

# Department of Education

## Legislative Delegations

### Delegation of Director-General's Powers as the Regulatory Authority under the

### *Education and Care Services National Law (Queensland) Act 2011*

(Version 13 – April 2024)

*NOTE: In accordance with the Managing delegations, authorisations and administrative approvals procedure, legislative delegations are centrally managed by Policy and Statutory Engagement. Policy and Statutory Engagement must be contacted for all proposed amendments to these delegations.*

# INSTRUMENT OF DELEGATION


## *Education and Care Services National Law (Queensland) Act 2011*

I, Michael De'Ath, Director-General of the Department of Education and Regulatory Authority, under section 262 of the *Education and Care Services National Law (Queensland)*, DELEGATE those powers and functions conferred or imposed on the Regulatory Authority under the provisions of the *Education and Care Services National Law (Queensland) Act 2011*, which are specified in **Column 1** of Schedule 1, subject to the limitations (if any) specified in **Column 3** of Schedule 1, to the persons who are from time to time the holders of each position specified in **Column 4** of Schedule 1.

This Instrument of Delegation is comprised of this page, and Schedule 1 comprising 10 pages. No other material forms part of the Instrument.

This Instrument of Delegation revokes and replaces any Instrument of Delegation previously issued with respect to the powers and functions of the Director-General under the *Education and Care Services National Law (Queensland) Act 2011*.

This Instrument of Delegation is in addition to and does not repeal or replace any Instrument of Delegation issued with respect to powers and functions of the Director-General under the *Education and Care Services National Law (Queensland)*.

  
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**MICHAEL DE'ATH**  
**REGULATORY AUTHORITY AND DIRECTOR-GENERAL**  
**DEPARTMENT OF EDUCATION**

DATED AT BRISBANE THIS 17<sup>th</sup> day of April, 2024.

**SCHEDULE 1 – Table of Delegated Powers of Regulatory Authority**  
***Education and Care Services National Law (Queensland) Act 2011***

Schedule 1 – Table of Director-General’s Delegated Powers – <i>Education and Care Services National Law (Queensland) Act 2011</i>			
Column 1	Column 2	Column 3	Column 4
Reference	Nature of Power	Observations / Limitations	Delegate
<b>Part 3 – Matters relating to Working with Children Act</b>			
<b>Division 2 – Giving or obtaining particular information</b>			
s.20	<p><b>Giving information to chief executive (employment screening) about disciplinary action</b></p> <p>(1) This section applies if the regulatory authority—</p> <p>(a) does any of the following (the <i>disciplinary action</i>) under the Education and Care Services National Law (Queensland) (the <i>Law</i>)—</p> <p>(i) amends a provider approval under section 23 of the Law;</p> <p>(ii) suspends a provider approval under section 27 or 28 of the Law;</p> <p>(iii) cancels or suspends a provider approval under section 33 of the Law;</p> <p>(iv) amends a service approval under section 55 of the Law;</p> <p>(v) suspends a service approval under section 72 or 73 of the Law;</p> <p>(vi) cancels or suspends a service approval under section 79 of the Law;</p> <p>(vii) amends a supervisor certificate under section 120 of the Law;</p> <p>(viii) cancels or suspends a supervisor certificate under section 125 of the Law;</p> <p>(ix) suspends a supervisor certificate under section 126 of the Law; and</p> <p>(b) reasonably believes the disciplinary action may be relevant to the functions or powers of the chief executive (employment screening) under the Working with Children Act.</p> <p>(2) The regulatory authority must give written notice of the disciplinary action to the chief executive (employment screening).</p> <p>(3) A notice under subsection (2) must state the following for the</p>		<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> <li>• Director, Regulation</li> </ul>



**Schedule 1 – Table of Director-General’s Delegated Powers –  
Education and Care Services National Law (Queensland) Act 2011**

Column 1	Column 2	Column 3	Column 4
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	<p>person against whom the disciplinary action was taken—</p> <ul style="list-style-type: none"> <li>(a) the person’s name and address;</li> <li>(b) the person’s date and place of birth, if known;</li> <li>(c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.</li> </ul> <p>(4) Subsection (5) applies if the chief executive (employment screening)—</p> <ul style="list-style-type: none"> <li>(a) requests further information about the disciplinary action; and</li> <li>(b) notifies the regulatory authority that the person— <ul style="list-style-type: none"> <li>(i) holds a working with children authority; or</li> <li>(ii) has made a working with children check application.</li> </ul> </li> </ul> <p>(5) The regulatory authority must give the chief executive (employment screening) a written notice stating the following—</p> <ul style="list-style-type: none"> <li>(a) the form of the disciplinary action taken;</li> <li>(b) when the conduct happened that constituted a ground for the disciplinary action;</li> <li>(c) the nature of the conduct that constituted a ground for the disciplinary action;</li> <li>(d) any other information about the disciplinary action the regulatory authority considers may be relevant to employment screening under the Working with Children Act, chapter 8, including, for example, details about the nature of the disciplinary action.</li> </ul> <p>(6) However, if the notice given under subsection (2) did not contain the person’s date and place of birth, subsection (5) applies only if—</p> <ul style="list-style-type: none"> <li>(a) the request from the chief executive (employment screening) for the notice under subsection (5) includes the person’s date and place of birth; and</li> <li>(b) the regulatory authority confirms the person’s date and place of birth with the person.</li> </ul> <p>(7) A notice given under subsection (2) or (5) must not contain information that</p>		

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Education and Care Services National Law (Queensland) Act 2011**

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	<p>identifies, or is likely to identify, a particular child.</p> <p>(8) If the regulatory authority gives the chief executive (employment screening) information under subsection (5) about disciplinary action and the disciplinary action is set aside on review or appeal, the regulatory authority must notify the chief executive (employment screening) of the following—</p> <p>(a) the disciplinary action has been set aside;</p> <p>(b) the reasons given by the entity that set the disciplinary action aside for setting it aside.</p>		
s.21	<p><b>Giving information to chief executive (employment screening) about prohibition notices</b></p> <p>(1) This section applies if the regulatory authority gives a person a prohibition notice under the Education and Care Services National Law (Queensland), part 7, division 3.</p> <p>(2) The regulatory authority must give written notice of the giving of the prohibition notice to the chief executive (employment screening).</p> <p>(3) A notice under subsection (2) must state the following—</p> <p>(a) the person’s name and address;</p> <p>(b) the person’s date and place of birth, if known;</p> <p>(c) the person has been given a prohibition notice, without stating anything further about the giving of the prohibition notice.</p> <p>(4) Subsection (5) applies if the chief executive (employment screening)—</p> <p>(a) requests further information about the prohibition notice; and</p> <p>(b) notifies the regulatory authority that the person—</p> <p>(i) holds a working with children authority; or</p> <p>(ii) has made a working with children check application.</p> <p>(5) The regulatory authority must give the chief executive (employment screening) a written notice stating the following—</p>		<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> </ul>

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Column 1	Column 2	Column 3	Column 4
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	<p>(a) when the conduct that resulted in the prohibition notice happened;</p> <p>(b) the nature of the conduct that resulted in the prohibition notice;</p> <p>(c) any other information about the prohibition notice the regulatory authority considers may be relevant to employment screening under the Working with Children Act, chapter 8, including, for example, details about the nature of the prohibition notice.</p> <p>(6) However, if the notice given under subsection (2) did not contain the person’s date and place of birth, subsection (5) applies only if—</p> <p>(a) the request from the chief executive (employment screening) for the notice under subsection (5) includes the person’s date and place of birth; and</p> <p>(b) the regulatory authority confirms the person’s date and place of birth with the person.</p> <p>(7) If a prohibition notice is given in relation to conduct relating to a particular child, a notice given under subsection (2) or (5) about the prohibition notice must not contain information that identifies, or is likely to identify, the child.</p> <p>(8) If the regulatory authority gives the chief executive (employment screening) information under subsection (5) about a prohibition notice and the prohibition notice is set aside on review or appeal, the regulatory authority must notify the chief executive (employment screening) of the following—</p> <p>(a) the prohibition notice has been set aside;</p> <p>(b) the reasons given by the entity that set the prohibition notice aside for setting it aside.</p> <p><i>Note—</i> Also, under the <i>Education and Care Services National Law (Queensland)</i>, section 271(5), the regulatory authority may disclose, to the chief executive of the department responsible for the administration of the <i>Working with Children Act</i>, a prohibition notice as applying in any participating jurisdiction in respect of the person.</p>		



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Education and Care Services National Law (Queensland) Act 2011**

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s.22	<p><b>Obtaining information from chief executive (employment screening) about employment screening</b></p> <p>(1) This section applies to the following individuals—</p> <p>(a) an approved provider;</p> <p>(b) a person with management or control of an education and care service operated by an approved provider;</p> <p>(c) a certified supervisor;</p> <p>(d) an educator;</p> <p>(e) an adult occupant of a family day care residence.</p> <p>(2) On receiving a written request from the regulatory authority, the chief executive (employment screening) must give the regulatory authority the following information about a stated individual mentioned in subsection (1)—</p> <p>(a) whether the individual has made a working with children check application and, if so—</p> <p>(i) the date of the application; and</p> <p>(ii) if the application has been withdrawn—the date of the withdrawal;</p> <p>(b) whether a working with children authority or negative notice is in force for the individual and, if so, the date the authority or notice was issued;</p> <p>(c) whether a working with children authority or negative notice held by the individual has been cancelled and, if so, the date of the cancellation.</p> <p>(3) The chief executive (employment screening) may give the regulatory authority the information mentioned in subsection (2)(c) about an individual whether or not the regulatory authority has requested the information.</p> <p>(4) In this section—</p> <p><b>negative notice</b> see the Working with Children Act, schedule 7.</p> <p><b>occupant</b>, of a family day care residence, means a person who—</p> <p>(a) resides in the family day care residence; or</p> <p>(b) is usually present in the family day care residence when the education and care service is delivered there.</p>		<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> <li>• Director, Regulation</li> <li>• Manager, Regulation</li> <li>• Principal Regulatory Officer</li> </ul>

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Column 1	Column 2	Column 3	Column 4
Reference	Nature of Power	Observations / Limitations	Delegate
<b>Part 4 – Other matters</b>			
<b>Division 2 – Use and disclosure of URL data relating to approved kindergarten programs</b>			
s.33	<p><b>Authorised officers</b></p> <p>The chief executive may give written authority to a person who is an employee or officer of a central governing body to receive, use and disclose URL data for this division if the chief executive is satisfied the person is, because of the person’s expertise or experience, an appropriate person to be given the authority.</p>	<p>The delegate must be satisfied that the person is, because of the person’s expertise or experience, an appropriate person to be given the authority.</p>	<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Strategy and Performance, Early Childhood</li> <li>• Executive Director, Programs and Funding, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> </ul>
s.35	<p><b>Use and disclosure of URL data by chief executive</b></p> <p>(1) The chief executive may use URL data received under this division for the following purposes—</p> <p style="padding-left: 20px;">(a) quality assuring of funding provided to relevant services and central governing bodies for approved kindergarten programs;</p> <p style="padding-left: 20px;">(b) planning for, monitoring of outcomes of, and reporting on, early childhood initiatives;</p> <p style="padding-left: 20px;">(c) preparing the data for disclosure under section 36.</p> <p>(2) For subsection (1)(a), the chief executive may disclose URL data, including URL data that has been aggregated, to an authorised officer of a central governing body.</p> <p>(3) For subsection (1)(b), URL data may be reported only if it has been aggregated and does not identify, directly or indirectly, any person to whom it relates.</p>	<p><b>In respect of s.35(1)</b></p>	<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Strategy and Performance, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> <li>• Executive Director, Programs and Funding, Early Childhood</li> <li>• Director, Regulation</li> <li>• Director, Grants Management and Funding, Early Childhood</li> </ul>



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			<ul style="list-style-type: none"> <li>• Manager, Grants Management and Funding, Early Childhood</li> <li>• Principal Program Officer, Grants Management and Funding, Early Childhood</li> <li>• Senior Program Officer, Grants Management and Funding, Early Childhood</li> <li>• Program Officer, Grants Management and Funding, Early Childhood</li> <li>• Program Support Officer, Grants Management and Funding, Early Childhood</li> <li>• Principal Grants Officer, Grants Management and Funding, Early Childhood</li> <li>• Senior Contracts Officer, Grants Management and Funding, Early Childhood</li> <li>• Assistant Director-General, Strategy and Performance</li> <li>• Executive Director, Performance Monitoring and Reporting</li> <li>• Director, Early Childhood Performance and Corporate Surveys</li> <li>• Manager, Performance Monitoring and Reporting</li> <li>• Principal Statistical</li> </ul>

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			<p>Officer, Performance Monitoring and Reporting</p> <ul style="list-style-type: none"> <li>• Senior Information Officer, Performance Monitoring and Reporting</li> <li>• Information Officer, Performance Monitoring and Reporting</li> <li>• Data Management Officer, Performance Monitoring and Reporting</li> <li>• Business Intelligence Analyst, Performance Monitoring and Reporting</li> <li>• Business Intelligence Platform Administrator, Performance Monitoring and Reporting</li> <li>• Head of Internal Audit</li> <li>• Manager, Systems and Data, Infrastructure Services</li> <li>• Team Leader, Systems and Data, Infrastructure Services</li> </ul>
		<p><b>In respect of s.35(2)</b></p>	<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> <li>• Executive Director, Programs and Funding, Early Childhood</li> </ul>

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			<ul style="list-style-type: none"> <li>• Director, Regulation</li> <li>• Director, Grants Management and Funding, Early Childhood</li> <li>• Assistant Director-General, Strategy and Performance</li> <li>• Executive Director, Performance Monitoring and Reporting</li> <li>• Director, Early Childhood Performance and Corporate Surveys</li> <li>• Head of Internal Audit</li> </ul>
s.36	<p><b>Disclosure of URL data to Australian Bureau of Statistics and Australian Institute of Health and Welfare</b></p> <p>(1) The chief executive may disclose URL data to a prescribed entity for the purpose of meeting Queensland’s obligations under the early childhood data agreement.</p> <p>(2) A prescribed entity that receives URL data under this section must ensure the data is collected, stored and used in a way that ensures the privacy of the persons to whom it relates is protected.</p> <p>(3) In this section—</p> <p><i>early childhood data agreement</i> means the agreement between the Commonwealth and the States called the ‘National information agreement on early childhood education and care’, signed on behalf of the Queensland Government by the chief executive on 19 February 2010.</p> <p><i>prescribed entity</i> means—</p> <p>(a) the Australian Bureau of Statistics; or</p> <p>(b) the Australian Institute of Health and Welfare established under the <i>Australian Institute of Health and Welfare Act 1987</i> (Cwlth).</p>		<ul style="list-style-type: none"> <li>• Assistant Director-General, Strategy and Performance</li> <li>• Executive Director, Performance Monitoring and Reporting</li> <li>• Executive Director, Strategy and Performance, Early Childhood</li> <li>• Executive Director, Programs and Funding, Early Childhood</li> <li>• Director, Early Childhood Performance and Corporate Surveys</li> </ul>



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<b>Division 4 – External review of decisions</b>			
s.43	<p><b>Regulatory authority must give notice after making reviewable decision</b></p> <p>(1) Immediately after making a reviewable decision, the regulatory authority must give to the person who is the subject of the decision a notice for the decision complying with the QCAT Act, section 157(2).</p> <p>(2) The regulatory authority may give a notice for the purpose of complying with subsection (1) and for another purpose.</p> <p><i>Example—</i> The regulatory authority may give a person a prohibition notice stating—</p> <p>(a) the matters required to be stated in the prohibition notice under the Education and Care Services National Law (Queensland), section 185; and</p> <p>(b) the matters required to be stated under subsection (1) about the decision to give the prohibition notice.</p>	<p>Section 192 of the <i>Education and Care Services National Law (Queensland)</i> lists the decisions that are reviewable by QCAT under the QCAT Act.</p> <p>The delegate who gives the notice under s.43(1) must be the same delegate who made the reviewable decision.</p>	<ul style="list-style-type: none"> <li>• Associate Director-General, Early Childhood and State Schools</li> <li>• Deputy Director-General, Early Childhood</li> <li>• Executive Director, Early Childhood Regulatory Authority</li> <li>• Director, Regulation</li> <li>• Manager, Regulation</li> <li>• Principal Regulatory Officer</li> </ul>