

**Subordinate legislation tabled
between 16 September and
13 October 2015**

**Report No.8, 55th Parliament
Education, Tourism and Small Business
Committee
November 2015**

Education, Tourism and Small Business Committee

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1 Introduction

Role of the Committee

The Education, Tourism and Small Business Committee (the committee) is a portfolio committee established by the Legislative Assembly on 27 March 2015.¹ It consists of government and non-government members. The committee's primary areas of responsibility are education, tourism, major events, small business and the Commonwealth Games.

Section 93(1) of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for examining each Bill and item of subordinate legislation in its portfolio area to consider:

- a) the policy to be given effect by the legislation
- b) the application of fundamental legislative principles to the legislation
- c) for subordinate legislation – its lawfulness.

The committee's responsibilities also include monitoring the operation of the *Statutory Instruments Act 1992* as it relates to subordinate legislation. The committee reports to the Legislative Assembly on all subordinate legislation it has considered.

Aim of this report

This report summarises the committee's examination of subordinate legislation tabled between 3 June and 15 September 2015. It reports on fundamental legislative principle issues identified by the committee and the Explanatory Notes' compliance with the *Legislative Standards Act 1992*.

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
132	<i>Education Legislation (Fees) Amendment Regulation (No. 1) 2015</i>	13 October 2015	18 February 2016

Education (General Provisions) Act 2006, Education (Overseas Students) Act 1996, Education (Queensland College of Teachers) Act 2005, Education (Queensland Curriculum and Assessment Authority) Act 2014

1. The explanatory notes state that the objective of the Education Legislation (Fees) Amendment Regulation (No. 1) 2015 (the Amendment Regulation) is to index fees prescribed in the above Acts in accordance with the Queensland Government's policy on annual indexation of fees, that fees and charges **are to be** increased by 3.5% per annum.²
2. It is noted that the Queensland Government's policy '*Principles for Fees and Charges 2012*' (the fees and charges policy) provides that agencies should apply the current government indexation rate.
3. The committee noted that the reference in the explanatory notes that charges '**are to be** increased by 3.5% per annum' is ambiguous. The committee considered the words 'are to be' indicate that fees must be increased by 3.5% per annum. However, the fees and charges policy simply states that the relevant CPI notified by Queensland Treasury should apply, and describes some exemptions from the policy.

¹ *Parliament of Queensland Act 2001*, s88 and Standing Order 194

² Education Legislation (Fees) Amendment Regulation (No.1) 2015, explanatory notes, p 1

The Education and Care Services Act 2013

4. The explanatory notes provide that the objective of the Amendment Regulation is to index fees prescribed under the *Education and Care Services Act 2013* (the ECS Act).³
5. In 2014, the Queensland Government decided that the fees prescribed under the ECS Act contained nationally agreed fees. The fees and charges policy provides that nationally agreed fees are exempt from the application of the relevant CPI increase.
6. The fees prescribed under the ECS Act are indexed at a rate consistent with the indexation of fees prescribed under the national law and published by the Australian Children's Education and Care Quality Authority before July of each year.
7. In July 2015, the fees under the national law were increased by 2.1% for the 2015-2016 financial year and will be rounded down to the nearest whole dollar. Accordingly, the Amendment Regulation will increase fees under the ECS Act by 2.1% rounded down to the nearest whole dollar. The explanatory notes state that this will ensure consistency of indexation rates and rounding rules adopted across the early childhood education and care sector.

Explanatory Notes

The committee considered it would have been helpful if the explanatory notes to the Amendment Regulation used clear language that reflected the fees and charges policy, and stated that nationally agreed fees are exempt from application of the relevant CPI.

Fundamental legislative principles

No issues were identified regarding consistency with FLPs or the lawfulness of the subordinate legislation. The Explanatory Notes complied with section 24 of the *Legislative Standards Act 1992*.

3 Recommendation

The committee has examined the policy to be given effect by the subordinate legislation and the application of fundamental legislative principles and lawfulness. No significant issues regarding consistency with fundamental legislative principles or the lawfulness of the Amendment Regulation were identified.

Recommendation

The committee recommends that the Legislative Assembly note the contents of this report.



Scott Stewart MP
Chair

³ Education Legislation (Fees) Amendment Regulation (No.1) 2015, explanatory notes, p 12