

Education (General Provisions) and Other Legislation Amendment Bill 2024

Statement of Compatibility

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

In accordance with section 38 of the *Human Rights Act 2019*, I, Di Farmer MP, Minister for Education and Minister for Youth Justice, make this statement of compatibility with respect to the Education (General Provisions) and Other Legislation Amendment Bill 2024 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the *Education (General Provisions) Act 2006* (EGP Act) and other legislation to:

- protect students by: facilitating proactive, proportionate and efficient frameworks for sharing student information when a student transfers between Queensland schools; and supporting students accessing approved online services for digital learning and support, and the effective management of schools;
- contribute to the good order and management of Queensland state schools by: improving procedural fairness for decision-making processes for school disciplinary absences (SDAs), including introducing a new appeal right for accumulated short suspensions; a new student support plan (SSP) framework for students with disability, Aboriginal and Torres Strait Islander students and Preparatory year students; 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 state school kindergarten (SDK); and updating provisions related to the operation of parents and citizens' associations (P&Cs);
- modernise and improve education services by: clarifying the eligibility requirements for eKindy to improve access and participation; enhancing the regulation of home education and streamlining the home education registration process; removing the use of gendered language; updating the guiding principles to explicitly recognise the importance of wellbeing and inclusivity to support the objects of the Act; and
- make other 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 which provide primary, secondary or special education; costs for state education; allocation of state education for each student in a Queensland state school; school councils and P&Cs; enrolment at state schools; compulsory schooling and compulsory participation obligations; 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, such as 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 high 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.

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

The following human rights are relevant to these clauses of the Bill:

- Right to recognition and equality before the law (section 15, HR Act);
- Right to take part in public life (HR Act, section 23);
- Right to privacy and reputation (section 25, HR Act);
- Right to protection of families and children (section 26, HR Act);
- Right to cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the HR Act); and
- Right to education (section 36(1), HR Act).

Human Rights Issues

School disciplinary absences and enrolment decisions

Clauses 33, 51 to 54, 76 to 96, 114, 117 and 118, and Part 5 amend the EGP Act, and the *Education (General Provisions) Regulation 2017* (EGP Regulation), to address regulatory issues in relation to school disciplinary absences (SDAs) and enrolment decisions. The Bill provides for targeted, measured reform that will:

- clarify timeframes for decision-making and decision-making processes in relation to SDAs to ensure the processes are consistent with natural justice and undertaken in a timely fashion to minimise any loss of learning for students;
- allow the principal to delegate certain actions in relation to telling a student of a suspension (though not the decision) to a head of school, deputy principal or another staff member with a leadership role at the school;
- allow an appeal right for accumulated short-term suspension (11+ days);
- allow the chief executive 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);
- ensure the chief executive can consider all matters when making a final decision about an enrolment refusal or exclusion, whether the student makes a submission against the enrolment or not;
- clarify that the chief executive must have a policy outlining considerations for SDA decision makers in relation to the suspension, exclusion or cancellation of enrolment of a student;
- provide for matters a principal or another authorised officer must consider before making an SDA decision;
- provide for a review of SDA provisions inserted by the proposed Bill; and
- provide for the preparation of Student Support Plans (SSPs) for individual students belonging to particular vulnerable cohorts who are suspended.

The proposed amendments engage the right to education under section 36(1) of the HR Act and the right to protection of families and children (section 26 of the HR Act) because they provide for a child's ongoing attendance or enrolment at school, which may be disrupted or

interfered with through the making of disciplinary or enrolment decisions.

Additionally, the proposed amendments engage the right to recognition and equality before the law (section 15 of the HR Act) as some of the proposals provide for greater review rights in relation to short-suspension SDA decisions for some cohorts more than others.

Further the proposed amendments engage the right to cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the HR Act), as it requires SSPs to be prepared for Aboriginal or Torres Strait Islander students who receive an SDA and also requires consideration of whether the cultural background of an Aboriginal or Torres Strait Islander student has been recognised prior to issuing an SDA.

(a) the nature of the right

The *right to recognition and equality before the law* is a stand-alone right that also permeates all human rights. It encompasses both the right to recognition as a person before the law and the right to enjoy human rights without discrimination.

The right to recognition as a person before the law refers to the universal recognition of legal personality of the human being. To be recognised before the law gives a person rights to participate in the legal process and to defend themselves in a court of law.

The right to equality reflects the essence of human rights: that every person holds the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group. The right protects individuals from discrimination and provides that every person has the right to equal and effective protection against discrimination.

The *right to the protection of families and children* provides that families are the fundamental group unit of society and are entitled to be protected by society and the State (section 26(1)); and every child has the right, without discrimination, to the protection that is in their best interests as a child (section 26(2)). ‘Family’ is interpreted broadly, extending to different cultural understandings of family.

The Act recognises that children are entitled to special protection. It recognises that children are more vulnerable because of their age. ‘Child’ is not specifically defined in the Act, but is broadly understood to be someone under 18 years of age. In addressing this right, it is appropriate for the government to adopt special measures to protect children, and the best interests of the child should be taken into account in all actions affecting a child. What will be in each child’s ‘best interests’ will depend on their personal circumstances.

The *right to cultural rights – Aboriginal peoples and Torres Strait Islander peoples* (section 28) recognises the distinct cultural rights held by Aboriginal peoples and Torres Strait Islander peoples. The Preamble to the HR Act provides the context in which to consider the specific rights of Aboriginal peoples and Torres Strait Islander peoples by recognising the special importance of human rights.

Underpinning the various cultural rights protected under section 28 of HR Act is recognition and respect for the identity of Aboriginal peoples and Torres Strait Islander peoples, both as individuals and in common with their communities.

They have the right to enjoy, maintain, control, protect and develop their culture, language and kinship ties with other members of their community. The right recognises that the spiritual, economic and material connection with traditional lands and waters is an essential component of that identity and is inextricably connected to Aboriginal peoples and Torres Strait Islander peoples’ cultural heritage, language and kinship ties. They must not be denied the right with

other members of their community on various cultural matters; and not be subjected to forced assimilation or destruction of their culture.

While this right is engaged by the Bill, it is not limited, as the amendments ensure Aboriginal and Torres Strait Islander students cultural background is considered in the development of SSPs and in consideration prior to the issue of an SDA.

The right to education under section 36(1) of the HR Act provides that every child has the right to have access to primary and secondary education appropriate to the child's needs. The Explanatory Notes to the HR Act provide that this right is intended to be consistent with the provisions of the EGP Act and provide rights in respect of the aspects of education service delivery for which the State is responsible.

Importantly, the right to education under the HR Act is a right to access education, as noted by the former Queensland Parliamentary Legal Affairs and Community Safety Committee (LACS Committee). Access incorporates underlying principles of non-discrimination, physical accessibility and economic accessibility.

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

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

The proposed amendments, for the most part, do not limit the right to education, protection of children and families and equality under the law.

Most of the new measures given effect by the Bill positively engage these rights by increasing access to education by ensuring appropriate timeframes for decision-making and actions that affect enrolment considerations (including suspensions, exclusions and cancellations of enrolments), giving a right of appeal for short-term suspensions that total more than 11 school days in a year, and ensuring students have access to learning programs when they are awaiting consideration of their enrolment application (where a potential enrolment refusal process has commenced).

However, the proposals to provide for SSPs in relation to suspensions for particular vulnerable cohorts (that is Aboriginal and Torres Strait Islander students, students with disability and Preparatory-aged students – see below for detail), rather than all students, may limit the right to education, right to protection of families and children and the right to equality under the law. The potential limit on these human rights arises from not providing SSPs to all students. Students who do not have access to SSPs might have access to education (and related rights) under the law to a lesser extent.

It is noted that section 15 of the HR Act does provide that measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination. The proposed new support plans for vulnerable cohorts could be considered such a measure. However, noting that some students will have access to support plans in the legislation compared with others who will not, justification under section 13 of the HR Act of the potential limitations to human rights is provided for the proposed amendment.

The potential limitation is consistent with a free and democratic society because it ensures appropriate support to vulnerable cohorts within our society. First Nations students and students with disability are disproportionately impacted by SDAs for reasons discussed below,

and it is appropriate in a free and democratic society for the state to prioritise the use of its human and financial resources in relation to those cohorts most impacted by SDAs.

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

The purpose of the proposed amendments is to maximise access to learning for students who are potentially more vulnerable to the adverse impacts of suspensions.

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. There is no right of appeal for suspensions of a lesser period of time.

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 student support plans for particular vulnerable student cohorts who are subject to a suspension of any length. These cohorts are:

- students in the Preparatory year of schooling;
- Aboriginal students;
- Torres Strait Islander students; and
- students with disability.

Aboriginal and Torres Strait Islander students or students with disability can have complex needs that require additional and tailored support. SSPs will allow the school to work 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.

Aboriginal and Torres Strait Islander 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.

The Queensland Government Youth Justice Strategy 2019-2023¹ considers the links between disengagement with school and youth justice issues. Key priorities set out in the strategy speak to supporting children to stay engaged in schooling. The intent of SSPs is to provide students at risk of SDAs as proven by the data, with support that will increase their engagement with schooling.

Allowing for support plans for Preparatory year students recognises the young age of these students, who are in their first year of schooling. Children must be 5 years old by 30 June in the year they start Preparatory year. This means that Preparatory year classes can have children as young as 4 and a half years old.

Preparatory-aged 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

¹ Working Together Changing the Story: Youth Justice Strategy 2019 - 2023

issuing a suspension. Given these reasons, it is important that support be given to Preparatory year students should they be the subject of a suspension.

This extra support for Preparatory-aged children sends a strong message to the school system that Preparatory-aged children may require additional support, 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.

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

While the EGP Act provides the principal (and chief executive) discretionary powers to suspend, schools are not prevented from using alternative behaviour management tools.

Schools may choose a range of behaviour management tools such as in-class responses managed by the teacher (for example, verbal reprimands, restatement of rules or expectations, reminders and practise of routines, restriction or removal of in-class privileges, behaviour monitoring systems, time out, detention and communication with parents).

For persistent or more serious behavioural incidents, other within-school disciplinary consequences may be implemented, such as temporary relocation to a 'buddy' classroom, individual review meetings with nominated staff person (e.g. Guidance Officer, Head of Department), and/or intensive support options. Schools will often adopt one or more of these alternative approaches first and decide to use suspensions only if the other approaches have not worked to change or stop the behaviour.

There are no mandated disciplinary consequences used in Queensland state schools, each individual student case is considered and determined by the principal based on the particular circumstances. These approaches apply equally to all students. However, the particular vulnerabilities (as outlined above) of Aboriginal or Torres Strait Islander students, students with disability, and Preparatory year students, means that suspensions have a potentially greater adverse impact on their ability to access learning.

Disengagement with learning for these cohorts can have a proportionately more significant adverse impact on bringing students back to the school community.

It should be noted, the amendments will not 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.

An alternative would be to not limit SSPs to certain cohorts. The intent of SSPs is to provide targeted support to those students the data shows are disproportionately subjected to SDAs as opposed to other students. Over time, SSPs may be offered more broadly, depending on implementation and evidence that the approach drives positive outcomes.

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

Requiring SSPs 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. As already identified, there will be no reduction in review rights for all other students as a result of this proposal.

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 to have measures in place to address vulnerabilities of particular cohorts that are potentially impacted more significantly by suspensions.

(f) any other relevant factors

Nil.

State school kindergarten and eKindy

Clauses 3 to 8 amend the *Education and Care Services Act 2013* (ECS Act), and clauses 9 to 16 amend the *Education and Care Services National Law (Queensland) Act 2011* while clauses 28 and 29, 31 and 32, 34 and 35, 51, 74 and 75, 97 to 103, 108 to 112, and 115 to 117 amend the EGP Act to change and streamline the regulatory framework for state school kindergartens in prescribed state schools (state delivered kindergarten, referred to as SDKs), and make modifications to the distance and medical eligibility criteria for eKindy.

The human rights impacted by the amendments to streamline the regulatory framework are the *right to recognition and equality before the law* (section 15, HR Act); and the *right to protection of children and families* (section 26, HR Act).

The amendments do not engage the *right to education* (section 36(1), HR Act) as the scope of this right relates only to primary and secondary education and does not extend to early childhood education and care.

(a) the nature of the right

Right to recognition and equality before the law

The *right to recognition and equality before the law* is a stand-alone right that also permeates all human rights. It encompasses both the right to recognition as a person before the law and the right to enjoy human rights without discrimination.

The right to recognition as a person before the law refers to the universal recognition of legal personality of the human being. To be recognised before the law will give a person the right to participate in the legal process and to defend themselves in a court of law.

The right to equality reflects the essence of human rights: that every person holds the same human rights by virtue of being human and not because of some particular characteristic or membership of a particular social group.

The right protects individuals from discrimination and provides that every person has the right to equal and effective protection against discrimination.

Right to protection of children and families

The *right to the protection of families and children* provides that: families are the fundamental group unit of society and are entitled to be protected by society and the State (section 26(1)); and every child has the right, without discrimination, to the protection that is in their best interests as a child (section 26(2)). ‘Family’ is interpreted broadly, extending to different cultural understandings of family.

The Act recognises that children are entitled to special protection. It recognises that children are more vulnerable because of their age. ‘Child’ is not specifically defined in the Act, but is broadly understood to be someone under 18 years of age.

In addressing this right, it is appropriate for the government to adopt special measures to protect children, and the best interests of the child should be taken into account in all actions affecting a child. What will be in each child's 'best interests' will depend on their personal circumstances.

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

Under the Preschool Reform Agreement and to ensure access to a quality kindergarten program in the year before full-time school, the Queensland Government has provided SDK in prescribed state schools located where there are barriers to accessing kindergarten due to the unique and often vulnerable and disadvantaged community circumstances.

The amendments provide for a different regulatory framework for SDKs to all other kindergartens in Queensland. The purpose of the proposal is to ensure that state schools that provide SDKs are not subject to unnecessary regulatory processes, and thereby allow them to focus on providing quality education and care to children enrolled in the SDK and the broader school.

Participation in quality early learning prior to school strengthens children's cognitive, language and social-emotional skills that are fundamental for their future success in school and later in adult life. These skills underpin children's overall wellbeing and have a direct impact on how they respond to successes and challenges personally, socially and in their learning progress.²

SDKs are located in prescribed state schools and, as a consequence of the Bill, will be subject to a regulatory framework under the EGP Act. All other kindergartens in Queensland will be subject to the *Education and Care Services National Law* (the National Law) or ECS Act. The amendments therefore impose a different regulatory framework for SDKs to private and not-for-profit operators.

This could be considered a potential limitation of the *right to equality* under the law. However, the potential limitation is consistent with a free and democratic society based on dignity, equality and freedom as it is intended to improve early childhood education opportunities for children in rural and remote communities or where there is limited access to a kindergarten program due to the community's unique circumstances.

Any limitation is offset by the benefits of the new streamlined framework. It will allow state schools in areas where there are no other kindergarten options, to address the education needs of the kindergarten aged children in those areas, without imposing unnecessary regulatory burden on the schools by requiring compliance with multiple regulatory frameworks. As discussed in more detail below, the standards for children enrolled in an SDK will continue to be at the same level as other kindergartens.

Right to protection of children and families

The amendments exempt SDKs from the National Law and ECS Act. However, offences under the National Law relating to protection of children from harm and hazard and supervision of children, as well as offences relating to regular transportation by the service under the National Regulations, will be reflected, as relevant, in the EGP Act and EGP Regulation and will apply to all SDKs.

² <https://www.aihw.gov.au/reports/children-youth/australias-children/contents/education/early-childhood-education>

The EPG Act will also establish an offence provision to restrict a person who holds a prohibition notice under the National Law or ECS Act from providing education or care to kindergarten children in an SDK.

In addition, the proposal will enable the safeguards provided by the EGP Act to apply to the children attending the SDK, by making them students of a state school. Under the EGP Act, principals must ensure a caring, safe and supportive learning environment. DoE policies and procedures relating to the health, safety and wellbeing of kindergarten students will apply to SDKs.

DoE ensures continuous quality improvement through the application of well-established departmental quality assurance, School Review and General School Audit processes, which broadly align with several of the Quality Areas of the National Quality Standard (NQS).

To continue to ensure quality in the early years of schooling, it is proposed the NQS will be further embedded into the current school improvement process. Maintaining a review process against the NQS for early childhood education, albeit integrated into the existing school-based review process, will allow for equity of the assessment of quality of all kindergarten services across the early childhood sector and mitigate perceptions that SDKs are being held to a lesser standard.

Moving to one school-based approach under one legislative framework will ensure all Queensland children continue to have access to a quality kindergarten program and the school leaders and staff of SDKs are supported to deliver a program that promotes continuity of learning and positive outcomes for children in kindergarten.

It is therefore considered that while the *right to the protection of children and families* is engaged, it is not limited by the proposal.

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

State school operators are currently subject to multiple regulatory frameworks: the National Law or ECS Act for kindergarten aged children and the EGP Act for all other children attending the school.

The new framework will introduce a single legislative framework for all prescribed state schools delivering an SDK program rather than requiring them to comply with multiple frameworks.

While the regulatory frameworks will differ, SDKs will still be subject to the same high-quality standard of education and care as in other kindergartens. SDKs will continue to be supported through strong program governance and oversight structures, quality assurance processes and capability support (operational, curriculum and pedagogical) already in place within the DoE.

Removing SDKs from the National Law and administering them under the EGP Act will ensure that Queensland children continue to have access to a quality kindergarten program and enable school resources to be focused on the educational learning and developmental outcomes of children attending SDK.

A consistent quality assurance approach will also be applied to all SDKs through the school review process. Strong governance and oversight in a revised SDK delivery model will continue to be achieved through:

- the continuation of the SDK Board (as part of a three-tier governance and multi-level leadership structure with central and regional office members) – managing strategic and

operational policy, program risks and issues to support quality kindergarten delivery in state schools;

- a tailored, consistent strategic school assurance (review and audit) process recognising kindergarten as a unique cohort (regardless of the number of children in attendance) which leverages off the existing strong systems within the DoE that already lead, oversee and govern schools;
- the provision of regionally-based SDK operational support staff and early childhood specialists to support school staff and build capability;
- the continued focus on the development of kindergarten specific curriculum, teaching and learning resources and professional learning tools tailored to maximise the wellbeing of school teams and the positive early childhood learning outcomes of kindergarten aged children; and
- launching a suite of custom capability development options to suit personalised pathways and preferred delivery methods for staff supporting kindergarten delivery in state schools.

The limitation is offset by the fact that the new regulatory framework for SDK programs in state schools provides special recognition of the unique challenges faced by vulnerable and disadvantaged children and families living in remote areas and in other communities facing barriers to accessing kindergarten.

It is a means of optimising outcomes for children within these communities. SDKs operate primarily where the market has failed: in state schools located at least 40 kilometres by road from the nearest approved kindergarten, in selected, discrete Aboriginal and Torres Strait Islander communities or other selected communities where there are barriers to accessing kindergarten.

Remote and other vulnerable and disadvantaged communities with low and variable populations find it challenging to attract and retain qualified staff to deliver kindergarten. This limits the opportunities for children living in remote communities the opportunity to participate in a centre-based kindergarten program that is accessible and can contribute to an increasing risk of social isolation and exclusion.

Kindergarten participation is consistently lower in remote areas compared to other areas of Queensland. The Australian Bureau of Statistics identified in 2020, that while more than 95 per cent of Queensland children attend kindergarten, access for children in rural and remote communities or communities with identified barriers remained a challenge, with participation in 2020 estimated to be approximately 73.7 per cent.

The new streamlined regulatory framework for schools with SDKs is directly related to ensuring appropriate early childhood education opportunities in rural and remote communities, or where there is limited access to a kindergarten program due to the community's unique circumstances, as it enables state schools in these communities to effectively provide kindergarten programs without subjecting them to an unnecessary and burdensome dual regulatory framework. This will allow them to concentrate on providing appropriate education and care opportunities for children enrolled in the SDK and the school's students.

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

Currently all kindergartens operating in Queensland are subject to either the National Law or ECS Act. All state schools are subject to the EGP Act.

To streamline the regulatory framework for state schools that operate SDKs and therefore allow them to focus on providing the quality education outcomes, legislative amendment is necessary to exempt state schools from the National Law and ECS Act and provide an appropriate framework in the EGP Act.

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

Providing equal early education opportunities for children is a key priority for the Queensland Government and helps to ensure equity in society. Queensland is a large state with many rural and remote communities facing barriers to accessing kindergarten. In those communities, to ensure children have access to a kindergarten education, it is necessary for state schools to operate SDKs.

It is appropriate that when these schools do operate an SDK, they are not subject to unnecessary and complex regulatory frameworks which may detract from focussing on educational outcomes.

Currently schools that operate SDKs are subject to both a regulatory framework under the EGP Act and a regulatory framework under the ECS Act or the National Law, depending on the number of kindergarten aged children at the school (which can change from year to year). The proposal will remove this complex dual regulatory model and replace it with a streamlined regulatory framework under the EGP Act.

Any potential limitation on the right to equality under the law created by implementing a separate regulatory framework is minor and appropriate, when balanced against ensuring children in rural and remote communities or where there is limited access to a kindergarten program due to the community's unique circumstances, have equal access to quality early childhood education opportunities.

- (f) any other relevant factors

Nil.

Parent and Citizens' associations

The right to take part in public life (HR Act, section 23) is relevant to the Bill. Clauses 19 to 21, 36 to 50, 117 and 118 modernise the Parent and Citizens associations (P&C) regulatory framework under the EGP Act to improve operational efficiency, and provide clarity about the role and purpose of P&C's to enable them to continue to be responsive to the communities they serve.

The following amendments are made:

- Forming separate P&Cs for schools with multiple campuses – enable the principal to form a separate P&C association for each campus of a school where the communities of each campus are distinct and geographically dispersed;
- Enabling donations between P&Cs – enable a P&C association to donate funds or goods to another school or P&C association, in Queensland or interstate, that may be affected by an adverse event (for example, natural disaster), with the decision to be made by the full P&C association meeting (not the executive); and
- Precluding person convicted of an indictable offence from being a P&C executive committee or subcommittee member – provide that a person convicted of an indictable offence, other than a spent conviction, is precluded from being a member of a P&C

executive committee or subcommittee.

The human right impacted by these changes is the *right to taking part in public life* (section 23, HR Act).

(a) the nature of the right

The nature of the right to taking part in public life affirms the right of all persons, without discrimination, to participate in the conduct of public affairs, including the right to vote and be elected at periodic state and local government elections.

It ensures all persons have the opportunity to contribute to the political process and public governance, directly or through freely chosen representatives. This also extends to being part of community consultations with government, attending local council meetings, participating in public debate, and taking part in referendums or other electoral processes which are all important aspects of taking part in public life.

The right has been interpreted by the UN Committee as providing a right of access, on general terms of equality, to positions in the public service and in public office. The right provides that the criteria and processes for appointment, promotion, suspension and dismissal within the public service must be objective and reasonable, and non-discriminatory.

In relation to this right, it is of particular importance to ensure that persons do not face discrimination in the exercise of their rights on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or status. This right is limited to ‘eligible persons’, therefore, this internal limitation provides for the prescribing of matters such as eligibility for membership to a body.

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

A person convicted of an indictable offence will be precluded from being a member of a P&C executive committee or subcommittee, which will prevent the person from participating in the running of the P&C for the school.

Ensuring the integrity of public organisations, particularly those related to schools which deal with significant assets (as many P&Cs do), is essential in a free and democratic society. Free and democratic societies also require public confidence in public organisations.

The amendments are consistent with the current restrictions preventing persons convicted of an indictable offence holding an elected or appointed position on a school council under the EGP Act (section 93 of the EGP Act).

The right to participate in public affairs is most commonly engaged in relation to participation in government processes. The identification of a limit in this case is based on a wide reading of the scope of ‘public affairs’ as encompassing the governance of state schools.

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

The purpose of the proposals is to ensure P&Cs, and the funds they control, are managed with integrity and in a manner appropriate to expectations of the community. The limitations help to achieve this purpose.

Precluding a person convicted of an indictable offence from being a member of the P&C executive committee or subcommittee ensures the integrity of P&Cs and encourages community confidence in the appropriate management of funds.

It is appropriate to impose additional requirements for suitability and eligibility for appointment of persons to executive roles in recognition of the additional responsibilities and expectations required, beyond that of an ordinary member (for example, potential for members of P&C executive committee and subcommittee to be involved in the financial operations of the P&C).

A conviction for an indictable offence will not prohibit general membership of a P&C, so all parents and carers may have opportunities to participate in the school community.

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

The restrictions on the *right to take part in public life* will impose minimal limitations on the rights of individuals. The proposed amendments to legislation are necessary to ensure suitable people hold key roles in P&Cs.

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

The amendment to preclude a person convicted of an indictable offence from being a P&C executive committee or subcommittee member 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 P&C executive committee and subcommittee to be involved in the financial operations of the P&C).

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. It is considered the amendment is consistent with what is expected within a free and democratic society and is the best and least restrictive way to achieve the purpose. The reason for the proposed limitation far outweighs the impact of the limitations on individuals. It should be noted that the preclusion from holding office will not apply to a person who has a spent conviction under *Criminal Law (Rehabilitation of Offenders) Act 1986*.

(f) any other relevant factors

Nil.

Special education

Clauses 51, 55, and 117 amend the EGP Act to enable a state special school principal to directly enrol a student transferring from another Queensland state special school without the need to refer the enrolment application to the chief executive or their delegate to consider if the child is a child with disability.

The proposed amendments engage the following human rights: *right to recognition and equality before the law* (section 15, HR Act); and *right to education* (section 36(1), HR Act). However, it does not limit these rights.

The proposals promote the *right to recognition and equality before the law* by ensuring the provision of special education continues to be effective through streamlined enrolment processes, giving students with disability equal opportunities to all other Queensland students and not requiring duplicative and unnecessary enrolment processes.

The proposals also ensure the student is provided with the appropriate special education that continues to meet their educational development needs sooner, and therefore promotes the *right to education*.

Home education

Clauses 18, 23 to 25, 56 to 73 and clause 106 and 107 amend the EGP Act to enhance the regulation of home education, including by:

- include a new guiding principle that sets 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
- requiring a child's educational program for home education to be consistent with an approved curriculum;
- strengthening parent reporting requirements;
- streamlining and strengthening home education registration, including by removing the 60-day provisional registration and unnecessary regulatory burden associated with registration, as well as requiring a summary of a child's educational program be provided with the registration application;
- extending the age eligibility for home education by one year; and
- stating timeframes for internal reviews in days (not school days) to avoid unnecessary delays.

The human rights engaged by these proposals are the *right to privacy and reputation* (section 25, HR Act) and the *right to education* (section 36(1), HR Act).

The right to privacy and reputation (section 25, HR Act) is potentially limited by the amendments relating to parent reporting on the educational progress of the child registered, or to be registered, for home education.

The proposed amendments promote the *right to education* by enhancing home education as a viable and effective alternative to education in a school setting, with appropriate regulatory oversight, including by ensuring a child registered for home education is accessing an educational program consistent with the Australian Curriculum or Queensland syllabus for senior subjects, which are used in Queensland schools.

(a) the nature of the right

The right to privacy and reputation protects the individual from all interferences and attacks upon their privacy, family, home, correspondence and reputation. It protects privacy in the sense of personal information, data collection and correspondence but also extends to an individual's private life more generally.

Only lawful and non-arbitrary intrusions may occur upon privacy, family, home, correspondence and reputation, arbitrary interference includes when something is lawful, but also unreasonable, unnecessary or disproportionate.

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

The amendments require that a parent who applies for registration of a child for home education is required to provide with the application a report on the educational progress of the child

during their previous period of registration, if the child had been registered for home education within 12 months immediately before the application for registration is made.

This reporting requirement potentially limits the child's right to privacy. However, the potential limitation is consistent with a free and democratic society because it supports the chief executive to consider an application for the registration of a child for home education and decide whether the chief executive is satisfied the standard conditions of registration (which includes that a parent ensures the child receives a high-quality education while registered) will be complied with.

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

The limitation helps achieve the purpose of the EGP Act in relation to home education, which is to ensure a child registered for home education receives a high-quality education. The report is the only tool by which the chief executive can be satisfied the child is receiving a high-quality education. Without such reporting requirements, there is no regulatory oversight by which the chief executive can be satisfied this purpose is being achieved.

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

There is no less restrictive and reasonably available way of achieving the purpose of the amendments.

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

An appropriate balance has been reached between human rights and the importance of the purpose. The collection of personal information in the report pertains to only relevant information (i.e. the educational progress of the child during the period of registration) for ensuring the child is receiving a high-quality education.

(g) any other relevant factors

Nil.

Transfer notes

Clauses 104 and 105 amend the EGP Act to facilitate more proactive and proportionate sharing of information when a student transfers between Queensland schools, via a transfer note.

The right to privacy and reputation (section 25, HR Act) is potentially limited by the amendments relating to transfer notes.

The human rights promoted by the amendments to transfer note requirements are the right to protection of families and children (section 26, HR Act) and Right to cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28 of the HR Act).

Right to protection of families and children

Notably, while the requirement for the principal of a student's previous school to share information with the student's new school, that is reasonably believed to be necessary to protect the safety and wellbeing of the student and the school community at the student's new school, limits the right to privacy under the HR Act, the very intent of this information sharing provision also positively engages the right to protection of families and children under the HR Act.

The amendments will allow for the student's new school to ensure proper measures are put in place to support and protect the transferring student and other members of the school community at the new school to which the student has transferred to.

Right to cultural rights – Aboriginal peoples and Torres Strait Islander peoples

The DoE will develop guidelines to provide schools with guidance on the level and type of information-sharing that is proportionate in assisting a receiving school to meet a student's safety and wellbeing needs, and those of the other members of the school community. The guidelines will be co-designed with Aboriginal and Torres Strait Islander peoples to ensure they provide schools with appropriate guidance about how information shared in a transfer note provides proper recognition and respect for the identity of Aboriginal and Torres Strait Islander peoples, both as individuals and in common with their communities.

(a) the nature of the right

Right to privacy and reputation

The right to privacy and reputation protects the individual from all interferences and attacks upon their privacy, family, home, correspondence and reputation. It protects privacy in the sense of personal information, data collection and correspondence but also extends to an individual's private life more generally. Only lawful and non-arbitrary intrusions may occur upon privacy, family, home, correspondence and reputation, arbitrary interference includes when something is lawful, but also unreasonable, unnecessary or disproportionate.

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

The amendments will require the principal of a student's new school to request a transfer note from the student's previous school, within 90 days after the student has enrolled at the new school, where the principal does not already have information about the student that would be provided in a transfer note.

Additionally, the principal of the student's new school may request a transfer note from any school the student attended in the 12-month period before being enrolled at the new school (a former school). The amendments also provide that the principal of the student's previous (or former) school must include information in the transfer note that they reasonably believe is necessary to help the principal of the student's new school to protect the safety and wellbeing of the student or members of the school community at the student's new school.

Right to privacy and reputation

The purpose of a transfer note is to provide for the sharing of student information when a student transfers between Queensland schools, to ensure the 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.

The proposed obligation for principals to share information (including personal information) about a student transferring from one school to another via a transfer note limits a student's right to privacy. 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, the potential limitation is consistent with a free and democratic society as it will support the timely and effective sharing of relevant student information between schools, enabling greater ability for principals to protect students and school communities where necessary, and better support the continuity of a student's education.

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 – the Royal Commission noted that children with harmful sexual behaviours make up a significant proportion (around 20 per cent) of reported incidents of child sexual abuse, with educational settings representing the second most common institutional setting for such incidents (after out-of-home care); 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 *Final Report of the Royal Commission into Institutionalised Responses to Child Sexual Abuse: Volume 8* recommended state and territory governments enable proportionate and proactive information sharing when a student transfers between schools, to ensure their safety and wellbeing and that of students, staff or others at their new school.

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

Given the transfer note process under the EGP Act is currently optional rather than mandatory (being instigated only upon a parent/student or principal's choice to request it), it is not 'proactive'.

The proposed amendments address the Royal Commission recommendations for proactive information sharing to ensure the safety and wellbeing of a student and that of students and other members of the school community at the student's new school.

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

There is no less restrictive and reasonably available way of achieving the purpose of the amendments. The existing 'non-mandatory' approach in the EGP Act is not providing for the level of use of transfer notes intended.

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

The 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.

(f) any other relevant factors

Nil.

Information sharing with online services

Clauses 112 and 113 amend the EGP Act to enable an employee of a state school to share student personal information with an approved online service used by the school.

The right to privacy and reputation (section 25, HR Act) is potentially limited by the amendments that provide for information sharing with online services, while the *right to education* (section 36(1), HR Act) is promoted.

(a) the nature of the right

Right to privacy and reputation

The *right to privacy and reputation* provides that every person has the right not to have their privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and not to have the person's reputation unlawfully attacked.

Unlawful interference means it cannot take place except in cases envisaged by law. An arbitrary interference refers to conduct that is capricious, unpredictable or unjust, as well as interferences that are unreasonable and not proportionate to the legitimate purpose that is sought.

Privacy relates to the personal aspects (i.e. personal information, data collection and correspondence) and so more broadly into the person's private life more generally (i.e. their physical and mental integrity, freedom of thought and conscience, legal personality, sexuality, family and home and individual identity-such as appearance, clothing and gender).

While the right to privacy is broad, it must be balanced against other rights and competing interests.

The *right to privacy and reputation* is relevant as the proposal enables the disclosure of personal information belonging to a student.

Right to education

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

The Explanatory Notes to the HR Act provide that this right is intended to be consistent with the provisions of the EGP Act and provide rights in respect of the aspects of education service delivery for which the State is responsible.

Importantly, the *right to education* under the HR Act is a right to access education, as noted by the former Queensland Parliamentary LACS Committee. Access incorporates underlying principles of non-discrimination, physical accessibility and economic accessibility.

Based on Article 13 of the ICESCR, the *right to education* is key to empowering people with the ability to realise their human rights, to fully participate in society, achieve social mobility and enjoy human existence.

Under section 36(1) of the HR Act, the *right to education* is relevant as the proposal's purpose is to ensure the management and good order of schools in Queensland that will allow for the effective delivery of state education services.

The *right to education* is relevant because the proposal seeks to facilitate student access to approved online services to support digital learning and their engagement with a school.

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

Increasingly, Queensland state schools are supported by privately developed technology solutions; examples include packages such as Office 365 applications, curriculum aligned online services and school administrative solutions such as timetabling or library services. These services support students with digital learning and to engage effectively within the school and for the effective management of schools.

At any one time, it is estimated individual state schools may be using hundreds of online services across the state to efficiently deliver education services. Online services require information about students in order for students, parents and schools to be able to assess educational outcomes and support students within the school. This information can include name, date of birth, achievement data, email addresses, teacher name and school information.

Currently the EGP Act requires that consent must be obtained for each individual service that requires the recording, use and disclosure of personal information about a student. Accordingly, state schools undertake and maintain a consent process for the use of online services, including when a new service is offered.

To provide consent, either the parent, or student where appropriate, have to review and agree to information required for the use of the online service. The expectations to provide students with access to modern education solutions have resulted in a significant increase in the demand on schools, students and parents to review and agree to information use.

To address the consent management process, the Bill includes amendments to enable a public service employee of DoE to disclose personal information (if it is 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 amendment means there will no longer be a requirement to obtain prior parent/student consent for the recording, using or disclosing the student's relevant personal information for the purpose of using approved online services.

The amendments include a number of information privacy safeguards, including requiring that the chief executive may approve an online service (an approved online service) that requires the disclosure, recording or use of personal information about a student of a state school only if the chief executive is reasonably satisfied that:

- a contract or other arrangement entered into with an entity to provide the 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) – ensuring that relevant provisions of the IP Act apply to the entity; 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 or educational support of students; the effective 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.

Right to privacy and reputation

The proposed amendments potentially limits the *right to privacy* because they provide for the recording and use of personal information and disclosure of personal information about a state school student by an employee of a state school to an entity that provides an approved online service without the need for prior consent of the student or student's parent.

However, the potential limitation is consistent with a free and democratic society as a parent or student may still opt out of providing their information (and accordingly not have access to an approved online service).

Additionally, to deliver this reform, it is proposed that a list of all approved online services for use in state schools will be made publicly available, including on the DoE website, to provide students and parents with information about all approved online services that will receive student information (unless a student or parent opts out of using the approved online service).

Right to education

Notably, while the amendments to enable use and disclosure of personal information about a state school student to an approved online service may limit the *right to privacy* under the HR Act, the very intent of the use of approved online education services also positively engages the *right to education* under the HR Act by ensuring the student has access to the latest innovations in teaching and learning practices provided through online educational resources and tools.

The proposed amendments therefore positively impact on the *right to education*, and do not limit this right.

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

The amendments are intended to provide a more efficient and safeguarded process for facilitating student access to approved online services to support digital learning and their engagement with a school.

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 amendments will also reduce administrative burden associated with managing consent, including for parents and students, while ensuring privacy protections for student information in the ways outlined above.

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

There is no less restrictive and reasonably available way of achieving the purpose of the amendments.

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

An appropriate balance has been reached between human rights and the importance of the purpose.

A broad information sharing power was considered, but found to be unacceptable from a human rights perspective, as it would likely lead to broad and/or unnecessary disclosures of information.

Instead, under the amendments, only relevant personal information can be disclosed and authorisation for such disclosures are supported by compliance with key elements of the IP Act.

Given the underlying policy intent of the amendments and the safeguards that will apply, it is considered the benefits of the proposed amendments outweigh any potential limitation on human rights.

On this basis, the potential limitation on the *right to protection of privacy and reputation* is reasonable, justified and compatible with the HR Act.

(f) any other relevant factors

Nil.

Nomenclature and technical amendments

The EGP Act is also amended to ensure it uses up-to-date language and is consistent with contemporary attitudes and notions, as well as making technical and minor amendments of a miscellaneous nature.

Specifically, it is proposed to:

- replace gendered language used throughout the EGP Act with gender-neutral language. The amendments do not change the meaning of the legislation, but provide for inclusivity;
- broadening the guiding principles in the EGP Act to ensure the EGP Act reflects contemporary policy and practice regarding student wellbeing as a foundation for learning, and a commitment to an inclusive state education system;
- make minor and technical amendments to clarify the protection from liability that applies to a non-state school principal when required to provide information to the chief executive; and
- make technical amendments to address incorrect or unnecessary references to other legislation.

Relevant human rights engaged by amendments to ensure inclusive language include: a person's *right to recognition and equality before the law*, including the right to enjoy a person's human rights without discrimination (section 15, HR Act) and the *right to education* (section 36, HR Act). No limitations to human rights are identified for the proposed amendments.

The amendments are intended to increase inclusivity in the education legislation and so will positively engage human rights under section 15 and section 36 of the HR Act.

Conclusion

In my opinion, the Bill is compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

DI FARMER MP
MINISTER FOR EDUCATION AND
MINISTER FOR YOUTH JUSTICE

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