

# Education Legislation (Fees) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 137

made under the

*Education and Care Services Act 2013*

*Education (General Provisions) Act 2006*

*Education (Queensland College of Teachers) Act 2005*

## General Outline

### Short title

*Education Legislation (Fees) Amendment Regulation 2023*

### Authorising law

Sections 244(1) and 244(2)(o) of the *Education and Care Services Act 2013*

Sections 434(1), 434(2)(a) and 434(2)(b) of the *Education (General Provisions) Act 2006*

Sections 298(1) and 298(2) of the *Education (Queensland College of Teachers) Act 2005*

### Policy objectives and the reasons for them

#### Changes to fees and charges

The *Queensland Government Principles for Fees and Charges* requires agencies to set fees and charges to accurately reflect the cost of providing their services, and to ensure fees and charges maintain their value over time. Where a regular comprehensive review of fees and charges is not cost effective or no specific indexation method has been otherwise approved, agencies are required to apply the current Government Indexation Rate (GIR) as advised by Queensland Treasury annually.

Since 2021, the GIR has been implemented via the fee unit model under the *Acts Interpretation Act 1954*. Under this model, fees in legislation are to be expressed as fee units rather than in dollar amounts and the dollar value of a fee unit is prescribed in the *Acts Interpretation (Fee Unit) Regulation 2022*.

There are a number of fees in the Education portfolio legislation that are not in scope of the fee unit model, and therefore continue to be prescribed as dollar values rather than being stated as a fee unit. The policy objective of the *Education Legislation (Fees) Amendment Regulation 2023* (the Amendment Regulation) is to amend the fees that are not in scope of the fee unit model, as outlined below.

### Fees under the *Education and Care Services Regulation 2013*

The *Education and Care Services Regulation 2013* (ECS Regulation) prescribes fees under the *Education and Care Services Act 2013* for Queensland education and care providers not covered by the *Education and Care Services National Law (Queensland) Act 2011* (National Law). In 2014, the Queensland Government decided that the fees prescribed under the ECS Regulation are to be annually indexed at a rate consistent with the indexation of the fees prescribed in the National Law and published by the Australian Children's Education and Care Quality Authority, rather than the GIR. As such, these fees will be indexed in accordance with the National Law indexation.

### Criminal History Check Fees

The following Regulations prescribe the fee payable in relation to undertaking a criminal history check for enrolment of mature age students and registration of teachers respectively:

- section 76 and Schedule 5 of the *Education (General Provisions) Regulation 2017* (EGP Regulation); and
- item 13 of Schedule 1 of the *Education (Queensland College of Teachers) Regulation 2016* (QCT Regulation).

The prescribed fees reflect the exact amount charged by the Queensland Police Service (QPS) to undertake a criminal history check. The criminal history check fee must be increased only when QPS advises of an increase.

QPS has advised that the criminal history check fee increased, from 1 July 2023, from \$27.30 to \$27.50.

## **Achievement of policy objectives**

### Changes to fees and charges

The objective of the Amendment Regulation to amend the particular fees in the Education portfolio legislation that are not in scope of the GIR, will be achieved by:

- increasing the fees in the ECS Regulation by 7.1% (rounded down to the nearest dollar), in accordance with the indexation rate for the National Law; and
- increasing the criminal history check fee under the EGP Regulation and QCT Regulation to \$27.50, as advised by the QPS.

The fee changes in the ECS Regulation and EGP Regulation will commence from 1 January 2024 to coincide with the new school year, as per the commencement of changes to most other fees under the Education portfolio legislation.

The change to the criminal history check fee in the QCT Regulation will commence from 1 October 2023. The criminal history check fee relates to teacher registration and increasing the fee by this date enables the Queensland College of Teachers (QCT) sufficient time to apply revised fees to the 2024 round of teacher registration.

### Impact Analysis Statement

The Department of Education has prepared an Impact Analysis Statement and determined that the proposal does not require regulatory impact analysis under the Better Regulation Policy as it relates to standard fee variations in line with or below the government endorsed indexation factor.

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

The Regulation is consistent with the objectives of the *Education and Care Services Act 2013*, *Education (General Provisions) Act 2006*, and the *Education (Queensland College of Teachers) Act 2005*.

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

The Regulation is consistent with the policy objectives of other legislation and with the Government's policy on indexation of fees and charges.

## **Benefits and costs of implementation**

The Amendment Regulation will ensure that the fees prescribed in education portfolio regulations retain their value over time and accurately reflect the cost of providing services. The Amendment Regulation will not significantly increase the financial burden on the community or stakeholders. There are no anticipated costs to implement indexation of the prescribed fees.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles. The Amendment Regulation will only change fees prospectively from commencement.

## **Consultation**

Consultation occurred with the QCT in relation to the criminal history check fee prescribed in the QCT Regulation. The QCT supported the fee increase.

As the Amendment Regulation is machinery in nature, with the fee increases being consistent with the broader government policy in relation to fees and charges, public consultation has not been undertaken on these specific legislative amendments in the Amendment Regulation.