

# Industrial Relations Amendment Regulation (No. 4) 2014

Explanatory notes for SL 2014 No. 68

made under the

*Industrial Relations Act 1999*

## General Outline

### Short title

Industrial Relations Amendment Regulation (No. 4) 2014

### Authorising law

*Industrial Relations Act 1999*

Section 692(3) of the *Industrial Relations Act 1999* provides that a regulation may declare an entity to be not a national system employer for the purposes of the *Fair Work Act 2009* (Cth).

Section 709(1) of the *Industrial Relations Act 1999* provides the head of power under which the Governor in Council may make regulations under this Act.

### Policy objectives and the reasons for them

The objective of this regulation is to remove any ambiguity concerning the industrial relations status of Tourism and Events Queensland by declaring it as not a national system employer for the purposes of *Fair Work Act 2009* (Cth).

Tourism and Events Queensland is a corporation established under the *Tourism and Events Queensland Act 2012*. The *Tourism and Events Queensland Act 2012* merged Tourism Queensland and Events Queensland to create Tourism and Events Queensland. There is an existing declaration in force in relation to Tourism Queensland. However, as Tourism and Events Queensland is a new entity with expanded functions and new staff, a specific declaration for Tourism and Events Queensland is required. As Tourism and Events Queensland will have some trading activity, it may be considered to be a constitutional corporation and subject to the *Fair Work Act 2009* (Cth).

The *Education (Queensland Curriculum and Assessment Authority) Act 2014* establishes the Queensland Curriculum and Assessment Authority as a statutory body under the *Queensland Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982*. The Queensland Curriculum and Assessment Authority will

administer a range of educational functions. These are primarily of a non-commercial or non-financial nature. As one of the Queensland Curriculum and Assessment Authority's functions will be providing curriculum products and services to overseas schools, it may be argued that the Queensland Curriculum and Assessment Authority is a constitutional corporation and subject to the *Fair Work Act 2009* (Cth).

Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority must be declared as not national system employers to avoid any uncertainty as to their industrial relations system status. A declaration excluding Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority from the national workplace relations system will provide certainty to the employer and employees and retain them within the jurisdiction of the Queensland industrial relations system.

## **Achievement of policy objectives**

The policy objectives are achieved by amending the *Industrial Relations Regulation 2011* to exclude Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority from the national workplace relations system. Section 14(2) of the *Fair Work Act 2009* (Cth) sets out a two-stage declaration and endorsement process:

- a) The regulation specifies that Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority are declared not to be national system employers for the purposes of the *Fair Work Act 2009* (Cth); and
- b) The Commonwealth endorses the declarations confirming that Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority are not national system employers and therefore are not covered by the national workplace relations system.

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

This regulation is required to properly give effect to the policy objectives.

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

None have been identified.

## **Benefits and costs of implementation**

There will be no identified impacts on the community as a result of this regulation.

## **Consistency with fundamental legislative principles**

No fundamental legislative principle issues have been identified in the preparation of this regulation.

## Consultation

The Department of Tourism, Major Events, Small Business and the Commonwealth Games supports the exclusion of Tourism and Events Queensland from the national workplace relations system.

The Department of Education, Training and Employment supports the exclusion of the Queensland Curriculum and Assessment Authority from the national workplace relations system.

The Commonwealth Minister for Employment, the Senator the Honourable Eric Abetz MP, has confirmed the Federal Government's in-principle support to exclude Tourism and Events Queensland and the Queensland Curriculum and Assessment Authority from the national Fair Work system pursuant to subsection 14(2) of the *Fair Work Act 2009* (Cth) and to remove the existing endorsement for Tourism Queensland, which will no longer be required.