

# Education (General Provisions) and Other Legislation Amendment Bill 2024

## Explanatory Notes

### Short title

The short title of the Bill is the Education (General Provisions) and Other Legislation Amendment Bill 2024.

### Policy objectives and the reasons for them

The policy objectives of Education (General Provisions) and Other Legislation Amendment Bill 2024 (the Bill) are to improve the regulation of education in Queensland by making amendments to the *Education (General Provisions) Act 2006* (EGP Act) and other legislation to:

- protect students by: facilitating proactive and proportionate sharing of information when a student transfers between Queensland schools; and allowing sharing of personal information to facilitate students accessing approved online services and support digital learning;
- contribute to the good order and management of Queensland state schools by: improving procedural fairness for decision-making processes for school disciplinary absences; introducing a new appeal right for accumulated short suspensions; introducing student support plans; ensuring a student has access to education pending an enrolment decision; streamlining enrolment transfers between state special schools; implementing a school-based regulatory framework for a state school kindergarten program delivered at a prescribed state school and updating eligibility criteria for a distance education kindergarten learning program; and updating provisions related to the operation of Parents and Citizens' Associations (P&Cs);
- modernise and improve education services by: enhancing the regulation of home education and streamlining the home education registration process; removing the use of gendered language; and acknowledging wellbeing, inclusion and diversity; and
- make minor and technical amendments to improve the operation and effectiveness of legislation regulating education in Queensland.

The EGP Act underpins the education system in Queensland, providing a legislative framework for the administration of state education, while also providing for other regulatory matters relating to both state and non-state schooling sectors.

The EGP Act provides for the establishment of state educational institutions for primary, secondary or special education; costs for state education; allocation of state education for each student in Queensland state schools; school councils and P&Cs; enrolment at state schools; compulsory schooling and compulsory participation obligations.

The EGP Act also provides for the good order and management of state educational institutions and non-state schools, including student discipline in state schools and mandatory reporting of sexual abuse in state and non-state schools; and transfer notes to allow continuity in education for students transferring between Queensland state or non-state schools.

To ensure the EGP Act remains contemporary and reflects emerging strategic directions for education, in late 2021 the Department of Education (DoE) commenced a focused review of the EGP Act on three themes: protecting students; contributing to the good order and management in schools; and modernising and improving education services and related operations.

To guide and advise the review, DoE established a Steering Committee which comprised members of DoE's executive leadership team and representatives of Queensland Treasury, the Department of the Premier and Cabinet, Queensland Teachers' Union and the Independent Education Union.

Representatives of the non-state schooling peak organisations, the Queensland Catholic Education Commission and Independent Schools Queensland, also participated in discussions regarding matters of cross-sectoral interest.

The consultation process for the review included two key phases. In 2022, 11 confidential consultation papers were released to stakeholders for the first stage of consultation. The aim of stakeholder engagement for this first review phase was to identify, examine and refine potential policy options.

A wide range of stakeholders were engaged, including unions, government departments, principals' associations, the home education sector, state and non-state school associations and peak bodies, disability, youth and legal advocacy groups, First Nations advocacy groups and the early childhood sector.

The consultation papers released to stakeholders canvassed a wide range of possible amendments, not all of which proceeded following stakeholder feedback. This first stage of consultation was used to distil policy approaches, including those for home education.

The Steering Committee met four times and endorsed DoE's consultation approach and plan for the release of consultation papers. The Steering Committee noted final policy positions developed by DoE following consultation with stakeholders.

As a result of the first round of public consultation and subsequent analysis, a range of legislative amendments to the EGP Act were identified. Subsequent targeted education stakeholder consultation was undertaken in 2023 to inform and refine the proposed and new amendments, which are presented within the Bill. A confidential Exposure Draft of the Bill and policy fact sheets were released as part of this second stage of stakeholder consultation. The stakeholders consulted included government, unions, the state and non-state school sectors, parents and citizens' associations, the early childhood sector, and home education representative bodies.

The consultation processes conducted to inform the review found there was a strong degree of support for the proposed amendments amongst Government departments, disability and children's advocates, principals' associations and most education stakeholders.

These amendments ensure the legislative and regulatory framework for education is contemporary and complements DoE's non-legislative programs and strategies designed to realise the potential of every student.

## Achievement of policy objectives

The objectives are achieved by amendments to the EGP Act and other legislation in relation to particular matters, as outlined below.

### **School disciplinary absence, enrolment decisions, and student support plans**

Education is an important and essential element in a democratic society, and the state schooling system is an important component in Queensland's education framework. It is also important that schools are safe and effective places in which to learn and work. To ensure the good order and conduct of schools and to protect staff and students, disciplinary tools are necessary.

Accordingly, the EGP Act provides for the suspension of students, exclusion of students from enrolment at particular or multiple schools and cancellation of student's enrolment (if they are older than compulsory school age). It also allows principals to refer prospective students to the chief executive if they believe the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community. The chief executive must make a decision on whether to refuse the prospective student's enrolment.

The Queensland Government's education strategy, *Equity and Excellence: realising the potential of every student* is focused on initiatives to engage every student in a state school in learning, through maximising learning days.

Given the importance of maximising learning for all students, it is essential there is a robust approach for both disciplinary measures that ensure schools are safe and effective places of learning, and appropriate protections for students, so that disciplinary measures such as suspensions and exclusions do not unnecessarily reduce their ability to attend school.

The Bill amends the EGP Act, and the *Education (General Provisions) Regulation 2017* (EGP Regulation) to improve procedural fairness for decision making and clarify roles in relation to school disciplinary absences (SDAs) and enrolment decisions. Particular amendments are outlined below:

- decision-making timeframes and processes in relation to suspension, exclusion and cancellation of enrolment are prescribed in the EGP Regulation to ensure the processes are consistent with natural justice and undertaken in a timely fashion to minimise any loss of learning for students;
- principals of state schools are given the power to delegate certain actions in relation to telling a student of a suspension (the decision to suspend remains with the principal) to a head of school, deputy principal or another staff member with a leadership role at the school;
- parents are able to appeal a short-term suspension (1-10 days) if it means a child will be suspended through cumulative short-term suspensions for 11 or more school days in a calendar year;
- the chief executive is given authority to provide education to students who are in the process of having their enrolment application reviewed by the chief executive (due to a principal considering that the student may pose an unacceptable risk to the safety or wellbeing of members of the school community);
- allow the chief executive to consider all matters when making a final decision about an enrolment refusal or exclusion, whether or not the student makes a submission against the enrolment refusal or exclusion;

- require the chief executive to have a policy outlining considerations for SDA decision makers in relation to the suspension, exclusion or cancellation of enrolment of a student;
- matters a principal or the chief executive must consider before making a decision to suspend or exclude a student are prescribed in the EGP Regulation;
- the requirement for the chief executive to make a policy to provide for the making of student support plans (SSPs) for Aboriginal and Torres Strait Islander students, students with disability or preparatory age students who have been suspended or are at risk of exclusion. The SSP is a written plan designed to determine behaviour supports and reduce the need for further suspensions or exclusion. Aboriginal and Torres Strait Islander students and students with disability are subjected to an over proportionate number of SDAs. Preparatory age students are in their first year of schooling and may be as young as four and a half years old. Additional support is therefore appropriate as they transition to schooling. The SSPs will allow focused strategies and support for these students and involve parents / guardians to help identify any needs or complexities contributing to the behaviour that may not otherwise be known by the school or appropriately supported; and
- provide for a review of SDA provisions to ensure the reforms are contributing to safe and effective schools.

### **State school kindergarten**

DoE provides a range of options to ensure all children have access to a quality kindergarten program in the year before full-time school.

The EGP Act provides that state schools can be established to provide primary, secondary or special education. Chapter 19 of the EGP Act also allows for kindergarten learning programs to be provided in prescribed state schools (SDK) in limited circumstances where the market is not viable for private kindergartens to operate, or in selected, discrete Aboriginal and Torres Strait Islander communities, or other selected communities where there are barriers to accessing kindergarten.

To further respond to challenges for families in rural and remote locations which have limited access to a face-to-face kindergarten program due to their unique circumstances, access is provided for eligible children that are geographically isolated or experiencing difficulty attending a program due to medical issues, or due to an itinerant family lifestyle, through the eKindy program.

SDK programs and eKindy provides families in rural and remote locations access to a quality kindergarten program, no matter where they live.

State schools prescribed to deliver an SDK program are subject to a dual regulatory framework. They must comply with the EGP Act, which currently provides a minimal regulatory framework for administration of SDKs, and also either the: *Education and Care Services National Law* (National Law), which applies in Queensland under the *Education and Care Services National Law (Queensland) Act 2011*, if there are five or more children attending the program; or the *Education and Care Services Act 2013* (ECS Act), if there are four or less children attending.

The Bill streamlines regulation of SDKs into one consistent school-based system, in which families can be assured of the same access to a quality kindergarten program no matter their location or number of children attending.

Specifically, SDKs will be regulated under the EGP Act under a strengthened framework, and exempt from the National Law and ECS Act. The EGP Act will recognise that a kindergarten aged child enrolled in an SDK will be a student enrolled at the school, enabling access to school supports afforded to other school students. Students enrolled in an SDK will however be exempt from EGP Act provisions relating to religious instruction, allocation of state education, compulsory schooling obligations, SDAs and dress code.

Protections for students are already embedded in the current regulatory framework for Queensland schools, and after the amendments commence, these will apply to kindergarten children enrolled in SDKs. The Bill amends the EGP Act to provide for critical safety matters from the National Law in relation to protecting kindergarten students from harm and hazard, and ensuring they are adequately supervised. A regulation making power will enable a Regulation to be made to provide for the regular transportation of kindergarten students, currently provided for in the Education and Care Services National Regulations (National Regulations).

Other relevant health and safety matters from the National Law and National Regulations (e.g., requirements for physical environment, sleep and rest, attendance/accounting for children, water safety and behaviour management) will be applied to SDKs through operational policies and procedures, as with policies and procedures for state schools.

State schools already adhere to strong governance and oversight structures, as well as quality assurance through school review and audit processes. Under the streamlined model, all SDKs will be subject to a tailored assurance process delivered through school reviews and audits, which links to performance assessment by Regional Directors.

To enshrine the ongoing commitment to application of the National Quality Standard (NQS) under the National Law to SDKs, the EGP Act is amended to require the chief executive to make a guideline that sets out the standards for SDKs, and the review and assessment processes of an SDK against the standards set out in the guideline. In making the guideline the chief executive must have regard to the NQS.

The guideline is to be published on DoE's website, providing transparency and assurance to the early childhood sector and families that high-quality standards in SDKs are being maintained in line with the NQS.

### **eKindy**

eKindy provides accessible, quality kindergarten to a targeted cohort of children including those: whose principal place of residence is at least 16 kilometres from the nearest centre-based service catering for kindergarten age children; who have a medical condition likely to result in extended absences from a kindergarten service for more than 10 consecutive weeks; or with an itinerant family lifestyle. Eligibility requirements for the eKindy program are set out in section 419F of the EGP Act.

To improve accessibility of eKindy, the Bill makes minor amendments to the EGP Act to clarify eligibility requirements regarding distance to a particular service and medical considerations.

Specific requirements regarding distance to a centre-based service (which does not necessarily mean a service providing an approved kindergarten program delivered by an early childhood teacher) are changed to an approved kindergarten program provider or SDK to ensure access to a quality kindergarten program.

Medical considerations, which currently provide for a child's eligibility for eKindy to be based on more than 10 consecutive weeks of absence from a kindergarten are changed to cater for health care needs of a child unable to attend a service for more than 10 weeks across the kindergarten year, which can be cumulative, not necessarily consecutive.

### **Parents and Citizens' associations**

P&Cs play an important role in a school community and are an important way in which parents can become involved in their children's education and support the school and its community. P&Cs work in productive partnerships with their school principal and the community to promote the interests of the school, and facilitate its development and further improvement, to achieve the best possible outcomes for students.

P&Cs provide feedback and advice on school policies and activities, assist in providing resources to enhance student outcomes and are involved in a variety of school activities including fundraising, school functions, tuckshops and outside school hours care services.

The Bill amends the EGP Act to help P&Cs continue to work efficiently and effectively in partnership with their school principal and community and to provide increased clarity about the role and purpose of P&Cs.

#### *Forming separate P&C Associations for schools with multiple campuses*

Section 118 of the EGP Act provides for only one P&C to be formed for each school. However, some schools have multiple campuses which are geographically dispersed, with entirely different local communities and interests. For these schools, a single P&C representing all campuses may not be appropriate or effective.

For example, Tagai State College (Tagai SC) has multiple campuses located throughout the Torres Strait Islands in remote Far North Queensland, stretching some 48,000 square kilometres. Each Tagai SC campus has its own unique community and significant travel would be required for P&C members to physically meet.

The Bill amends the EGP Act to enable a campus P&C Association to be formed for separate campuses of a school where the community of each campus is distinct and geographically dispersed. The school will be prescribed in a Regulation before a campus P&C association can be formed for its campuses.

#### *Enabling donations between P&Cs*

The EGP Act currently does not enable a P&C to donate funds to another P&C and/or school for philanthropic reasons. The funds raised by a P&C may only be used to support the school community for which the P&C is formed to represent.

However, following recent natural disasters (for example, flooding and/or storms, and bush fires), neighbouring communities' schools, or sister schools (across the state and inter-state), have sought to rapidly respond by providing stationery, books and equipment, such as photocopiers, to ensure the affected neighbouring or sister school can resume classes as quickly as practicable. This is in addition to insurance covering replacement of school facilities.

The Bill amends the EGP Act to enable a P&C to donate funds or goods to another school or P&C that may be affected by an adverse event (for example, natural disaster); and the decision to be made by the P&C. The amendments will enable P&Cs to support the wishes of their school community to offer timely support, funding or other resources to schools impacted by a natural disaster, and ensures donations can immediately be used by a recipient school to support learning and engagement.

*Precluding person convicted of an indictable offence from being a P&C Association Executive Committee or subcommittee member*

Section 93 of the EGP Act establishes that a person cannot become, or continue as, a member of a school council if the person has been convicted of an indictable offence, unless the Minister approves the person's membership.

However, there is no similar provision preventing a person who has been convicted of an indictable offence from becoming, or continuing to be, a member or executive officer of a P&C.

The Bill amends the EGP Act to preclude persons convicted of an indictable offence, other than a spent conviction, from being a P&C Executive Committee or subcommittee member, in recognition of the additional responsibilities of persons appointed to these roles beyond expectation of an ordinary member, and the potential for those members to become involved in the financial operations of the association.

The amendments will provide P&Cs with additional safeguards, for example, through prevention of a person who has previously been convicted of fraud to have access to P&C finances.

It also aligns with school council provisions under the EGP Act. A conviction for an indictable offence will continue to not prohibit general membership of a P&C, as all parents and carers may have opportunities to participate in the school community.

**Special school enrolment**

Section 13 of the EGP Act allows the Minister to establish schools at which the state provides primary, secondary or special education. State special schools support children and young people with intellectual disability, which alone or in combination with other disabilities, severely affects the student's ability to attend and learn at school.

Currently, under the EGP Act, special school principals must refer applications for enrolment to the chief executive or their delegate for approval when prospective students are enrolling in a Queensland state special school, even when they are transferring from one Queensland state special school to another. These students will already have been assessed as meeting the criteria set out in the Eligibility Policy.

This requires the chief executive or delegate to reassess whether a student transferring from one Queensland state special school to another meets the criteria set out in the Eligibility Policy. This places a regulatory burden on relevant students and their families, and is not administratively efficient.

To improve the legislative framework, amendments in the Bill will streamline the enrolment process for a student transferring from one Queensland state special school to another. The amendments provide that if the enrolment application is for a student who was, immediately before making the enrolment application, enrolled in another Queensland special school, the principal must enrol the prospective student if satisfied that:

- the enrolment application satisfies the criteria of a "person with a disability criteria" policy under section 165 (currently approved by the Minister); and
- the special school to which the student is to transfer is able to cater for the educational needs of the prospective student.

## **Home education**

Home education has been a feature of education in Queensland for decades, and became a formal, regulated, education alternative to enrolment at a state or non-state school for compulsory-aged children in Queensland under the repealed *Education (General Provisions) Act 1989*.

Queensland's current home education legislative framework was reformed and established in 2006 under the EGP Act. Chapter 9, Part 5 of the EGP Act sets out the requirements and eligibility for home education registration.

The Bill amends provisions under Chapter 9, Part 5 to ensure the EGP Act continues to provide contemporary support for quality home education, particularly given the steady increase in home education registration in recent years.

In particular, the amendments enhance the regulation of home education and streamline aspects of the home education registration process by:

- prescribing the requirements for the educational program for a child registered for home education, including that it be consistent with an approved education and training program, and requiring a summary of the educational program to be provided at the time of application for registration, to ensure the child or young person has immediate access to a high-quality program of education;
- strengthening parent reporting requirements by clarifying the annual report must provide evidence of the educational progress of the registered child, and requiring that where an application for registration is made within 12 months of the child's previous registration ceasing for any reason – the application must be accompanied by a written report evidencing the educational progress for the child during the previous registration;
- removing the separate time-limited provisional registration application, to provide for a single and simplified home education registration process with the appropriate oversight;
- removing the certificate of registration and associated obligations to reduce unnecessary regulatory burden for parents, while ensuring parents continue to have a written notice to evidence registration and conditions on registration;
- extending the age eligibility to enable a child to be registered for home education until 31 December in the year the child turns 18, consistent with the schooling sector; and
- prescribing timeframes for internal review processes related to home education decisions by removing the reference to “school” days, in order to avoid unnecessary delays on decisions, given the home education sector is not restricted to school terms.

## **Transfer notes**

Chapter 14 of the EGP Act enables the sharing of prescribed student information, through a transfer note, where a student is moving from one Queensland state or non-state school to another.

The type of information shared is student-identifying information, medical details, school details, level of schooling and allocation of state education, attendance, educational performance, educational support, behavioural issues and custody, residence or guardianship orders.

The purpose of giving a transfer note to a principal is to provide information about a student that will help the principal of a state or non-state school to ensure continuity of the student's educational program; and meet the principal's duty of care obligations in relation to the student and the school community (existing section 385).

The use of transfer notes is currently optional, with the EGP Act enabling a parent of a student, the student themselves, or a principal to request a transfer note from the student's former school in the following circumstances:

- for a parent / student – when the student's enrolment ends (existing section 386); or
- for the principal of a student's new school – when an application for enrolment at the new school has been made (existing section 387).

The Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) found the transfer of a student's relevant information to be a significant factor in the successful transition of a student between schools, and particularly critical where a student has engaged in harmful sexual behaviours and may pose risks to other students.

The Royal Commission recommended that proportionate and proactive information sharing when a student transfers between schools could support student safety and wellbeing and that of staff and others at a student's new school.

The Bill includes amendments to chapter 14 of the EGP Act to provide for mandatory use of transfer notes when a student is moving between Queensland schools (both state and non-state). The principal of the student's new school will be required to ask the principal of the student's previous school for a transfer note for the student, within 90 days after the student is enrolled at the new school.

The Bill provides that principal of the student's new school may also request a transfer note from any other Queensland state or non-state school (a former school) that the student may have attended in the previous 12 months.

The Bill also sets out that a principal is not required to request a transfer note if the principal already has the information about the student prescribed by regulation for a transfer note. This is to reflect that a principal may already have, or have access to, the required information, for example, via the DoE online student and school data management system, OneSchool.

Additionally, the Bill amends chapter 14 to provide that where a transfer note is requested by a principal of a student's new school under new section 388B, the transfer note must also include information about the student that the principal of the student's previous school or former school reasonably believes is necessary to help the principal of the student's new school protect the safety and wellbeing of the student or members of the school community.

The amendments to chapter 14 support timely and effective sharing of relevant student information between Queensland schools to provide continuity of education and strengthen protections for students and school communities, consistent with the Royal Commission recommendations.

### **Information sharing with online services**

Queensland state schools are supported by third-party (non-departmental) online services hosted and managed outside the DoE network; examples include packages such as Office 365 applications, curriculum aligned learning sites and games, online collaboration and communication tools, learning management systems and school administrative solutions such

as timetabling or library services. These services support student learning.

At any one time, it is estimated that a state school may be using 250 or more online services across the state to efficiently deliver education services.

Online services collect information about students to enable students, parents and schools to assess educational outcomes and support the student in the school. Information can include name, date of birth, achievement data, email addresses, teacher name and school data.

The EGP Act requires that consent must be obtained for each individual service that requires personal information about a student. Accordingly, state schools undertake a consent process for services, including when a new service is offered. To provide consent, either students or parents have to review and agree to information sought for the online service. Expectations for students to have access to modern education solutions have seen a significant increase in demands on students, parents and schools to review and agree to information use.

In an increasingly digital environment, it is essential to balance the provision of online services with measures to protect students and reduce the risk to DoE of information mismanagement.

The Bill inserts a new section in the EGP Act, section 426A, to enable a public service employee of the department to: make a record of, and use, personal information about a student of a state school for the purpose of disclosing relevant information about the student to an approved online service; and disclose personal information that is relevant information about a student of a state school to an approved online service.

New section 426A also provides the chief executive with authority to approve an online service that requires the disclosure, recording or use of personal information of a student of a state school. To approve an online service, the chief executive must be reasonably satisfied:

- a contract or other arrangement entered into with an entity that provides, or is to provide the online service, is a service arrangement (under the *Information Privacy Act 2009*, (IP Act) section 34) and the entity is a bound contracted service provider (within the meaning of the IP Act) in relation to the contract or arrangement;
- an appropriately qualified officer of DoE has assessed the service according to a framework for assessing the privacy and online security of personal information about a student disclosed to, or recorded or used by, the service;
- the service is suitable to protect the privacy and online security of relevant information about the student disclosed to, or recorded or used by, the service;
- the service does not require the disclosure to, or recording or use by the service of sensitive information (within the meaning of the IP Act) about the student; and
- the service is required for either or both of the following purposes: providing services for the education and educational support of students; or the effective management of state schools.

Parents and students will have the ability to opt out of the disclosing, recording or using of the student's personal information for the purpose of using an approved online service. This will be administratively managed by schools.

For online services that require sensitive information about a student or that are not approved online services, parent or student consent will continue to be required.

## **Nomenclature, guiding principles and technical amendments**

### *Guiding principles*

Guiding principles in the EGP Act do not reflect contemporary policy and practice about student wellbeing as a foundation for learning, or the commitment to an inclusive and equitable state education system.

The Bill amends the guiding principles to set out that education should be provided to a child or young person in a way that recognises the educational needs of children or young people from all backgrounds and abilities and promotes an inclusive learning environment, and that education should be provided in a way that recognises wellbeing as a foundation of educational engagement and outcomes.

Further, the guiding principles set out that home education should be provided in a way that is in the best interests of the child or young person, taking into account the child's safety, wellbeing and access to a high-quality education.

### *Nomenclature*

A number of sections of the EGP Act currently use gendered language by referring to *he, she, his, him* or *her*. These sections are: sections 5(1)(a)(i), 5(1)(a)(ii), 5(2)(d), 7(b), 75(3), 124(1)(b), 168(4), 182(5), 330(3), 386(3), 387(6), 387(9), 421(1), 424(2), 425(2) and 426(4)(e).

The use of gendered language in the EGP Act does not align with contemporary practice and approaches to gender and sex. Many of these references have remained largely untouched since the EGP Act was originally passed by Parliament in 2006.

The Bill amends the above sections to remove or replace gendered language in those sections. For example, the reference to 'his or her' in section 5(1)(a)(i) and the reference to 'him or her' in section 5(1)(a)(ii) are both replaced with 'child or young person'.

### *Technical amendments*

Section 180 of the EGP Act provides that the chief executive of DoE may ask the principal of a non-state school for information about the enrolment or attendance at the school of a child who is of compulsory school age, or decisions made under section 189 of the EGP Act (which are about an application for exemption from compulsory schooling requirements).

However, section 180 does not expressly require or authorise the principal to provide the requested information. Section 181 provides the principal is not civilly liable for an act done, or omission made, honestly and without negligence for complying with the information request made by the chief executive under section 180. Liability attaches instead to the non-state school's governing body.

A similar authority for the chief executive to request information from a principal of a non-state school is provided under section 251AB with regard to principal decisions about applications for exemption from compliance with compulsory participation requirements. A corresponding protection from liability is provided under section 251AC.

The Australian Privacy Principle (APP) 6.1, in schedule 1 of the *Privacy Act 1988* (Privacy Act) (Cwlth), prohibits an "APP entity" (which may include a non-state school) from disclosing personal information about an individual collected for a particular purpose for another purpose, unless the individual has consented, or the disclosure is permitted under subclauses 6.2 or 6.3.

Subclause 6.2(b) permits disclosure of the information if it is required or authorised by or under an Australian law (which includes an Act of a State).

To remove doubt that this exception under 6.2(b) in Schedule 1 of the Privacy Act applies to information requests made under sections 180 and 251AB of the EGP Act, and remove any discretion for the information not to be provided to the chief executive, the Bill makes a clarifying amendment to expressly require the requested information under section 180 and section 251AB must be provided to the chief executive.

In addition, the Bill includes a further technical amendment to sections 180 and 251AB to reflect that the information being requested by the chief executive may be in the control of non-state school's governing body. This is because section 197A and section 251AA of the EGP Act require the governing body must keep a record of the information that may be requested under section 180 and 251AB respectively.

The Bill makes other minor or technical amendments to the EGP Act, including to correct references to other legislation or address redundancies across the EGP Act.

The Bill makes consequential technical amendments to the *Working with Children (Risk Management and Screening) Act 2000* to update sectional references in the EGP Act in relation to education programs provided outside a school to reflect the new requirement for the chief executive to provide education to prospective students awaiting a decision on a referred enrolment application, and also update to ensure accuracy and currency.

The Bill also makes consequential amendments to the *Public Health Act 2005* to ensure the child health provisions that apply to education and care services will continue to apply to SDKs after commencement.

## **Alternative ways of achieving policy objectives**

The policy objectives are to:

- protect students;
- contribute to the good order and management of Queensland state schools;
- modernise and improve education services; and
- make other minor and technical amendments to improve the operation and effectiveness of legislation regulating education in Queensland.

The EGP Act currently provides for matters associated with these policy objectives, including:

- the issuing and review of SDAs;
- information sharing;
- home education;
- state delivered kindergartens;
- transfer notes;
- enrolment and special education; and
- P&Cs.

In order to achieve the policy objectives, legislative amendments are necessary, as provided for in the Bill.

## **Estimated cost for government implementation**

Many of the amendments set out in the Bill are aimed at delivering greater efficiencies in delivering education in Queensland. This is particularly relevant for the amendments providing for transfer notes, approved online services, student support plans, P&Cs, SDK and eKindy.

Potentially, there may be costs for government implementation of the Bill, however these costs are not expected to be substantial. Possible costs may arise for staff training and the development of supporting materials to communicate the changes to principals, schools, student, parents and the community.

In the short to medium term, amendments providing for a new appeal right for students may lead to an increase in inquiries that may require an increase in demand for support to assist principals.

Any potential costs will be met from existing budget allocations and are anticipated to be off-set in the longer term as process efficiencies are realised.

Identification of possible future resourcing needs will be examined through annual budget processes if required.

## **Consistency with fundamental legislative principles**

Section 4 of the *Legislative Standards Act 1992* (LSA) states that fundamental legislative principles (FLPs) are the principles relating to legislation that underlie a parliamentary democracy based on the rule of law.

Under section 4(2) of the LSA, to be consistent with FLPs, legislation must have sufficient regard to fundamental legislative principles about the rights and liberties of individuals and to the institution of Parliament.

Under section 4(3)(c) of the LSA, sufficient regard to the rights and liberties of individuals depends on whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons. Under section 4(4)(c) of the LSA, the legislation must have sufficient regard to the institution of Parliament and whether the Bill authorises the amendment of an Act only by another Act.

While the amendments in the Bill are generally consistent with FLPs, there are amendments that could be considered to potentially have inconsistencies. These are examined below:

### **School disciplinary absence and enrolment decisions**

The amendments in relation to SDAs are designed to increase clarity in timeframes for decision making, increase review rights, and enhance access to education for students in vulnerable cohorts. No new offences are created and the delegation of administrative power in relation to the telling to students of suspensions is appropriate.

#### *Chief Executive policy on suspensions, exclusions and cancellations of enrolments*

Amendments in the Bill make it explicit that the chief executive must make a policy about decisions and processes in relation to suspensions, exclusion and cancellation of enrolments. This ensures there will be appropriate guidance for decision makers to support them in making these significant decisions that impact on a child's ability to access education. Given the serious impact an SDA may have on a student's education, it is important that decision makers have appropriate guidance.

This will be supplemented by amendments to the EGP Regulation that explicitly provide for matters a principal or chief executive must consider before issuing a suspension or exclusion.

These matters include: whether reasonable alternatives have been considered to maximise learning days at school; severity and frequency of student behaviour; adjustments made to support participation of students with disability at the school; consideration of the cultural background of Aboriginal and Torres Strait Islander students; and use of support plans for students. The proposed amendments will support a strong focus on maximising learning days for all students.

The policy will support consistency in decisions, and the requirement for the policy to be made publicly available without charge on DoE's website provides appropriate accessibility, accountability and transparency to the decision-making process.

While the policy and matters to consider will provide guidance on decision making in relation to the issuing of SDAs, the discretion to make the final decision remains with the principal or the chief executive, as provided under the EGP Act.

It should also be noted that section 276 of the EGP Act currently already provides for the chief executive to make policies and procedures in relation to the way principals of state schools control and regulate school discipline.

It is therefore considered that the new provisions have sufficient regard to the institution of Parliament and the delegation of administrative power is appropriate.

#### *Prescribing SDA timeframes in a Regulation*

Amendments in the Bill prescribe in the EGP Regulation timeframes for decisions and actions made under the EGP Act in relation to SDAs and refusal of enrolment. Currently, there are no timeframes prescribed in legislation for these decisions and actions. Timeframes are generally currently provided for under DoE procedures.

The purpose of the amendments is to ensure that students' access to education is not unnecessarily impacted by delays in decision making, by clearly stating in legislation when decisions and actions in relation to suspensions, exclusions, cancellations of enrolment and refusals to enrol must be undertaken.

Prescribing timeframes in the EGP Regulation will provide legislated certainty for decision makers and those impacted by the decisions, and minimise any adverse effect on a child's education. Prescribing timeframes in the EGP Regulation also provides for appropriate scrutiny by Government and Parliament that would not be provided if the timeframes remained only in DoE procedures.

Regulations are subject to Impact Assessment, scrutiny of Executive Council and the relevant Parliamentary portfolio committee and are tabled in the Legislative Assembly, and may be subject to a disallowance motion. Prescribing the timeframes in the EGP Regulation, rather than the Act, will enable more responsive action in the case that the regulatory environment requires changes while maintaining appropriate scrutiny.

In practice, as with a range of other matters addressed in the EGP Act and/or EGP Regulation, DoE will publish policies and procedures that draw all requirements together in one place for ease of access by staff, parents and students. Therefore, it is considered appropriate for the EGP Regulation to prescribe these timeframes.

*Prescribing matters to consider before a decision to suspend or exclude in a Regulation*

Currently, DoE procedures provide guidance on matters to consider before the issue of an SDA. The Bill outlines a range of matters that a principal or the chief executive must consider prior to making a decision to suspend or exclude a student under the EGP Regulation.

The purpose of the amendments is to ensure that decision makers have clear guidance on matters to be considered before making a decision to issue a suspension or exclusion. Principals and the chief executive will still have the discretion, as provided for in the EGP Act, to make the final decision. However, given the serious impact an SDA may have on a student's education, it is important that they have appropriate guidance when making these decisions.

Prescribing these matters in the EGP Regulation, rather than the EGP Act, provides some flexibility to allow for further matters to be added or existing matters to be adjusted, enabling a more responsive legislative framework in relation to guidance on the issuing of SDAs.

The use of the EGP Regulation still provides for appropriate scrutiny by Government and Parliament that would not be provided if these considerations remained only in DoE procedures.

Regulations are subject to Impact Assessment, scrutiny of Executive Council and the relevant Parliamentary portfolio committee and are tabled in the Legislative Assembly, and may be subject to a disallowance motion. To provide further scrutiny by Parliament, the amendments to the EGP Regulation are included in the Bill, to be considered by the relevant Parliamentary portfolio committee and the Legislative Assembly in conjunction with the amendments to the EGP Act.

*Student support plans*

The Bill requires that schools create student support plans in relation to suspensions for the following vulnerable cohorts:

- Aboriginal and Torres Strait Islander students;
- students with disability; and
- preparatory year students.

As this will apply to some students but not all, it could be perceived as impacting on the rights and liberties of students who are not part of the vulnerable cohorts, as students who do not have access to student support plans will potentially enjoy access to education under the law to a lesser extent.

Suspensions are a disciplinary tool used to prohibit a student from attending school for a fixed period of time. Chapter 12, part 3, division 2, of the EGP Act gives authority for principals and the chief executive to suspend a student if appropriate grounds exist for such a decision (see section 282 for grounds).

If the suspension is longer than 10 days, a student (or their parent) has the right under the EGP Act (section 285) to apply for a chief executive review of a principal's decision to suspend the student by making a submission to the chief executive. Currently, there is no right of appeal for suspensions of a lesser period of time; noting however this is provided for in this Bill.

Some cohorts of students are potentially more vulnerable to the impact of suspensions for various reasons, such as cultural background, disability or age. The Bill therefore requires the preparation of SSPs for particular vulnerable student cohorts who are subject to multiple suspensions.

First Nations students and students with disability can have complex needs that require additional and tailored support. SSPs will support the principal in working with the students or their parents to identify any needs or complexities contributing to the behaviour and support them to maximise learning days at school.

First Nations students and students with disability are consistently over-represented in suspension data and have a higher rate of more than one suspension than other student cohorts. This can significantly impact on the number of learning days in school.

Allowing SSPs for preparatory year students recognises the young age of these students, who are in their first year of schooling. Children must be five years old by 30 June in the year they start the preparatory year. This means that preparatory classes can have children as young as four and a half years old.

Preparatory-age children, their circumstances, and those of their families are still becoming known to the school, its teachers and principal – so it may be harder to understand all aspects of the child’s needs and distinguish between behaviour that can / should be managed without issuing a suspension.

Given these reasons, it is important that support be given to preparatory-age students should they be the subject of a suspension. This extra support for preparatory-age children sends a strong message to the school system that preparatory-age children require a particular focus during this key transition to school, and that schools need to be ready for young children, rather than young children being ready for school – a central tenet of early childhood education.

Importantly, for Aboriginal and Torres Strait Islander students, SSPs, as drafted within the Bill, are not inconsistent with the obligations of Queensland’s *Anti-Discrimination Act 1991* and the Commonwealth’s *Racial Discrimination Act 1975*. The provision of support to Aboriginal and Torres Strait Islander students via the SSPs plans will be informed by the cultural background of the student and this measure is consistent with the Commonwealth’s *Racial Discrimination Act 1975*. These measures are intended to embed Aboriginal and Torres Strait Islander cultures and voice within our approach to student support, engagement and learning. We know that connection to culture enriches learning engagement and experiences, and strengthens our work.

Requiring student support plans for some cohorts rather than all students is a reasonable and proportionate response to the need to maximise access to learning days for those groups of students who are more vulnerable than others.

An effective education system is essential to ensuring appropriate access to education for all Queensland children. All students need to be supported in their schooling, but the size and extent of the education system across a geographically dispersed state means that resources need to be appropriately utilised to address potential inequities. It is therefore appropriate for the state to ensure measures are in place to address vulnerabilities of particular cohorts that are potentially impacted more significantly by suspensions.

It should be noted, the amendments will not change a principal’s right to suspend students where appropriate and necessary, or reduce the support available nor the review rights for other students.

Other proposed amendments will: increase all students’ rights in relation to cumulative short suspensions; ensure appropriate timeframes for SDA decisions; and require principals to consider reasonable alternatives before making an SDA decision.

### **Parents and Citizens' Associations**

Amendments in the Bill provide that a person convicted of an indictable offence, other than a spent conviction, will be disqualified from becoming or continuing to be a member of a P&C executive committee or subcommittee.

While this may be considered a potential inconsistency with rights of individuals, it is a necessary imposition of suitability and eligibility for appointment of persons to these roles in recognition of the additional responsibilities and expectations required, beyond that of an ordinary member (for example, potential for members of a P&C executive committee and subcommittee to be involved in the financial operations of the associations).

It is also consistent with the current provisions for school councils (section 93 of the EGP Act). A conviction for an indictable offence will continue not to prohibit general membership of a P&C, so all parents and carers may have opportunities to participate in the school community.

### **Home education**

The Bill amends the EGP Act to enhance elements of the regulation of home education and streamline the registration process. The proposed amendments have sufficient regard to the rights and liberties of individuals and the institution of Parliament, and there is no identified inconsistency with FLPs.

### **Transfer notes**

The Bill amends the EGP Act to:

- support more proactive and timely information sharing between schools about a student, via a transfer note, when the student changes schools within Queensland; and
- create an obligation for a principal of a Queensland school to share information with a student's new school (only those in Queensland) that the principal reasonably believes is necessary to help the principal of the student's new school to protect the safety and wellbeing of the student and members of the school community at the new school.

*Principal's obligation to share information to protect the safety and wellbeing of a transferring student and members of the school community at the new school*

Under section 4(2) of the LSA, legislation must have sufficient regard to the rights and liberties of individuals. The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the former Scrutiny of Legislation Committee as relevant to consideration of whether legislation has sufficient regard to the rights and liberties of individuals.

The EGP Act already provides for the optional use of transfer notes; however, the Bill proposes that transfer notes will be mandatory. The proposed obligation for principals to proactively share information (including personal information and information reasonably believed to be necessary to protect the safety and wellbeing of the student or other people at the new school) about a student transferring from one school to another via a transfer note potentially interferes with a student's privacy.

Therefore, the amendments are potentially inconsistent with the FLP that legislation must have sufficient regard to the rights and liberties of individuals (section 4(2) of the LSA).

Neither the student nor parent of the student are required to give prior consent for this information sharing, and cannot prevent the information being shared between schools.

However, where a transfer note is requested by a principal from the student's previous school, the parent / student will be notified by the requesting principal about the transfer note and be able to obtain a copy.

Persons who obtain personal information through a transfer note are subject to the general confidentiality restrictions outlined in section 426 of the EGP Act.

This includes (but is not limited to) the chief executive or a public service employee in DoE, and an employee of a Queensland state school or relevant non-state school (sections 426(1)(a) and 426(2)(a) of the EGP Act).

The purpose of the information sharing via the transfer note is to ensure continuity of the student's educational program and meet the principal's duty of care obligations in relation to the student and the school community (including protecting the safety and wellbeing of the student and school community).

In addition, the Royal Commission into Institutionalised Responses to Child Sexual Abuse (Royal Commission) found that the transfer of a student's relevant information is one of the most significant factors in successful transition to a new school, and may be particularly necessary where the student has:

- engaged in harmful sexual behaviours and, as a consequence, may pose risks to other students; or
- experienced sexual abuse and as a consequence had particular educational and support needs.

The Royal Commission emphasised the importance of ensuring schools are able to address the educational and support needs of students who have been victims of sexual abuse, noting associated negative effects on academic achievement, learning ability, cognitive function, concentration, educational engagement and school completion rates.

The Royal Commission made a number of recommendations which call for states and territories to provide for student information to be exchanged between schools in a manner that is proportionate, proactive and cross-sectoral to ensure continuity of the student's educational program when a student transfers schools and to provide appropriate protections to both the student transferring and to the other students and staff at the new school.

Given the underlying policy intent of the transfer note, the Royal Commission findings and recommendations, and the confidentiality safeguards within the EGP Act, it is considered that the potential breach of the FLP is reasonable and justified.

### **Information sharing with online services**

The Bill amends the EGP Act to enable a public service employee of DoE to disclose relevant information about a student of a state school, and make a record of, or use, personal information about a student of a state school for the purpose of disclosing relevant information to an entity that provides an approved online service.

This removes the requirement for prior parent/student consent to be obtained by the school for the recording, using or disclosing the information.

Under section 4(2) of the LSA, legislation must have sufficient regard to the rights and liberties of individuals. The right to privacy, the disclosure of private or confidential information, and privacy and confidentiality issues have generally been identified by the former Scrutiny of Legislation Committee as relevant to consideration of whether legislation has sufficient regard to the rights and liberties of individuals.

The proposed amendment potentially interferes with a person's privacy and therefore is potentially inconsistent with the FLP that legislation must have sufficient regard to the rights and liberties of individuals.

The purpose of the amendments is to reduce administrative burden for parents, students and schools to better facilitate students accessing approved online services for digital learning and the support, administration and management of schools, while ensuring appropriate safeguards. In an increasingly digital environment, it is essential to balance the provision of online services with measures to protect students and reduce the risk of information mismanagement by online service providers.

The amendment includes a number of information privacy safeguards, including requiring that student information will only be recorded, used or disclosed for the purpose of an approved online service. The chief executive may approve an online service as an approved online service if the chief executive is reasonably satisfied that:

- a contract or other arrangement entered into with an entity that provides, or is to provide, the online service is a service arrangement (under the *Information Privacy Act 2009* (IP Act), section 34) and the entity is a bound contracted service provider (within the meaning of the IP Act) in relation to the contract or arrangement; and
- an appropriately qualified officer of the department has assessed the service according to a framework for assessing the privacy and online security of personal information about a student disclosed to, or recorded or used by, the service; and
- the service is suitable to protect the privacy and online security of relevant information about the student disclosed to, or recorded or used by, the service; and
- the service does not require the disclosure to, or recording or use by the service of sensitive information (within the meaning of the IP Act) about the student; and
- the service is required for either or both of the following purposes: providing services for the education and educational support of students; and the effective or efficient management of state schools.

Parents / students will have the ability to opt out of the disclosing, recording or using of the student's personal information for the purpose of using an approved online service. This will be administratively managed by schools.

Given the range of safeguards outlined above to protect the privacy and online security of the student personal information, it is considered that the potential breach of the FLP is reasonable and justified.

### **Nomenclature and technical amendments**

The Bill makes a variety of minor amendments to the EGP Act to ensure that language and the guiding principles are contemporary and reflect current policy and practice. Additionally, amendments are proposed to address some minor technical issues and to clarify the interaction between the EGP Act provisions and the *Privacy Act 1988* providing clarity for non-state school principals about their obligations. There are no identified inconsistencies with FLPs.

Amendments to ensure the clarity and accuracy of the legislation is consistent with section 4(3)(k) of the LSA, which states legislation should be unambiguous and drafted in a sufficiently clear and precise way.

### **State school kindergarten program**

The Bill streamlines the regulatory framework for SDKs by creating a school-based regulatory approach under the EGP Act and exempt SDKs from the early childhood legislation (National Law and the ECS Act).

The proposed amendments have sufficient regard to the rights and liberties of individuals and the institution of Parliament other than with respect to the matters outlined below.

#### *Requirements for state school kindergartens in a guideline and policy*

Under section 4(2) of the LSA, legislation must have sufficient regard to the rights and liberties of individuals. Under section 4(3)(c), a consideration must be whether the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons.

The Bill amends the EGP Act to make it explicit that the chief executive must make a guideline that sets out the standards for SDK having regard to the NQS for early childhood education and care, and provide for the review and assessment processes for SDK.

This will ensure continued quality assurance and improvement in SDKs and that the nationally recognised evidence-based NQS (currently prescribed in the National Regulations) have been embedded in to the review and audit processes. The proposal to require a guideline will support quality assurance in SDKs and school principals, in implementation.

Publication of the guidelines will also provide transparency and assurance to the early childhood sector and families that high quality standards in SDKs are being maintained in a way that is consistent across the early childhood sector.

State schools already adhere to strong governance and oversight structures and quality assurance processes through school review and audit processes. Protections for students are embedded in the current regulatory framework for Queensland schools, and after the amendments, these will apply to kindergarten children enrolled in SDKs.

The Bill also makes it explicit that the chief executive must make a policy about the requirements for SDK to ensure the health, safety and wellbeing of kindergarten students.

This includes policies relating to specific health and safety matters that have the lowest risk appetite for kindergarten age children, such as matters about the physical environment and safe sleep and rest. The chief executive must also make a policy about the behaviour management of kindergarten students in a way that is age appropriate.

This will ensure there is guidance in place on best practice in kindergarten delivery and to ensure the health, safety and wellbeing of kindergarten age children who are considered more vulnerable than school-age children.

Publication of the policies will also provide transparency and assurance to the early childhood sector and families that policies are being maintained for SDKs and support principals to ensure the health, safety and wellbeing of kindergarten children.

It is considered that the new provisions have sufficient regard to the institution of Parliament and the delegation of administrative power is appropriate.

#### *Offence provisions for critical safety matters for protection of kindergarten age children*

The Bill inserts new offence provisions which affect the rights and liberties of individuals (section 4(2)(a) LSA).

The EGP Act will be amended to include provisions about critical safety matters relating to the protection of kindergarten age children.

The Bill provides new offence provisions in relation to the following:

- protecting kindergarten students from harm and any hazard likely to cause injury while the student is in the care of the staff of the school (mirrors section 167 of the National Law);
- ensuring kindergarten students are adequately supervised at all times they are in the care of the staff of the school (mirrors section 165 of the National Law); and
- restricting a person who holds a prohibition notice under the early childhood legislation from providing education or care in a state school kindergarten (similar to section 202 under the ECS Act or section 187 of the National Law).

The offence provisions relating to ‘harm and hazard’ and ‘supervision’ are strict liability offence provisions that will apply to the principal of the school. They are considered areas of high risk for the kindergarten age cohort.

These offence provisions are currently strict liability offence provisions under the National Law and apply to the school principals, as the nominated supervisor. As the nominated supervisor under the National Law, school principals are already familiar with these requirements and have already implemented practices to ensure they meet these critical safety obligations under the EGP Act.

The ‘harm and hazard’ and ‘supervision’ offence provisions mirror the current offence provisions provided for in the National Law with the maximum penalty amount aligning as closely as possible with the monetary amounts in the National Law.

The offence provisions and penalties are considered reasonable, appropriate and proportionate to give effect to the policy intent to maintain the health and safety of kindergarten children enrolled in an SDK. Although the offence provisions affect the rights and liberties of individuals a breach is considered justifiable to ensure the ongoing protection of kindergarten children.

The EGP Act will be amended to include an offence of stopping a person issued with a prohibition notice under the early childhood legislation, from working in an SDK. A prohibition notice can be issued to a person by an early childhood regulatory authority in any jurisdiction under the National Law on the basis that they are satisfied there would be unacceptable risk of harm to a child or children if the person were allowed to provide education and care to children. The issuing of a prohibition notice may not always affect a person’s Working with Children check.

The new offence provides that a person with a current prohibition notice will not be able to provide education and care in an SDK. It is proposed to align the maximum penalty as currently provided for in the ECS Act for a similar provision. To mitigate the inconsistency with the FLP and ensure persons with a prohibition notice in force are aware of the offence provision in relation to providing education or care in an SDK, information will be provided on the DoE’s website.

The Queensland regulatory authority will also include information, when issuing a prohibition notice to a person, in the broader information provided to the person in relation to a prohibition notice.

Although this offence would limit an individual's rights by preventing a person with a current prohibition notice from working in an SDK, it strikes an appropriate balance between the right of the person, and the need to protect children from an unacceptable risk of harm. This is similar to the existing provisions under the early childhood legislation.

*Safe transportation of children attending a state delivered kindergarten to be provided for in regulation*

The Bill amends section 434 of the EGP Act to include a regulation making power to provide for the safe transportation of kindergarten age children attending a SDK.

The Bill will also increase the penalty unit amount that can be imposed for a contravention of a provision of a regulation from 10 penalty units to 20 penalty units, to align as closely as possible to the monetary value of the current offence in the National Regulations.

To ensure the continued safe transportation of children attending an SDK, the transportation requirements (including offence provisions) currently prescribed in the National Regulations will be mirrored, as far as possible, in the EGP Regulations.

The policy will ensure continued alignment, as far as possible, with the National Regulations and provide greater flexibility to update the requirements with any future amendment to the National Regulations.

The provisions will not impose significant penalties, with the maximum penalty not proposed to exceed 20 penalty units. This will align with the maximum monetary penalty currently prescribed in the National Regulations. Amendments to the EGP Regulations in relation to transport will occur through an amendment regulation.

Under section 4(5)(c) of the LSA, legislation must have sufficient regard to the institution of Parliament and that subordinate legislation should contain only matters appropriate to that level of legislation. The power to make a regulation about the transportation of children and the increase in the maximum penalty unit amount is justifiable to ensure the continued safety of kindergarten age children attending an SDK and to ensure continued alignment with the National Regulations.

*Transitional regulation-making power*

The Bill provides for a transitional regulation making power to allow for a regulation to make provision, where necessary, for the transition of SDK to the new legislative framework under the EGP Act. The transitional regulation making power may be considered a breach of the FLP under section 4(4)(c) of the LSA, in that legislation must have sufficient regard to the institution of Parliament and whether the Bill authorises the amendment of an Act only by another Act.

While the Bill attempts to address all transitional matters, the inclusion of the regulation making power is considered reasonable and justifiable to address any unforeseen transitional issues that the Bill does not sufficiently provide for given the complexity of moving the regulation of SDK from two separate legislative frameworks to the EGP Act.

The transitional regulation-making power is strictly limited to matters necessary to achieve a smooth transition to the new regulatory framework. The Bill includes a sunset clause for the expiry of the transitional regulation-making power which is the day that is two years after commencement.

### *Transitional provisions*

The Bill contains transitional provisions that affect the rights and liberties of individuals (section 4(2) of the LSA).

The Bill provides transitional provisions to continue an existing show cause notice process to issue a prohibition notice to a person who has been involved in an SDK under the National Law and ECS Act that has commenced, to allow the process to be finalised after transition of SDKs to the EGP Act. A prohibition notice can be issued to an individual on the basis that there would be unacceptable risk of harm to a child or children if the person were allowed to provide education and care to children.

A person who has a prohibition notice in force under the National Law or ECS Act must not provide regulated education and care for a service under the National Law or ECS Act or be engaged as a supervisor, employee, contractor or staff member of, or perform volunteer services for a service under the National Law or ECS Act. Although the transitional provision may affect the rights and liberties of individuals; it strikes an appropriate balance between the rights of individuals and the safety and protection of young children.

## **Consultation**

The Bill has been informed by an extensive consultation process conducted in two major stages:

- Stage One – broad consultation on proposed changes to the EGP Act as outlined in 11 consultation papers prepared for the review (2022); and
- Stage Two – targeted consultation on an Exposure Draft of certain amendments and Policy Fact Sheets on all policy options (2023).

To ensure diverse interests were represented, the consultation stages targeted key education stakeholders, government departments and statutory agencies, parents of children registered or provisionally registered for home education in Queensland (Stage One) and home education representative groups (Stages One and Two), legal and disability advocacy agencies and where appropriate, young people.

A range of methods were used to engage the targeted stakeholders in Stage One, including:

- electronic distribution of consultation papers to key education stakeholders, inviting comment via an online survey mechanism;
- email distribution of consultation papers to key government departments and government statutory agencies, inviting comment via a designated email mailbox;
- distribution of the home education consultation paper to all parents of children registered or provisionally registered for home education (over 5,000 parents), inviting comment via an online survey mechanism and/or submitting a written submission;
- distribution of the protecting school communities from online abuse consultation paper to the e-Safety Commissioner;
- distribution of the data sharing and online consent management paper to the Commonwealth Department of Education, Skills and Employment;
- high-level stakeholder briefings; and
- open invitation to all targeted stakeholders to participate in face-to-face consultation opportunities on one or more of the consultation papers where requested.

A range of methods were used to inform consultation in Stage Two, including:

- high-level stakeholder briefings;
- meeting invitation to key stakeholders to participate in online or face-to-face information sessions;
- open invitation to all targeted stakeholders for additional consultation opportunities if requested;
- electronic distribution of a confidential Exposure Draft of the Bill to key stakeholders, including unions, government departments, peak state and non-state school representative bodies, inviting written feedback via a designated email mailbox; and
- electronic distribution of confidential Policy Fact Sheets to key stakeholders, including unions, government departments, state and non-state school associations and representative bodies, the home education sector, the early childhood sector, disability, youth, First Nations and legal advocacy groups, inviting written feedback via a designated email mailbox.

A range of positions were received on each of the proposals. All feedback was carefully considered, and Stage One consultation informed the final policy positions, with not all proposals consulted on in Stage One being progressed.

Given the range of positions, and variances in stakeholder positions, where possible a middle ground was sought in developing final policy positions.

Stage Two consultation on policy proposals and drafting informed the final drafting decisions and will further inform implementation processes. Stakeholders broadly support the amendments, but again a range of positions were received on the different policies to which the Bill gives effect.

To ensure that stakeholders are supported in the implementation processes, the majority of amendments will commence on proclamation to allow time for communication and development of guidelines, policies and procedures by the DoE.

Implementation approaches and tools such as policies, will be developed in collaboration with key stakeholders and across relevant government agencies to ensure a wholistic approach to implementation and leverage of existing programs or supports that may be relevant to the amendments.

## **Consistency with legislation of other jurisdictions**

All Australian jurisdictions have legislation that provide for education systems, including legislation regarding information sharing, student discipline, P&Cs, kindergarten education, special schools and home education.

The amendments in the Bill are generally designed to improve processes within the Queensland regulatory system, and are specific to the Queensland regulatory framework. When considering the legislative amendments, the approaches of other jurisdictions were reviewed, informing decisions.

However, in general, as each jurisdiction's legislation is designed differently and for circumstances relevant to the jurisdictions, direct comparisons in relation to the detail of particular amendments was not always possible.

In relation to student discipline, other jurisdictions utilise policies and procedures more readily in relation to processes and appeal rights, with legislation providing high level authority for these policies and procedures. For example, New South Wales, Victoria and South Australia have only high-level legislative provisions in relation to student discipline, giving authority for the majority of matters to be dealt with by administrative policies. The Australian Capital Territory and Tasmania are more prescriptive in relation to student discipline, similar to Queensland's approach.

In all jurisdictions, the regulatory instruments, whether through legislation or a combination of legislation and administrative policy, provide for schools to be able suspend and exclude students, as well as appropriate appeals process.

Additionally, a number of jurisdictions provide for matters to consider before suspensions or exclusions. For example, in New South Wales, principals must consider a variety of factors in relation to a student's individual circumstances, including whether possible and appropriate alternative behaviour support measures before a decision is made to suspend or expel a student.

Other jurisdictions also require the use of plans similar to student support plans for suspended students; in New South Wales, principals have to have a 'return to school' process for suspended students and consider supports to address the underlying reasons for the student's behaviour.

Amendments in the Bill in relation to P&Cs and special schools deal with specific processes in relation to the regulatory framework in Queensland. There are no directly comparable legislative provisions in other jurisdictions. However, other jurisdictions do ensure, through a mixture of legislation and policies and procedures, the integrity and transparency of P&Cs as well as enrolment processes for special schools.

School-delivered kindergarten is not regulated under the National Law in Western Australia (WA) or Tasmania. Instead, these jurisdictions mirror the National Law requirements in their schooling systems as far as practicable. WA embeds the NQS across the early years of schooling to Year 2.

The non-compulsory kindergarten program (for four-year-old children) operates within the same legislative framework as schools. Tasmania's Kindergarten to Year 2 Improvement Approach and Tasmanian Quality Standards have been purposefully adapted from the NQS to suit the Tasmanian school environment, legislative context and quality assurance requirements.

In relation to home education, many of the amendments in the Bill will bring Queensland in line with the regulatory approach in most other states and territories. These amendments include: requiring the educational program for a child registered for home education to be consistent with the Australian Curriculum or Queensland syllabus for senior subjects; removing the separate time-limited provisional registration application; removing the certificate of registration; and providing for time periods relating to be expressed in days rather than "school" days.

Most Australian jurisdictions require that the home education program meets their relevant jurisdiction's approved curriculum requirements, apart from the Australian Capital Territory (which refers to a 'high-quality education') and Tasmania (which refers to 'prescribed standards'). Jurisdictions requiring that home education meet their approved curriculum requirements tend to rely on the Australian Curriculum or learning areas associated with the Australian Curriculum, or require alignment with their own curriculum (which across all jurisdictions is based on the Australian Curriculum).

Regarding provisional registration for home education, all states have one application process and, apart from Tasmania, do not provide for any provisional registration. No certificate of registration is issued in Victoria, South Australia, Tasmania or Northern Territory.

In relation to transfer notes, the arrangements for sharing information about students between schools vary significantly across jurisdictions and school systems. As detailed above, the amendments in the Bill address the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse about providing for proactive and proportionate information sharing when a student transfers between schools.

Amendments in the Bill to provide for information sharing with online services deal with specific requirements of the education and information privacy regulatory framework in Queensland. Other jurisdictions do not have directly comparable legislative provisions.

The amendments to the guiding principles in the EGP Act included in the Bill to recognise Queensland's commitment to student wellbeing, inclusive education and equity are not inconsistent with other Australian states and territories. All other states and territories reference diversity and or inclusion within their objects or guiding principles of their education legislation, though the approach taken differs between jurisdictions:

- Tasmania, New South Wales and the Australian Capital Territory reference the needs of students with disability;
- South Australia, Northern Territory and New South Wales reference diversity more generally;
- Victoria, Australian Capital Territory and South Australia reference non-discrimination, tolerance and respect; and
- New South Wales references the needs of non-English speaking students.

South Australia, Northern Territory and the Australian Capital Territory include reference to wellbeing in their education legislation.

## Notes on provisions

### Part 1 Preliminary

Clause 1 provides that the short title of the Act is the *Education (General Provisions) and Other Legislation Amendment Act 2024*.

Clause 2 provides that the following provisions of the *Education (General Provisions) and Other Legislation Amendment Act 2024* commence on a day to be fixed by proclamation—

- (a) Parts 2 and 3;
- (b) Part 4, division 3;
- (c) Parts 5 to 7;
- (d) Schedule 1, part 2.

### Part 2 Amendment of Education and Care Services Act 2013

Clause 3 provides that part 2 amends the *Education and Care Services Act 2013*.

Clause 4 amends section 8 to clarify that a Queensland Education and Care Service (QEC) service does not include a state school kindergarten program provided under the EGP Act, new section 419A. The clause also renumbers the section to reflect the amendment.

Clause 5 amends section 107 to clarify the intent of the section and ensure subsection (1) does not apply to a person providing regulated education and care as part of a service mentioned in section 8(1)(a) to (i). The clause also amends the section heading to reflect the content of the provision.

Clause 6 amends section 202 to clarify that the offence provision applies under the Education and Care Services National Law, as set out in the schedule to the *Education and Care Services National Law Act 2010* of Victoria and as it applies in all jurisdictions. The clause also amends the section heading to reflect the content of the provision.

Clause 7 amends part 11 by inserting new division 3 to provide for transitional amendments to allow the effective implementation of the provisions of the Bill. The new division applies to a kindergarten learning program provided at a prescribed state school under the EGP Act, former section 419A that was a QEC service under the *Education and Care Services Act 2013* prior to commencement of the new provisions. The following sections are inserted:

- section 261 provides for definitions for new division 3.
- section 262 clarifies how existing requests for information about suitability checks made under section 191 to the chief executive (employment screening) will be dealt with when the new provisions commence and provides that the chief executive (employment screening) must still give the information about a person.
- section 263 clarifies how existing show cause notices issued for a prohibition notice under section 197 that are on foot when the new provisions commence will be dealt with. It provides for the process to be finalised, a decision to be made in relation to the issuing of a

prohibition notice to the person and that the person can apply for a review of the decision.

- section 264 clarifies how an existing review of a decision to issue a prohibition notice to a person on foot when the new provisions commence, but not decided, will be dealt with and provides that the Queensland Civil and Administrative Tribunal (QCAT) can continue to hear, and decide, the review.
- section 265 clarifies how existing review rights to QCAT for a prohibition notice issued to a person when the new provisions commence will be dealt with, and also provides that if a person could have, but had not, applied for a review of the decision, the person may apply for review and QCAT may hear and decide the review.
- section 266 provides for a transitional regulation making power to ensure a regulation may make provision to allow or facilitate the doing of anything to achieve the transition, with section 266(2) providing that the transitional regulation may apply retrospectively to a day no earlier than the day the section commences; section 266(3) providing that a transitional regulation must declare it is a transitional regulation and section 266(4) providing that the transitional regulation expires 2 years after the day the section commences.

Clause 8 amends Schedule 1 definition of *school child* to exclude a kindergarten student enrolled in a state school kindergarten program provided under the EGP Act.

## **Part 3 Amendment of Education and Care Services National Law (Queensland) Act 2011**

Clause 9 amends the *Education and Care Services National Law (Queensland) Act 2011*. It inserts an editor's note to advise that for a consolidated reprint of the Education and Care Services National Law as it applies in Queensland, see the Education and Care Services National Law (Queensland).

Clause 10 inserts a new part 2, division 1, General heading.

Clause 11 amends section 4 which provides that the Education and Care Services National Law set out in the schedule to the *Education and Care Services National Law Act 2010* of Victoria applies as a law of this jurisdiction. The clause provides that the Education and Care Services National Law applies as a law of this jurisdiction with the modifications set out in division 2. The clause also inserts an editor's note.

Clause 12 amends part 2 by inserting a new part 2, division 2 to provide for the modifications to the Education and Care Services National Law as it applies as a law of this jurisdiction under section 4, and provides an editor's note. The clause inserts:

- section 18A that provides the definition of the *Education and Care Services National Law* for the division.
- section 18B that provides for the operation of the division and modifies the Education and Care Services National Law for the purposes of applying the modified Education and Care Services National Law as a law of this jurisdiction under section 4.
- section 18C to modify section 5(1) definitions of the Education and Care Services National Law to insert a new subsection to exclude a state school kindergarten program, delivered in a prescribed state school under the EGP Act from the definition of *education and care service* in the Education and Care Service National Law. It also inserts an editor's note

advising that the paragraph is an additional Queensland provision.

- section 18D which amends schedule 1, section 4 to insert a miscellaneous provision relating to the interpretation of editor's notes included in this Law.

Clause 13 amends section 20 to remove 20(1)(a)(vii) to (ix) because supervisor certificates have been removed from the Education and Care Services National Law.

Clause 14 amends section 22 to remove 22(1)(c) because certified supervisors have been removed from the Education and Care Services National Law.

Clause 15 amends part 4, division 1 by inserting new subdivision 1 heading that provides for transitional provisions for Act No. 38 of 2011.

Clause 16 amends part 4, division 1 by inserting new subdivision 2 to provide for transitional provisions to allow the effective implementation of the Bill. The following sections are inserted:

- section 31A provides for definitions for new subsection 2.
- section 31B clarifies how existing requests for information about employment screening under section 22 will be dealt with when the new provisions commence, and provides that the chief executive (employment screening) must still comply with the request as if the amendment Act had not been enacted.
- section 31C continues the privacy obligations under section 36(2) that apply to a prescribed entity that received Unit Record Level (URL) data prior to the new provisions commencing.
- section 31D clarifies how the existing provider approval, service approvals, service waivers and temporary waives for a kindergarten learning program provided at a prescribed state school that is an education and care service under the Education and Care Services National Law prior to commencement will be dealt with when the new provisions commence; on commencement the provider approval and any service approvals held by the approved provider will be cancelled and any service waivers or temporary waivers will be revoked.
- section 31E clarifies how existing applications under the Education and Care Services National Law for service approvals for a kindergarten learning program provided at a prescribed state school that is an education and care service prior to commencement will be dealt with when the new provisions commence; on commencement an application for a service approval, amendment of service approval or service waiver or temporary waive is taken to be withdrawn.
- section 31F clarifies how existing notices under part 7, division 1 of the Education and Care Services National Law will be dealt with when the new provisions commence; on commencement a compliance direction, or a compliance notice or an emergency action notice will be cancelled.
- section 31G clarifies how existing show cause notices issued for a prohibition notice under section 183 of the Education and Care Services National Law that are on foot when the new provisions commence will be dealt with; it also provides for the process to be finalised and a decision to be made in relation to the issuing of a prohibition notice to the person and that the person to whom the prohibition notice was issued can apply for a review of the decision after commencement.
- section 31H clarifies how an existing review of a decision to issue a prohibition notice to a person on foot when the new provisions commence, but not decided, will be dealt with and provides that QCAT, as currently happens, can continue to hear, and decide, the review.

- section 31I clarifies how existing external review rights for a prohibition notice issued to a person when the new provisions commence will be dealt with by providing that if a person could have, but had not, applied for a review of the decision, the person may within the relevant period apply for review, and QCAT may hear and decide the review.
- section 31J clarifies how an application by a person made before the commencement to cancel a prohibition notice will be dealt with following commencement; if the application for cancellation, was made, but not decided or withdrawn before commencement, the Law continues to apply.
- section 31K clarifies that part 14, division 7 of the Education and Care Services National Law continues to apply in relation to a protected disclosure made before commencement.
- section 31L clarifies how the obligation about storage of records and documents required to be kept for a state kindergarten learning program under regulation 183 of the Education and Care Services National Regulation will be dealt with the obligation continuing to apply post commencement.
- section 31M provides for the continued obligation of confidentiality in relation to personal information when the new provisions commence.
- section 31N provides for a transitional regulation making power to ensure a regulation may make provision to allow or facilitate the doing of anything to achieve the transition, with section 31N(2) providing that the transitional regulation may apply retrospectively to a day no earlier than the day the section commences; section 31N(3) providing that a transitional regulation must declare it is a transitional regulation and section 31N(4) provides that the transitional regulation expires 2 years after the day the section commences.

## **Part 4 Amendment of Education (General Provisions) Act 2006**

### **Division 1 Preliminary**

Clause 17 provides that Part 4 amends the *Education (General Provisions) Act 2006*.

### **Division 2 Amendments commencing on assent**

Clause 18 amends section 7 to update the guiding principle about the way education should be provided to a child or young person to state that it should be provided in a way that promotes an inclusive learning environment, recognises the educational needs of children and young people of all abilities and from all backgrounds, and recognises wellbeing as a foundation of educational engagement and outcomes.

An additional guiding principle is also inserted in section 7 for chapter 9, part 5 (Home Education) to guide the achievement of the Act's objectives for home education. The new guiding principle provides for the primacy of the child or young person in relation to the way home education is to be provided, stating that it should be provided in a way that is in the best interests of the child or young person, taking into account their safety and wellbeing, and ensuring the child or young person has access to a high-quality education.

Clause 19 amends section 127 to clarify that the provision of funds by the P&C to other P&Cs or schools is not an urgent matter to which the executive committee can take action without support from the general P&C membership. This is consequential to new amendments to allow

P&Cs, if supported by the membership, to provide funds to other P&Cs or schools if they are affected by an adverse event, such as a natural disaster (see sections 132 and 142A).

Clause 20 amends section 132 to allow P&Cs to provide funds to other P&Cs or schools if they are affected by an adverse event, such as a natural disaster.

Clause 21 inserts new section 142A to allow a P&C to give or assist in the giving of financial or other resources or services to a school, or another P&C in Queensland, if the relevant school is affected by an adverse event (such as a natural disaster, or a deliberate act, such as an act of terrorism) which affects the school's ability to provide primary, secondary, special education or other educational instruction. This will apply to campus P&C associations after commencement of the provisions that will allow the formation of campus P&C associations.

Clause 22 amends section 180 (Notice to principal of non-state school) to provide that chief executive may, by notice given to the principal of a non-state school or the non-state school's governing body, ask the principal or the school's governing body for the information mentioned in the provision. This amendment reflects that the information being requested by the chief executive may be in the control of non-state school's governing body because section 197A requires the governing body must keep a record of the information that may be requested under section 180(1)(b). The reference in section 180(1)(b) to information in the record kept by the school's governing body under section 197A is removed because it is unnecessary.

This clause also amends section 180 to provide that if the chief executive gives the governing body a notice under the provision, the chief executive must give the principal a copy of the notice. Section 180 is also amended to clarify that a principal of a non-state school or the school's governing body that receives a notice under section 180 from the chief executive must give the chief executive the information, and in the way requested in the notice.

Clause 23 replaces section 206 to state, all in one section, who is eligible for registration for home education. This includes moving the matters dealt with under section 229 to section 206(2). Section 206 is also amended to extend the age of a child who is eligible for registration by 12 months, by providing a child is eligible until 31 December in the year the child turns 18.

Clause 24 omits section 229 because the matters dealt with in this provision have been moved by the Bill (clause 23) to new section 206(2).

Clause 25 amends section 229A to provide that provisional registration, or registration, for home education ends on 31 December in the year the child turns 18 years, to align with the change to eligibility for registration for home education under amended section 206 (clause 23). A consequential amendment is also made to the heading of section 229A.

Clause 26 amends section 251AB (Notice to non-state school's principal) to provide that the chief executive may, by notice given to the principal or the governing body of non-state school, ask the principal or governing body for information about decisions made under section 248.

This amendment reflects that the information being requested by the chief executive may be in the control of non-state school's governing body because section 251AA requires the governing body must keep a record of the information that may be requested under section 251AB. This clause also removes an unnecessary reference to information in the record kept by the school's governing body under section 251AA.

This clause also inserts new subsection (2) in section 251AB to clarify that a principal of a non-State school or governing body who receives a notice in this section to give the chief executive

information must give the chief executive the information, and in the way requested in the notice.

Clause 27 inserts new chapter 20, part 11 transitional and validation provisions for Education (General Provisions) and Other Legislation Amendment Act 2024. The clause inserts sections 544, 545 and 546:

- section 544 sets out the definitions for part 11 of chapter 20.
- section 545 provides that new section 180 applies in relation to information whether it came into existence, or relates to a decision made under section 189, before or after the commencement.
- section 546 provides for a child's eligibility to be provisionally registered or registered for home education from the commencement.
- section 547 provides that new section 251AB applies in relation to information whether it came into existence, or relates to a decision made under section 248, before or after the commencement.

### **Division 3 Amendments commencing by proclamation**

Clause 28 amends section 11 to clarify that basic allocation and remaining allocation does not include any period for which a student was enrolled as a kindergarten student.

Clause 29 amends section 13 which provides for the Minister to establish state schools. It inserts a note to clarify a state school kindergarten program may also be provided at a prescribed state school.

Clause 30 amends section 19 to ensure that before a school is closed, the Minister must consult with both the P&C or where there are multiple campus associations, with each association. This is as a consequence of the creation of campus P&C associations for schools with multiple campuses, defined as regional state schools, as part of the Bill.

Clause 31 amends section 50 to remove the current reference in subsection (1)(b)(i) to a kindergarten age child registered in a kindergarten learning program at a prescribed state school. This reflects the changes made by the Bill to enrol kindergarten age children as students of the state school.

Clause 32 amends section 51 to modify and restructure the provision. Current subsections (1) and (3) are replaced with new subsections (1) and (3). The amendment removes reference to a kindergarten age child registered in a kindergarten learning program at a prescribed state school. Subsection (8) is removed as it currently applies to a kindergarten age child mentioned in current subsection (1).

Clause 33 amends section 53 to provide that a fee for distance education is not payable for a person who is receiving education due to their application for enrolment being referred to the chief executive by a principal under section 156, because the principal reasonably believes that the prospective student would, if enrolled at the school, pose an unacceptable risk to the safety or wellbeing of members of the school community. Under amendments to chapter 8 in the Bill, the chief executive must provide such a prospective student with education while the chief executive makes a final decision on the enrolment application. Section 53 currently provides that a fee for distance education is not payable for students who are suspended or excluded, and the amendment extends this to prospective students awaiting an enrolment decision by the chief executive.

Clause 34 amends section 60 to insert new subsection (2) to clarify any period for which a student was enrolled as a kindergarten student is to be disregarded for working out when the student began schooling for subsection (1).

Clause 35 amends section 76 to provided that religious instruction in school does not apply to a kindergarten student.

Clause 36 amends section 77 to modify definitions in relation to chapter 6 School Councils to incorporate campus P&C associations for regional state schools. As the provisions in chapter 6 provide for School Councils, but also how School Councils interact with P&Cs, the amendments to create campus P&C associations for schools with multiple campuses (regional state schools) have created a range of consequential amendments to chapter 6.

Clause 37 amends section 85 to provide for official members of a school council for campus P&C associations for a regional state school, mirroring requirements in relation to all other P&Cs.

Clause 38 amends section 88 to provide for alternative association members of a school council for campus P&C associations for a regional state school, mirroring requirements in relation to all other P&Cs.

Clause 39 amends section 89 to provide for requirements in relation to a chairperson of a school council who is also the president of a campus P&C association. The amendments mirror current requirements in relation to a president of a P&C.

Clause 40 amends section 94 in relation to a school council constitution and how it must provide for notice that a P&C must give in relation to the appointment of particular members of the school council membership. The amended section mirrors requirements for campus P&C associations to the current requirements for P&Cs.

Clause 41 amends section 95 in relation to a school council constitution and how notice must be given to a P&C before the constitution is changed. The amended section mirrors requirements for campus P&C associations to the current requirements for P&Cs.

Clause 42 amends section 102 to mirror requirements for campus P&C associations to the current requirements for P&Cs in relation to the attendance by proxy of members of the school council.

Clause 43 amends section 109 to mirror requirements for campus P&C associations to the current requirements for P&Cs in relation to processes that must be undertaken for approving an initial constitution for a school council.

Clause 44 amends section 118 which provides for the formation of P&Cs. It clarifies that this section does not apply to campus P&C associations and inserts a note to advise that formation of campus P&C associations is also dealt with under part 11.

Clause 45 amends section 119 to provide that this section (formation of interim P&C) does not apply to schools that are a regional state school, which is a school with multiple campuses that is prescribed.

Clause 46 amends section 122 to provide that a P&C is dissolved if a school becomes a regional state school, as separate campus P&C associations will be formed for each campus.

Clause 47 amends section 126 to restrict a person from being a member of a P&C executive committee if they are convicted of an indictable offence, other than a spent conviction.

Clause 48 amends section 130 to disqualify a person from being a member of a P&C subcommittee if they are convicted of an indictable offence, other than a spent conviction.

Clause 49 amends section 139 to provide that a Regulation may provide for membership of a campus P&C association, subject to the EGP Act, in the same way that it can provide for other P&Cs.

Clause 50 inserts a new part 11 in chapter 7 to provide for the formation and administration of campus P&C associations for regional state schools. A regional state school must have multiple campuses and be prescribed in a regulation. The new provisions will allow a separate P&C for each campus of the school. This is intended to allow schools in regional areas, such as the Torres Strait, with multiple campuses that are geographically dispersed, to have a separate P&C for each campus rather than just one for the school. The new part is designed to mirror similar provisions relating to other P&C's and provides for matters including:

- the application of part 11 to regional state schools, which is a state school that has more than one campus and is prescribed in a regulation (section 154A);
- definitions for the part 11 (section 154B);
- formation of campus P&C associations for campuses of regional state schools (section 154C);
- formation of interim campus P&C associations of regional state schools (section 154D);
- objectives and functions of campus P&C associations (sections 154E and 154F);
- dissolution of a campus P&C association (section 154G);
- the application of chapter 7, parts 2-10, which provide for the administration of P&Cs, to campus P&C association, enabling campus P&C associations to function in the same way as other P&Cs (section 154H);
- the application of references to schools, principals and staff members in the EGP Act in relation to P&Cs and how this applies to a campus P&C association (sections 154I – 154K); and
- the role of the campus P&C association in relation to the school and campus it represents (section 154L).

Clause 51 amends section 156 to streamline enrolment processes for special schools by enabling a principal of a special school to make a decision on an enrolment of a student who was previously enrolled in another special school, rather than deferring the student's application to the chief executive, as was previously required.

Clause 51 also amends section 156 to provide for enrolment of a kindergarten age child in a state school kindergarten program. Currently kindergarten age children are registered in a kindergarten learning program under the current chapter 19, part 1. The clause also provides that the principal must not enrol the child in a state school kindergarten program unless the principal is satisfied that the student is a kindergarten age child, and it is in their best interest to be enrolled in the program.

A definition for this section of *kindergarten age child* is provided for. The amendment also makes it clear that section 156(2) does not apply to enrolment of a prospective student in a state school kindergarten program.

Clause 51 also amends section 156 to provide that a principal, if they refer an application for enrolment to the chief executive because they reasonably believe the student, if enrolled at the school, would pose an unacceptable risk to the safety or wellbeing of members of the school community, must refer the application within the period prescribed within a regulation. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 5 school days after the principal receives the application.

Clause 52 replaces sections 158 and 159 (restructuring both sections to ensure clarity) to provide for timeframes in which decisions after the referral of an enrolment application must be made and when a student must be told of a decision in relation to their enrolment. The timeframes are to be prescribed in a regulation. The EGP Regulation is amended as part of this Bill, and the time period prescribed for the chief executive to make a decision on a referred application is 10 school days after the chief executive receives the application. The period prescribed for when a principal must tell a student after the principal receives the application back from the chief executive is 1 school day.

Clause 53 amends section 162 to remove subsection (2) to allow the chief executive to consider and make a decision on a referred application for enrolment even if the prospective student makes no submission to the chief executive. The current subsection (2) provides that if no submission is made by the student, the chief executive must decide to refuse the application. The clause also provides clarity in relation to how this section interacts with section 306 and 309, as all these sections deal with refusal to enrol decisions (section 162 is in relation to refusal to enrol in a particular school, whereas sections 305-310 are in relation to chief executive refusal to enrol from multiple or all state schools).

Clause 54 inserts new section 163A to provide that if a student's enrolment application is referred by the principal to the chief executive because they reasonably believe the student, if enrolled at the school, would pose an unacceptable risk to the safety or wellbeing of members of the school community, the chief executive must take reasonable steps to arrange for the student to have access to education program while a decision is being made on their application.

Clause 55 amends the heading of chapter 8, part 1, division 3, to reflect that not all enrolment applications for special schools will be deferred to the chief executive as a consequence of streamlining amendments to section 156 in relation to special school enrolment.

Clause 56 amends section 199 to omit subsection (2) because it is no longer required given the Bill removes the ability to apply for provisional registration for home education under chapter 9, part 5, division 2.

Clause 57 amends section 200 to omit the references to an application for provisional registration for home education given the Bill removes the ability to apply for provisional registration under chapter 9, part 5.

Clause 58 amends the definition *provisional registration* in section 205 to reflect that the Bill removes the ability to apply for provisional registration for home education under chapter 9, part 5.

Clause 59 amends new section 206 to reflect that the Bill removes the ability to apply for provisional registration for home education under chapter 9, part 5.

Clause 60 omits chapter 9, part 5, division 2 (section 207) to remove the ability to apply for provisional registration for home education.

Clause 61 amends section 208 to include a new requirement for applications for registration for home education if at any time within the 12 months before the application is made the child was registered for home education. The new requirement is that the application must be accompanied by a report, in the approved form, that includes evidence satisfactory to the chief executive that demonstrates the educational progress of the child during the period of the child's registration.

Section 208 is also amended to streamline the application process for registration by removing the requirement for information in, or accompanying, the application for registration to be verified by a statutory declaration.

Clause 62 omits section 210 (chief executive must ensure compliance with procedural requirements) to ensure that if an application for registration of a child for home education does not comply with procedural requirements for an application under section 208, the application is not taken to be made and the child cannot be taken to be provisionally registered under section 212.

Clause 63 amends section 211 to streamline the home education registration application process by: setting the minimum period in which an applicant must give further information or a document requested by the chief executive for deciding the application, at 14 days (rather than the current 28 days); and omitting the provision, under subsection (2), for the chief executive to require the requested information or document to be verified by a statutory declaration.

Section 211 is also amended to provide that the chief executive may, within the initial period set by the chief executive for the applicant to provide the further information or document, extend the period for the applicant to comply with the request for further information or a document. Section 211 is further amended to omit subsection (5) because it is duplicative and unnecessary. The requirements under subsection (5)(a) and (b) are separately and more appropriately dealt with under section 214(2) and 212(2) respectively.

Clause 64 amends section 212 to clarify that section 212 applies if an application for registration for home education is made under section 208.

Clause 65 amends section 214 to remove the requirement for the chief executive to issue a certificate of registration to an applicant for registration, if the chief executive decides to grant an application for the registration of a child for home education.

The requirement to issue a certificate of registration to the applicant is replaced with a requirement for the chief executive to give the applicant a notice stating the following information: the child's name and date of birth, the name of each applicant, the address of the child's usual place of residence, that the child is registered for home education, and if, under section 218, the chief executive decides to impose conditions on the registration – the conditions.

Clause 66 amends section 215 to reduce the time period, from 90 days to 45 days, for when a failure of the chief executive to decide an application for the registration of a child for home education is taken to be a decision of the chief executive to refuse to grant the application. This reduces the time period a child is provisionally registered.

Clause 67 omits section 216 (minimum details to be recorded on certificate of registration) because the requirement to issue a certificate of registration for home education under section 214 has been removed by the Bill. The minimum details that were to be recorded on a certificate

of registration are now captured under amended section 214, in the new notice prescribed under that section.

Clause 68 amends section 217 to insert the requirements for the educational program used for a child's home education, and to clarify that the written report that the parent of the child registered for home education must give to the chief executive is to be: for the period the child is registered for home education, and in relation to each subject or learning area that is part of the educational program used for the child's home education. Section 217 is also amended to clarify that the written report that the parent of the child registered for home education must give to the chief executive must be accompanied by evidence satisfactory to the chief executive that demonstrates the educational progress of the child.

Clause 69 amends section 219 to clarify that the giving of a notice to a parent about a change to the conditions of registration for home education decided by the chief executive must occur as soon as practicable after the chief executive decides to change the conditions. Section 219 is also amended to omit the reference to the certificate of registration because a certificate of registration will no longer be issued.

Clause 70 omits section 220 because a certificate of registration will no longer be issued and therefore will not require replacing for a change in conditions of registration.

Clause 71 omits section 226 because a certificate of registration will no longer be issued and therefore will not be required to be returned if registration is cancelled.

Clause 72 amends section 227 to omit subsection (3) because a certificate of registration will no longer be issued and therefore will not be required to be returned if registration is surrendered.

Clause 73 amends the heading of section 229A to reflect that the Bill removes the ability to apply for provisional registration for home education under chapter 9, part 5.

Clause 74 inserts new section 274 to provide that chapter 12, part 1 (student discipline) does not apply in relation to a kindergarten student.

Clause 75 inserts new section 279 to provide that chapter 12, part 3 (suspension, exclusions and cancellation of enrolment of state school students) does not apply in relation to a kindergarten student.

Clause 76 amends section 280 to insert a definition for *disability*.

Clause 77 amends section 282 to ensure that a principal must consider particular matters prescribed in a Regulation before making a decision to suspend a student on a non-charge related ground.

Clause 78 amends section 283 (restructuring the section for clarity) to provide for a timeframe for which a principal must give a student a written notice about a suspension after first telling them of the suspension. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 1 school day.

Clause 79 amends section 285 and 286 (restructuring them for clarity) to provide for a new review right for students who receive a cumulative total of 11 days or more of short suspensions in a school year. A short suspension is a period of suspension of not more than 10 school days. Reviews of accumulated short suspensions will follow the same process as the current process for review of a long suspension (single suspensions of between 11 and 20 days).

The clause also provides timeframes to be prescribed in a regulation for how long a student has to make a submission against the suspension, and how long the chief executive has to review the suspension, make a decision and communicate the decision to the student and principal.

The EGP Regulation is amended as part of this Bill, and the time period prescribed for the student to make the submission is 20 school days after the principal gives the student a notice about the suspension. The period prescribed for the chief executive to make a decision and communicate the decision to the student and principal is 40 school days.

Clause 80 amends section 288 (restructuring for clarity) to prescribe a timeframe in a regulation for when a principal must make a decision to exclude and tell the student of the decision, including providing a written notice to the student of the decision after the principal becomes aware that a charge in relation to the student has been dealt with. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 5 school days.

Clause 81 amends section 289 to prescribe a timeframe in a regulation for when a principal must tell a student who has been suspended pending a charge being dealt with if the principal decides to end the suspension prior to the charge being dealt with. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 1 school day after making the decision for the principal to tell the student of the suspension being ended and 5 school days, after telling the student the suspension has ended, for the principal to give the student a notice about the end of the suspension.

Clause 82 amends the heading of chapter 12, part 3, division 2, sub division 3 to incorporate the delegation of particular matters by a principal, which are given effect by amendments in this Bill.

Clause 83 inserts section 290A to enable the principal to delegate the function of telling students about a suspension decision to an appropriately qualified teacher at the school who assists the principal with the management of the school. Examples of who may tell the student are: the head of a primary or secondary school, a deputy principal, or the head of a campus of the school. The principal will still make the decision about a suspension, but the delegated person will be able to tell the student of the principal's decision.

Clause 84 amends section 292 to ensure that a principal must consider particular matters prescribed in a Regulation before making a decision to exclude a student.

Clause 85 amends section 293 (restructuring it for clarity) to provide for a timeframe to be prescribed in a regulation upon which a principal must give a student a notice about a proposed exclusion. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 1 school day after the principal tells the student about the proposed exclusion.

Clause 86 amends section 295 (restructuring it for clarity) to provide for a timeframe to be prescribed in a regulation for when a principal must make a final decision about an exclusion, tell the student and give them a notice of the decision. The EGP Regulation is amended as part of this Bill, and the time period prescribed is 20 school days after the principal gives the student a notice about the proposed exclusion.

Clause 87 amends section 299 to ensure that the chief executive must consider particular matters prescribed in a Regulation before making a decision to exclude a student from certain schools or all schools.

Clause 88 amends section 300 to ensure clarity and consistency in the legislation in relation to proposed exclusion notices given by the chief executive. The amendment does not change

current policy but provides for greater clarity about the giving and content of proposed exclusion notices under this section.

Clause 89 amends section 302 to ensure clarity and consistency in the legislation in relation to exclusion notices given by the chief executive. The amendment does not change current policy but provides for greater clarity about the communicating of exclusion decisions under this section.

Clause 90 amends section 309 to remove subsection (2) to allow the chief executive to consider and make a decision on the enrolment of a prospective student even if the student makes no submission to the chief executive. The current subsection (2) provides that if no submission is made by the student, the chief executive must decide to exclude the student from certain or all State schools.

Clause 91 amends and restructures sections 316 to 318 (inserting additional sections 318A and 318B) to provide clarity in relation to the cancellation of the enrolment process. The grounds for cancellation of enrolment and who it applies to remain unchanged. Cancellation of enrolment is limited to students who are older than compulsory school age and can only be proposed if the principal is reasonably satisfied that the student's behaviour amounts to a refusal to participate in the educational program provided at the school.

The amended sections provide that a principal must give a student a show cause notice prior to cancelling their enrolment. It also provides for timeframes in relation to cancellation of enrolment decisions and the giving of notices to be prescribed in a regulation. The EGP Regulation is amended as part of this Bill, and the time period for the minimum show cause period that a principal must give to the student is 30 days.

Clause 92 amends section 319 to provide for a timeframe to be prescribed in a regulation for a student to make a submission to the chief executive against a cancellation of enrolment decision by a principal. The EGP Regulation is amended as part of this Bill, and the time period for making a submission is 30 days after the student receives a notice of cancellation of enrolment.

Clause 93 amends section 320 to provide for a timeframe to be prescribed in a regulation for the chief executive to make a decision on a submission against a cancellation of enrolment decision by a principal, and tell and give a notice to the student and principal about the decision. The EGP Regulation is amended as part of this Bill, and the time period for making a submission is 20 days after the chief executive receives a submission against a cancellation of enrolment.

Clause 94 inserts new chapter 12, part 3, division 8A to provide that the chief executive must make a policy (that is to be made publicly available on the Department of Education's website) to provide for the making by principals of student support plans for students who have been suspended or at risk of being excluded from a state school, who are also Aboriginal or Torres Strait Islander students, enrolled in the Preparatory year, or students with disability.

A student support plan is a written plan designed to reduce the likelihood of further suspension or exclusions. It must provide for the relevant behaviour that caused the suspension or could result in exclusion, the needs of the student and other circumstances that may be contributing to the relevant behaviour, and strategies and support designed to improve the behaviour and protect the school community.

The policy must provide for the circumstances in which a principal must make a student support plan, and the cohorts for which a student support plan must be made for, including First Nations students, students with disability and Preparatory year students. The policy must also provide

for the involvement of the student to whom the student support plan is about, and the parent of the student, if the student is a child.

The policy must also provide for review, duration of the student support plan, and any other action that must be taken when making a student plan for a student with disability to ensure compliance with the *Disability Standards for Education 2005* (Cwlth).

The policy may also be about other matters relating to student support plans including: the form of the plan, reviews of plans by the chief executive, periods within which plans must be made and any other matters the chief executive considers appropriate. Section 323 provides that it is not unlawful discrimination on the basis of age or race under the *Anti-Discrimination Act 1991* for a principal to refuse to make a student support plan for students who are not Aboriginal or Torres Strait Islander or in the Preparatory year.

Clause 95 amends section 331 which allows parents to make submissions, representation or applications in relation to SDAs under chapter 12. It updates references to correspond with the provisions amended by the Bill.

Clause 96 inserts a new section 332A to provide that the chief executive must make a policy about suspension, exclusion and cancellation of enrolment to promote compliance with and support practical operation of the legislation. The policy may contain: information to help principals, students and other persons comply with their obligations under the EGP Act and other relevant laws, information about the Department of Education's processes; and information to help principals exercise their suspension, exclusion and cancellation enrolment powers. The policy must be publicly available on the Department of Education's website.

Clause 97 amends section 335 definition of *exempt person* for chapter 12, part 5 (directions and orders about conduct or movement at, or entry to, premises of State instructional institutions) to remove reference in subsection (b) to a kindergarten age child registered in a kindergarten learning program at the institution as they will now be captured as students of the institution.

Clause 98 amends section 360 to provide that a dress code for school students must not include the standards of what is acceptable in relation to the clothing or other aspects of personal presentation of kindergarten students enrolled in the school. This maintains the current policy in relation to kindergarten students.

Clause 99 amends section 364 to modify the definition of *relevant person* for chapter 12, part 10 to reflect amendments made through this Bill to sections 366 and 366A.

Clause 100 amends section 365 to remove and insert new subsection (1)(b). The amendment removes the reference to a kindergarten age child registered in a kindergarten learning program at the school (currently subsection (1)(b)(i)) as they will be captured as students of the school. The new subsection (1)(b) retains reference to a kindergarten age child registered in a distance education kindergarten learning program. The requirements under section 365 will still apply to kindergarten age children as students of the school.

Clause 101 amends section 365A to remove and insert new subsection (1)(b). The amendment removes the reference to a kindergarten age child registered in a kindergarten learning program at the school (currently subsection (1)(b)(i)) as they will be captured as students of the school. The new subsection (1)(b) retains reference to a kindergarten age child registered in a distance education kindergarten learning program. The requirements under section 365A will still apply to kindergarten age children as students of the school.

Clause 102 amends section 366 to remove subsection (1)(b) which currently provides for a kindergarten age child registered in a kindergarten learning program at a non-state school. Kindergarten age children registered in a kindergarten learning program at a non-state school are protected by provisions under the Education and Care Services National Law.

Clause 103 amends section 366A to remove subsection (1)(b) which currently provides for a kindergarten age child registered in a kindergarten learning program at a non-state school. Kindergarten age children registered in a kindergarten learning program at a non-state school are protected by provisions under the Education and Care Services National Law.

Clause 104 amends the heading of chapter 14 (Transfer note) to reflect that chapter 14 also provides for matters related to transfer notes.

Clause 105 replaces chapter 14, part 1 (preliminary) and part 2 (request for transfer notes) with a new part 1 (preliminary) and new part 2 (transfer notes and transfer of records) including new division 1 and new division 2 under new part 2.

New part 1 inserts the following sections:

- new section 383, which provides definitions for chapter 14.
- new section 384, which provides for the meaning of a transfer note.

New part 2 inserts the following sections:

- New sections 385 and 386, which provides for a relevant person for a former student, or the former student, to request a transfer note at the cessation of enrolment at a school. New sections 385 and 386 replace former section 386 to simplify the drafting of former section 386 without changing the policy intent in relation to a request for a transfer note by a relevant person, or a former student, when the former student's enrolment at the school is ceased by the relevant person or the former student.
- New sections 385 and 386 also insert a time limit for when a transfer note requested under those sections must be prepared by the principal. Instead of the transfer note being required to be prepared as soon as practicable under former section 386, new sections 385 and 386 require the transfer note to be prepared within 10 school days after being requested by the relevant person or the former student.
- New section 387, which provides for the purpose of new division 2 of chapter 14, part 2.
- New section 388, which provides for the application of new division 2 of chapter 14, part 2. New section 388 provides that new division 2 of chapter 14, part 2 applies when a student moves from one state or non-state school to another and the principal of the student's new school does not have information of the type prescribed by regulation for a transfer note.
- New section 388A, which provides definitions for new division 2 of chapter 14, part 2.
- New section 388B, which provides that if new division 2 of chapter 14, part 2 applies, the principal of a student's new school must, within 90 days after the day the student is enrolled at the new school, ask the principal of the student's previous school to prepare a transfer note for the student. New section 388B also provides that, within 90 days after the day the student is enrolled at the new school, the principal of the student's new school may ask the principal of a former school to prepare a transfer note for the student. New section 388B also provides that the principal of the student's new school must give notice of the principal's request (for a transfer note from the principal of the previous school or a former school) to the relevant person for the student or the student.

- New section 388C, which provides the principal of the student’s previous school or former school must, within 10 days after receiving a request for a transfer note under section 387A, prepare a transfer note for the student and give the transfer note and a copy of any related documents to the principal of the new school. New section 388C also provides that the principal of the previous school or former school must include in the transfer note any information about the student that they reasonably believe is necessary to help the principal of the new school protect the safety and wellbeing of the following persons: the student; the members of the school community.
- New section 388D, which provides the principal of the student’s new school must give a copy of the transfer note and of any related documents to the relevant person for the student, or the student, if they request a copy. New section 388D also provides the time period within which the principal of the student’s new school must give the copy of the transfer note and any related documents to the relevant person or student:
  - if the relevant person for the student or the student asks for a copy of the transfer note within 10 school days after the principal gives the person or student a notice under section 388B(2) or (3)(b) — the principal must give the copy within 10 school days after receiving the transfer note from the principal of the previous school or former school;
  - if the relevant person for the student or the student asks for a copy of the transfer note more than 10 school days after the principal gives the relevant person or student a notice under section 388B(2) or (3)(b) — the principal must give the copy within 10 school days after the principal receives the request for a copy of the transfer note from the relevant person or the student.
- New section 388E, which replaces former section 388 to make consequential amendments to that section as a result of other amendments to chapter 14 without changing the policy intent.

Clause 106 amends section 391 to provide the timeframe (45 days) for when an application for review of a decision must be made, if the application relates to a decision made under chapter 9, part 5 (home education).

The timeframe, which is expressed as days, rather than “school” days, to reflect that home education is not provided in a school setting, is approximately equivalent to the timeframe given for an application for review of a decision that does not relate to home education.

Clause 107 amends section 392 to provide the timeframe (60 days) for when the chief executive must review an original decision and make a review decision, if the application relates to a decision made under chapter 9, part 5 (home education).

The timeframe, which is expressed as days, rather than school days, to reflect that home education is not provided in a school setting, is approximately equivalent to the timeframe given for a review decision for an application for review of a decision that does not relate to home education.

Clause 108 omits current chapter 19, part 1 and inserts new chapter 19, part 1 (kindergarten learning program) to provide for a state school kindergarten learning program. New part 1, division 1, provides for the approval of the state school kindergarten program and kindergarten students. The following new sections are inserted:

- New section 419A, which:
  - provides the Minister may approve a program that is designed to promote the social and emotional wellbeing of children, in their physical and cognitive development, in the year prior to the preparatory year to be a state school kindergarten program (section 419A(1)). The amendment better aligns and reflects the kindergarten learning program to be provided to kindergarten age children. Section 419A(1) provides the definition of *state school kindergarten program* for the purposes of the Act;
  - provides the State may provide the program to kindergarten age children at a state school prescribed by regulation which is a prescribed state school for the purposes of the Act (section 419A(2)). Section 419A(2) provides the definition of *prescribed state school* for the purposes of the Act;
  - defines *kindergarten age child* in subsection 419A(3) to mean a child that will be at least 4 years and 6 months on 31 December in the year proposed for the child’s enrolment in the state school kindergarten program. It maintains the current definition of kindergarten age child.
- New section 419B(1), which provides that a child who is enrolled in a state school kindergarten learning program at a prescribed state school is a kindergarten student, for the purposes of the Act.
- New subsection 419B(2), which provides that an application for enrolment of the child must be made under section 155 of the EGP Act.
- New subsection 419B(3), which provides that to remove any doubt it is declared that a kindergarten student is a student of the school that provides the state school kindergarten program to the student; and as a student enrolled at the state school, the principal of the school may enrol the kindergarten student in the preparatory year, if the student is entitled to be enrolled in the preparatory year under the Act, without a further application for enrolment.

Clause 108 also inserts new chapter 19, part 1, division 2 that provides for offences and other matters for a state school kindergarten program. The following sections are inserted:

- Section 419C, which provides that the principal must ensure that kindergarten students are adequately supervised at all times when the students are in the care of the staff of the school. A failure to comply with this requirement is an offence. The provision mirrors, to the extent that it is applicable to a state school kindergarten program, an offence provision provided for in the Education and Care Services National Law.
- Section 419D, which provides that the principal must ensure that every reasonable precaution is taken by staff of the school to protect kindergarten students from harm and hazards likely to cause injury while the students are in the care of staff of the school. A failure to comply with this requirement is an offence. The provision mirrors, to the extent that it is applicable to a state school kindergarten program, an offence provision provided for in the Education and Care Services National Law.
- Section 419DA, which provides that a person who has a current prohibition notice in force under the ECS Act or the Education and Care Services National Law, must not provide education or care to kindergarten students enrolled in a state school kindergarten program provided at a prescribed state school. A failure to comply with this requirement is an offence. The provision is similar to offence provisions provided for in the Education and Care

Services National Law and the ECS Act in relation to contravening a prohibition notice.

- Section 419DB, which provides that the chief executive must make a guideline that sets out the standards that apply to kindergarten age children which has regard to the matters provided for in the National Quality Standard under the Education and Care Services National Law. The guideline must also provide for the review and assessment by the chief executive of the state school kindergarten program against the standards set out in the guideline. The guideline must be made publicly available on the Department of Education's website.
- Section 419DC, which provides that the chief executive must make a policy about the requirements that apply to providing a state school kindergarten program to ensure the health, safety and wellbeing of kindergarten students enrolled in the program. The section also provides that the chief executive must make a policy about the behaviour of kindergarten students that is age appropriate. The policy must be made publicly available on the Department of Education's website.
- Section 419DD, which provides for the collection, use and disclosure of Unit Record Level (URL) data. The section ensures that Queensland can continue to meet its obligations under the National Information Agreement on Early Childhood Education and Care.

Clause 109 amends section 419E to clarify that a distance education learning program approved by the Minister is a program for kindergarten age children that promotes their social and emotional wellbeing, and physical and cognitive development, during the year prior to the preparatory year, to be a distance education kindergarten learning program for a state school providing distance education. The amendment better aligns and reflects the kindergarten learning program to be provided to kindergarten age children.

Clause 110 amends section 419F to clarify the distance and medical eligibility requirements for a distance education kindergarten learning program. The amendments:

- clarify that the 16-kilometre distance criteria from the child's home is to the nearest relevant kindergarten, which is a centre-based service that provides an approved kindergarten program or prescribed state school that provides a state school kindergarten program.
- broaden the medical condition eligibility requirements to clarify that a child can be absent from a centre-based service for a period of more than 10 weeks (which can be cumulative) if the child has a medical certificate/s stating that the child is unable to attend a centre-based service due to the child's state of health.
- provide relevant definitions for the section including definition of *approved kindergarten program* and *relevant kindergarten*.

Clause 111 amends section 419G to make consequential amendments to reflect changes made by the Bill to section 419F.

Clause 112 amends section 426(1)(b)(ii) and 426(2)(b)(ii) to reflect changes made by the Bill to enrol kindergarten age children as students of the state school. Clause 112 also amends section 426(1)(b)(iv)(B) to omit the reference to provisional registration to reflect that the Bill removes the ability to apply for provisional registration for home education.

Clause 112 also makes a consequential amendment to section 426(2)(b)(i) to reflect changes made by the Bill in the amended transfer note provisions (under clause 105), which do not refer to a student as a continuing student.

Clause 113 inserts new section 426A to provide the chief executive with the authority to approve, as an approved online service, an online service that requires the disclosure, recording or use of relevant information about a student of a state school. New section 426A also provides for recording, using and disclosing of particular information about a state school student by a public service employee of the department in relation to approved online services.

Clause 114 inserts new section 427A to provide that the chief executive must review the effectiveness of the amendments in this Bill in relation to refusal to enrol and SDAs. The object of the review is to determine: whether the amendments have been effective in ensuring processes and decisions under the amended provisions are fair, transparent and consistent; support students, parents and principals; and achieve an appropriate balance between ensuring good order and management in schools and protecting school communities while making available to each Queensland child or young person a high-quality education. The review must start within 18 months of commencement of the provision.

Clause 115 amends section 428 to omit section 428(1)(b) and insert new 428(1)(b) to provide for a child registered in a distance education kindergarten learning program. The amendment removes reference to a kindergarten age child registered in a kindergarten learning program at a state school to reflect changes made by the Bill to enrol kindergarten age children as students of the state school.

Clause 116 amends section 434 to provide that a regulation may be made about obligations and requirements in relation to the safety, health and wellbeing of kindergarten students and the transportation of kindergarten students to or from the state school on transportation arranged or provided by the staff of the school. The clause also increases the penalty units for a contravention of a provision of a regulation to 20 penalty units.

Clause 117 inserts a new chapter 20, part 11, division 3 to provide for transitional amendments to allow for the effective implementation of the provisions of the Bill. The following sections are inserted:

- section 548 clarifies how particular enrolment decisions ongoing when the new provisions commence will be dealt with and provides that the timeframe requirements inserted in this Bill to section 156 for referrals of enrolment applications by the principal to the chief executive only apply to enrolment applications received after commencement.
- section 549 clarifies how particular enrolment decisions ongoing when the new provisions commence will be dealt with and provides that the new requirements under sections 158 and 159 inserted in this Bill in relation to the chief executive's consideration of an enrolment application referred by a principal only apply to applications referred after the commencement.
- section 550 provides that an application made under former section 156 and referred to the chief executive under former section 156(3) for special school enrolment received prior to commencement will be considered under the pre-amended provisions.
- section 551 clarifies how particular enrolment decisions ongoing when the new provisions commence will be dealt with, relating to enrolment applications referred by a principal to the chief executive before commencement and the chief executive has given the applicant a show cause notice but the show cause process was not completed on the commencement date; with the chief executive required to consider the application under the new provisions, even if no representation for the show cause notice is provided to the chief executive.
- section 552 clarifies that the obligation of the chief executive to provide education under

section 163A to a student awaiting an enrolment decision, by the chief executive after referral by the principal, only applies to enrolment applications made after the commencement date.

- section 553 clarifies that for provisional registration and applications on foot for provisional registration of a child for home education under former section 207 before the commencement, former sections 199 and 207 continue to apply in relation to the child's provisional registration or application as if the amendment Act had not been enacted until the earlier of the prescribed circumstances in section 553(2)(a) or (b).
- section 554 clarifies that for an application for registration of a child for home education made before the commencement that had not been decided by the chief executive or withdrawn before the commencement, former chapter 9, part 5, division 3 (other than former sections 214(1) and 216) continue to apply in relation to the application as if the amendment Act had not been enacted – this section also clarifies that new section 214(1) applies if the chief executive decides to grant the application, meaning the chief executive must give the applicant a notice stating the matters mentioned in new section 214(1).
- section 555 clarifies that for a child who, before the commencement, was registered for home education under former chapter 9, part 5, that from the commencement new chapter 9, part 5, divisions 4 to 6 applies in relation to the child's registration for home education.
- section 556 provides the time period for making an application for a review of a decision made under former chapter 9, part 5 (home education) for which: the person had not already made an application for review of the decision under former section 391; the period stated in former section 391(1) had not already expired; and the chief executive had not extended the time for making the application under former section 391(2). The transitional provision ensures a person entitled to make an application for review of a decision related to home education made before the commencement is not disadvantaged by the change to the time period in the amendment Act.
- section 557 clarifies the time period within which the chief executive must make a review decision for an application under former section 391 for a review of a decision that was made under former chapter 9, part 5 (home education). The transitional provision provides that the chief executive review decision must be made within whichever is the shorter period prescribed under former section 392(2) and new section 392(2)(a).
- section 558 clarifies the application of former section 426 in relation to a child who is or was provisionally registered for home education under former section 207, including as that section is applied under section 553, or for whom an application for provisional registration had been made under former section 207.
- section 559 clarifies how particular matters relating to suspensions that are ongoing on commencement day will be dealt with and provides that suspensions started before the commencement day are dealt with under the legislation that applied when the suspension was issued.
- section 560 provides that the new appeal right for accumulated short suspensions will apply even if suspensions that contributed to the total of 11 or more days that trigger the appeal right were issued prior to the commencement (if they were issued in the same school year).

- section 561 clarifies that if a person has a right of appeal for a suspension issued prior to commencement but has not made an appeal yet, if they do appeal, the review will be dealt with under the law that was in place when the suspension was issued.
- section 562 clarifies that any reviews by the chief executives of suspensions that were ongoing on the day of commencement will be assessed in accordance with the legislation that applied when the suspension was issued.
- section 563 provides that the new timeframe requirements inserted into the Bill do not apply to decisions a principal makes under section 288 if the relevant charge had been dealt with before the commencement day.
- section 564 provides that the new timeframe requirements inserted into the Bill do not apply to actions of a principal under section 289 if the relevant decision to end a charge-related suspension was made before the commencement day.
- section 565 provides that the new timeframe requirements inserted into the Bill do not apply to a principal's actions and decisions under sections 293 and 295 in relation to exclusions or proposals to exclude that started before the commencement day.
- section 566 provides that the amended section 300 in relation to a chief executive's proposal to exclude a student only applies to exclusions or proposals to exclude that start after the commencement day.
- section 567 relates to decisions to exclude a prospective student from all or certain state schools and for which the chief executive has given the applicant a show cause notice but the show cause process was not completed on the commencement date, and the section also clarifies that the chief executive must consider the application under the new provisions, even if no representation for the show cause notice is provided to the chief executive.
- section 568 provides for clarity in relation to how cancellation of enrolments decisions ongoing on commencement day will be dealt with; a cancellation of enrolment process started before commencement will be finalised under the law that was in place when the process started.
- sections 569 and 570 provide clarity in relation to reviews of exclusion decisions made prior to commencement with the review to be dealt with under the law that existed when the decision was made.
- section 571 clarifies how the kindergarten learning program approved by the Minister under former section 419A(1) will be dealt with when the new provisions commence. It provides that on commencement the kindergarten learning program is taken to be a state school kindergarten program under the new section 419A(1).
- section 572 clarifies how a kindergarten child's registration in a kindergarten learning program will be dealt with when the new provisions commence. It provides that on commencement, a kindergarten child who was registered in a kindergarten learning program is taken to be a kindergarten student enrolled at the state school.
- section 573 clarifies how existing kindergarten learning program registration applications and decisions on foot when the new provisions commence will be dealt with. It provides that if the application for registration of a kindergarten child in a kindergarten learning program has not been decided or withdrawn, the application is to be decided under former

section 419C, and that if the principal decides to register the child in the kindergarten learning program, the child must instead be enrolled at the school.

- section 574 clarifies how existing Unit Record Level (URL) data disclosed to the chief executive before commencement of the new provisions will be dealt with; from the commencement, the information is taken to be URL data collected under the new section 419DD and may be used and disclosed as provided for under that section.
- section 575 clarifies how the distance education kindergarten learning program approved by the Minister under former section 419E will be dealt with when the new provisions commence by providing that on commencement the kindergarten learning program continues to be a distance education learning program.
- section 576 clarifies how existing applications for registration in a distance education learning program made under former section 419F, which have not been decided or withdrawn on commencement will be dealt with; on commencement the application must be decided under the section 419F.
- sections 577 and 578 clarify how a review of a decision to refuse to grant registration in a distance education kindergarten learning program that are ongoing on commencement will be dealt with, by providing that the chief executive must decide the review under the new section 419F.
- section 579 clarifies how confidentiality of personal information about a child registered in a kindergarten learning program under former section 426 will be dealt with on commencement, by providing that on commencement former section 426 continues to apply in relation to the personal information.
- section 580 provides for a transitional regulation making power to ensure a regulation may make provision to allow or facilitate the doing of anything to achieve the transition. Section 580(2) provides that the transitional regulation may apply retrospectively to a day no earlier than the day the section commences. Section 580(3) provides that a transitional regulation must declare it is a transitional regulation. Section 580(4) provides that the transitional regulation expires 2 years after the day the section commences. Section 580(5) provides definitions for this section.
- section 581 clarifies the application of former section 386 to a request for a transfer note made under former section 386(1)(b) or (3)(d) where the school's principal had not given the transfer note to the person making the request.
- section 582 clarifies the application of former section 387 to a request for a transfer note made under former section 387 where the new school's principal had not given notice asking for a transfer note, given notice that the first notice had been given, or not given the transfer note to the person making the request.
- section 583 clarifies the application of new section 426A to particular information about a student of a state school accessible to a public service employee of the department before the commencement.
- section 584 validates existing campus P&C associations that are in place for each campus of Tagai State School, which will be prescribed as a regional State school allowing it to have campus P&C associations for each campus of the school.

Clause 118 provides for new or amended definitions in Schedule 4 to reflect the changes to the EGP Act in the Bill.

## **Part 5 Amendment of Education (General Provisions) Regulation 2017**

Clause 119 provides that part 5 amends the *Education (General Provisions) Regulation 2017*.

Clause 120 inserts new parts 7A and 7B in the *Education (General Provisions) Regulation 2017*.

Part 7A prescribes time periods for decision and actions made under chapter 8, part 1 of the EGP Act in relation to enrolment at state schools and contains the following sections:

- section 60A (Period for referring an application for enrolment to the chief executive under section 156 of the Act). The time period prescribed is 5 school days after the principal receives the application.
- section 60B (Period for considering application for enrolment and referring back to principal or giving show cause notice under section 158 of the Act); the time period prescribed for the chief executive to make a decision on a referred application is 10 school days after the chief executive receives the application and the period prescribed for when a principal must tell student after the principal receives the application back from the chief executive is one school day.

Part 7B prescribes time periods for decision and actions made under chapter 8, part 1 in relation to enrolment at state schools under chapter 12, part 3 of the EGP Act and contains the following sections:

- Section 60C provides for definitions for the part.
- Section 60D prescribes matters a principal must consider before suspending a student, other than for a charge related suspension, under chapter 12, part 3, division 2. The decision to suspend is made by the principal, but prior to making this decision the principal must consider the matters as listed in section 60D of the *Education (General Provisions) Regulation 2017*.
- Section 60E sets out the period for giving notice about suspension under section 283, which is prescribed as 1 school day after telling the student of the suspension.
- Section 60F sets out the period for making submission against suspension under section 285. The time period prescribed is 20 school days after the principal gives the student a notice about the suspension.
- Section 60G sets out the period for dealing with a submission against suspension and telling and giving notice to student under section 286. The period prescribed for the chief executive to make a decision and communicate the decision to the student and principal is 40 school days after receiving a submission.
- Section 60H sets out the period for principal deciding whether to propose to exclude student after charge dealt with under section 288. The time period prescribed is 5 school days after the principal becomes aware that the charge has been dealt with.
- Section 60I sets out the period for telling student and giving notice about suspension on

charge-related ground ending early under section 289. The time period prescribed is 1 school day after making the decision for the principal to tell the student of the suspension being ended and 5 school days, after telling the student the suspension has ended, for the principal to give the student a notice about the end of the suspension.

- Section 60J prescribes matters a principal must consider before excluding a student from a school, under chapter 12, part 3, division 3. The decision to exclude is made by the principal, but prior to making this decision the principal must consider the matters as listed in section 60J of the *Education (General Provisions) Regulation 2017*.
- Section 60K sets out the period for giving notice of proposed exclusion and suspension pending exclusion under section 293. The time period prescribed is 1 school day after the principal tells the student about the proposed exclusion.
- Section 60L sets out the period for deciding whether to exclude a student, telling the student and giving notice under section 295. The time period prescribed is 20 school days after the principal gives the student a notice about the proposed exclusion.
- Section 60M prescribes matters the chief executive must consider before excluding a student from certain or all state schools, under chapter 12, part 3, division 4. The decision to exclude is made by the principal, but prior to making this decision the principal must consider the matters as listed in section 60M of the *Education (General Provisions) Regulation 2017*.
- Section 60N sets out the minimum show cause period for cancellation of enrolment under section 317. The time period for the minimum show cause period that a principal must give to the student is 30 days.
- Section 60O sets out the minimum period for making submission against cancellation of enrolment under sections 318 and 319. The time period for making a submission is 30 days after the student receives a notice of cancellation of enrolment.
- Section 60P sets out the period for dealing with submission against cancellation of enrolment and telling and giving notice to the student under section 320. The time period for making a submission is 20 days after the chief executive receives a submission against a cancellation of enrolment.

Clause 121 amends schedule 6 (Dictionary) to include definitions for *education support plan* and *out-of-home care*.

## **Part 6 Amendment of Public Health Act 2005**

Clause 122 provides that part 6 amends the *Public Health Act 2005*.

Clause 123 amends section 158 to insert a new definition of *state school kindergarten program* provided at a prescribed state school under the EGP Act, section 419A. The clause also amends the definition of *person in charge*, paragraph (a), to include a state school kindergarten program. Prior to the amendments a state school kindergarten program was captured as an ‘education and care service’ within the definition in section 158. The amendments ensure the status quo is maintained in relation to a state school kindergarten learning program following commencement. The person in charge is the principal of the state school.

Clause 124 amends section 160B to insert reference to a state school kindergarten program in section 160B(1). The clause also amends section 160B(1)(a), (b) and (c), 160B(2)(a), 160B(3) and 160B(4)(b) to reflect to the amendment made to section 160(B)(1).

Clause 125 amends section 160C to insert a reference to a state school kindergarten program in section 160C(1). The clause also amends section 160C(1)(a), (b) and (c) and (2)(a) to reflect the amendment to 160C(1).

Clause 126 amends section 160D to insert a reference to a state school kindergarten program in section 160D(1). The clause also amends section 160D(1)(b) and (2) to reflect the amendment to 160D(1).

Clause 127 amends section 179 to insert a reference to a state school kindergarten program in section 179(1A). The clause also amends section 179(1A)(b) to reflect the amendment to 179(1A).

Clause 128 inserts new chapter 12, part 11 Transitional provisions for *Education (General Provisions) and Other Legislation Amendment Act 2024* into the *Public Health Act 2005*. The transitional provisions in sections 519 to 533 provide for the transition of a state school kindergarten that was an education and care service under the Education and Care Services National Law prior to commencement, to a state school kindergarten program under the EGP Act.

Clause 129 inserts a new definition in schedule 2 (dictionary) of *state school kindergarten program* for Chapter 5 and amends the definition of *person in charge*, paragraph (a), to include a state school kindergarten program for Chapter 5.

## **Part 7 Working with Children (Risk Management and Screening) Act 2000**

Clause 130 provides that this part amends the *Working with Children (Risk Management and Screening) Act 2000*.

Clause 131 amends schedule 1 (Regulated employment and businesses for employment screening) to update references to the EGP Act in relation to the provision of education services outside of the school to capture the new requirement in section 163A for the chief executive to provide education to a student awaiting an enrolment decision, after their application has been referred to the chief executive. The clause also updates sectional references to the EGP Act in relation to the provision of education outside of a school to ensure accuracy and currency.

## **Part 8 Other amendments**

Clause 132 provides that this part amends other legislation as set out. This part provides for technical and consequential amendments.

### **Schedule 1 Other Amendments**

#### **Part 1 Amendments commencing on assent**

The *Child Protection Act 1999* is amended to update the reference to the *Education (Accreditation of Non-State Schools) Act 2001* in the definition of *prescribed entity* to refer to the *Education (Accreditation of Non-State Schools) Act 2017*.

The EGP Act is amended to make minor and consequential amendments commencing on assent in relation to nomenclature (modernising gendered language) and technical matters (cross references and modernised drafting).

**Schedule 1 Part 2 Amendments commencing on proclamation**

The EGP Act is amended to make minor and consequential amendments commencing on proclamation to address technical matters such as cross referencing and modernised drafting.

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