

Education (General Provisions) and Other Legislation Amendment Bill 2024

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The Home Education Network (HEN) has over 1600 members across Australia and is a not-for-profit organisation supporting existing and prospective home educators, educating professionals on home education and how it works, and providing information to the wider community about home education. We run annual surveys of the home educating community Australia-wide, each year focusing on different aspects of home education. HEN's executive committee members alone have decades of lived experience in home education and have experience educating children from early years to tertiary level.

This submission discusses the regulatory frameworks governing home education across Australia, and addresses the proposed legislative changes.

Part 1 Home Education Regulation around Australia

Regulations and legislation governing home education around Australia vary by state and territory.

Currently, the majority of states and territories do *not* require home educators to be aligned with nor to make use of the Australian curriculum. Most state and territory regulations/legislation do not even make mention of curriculum. Rather, they mention the eight **key learning areas**.

In Victoria, for example, parents must ensure that the education programme, taken as a whole, substantially addresses the eight **key learning areas** (Victorian Government, 2022). There is no emphasis on any one learning area, and there is scope for exemptions to be granted for up to seven learning areas when necessary (primarily due to age, disability, learning needs or mental health needs). Parents are not required to show progress at review. Rather, they are required to demonstrate how they have been providing opportunities for learning. The regulator recognises that, while parents may provide the opportunities, the child is not necessarily going to engage with the programme, for a variety of reasons (usually relating to disability or learning needs).

Even in New South Wales, widely recognised to currently be the most heavily regulated state with respect to home education in Australia, the Education Act 1990 (No 8) Part 7 Subdivision 5, Section 73 states that the conditions of registration for home schooling provides s73(2)(b) that the child is to 'receive instruction that meets the relevant requirements of Part 3 relating to the minimum curriculum for schools' (NSW Government, 2020a). Part 3 refers to **key learning areas** to be covered for the K-10 years, with *no* reference made to the Australian Curriculum (NSW Government, 2020b). It also states that students are to receive instruction in 6 out of the 8 learning areas in secondary years, which is less than the eight learning areas required in other states such as Victoria, Tasmania, Northern Territory and (currently) Queensland.

Part 2 Proposed Legislative Changes

The Home Education Network can see several significant issues with the proposed changes to Queensland's legislation governing home education. These include the mandatory alignment with the Australian Curriculum and the definition of 'high quality education', removal of provisional registration, and the wording around whether home education will be provided in 'the best interests of the child'.

1. Mandatory alignment with the Australian Curriculum

Parents currently have choices of where and how to educate their children. They are able to select an educational option that aligns with their cultural, moral and religious beliefs, as well as their children's learning needs. They are able to select an independent religious school, for example, that is better aligned to their family's values.

In just such a way, parents can also currently choose how to home educate their children, and what subject matter to cover within the eight learning areas. This flexibility is vital, especially when home educating children who have a disability or a learning difference, as well as when home educating multiple children of different ages. A five year old can read picture books about dinosaurs while their 14 year old sibling explores the chemistry of fossilisation, but both are covering similar subject matter, and can attend the same excursion to the museum, for example.

Home educated students are more likely than their schooled peers to attain a tertiary qualification (Home Education Network, 2017). This data was collected from home educated alumni across Australia, who were home educated under regulatory and legislative frameworks that did not mandate the use of the Australian Curriculum.

The Australian Curriculum does not meet the needs of every child. The Senate Inquiry into the National Trend of School Refusal and Related Matters concluded that greater flexibility in education delivery and easier access to home education was vital for students who were experiencing School Refusal (Parliament of Australia, 2023). [School Refusal will hereafter be referred to as 'School Can't, in line with current understanding and research].

In a survey of over 600 parents with children who had experienced School Can't, approximately 80% of students in this cohort have, or are suspected to have, a disability (Home Education Network, 2023a). Many of them register for home education in order to access a quality education. These children are frequently leaving school with complex mental health challenges, including post traumatic stress disorder (PTSD) and known suicide attempts (Home Education Network, 2023a). Engaging with anything that emulates the school curriculum is known to cause further trauma and disengagement, and is therefore ineffective in delivering a quality education.

The benefits of home education are well-recognised and documented. In students with School Can't, the mental health benefits are overwhelmingly positive (Home Education Network, 2023a). In addition, the educational outcomes and attainment for home educated students with School Can't are very positive (Home Education Network, 2023b). These are students who have not used a traditional curriculum, but who have had responsive and appropriate delivery of education supplied by their parents.

The Australian Curriculum is unnecessary to provide a quality education to home educated students, and in many cases can result in inadequate engagement and poorer outcomes. It is well recognised in educational literature that students are motivated, engaged, are persistent, have better well-being and develop metacognitive skills best when they are

following their interests, and have autonomy over their education (Howard et al., 2021; Seifert, 2004).

Reference in the legislation to a 'high quality education' is unhelpful, and impossible to define. This term is in the ACT's legislation, and the ACT's Home Schooling Unit find it a difficult and nebulous benchmark. The Australian Curriculum in and of itself does not provide a high quality education. It is the delivery of an education that is responsive, needs-based and interest-based that provides an effective education.

2. Removal of Provisional Registration

Provisional registration is an effective and child-friendly policy, and results in better planning for the commencement of home education. When children are struggling with School Can't, for example, parents and families are experiencing extreme stress (Home Education Network, 2023a). Parents who are removing a child from school are frequently doing it unexpectedly. Their ability to plan effectively is hindered whilst their child is still attending school and having difficulties there, as their time availability is limited. Provisional registration allows parents to legally remove their children from school, and gives them time to formulate an effective plan for the child's education.

Removing provisional registration and requiring parents to submit a plan at the same time as registering for home education will mean that:

1. The child is forced to remain at school while their mental health deteriorates further; and
2. The parent does not have adequate time to assess their child's learning style and needs, and therefore formulate a plan that will ensure the best access to an effective education.

3. Whether home education will be provided in 'the best interests of the child'

Home education is an expensive and labour-intensive undertaking. Financial impacts on families due to the decision to home educate are large: approximately 90% of families report an impact, with about 70% reporting a moderate to high financial impact (Home Education Network, 2023a). This is in addition to significant impacts on career trajectory for the primary educator (most often the mother). In light of these statistics, it is clear that home education is only ever undertaken in the best interests of the child.

Lack of data and unknown child safety was cited by the Victorian Government as a justification for increased regulatory oversight when the Education and Training Reform Regulations were revised in 2017 (Victorian Government, 2016). In the intervening years, these concerns have proved unfounded.

Part 3 An Example of Effective Regulation in the Australian Context

The Victorian home education regulations are widely regarded as being the most flexible and lightest-touch regulations in Australia. Registration rates appear to be high in the state compared to other states, when comparing the number of registered home educators to the state population.

The home education community have a stakeholder committee, the Victorian Home Education Advisory Committee (VHEAC), that meets with the Department of Education (DE) and the regulator, the Victorian Registrations and Qualifications Authority (VRQA) three times a year to discuss matters that are affecting the home education community and to provide feedback on current policy and processes. It has been instrumental in building a positive working relationship between DE, VRQA and the home education community, and has resulted in regulations that are responsive, workable and meet children's varied and complex needs.

The home education community now has a very positive relationship with the VRQA (Wallis, 2023). This relationship was difficult, unsupportive, ineffective and often hostile prior to the inception of VHEAC and a change in staffing at the VRQA in response to feedback from VHEAC. The credit for this goes largely to the staff at VRQA, who have worked with home education representatives from VHEAC and also from HEN, and continue to do so, to understand how home education works, and what home educators need to be effective educators.

In Victoria, a learning plan is prepared by the parent and submitted at the time of registration. This is one issue that has been flagged by the Home Education Network and the home education representatives on VHEAC as being problematic. Our recommendation is that provisional registration with a learning plan submitted within three months would allow for a smoother and more effective transition into home education for children who are removed from school with School Can't, or following serious incidents at school.

Despite this, the development of learning plans is well supported with materials and information from VRQA and also HEN. The learning plan can take any format preferred by the parent, as long as it demonstrates that the eight key learning areas will be substantially addressed.

Ten percent of families are reviewed annually. In keeping with the need to recognise that parents also have diverse abilities and communication needs, the review can be supplied in writing, over the phone, or via video conference. The parent needs to demonstrate that they have substantially covered the eight key learning areas, or discuss why some learning areas may not have been covered (such as due to the child's disability, learning needs or age if they are starting to specialise in their teens). The VRQA will sometimes ask for additional information to be supplied if they deem it necessary.

It is significant to note that no registrations have been cancelled as a result of findings at review in over six years since the implementation of the current regulations, and no child safety concerns have been raised.

The VRQA staff have been impressed over the years with the breadth and extent of the education received by home educated students in Victoria. It is recognised that this cohort has opportunities and a quality of education they would not be receiving if they were bound by the dictates of the Australian Curriculum. Home educated students frequently commence their tertiary education earlier than their schooled peers.

Conclusion and Recommendations

Supportive, collaborative regulation results in better and increased compliance, and a better experience for home educating families and regulators alike. The Home Education Network's recommendations for the legislation review are:

1. That reference to the Australian Curriculum be removed from the draft legislation, and replaced with covering the eight key learning areas, which will bring the legislation in line with the majority of other Australian jurisdictions;
2. That reference to a 'high quality education' be removed from the draft legislation;
3. That provisional registration is maintained, and that the time frames unchanged from current regulations;
4. That reference to 'best interests of the child' be removed from the draft legislation;
5. That a parent representative body similar to VHEAC in Victoria be formed so that Queensland home educators are able to collaborate with the HEU and Department of Education to formulate a workable and realistic legislative and regulatory framework.

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