Human rights impact assessment: exemptions from compulsory schooling and compulsory participation

Use this exemplar to determine if your decision is compatible with human rights under the *Human Rights Act 2019*. In this example of an impact assessment, red text indicates where text can be inserted or chosen.

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| Decision | Exemption from <compulsory schooling OR compulsory participation> |
| Which individuals or groups will be affected by the decision? | <Insert name of child or young person> |
| School or Region completing assessment | <Insert name of school or region> | Region | <Insert name of region> |
| What law or regulation allows you to make this decision?  | *Education General Provisions Act (2006)* (Qld) (EGPA) |

***NOTE:*** *Some human rights have already been identified (below) as ones that could be engaged in decisions about exemptions. For each decision being made information can be removed or added as required.*

Record the outcome of assessment, including any amendments to the policy or procedure

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| **IDENTIFY** | **IMPACT** | **JUSTIFICATION** | **OUTCOME**  |
| Are human rights engaged by the decision?  | Are these rights limited or promoted by the decision? | Is there a good reason for any limitation and is it justifiable?  | Is the decision compatible with human rights? Consider all rights engaged.  |
| S.25 Privacy and reputation | The application formsfor exemptions limit this right as they require people to disclose personal information such as name, date of birth, address, and reason/s why the child or young person is unable to attend school or participate full time in an eligible option, or it would be unreasonable to require them to do so.  | An exemption from compulsory schooling or the compulsory participation phase may be available when a child or a young person cannot attend, or it would be unreasonable in all the circumstances to require them to attend, school or participate in an eligible option for a period of more than 10 consecutive school days.The *Exemptions from compulsory schooling and compulsory participation* procedure outlines that an exemption may be appropriate in the following circumstances:* diagnosis of terminal medical condition
* illness or hospitalisation (including recovery period at home) for a period greater than 10 consecutive school days
* ‘carer’ responsibilities
* diagnosed mental health condition
* temporary interstate or overseas relocation where the family intends to return to Queensland.

Legislation provides that a parent, or young person in the compulsory participation phase, may apply for an exemption. The application must state the period for which the exemption is sought and, for an application by a young person it must also include the signed consent of their parent. Section 186 of the *Education (General Provisions) Act 2006* (EGPA) states that the applicant must provide any other relevant information reasonably required by the relevant decision-maker to decide the application.If insufficient information is provided on the application form, the decision maker may request further information (ss.186(2) and 187, and ss.245(4) and 246 of the EGPA).The circumstances of the applicant or student may be of a sensitive nature (e.g. domestic violence situation, particular illness or family situation) and requiring this information to be provided when applying for an exemption limits the applicant’s (or student’s) right to privacy and reputation. However, it is necessary in order for the Chief Executive’s delegate to make a decision under legislation and to ensure that it aligns with the *Exemptions from compulsory schooling and compulsory participation* procedure.In accordance with section 426(4) of the EGPA, a person must not make a record of the information, use the information or disclose the information to anyone else unless it is for one of the permitted exceptions prescribed in this section, e.g. a purpose of the Act, with consent of the student's parent/carer, in the interests of the safety and wellbeing of the student, etc. | The decision is compatible with human rights. While the right to privacy and reputation is potentially limited, it’s limited in a way that is reasonable and justifiable and supported by legislation. |
| S.26 Protection of families and children | An exemption from compulsory schooling and compulsory participation promotes the right to protection of families and children. Parents are required to complete and sign the relevant application form if they are seeking an exemption. This ensures parent involvement in this aspect of their child’s education (e.g. compulsory school-aged child cannot apply for an exemption from school themselves). However, if it would be inappropriate to require the parent’s signed consent (i.e. young person is living independently of their parent), the young person would complete and sign the application for exemption, rather than their parent.An exemption may also promote this right where the parent (or young person) has carer responsibilities for another family member or relative.Where the child or young person is ill or in hospital for an extended period of time, an exemption promotes the right to protection of families and children in relation to the child’s health and wellbeing. An exemption will give the parent of the child, or young person, an opportunity to seek treatment if required and/or to recover at home so that the child or young person is able to return to school or participate in an eligible option. | No limitations have been identified. | The decision is compatible with human rights. The right to protection of families and children is promoted by this decision. |
| S.36 Right to education | The right to education is potentially limited by an exemption from compulsory schooling and compulsory participation. | Each parent of a child who is of compulsory school age has the legal obligation to ensure their child is enrolled and attends a school, on every school day for the educational program in which the child is enrolled, unless the parent has a reasonable excuse (s.176 of the EGPA).Each parent of a young person in the compulsory participation phase has the legal obligation to ensure that the young person is participating full-time in an eligible option, unless the parent has a reasonable excuse (s.239 of the EGPA).When a child or a young person cannot attend school or participate in an eligible option for a period of more than 10 consecutive school days, or it would be unreasonable in all the circumstances to require them to do so, an exemption from compulsory schooling or the compulsory participation phase may be considered. An exemption excuses parents from their legal obligation. As a result of this, the child or young person does not receive the education that they are entitled to during the exemption period. It is acknowledged that there are circumstances where a child or young person is unable to attend school or participate full time in an eligible option, or it would be unreasonable to require them to do so. For instance, when they are ill or have a diagnosed mental health condition (and cannot access or participate in a hospital education program), or have temporarily relocated interstate or overseas with the intent on returning to Queensland. Easy access to an exemption by parents may impact on their child’s right to education. Therefore, the *Exemptions from compulsory schooling and compulsory participation* procedure specifies reasons where an exemption is not appropriate (e.g. where the absence is recognised as a reasonable excuse in accordance with the *Roll marking in state schools* procedure, reluctance to attend school, and employment (for compulsory school-aged child)).Further, while there is no maximum period that an exemption can be applied or granted for, the EGPA provides that an exemption may be:* granted with conditions or for a lesser period than originally applied for; or
* cancelled (for compulsory schooling only).

All students attending Queensland state schools have an allocation of state education. This is the number of semesters of state education to which the student is entitled. Students who begin education in the Prep year at a state school before they turn six years and six months receive the basic allocation of 26 semesters – which covers compulsory schooling and the compulsory participation phase.If a student has been granted an exemption from compulsory schooling or compulsory participation, and the student did not receive an education during that time from any educational provider, there will be no deduction in their remaining allocation of state education.Where an application for exemption has not been made or has not been granted by the decision maker, if the child or young person is enrolled in a school, their absence from school will be recorded in accordance with the *Roll marking in state schools* procedure. | The decision is compatible with human rights. While the right to education may be limited, it’s limited in a way that is reasonable and justifiable and supported by legislation and Department of Education policy. |
| <Insert any other human right that is engaged, otherwise delete row> | <Insert related impact> | <Insert justification> | <Insert related outcome> |

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| Assessed by *Name* | <Insert name of delegated officer > |
| *Position* | <Insert position of delegated officer> | Date | <Insert date> |