

Education, Employment and Training Committee

Report No. 32, 57th Parliament

Subordinate legislation tabled between 11 November and 29 November 2022

1 Aim of this report

This report summarises the findings of the Education, Employment and Training Committee (the committee) following its examination of subordinate legislation within its portfolio areas.

It reports on any issues identified by the committee relating to:

- the policy to be given effect by the legislation
- its consistency with fundamental legislative principles
- its compatibility with human rights
- its lawfulness.

It also reports on the compliance of the explanatory notes with the *Legislative Standards Act 1992* (LSA), and the human rights certificates with the *Human Rights Act 2019* (HRA).

2 Subordinate legislation examined

No.	Subordinate legislation	Date tabled	Disallowance date
160	Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022	29 November 2022	19 April 2023
161	Work Health and Safety Amendment Regulation 2022	29 November 2022	19 April 2023

*Disallowance dates are based on proposed sitting dates as advised by the Leader of the House. These dates are subject to change.

3 Committee consideration of the subordinate legislation



The committee is satisfied with the policy objectives of the subordinate legislation covered by this report and with its consistency with fundamental legislative principles, human rights compatibility, and lawfulness.

The committee notes that SL No. 161 raises some issues regarding the institution of parliament, because it refers to several documents that it does not reproduce in full, in effect delegating law making to an outside body. However, the committee considers this appropriate in the circumstances.

The committee considers that the human rights certificates tabled with the subordinate legislation provide a sufficient level of information to facilitate understanding of the subordinate legislation in relation to their compatibility with the HRA.

However, the explanatory notes tabled with the subordinate legislation do not adequately explain of how the subordinate legislation is consistent with the policy objectives of the relevant authorising laws, as required under s 24(1)(e) of the LSA. In both cases, the explanatory notes merely assert such

consistency. Similarly, the explanatory notes tabled with SL No. 161 simply assert that it is consistent with fundamental legislative principles, but do not explain how. The explanatory notes otherwise comply with part 4 of the LSA.

The following sections provide a brief overview of the subordinate legislation and discuss the issues that SL No. 161 raises with regard to the institution of parliament in more depth.

4 SL No. 160 – Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022

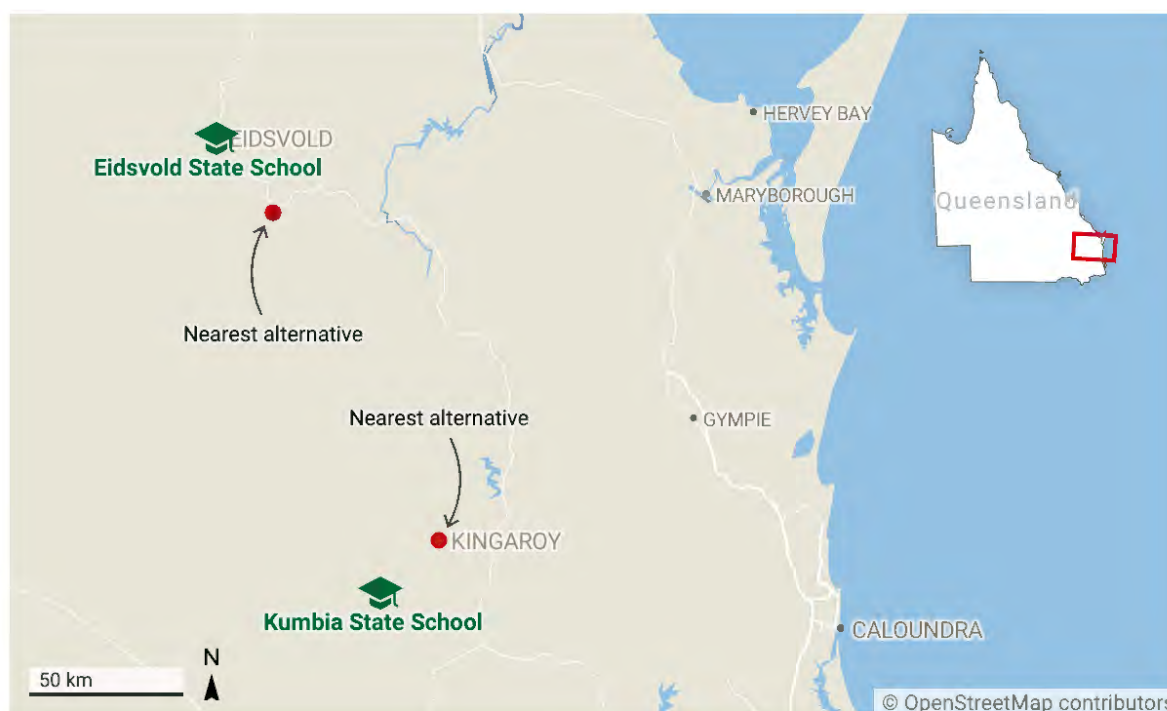
The objective of the Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022 (SL No. 160) is to facilitate the provision of State Delivered Kindergarten programs at 2 schools:

- Eidsvold State School
- Kumbia State School.

The Queensland Government wants to expand the provision of State Delivered Kindergarten to Eidsvold and Kumbia due to planned closures of existing kindergarten services in these communities. Due to those closures, starting from 2023, the communities of Eidsvold and Kumbia will no longer have easily accessible kindergarten services.¹

The explanatory notes state that the nearest alternative kindergarten services would be located in Mundubbera (37 km from Eidsvold) and Kingaroy (27 km from Kumbia), as illustrated in Figure 1.

Figure 1 – Nearest alternative kindergarten services²



Consultations with alternative kindergarten providers and local communities indicate strong support for the provision of State Delivered Kindergarten programs in Eidsvold and Kumbia.³

¹ Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022, explanatory notes, p 2.

² This map was created with Datawrapper.

³ Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022, explanatory notes, p 2.

As stated in the explanatory notes, ‘a state school must be prescribed under the Education (General Provisions) Regulation 2017 (EGP Regulation) for the school to commence to deliver a kindergarten learning program.’⁴

SL No. 160 therefore achieves its objective by prescribing Eidsvold State School (Eidsvold SS) and Kumbia State School (Kumbia SS) as additional schools to deliver a kindergarten learning program under the EGP Regulation.

5 SL No. 161 – Work Health and Safety Amendment Regulation 2022

The objective of the Work Health and Safety Amendment Regulation 2022 (SL No. 161) is to strengthen the Work Health and Safety Regulation 2011 (WHS Regulation) by adopting amendments to the national model Work Health and Safety Regulation.



The relevant changes ‘are a suite of minor technical amendments that are uncontentious and clarify policy intent.’⁵

Specifically, SL No. 161 proposes amending the WHS Regulation to:

- lower the blood lead level testing thresholds for workers exposed to lead in the workplace in line with current scientific evidence
- update references to Australian Standards regarding ‘plant design and registration, high-risk diving work, and the safe use of lasers in the building and construction industry’⁶
- clarify the definition of ‘hazardous chemical.’⁷

5.1 Does SL No. 161 give sufficient regard to the institution of parliament?

SL No. 161 refers to several documents that it does not reproduce in full, namely:

- Australian Standards regarding ‘plant design and registration, high-risk diving work, and the safe use of lasers in the building and construction industry’
- the GHS and GHS 3, which means the Globally Harmonised System of Classification and Labelling of Chemicals, third revised edition, published by the United Nations as modified under schedule 6 of the WHS Regulation.⁸

In incorporating these documents, without reproducing them in full, SL No. 161 effectively delegates law-making to an outside body not subject to parliamentary scrutiny. As such, it could be considered to have insufficient regard to the institution of parliament.

However, in this case, the committee considers that it is reasonable and appropriate for SL No. 161 to incorporate these documents without reproducing them in full because the relevant documents:

- are lengthy, detailed and technical
- are published by reputable organisations (Australian Standards and the United Nations)
- will be sufficiently accessible to the public

The third edition of the GHS is available for free online, while the relevant Australian Standards are available for purchase online at a reasonable price.

⁴ Education (General Provisions) (Prescribed State Schools) Amendment Regulation 2022, explanatory notes, p 2.

⁵ Work Health and Safety Amendment Regulation 2022, explanatory notes, p 1.

⁶ Work Health and Safety Amendment Regulation 2022, explanatory notes, p 1.

⁷ Work Health and Safety Amendment Regulation 2022, explanatory notes, p 1.

⁸ Schedule 19 of the WHS Regulation.

6 Recommendation

The committee recommends that the Legislative Assembly notes this report.



Kim Richards MP

Chair

February 2023

Education, Employment and Training Committee

Chair

Deputy Chair

Members

Ms Kim Richards MP, Member for Redlands

Mr James Lister MP, Member for Southern Downs

Mr Mark Boothman MP, Member for Theodore

Mr Nick Dametto MP, Member for Hinchinbrook

Mr Barry O'Rourke MP, Member for Rockhampton

Mr Jimmy Sullivan MP, Member for Stafford