

Education (General Provisions) Amendment Bill 2025

Statement of Compatibility

FOR

Amendments to be moved during consideration in detail by the Honourable John-Paul Langbroek MP, Minister for Education and the Arts

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

In accordance with section 38 of the *Human Rights Act 2019*, I, the Honourable John-Paul Langbroek MP, Minister for Education and the Arts, make this statement of compatibility with respect to the amendments to be moved during consideration in detail of the Education (General Provisions) Amendment Bill 2025 (the Bill).

In my opinion, the amendments to the Bill to be moved during consideration in detail are compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the amendments

The policy objectives of the amendments to be moved during consideration in detail (ACiD) of the Bill are to:

- bring forward the commencement date of the Reportable Conduct Scheme (RCS) under the *Child Safe Organisations Act 2024* (CSO Act);
- replace references in Queensland statutes to the Queensland Catholic Education Commission (QCEC) and the Roman Catholic Bishops of Queensland with the Catholic Education Commission Limited (CEQL), commencing 1 January 2026; and
- remove the provision of rest period conditions on services approvals for Queensland early childhood education and care (ECEC) services, commencing from 1 January 2026.

Child Safe Organisations Act 2024 amendments

The CSO Act establishes a new child safe organisations system for Queensland including the introduction of a nationally consistent RCS.

The amendments to the CSO Act will progress the Queensland Government's commitment to accelerate full implementation of the RCS.

The RCS is an important protection for Queensland children engaging with services and organisations. Recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), the RCS will require the reporting and investigation of concerns about the conduct of workers with children under the oversight of an independent body (the Queensland Family and Child Commission (the QFCC)).

Currently the CSO Act provides for commencement of the RCS as follows:

- Phase 1: child protection services, services for children with disability, justice or detention services and government organisations from 1 July 2026 (section 2(4)(n));
- Phase 2: accommodation and residential services, education services and health services from 1 January 2027 (section 2(5)); and
- Phase 3: early childhood education and care (ECEC) services and religious bodies from 1 July 2027 (section 2(6)).

On 10 July 2025, the Queensland Government committed to bring forward commencement of the RCS for the ECEC services sector to 1 July 2026 following incidents of child abuse in Queensland childcare centres.

In addition to bringing forward commencement of the RCS for the ECEC sector to 1 July 2026, the amendments to the CSO Act will bring forward commencement of the RCS for accommodation and residential services, education services, health services and religious bodies to 1 July 2026, ensuring children in these settings also receive the benefits of the RCS as soon as possible.

The amendments will also bring forward the statutory review of the CSO Act by 12 months, consistent with accelerated commencement of the RCS. This will mean the Minister responsible for administration of the CSO Act will be required to review the effectiveness of the Act as soon as practicable after 1 July 2029, following three full years of implementation.

Legislative references to QCEC

The QCEC is the peak body for Catholic non-state schools in Queensland. Queensland statutes recognise and reference the QCEC either in full or in abbreviated form in relation to a variety of education and early childhood related matters. These include board membership for statutory authorities, capital assistance authorities for school-related funding, information sharing, professional teacher recognition, central governing bodies for kindergartens, and consultation purposes.

From 1 January 2026, Catholic Education Queensland Limited (CEQL) will be established as the new peak body, taking over from QCEC. CEQL will continue all QCEC's core responsibilities under all Queensland legislation in which QCEC is named.

Replacement of references to QCEC or its full trading name in Queensland statutes with CEQL was sought by QCEC and is required by 1 January 2026 to support the commencement of operations of CEQL on that date.

References to QCEC are located in eight education statutes and one non-education statute and will be replaced with CEQL. A single reference to the Roman Catholic Bishops of Queensland is also replaced by a reference to CEQL for consistency.

Replacing legislative references to QCEC and the Roman Catholic Bishops of Queensland with CEQL will provide for the lawful continuation of the role of Catholic non-state schooling sector in matters such as: membership on education statutory authority boards, capital assistance funding arrangements to Catholic non-state school, information sharing, legislative consultation and professional teacher recognitions through certification for highly accomplished and lead teachers, as well as maintaining funding and data sharing arrangements relating to approved kindergarten providers.

Rest period conditions in ECEC services

In 2012, regulation of the ECEC services moved from state-based to national scheme legislation under the National Quality Framework (NQF), comprising the Education and Care Services National Law (National Law), Education and Care Services National Regulations (National Regulations) and National Quality Standard.

The National Law is adopted in Queensland by the *Education and Care Services National Law (Queensland) Act 2011* (Application Act 2011). The *Education and Care Services Act 2013* (ECS Act) and Education and Care Services Regulation 2013 (ECS Regulation) provide the regulatory framework for Queensland ECEC services not regulated under the NQF.

Both regulatory frameworks allow for Queensland ECEC services to apply for a rest period conditions as part of their service approval. A rest period condition is a non-standard condition providing for one or more periods during the day, totalling not more than two hours, as rest periods for the service.

During rest periods, significantly reduced staffing requirements apply from the minimum baseline ratio and qualification requirements prescribed for ECEC services at all other times during operating hours. The condition only applies to children aged over 24 months.

Under the NQF, Queensland is the only jurisdiction that allows for rest period conditions through Queensland-specific provisions in the National Regulations. As of 3 September 2025, 582 out of the 3,313 ECEC services licensed to operate in Queensland had a rest period condition in their service approvals.

In August 2022, the Australian Federal Police (AFP) launched Operation Tenterfield after arresting a former childcare worker charged with 1623 child abuse offences against 91 children, alleged to have been committed in Brisbane, Sydney and overseas between 2007 and 2022.

The Department of Education, in its role as Queensland's Early Childhood Regulatory Authority, identified an urgent need to review the Queensland-specific provisions for rest period conditions in service approvals under the NQF and ECS Act.

In December 2023, the Australian Children's Education and Care Quality Authority released the Review of Child Safety Arrangements Under the NQF (Child Safety Review). The Child Safety Review made 16 recommendations to strengthen the NQF with respect to child safety, including for a supplementary review within two years informed by Operation Tenterfield.

As a result of Operation Tenterfield and the Child Safety Review, and in light of other recent high-profile incidents of alleged child sexual abuse in childcare services by former childcare workers, legislatively removing rest period conditions is a necessary and critical step to

creating a child safe environment in ECEC settings and minimise risk of harm to children during rest periods.

Removing the provision of rest period conditions ensures the minimum baseline supervision and qualification requirements apply at all times a relevant ECEC service is operating.

Human Rights Issues

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

In my opinion, the human rights relevant to the ACiD are:

- the right to protection from torture and cruel, inhuman or degrading treatment (section 17);
- the right to privacy and reputation (section 25); and
- the right to the protection of families and children (section 26).
- the right to education (section 36(1) of the HR Act)

Child Safe Organisations Act 2024 amendments

I consider the amendments to the CSO Act will promote and protect the following rights:

- *Protection from torture and cruel, inhuman or degrading treatment* (section 17) – bringing forward the commencement of the RCS for accommodation and residential services, education services, health services, the ECEC sector and religious bodies will offer children accessing these services with earlier protection from worker misconduct which may be cruel, inhuman and degrading; and
- *Protection of families and children* (section 26(2)) – bringing forward commencement of the RCS for accommodation and residential services, education services, health services, the ECEC sector and religious bodies will provide children accessing these services with earlier protection from harm which is in the child's best interests.

Privacy and reputation (section 25)

Section 25(a) of the HR Act protects against unlawful or arbitrary interferences with a person's privacy, family, home or correspondence. Privacy captures personal information but extends to a person's private life more generally, including their mental and bodily integrity.

The proposed amendments to the CSO Act to accelerate implementation of the RCS will require some reporting entities to commence RCS obligations up to one year earlier than originally legislated. These RCS obligations include notifying the QFCC of a reportable allegation or conviction; investigating a reportable allegation or conviction; and reporting to the QFCC on the investigation. The amendments mean that some prescribed entities will be able to share personal and confidential information sooner, for the purpose of managing and overseeing reportable conduct investigations, which may limit some individuals' right to privacy and reputation earlier than previously provided for in the CSO Act.

The right to privacy will only be limited if the interference with privacy is unlawful or arbitrary. The interference with privacy will be authorised under the CSO Act and will therefore be lawful. Arbitrary means capricious, unpredictable, unjust or unreasonable in the sense of not

being proportionate to the legitimate aim sought. If an interference is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13 of the HR Act.

(a) the nature of the right

Section 25 of the HR Act provides the right to privacy and reputation. This right protects personal information, but also extends to an individual's private life more generally, including protection from interference with a person's physical and mental integrity. Privacy is about having control over one's own life and being let alone and provides that a person's reputation must not be unlawfully attacked. This right is fundamental to personal dignity and reputation.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendment is to strengthen protections for children in some services by requiring RCS compliance sooner.

The limitation on an individual's right to privacy and reputation is engaged through information sharing about harm, and risks of harm, to children from workers. While this information is likely to be of a personal and confidential nature (e.g. details of alleged abuse of children), it is critical information that allows the identification of, and appropriate response to, reportable allegations to protect children from harm. This purpose is consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The earlier limitation to an individual's right to privacy and reputation is necessary to achieve the acceleration of RCS implementation for some services. The RCS cannot function without the appropriate sharing of personal and confidential information to prevent, identify and respond to harm to a child. Barriers to sharing information of this nature were identified by the Royal Commission as a key factor which hampered the protection of children in organisations.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the amendments

There are no other less restrictive and reasonably available ways to achieve the purpose of the amendments. Continuing with the phased implementation of the RCS as provided for in the CSO Act would delay full operation of the scheme until 1 July 2027, with children in some organisational settings unable to benefit from the increased protections provided by the RCS. The amendments do not change the functions of the RCS but instead bring forward its commencement to facilitate earlier implementation and enhanced protections for children.

Further, Chapter 5 provides protections for the confidentiality of information gained through administration of the CSO Act. A person must not make a record of or intentionally disclose such information to another person unless it is for a permitted use as provided for in the CSO Act. Penalties apply should a person contravene these confidentiality requirements.

- (e) the balance between the importance of the purpose of the amendments, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The ability to share relevant information earlier between some prescribed RCS entities, for the purpose of the RCS, strikes a fair balance between an individual's right to privacy and reputation, and the benefit gained from protecting children in organisational settings.

The safeguards in the CSO Act mitigate the restrictions on human rights and ensure that information may only be shared to the extent necessary, and investigations are conducted in a way that affords procedural fairness.

On balance, I consider the importance of ensuring children are protected sooner outweighs earlier interference with an individual's privacy and reputation.

As any impacts on the right to privacy are proportionate, and thus not arbitrary, the right is not limited.

- (f) any other relevant factors

Nil.

Legislative references to QCEC

The proposed amendments relating to QCEC engage the right to have access to education (section 36(1) of the HR Act). The right to education provides that every child has the right to have access to primary and secondary education appropriate to the child's needs.

The Explanatory Notes to the HR Act provide that the right to education is intended to be consistent with the provisions of the *Education (General Provisions) Act 2006* and provide rights in respect of the aspects of education service delivery for which the State is responsible.

Importantly, the right to education under the HR Act is a right to have access to education, as noted in the Legal Affairs and Community Safety Committee, Parliament of Queensland. Access incorporates underlying principles of non-discrimination, physical accessibility and economic accessibility.

Based on Article 13 of the International Covenant of Economic, Social and Cultural Rights, the right to education is key to empowering people with the ability to realise their human rights, to fully participate in society, achieve social mobility and enjoy human existence.

The proposed amendments do not limit the right to education, as they ensure Catholic education students continue to have the access to quality education, despite CEQL taking over the role previously played by QCEC.

Rest period conditions in ECEC services

The proposed amendments to remove rest period conditions positively engages section 26 of the HR Act by strengthening the protection of families and children.

The right to the protection of families and children under section 26 of the HR Act recognises that families are the fundamental unit of society and are entitled to protection by society and the State. It also recognises that every child has the right, without discrimination, to the protection that is in their best interests as a child.

The right recognises the special vulnerability of children because of their age and requires the State to ensure the survival and development of every child to the maximum and means that the government should adopt special measures to protect children. It also means the best interests of the child should be considered in all actions affecting a child, noting that what will be in each child's 'best interests' will depend on their personal circumstances.

Amending the Application Act and ECS Act to remove the provision of rest period conditions, and thereby require the minimum baseline educator supervision and qualification requirements to apply at all times a service is operating, will strengthen supervision and further safeguard children in ECEC settings.

Conclusion

In my opinion, the amendments to the Education (General Provisions) Amendment Bill 2025 are compatible with human rights under the *Human Rights Act 2019* because they limit a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

JOHN-PAUL LANGBROEK MP
MINISTER FOR EDUCATION AND THE ARTS

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