

Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Grace Grace MP, Minister for Education, Minister for Industrial Relations and Minister for Racing, provide this human rights certificate with respect to the *Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021* (Amendment Regulation) made under the section 419A of the *Education (General Provisions) Act 2006* (EGP Act).

In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation is made under and pursuant to sections 419A and 434 of the EGP Act, which empowers the Governor in Council to make regulations under the EGP Act, and in particular to prescribe State schools that may provide a kindergarten learning program.

The prescription of State schools that provide kindergarten programs in the *Education (General Provisions) Regulation 2017* (the Regulation) is necessary because State schools are defined in Schedule 4 Dictionary of the EGP Act to mean an educational institution established under section 13 of the EGP Act. Section 13 of the EGP Act provides the Minister may establish schools at which the State provides primary, secondary or special education, but makes no reference to kindergarten programs.

To ensure access to a quality kindergarten program in the year before full-time school, the Queensland Government has provided state delivered kindergarten (SDK) programs in rural and remote locations where there is limited access to a kindergarten program due to their unique circumstances. Barriers to a kindergarten program in these areas include limited market viability, large distances, low and variable populations, geographic isolation, difficulties in attracting and retaining qualified staff and the increasing cost of living.

The Regulation currently prescribes 71 State schools to deliver an SDK program.

The Amendment Regulation prescribes an additional 33 State schools in Schedule 4 of the Regulation to enable them to provide a kindergarten learning program under section 419A of the EGP Act. Twenty-two of the schools are located at least 40 kilometres from the nearest approved kindergarten program provider, and 11 schools are in communities that experience unique challenges for access to an approved kindergarten program, and will enable kindergarten aged children in these communities to access kindergarten learning programs.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Regulation directly engages the *right to equality under the law*, section 15 under the HR Act.

Section 15 – right to equality under the law

- The right to recognition and equality before the law is a stand-alone right that also permeates all human rights. It encompasses both the right to recognition as a person before the law and the right to enjoy human rights without discrimination.
- The right to recognition as a person before the law refers to the universal recognition of legal personality of the human being.
- The right to equality reflects the essence of human rights: that every person holds the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group.
- The Amendment Regulation supports, promotes and strengthens the right to equality by ensuring there is a legal ability for the State to provide kindergarten learning programs in areas where these learning programs are not readily accessible.
- It ensures that kindergarten aged children who live in remote communities or communities which experience unique challenges with accessing a kindergarten have the ability to access these programs, giving them equality with other children who live in places where kindergarten programs are more easily accessible. Children living in rural or remote areas are not disadvantaged compared to children living in other areas of Queensland.
- On this basis, the Amendment Regulation enhances human rights under the HR Act and is considered compatible with the *right to equality under the law*.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

The Amendment Regulation does not limit, restrict or interfere with human rights protected under the HR Act.

Conclusion

I consider that the *Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

GRACE GRACE MP
MINISTER FOR EDUCATION
MINISTER FOR INDUSTRIAL RELATIONS AND
MINISTER FOR RACING