

Education (General Provisions) (Alpha State School) Amendment 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* (HR Act), I, Di Farmer MP, Minister for Education and Minister for Youth Justice, provide this human rights certificate with respect to the *Education (General Provisions) (Alpha State School) Amendment Regulation 2024* (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 where there is market failure, unique challenges experienced by families in accessing kindergarten or non-viability in geographically isolated communities. Challenges 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 that the Minister may establish schools at which the State provides primary, secondary or special education, but makes no reference to kindergarten programs.

Section 419A of the EGP Act enables the Minister to 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. With the prescription of Alpha State School (Alpha SS) there will be 109 prescribed State schools under Schedule 4 of the EGP Regulation.

The Queensland Government is committed to ensuring that children in rural and remote areas, or areas where there are barriers to accessing a kindergarten program, are not disadvantaged compared to children in areas where there is greater access to a free kindergarten program. Queensland Government policy is to prescribe State schools at least 40km from the nearest approved Kindergarten Program Provider (KPP) as a prescribed school for the purposes of providing an SDK.

From 4 March 2024, the Alpha community does not have access to an approved KPP within 40 kilometres. The Amendment Regulation prescribes Alpha SS as a school to deliver a kindergarten program. The Amendment Regulation will ensure that the Alpha community will have equal access to a free kindergarten program as is available in other communities.

The Amendment Regulation is made under and pursuant to sections 419A and 434 of the EGP Act, to prescribe Alpha SS to deliver a kindergarten program.

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 Alpha community has access to a kindergarten learning program that would otherwise not be readily accessible.
- 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) (Alpha State School) Amendment Regulation 2024* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

DI FARMER MP
MINISTER FOR EDUCATION
MINISTER FOR YOUTH JUSTICE