



Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Education
Name of the proposal	Remake of the Education and Care Services Regulation 2013
Submission type (Summary IAS / Consultation IAS / Decision IAS)	Summary IAS
Title of related legislative or regulatory instrument	<i>Education and Care Services Act 2013</i> Education and Care Services Regulation 2013
Date of issue	17 August 2026

What is the nature, size and scope of the problem? What are the objectives of government action?

Sunset Review of the Education and Care Services Regulation 2013

Under the *Statutory Instruments Act 1992* (SIA), a regulation automatically expires (or 'sunset') after 10 years unless action is taken to preserve it. The purpose of this Sunset Provision is to ensure that regulations are regularly reviewed and have continuing relevance to the economic, social and general wellbeing of Queensland. A 'Sunset Review' of an expiring regulation should be undertaken to evaluate the continuing need, effectiveness and efficiency of the regulation.

The Education and Care Services Regulation 2013 (ECS Regulation) was due to expire on 1 September 2024 in accordance with section 54 of the SIA. However, it was exempted from expiry until 31 August 2025, with the exemption period further extended to 31 August 2026 because the *Education and Care Services Act 2013* (ECS Act) was subject to review (in accordance with section 56A of the SIA).

The Department of Education (DoE), as the Regulatory Authority for the early childhood education and care sector in Queensland, administers the ECS Act and ECS Regulation. DoE has conducted a Sunset Review of the ECS Regulation to confirm it is operating effectively and to determine whether any changes could be made to it to improve its continuing effectiveness and efficiency.

The existing regulatory framework

In Queensland there are over 3000 regulated education and care services at any given time, with approximately 1% of these services regulated under the ECS Act and the remaining services regulated under a national regulatory framework implemented in Queensland by the *Education and Care Services National Law (Queensland) Act 2011* (National Law).

The services regulated under the ECS Act include limited hours care services in receipt of Queensland Government funding, occasional care services, previously budget based funded services that do not receive the Australian Government Child Care Subsidy, early childhood education and care services that are also disability services under the *Disability Services Act 2006*, and stand-alone services.

Services regulated under the ECS Act provide education and care to children under 13 years of age and are referred to as Queensland education and care services (QEC services) in the ECS Act. Generally, these are small services operating in regional and remote communities.

The object of the ECS Act is to ensure the safety, health and wellbeing of children attending a QEC service by establishing a provider approval and service approval system for QEC services and setting standards for persons who provide education and care. Where a service has service approval it is referred to as a QEC approved service. Stand-alone services are also QEC services, but they are not QEC approved



services as they do not require service approval to operate. Stand-alone service providers must limit the number of children in care to a maximum of six children under 13 years of age and only four of the six children can be under school age.

The ECS Regulation prescribes the detailed requirements for operating a QEC approved service such as educational programs; safety, health and wellbeing of children; physical environment; staffing arrangements, including staff qualifications and staff to child ratios; and notifications, reporting, recordkeeping and privacy requirements.

The ECS Act and ECS Regulation replaced Queensland's *Child Care Act 2002* (Child Care Act) and its associated Regulation from 1 January 2014. The ECS Act and ECS Regulation were originally drafted in a way that ensured QEC services continued to be regulated under requirements consistent with the regulatory framework under the Child Care Act as far as possible, while also incorporating key elements of the then newly commenced National Law and Education and Care Services National Regulations (National Regulations).

The National Law and National Regulations form the National Quality Framework (NQF), which provides a national approach to regulation, assessment and quality improvement for early childhood education and care and outside school hours care services across Australia. While the ECS Act and ECS Regulation were initially drafted to incorporate the key elements of the National Law and National Regulations, the NQF has undergone more than one significant review since it commenced.

On the other hand, the ECS Regulation has gone largely unchanged over the past decade, except for minor and technical amendments and the indexation of prescribed fees. Therefore, the gap between regulatory requirements for approved providers under the National Law and the ECS Act is widening, with key measures aimed at safeguarding children not present for QEC services.

Proposal to remake the ECS Regulation

It is proposed to remake the expiring ECS Regulation as a new Regulation. The Sunset Review has considered the need for ongoing regulation of QEC services and established that the problem sought to be addressed via the ECS Regulation remains the same. That is:

- the service types regulated under the ECS Act remain excluded from the National Law on the basis of their service model/s; and
- the characteristics of the service models operating under the ECS Act, which differ from those regulated under the National Law, have not changed over time.

In addition, a qualitative review of the requirements under the ECS Regulation in relation to the conduct of QEC approved services demonstrate these are enduring by nature, requiring careful management and monitoring. This is particularly so, in the areas relating to:

- the safety, health and wellbeing of children; for example, to ensure health, hygiene and safe food practices are upheld and that the needs for sleep and rest of individual children are met;
- staffing arrangements, including matters relating to qualifications and ratios of educators to children; and
- information, records and privacy, including attendance and enrolment records, and prescribed policies and procedures.

To evaluate the performance of the ECS Regulation, regulatory data from 2015 to 2024 was considered. Approximately 800 breaches of the ECS Act or ECS Regulation have been recorded by the Regulatory Authority in this period, with over half of these (495) being recorded as breaches of the ECS Regulation.

The data shows that 30% of all breaches of the ECS Regulation (151) were identified in relation to a single requirement, that the service's premises, furniture and equipment be safe, clean and in good repair. The next highest area for breaches of the ECS Regulation was in relation to records (66 breaches or 13%), encompassing issues primarily identified with respect to child enrolment or attendance records and three instances of non-compliance with the requirement to keep a record of incident, injury, trauma or illness. The third highest area, with 53 breaches (11%), was in relation to programming, including the development, documentation and delivery of education programs. This was followed by the requirement to have



prescribed policies and procedures (28 breaches, 6%) and for these to be kept available (25 breaches, 5%).

Less common breaches of the ECS Regulation pertaining directly to the health and safety of children included requirements regarding the health and hygiene (23 breaches), first aid kits (12 breaches), first aid qualifications (11 breaches), departure of children (10 breaches), fencing (9 breaches), ratios (7 breaches), sleep and rest (4 breaches), and infectious diseases (1 breach).

In this 10-year period, 257 compliance actions were issued to QEC approved providers, with 129 of these being statutory actions (compliance notices or emergency action notices issued by delegates under the ECS Act). This represents a rate of 0.28 statutory actions per service, per year. It is noted this rate is higher than for NQF services, which for the same period received a rate of 0.19 compliance actions per service per year.

While it is acknowledged that QEC services have been working under the current regulatory framework for a significant period, there is a risk that services may unwind practices should the ECS Regulation be allowed to expire. While seeking to increase profits is not an incentive (all current QEC approved services are either not for profit or managed by State or local government), cost cutting measures as a means of safeguarding viability is of concern. It is noted that while the number of QEC approved services has been largely stable, there has been a slight downward trend as services surrender their service approvals, usually on the grounds of viability. Currently, 40.5% of QEC approved services receive one or more forms of funding from DoE.

Proposed amendments to ECS Regulation as part of remaking the Regulation

As part of the Sunset Review and proposal to remake the ECS Regulation, DoE has identified the opportunity to seek to apply key updates that have been made to the National Regulations in recent years in response to various reviews, including the 2019 review of the NQF, the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission), a Coronial investigation and the 2023 Review of Child Safety Arrangements under the NQF. The amendments proposed to be made to the ECS Regulation fall under the following categories:

- regular transportation of children by, or arranged by, a QEC approved service;
- sleep and rest practices;
- national child safe principles;
- recommendations arising from the Review of Child Safety Arrangements under the NQF; and
- other miscellaneous amendments.

Improving children's safety during regular transportation

Children attending a QEC approved service may be transported by, or travel on transport arranged by, the service (for example, transport to and from the service, to an excursion or to the child's home, or transport between education and care services).

Initially, both the National Regulations and the ECS Regulation provided operational requirements regarding transportation of children for excursions only. In 2020, in response to the tragic death of a child left on a bus in Queensland, the National Regulations were updated to include operational requirements for the regular transportation of children by a service or arranged by a service (other than as part of an excursion).

In 2023, these provisions were further enhanced to include measures aimed at safeguarding children while embarking and disembarking a means of transportation. It is proposed that these provisions for regular transportation are also applied to QEC approved services under the ECS Regulation.

The safety, health and wellbeing of children attending a QEC approved service remains a priority for DoE. Incidents in recent years both in Queensland and nationally have continued to highlight transportation of young children as a significant area of risk to children's safety during the period of transition between a vehicle and a service's premises or other location. The consequences of leaving children unsupervised on transportation, particularly on hot days, can be fatal. Young children need to be supervised at all times, including while being transported and particular measures are required to ensure they arrive safely and are accounted for at the end of a journey.



Proposed amendments to the ECS Regulation are:

- requiring notification to the Regulatory Authority if a QEC approved service starts or stops providing or arranging regular transportation;
- requiring policies and procedures, risk assessments and obtaining written authorisations from families in relation to the regular transportation of children;
- requiring policies and procedures and risk assessments in relation to the safe arrival of children being transported between services; and
- requiring specific procedures and recordkeeping upon children embarking and disembarking a means of regular transportation to ensure all children are accounted for.

It is proposed that penalties will apply for failing to meet these requirements, in the same way that penalties apply under the National Regulations for these matters.

Safe sleep and rest practices

Currently, the ECS Regulation requires a QEC approved provider of a QEC approved service to ensure that the need for sleep and rest of a child is met, having regard to the age, development stage and individual needs of the child. This mirrors the requirement under the National Regulations. However, unlike the National Regulations, there are currently no requirements for the QEC approved provider to ensure the QEC approved service has in place policies and procedures relating to the sleep and rest for children or for risk assessments to be conducted.

In 2023, the National Regulations were amended to introduce additional requirements to promote the safety of children attending early childhood education and care services during sleep and rest. These amendments were prompted by an interstate Coronial investigation following the tragic death of an infant while receiving care. For continued alignment with the National Regulations, it is proposed to amend the ECS Regulation to introduce the same new requirements for QEC approved providers and services.

Specifically, it is proposed to amend the ECS Regulation to introduce a requirement for QEC approved providers to have in place policies and procedures for managing sleep and rest for children. This will include specifying the content that must be addressed within these policies and procedures.

Further, it is proposed to require QEC approved providers to conduct a risk assessment for the purpose of preparing sleep and rest policies and procedures, identifying specific matters for consideration in the unique context of the service, and for a risk assessment to be conducted every 12 months. It is proposed that a penalty will apply for non-compliance, in the same way that penalties apply under the National Regulations for these matters.

It is also proposed to prohibit the use of bassinets at a QEC approved education and care service premises at any time that children are being education and cared for by the service. A penalty will apply for non-compliance, in line with the National Regulations.

The purpose of these amendments is to guide stronger safe sleeping practices during sleep and rest and reduce risks and greater safety for children attending a QEC approved service.

Embedding national child safe principles

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) was completed in response to allegations of sexual abuse of children in institutional contexts. In February 2019, the National Principles for Child Safe Organisations (National Principles) were endorsed by all state and territory governments and the Australian Government. The principles aim to provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing. The National Principles reflect 10 child safe standards recommended by the Royal Commission.

In 2023, the National Regulations were amended to address the gaps between the National Principles and the NQF. To align with the changes to the National Regulations it is proposed to introduce some additional measures in the ECS Regulation to improve child safety and address the gaps between the ECS Regulation and the National Principles.

These changes provide for QEC approved providers and services to embed child safe principles into their service operations. This will promote confidence for children, families and communities that the services



provide safe environments where children's rights, needs and interests are of paramount consideration. Specifically, it is proposed to amend the ECS Regulation to require that:

- the approved provider of a QEC approved service must ensure staff are aware of their obligations under the *Child Protection Act 1999* as it relates to the person and their role or duties;
- the approved provider's 'child safe environment' policies and procedures must include matters relating to the promotion of a culture of child safety and wellbeing;
- the approved provider's policies and procedures dealing with complaints must include matters relating to:
 - the provision of a complaint handling system at the service that is child focused; and
 - the management of a complaint that is alleging a child is exhibiting harmful sexual behaviours.

Amendments arising from recommendations of the Review of Child Safety Arrangements under the NQF

The 2023 *Review of Child Safety Arrangements under the NQF* (Child Safety Review) made 16 recommendations to strengthen child safety in the early childhood education and care sector. All states and territories, together with the Australian Government, are working to consider and implement the Child Safety Review recommendations.

Several amendments to the National Regulations arising from the Child Safety Review, which commenced on 1 September 2025, are proposed to be included in the ECS Regulation. These are:

- requiring mandatory reporting by an approved provider, within 24 hours, if the approved provider reasonably believes physical or sexual abuse of a child has occurred or is occurring while the child is at the provider's QEC approved service;
- requiring approved providers to ensure that children attending QEC approved services are provided with an environment free from the use of vaping devices and vaping substances; and
- requiring approved providers to put in place policies and procedures relating to the safe use of digital technologies and online environments, including in relation to:
 - the taking, use, storage and destruction of images and videos of children being educated and cared for by the service;
 - obtaining authorisation from parents to take, use and store images and videos of children being educated and cared for by the service;
 - the use of any optical surveillance device at the service (such as the use of closed-circuit television);
 - the use of any digital device issued by the service; and
 - the use of digital devices by children being educated and cared for by the service.

Other miscellaneous amendments

In addition to the above amendments, the Sunset Review identified further opportunities to improve or clarify intent of provisions, provide greater alignment with the National Regulations, and modernise language in accordance with contemporary drafting practices without increasing regulatory burden.

These changes include:

- an amendment to the timeframe in which parents must be notified of their child's illness or injury from 'as soon as practicable' to 'as soon as practicable but not later than 24 hours after...', to provide clarification on the maximum timeframe for the notification and align with the National Regulations;
- an amendment to the meaning of *serious incident*, to align it with the meaning in the National Regulations. The change means that a serious incident includes an incident attended by emergency services, rather than an incident where the attendance of emergency services 'was sought, or ought reasonably to have been sought'. This will narrow the definition and in turn reduce regulatory burden for QEC approved services;
- specifying the details which must be recorded in the record of any incident, injury, trauma or illness relating to a child, and prescribing a clear timeframe for when the record must be made. These changes

align with the National Regulations and provide greater clarity to QEC approved services for such records;

- broadening the qualification requirements applicable for staff in school age services to match the qualification requirements for school age care services in the National Regulations, providing equity of qualification requirements across these services under the two regulatory frameworks; and
- specifying the timeframes for when an approved first aid qualification, approved anaphylaxis management training and approved emergency asthma management training is taken to be current. This will align with the National Regulations and provide clarity for QEC approved services.

Nature and magnitude (size and scope) of the problem

According to the *Queensland Government Better Regulation Policy*, absence of regulation does not itself constitute a problem. DoE must therefore justify both its proposals to remake the ECS Regulation and to introduce amendments which increase regulatory burden in any way. With respect to the gaps identified between the ECS Regulation and the NQF, the nature of the problem to be addressed can be characterised as:

- an unacceptable risk to human health and safety; and
- poor social and equity outcomes.

DoE has the lowest risk appetite associated with child and student protection and safety.

Despite DoE's significant efforts over the past five years to educate the sector about the risks inherent in transporting children, the Regulatory Authority has prosecuted a further two incidents involving children left alone and restrained on service buses since the introduction of increased requirements around transportation to the NQF.

The Queensland Government has also committed to endorsing the national child safe principles and has since implemented the *Child Safe Organisations Act 2024* (CSO Act), which delivers the Queensland Government's commitment to implement the mandatory child safe standards (based on the National Principles) and reportable conduct scheme recommendations made by the Royal Commission. The CSO Act provides a legislative framework for the implementation of, and compliance with, the child safe standards by prescribed child safe entities that provide services specifically for children, or facilities specifically for use by children who are under the supervision of the entity. The CSO Act applies to QEC services and DoE.

To date, DoE has been managing the risk between the gaps in regulatory requirements between national and state regulated services through the provision of education and support to QEC approved services. Authorised Officers visit and monitor compliance at the QEC approved services at least once per year and during these visits will often discuss relevant National Law standards with the services, referring to them to as 'best practice'.

While this approach is generally effective and many QEC approved services voluntarily adopt National Law standards, QEC approved providers reported at times a lack of clear communication about what is best practice versus a legal requirement for QEC approved services. Ultimately, the requirements under the National Law are unenforceable in QEC approved settings.

Allowing the widening disparity in regulatory standards as they apply to the two cohorts of education and care services in Queensland to continue could result in poor social and equity outcomes. The majority of QEC services exist to serve vulnerable cohorts of children, including those with disabilities and Aboriginal and/or Torres Strait Islander communities and almost half operate in rural, remote or very remote communities.

Objectives of Government action

The primary objective of the proposed Government action, as a baseline, is to enable DoE to continue to effectively administer the ECS Act. The object of the ECS Act is to ensure the safety, health and wellbeing of children attending a QEC service by establishing a provider approval and service approval system for QEC services and setting standards for persons who provide education and care. While the approval system could be administered with the ECS Act alone, DoE could not enforce most of the standards for education and care without the ECS Regulation.



Moreover, in relation to the proposed amendments to the ECS Regulation, the objective of the proposed Government action is harm minimisation and prevention, specifically in relation to:

- deaths or injury caused to children by being left on a means of transportation provided or arranged by the QEC service;
- deaths or injury to children as a result of unsafe sleep practices while receiving education and care;
- abuse perpetrated against children while receiving education and care;
- impacts associated with the increased use of digital technology and online environments; and
- health impacts of vaping.

What options were considered?

The following options were considered:

Option 1 – Take no action and allow the ECS Regulation to expire;

Option 2 – Maintain status quo – Re-make the ECS Regulation with no significant amendments, other than technical updates identified through the Sunset Review such as to fix errors and align the new ECS Regulation with contemporary drafting practices (i.e. no new or amended requirements); or

Option 3 – Re-make the ECS Regulation, inclusive of targeted amendments to mirror NQF requirements in the areas of transportation, sleep and rest, and national child safe principles and other miscellaneous amendments identified to provide clarity and consistency.

What are the impacts?

Option 1 – Take no action and allow the Regulation to expire

Allowing the ECS Regulation to expire would mean that the object of the ECS Act could not be achieved. If the ECS Regulation was to expire DoE would not be able to enforce most of the standards of care in the provision of education and care, as these are prescribed by the ECS Regulation. These standards, which serve to safeguard children attending QEC services, include:

- notification requirements to parents about suspension or cancellation of a service or provider approval;
- insurance requirements for an approved QEC service and stand-alone care service;
- conduct of QEC approved services in relation to educational programs; safety, health and wellbeing of children; physical environment; and staffing arrangements, including staff qualifications and staff to child ratios; and
- information, records and privacy requirements.

Costings: The expiration of the Regulation would result in a \$0 cost impact for compliance and government costs as the requirements under the Regulation would no longer exist and require enforcement. Expiry of the ECS Regulation would also prevent DoE from collecting fees which offset some costs of administrative and regulatory activities relating to provider and service approvals and service waivers and inspections of registers.

This option would have a negative impact on the community and government, and businesses would lose the structure and support of the current regulatory environment and there would be a potentially negative impact on community confidence in the quality and safety of QEC services.

Option 2 – Maintain status quo – Re-make the Regulation with no amendments, other than technical updates identified through Sunset Review

Maintaining the status quo would have minimal impact on community, government and business and would allow DoE to continue to effectively administer the ECS Act. However, this option would not address the issues identified above with respect to the regulatory gaps between the ECS Regulation and the NQF that can appropriately be addressed under option 3.

Given the ECS Regulation is subject to a Sunset Review, it is an opportune time to make amendments to address the identified issues.



Costings: Option 2 represents a continuation of current and existing costs to QEC services and to government with no additional expenses other than annual indexation increases.

Compliance costs for this option reflect compliance with the status quo, that is, all elements of the new ECS Regulation equivalent to those of the current ECS Regulation, without any additional requirements, and represent the current costs to QEC services and government.

The Impact Assessment indicates for Option 2:

- Total costs for the first year of \$17,220,309, comprising:
 - \$13,461,340 in compliance costs of and
 - \$3,758,969 in government costs.
- Total costs over 10 years of \$71,034,526, comprising:
 - \$55,030,279 in compliance costs; and
 - \$16,004,247 in government costs.

Option 2 costings represent continuation of costs attributable to the existing regulatory requirements and are currently met by QEC services and by government out of existing budgets. There would be no additional funding or budgetary requirements.

Option 3 – Re-make the Regulation, inclusive of targeted amendments to mirror NQF requirements in the areas of transportation, sleep and rest and national child safe principles and other minor amendments

This option involves making legislative amendments to the ECS Regulation, over and above any technical amendments/updates identified by the Sunset Review and in consultation with the Office of the Queensland Parliamentary Counsel. The proposed amendments, as detailed above, relate to:

- regular transportation of children by, or arranged by, a QEC approved service;
- sleep and rest practices;
- national child safe principles;
- recommendations arising from the *Review of Child Safety Arrangements under the NQF*; and
- other miscellaneous amendments.

The amendments under Option 3 would provide benefits to community, business (that is, QEC approved services) and government, with some impacts on business and government.

Compliance costs for this option reflect costs associated with the administrative requirements on services in developing and / or maintaining the new policies and procedures and risk assessments, seeking written authorisations and recordkeeping to comply with the new requirements. However, it is also noted that these types of requirements already exist in relation to other matters under the ECS Regulation and therefore QEC services are familiar with and used to complying with these requirements. There is also the potential for increased personnel costs to comply with the requirement for an additional staff member to account for children embarking and disembarking a means of transportation, should a service decide to provide or arrange regular transportation (noting it is not a requirement that a QEC service must provide regular transportation).

No approved providers raised concerns that the proposed amendments would affect the sustainability of their business. Rather, consultation with the sector demonstrated early adoption of many of the new requirements by services, particularly with respect to transportation and sleep and rest policies and procedures and the requirement to ensure staff are aware of their obligations under relevant child protection laws. No services reported using bassinets and respondents reported feeling confident in implementing the necessary changes to their service's policies and procedures regarding child safe environments and complaints.

As the proposed amendments have been in place for up to five years in NQF settings, a suite of online resources has been developed to support services in those settings, which assist QEC approved providers



in operationalising the changes. These resources were identified and published in the consultation paper provided to all QEC approved providers and service level contacts.

Costings: Option 3 represents a continuation of existing costs to QEC services and to government (as in Option 2), together with additional costs to meet the additional amendments and updates to the Regulation outlined above. Costs vary across services as not all services experience the same impacts.

The Impact Assessment indicates for Option 3 (compared to Option 2) the impact of the additional requirements would be total additional costs of \$1,234,271 for the first year and \$4,146,840 over 10 years.

Total costs for the first year are \$18,454,580 comprising:

- \$14,673,661 (an additional \$1,212,321) in compliance costs; and
- \$3,780,919 (an additional \$21,950) in government costs.

Total costs over 10 years are \$75,181,366 comprising:

- \$59,138,660 (an additional \$4,108,381) in compliance costs; and
- \$16,042,706 (an additional \$38,459) in government costs.

As with Option 2, there will be continuation of costs attributable to the existing regulatory requirements, which are currently met by QEC services and by government out of existing budgets; and costs of additional requirements, which will also be met within existing budgets.

Many services have indicated that they have already voluntarily adopted many of the NQF requirements mirrored in the amendments. The costs outlined above do not take account of an earlier implementation of new requirements by any approved providers.

There would be no additional funding requirements.

QEC services and approved providers will be supported with implementation by departmental education and communication campaigns.

Costing assumptions in this section are based on provisions in the regulation that require services to take action to be compliant. Compliance costs include those associated with the regulatory authority monitoring and enforcing compliance. This includes monitoring and compliance visits, investigations, enforcement action, register of published enforcement actions, and compliance decisions and reviews, and for services costs such as staffing, equipment, services and service approval fees are included.

Who was consulted?

The following groups were provided a copy of the consultation paper, invited to discuss same and submit a written submission (via email or a survey) for DoE's review:

- internal stakeholders from DoE's Early Childhood Regulatory Authority – representatives nominated from across the division in roles including Licensing, Compliance and Regional Operations;
- all Queensland Education and Care Approved Providers (35);
- a range of peak and advisory and bodies across the education and training sector, including the Ministerial Queensland Aboriginal and Torres Strait Islander Education and Training Advisory Committee (QATSIETAC); and
- relevant unions representing the sector's workforce.

Feedback from stakeholders was considered by DoE to formulate final policy positions.

Stakeholder feedback was minimal and no substantial issues were raised with the ECS Regulation during consultation. Overall, stakeholders supported the intent of the key proposed reforms, with strong support for enhanced safeguards to children.

More than one stakeholder expressed the view that QEC approved services should be held to the same standards as NQF services wherever possible. Most of the concerns raised by stakeholders could be characterised as implementation issues, such as application of the provision and/or interpretation of the requirement by the Regulatory Authority.



In the area of transportation:

- one QEC service cited difficulty complying with the requirement to have an additional staff member to account for children due to costs to the service, exacerbated by the fact that the service charges parents very low fees as they service vulnerable young parents (this service has already adopted NQF standards regarding regular transportation); and
- a QATSIETAC member cited potential barriers such as being unable to recruit drivers and other staff with blue cards but supported the need to increase safety.

However, QEC services are not required to provide regular transportation; this is a business decision.

In the area of sleep and rest:

- one QEC service considered the proposal to conduct risk assessments in the preparation of a sleep and rest procedure overly prescriptive;
- conversely, a peak body for the sector expressed the view that the requirements in the NQF to be mirrored were not prescriptive enough; and
- while one peak body expressed concern about the ban on bassinets in relation to whether this would extend to cradles modelled from traditional Indigenous designs, all QEC services who responded advised they supported the ban and did not currently use bassinets (note, members of QATSIETAC were unaware of the use of Indigenous cradles in early childhood settings).

There was universal support for the incorporation of requirements supporting the national child safe principles into the ECS Regulation.

What is the recommended option and why?

Option 3 (Re-make the ECS Regulation, inclusive of targeted amendments to mirror NQF requirements) is the recommended option for the following reasons.

Should the Regulation be allowed to expire (Option 1), DoE as the Regulatory Authority would no longer be able to effectively administer the ECS Act and this cohort of services would be left unregulated with respect to prescribed standards for the provision of education and care to children. In the current environment, where more regulation and safeguarding are recommended in relation to the education and care of children rather than less, this outcome is highly undesirable.

Operating an education and care service entails a high degree of risk to children, with educators acting in loco parentis for children as young as six weeks. As such, ongoing regulation and provision of support by the Government is justified.

The regulatory framework appears, on the basis of compliance data and anecdotal feedback, to have been sufficiently effective over the past 10 years to support its continuation. There have not been significant changes in the regulatory environment, other than increased regulation at the national level in response to a number of significant reviews into the sector.

It was clear from the feedback gathered during consultation that the existing ECS Regulation and the proposed reforms are non-contentious.

It is arguable that the ECS Regulation does impose significant compliance costs on businesses both to initially set up a QEC approved service and in operating one, and to Government as the Regulatory Authority. However, the benefits of the ECS Regulation continue to justify the costs to business and to Government and provide both the sector and parents with certainty around the standards they can expect in the provision of education and care from a QEC approved service.

Option 3 is also preferable to Option 2 (to maintain the status quo by re-making the ECS Regulation with no amendments, other than technical updates) as it provides the benefits of bringing the ECS Regulation further in line with current requirements of the NQF. The NQF has undergone several significant reviews since its inception and continues to be subject to regular scrutiny, with input from all jurisdictions nationally as well as experts and significant sector consultation. Families using QEC approved services should expect to receive early education and care services which are comparable in quality and safety to NQF services and, as such, it is considered appropriate to align the ECS Regulation with the NQF wherever appropriate.



Furthermore, creating greater consistency with the National Regulations will also benefit providers of QEC approved services and DoE as the regulator. Some providers operate two services from the one site with one service regulated under the National Law and the other service regulated under the ECS Act. For these services greater consistency with the National Regulations will reduce regulatory burden because both services will be regulated under similar frameworks. For DoE, ensuring that all services are regulated under similar frameworks will reduce the complexity of its task as the regulator.

Summary of specific benefits of proposed updates for families, communities and the sector

Ensuring the health, safety and wellbeing of children attending QEC approved services is a core objective of the ECS Act. Areas identified for reform are anticipated to make a strong, direct positive benefit for families and the community. It is considered the additional regulatory requirements arising from the reforms are critical to protect the health, safety and wellbeing of children being provided education and care by QEC approved services. This is particularly so given the high-risk nature of sleep and transportation practices in relation to young children. The reforms have been in effect in the National Regulations for several years and arose from recommendations of reviews of the national regulatory framework, a Coronial inquiry and the Royal Commission.

Prohibition of the use of bassinets and strengthened practices, policies and procedures, as well as greater awareness of safe sleeping practices for staff and families, is expected to improve the health, safety and wellbeing of children. The implementation of evidence-based practices in QEC approved services can help protect children during the early years.

Improved knowledge of safe sleeping practices will help educators assess risks to children during periods of sleep and rest and implement risk mitigation strategies. This should ensure that all educators providing care for sleeping children will have an improved understanding of safer sleeping practices. This awareness can similarly be provided to families engaging with services about how best to ensure the safety of children while sleeping.

Transportation can present heightened risk to children's safety, in particular during the period of transition between a vehicle and the service's premises. The consequences of leaving children unsupervised on transportation can be fatal in certain circumstances. The effective implementation of consistent supervision and risk mitigation practices during regular transportation is expected to minimise the potential risk of harm to children engaging in these services. This may lead to a reduction in the likelihood of incidents where a child is left on a vehicle or is otherwise placed at risk due to inadequate supervision while embarking and disembarking a means of transportation.

Ensuring awareness of staff obligations under the *Child Protection Act 1999* and clearer defined policies and procedures in step with the National Child Safe Principles can ensure staff and providers understand best practice and ensure organisational culture is aligned with these principles.

Banning vapes and vaping substances from QEC services eliminates the inherent health risks of vaping, in the same way that alcohol, tobacco and illicit drugs are banned from services for the same purpose.

The requirement for mandatory reporting to the Regulatory Authority within 24 hours in relation to physical or sexual abuse of a child that has occurred or is occurring while the child is at the provider's QEC approved service will support the Regulatory Authority in its oversight and intervention role to protect children.

Requiring approved providers to have policies and procedures relating to safe use of digital technologies and online environments will facilitate mitigation of risks to children associated with the increased use of digital technology in services.

The implementation of structural changes, policies and controls to reduce the likelihood of risk of physical harm and sexual abuse for children attending a QEC approved service is in step with community expectations. Families and the community expect that QEC approved services will maintain the highest standards in safeguarding children. Ensuring that these community expectations are visibly met is expected to increase the perceived integrity and credibility of QEC approved services and enhance public trust in the early childhood sector.

The amendment in the new ECS Regulation which broadens the qualifications applicable for staff in school age services to match the qualification requirements for school age care services in the National Regulations will also provide the benefit of equity of qualification requirements for staff across these services under the two regulatory frameworks and potentially increase the available workforce for QEC services.



Implementation

Additionally, for a number of those reforms that provide new regulatory requirements, the sector will be provided with a transitional period to prepare for implementation. The following reforms will commence three months *after* the commencement of the new ECS Regulation:

- *Transportation of children:*
 - requiring notification to the Regulatory Authority if a QEC approved service starts or stops providing or arranging regular transportation;
 - requiring policies and procedures, risk assessments and obtaining written authorisations from families in relation to the regular transportation of children;
 - requiring policies and procedures and risk assessments in relation to the safe arrival of children being transported between services; and
 - requiring specific procedures and recordkeeping upon children embarking and disembarking a means of regular transportation to ensure all children are accounted for.
- *Safe sleep and rest practices:*
 - requiring policies and procedures for managing sleep and rest for children, and risk assessments.
- *Further embedding national child safe principles:*
 - that the approved provider's 'child safe environment' policies and procedures must include matters relating to the promotion of a culture of child safety and wellbeing;
 - the approved provider's policies and procedures dealing with complaints must include matters relating to:
 - the provision of a complaint handling system at the service that is child focused;
 - the management of a complaint that is alleging a child is exhibiting harmful sexual behaviours; and
 - requiring approved providers to put in place policies and procedures relating to the safe use of digital technologies and online environments.

The change requiring the approved provider to ensure staff are aware of their obligations under the *Child Protection Act 1999* will commence one month *after* the commencement of the new ECS Regulation.

To further support implementation of the new requirements, the sector is able to access a large body of resources and guidance materials published by the National Authority for the early childhood education and care sector.

Impact assessment

Option 1: Allow expiry	First full year	First 10 years**
Direct costs – <i>Compliance costs</i> *	\$0	\$0
Direct costs – <i>Government costs</i>	\$0	\$0

Option 2: Remake Regulation with nil substantive amendments	First full year	First 10 years**
Direct costs – <i>Compliance costs</i> *	\$13,461,340	\$55,030,279
Direct costs – <i>Government costs</i>	\$3,758,969	\$16,004,247

Option 3: Remake Regulation with amendments	First full year	First 10 years**
Direct costs – <i>Compliance costs</i> *	\$14,673,661	\$59,138,660
Direct costs – <i>Government costs</i>	\$3,780,919	\$16,042,706

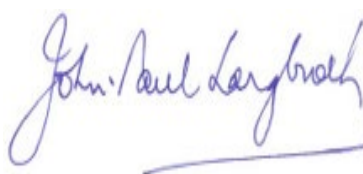
* The *direct costs calculator tool* (available at www.treasury.qld.gov.au/betterregulation) should be used to calculate direct costs of regulatory burden. If the proposal has no costs, report as zero. **Agency to note where a longer or different timeframe may be more appropriate.

SIGNED



Director-General
Department of Education
Date: 18 / 08 / 2026

SIGNED



Minister for Education and the Arts
Date: 20 / 08 / 2026