



*Education and Care Services Act 2013*

# **Education and Care Services Regulation 2013**

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## Queensland

# Education and Care Services Regulation 2013

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# Education and Care Services Regulation 2013

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Education and Care Services Regulation 2013*.

### 2 Commencement

This regulation commences on 1 January 2014.

### 3 Dictionary

The dictionary in schedule 5 defines particular words used in this regulation.

## Part 2 Queensland provider approvals

### 4 Notice to parents of suspension or cancellation of provider approval—Act, s 36(8)(a)

- (1) For section 36(8)(a) of the Act, a notice of the suspension or cancellation of a provider approval given to a parent must state the following—
  - (a) the date on which the decision to suspend or cancel the provider approval takes effect;
  - (b) the effect of the suspension or cancellation;
  - (c) the address of the approved provider;
  - (d) the name of the approved provider.
- (2) If the provider approval is suspended, the notice must also state the date on which the suspension ends.

- (3) If the approved provider is required to give a notice to a parent under sections 36 and 88 of the Act, the approved provider may give a single notice stating the matters in this section and section 6.

## **Part 3 Queensland service approvals**

### **5 Prescribed insurance—Act, s 49(2)(c)**

For section 49(2)(c) of the Act, the insurance cover is public liability insurance for an amount of at least \$10m.

### **6 Notice to parents of suspension or cancellation of service approval—Act, s 88(8)(a)**

- (1) For section 88(8)(a) of the Act, a notice of the suspension or cancellation of a service approval given to a parent must state the following—
- (a) the date on which the decision to suspend or cancel the service approval takes effect;
  - (b) the effect of the suspension or cancellation;
  - (c) the address of the QEC service;
  - (d) the name of the QEC service.
- (2) If the service approval is suspended, the notice must also state the date on which the suspension ends.

### **7 Prescribed requirements for service waivers—Act, s 92(1)**

For section 92(1) of the Act, the following requirements are prescribed for a service waiver—

- (a) fencing;
- (b) nappy change facilities;
- (c) indoor space—general;



- (d) indoor space—additional;
- (e) outdoor space—general;
- (f) outdoor space—additional;
- (g) administrative space;
- (h) premises designed to facilitate supervision;
- (i) supervision of educators under 18 years;
- (j) educator to child ratios generally;
- (k) educator qualifications.

**8 Prescribed requirements for temporary waivers—Act, s 99(1)**

For section 99(1) of the Act, the following requirements are prescribed for a temporary waiver—

- (a) fencing;
- (b) nappy change facilities;
- (c) indoor space—general;
- (d) indoor space—additional;
- (e) outdoor space—general;
- (f) outdoor space—additional;
- (g) administrative space;
- (h) premises designed to facilitate supervision;
- (i) supervision of educators under 18 years;
- (j) educator to child ratios generally;
- (k) educator qualifications;
- (l) first aid qualifications.

## **Part 4                      Conduct of QEC approved services**

### **Division 1                Educational programs**

#### **9                      Development of educational programs—Act, s 244(2)(b)**

The Queensland approved provider of a QEC approved service must develop an educational program based on the following documents—

- (a) ‘Belonging, Being and Becoming: The Early Years Learning Framework for Australia’, published by the Department of Education, Employment and Workplace Relations of the Commonwealth for the Council of Australian Governments in 2009;
- (b) ‘My Time, Our Place: Framework for School Age Care in Australia’, published by the Department of Education, Employment and Workplace Relations of the Commonwealth for the Council of Australian Governments in 2011;
- (c) another document detailing matters that the chief executive considers are equivalent to the matters contained in the documents mentioned in paragraphs (a) and (b).

#### **10                     Delivery of educational programs—Act, s 244(2)(b)**

An educational program must contribute to the following outcomes for each child—

- (a) the child will have a strong sense of identity;
- (b) the child will be connected with and contribute to his or her world;
- (c) the child will have a strong sense of wellbeing;
- (d) the child will be a confident and involved learner;

- (e) the child will be an effective communicator.

**11 Documentation about educational programs—Act, s 244(2)(b)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the following are documented for the educational program of the QEC service—
  - (a) for a child, other than a school child—
    - (i) assessments of the child’s developmental needs, interests, experiences and participation in the educational program; and
    - (ii) assessments of the child’s progress against the outcomes of the educational program; and
  - (b) for a school child, evaluations of the child’s wellbeing, development and learning.
- (2) In preparing the documentation, the approved provider must—
  - (a) consider—
    - (i) the period of time that the QEC approved service provides regulated education and care to the child; and
    - (ii) how the educators at the QEC approved service will use the documentation; and
  - (b) prepare the documentation in a way that is readily understandable by the educators taking into account the experience and qualifications of the educators at the QEC approved service and the parents of the child.

**12 Documentation about educational programs to be kept available—Act, s 244(2)(b)**

The Queensland approved provider of a QEC approved service must ensure that—

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- (a) information about the contents and operation of the educational program for the QEC approved service is displayed at the QEC service premises at a place accessible to a parent of a QEC service child; and
- (b) a copy of the educational program is available at the QEC approved service premises for inspection on request.

**13 Information about educational programs to be given to parents—Act, s 244(2)(b)**

The Queensland approved provider of a QEC approved service must ensure that a parent of a QEC service child is given the following on request—

- (a) information about the content and operation of the educational program so far as it relates to that child;
- (b) information about the child's participation in the program.

**Division 2 Safety, health and wellbeing of children**

**14 Health, hygiene and safe food practices—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that the staff members of, and volunteers at, the QEC service implement the following to minimise risks to a QEC service child—

- (a) adequate health and hygiene practices; and
- (b) safe practices for handling, preparing and storing food.

Maximum penalty—5 penalty units.

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**15 Food and beverages—Act, s 244(2)(c)**

- (1) The Queensland approved provider of a QEC approved service must ensure that a QEC service child—
- (a) has access to safe drinking water at all times; and
  - (b) is offered food and beverages appropriate to the needs of the child on a regular basis throughout the day.

Maximum penalty—5 penalty units.

- (2) If the approved provider gives food or beverages to a QEC service child, the approved provider must ensure that—
- (a) the food or beverages given are nutritious and adequate in quantity; and
  - (b) the food or beverages given are chosen having regard to the dietary requirements of individual children taking into account—
    - (i) each child’s growth and development needs; and
    - (ii) any specific cultural, religious or health requirements.

Maximum penalty—5 penalty units.

**16 Sleep and rest—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that the need for sleep and rest of a QEC service child are met, having regard to the age, development stage and individual need of the child.

Maximum penalty—10 penalty units.

**17 Alcohol, illicit drugs and tobacco free environment—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that QEC children are provided with an environment that is free from the use of alcohol, illicit drugs and tobacco.

Maximum penalty—5 penalty units.

**18 Staff members and volunteers not to be affected by alcohol or drugs—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that a staff member of, or volunteer at, the QEC service is not affected by alcohol or drugs, including prescription medications, so as to impair his or her capacity to supervise or provide regulated education and care to a QEC service child.

Maximum penalty—5 penalty units.

**19 Authority to give medical attention—Act, s 244(2)(c)**

(1) The Queensland approved provider of a QEC approved service must ensure regulated education and care is not provided to a QEC service child unless a parent of the child has given the approved provider a medical authorisation for the child.

(2) In this section—

*medical authorisation*, for a child, means written authorisation for a staff member of, or a volunteer at, a QEC service to provide appropriate medical attention for the child in an emergency.

**20 Medical attention—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that, if a QEC service child is injured or becomes ill, all reasonable steps are taken to provide appropriate medical attention for the child.

**21 Notice to parents—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must ensure that as soon as practicable after a QEC service child is injured or becomes ill, a parent of the child is

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notified of the injury or illness and any medical attention provided to the child.

Maximum penalty—5 penalty units.

## **22 Serious incidents—Act, s 127(4)**

For section 127(4) of the Act, the following are prescribed as serious incidents—

- (a) the death of a child—
  - (i) while a QEC approved service provides regulated education and care to the child; or
  - (ii) following an incident while a QEC approved service provides regulated education and care to the child;
- (b) any incident involving serious injury or trauma to, or illness of, a child while a QEC approved service provides regulated education and care to the child—
  - (i) which a reasonable person would consider required urgent medical attention from a medical practitioner; or

*Examples—*

  - whooping cough, broken limb, anaphylaxis reaction
  - (ii) for which the child attended, or ought reasonably to have attended, a hospital;
- (c) any incident where the attendance of emergency services at the QEC service premises was sought, or ought reasonably to have been sought;
- (d) any circumstance where a QEC approved service provides regulated education and care to a child and the child—
  - (i) appears to be missing or can not be accounted for; or

- (ii) appears to have been taken or removed from the QEC service premises in a way that contravenes this Act; or
- (iii) is mistakenly locked in or locked out of the QEC service premises or any part of the premises.

**23 Record of incident, injury, trauma and illness—Act, s 244(2)(c)**

The Queensland approved provider of a QEC approved service must keep a record of an incident that occurs to a child, or any injury, trauma or illness suffered by a child, while the child is provided regulated education and care by the QEC service.

**24 Infectious diseases—Act, s 244(2)(c)**

- (1) This section applies if there is an occurrence of an infectious disease at a QEC approved service.
- (2) The Queensland approved provider must ensure that reasonable steps are taken to prevent the spread of the infectious disease at the QEC service.

Maximum penalty—20 penalty units.

- (3) The approved provider must ensure that a parent or an authorised emergency contact of each QEC service child is notified of the occurrence as soon as practicable.

Maximum penalty—20 penalty units.

- (4) In this section—

*authorised emergency contact*, for a QEC service child, means a person authorised by the parent of the child to collect the child, or respond to an incident involving the child.

**25 First aid kits—Act, s 244(2)(c)**

- (1) The Queensland approved provider of a QEC approved service must ensure that first aid kits are kept at the QEC



service whenever it provides regulated education and care to children.

Maximum penalty—5 penalty units.

- (2) The Queensland approved provider of a QEC approved service must keep an appropriate number of first aid kits at the QEC service having regard to the number of QEC service children being provided regulated education and care.

Maximum penalty—5 penalty units.

## **26 Departure of children—Act, s 244(2)(c)**

- (1) The Queensland approved provider of a QEC approved service must ensure that a QEC service child does not leave the QEC service premises other than under subsection (2).

Maximum penalty—20 penalty units.

- (2) The child may only leave the relevant premises if the child—
- (a) is given into the care of—
    - (i) a parent of the child; or
    - (ii) an authorised nominee named in the child's enrolment record; or
    - (iii) a person authorised by a parent or authorised nominee named in the child's enrolment record to collect the child from the premises; or
  - (b) leaves the premises in accordance with the written authorisation of the child's parent or authorised nominee named in the child's enrolment record; or
  - (c) is taken on an excursion in accordance with this part; or
  - (d) is given into the care of a person or taken outside the premises—
    - (i) because the child requires medical, hospital or ambulance care or treatment; or
    - (ii) because of another emergency.

- (3) In this section—

*authorised nominee* means a person who has been given permission by a parent or family member to collect the child from an educator of the QEC service.

## **Division 3                      Physical environment**

### **27           Premises, furniture and equipment to be safe, clean and in good repair—Act, s 244(2)(d) and (e)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the QEC service premises and all equipment and furniture used in providing regulated education and care are safe, clean and in good repair.

Maximum penalty—5 penalty units.

- (2) The Queensland approved provider of a QEC approved service must ensure that each QEC service child has access to sufficient furniture, materials and developmentally appropriate equipment suitable for providing regulated education and care.

### **28           Fencing—Act, s 244(2)(d)**

- (1) The Queensland approved provider of a QEC approved service must ensure that any outdoor space used by a child at the QEC service premises is enclosed by a fence or barrier that is of a height and design that a child, other than a school child, can not go through, over or under it.

Maximum penalty—5 penalty units.

- (2) This section does not apply to a school age care service.

### **29           General requirements for indoor space—Act, s 244(2)(e)**

- (1) The Queensland approved provider of a QEC approved service must ensure that, for each QEC service child, the QEC service premises has at least 3.25 square metres of unencumbered indoor space.

Maximum penalty—5 penalty units.

- (2) In calculating the area of unencumbered indoor space—
  - (a) the following areas are to be excluded—
    - (i) any passageway or thoroughfare (including door swings);
    - (ii) any toilet and hygiene facilities;
    - (iii) any nappy changing area or area for preparing bottles;
    - (iv) any area permanently set aside for the use or storage of cots;
    - (v) any area permanently set aside for storage;
    - (vi) any area or room for staff or administration;
    - (vii) any other space that is not suitable for children; and
  - (b) the area of a kitchen is to be excluded, unless the kitchen is primarily to be used by children as part of an educational program provided by the QEC service.
- (3) The area of a verandah may be included in calculating the area of indoor space only with the written approval of the chief executive.
- (4) A verandah that is included in calculating the area of outdoor space can not be included in calculating the area of indoor space.

**30 Additional requirements for indoor space—Act, s 244(2)(e)**

The Queensland approved provider of a QEC approved service must ensure that the indoor spaces used by a QEC service child—

- (a) are well ventilated; and
- (b) have adequate natural light; and

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- (c) are maintained at a temperature that ensures the safety and wellbeing of children.

Maximum penalty—5 penalty units.

### **31 Administrative space**

The Queensland approved provider of a QEC approved service must ensure that an adequate area is available at the QEC service premises for—

- (a) conducting the administrative functions of the QEC service; and
- (b) consulting with parents of children; and
- (c) conducting private conversations.

### **32 General requirements for outdoor space—Act, s 244(2)(e)**

- (1) The Queensland approved provider of a QEC approved service must ensure that, for each QEC service child, the QEC service premises has at least 7 square metres of unencumbered outdoor space.

Maximum penalty—5 penalty units.

- (2) In calculating the area of unencumbered outdoor space required, the following areas are to be excluded—
  - (a) any pathway or thoroughfare, other than where used by children as part of an educational program provided by the QEC service;
  - (b) any car parking area;
  - (c) any storage shed or other storage area;
  - (d) any other space that is not suitable for children.
- (3) A verandah that is included in calculating the area of indoor space can not be included in calculating the area of outdoor space.
- (4) An area of unencumbered indoor space may be included in calculating the outdoor space of a school age care service if—

- (a) the chief executive has given written approval; and
- (b) that indoor space has not been included in calculating the indoor space under section 29.

**33 Additional requirements for outdoor space—Act, s 244(2)(e)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the outdoor spaces provided at the QEC service premises allow children to explore and experience the natural environment.

*Example—*

the use of natural features such as trees, sand and natural vegetation

- (2) The Queensland approved provider of a QEC approved service must ensure that outdoor spaces provided at the QEC service premises include adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.

**34 Premises designed to facilitate supervision—Act, s 244(2)(e)**

The Queensland approved provider of a QEC approved service must ensure that the QEC service premises are designed and maintained in a way that facilitates supervision of children at all times they are being provided regulated education and care by the QEC service, having regard to the need to maintain the rights and dignity of the children.

**35 Laundry and hygiene facilities—Act, s 244(2)(d) and (e)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the QEC service has—
  - (a) laundry facilities or access to laundry facilities; or
  - (b) other arrangements for dealing with soiled clothing, nappies and linen, including hygienic facilities for storage prior to their disposal or laundering.

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- (2) The facilities or arrangements must be adequate and appropriate for the needs of the QEC service.
- (3) The approved provider of the QEC service must ensure that laundry and hygienic facilities are located and maintained in a way that does not pose a risk to children.

**36 Toilet and hygiene facilities—Act, s 244(2)(d) and (e)**

The Queensland approved provider of a QEC approved service must ensure that—

- (a) there are adequate and appropriate toilet, washing and drying facilities for use by a QEC service child; and
- (b) the location and design of the toilet, washing and drying facilities enable safe use and convenient access by the child.

**37 Nappy change facilities—Act, s 244(2)(d) and (e)**

- (1) This section applies if a QEC approved service provides regulated education and care for a child who wears nappies.
- (2) The Queensland approved provider of the QEC service must ensure that adequate and appropriate hygienic facilities are provided for nappy changing.
- (3) Without limiting subsection (2), the approved provider of the QEC service must ensure that the following are provided—
  - (a) if any of the QEC service children are under 3 years of age, at least 1 properly constructed nappy changing bench; and
  - (b) hand cleansing facilities for adults in the immediate vicinity of the nappy change area.

Maximum penalty—10 penalty units.

- (4) The approved provider of the QEC service must ensure that nappy change facilities are designed, located and maintained in a way that prevents unsupervised access by children.

**38 Telephone or other communication equipment—Act, s 244(2)(d)**

The Queensland approved provider of a QEC approved service must ensure that, when providing regulated education and care, the staff members of, or volunteers at, the QEC service have ready access to an operating telephone or other similar means of communication to enable immediate communication to and from parents and emergency services.

Maximum penalty—5 penalty units.

**Division 4 Staffing arrangements**

**39 Qualifications for QEC approved services other than school age care services—Act, s 244(2)(f)**

- (1) This section applies to a QEC approved service, other than a school age care service.
- (2) When the QEC service provides regulated education and care to a QEC service child—
  - (a) at least 50% of the educators who are required to meet the relevant educator to child ratios for the service must hold, or be actively working towards a qualification for, an approved diploma level education and care qualification; and
  - (b) all other educators who are required to meet the relevant educator to child ratios for the QEC service must hold, or be actively working towards a qualification for, at least an approved certificate III level education and care qualification.

**40 Qualifications for QEC approved services for school age care services—Act, s 244(2)(f)**

- (1) This section applies to a QEC approved service that is a school age care service.

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- (2) When the QEC service provides regulated education and care to a QEC service child—
  - (a) at least 1 educator who is required to meet the relevant educator to child ratios for the service must hold, or be actively working towards a qualification for, an approved diploma level education and care qualification; and
  - (b) at least 1 staff member for each 30 children being provided regulated education and care must hold, or be actively working towards a qualification for, either an approved diploma level education and care qualification or an approved certificate III level education and care qualification.
- (3) To avoid any doubt, it is declared that for a QEC service that provides regulated education and care for no more than 30 children, 1 educator may satisfy the requirement of subsection (2)(a) and (b).

#### **41 Prescribed circumstances for certain unqualified persons—Act s 117(1)**

- (1) A person engaged as an educator for a QEC approved service may be included as a person who holds an approved certificate III level education and care qualification if the person has not been engaged as an educator for more than 3 months in the QEC service.
- (2) A person who is appointed as a supervisor for a school age care service may be included as a person who holds an approved diploma level education and care qualification if the person has not been engaged as a supervisor for more than 6 months in the QEC approved service.
- (3) A person may be included as a person who holds an approved certificate III level education and care qualification for a QEC approved service for a period other than a rest period if—
  - (a) the QEC service has approval to provide regulated education and care for not more than 30 children; and



- 
- (b) an educator with an approved diploma level education and care qualification and another educator with an approved certificate III level education and care qualification are also present.
  - (4) A person may be included as a person who holds an approved certificate III level education and care qualification for a QEC approved service for a rest period if—
    - (a) the service has approval to provide regulated education and care for not more than 30 children; and
    - (b) there are 2 other educators who hold at least an approved certificate III level education and care qualification.

#### **42 First aid qualifications—Act, s 244(2)(f)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the following persons are in attendance at any place a QEC service child is and immediately available in an emergency at all times the QEC service provides regulated education and care to the child—
  - (a) at least 1 educator who holds a current approved first aid qualification;
  - (b) at least 1 educator who has undertaken current approved anaphylaxis management training;
  - (c) at least 1 educator who has undertaken current approved emergency asthma management training.

Maximum penalty—20 penalty units.

- (2) In this section—

***approved anaphylaxis management training*** see the Education and Care Services National Regulations, section 136(5).

***approved emergency asthma management*** see the Education and Care Services National Regulations, section 136(5).

*approved first aid qualification* see the Education and Care Services National Regulations, section 136(5).

**43 Supervisors—Act, sch 2, def *supervisor***

For schedule 2 of the Act, definition *supervisor* the prescribed qualification is a qualification that is, or is equivalent to, an approved diploma level education and care qualification.

**44 Supervisor’s prescribed times—Act, s 113(4)**

- (1) If a QEC approved service’s normal operating hours for a day are 10 hours or less, a supervisor must be present at the QEC service—
  - (a) for at least 75% of the QEC service’s normal operating hours for that day; and
  - (b) so far as possible, for most of the QEC service’s peak period for that day.
- (2) If a QEC approved service’s normal operating hours for a day are more than 10 hours, a supervisor must be present at the QEC service—
  - (a) for at least 7.5 hours on that day; and
  - (b) so far as possible, for most of the QEC service’s peak period for that day.
- (3) In this section—

*peak period*, for a day at a QEC service, is the part of the day for which, ordinarily, the number of children being provided regulated education and care at the QEC service is at its highest level.

**45 Educators under 18 years to be supervised—Act, s 244(2)(f)**

The Queensland approved provider must ensure that any educator at the QEC approved service who is under 18 years—

- (a) does not work alone at the service; and
- (b) is adequately supervised at all times by an educator who is 18 years or more.

Maximum penalty—5 penalty units.

**46 Educator to child ratios during a rest period—Act, s 110(1)**

- (1) This section applies to a QEC approved service during a rest period.
- (2) The Queensland approved provider of the QEC approved service must ensure that for an age range of QEC service children stated in column 1 of schedule 2—
  - (a) if there is 1 educator—the number of children that the educator provides regulated education and care for is not more than the number calculated in accordance with the ratio stated in column 2 of schedule 2; and
  - (b) otherwise—the number of children that the educator and each additional educator provides regulated education and care for is not more than the number calculated in accordance with the ratios stated in columns 2 and 3 of schedule 2.
- (3) A supervisor must be present at the QEC service.
- (4) The supervisor present under subsection (3) may be 1 of the educators under subsection (2).

**47 Additional staff members during a rest period—Act, s 110(1)**

In addition to the educators required to meet the educator to child ratios in section 46, the following additional staff members must be present at the QEC approved service during a rest period and be able to attend to children immediately—

- (a) for a QEC service with no more than 30 places—1 staff member;

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- (b) for a QEC service with at least 31 but no more than 75 places—2 staff members;
- (c) for a QEC service with 76 or more places—3 staff members.

#### **48 Qualifications for educators—Act, s 110(1)**

- (1) An educator who is included in calculating an educator to child ratio mentioned in section 46 must be at least 17 years and hold, or be actively working towards a qualification for, an approved certificate III level education and care qualification.
- (2) If the QEC service complies with this section, the service is taken to meet the relevant qualification requirements for educators during rest periods.

#### **49 Prescribed qualifications, experience and other characteristics—Act, s 113(4)(b)**

For section 113(4)(b) of the Act, the adult holds, or is actively working towards a qualification for, an approved diploma level education and care qualification.

#### **50 Educators must be working directly with children to be included in ratios—Act, s 244(2)(f)**

An educator can not be included in calculating an educator to child ratio of a QEC approved service unless the educator is working directly with QEC service children.

#### **51 Rest pauses**

- (1) This section applies to an educator who is working directly with QEC service children.
- (2) Despite section 50, the educator is taken to be continuing to work directly with QEC service children while he or she is absent on a rest pause if—

- 
- (a) the rest pause is not more than 10 minutes; and
  - (b) the educator has not already been absent on 2 rest pauses on that day; and
  - (c) the rest pause is not being taken during a rest period for the QEC service; and
  - (d) there is an educator present at the QEC service who is—
    - (i) not working directly with children; and
    - (ii) able to attend with the QEC service children immediately if required; and

*Note—*

The educator may be the educator who is absent on the rest pause.

- (e) only 1 educator required to meet the educator to child ratio for the QEC service is absent on the rest pause.
- (3) In this section—

*rest pause* means a break from the duties of an educator's employment under an entitlement in the employment conditions.

## 52 Other temporary absences

- (1) This section applies to an educator who is working directly with QEC service children.
- (2) Despite section 50, the educator is taken to be continuing to work with the QEC service children while he or she is temporarily absent, other than on a rest pause, if—
  - (a) the absence is not more than 5 minutes; and
  - (b) no other educators required to meet the relevant educator to child ratios are absent at the same time.

## 53 Educator to child ratios generally—Act, s 244(2)(f)

- (1) A Queensland approved provider of a QEC approved service must ensure that for an age range of QEC service children

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stated in column 1 of schedule 3, the number of children that the educator provides regulated education and care for is not more than the number calculated in accordance with the ratio stated in column 2 of schedule 3.

- (2) However, this section does not apply to the approved provider of a QEC approved service mentioned in section 54(1) if the number of educators for the QEC service calculated under section 54 is less than the number of educators calculated under this section.

#### **54 Educator to child ratios for groups of children—Acts 244(2)(f)**

- (1) This section applies if—
- (a) a Queensland approved provider of a QEC approved service provides regulated education and care to children in a group of not more than 21 children; and
  - (b) there are no more than 4 children aged from birth to 1 year of age in the group; and
  - (c) there are no more than 2 children aged from birth to 1 year of age for each educator; and
  - (d) if the QEC service has an approved capacity for more than 30 children, the QEC service provides regulated education and care for no more than 10 children from birth to 2 years of age.
- (2) The approved provider of the QEC approved service must ensure that the QEC service has a minimum number of 1 educator for every 7 children in the group.

#### **55 Excursions risk assessments**

- (1) The Queensland approved provider of a QEC approved service must ensure a risk assessment is carried out under this section before an authorisation is sought under section 56 for an excursion.

Maximum penalty—10 penalty units.

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- (2) A risk assessment is not required under this section for an excursion if—
- (a) the excursion is a regular outing; and
  - (b) a risk assessment has been conducted for the excursion.
- (3) A risk assessment for an excursion must—
- (a) identify and assess risks that the excursion may pose to the safety, health or wellbeing of any child being taken on the excursion; and
  - (b) specify how the identified risks will be managed and minimised.
- (4) Without limiting subsection (3), a risk assessment must consider—
- (a) the proposed route and destination for the excursion; and
  - (b) any water hazards; and
  - (c) any risks associated with water-based activities; and
  - (d) the transport to and from the proposed destination for the excursion; and
  - (e) the number of adults and children involved in the excursion; and
  - (f) given the risks posed by the excursion, the number of educators or other responsible adults that is appropriate to provide supervision and whether any adults with specialised skills are required; and

*Example—*

Specialised skills could include life-saving skills.

- (g) the proposed activities; and
- (h) the proposed duration of the excursion; and
- (i) the items that should be taken on the excursion.

*Example—*

a mobile phone and a list of emergency contact numbers for children on the excursion

## **56 Authorisation for excursions**

- (1) The Queensland approved provider of a QEC approved service must ensure that a QEC service child is not taken outside the QEC service premises on an excursion unless written authorisation has been provided under this section.

Maximum penalty—10 penalty units.

- (2) The authorisation must be given by a parent or other person named in the child's enrolment record as having authority to authorise the taking of the child outside the QEC service premises by an educator and must state—
- (a) the child's name; and
  - (b) the reason the child is to be taken outside the premises; and
  - (c) the date the child is to be taken on the excursion (unless the authorisation is for a regular outing); and
  - (d) a description of the proposed destination for the excursion; and
  - (e) the method of transport to be used for the excursion; and
  - (f) the proposed activities to be undertaken by the child during the excursion; and
  - (g) the period the child will be away from the premises; and
  - (h) the anticipated number of children likely to be attending the excursion; and
  - (i) the anticipated ratio of educators attending the excursion to the anticipated number of children attending the excursion; and
  - (j) the anticipated number of staff members and any other adults who will accompany and supervise the children on the excursion; and
  - (k) that a risk assessment has been prepared and is available at the QEC service.
- (3) If the excursion is a regular outing, the authorisation is only required to be obtained once in a 1-year period.



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## **Division 5 Relationships and interactions with children**

### **57 Interactions with QEC service children—Act, s 244(2)(g)**

A Queensland approved provider of a QEC approved service must ensure that the QEC service provides regulated education and care to QEC service children in a way that—

- (a) encourages each child to express themselves and their opinions; and
- (b) allows each child to undertake experiences that develop self-reliance and self-esteem; and
- (c) maintains at all times the dignity and rights of each child; and
- (d) gives each child positive guidance and encouragement toward acceptable behaviour; and
- (e) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.

### **58 Relationships in groups—Act, s 244(2)(g)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the QEC service provides QEC service children with opportunities to interact and develop respectful and positive relationships with each other and with staff members of, and volunteers at, the QEC service.
- (2) For this section, the approved provider must have regard to the size and the composition of the groups in which QEC service children are being provided regulated education and care.

### **59 Access for parents—Act, s 244(2)(g)**

- (1) The Queensland approved provider of a QEC approved service must ensure that a parent of a QEC service child may enter the QEC service premises at any time that the child is

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being provided regulated education and care by the QEC service.

Maximum penalty—10 penalty units.

- (2) Subsection (1) does not apply to the extent that compliance would—
- (a) pose a risk to the safety of the children and staff of the QEC service; or
  - (b) conflict with a provision of the Act; or
  - (c) allow access in contravention of an order of a court or tribunal.

## **Part 5 Stand-alone services**

### **60 Prescribed insurance—Act, s 135**

For section 135 of the Act, the insurance cover is public liability insurance for an amount of at least \$10m.

## **Part 6 Information, records and privacy**

### **61 Children’s attendance record—Act, s 244(2)(i)**

The Queensland approved provider of a QEC approved service must ensure that a record of attendance is kept for the QEC service that—

- (a) records the full name of each child attending the QEC service; and
- (b) records the date and time each child arrives and departs; and
- (c) is signed by 1 of the following persons at the time that the child arrives and departs—

- 
- (i) the person who delivers the child to the QEC service premises or collects the child from the QEC service premises;
  - (ii) the supervisor or educator.

## **62 Child enrolment records—Act, s 244(2)(i)**

- (1) The Queensland approved provider of a QEC approved service must ensure that an enrolment record is kept that includes the information set out in subsection (2) for each QEC service child.
- (2) An enrolment record must include the following information for each child—
  - (a) the full name, date of birth and address of the child;
  - (b) the name, address and contact details of—
    - (i) each known parent of the child; and
    - (ii) any person who is an authorised emergency contact under section 24; and
    - (iii) any person who is an authorised nominee under section 26; and
    - (iv) any person who is authorised to consent to medical treatment of, or to authorise administration of medication to, the child; and
    - (v) any person who is authorised to authorise an educator to take the child outside the QEC service premises;
  - (c) details of any court orders, parenting orders or parenting plans provided to the approved provider relating to powers, duties, responsibilities or authorities of any person in relation to the child or access to the child;
  - (d) details of any other court orders provided to the approved provider relating to the child's residence or the child's contact with a parent or other person;
  - (e) the gender of the child;

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- (f) the language used in the child's home;
  - (g) the cultural background of the child and, if applicable, the child's parents;
  - (h) any special considerations for the child, for example any cultural, religious or dietary requirements or additional needs;
  - (i) the relevant authorisations set out in section 63;
  - (j) the relevant health information set out section 64.
- (3) In this section—

***parenting order*** means a parenting order within the meaning of the *Family Law Act 1975* (Cwlth), section 64B(1).

***parenting plan*** means a parenting plan within the meaning of the *Family Law Act 1975* (Cwlth), section 63C(1) and includes a registered parenting plan within the meaning of section 63C(6) of that Act.

### **63 Authorisations to be kept in enrolment record—Act, s 244(2)(i)**

The authorisations to be kept in the enrolment record for each QEC service child are—

- (a) an authorisation, signed by a parent or a person named in the enrolment record as authorised to consent to the medical treatment of the child, for the approved provider, supervisor or an educator to seek—
  - (i) medical treatment for the child from a registered medical practitioner, hospital or ambulance service; and
  - (ii) transportation of the child by an ambulance service; and
- (b) if relevant, an authorisation given under section 56 for the QEC service to take the child on regular outings.

**64 Health information to be kept in enrolment record—Act, s 244(2)(i)**

The health information to be kept in the enrolment record for each QEC service child is—

- (a) the name, address and telephone number of the child’s registered medical practitioner or medical service; and
- (b) if available, the child’s Medicare number; and
- (c) details of any—
  - (i) specific healthcare needs of the child, including any medical condition; and
  - (ii) allergies, including whether the child has been diagnosed as at risk of anaphylaxis; and
- (d) any medical management plan, anaphylaxis medical management plan or risk minimisation plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (c); and
- (e) details of any dietary restrictions for the child; and
- (f) the immunisation status of the child; and
- (g) if the approved provider or a staff member has sighted a child health record for the child, a notation to that effect.

**65 QEC approved services must have policies and procedures—Act, s 244(2)(i)**

- (1) The Queensland approved provider of a QEC approved service must ensure that the QEC service has in place policies and procedures in relation to the matters set out in subsection (2).

Maximum penalty—5 penalty units.

- (2) Policies and procedures are required in relation to the following—
  - (a) health and safety, including matters relating to—

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- (i) nutrition, food and beverages and dietary requirements; and
  - (ii) sun protection; and
  - (iii) water safety, including safety during any water-based activities; and
  - (iv) the administration of first aid;
- (b) incident, injury, trauma and illness procedures complying with section 23;
- (c) dealing with infectious diseases, including procedures complying with section 24;
- (d) dealing with medical conditions in children;
- (e) emergency and evacuation;
- (f) delivery of QEC service children to, and collection of QEC service children from, QEC service premises, including procedures complying with section 26;
- (g) excursions, including procedures complying with sections 55 and 56;
- (h) providing a child safe environment;
- (i) staffing, including—
  - (i) a code of conduct for staff members and volunteers; and
  - (ii) determining the responsible person present at the service; and
  - (iii) the participation of volunteers and students on practicum placements;
- (j) interactions with QEC service children, including the matters set out in section 57;
- (k) enrolment and orientation;
- (l) governance and management of the service, including confidentiality of records;
- (m) the acceptance and refusal of authorisations;

- (n) payment of fees and provision of a statement of fees charged by the QEC service;
- (o) dealing with complaints.

**66 Policies and procedures to be kept available—Act, s 244(2)(i)**

- (1) The Queensland approved provider of a QEC approved service must ensure that copies of the current policies and procedures required under section 65 are readily accessible to the staff members of, and volunteers at, the service.

Maximum penalty—5 penalty units.

- (2) The Queensland approved provider of a QEC approved service must ensure that copies of the current policies and procedures required under section 65 are available on request for inspection at the QEC service premises at all times that the QEC service is providing regulated education and care for children.

Maximum penalty—5 penalty units.

**67 Notification of change to policies or procedures—Act, s 244(2)(i)**

- (1) The Queensland approved provider of a QEC approved service must ensure that parents of each QEC service child are notified at least 14 days before making any change to a policy or procedure referred to in section 65 that may have a significant impact on—

- (a) the QEC service’s provision of regulated education and care to any QEC service child; or
- (b) the family’s ability to use the QEC service.

- (2) The approved provider of a QEC service must ensure that parents of each QEC service child are notified at least 14 days before making any change that will affect the fees charged or the way in which fees are collected.

- (3) If the approved provider considers that complying with the notice period would pose a risk to the safety, health or wellbeing of any QEC service child, the approved provider must ensure that parents of each child are notified as soon as practicable after making a change referred to in subsection (1).

## **68 Display of prescribed information—Act, s 123**

For section 123 of the Act, the following information is prescribed—

- (a) for the Queensland provider approval—
- (i) the name of the Queensland approved provider; and
  - (ii) the provider approval number; and
  - (iii) any conditions on the provider approval;
- (b) for the Queensland service approval—
- (i) the name of the QEC approved service; and
  - (ii) the service approval number; and
  - (iii) any conditions on the service approval;
- (c) for any service waivers or temporary waivers held by the QEC service, the details of the waivers including—
- (i) the duration of the waiver; and
  - (ii) whether the waiver is a service waiver or a temporary waiver;
- (d) the name and contact details of the person at the QEC approved service to whom complaints may be given;
- (e) the name of the supervisor for the QEC approved service;
- (f) the hours and days of operation of the QEC approved service;
- (g) contact details of the chief executive;



- (h) whether a child at risk of anaphylaxis is enrolled;
- (i) a notice of occurrence of an infectious disease.

## **69 Prescribed records—Act, s 128**

- (1) For section 128 of the Act, a Queensland approved provider of a QEC approved service must keep records of the matters stated in schedule 4 for a QEC service.
- (2) For schedule 4, items 21 and 22, the information must not include any information that identifies any person other than the approved provider.

## **70 Duration of time for keeping records—Act, s 128**

For section 128 of the Act, a Queensland approved provider of a QEC approved service must ensure that the following records are kept—

- (a) if the record relates to an incident, illness, injury or trauma suffered by a child while being provided regulated education and care by the QEC service, until the child is aged 25 years;
- (b) if the record relates to an incident, illness, injury or trauma suffered by a child that may have occurred following an incident while being provided regulated education and care by the QEC service, until the child is aged 25 years;
- (c) if the record relates to the death of a child while being provided regulated education and care by the QEC service or that may have occurred as a result of an incident while being provided regulated education and care, until the end of 7 years after the death;
- (d) in the case of any other record relating to a QEC service child, until the end of 3 years after the last date that the child was provided regulated education and care by the QEC service;



- (b) on or after the commencement, became a staff member of the QEC approved service.

*repealed regulation* means the repealed *Child Care Regulation 2003*.

### 73 Existing QEC approved services exempt from outdoor space requirements

- (1) This section applies to a QEC approved service if—
- (a) the QEC approved service was a centre based service under the repealed *Child Care Act 2002*; and
- (b) immediately before the commencement, building work that was assessable development was not being carried out at the centre based service.
- (2) Section 32 does not apply to the approved provider in relation to the QEC approved service.
- (3) If, after the commencement, another person becomes a Queensland approved provider (a *new approved provider*) of the QEC approved service, section 32 does not apply to the new approved provider in relation to the QEC approved service.
- (4) However, section 32 again applies to the approved provider or the new approved provider if the provider carries out assessable development at the QEC approved service after the commencement.
- (5) In this section—

*assessable development* see the *Sustainable Planning Act 2009*, schedule 3.

*building work* see the *Building Act 1975*, section 5.

### 74 Exemption from development of educational programs

The requirements under section 9 do not apply to the Queensland approved provider of a QEC approved service for 3 months from the commencement.

**75 Exemptions for particular first aid qualifications**

The requirements under section 42(1)(b) and (c) do not apply to the Queensland approved provider of a QEC approved service for 1 year from the commencement.

**76 Qualifications of continuing staff members generally**

- (1) A continuing staff member who held a 1 year qualification included on a list under the repealed regulation, other than the list called ‘School age care only’, is taken to hold an approved certificate III level education and care qualification.
- (2) A continuing staff member who held a 2 year qualification included on a list under the repealed regulation, other than the list called ‘School age care only’, is taken to hold an approved diploma level education and care qualification.
- (3) A reference in this section to a qualification in terms of a stated number of years is a reference to a qualification ordinarily completed in the stated number of years of full-time study.

**77 Qualifications of continuing staff members—school age care services**

- (1) This section applies to a continuing staff member if the continuing staff member is a staff member of a school age care service.
- (2) A continuing staff member who held a 1 year qualification included on a list called ‘School age care only’ under the repealed regulation is taken to hold an approved certificate III level education and care qualification.
- (3) A continuing staff member who held a 2 year qualification included on a list called ‘School age care only’ under the repealed regulation is taken to hold an approved diploma level education and care qualification.
- (4) A reference in this section to a qualification in terms of a stated number of years is a reference to a qualification

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ordinarily completed in the stated number of years of full-time study.

## **78 Persons engaged as an assistant before commencement**

- (1) This section applies if, immediately before the commencement—
  - (a) a person was engaged in a position in a centre based service as an assistant under the repealed *Child Care Act 2002*; and
  - (b) the person had not been engaged in the position for more than 3 months; and
  - (c) the person did not hold a qualification prescribed for an assistant under the repealed *Child Care Act 2002*.
- (2) A reference to an educator with an approved certificate III level qualification is taken to include a reference to the person.
- (3) Subsection (4) applies for calculating the period a person has been engaged in a position without holding the qualification prescribed.
- (4) The period the person was engaged in the position before the commencement must be included in calculating the period under subsection (1)(b).

## **79 Persons engaged as a group leader before commencement**

- (1) This section applies if, immediately before the commencement—
  - (a) a person was engaged in a position in a centre based service, other than a school age care service, as a group leader under the repealed *Child Care Act 2002*; and
  - (b) the person had not been engaged in the position for more than 3 months; and
  - (c) the person was a qualified assistant; and

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- (d) the person did not hold a qualification prescribed for a group leader under the repealed *Child Care Act 2002*.
- (2) A reference to an educator with an approved diploma level qualification is taken to include a reference to the person in a QEC approved service, other than a school age care service.
- (3) Subsection (4) applies for calculating the period a person has been engaged in a position without holding the qualification prescribed.
- (4) The period the person was engaged in the position before the commencement must be included in calculating the period under subsection (1)(b).

## **80 Persons engaged in coordinating position before commencement**

- (1) This section applies if, immediately before the commencement—
  - (a) a person was engaged in a coordinating position at a school age care service under the repealed *Child Care Act 2002*; and
  - (b) the person had not been engaged in the position for more than 6 months; and
  - (c) the person did not hold a qualification prescribed for a group leader under the repealed *Child Care Act 2002*.
- (2) A reference to an educator with an approved diploma level qualification is taken to include a reference to the person in a school age care service.
- (3) For subsection (1)(a), a position at a school age care service is a ***coordinating position*** if the responsibilities of the position include being present at the child care centre for some or all of the times required under the repealed regulation, section 32.
- (4) Subsection (5) applies for calculating the period a person has been engaged in a position without holding the qualification prescribed.

- (5) The period the person was engaged in the position before the commencement must be included in calculating the period under subsection (1)(b).

## Schedule 1 Fees

section 71

	\$
1 Application for Queensland provider approval (Act, s 12(2))	109.00
2 Application for amendment of Queensland provider approval (Act, s 21(2))	nil
3 Application for service approval for a QEC service (Act, s 44(1))	109.00
4 Annual fee for service approval (Act, s 54)	106.00
5 Application for amendment of service approval (Act, s 65(2))	nil
6 Application for transfer of service approval (Act, s 70(2))	109.00
7 Application for lifting suspension of service approval (Act, s 81(2))	52.00
8 Application for service waiver (Act, s 93)	109.00
9 Application for temporary waiver (Act, s 100)	109.00
10 Application for cancellation of prohibition notice (Act, s 201(3))	52.00
11 Inspection of register of approved providers (Act, s 213(3))	82.00
12 Obtaining a copy of the register of approved providers or part of it (Act, s 213(3))	first 40 pages free and then 50c each page



	\$
13 Inspection of register of QEC approved services (Act, s 214(3))	82.00
14 Obtaining a copy of the register of QEC approved services or part of it (Act, s 214(3))	first 40 pages free and then 50c each page

## **Schedule 2      Educator to child ratios—rest periods**

section 46

<b>Ages of children</b>	<b>Educator to child ratio</b>	<b>Additional educator to child ratio</b>
2 years to 3 years	1:12	1:6
2.5 years to 3 years	1:16	1:8
3 years to 12 years	1:24	1:12

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**Schedule 3      Educator to child ratios—  
general**

section 53

<b>Ages of children</b>	<b>Educator to child ratio</b>
Birth to 2 years	1:4
Birth to 3 years	1:5
15 months to 3 years	1:5
2 years to 3 years	1:6
2.5 years to 3 years	1:8
3 years to 12 years	1:12
School age children	1:15

## Schedule 4 Prescribed records

### section 69

- 1 the child's name, address, sex and date of birth
- 2 the name, address and contact telephone number of—
  - (a) a parent or guardian of the child; and
  - (b) any other person who may be contacted in an emergency involving the child; and
  - (c) any other person authorised to collect the child from the QEC service premises where regulated education and care is provided to the child
- 3 the day and time of each occasion that regulated education and care is provided to the child in the course of the QEC service
- 4 particulars of the child's health relevant to the provision of regulated education and care

*Examples—*

  - allergies suffered by the child
  - diseases against which the child has been immunised
- 5 any special requirements of the child of which the Queensland approved provider is aware

*Examples—*

  - requirements arising from the culture or religion of the child's family
  - requirements arising from a disability of the child
- 6 the child's primary language or, if the child has not learned to speak, the primary language of the child's family
- 7 details of any parenting order or parenting plan under the *Family Law Act 1975* (Cwlth), of which the Queensland approved provider is aware, relating to the child
- 8 the name, address and telephone number of the child's doctor or hospital

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- 9 any authorisation or instructions received from the child's parents or guardians about giving medication to the child
  - 10 if any medication is given to the child while the child is being provided regulated education and care—
    - (a) the name of the medication; and
    - (b) how much medication is given; and
    - (c) the day and time the medication is given; and
    - (d) the name of the person giving the medication
  - 11 any permission given by a parent or guardian of the child about—
    - (a) providing medical care to the child, including medical care provided in an emergency; or
    - (b) taking the child away from the relevant QEC approved service; or
    - (c) another matter
  - 12 if the child dies while the child is in the Queensland approved provider's care—the circumstances of the death
  - 13 the name, address and telephone number of each staff member and volunteer
  - 14 the attendance of staff members and volunteers
  - 15 rest pauses taken by staff members and volunteers
  - 16 for each excursion a child is taken on while being provided regulated education and care by the QEC approved service—
    - (a) the date and time of the excursion; and
    - (b) the names of the children in care, staff members and other persons who went on the excursion; and
    - (c) the method of transportation used; and
    - (d) the address of the destination for the excursion; and
    - (e) the approximate travelling time for the excursion; and
    - (f) the activities undertaken at the destination

Schedule 4

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- 17 for each occasion on which emergency care is provided to a child in care in circumstances to which section 51 of the Act applies—
  - (a) the child’s name; and
  - (b) the period for which the emergency care is provided; and
  - (c) a brief description of the emergency or other circumstances giving rise to the need for the care
- 18 the supervisor’s name
- 19 evidence of the insurance cover prescribed for the QEC approved service
- 20 details of any amendment of the Queensland service approval made by the chief executive under section 65 of the Act
- 21 details of any suspension of the Queensland service approval, including—
  - (a) the reasons stated by the chief executive for the suspension; and
  - (b) the date on which the suspension took, or takes, effect; and
  - (c) the date that the suspension ends
- 22 details of any compliance notice issued to the Queensland approved provider for the QEC approved service, including—
  - (a) the reasons for issuing the notice; and
  - (b) the steps stated in the notice; and
  - (c) the date by which the steps must be taken

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## Schedule 5 Dictionary

### section 3

*actively working towards a qualification*, for an educator, means an educator who—

- (a) is enrolled in the course for the qualification; and
- (b) provides the Queensland approved provider with documentary evidence from the provider of the course that the educator—
  - (i) has commenced the course; and
  - (ii) is making satisfactory progress towards completion of the course; and
  - (iii) is meeting the requirements for maintaining the enrolment; and
  - (iv) in the case of an approved diploma level education and care qualification—
    - (A) holds an approved certificate III level education and care qualification; or
    - (B) has completed the units of study in an approved certificate III level education and care qualification determined by the National Authority; or
    - (C) is a registered teacher.

*approved certificate III level education and care qualification* means—

- (a) an approved certificate III level education and care qualification under the Education and Care Services National Regulations, section 4; or
- (b) a qualification determined to be equivalent to a qualification mentioned in paragraph (a) under the Education and Care Services National Law (Queensland), section 169(7).

***approved diploma level education and care qualification*** means—

- (a) an approved diploma level education and care qualification under the Education and Care Services National Regulations, section 4; or
- (b) a qualification determined to be equivalent to a qualification mentioned in paragraph (a) under the Education and Care Services National Law (Queensland), section 169(7).

***infectious disease*** has the same meaning as a contagious condition under the *Public Health Act 2005*, section 158.

***National Authority*** see section 260(4) of the Act.

***QEC service child***, for a QEC approved service, means a child being provided regulated education and care by the QEC approved service.