

***AUSTRALIA'S FOREIGN RELATIONS
(STATE AND TERRITORY ARRANGEMENTS) AMENDMENT (EDUCATION) RULES
2021***

EXPLANATORY STATEMENT

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Issued by the authority of the Minister for Foreign Affairs

The *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act) allows the Minister to assess whether arrangements between State/Territory entities and foreign entities are consistent with Australia's foreign policy and do not adversely affect Australia's foreign relations.

Section 54 of the Act allows the Minister to make rules prescribing matters required or permitted by the Act to be prescribed by the rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Additionally, rules may be made pursuant to paragraph 2(3)(d) of Schedule 1 of the Act to prescribe a longer period of time for giving a notice to the Minister.

The *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Education) Rules 2021* (the Amendment Rules) will make amendments to the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020* to prescribe the following matters for the purposes of the Act:

- a definition of school; and
- time for giving notices to the Minister about pre-existing core foreign arrangements.

A Statement of Compatibility with Human Rights (the Statement) has been completed in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*. The overall assessment is that the Amendment Rules are compatible with human rights. A copy of the Statement is at [Attachment A](#).

Details of the Amendment Rules are set out in [Attachment B](#).

The Office of Best Practice Regulation (OBPR) has been consulted in relation to the Amendment Rules. No Regulation Impact Statement is required.

The Act specifies no conditions that need to be satisfied before the power to make rules may be exercised.

The Amendment Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Rules commence immediately after they are registered.

Consultation was undertaken with affected stakeholders during the implementation of the Act.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Australia's Foreign Relations (State and Territory Arrangements) Amendment (Education) Rules 2021

This disallowable legislative instrument, the *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Education) Rules 2021* (the Legislative Instrument), is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Part 1 of the Legislative Instrument deals with preliminary matters. Section 1 titles the Legislative Instrument the *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Education) Rules 2021*. Section 2 provides that the Legislative Instrument will commence immediately after it is registered. Section 3 provides that the Legislative Instrument is made under the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (the Act). Section 4 provides that each instrument in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned.

Schedule 1 amends the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020*. Clause 1 inserts a definition for school, meaning a school that provides preschool, primary or secondary education.

Clause 2 adds a new section to the Rules to provide a longer period of time in which a State/Territory entity must give a notice about certain pre-existing core foreign arrangements.

Human rights implications

The Legislative Instrument does not engage any rights or freedoms.

Conclusion

The Legislative Instrument is compatible with human rights because it does not engage any rights or freedoms.

Australia's Foreign Relations (State and Territory Arrangements) Rules Amendment (Education) 2021

Senator the Hon. Marise Payne, Minister for Foreign Affairs

ATTACHMENT B

DETAILS OF AUSTRALIA'S FOREIGN RELATIONS (STATE AND TERRITORY ARRANGEMENTS) AMENDMENT (EDUCATION) RULES 2021

Section 1

Section 1 provides that the name of the Rules is *Australia's Foreign Relations (State and Territory Arrangements) Amendment (Education) Rules 2021* (the Amendment Rules).

Section 2

Section 2 provides that the Amendment Rules commence immediately after it is registered.

Section 3

Section 3 states that the authority for making the Amendment Rules is taken from the *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*.

Section 4

Section 4 is a provision that gives effect to the amendments to the *Australia's Foreign Relations (State and Territory Arrangements) Rules 2020* (the Rules) as described in the Schedule.

Schedule 1

Clause 1

This clause inserts a definition of school into section 4 of the Rules. It defines school as a school that provides any of the following kinds of education:

- a. preschool education;
- b. primary education;
- c. secondary education

Clause 2

Clause 2 adds a new section (section 8) at the end of the Rules to provide a longer period of time in which a State/Territory entity must give a notice about pre-existing core foreign arrangements where a core State/Territory entity is a school and is a party to the arrangement or where a core foreign entity that is a school located in a foreign country is a party to the arrangement.

The period of time for a notice to be given for these arrangements will be 6 months from the commencement day of the Act.