

# ***TAFE Queensland Regulation 2024***

## **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*, I, Lance McCallum MP, Minister for Employment and Small Business and Minister for Training and Skills Development provide this human rights certificate with respect to the *TAFE Queensland Regulation 2024* made under the *TAFE Queensland Act 2013* (the Act).

In my opinion, the *TAFE Queensland Regulation 2024*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

### **Overview of the Subordinate Legislation**

The Act and the *TAFE Queensland Regulation 2013* (TAFEQ Regulation) effected a broad restructure of the public provision of vocational education and training (VET) in Queensland by establishing TAFE Queensland (TAFEQ) as a statutory body and prescribing Central Queensland University (CQU) to be a dual sector entity (s 57B of the Act). Part of this restructure, in 2013-2014, included the transferring of assets, liabilities and obligations between the relevant TAFE entities. The result of the restructure was the operations of the former TAFE Institutes, including students and staff, within the then Department of Education, Training and Employment were transferred to TAFEQ and, in the case of the former Central Queensland Institute of TAFE, to CQU. Since then, TAFEQ and CQU have been responsible for the majority of the delivery of VET by public providers in Queensland.

The TAFEQ Regulation will expire on 31 August 2024 pursuant to the ‘sunsetting’ provisions in Part 7 of the *Statutory Instruments Act 1992*. The objective of the *TAFE Queensland Regulation 2024* is to continue in force from 1 September 2024 the legal framework and level of Ministerial oversight of the restructure effected in 2013-2014. To achieve this, it is necessary to re-make the following matters that were provided for in the TAFEQ Regulation:

- to prescribe CQU to continue to be a dual sector entity pursuant to section 57B of the Act,
- to ensure the Minister has the same level of Ministerial oversight of CQU from 1 September 2024 by prescribing CQU must first notify the Minister if it proposes to spend \$3,000,000 or more on its operations (section 57O of the Act).

TAFEQ and CQU are to retain the benefits and obligations of the rights and assets transferred to them pursuant to the TAFEQ Regulation. The legal effects of the transfers made under the TAFEQ Regulation is believed to have been fully completed. However, to remove any doubt, the *TAFE Queensland Regulation 2024* will continue to preserve a person’s ability to commence legal proceedings against TAFEQ and CQU that could have been commenced against the former Department of Education, Training and Employment.

## Human Rights Issues

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

The *TAFE Queensland Regulation 2024* addresses all human rights issues under Part 2, Divisions 2 and 3 of the *Human Rights Act 2019*.

By continuing the existing legal framework that establishes TAFEQ and CQU as public providers of VET, the *TAFE Queensland Regulation 2024* promotes the human right of equal access to VET enshrined under s 36(2) of the *Human Rights Act 2019*.

The *TAFE Queensland Regulation 2024* does not deal, directly or indirectly, with the affairs of individuals meaning the *Human Rights Act 2019* is not engaged. The rights of individuals impacted by the restructure in 2013-2014 are believed to have been resolved under the TAFEQ Regulation. Further, expiry of the TAFEQ Regulation does not extinguish a person's accrued rights: see – s 20 of the *Acts Interpretation Act 1954*.

The *TAFE Queensland Regulation 2024* continues a person's rights to commence legal proceedings against TAFEQ or CQU in lieu of the former Department of Education, Training and Employment, preserving the Human Right to property interests (section 24 of the *Human Rights Act 2019*).

## Conclusion

I consider that the *TAFE Queensland Regulation 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

**LANCE MCCALLUM MP**  
MINISTER FOR EMPLOYMENT AND SMALL BUSINESS  
MINISTER FOR TRAINING AND SKILLS DEVELOPMENT

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