

Education (Queensland Curriculum and Assessment Authority) Regulation 2014

Explanatory notes for SL 2014 No. 126

made under the

Acts Interpretation Act 1954

Education (Accreditation of Non-State Schools) Act 2001

Education (Queensland College of Teachers) Act 2005

Education (Queensland Curriculum and Assessment Authority) Act 2014

Public Sector Ethics Act 1994

Queensland Civil and Administrative Tribunal Act 2009

Statutory Bodies Financial Arrangements Act 1982

General Outline

Short title

Education (Queensland Curriculum and Assessment Authority) Regulation 2014

Authorising law

Section 17 of the *Acts Interpretation Act 1954*

Section 177 of the *Education (Accreditation of Non-State Schools) Act 2001*

Section 298 of the *Education (Queensland College of Teachers) Act 2005*

Sections 2 and 92 of the *Education (Queensland Curriculum and Assessment Authority) Act 2014*

Section 25 of the *Public Sector Ethics Act 1994*

Section 242 of the *Queensland Civil and Administrative Tribunal Act 2009*

Section 78 of the *Statutory Bodies Financial Arrangements Act 1982*

Policy objectives and the reasons for them

On 19 February 2014, the *Education (Queensland Curriculum and Assessment Authority) Act 2014* (QCAA Act) received Royal Assent. Section 2 of the Act provides for commencement on a day to be fixed by proclamation. The Proclamation will commence the QCAA Act on 1 July 2014.

The QCAA Act establishes the Queensland Curriculum and Assessment Authority (the Authority) and provides for a range of curriculum and related functions including: developing, purchasing or revising school syllabuses; supporting the implementation of syllabuses and the Australian Curriculum; testing; moderation; certification; tertiary entrance ranking; and administration of student accounts.

The Authority replaces the Queensland Studies Authority (the QSA), which operated under the *Education (Queensland Studies Authority) Act 2002* and the *Education (Queensland Studies Authority) Regulation 2002* (the QSA Regulation).

Prescribing operational matters to support the functions of the Queensland Curriculum and Assessment Authority

It is necessary to prescribe a range of operational matters in a regulation to support the Authority in performance of its functions. The QCAA Act provides that the Governor in Council may make regulations about a range of matters relating to the Authority's functions including:

- accreditation of kindergarten guidelines;
- testing;
- issuing of certificates of achievement and statements of results;
- management of information recorded in student accounts;
- ranking of persons as a basis for tertiary entrance, issuing tertiary entrance statements and verifying information in tertiary entrance statements; and
- fees payable for applications.

Consequential amendments

It is necessary to make a number of consequential amendments to subordinate legislation to remove obsolete references and update terminology as a result of the commencement of the QCAA Act.

Achievement of policy objectives

Prescribing operational matters to support the functions of the Authority

The *Education (Queensland Curriculum and Assessment Authority) Regulation 2014* (the Regulation) achieves its policy objective by prescribing operational matters for the Authority. In many aspects, the Regulation does this by continuing processes and procedures contained in the QSA Regulation with clarification or streamlining of previous QSA Regulation processes.

- *Kindergarten guidelines*

While the QSA Regulation provides for accreditation of Year 1-12 syllabuses, and both kindergarten and preparatory guidelines, the Regulation provides only for accreditation of kindergarten guidelines.

The broad accreditation function of the QSA has not been widely used, with developers of educational programs tending to focus on ensuring their programs are recognised for inclusion as contributing studies for the Queensland Certificate of Education (QCE) instead of seeking accreditation.

In order to be eligible for Queensland government funding, early childhood providers must use a program that is aligned with Authority accredited kindergarten guidelines. As such, the Regulation continues procedures for kindergarten guidelines to be evaluated and accredited by the Authority.

- *External Senior Examinations*

The Regulation sets out procedures for persons in particular circumstances to apply to the Authority to complete a senior subject by external senior examination rather than the usual process of school-based externally-moderated senior assessment.

For example, a student undertaking secondary senior education at a school who cannot reasonably study a particular subject at that school (due to issues such as subject availability or timetabling) may complete the subject by an external senior examination. External senior examinations may also be undertaken by persons who are 17 years of age or over; have left school before completing Year 12 and have not obtained a senior certificate; or other persons declared eligible by the Authority.

The Regulation continues the limitations on the number of subjects that may be completed by undertaking an external senior examination. For example, students who are undertaking year 12 at a school may not take external senior examinations in more than two subjects, unless the Authority is reasonably satisfied that exceptional circumstances exist. No limitation applies for persons who are 17 years of age or over, have left school before completing Year 12, and have not obtained a senior certificate.

- *Queensland Core Skills Test*

The Regulation requires the Authority to develop a Core Skills Test (CST). The CST may be taken by eligible persons, who will finish year 12 in the year in which the test is proposed to be taken. Mature-age persons who have completed year 12 and are over 18 years of age may also apply to take the CST.

The CST is commonly taken by persons who are seeking to obtain an Overall Position (OP) tertiary entrance rank. The results of the CST are used in statistical scaling processes that enable students in different subject groups and at different schools to be ranked for tertiary entrance by the Authority.

- *Other provisions for external senior examinations and CST*

The Regulation continues the requirement that the Authority decide the places where an external senior examination, or the CST, may be taken. The Authority is required to publish these places on its website.

Eligible persons may, in extenuating circumstances, apply to the Authority to take an external senior examination or the CST at another place. This may include, for example, a student whose parents are working interstate at the time the examination is to be taken. The Authority may grant an application where it is satisfied that extenuating circumstances exist, that adequate supervisory arrangements can be provided, and that adequate arrangements can be made to safeguard the examination or test papers or scripts. The applicant will be required to pay a local expenses fee that is not more than the reasonable cost of providing the examination or test at the other place.

The Regulation includes new procedures enabling the governing body of a recognised school or their nominee to apply to have its students undertake the CST. A recognised school is defined in the dictionary in the Act to mean a school located outside Australia that has an agreement with the State for the use of Authority curriculum products and services.

The Authority may only approve such an application where it is satisfied that adequate supervisory arrangements can be provided; that adequate arrangements can be put in place to safeguard the examination, test papers or test scripts; and that the agreement between the recognised school and the State allows for the Authority to provide the senior external examination or CST to the recognised school. In such cases, the appropriate fee for the provision of the CST will be determined as part of the relevant agreement with the State.

- *Queensland Certificate of Education*

The Regulation continues to set out the eligibility requirements for the QCE. Under these requirements, a student account must be open for a person in which at least 20 credits of completed or partially completed contributing studies must be recorded. These credits must be in a required pattern such that no less than 12 of the recorded credits are for completed core studies.

Eligible persons must also satisfy literacy and numeracy requirements, and must have undertaken at least one credit of core studies while: enrolled at an assessing school; registered or provisionally registered for home education; non-Queensland studies that are core studies undertaken by the person at an interstate or overseas school.

Other more detailed and technical provisions regarding QCE eligibility requirements are to be set out in a guideline developed by the Authority. These include:

- categories of core studies and other contributing studies;
- the criteria that contributing studies must meet to belong to that category;
- the credit value of completed and partially completed contributing studies;
- the criteria for deciding the credit value for contributing studies;
- the standard of achievement a person must achieve in order for credits in contributing studies to be recorded in a person's student account;

- the requirements a person must satisfy for partial completion of contributing studies; and
- how a person may satisfy the literacy and numeracy requirements for a QCE.

A person will not be eligible for a QCE if they have already received a QCE, a senior certificate (issued to students prior to the introduction of the QCE) or an equivalent interstate or overseas qualification. The Regulation sets out processes for determining whether a qualification issued interstate or overseas is equivalent to a QCE. The Authority must publish a list of qualifications it considers to be equivalent to the QCE on its website.

- *Recognition of studies as contributing studies*

The Authority must publish a guideline outlining the criteria it will use to decide to recognise particular studies as contributing studies for the purposes of a QCE.

The Authority may decide to recognise studies as contributing studies if: it believes they are appropriate for senior secondary education; it is satisfied the studies meet the criteria for recognition; and a relevant entity for the studies has given written consent to them being recognised for the QCE.

A list of contributing studies must be published on the Authority's website.

The Regulation will differ from the QSA Regulation, as decisions resulting in the cancellation of recognition of particular studies as studies contributing towards a QCE will be internally reviewable by the Authority and externally reviewable by the Queensland Civil and Administrative Tribunal.

Other studies that the Authority may recognise as contributing studies are non-Queensland studies and workplace, community or self-directed (WCS) learning projects. Given the highly tailored nature of such projects, a successful application for a WCS learning project will only be recognised as a contributing study for the person who has made the application.

- *Queensland certificate of individual achievement*

The Regulation sets out eligibility requirements for a Queensland certificate of individual achievement (QCIA). The QCIA is provided to students with impairments or learning difficulties that are not primarily due to socioeconomic, cultural or linguistic factors.

A QCIA may be provided to a person who is nominated for the issue of a QCIA by their school principal, has completed at least 24 semesters of schooling (other than schooling in the preparatory year) and has recorded at least one result for contributing studies for a QCIA. Contributing studies for the QCIA are published on the Authority's website.

- *Statements of results*

Senior Statement - a senior statement is provided to all persons who finish senior secondary education and have credits recorded in a student account. The statement records results in all contributing studies undertaken for a QCE or a QCIA. Persons who have undertaken the CST will also have the results for the test listed on their senior statement.

Record of Results - the Regulation also provides for the issue of a record of results to persons who have achieved a QCE or a QCIA, but who have not received a senior statement. This will usually relate to persons who have achieved the 20 credits required for a QCE after they have completed Year 12. The record of results, like the senior statement, records results in all contributing studies undertaken for a QCE or a QCIA.

- *Student Accounts*

The Regulation sets out matters around the operation of student accounts. Student accounts are opened within one year of a person entering the compulsory participation phase of education, and are used to record learning that may be included in a statement of results or certificate.

The Regulation sets out:

- prescribed information that must be given to the Authority when a student account is opened;
- timeframes for the inclusion of student result information and the correction of any incorrect information; and
- information that may be disclosed to providers and recognised schools to enable them to confirm the accuracy of that information.

The Regulation sets out prescribed information that may be provided by the Authority to support a range of planning, re-engagement and reporting activities. This includes prescribed information to be given to the chief executive of the Department of Education, Training and Employment to carry on activities for the re-engagement of students in the compulsory participation phase. It also includes the provision of aggregated student account information, upon request, to Independent Schools Queensland, Queensland Catholic Education Commission and the chief executive of the department responsible for the *Further Education and Training Act 2014* (the training chief executive).

The Regulation also lists prescribed information that is to be provided to the training chief executive to enable the department to comply with its reporting obligations under certain agreements between the Commonwealth and the State.

The Regulation provides for the closure of a student account after a period of nine years with persons able to apply to have a student account continued for a further nine years, either during or after the expiration of the initial nine year period.

Unlike the QSA Regulation, the Regulation does not impose a limit of nine years to bank credits towards the QCE. Where a student account is continued or reopened, previously recorded credit points in the account will continue to be recognised towards a QCE.

The ability to accumulate credit towards a QCE over a period of more than nine years is consistent with the principle of life-long learning.

- *Tertiary entrance*

The Regulation prescribes the requirements to be met by persons to be eligible to receive a tertiary entrance ranking by the Authority, and requires the Authority to issue tertiary entrance statements to eligible persons.

The Regulation requires the Authority to publish a guideline outlining the procedures for ranking persons for tertiary entrance. This guideline includes the highly technical statistical scaling and quality assurance processes that are currently used to derive OP and Field Position (FP) tertiary entrance ranks.

The Regulation includes processes to recognise a long-standing administrative practice of the QSA whereby persons who are not Australian citizens or permanent residents may be issued with an equivalent tertiary entrance rank, otherwise known as an equivalent OP. This includes international students studying in Queensland on an overseas visa and those studying at recognised schools.

An equivalent OP allows the recipient to apply for tertiary entrance as an international student on the basis of their equivalent ranking. International students receiving an equivalent OP are not included in the number of Queensland students allocated to each of the OP bands.

- *Fees*

Fees payable under the Regulation are stated in schedule 1 of the Regulation and refunds are set out in Part 11.

- *Guidelines*

The Regulation requires ten matters to be the subject of guidelines developed by the Authority. These guidelines relate to areas which, due to their detailed or highly technical nature, are unable to be appropriately reflected in the Regulation. These areas include:

- literacy and numeracy requirements for eligibility for a QCE;
- matters relating to contributing studies, including:
 - categories of, and criteria for, contributing studies;
 - credit value for contributing studies;
 - required standard of achievement for contributing studies;
 - criteria for partial completion of contributing studies;
 - required pattern for credits;
 - criteria for recognising particular studies as contributing studies (for other non-Queensland studies);
 - criteria for recognising particular studies as contributing studies (for particular studies);
- completion of tertiary entrance subjects; and
- tertiary entrance ranking procedures.

This reflects a significant reduction in the number of guidelines required under the QSA Regulation. Where appropriate, criteria for decisions are now included as part of the Regulation. In cases where material is to be provided for the information of schools and

students, the Regulation requires the material to be published on the Authority website or included as part of an approved form.

Consequential amendments to other subordinate legislation

The Regulation makes consequential amendments to the following regulations to remove obsolete references and update terminology as a result of the commencement of the Act.

The *Education (Accreditation of Non-State Schools) Act 2001* sets out criteria for the accreditation and provisional accreditation of non-state schools. The accreditation criteria is contained in the *Education (Accreditation of Non-State Schools) Regulation 2001* (the Accreditation Regulation) and includes a requirement that a school must have a written educational program that enables students to at least achieve Queensland standards of learning or standards of learning comparable to Queensland standards of learning. Queensland standards of learning are defined, in part, by reference to Queensland school syllabuses. Consequential amendments in the Accreditation Regulation amend the definition of Queensland standards of learning to include syllabuses developed, purchased or revised by the Authority, or the Australian Curriculum.

The *Education (Queensland College of Teachers) Regulation 2005* (the QCT Regulation) refers to educational programs based on a syllabus or kindergarten guideline approved or accredited by the QSA. Consequential amendments in the QCT Regulation replace this with a reference to educational programs based on: a kindergarten guideline developed, purchased, revised or accredited by the Authority; a syllabus developed, purchased or revised by the Authority; or the Australian Curriculum.

Other consequential amendments to the *Public Sector Ethics Regulation 2010*, *Queensland Civil and Administrative Tribunal Regulation 2009* and the *Statutory Bodies Financial Arrangements Regulation 2007* replace references to the QSA, the QSA Act and Regulation with references to the new Authority and the QCAA Act and Regulation.

Consistency with policy objectives of authorising law

The Regulation is consistent with the main objectives of the QCAA Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The benefits of implementation of the Regulation are:

- enabling the continuation of processes and procedures currently administered under the QSA Regulation;
- providing a new Regulation which reflects contemporary practices, for example, equivalent tertiary entrance ranking for non-citizens/permanent residents, and the ability for recognised schools to apply for their students to take the CST; and

- reducing and streamlining red tape, for example, by:
 - removing provisions such as accreditation of preparatory guidelines and Year 1-12 syllabuses; and tailored training programs;
 - simplifying unnecessarily complex and restrictive provisions such as banking periods and a nine year limit on credits for a QCE.

The costs of the transition from the QSA to the Authority will be met from existing resources. Implementation of the Regulation is not expected to result in any additional costs to Government.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

The Regulation includes ten provisions where matters are to be the subject of guidelines developed and published by the Authority on its website. Guidelines may be considered an inappropriate delegation of legislative power or a failure to subject an exercise of delegated legislation to Parliamentary scrutiny. It is considered that the use of guidelines in this case is appropriate as they relate to areas which, due to their detailed or highly technical nature, are unable to be appropriately reflected in the Regulation.. The use of guidelines has been reduced from 28 matters in the QSA Regulation to the ten matters under this Regulation.

Consultation

The following agencies and external stakeholder groups were consulted in the development of the Regulation:

- QSA;
- Queensland Catholic Education Commission;
- Independent Schools Queensland;
- Parents' Associations;
- Teachers' Unions;
- Principals' Associations;
- Tertiary institutions utilising the OP tertiary entrance rank;
- Queensland College of Teachers; and
- Non-State Schools Accreditation Board.