

Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022

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 2022* (Amendment Regulation) made under sections 419A and 434 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

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

The prescription of state schools that provide kindergarten programs in the *Education (General Provisions) Regulation 2017* (EGP 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 allow for an SDK, section 419A of the EGP Act provides that the Minister may approve a program focused on literacy and numeracy for preparing a child for education in the preparatory year, to be a kindergarten learning program for a prescribed state school. A state school must be prescribed under the EGP Regulation for the school to commence to deliver a kindergarten learning program.

Section 74 of the EGP Regulation provides the state schools mentioned in Schedule 4 of the EGP Regulation are the state schools prescribed for section 419A(5) of the EGP Act. There are currently 105 prescribed state schools under Schedule 4 of the EGP Regulation.

The Amendment Regulation is made under and pursuant to sections 419A and 434 of the EGP Act, to prescribe Eidsvold State School (Eidsvold SS) and Kumbia State School (Kumbia SS) as additional state schools to deliver a kindergarten program.

The prescription of Eidsvold SS and Kumbia SS to deliver a kindergarten program is in response to the need identified in each of their respective local communities following the closure of the only existing approved kindergarten program provider (KPP) in their community and barriers accessing an approved KPP in neighbouring communities.

Human Rights Issues

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

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

Section 15 – right to recognition and equality under the law

- The right to recognition and equality under 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 characteristics or membership of a particular social group.
- The Amendment Regulation supports, promotes and strengthens the right to equality by ensuring the Eidsvold and Kumbia communities have access to a kindergarten learning program that would otherwise not be readily assessable.
- The Amendment Regulation will ensure that kindergarten aged children who live in Eidsvold and Kumbia, have access to these programs and give them equality with other children who live in communities where kindergarten programs are more easily accessible. It also ensures that children in rural and remote areas or areas where there are barriers accessing a kindergarten program are not disadvantaged compared to children in other areas of Queensland that provide greater access to kindergarten programs.
- On this basis, the Amendment Regulation enhances human rights under the HR Act and is compatible with the *right to recognition and 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 the human rights protected under the HR Act.

Conclusion

I consider that the *Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022* 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