



Queensland

Education and Care Services National Law (Queensland) Regulation 2011

Explanatory Notes for SL 2011 No. 278

made under the

Education and Care Services National Law (Queensland) Act 2011

General outline

Short title

Education and Care Services National Law (Queensland) Regulation 2011.

Authorising law

Prescribing a Central Governing Body

Part 4, Division 2, of the *Education and Care Services National Law (Queensland) Act 2011* (the Act) provides for the use and disclosure of unit record level (URL) data relating to approved kindergarten programs. These provisions, which are also in the *Child Care Act 2002*, were included in the Act to continue them in force for relevant early childhood education and care services that will be regulated under the Act from 1 January 2012, rather than under the *Child Care Act 2002*. The provisions allow staff at approved education and care services that provide an approved kindergarten program to disclose URL data to a Central Governing Body (CGB) or the chief executive of the Department of Education and Training (the Department). URL data includes information about children enrolled at the service and staff of the service.

Section 32 of the Act provides that a CGB means an entity prescribed under a regulation that receives funding from the Department for an approved kindergarten program provided by one or more relevant services to which the entity provides all or part of the funding.

Consequential amendments

The following laws authorise the making of regulations about the matters covered by the consequential amendments made by the Education and Care Services National Law (Queensland) Regulation 2011 (the Regulation):

- Section 261 of the *Building Act 1975*;
- Section 108 of the *Fire and Rescue Service Act 1990*;
- Section 99 of the *Food Act 2006*;
- Section 132 of the *Health Act 1937*;
- Sections 158 and 160 of the *Public Health Act 2005*;
- Sections 38 and 224 of the *Queensland Civil and Administrative Tribunal Act 2009*;
- Sections 4A and 111 of the *Sanctuary Cove Resort Act 1985*; and
- Sections 200, 232, 250, 251 and 254 of the *Sustainable Planning Act 2009*.

Policy objectives and the reasons for them

Prescribing a Central Governing Body

As explained in the Explanatory Notes for the *Child Care Amendment Regulation (No.1) 2011* (SL 2011 No. 31), the *National Information Agreement on Early Childhood Education and Care* (the Agreement), endorsed by the Ministerial Council for Education, Early Childhood Development and Youth Affairs on 6 November 2009, seeks to support the development of nationally consistent, quality early childhood education and care information. Queensland signed the Agreement on 19 February 2010.

The Agreement requires the collection and reporting of URL data on individual children who are accessing a kindergarten program and individual staff who deliver the kindergarten program to the Australian Bureau of Statistics (ABS) and the Australian Institute of Health and

Welfare (AIHW). URL data on children includes the name, date of birth, address and demographic information (Indigenous status, language background and whether the child has a disability).

The funding scheme approved to support kindergarten programs and long day care services to deliver approved kindergarten programs in Queensland requires URL data to be recorded at the time of individual enrolment for the purposes of quality assuring approved kindergarten provider funding entitlements in 2011. Some child care services will receive funding through a CGB and some services will receive funding directly from the Department of Education and Training (DET).

The Act provides for the disclosure of URL data from child care services to DET where those services are not funded through a CGB. Where the education and care service receives its funding through a CGB it will be required to provide URL data either to that CGB or to the chief executive of the Department. Where the data is provided to the CGB, that body will then provide the URL data to the chief executive of DET. The chief executive will then be able to disclose the data to the ABS and the AIHW for the purposes of meeting Queensland's obligations under the Agreement.

The Department will also use the URL data to:

- conduct quality assurance assessments of relevant services, including ensuring that the same child is not inappropriately funded in more than one kindergarten service; and
- plan for and report on early childhood policy initiatives.

Organisations were invited to apply to the Department for approval to operate as a CGB. The Department has entered into service agreements with those organisations approved to receive funding as a CGB. These are:

- The Crèche and Kindergarten Association of Queensland;
- The Corporation of the Roman Catholic Bishops of Queensland;
- The Association of Independent Schools of Queensland Inc;
- Queensland Lutheran Early Childhood Services; and
- The Gowrie (QLD) Inc.

It is these organisations that the Regulation prescribes as CGBs.

Consequential amendments

The Act makes a series of consequential amendments to Queensland Acts to incorporate references to the Education and Care Services National Law as it is applied in Queensland, and to update terminology to refer to education and care services, in addition to child care services, where appropriate.

Similar consequential amendments are required to be made to certain Queensland subordinate legislation.

Achievement of policy objectives

Prescribing a Central Governing Body

The regulation prescribes the above listed organisations as CGBs.

Consequential amendments

The regulation amends relevant subordinate legislation to incorporate references to the Education and Care Services National Law as it is applied in Queensland, and to update terminology to refer to education and care services, in addition to child care services, where appropriate.

Consistency with policy objectives of authorising law

Prescribing a Central Governing Body

Section 32 of the Act provides for a CGB to be prescribed under a regulation.

Consequential amendments

The making of the consequential amendments is consistent with the relevant authorising provisions for each affected piece of subordinate legislation.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

Prescribing a Central Governing Body

Prescribing entities as CGBs will enable them to collect URL data on behalf of a number of child care services and then provide that information to the chief executive. This will help a CGB and the Department to monitor the operations of education and care services.

Consequential amendments

The making of consequential amendments to relevant subordinate legislation will ensure the Queensland statute book correctly incorporates references to the Education and Care Services National Law and education and care services to which that Law applies.

Consistency with fundamental legislative principles

The proposed amendments do not breach fundamental legislative principles.

Consultation

Prescribing a Central Governing Body

The Department undertook consultation with the following entities prior to their prescription as CGBs under the *Child Care Act 2002*:

- The Crèche and Kindergarten Association of Queensland;
- The Queensland Catholic Education Commission (on behalf of The Corporation of the Roman Catholic Bishops of Queensland);
- The Association of Independent Schools of Queensland Inc;
- Queensland Lutheran Early Childhood Services; and
- The Gowrie (QLD) Inc.

All entities supported their prescription as CGBs.

Consequential amendments

The Department undertook consultation with relevant government agencies. In accordance with section 224 of the *Queensland Civil and Administrative Tribunal Act 2009*, the Queensland Civil and Administrative

Tribunal Rules Committee gave its consent for the consequential amendments to the *Queensland Civil and Administrative Tribunal Rules 2009*.

ENDNOTES

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

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