schools continue to access the services of SSDE or private providers of distance education or enter into reciprocal arrangements with other schools for the sharing of teachers, there will be no reduction in subject availability.</p> <p>However, if non-State schools choose to reduce their subject offerings as a consequence of the introduction of the fees, then students may be affected by reduced subject availability.</p> <p>The impact of reduced subject availability is likely to be proportionately more significant in those schools where teaching resources are limited (e.g. smaller, less affluent, rural or remote schools). However, given that rural or remote schools represent only 15% of the total non-State schools using the service, and the fact that these schools are more likely to be able to obtain a waiver under section 54, any impact is likely to be small.</p> <p>Non-State schools are funded through grants provided by both the State and Commonwealth Governments. In addition to this government funding, non-State schools have the option of charging student fees.</p> <p>As these grants and fees are not abated proportionately when a non-State student enrolls in an SSDE subject, it would be reasonable to expect that the non-State school could absorb the cost of the new fees rather than passing that cost onto parents.</p>	<p>The proposal will ensure sustainable access to SSDE if their services are required.</p>
<p>State Schools and State School Parents/ Students</p>	<p>No significant impacts.</p>	<p>It is expected that the amendment Regulation will result in a more efficient and equitable application of State school resources.</p>

Stakeholder	Cost	Benefit
SSDE	There will be administrative costs associated with managing the new fees i.e. processing applications and refunds. While these costs are unable to be quantified they will require consideration as part of the implementation process.	It is expected that that there will be more efficient use of, and less pressure on, resources as NSS will have full regard to the costs of SSDE services and use these services only when necessary.
Department of Education, Training and the Arts	There will be administrative costs associated with management of waivers. While these costs are unable to be quantified they will require further consideration.	Depending on the number of waivers that are granted, the Government will be able to recover a proportion of the costs of providing services to non-State schools (currently in the order of \$1.979m pa). This amount is expected to decrease over time as SSDE services are used more efficiently by the NSS and enrolments decrease.
Private providers of distance education	None expected.	The introduction of the new fee structure may create opportunities for growth in this part of the market.

The above cost/benefit assessment table indicates that while there will be some costs as a result of the new fees, the impact of these costs are likely to be relatively small. The most significant impacts are likely to occur in those schools where teaching resources are limited or in those schools that rely heavily on SSDE services. The fact that only approximately 0.1% of NSS secondary students currently access SSDE (even less for primary) means the overall costs associated with the amendment Regulation will be small. In terms of schools with higher levels of SSDE enrolments, some may choose not to extend subject offerings, while others may make reciprocal arrangements with another school for the sharing of teachers. Costs will be further reduced by the proposed transitional arrangements.

It is considered that the overall benefits of the proposed Regulation will outweigh the costs. It will enable more efficient and equitable application of State school resources. In addition, the introduction of the fees may create opportunities for growth for private providers of distance education. These factors are likely to provide benefits not only to the identified stakeholders, but to the community as a whole. Further, the proposed

Regulation will ensure that the original policy intent of section 52 of the Act will be met.

Fundamental legislative principles

The proposed amendment Regulation is consistent with the fundamental legislative principles established under the *Legislative Standards Act 1992*.

Consultation

On 14 March 2008 the RIS, assessing the impact of the proposed fee, was released for consultation. The requirements of section 45 of the *Statutory Instruments Act 1992* were complied with in relation to notification of, and the consultation period for, the RIS. Stakeholders were allowed five weeks to respond to the RIS.

Consultation on the RIS was announced in major regional newspapers and the Weekend Edition of The Courier Mail on 15 March 2008.

Details of the consultation exercise together with electronic copies of relevant documents were made available on the Department of Education and the Arts (the Department) website from Friday 14 March 2008. Letters were sent directly to several significant stakeholder groups in the week starting 17 March 2008 outlining details of consultation on the draft Bill and RIS. These groups included—

- Independent Schools Queensland (ISQ)
- Queensland Catholic Education Commission (QCEC)
- Queensland Independent Schools Parents Council (QISPC)
- The Federation of Parents and Friends Associations of Catholic Schools in Queensland (FP&FACSQ)
- Isolated Children's Parents' Association (ICPA)
- Schools of Distance Education Alliance (SODEA)
- Queensland Teachers' Union (QTU)
- Queensland Independent Education Union (QIEU)
- Queensland Public Service Union (QPSU)
- Liquor, Hospitality and Miscellaneous Union (LHMU).

The top 10 NSS users of State distance education services Stakeholder Forums began in the week beginning 31 March 2008 and involved the ISQ, QCEC, FP&FACSQ, QTU, QPSU and LHMU.

Stakeholders who attended the forums were also extended an invitation to attend a detailed financial briefing regarding the costing methodology used to calculate the proposed fees. The QCEC and the QTU accepted the invitation.

Consultation with relevant Queensland Government agencies has occurred through the release of a Discussion Paper relating to the Regulation. Agencies consulted included Departments of the Premier and Cabinet, the Queensland Office of Regulatory Efficiency and Queensland Treasury.

Results of Consultation

While most respondents supported the introduction of a new fee of some kind, all respondents to the RIS strongly opposed fees set on a full cost recovery basis. Both ISQ and QCEC advocated for a marginal fee that did not include indirect or fixed costs that SSDE would incur regardless of the NSS enrolments i.e. building maintenance, depreciation on assets etc.

ISQ and QCEC indicated that other jurisdictions charged significantly less than the fees proposed in the RIS. There is wide variation in the fees charged by the other jurisdictions. For example, the Distance Education Centre Victoria (DECV) charges a \$500 service fee per subject, per annum and a \$500 subject materials charge to NSS students. The DECV has indicated that the \$500 service charge has been calculated as 50% of the cost of providing instruction and that a full-cost analysis had not been undertaken to calculate the fee. In Western Australia, the charge for a Year 11 and 12 subject is \$2000 per annum. The requested that consideration be given to a flat fee.

This feedback was considered and a revised fee has been prescribed in the amendment Regulation based on recovery of all costs aside from any fixed costs which the State would incur regardless of any NSS enrolments (i.e. costs such as depreciation and maintenance). The fee structure is calculated on 50% of a single flat fee that reflects the average of the full cost recovery less fixed costs for providing any subject of distance education per student, per annum for Years 8-12 and for all LOTE subjects Years 1 -12.

NOTES ON PROVISIONS

1 Short title

Clause 1 provides that the regulation is the *Education (General Provisions) Amendment Regulation (No. 1) 2008*.

2 Regulation Amended

Clause 2 provides that regulation amends the *Education (General Provisions) Regulation 2006*.

3 Amendment of s 69 (Fee for distance education—Act, s 52(2))

Clause 3 inserts a new section 69(2) in the regulation providing that for section 52(2) of the Act, the fee for the provision of distance education to a person, other than a State school student, who is enrolled to undertake a component of a program of distance education at a State school but is not enrolled in the program at the school is—

- (a) for a subject, other than a LOTE subject, in years 8 to 12, if the person is enrolled for a school year—\$1000; or if the person is enrolled only in semester 2, \$500; or
- (b) for a LOTE subject in years 1 to 12, if the person is enrolled for a school year—\$1000; or if the person is enrolled only in semester 2, \$500.

The new section 69(3) defines a “LOTE subject” to mean a subject that is the study of a language other than English. An example of a LOTE subject is Japanese.

4 Amendment of s 69A (Refund of part of fee for distance education—Act, s 434(2)(a))

Clause 4 omits the word ‘undertaking’ in section 69A(1)(b) and replaces it with the phrase ‘enrolled to undertake’ and similarly omits, in section 69A(6), the words ‘undertaking of’ and inserts the words ‘enrolment to undertake’.

5 Insertion of new pt 10, div 3

Clause 5 inserts a new part 10, division 3 in the regulation to provide for the transitional provisions for the amendment Regulation. The new section 90 provides that the fees prescribed in section 69(2) apply for distance education provided on or after 1 January 2009. The fees are to apply from the 2009 school year. The regulation will commence upon gazettal to enable the new fee in section 69 to be collected upon application for enrolment prior to the 2009 school year commencement.

The new section 90(2) provides that the fees prescribed in section 69(2) are not payable for the provision of a subject by distance education to a person during 2009 where the person is enrolled during 2008 to undertake the subject in year 11, and the person's enrolment to undertake the subject continues during 2009 in year 12.

The new section 90(3) provides that section 90(2) does not exempt a person from payment of a fee if the person is enrolled during 2008 to undertake the subject in year 11, and repeats the subject during 2009, or the person is enrolled during 2008 to undertake the subject in year 11 but cancels the enrolment, and enrolls to undertake the subject during 2009.'.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Education, Training and the Arts.

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