



Queensland

# Education and Training Legislation Amendment (Postponement) Regulation 2012

## Explanatory Notes for SL 2012 No. 170

made under the

*Education and Training Legislation Amendment Act 2011*

---

## General outline

### Short title

*Education and Training Legislation Amendment (Postponement) Regulation 2012.*

### Authorising law

Section 2 *Education and Training Legislation Amendment Act 2011*

Section 15DA *Acts Interpretation Act 1954*

### Policy objectives and the reasons for them

The *Education and Training Legislation Amendment Act 2011* (the Act) made a number of amendments to legislation relating to education and training, including amendments to the obligations of staff at state and non-state schools to report suspected sexual abuse of students.

Sections 9 and 11 inserted new sections 365A and 366A into the *Education (General Provisions) Act 2006* (the EGPA). These new provisions require

state and non-state school staff members to report to police suspicions of likely future sexual abuse of students. Failure to report was intended to be addressed through disciplinary action taken by employing authorities in appropriate instances. This aimed to mitigate concerns that the risk of criminal sanction would increase reporting of inappropriate low level matters. The policy intention was made clear in the Explanatory Notes and during the inquiry by the former Industry, Education, Training and Industrial Relations Committee into the amendments.

It has subsequently been identified that despite the policy intention, a person who fails to report the likelihood of future sexual abuse may be guilty of a misdemeanour under section 204 of the *Criminal Code*, which attracts a maximum penalty of one year imprisonment. The Minister for Education, Training and Employment introduced the *Education Legislation Amendment Bill 2012* into the Legislative Assembly on 21 August 2012 to, amongst other objectives, amend sections 9 and 11 of the Act to ensure that staff members do not commit a criminal offence for a failure to report likely future sexual abuse.

The Act, other than Parts 2 and 5 to 10, commenced on assent. Parts 2 and 5 to 10 were prescribed to commence on a day fixed by proclamation. On 9 July 2012, the remaining provisions in the Act, except for section 9 and section 11, to the extent it inserts new section 366A into the EGPA commenced by Proclamation (SL 2012 No. 70). Under section 15DA *Acts Interpretation Act 1954*, section 9 and section 11, to the extent it inserts new section 366A into the EGPA will automatically commence on 25 November 2012.

It is necessary to extend the period before automatic commencement of these sections to allow for passage of the section 204 amendments prior to their commencement. Once the *Education Legislation Amendment Bill 2012* is passed an appropriate commencement date will be determined. The commencement date will take into account the need to align with commencement of a school term and to deliver training to state and non-state school staff about the changes to reporting requirements.

### **Achievement of policy objectives**

The Regulation achieves the policy objective by extending the period before automatic commencement of sections 9 and 11, to the extent that it inserts a new section 366A into the EGPA to the end of 24 November 2013.

### **Consistency with policy objectives of authorising law**

The Regulation is consistent with the objects of each authorising law.

### **Inconsistency with policy objectives of other legislation**

The Regulation is consistent with the policy objectives of other legislation.

### **Benefits and costs of implementation**

There are no costs incurred in implementing this Regulation.

### **Consistency with fundamental legislative principles**

The Regulation is consistent with fundamental legislative principles.

### **Consultation**

Relevant government agencies were consulted during the preparation of the Regulation.

---

#### ENDNOTES

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