

Education and Care Services National Law Application Bill 2024

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Western Australia

LEGISLATIVE ASSEMBLY

Education and Care Services National Law Application Bill 2024

A Bill for

An Act —

- **to apply the Education and Care Services National Law (with modifications) as a law of the State; and**
- **to repeal the *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012*; and**
- **to make savings and transitional arrangements; and**
- **to make consequential amendments to various other Acts; and**
- **for related purposes.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Education and Care Services National Law Application Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 (but only sections 1 and 2) — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Terms used

(1) In this Act —

amend, the National Law or National Regulations, means —

- (a) add to the National Law or National Regulations; or
- (b) renumber, replace, substitute or repeal 1 or more provisions of the National Law or National Regulations; or
- (c) otherwise vary the National Law or National Regulations;

amending Act means a Victorian Act that —

- (a) receives the Royal Assent after 20 June 2024; and
- (b) amends the National Law or National Regulations;

amending regulations means regulations that —

- (a) are made by the Ministerial Council under section 301 of the National Law after commencement day; and
- (b) amend the National Regulations;

commencement day means the day on which section 5 comes into operation;

1 ***Education and Care Services National Law Regulations (WA)***
2 means the provisions applying as subsidiary legislation for the
3 purposes of the *Education and Care Services National Law*
4 (WA) because of section 11;

5 ***Education and Care Services National Law (WA)*** means the
6 National Law as it applies in the State because of section 5;

7 ***local regulations*** means regulations made under section 74;

8 ***National Law*** means the Education and Care Services National
9 Law set out in the Schedule to the *Education and Care Services*
10 *National Law Act 2010* (Victoria);

11 ***National Regulations*** means the regulations made by the
12 Ministerial Council under section 301 of the National Law;

13 ***transitional modification regulation*** has the meaning given in
14 section 32(3).

15 (2) If a term used in this Act is given a meaning in the *Education*
16 and *Care Services National Law (WA)*, it has the same meaning
17 in this Act.

18 **4. Act binds Crown**

19 This Act binds the Crown in right of Western Australia and, so
20 far as the legislative power of the Parliament permits, the Crown
21 in all its other capacities.

1 **Part 2 — Education and Care Services National Law**

2 **Division 1 — Application of National Law**

3 **5. Application of National Law as law of the State**

4 (1) In this section —

5 *Education and Care Services National Law* means the National
6 Law as in force on 20 June 2024 —

7 (a) as amended by each amending Act that —

8 (i) has effect for the purposes of this Part under
9 section 7; and

10 (ii) has come into operation for the purposes of this
11 Part under section 8;

12 and

13 (b) as modified by —

14 (i) Part 3; and

15 (ii) the transitional modification regulations (if any).

16 (2) The Education and Care Services National Law —

17 (a) applies as a law of the State; and

18 (b) as so applying, may be referred to as the *Education and*
19 *Care Services National Law (WA)*; and

20 (c) so applies as if it were an Act.

21 **6. Tabling amending Acts**

22 An amending Act must be laid before each House of Parliament
23 within 18 sitting days of the House after the day on which that
24 Act receives the Royal Assent.

1 **7. Disallowance of amending Acts**

2 (1) In this section —

3 *disallowance period*, in relation to a disallowance resolution of
4 which notice is given in a House of Parliament, means the
5 period of 30 sitting days of the House after the day on which the
6 notice is given;

7 *disallowance resolution* means a resolution that an amending
8 Act be disallowed;

9 *notice period*, in relation to an amending Act laid before a
10 House of Parliament under section 6, means the period of
11 14 sitting days of the House after the day on which the
12 amending Act is laid before it.

13 (2) An amending Act has effect for the purposes of this Part if the
14 amending Act is laid before each House of Parliament under
15 section 6 and either —

16 (a) no notice of a disallowance resolution is given in either
17 House within the notice period; or

18 (b) at least 1 notice of a disallowance resolution is given in
19 a House within the notice period and, for each such
20 notice, 1 of the following applies —

21 (i) the notice is withdrawn or discharged within the
22 disallowance period;

23 (ii) the disallowance resolution is lost in the House
24 or not agreed to within the disallowance period.

25 (3) For the purposes of this section and section 6 —

26 (a) the period specified in section 6, a notice period or a
27 disallowance period continues to run even though a
28 House of Parliament is prorogued or dissolved or
29 expires; and

30 (b) notice of a disallowance resolution given in a House of
31 Parliament, or a motion that an amending Act be

1 disallowed in the House, does not lapse even though the
2 House is prorogued or dissolved or expires.

3 **8. Commencement of provisions of amending Acts**

4 (1) If an amending Act has effect for the purposes of this Part under
5 section 7(2), the Governor must declare that fact by
6 proclamation as soon as practicable.

7 (2) If a provision of the amending Act has come into operation in
8 Victoria before the proclamation is published —

9 (a) the proclamation must fix a day on which the provision
10 comes into operation for the purposes of this Part, which
11 must be after the day on which the proclamation is
12 published; and

13 (b) the provision comes into operation for the purposes of
14 this Part on that day.

15 (3) If a provision of the amending Act has not come into operation
16 in Victoria before the proclamation is published, the provision
17 comes into operation for the purposes of this Part when the
18 provision comes into operation in Victoria.

19 **9. Amending Acts enacted after 20 June 2024 but before**
20 **commencement day**

21 If an amending Act receives the Royal Assent after
22 20 June 2024, but before commencement day, sections 6 to 8
23 apply to that Act as if it received the Royal Assent on
24 commencement day.

25 **10. Tabling of amending Act taken to be publication for**
26 **Standing Orders**

27 (1) In this section —

28 *parliamentary committee* means a committee established by
29 either or both of the Houses of Parliament.

- 1 (2) If a Standing Order of a House of Parliament provides that on
2 the publication of an instrument under a written law the
3 instrument is referred to a parliamentary committee for
4 consideration, the laying of an amending Act before the House
5 under section 6 is taken to be publication of that Act for the
6 purposes of the Standing Order.
- 7 (3) This section does not apply if the Standing Orders of the House
8 provide specifically for an amending Act to be considered by a
9 parliamentary committee.

10 **Division 2 — Application of National Regulations**

11 **11. Application of National Regulations as subsidiary legislation**
12 **of the State**

- 13 (1) In this section —
14 *Education and Care Services National Law Regulations* means
15 the National Regulations as in force on commencement day —
16 (a) as amended by —
17 (i) each amending regulation that has effect under
18 section 13, and has come into operation under
19 section 14, for the purposes of this Part; and
20 (ii) each amending Act that has effect under
21 section 7, and has come into operation under
22 section 8, for the purposes of this Part;
23 and
24 (b) as modified by local regulations.
- 25 (2) The Education and Care Services National Law Regulations —
26 (a) apply as a law of the State; and
27 (b) as so applying, may be referred to as the *Education and*
28 *Care Services National Law Regulations (WA)*; and
29 (c) apply as subsidiary legislation for the purposes of the
30 *Education and Care Services National Law (WA)*.

1 **12. Tabling amending regulations**

2 Amending regulations must be laid before each House of
3 Parliament within 18 sitting days of the House after the day on
4 which the amending regulations are published on the NSW
5 Legislation website in accordance with section 302(1) of the
6 National Law.

7 Note for this section:

8 Under section 29(1), the *Interpretation Act 1984* sections 41 and 42 do
9 not apply to amending regulations.

10 **13. Disallowance of amending regulations**

11 (1) In this section —

12 *disallowance period*, in relation to a disallowance resolution of
13 which notice is given in a House of Parliament, means the
14 period of 30 sitting days of the House after the day on which the
15 notice is given;

16 *disallowance resolution* means a resolution that amending
17 regulations be disallowed;

18 *notice period*, in relation to amending regulations laid before a
19 House of Parliament under section 12, means the period of
20 14 sitting days of the House after the day on which the
21 amending regulations are laid before it.

22 (2) Amending regulations have effect for the purposes of this Part if
23 the amending regulations are laid before each House of
24 Parliament under section 12 and either —

25 (a) no notice of a disallowance resolution is given in either
26 House within the notice period; or

27 (b) at least 1 notice of a disallowance resolution is given in
28 a House within the notice period and, for each such
29 notice, 1 of the following applies —

30 (i) the notice is withdrawn or discharged within the
31 disallowance period;

- 1 (ii) the disallowance resolution is lost in the House
2 or not agreed to within the disallowance period.
- 3 (3) For the purposes of this section and section 12 —
- 4 (a) the period specified in section 12, a notice period or a
5 disallowance period continues to run even though a
6 House of Parliament is prorogued or dissolved or
7 expires; and
- 8 (b) notice of a disallowance resolution given in a House of
9 Parliament, or a motion that amending regulations be
10 disallowed in the House, does not lapse even though the
11 House is prorogued or dissolved or expires.
- 12 **14. Commencement of provisions of amending regulations**
- 13 (1) If amending regulations have effect for the purposes of this Part
14 under section 13(2), the Governor must declare that fact by
15 proclamation as soon as practicable.
- 16 (2) If a provision of the amending regulations has come into
17 operation under the National Law before the proclamation is
18 published —
- 19 (a) the proclamation must fix a day on which the provision
20 comes into operation for the purposes of this Part, which
21 must be after the day on which the proclamation is
22 published; and
- 23 (b) the provision comes into operation for the purposes of
24 this Part on that day.
- 25 (3) If a provision of the amending regulations has not come into
26 operation under the National Law before the proclamation is
27 published, the provision comes into operation for the purposes
28 of this Part when the provision comes into operation under the
29 National Law.

1 **15. Tabling of amending regulations taken to be publication for**
2 **Standing Orders**

- 3 (1) In this section —
4 *parliamentary committee* means a committee established by
5 either or both of the Houses of Parliament.
- 6 (2) If a Standing Order of a House of Parliament provides that on
7 the publication of an instrument under a written law the
8 instrument is referred to a parliamentary committee for
9 consideration, the laying of amending regulations before the
10 House under section 12 is taken to be publication of the
11 amending regulations for the purposes of the Standing Order.
- 12 (3) This section does not apply if the Standing Orders of the House
13 provide specifically for amending regulations to be considered
14 by a parliamentary committee.

15 **16. Amendment of National Regulations by amending Act**
16 **provision**

- 17 (1) If the National Regulations are amended by a provision of an
18 amending Act, the amendment of the regulations has effect for
19 the purposes of this Part if —
20 (a) the amending Act has effect for the purposes of this Part
21 under section 7; and
22 (b) the provision of the amending Act comes into operation
23 for the purposes of this Part under section 8.
- 24 (2) Sections 12 and 13 do not apply to an amendment of the
25 National Regulations made by an amending Act.

26 **Division 3 — Jurisdiction-specific matters for National Law**

27 **17. Commencement of National Law as law of the State**

28 For the purposes of the *Education and Care Services National*
29 *Law (WA)* section 2, the Law as it applies in the State because

1 of section 5 of this Act comes into operation on commencement
2 day.

3 **18. Meaning of generic terms in *Education and Care Services***
4 ***National Law (WA)* for purposes of this jurisdiction**

5 In the *Education and Care Services National Law (WA)* —

6 ***child protection law*** means the *Children and Community*
7 *Services Act 2004*;

8 ***court*** means the Magistrates Court of Western Australia
9 established under the *Magistrates Court Act 2004* section 4(1);

10 ***de facto relationship*** has the meaning given in the
11 *Interpretation Act 1984* section 13A;

12 ***local authority*** means a local government established under the
13 *Local Government Act 1995*;

14 ***magistrate*** means —

15 (a) a magistrate as defined in the *Magistrates Court*
16 *Act 2004* section 3; or

17 (b) a justice of the peace;

18 ***public authority*** means —

19 (a) a department of the Public Service; or

20 (b) a State agency or instrumentality; or

21 (c) a local government, regional local government or
22 regional subsidiary; or

23 (d) a body, whether corporate or unincorporate, or the
24 holder of an office, post or position, established or
25 continued for a public purpose under a written law;

26 ***registered teacher*** has the meaning given in the *Teacher*
27 *Registration Act 2012* section 3;

28 ***superior court*** means the Supreme Court of Western Australia;

29 ***this jurisdiction*** means Western Australia.

1 **19. Children’s services law**

2 For the purposes of the definition of *children’s services law* in
3 the *Education and Care Services National Law (WA)*
4 section 5(1), the *Child Care Services Act 2007* and the
5 regulations made under that Act are declared to be a children’s
6 services law in relation to this jurisdiction for the purposes of
7 that Law.

8 **20. Children’s services regulator**

9 For the purposes of the definition of *children’s services*
10 *regulator* in the *Education and Care Services National Law*
11 *(WA)* section 5(1), the chief executive officer of the department
12 principally assisting in the administration of the *Child Care*
13 *Services Act 2007* is declared to be the children’s services
14 regulator in relation to this jurisdiction for the purposes of that
15 Law.

16 **21. Education law**

17 For the purposes of the definition of *education law* in the
18 *Education and Care Services National Law (WA)* section 5(1),
19 each of the following laws is declared to be an education law in
20 relation to this jurisdiction for the purposes of that Law —

- 21 (a) the *School Education Act 1999* and the regulations made
22 under that Act;
23 (b) the *Teacher Registration Act 2012* and the regulations
24 made under that Act.

25 **22. Former education and care services law**

26 For the purposes of the definition of *former education and care*
27 *services law* in the *Education and Care Services National Law*
28 *(WA)* section 5(1), each of the following laws is declared to be a

1 former education and care services law in relation to this
2 jurisdiction for the purposes of that Law —

- 3 (a) the *Education and Care Services National Law (Western*
4 *Australia)* and the regulations made under that Law;
5 (b) the *Child Care Services Act 2007* and the regulations
6 made under that Act (both as in force immediately
7 before the commencement of the *Education and Care*
8 *Services National Law (Western Australia)* Part 3).

9 **23. Infringements law**

10 For the purposes of the definition of *infringements law* in the
11 *Education and Care Services National Law (WA)* section 5(1),
12 the *Criminal Procedure Act 2004* Part 2 and the regulations
13 made for the purposes of that Part of that Act are declared to be
14 an infringements law in relation to this jurisdiction for the
15 purposes of that Law.

16 **24. Public sector law**

17 For the purposes of the definition of *public sector law* in the
18 *Education and Care Services National Law (WA)* section 5(1),
19 the *Public Sector Management Act 1994* and the regulations
20 made under that Act are declared to be a public sector law in
21 relation to this jurisdiction for the purposes of that Law.

22 **25. Regulatory Authority**

23 For the purposes of the definition of *Regulatory Authority* in
24 the *Education and Care Services National Law (WA)*
25 section 5(1), the chief executive officer of the department
26 principally assisting in the administration of the *Child Care*
27 *Services Act 2007* is declared to be the Regulatory Authority in
28 relation to this jurisdiction for the purposes of that Law.

29 **26. Relevant tribunal or court**

30 For the purposes of the definition of *relevant tribunal or court*
31 in the *Education and Care Services National Law (WA)*

1 section 5(1), the State Administrative Tribunal is declared to be
2 the relevant tribunal or court in relation to this jurisdiction for
3 the purposes of that Law.

4 **27. Working with children law**

5 For the purposes of the definition of *working with children law*
6 in the *Education and Care Services National Law (WA)*
7 section 5(1), the *Working with Children (Screening) Act 2004*
8 and the regulations made under that Act are declared to be a
9 working with children law in relation to this jurisdiction for the
10 purposes of that Law.

11 **Division 4 — Relationship with other laws**

12 **28. Interaction between *Education and Care Services National***
13 ***Law (WA)* and this Act**

14 If a provision of this Act is inconsistent with the *Education and*
15 *Care Services National Law (WA)*, the provision of this Act
16 prevails to the extent of the inconsistency.

17 **29. Exclusion of legislation of this jurisdiction**

18 (1) The *Interpretation Act 1984* does not apply to the *Education*
19 *and Care Services National Law (WA)* or to the *Education and*
20 *Care Services National Law Regulations (WA)*.

21 Note for this subsection:

22 See the *Education and Care Services National Law (WA)* section 6.

23 (2) The following Acts of this jurisdiction do not apply to the
24 *Education and Care Services National Law (WA)* or to the
25 instruments made under the Law (except as applied under the
26 Law) —

- 27 (a) the *Auditor General Act 2006*;
- 28 (b) the *Financial Management Act 2006*;
- 29 (c) the *Freedom of Information Act 1992*;
- 30 (d) the *Parliamentary Commissioner Act 1971*;

1 (e) the *Public Sector Management Act 1994*;

2 (f) the *State Records Act 2000*.

3 (3) However, an Act mentioned in subsection (2) applies to a public
4 sector body as defined in the *Public Sector Management*
5 *Act 1994* section 3(1), and an employee of the body, performing
6 a function under the *Education and Care Services National*
7 *Law (WA)*.

8 **30. Application of *Public Sector Management Act 1994* to**
9 **specific entities**

10 (1) This section applies for the purposes of the *Education and Care*
11 *Services National Law (WA)* and any other Act or law.

12 (2) Each of the following bodies is not an agency as defined in the
13 *Public Sector Management Act 1994* section 3(1) —

14 (a) the Ministerial Council as defined in the *Education and*
15 *Care Services National Law (WA)* section 5(1);

16 (b) the Australian Children’s Education and Care Quality
17 Authority (the ***National Authority***) established under the
18 *Education and Care Services National Law (WA)*
19 section 224(1);

20 (c) the Australian Children’s Education and Care Quality
21 Authority Board (the ***Board***) established under the
22 *Education and Care Services National Law (WA)*
23 section 230;

24 (d) a committee established by the Board under the
25 *Education and Care Services National Law (WA)*
26 section 247(1);

27 (e) a person declared by a law of a participating jurisdiction
28 to be the Regulatory Authority for that jurisdiction or for
29 a class of education and care services for that
30 jurisdiction;

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Part 2 Education and Care Services National Law

Division 4 Relationship with other laws

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- 1 (f) the Ratings Review Panel established under the
2 *Education and Care Services National Law (WA)*
3 section 146(1).
- 4 (3) To the extent that a person is any of the following under the
5 *Education and Care Services National Law (WA)*, the person is
6 not a public service officer as defined in the *Public Sector*
7 *Management Act 1994* section 3(1) —
- 8 (a) a member of the Board;
9 (b) the chief executive officer of the National Authority;
10 (c) an employee of a body mentioned in subsection (2);
11 (d) a person engaged by the National Authority as a
12 consultant or contractor.

1 **Part 3 — Modification of National Law**

2 **31. Modification of National Law**

3 (1) For the purposes of the definition of *Education and Care*
4 *Services National Law* in section 5(1), the National Law applies
5 as if amended as set out in this Part.

6 (2) However, if a transitional modification regulation is in effect,
7 the National Law applies as if amended as set out in —

8 (a) this Part, other than the sections disapplied by the
9 regulation; and

10 (b) the regulation.

11 **32. Transitional modification regulations**

12 (1) This section applies if —

13 (a) an amending Act has effect for the purpose of Part 2
14 under section 7; and

15 (b) a modification of the National Law set out in this Part
16 cannot be given effect because of an amendment of the
17 National Law made by the amending Act (the *affected*
18 *modification*).

19 (2) Local regulations may —

20 (a) disapply the section that sets out the affected
21 modification; or

22 (b) set out a modification of the National Law to the extent
23 necessary to give effect to the affected modification; or

24 (c) provide for a matter or issue of a transitional nature that
25 arises as a result of the amending Act coming into
26 operation or a local regulation setting out a modification
27 as mentioned in paragraph (b); or

28 (d) provide for a matter or issue of a savings or application
29 nature in relation to an affected modification.

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- 1 (3) If a local regulation does, or provides for, a thing mentioned in
2 subsubsection (2) (a *transitional modification regulation*), the
3 regulation expires 12 months after the day on which the
4 regulation comes into operation.
- 5 (4) However, if the transitional modification regulation does either
6 of the following things in relation to an affected modification,
7 the regulation expires within the 12 months when an
8 amendment of the section of this Part that sets out the affected
9 modification comes into operation —
- 10 (a) disappplies the section that sets out the affected
11 modification;
- 12 (b) sets out a modification of the National Law to give
13 effect to the affected modification.

14 **33. Section 3 modified**

15 In section 3(3)(a) delete “rights and”.

16 **34. Section 5 modified**

17 (1) In section 5(1) delete the definitions of:

18 *parent*

19 *preschool program*

20 *school children*

21 (2) In section 5(1) insert in alphabetical order:

22

23 *community kindergarten* means a kindergarten
24 registered under the *School Education*
25 *Act 1999* Part 5;

26 *disciplinary action* means disciplinary action
27 under Part 7 Division 3A;

- 1 **educational program** means an educational
2 programme as defined in the *School*
3 *Education Act 1999* section 4;
- 4 **executor**, in relation to an approved provider,
5 includes a person —
- 6 (a) entitled to a grant of letters of
7 administration in relation to the estate
8 of the approved provider, including
9 with the will annexed; or
- 10 (b) granted letters of administration in
11 relation to the estate of the approved
12 provider, including with the will
13 annexed; or
- 14 (c) granted probate of the will of the
15 approved provider; or
- 16 (d) named as executor in a valid will of the
17 approved provider;
- 18 **parent**, in relation to a child, means a person who
19 at law has responsibility for —
- 20 (a) the long-term care, welfare and
21 development of the child; or
- 22 (b) the day-to-day care, welfare and
23 development of the child;
- 24 **school children** includes students, as defined in
25 the *School Education Act 1999* section 4,
26 attending school before grade 1;
27

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1 (3) In section 5(1) in the definition of *education and care service*:

2 (a) delete paragraphs (a) and (b) and insert:

3

4 (a) a school providing an educational
5 program to school children in
6 accordance with the *School Education*
7 *Act 1999*; or

8 (b) a community kindergarten providing an
9 educational program to children in
10 accordance with the *School Education*
11 *Act 1999*; or

12

13 (b) after paragraph (h) in the example delete “services, outside
14 school hours services and preschool programs including those
15 delivered in schools,” and insert:

16

17 services and outside school hours services,

18

19 **35. Section 10 modified**

20 In section 10(3)(a) after “information” insert:

21

22 requested under section 11(c)

23

24 **36. Section 11 modified**

25 In section 11(c) delete “information; and” and insert:

26

27 information requested by the Regulatory Authority; and

28

1 **37. Section 17 replaced**

2 Delete section 17 and insert:

3

4 **17. Duration of provider approval**

5 A provider approval granted under section 15
6 continues in force until—

7 (a) cancelled or suspended under this Law or
8 this Law as applying in a participating
9 jurisdiction; or

10 (b) if the provider approval is granted to an
11 individual—the individual dies.

12

13 **38. Section 22 modified**

14 In section 22(2)(b) delete “information; and” and insert:

15

16 information requested by the Regulatory Authority; and

17

18 **39. Section 25 modified**

19 In section 25:

20 (a) delete paragraph (a) and insert:

21

22 (a) the approved provider, or a person with
23 management or control of an education and
24 care service operated by the approved
25 provider, has been charged with an
26 indictable offence, or with an offence that if
27 committed in this jurisdiction would be an
28 indictable offence, or any other
29 circumstance indicates that the approved
30 provider, or a person with management or

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1 control of an education and care service
2 operated by the approved provider, may not
3 be a fit and proper person to be involved in
4 the provision of an education and care
5 service; or
6

7 (b) delete paragraph (g) and insert:
8

9 (g) the approved provider has not paid—

10 (i) an amount due under an order made
11 under, or in relation to proceedings
12 commenced by an allegation made
13 under, section 188AB; or

14 (ii) any outstanding prescribed fees; or
15

16 **40. Section 37 modified**

17 In section 37(2)(b) delete “information; and” and insert:
18

19 information requested by the Regulatory Authority; and
20

21 **41. Section 39 modified**

22 In section 39(6)(b) delete “information; and” and insert:
23

24 information requested by the Regulatory Authority; and
25

1 **42. Section 40 modified**

2 In section 40(3)(b) delete “information; and” and insert:

3

4 information requested by the Regulatory Authority; and

5

6 **43. Section 44 modified**

7 In section 44(1)(c) delete “information; and” and insert:

8

9 information requested by the Regulatory Authority; and

10

11 **44. Section 51 modified**

12 In section 51(4B)(a) delete “is, or 2 or more children from the
13 same family are,” and insert:

14

15 is

16

17 **45. Section 54 modified**

18 In section 54(2)(b) delete “information; and” and insert:

19

20 information requested by the Regulatory Authority; and

21

22 **46. Section 56 modified**

23 In section 56(2)(b) delete “information; and” and insert:

24

25 information requested by the Regulatory Authority; and

26

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1 **47. Section 59 modified**

2 In section 59(2)(b) delete “information; and” and insert:

3

4 information requested by the Regulatory Authority; and

5

6 **48. Section 62 modified**

7 Delete section 62(4) and insert:

8

9 (4) A notification under subsection (2) must be in
10 writing.

11

12 **49. Section 70 modified**

13 Delete section 70(i) and insert:

14

- 15 (i) the approved provider has not paid—
- 16 (i) an amount due under an order made
17 under, or in relation to proceedings
18 commenced by an allegation made
19 under, section 188AB; or
- 20 (ii) any outstanding prescribed fees.

21

22 **50. Section 85 modified**

23 In section 85(2)(b) delete “information; and” and insert:

24

25 information requested by the Regulatory Authority; and

26

1 **51. Section 88 modified**

2 In section 88(b) delete “information; and” and insert:

3

4 information requested by the Regulatory Authority; and

5

6 **52. Section 95 modified**

7 In section 95(b) delete “information; and” and insert:

8

9 information requested by the Regulatory Authority; and

10

11 **53. Section 139 modified**

12 In section 139(2)(b) delete “information; and” and insert:

13

14 information requested by the Regulatory Authority; and

15

16 **54. Section 141 modified**

17 In section 141(4)(c) delete “information; and” and insert:

18

19 information requested by the Regulatory Authority; and

20

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1 **55. Section 165A inserted**

2 After section 165 insert:

3

4 **165A. Offence relating to children leaving the**
5 **education and care service premises**
6 **unauthorised**

7 (1) The approved provider of an education and care
8 service must ensure that a child who is being
9 educated and cared for by the education and care
10 service does not leave the education and care
11 service premises except in accordance with
12 subsection (4).

13 Penalty: \$11 400, in the case of an individual.

14 \$57 400, in any other case.

15 (2) A nominated supervisor of an education and care
16 service must ensure that a child who is being
17 educated and cared for by the education and care
18 service does not leave the education and care
19 service premises except in accordance with
20 subsection (4).

21 Penalty: \$11 400, in the case of an individual.

22 \$57 400, in any other case.

23 (3) A family day care educator must ensure that a
24 child who is being educated and cared for by the
25 educator as part of a family day care service does
26 not leave the residence or approved family day
27 care venue except in accordance with
28 subsection (4).

29 Penalty: \$11 400, in the case of an individual.

30 \$57 400, in any other case.

- 1 (4) The child may only leave the relevant premises if
2 the child—
- 3 (a) is given into the care of—
- 4 (i) a parent of the child; or
- 5 (ii) an authorised nominee named in the
6 child’s enrolment record; or
- 7 (iii) a person authorised by a parent or
8 authorised nominee named in the
9 child’s enrolment record to collect the
10 child from the premises; or
- 11 (b) leaves the premises in accordance with the
12 written authorisation of the child’s parent or
13 of the authorised nominee named in the
14 child’s enrolment record; or
- 15 (c) is taken on an excursion in accordance with
16 the National Regulations; or
- 17 (d) is given into the care of a person or taken
18 outside the premises—
- 19 (i) because the child requires medical,
20 hospital or ambulance care or
21 treatment; or
- 22 (ii) because of another emergency.
- 23 (5) In this section—
- 24 *authorised nominee* has the meaning given in
25 section 170(5);
- 26 *parent* does not include a parent who is
27 prohibited by a court order from having
28 contact with the child.
29

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1 **56. Section 179A modified**

2 Delete section 179A(1)(a) and insert:

3

4 (a) if—

5 (i) a person has, or a person believes the
6 person may have, contravened a
7 provision of this Law; or

8 (ii) the Regulatory Authority alleges a
9 person has contravened a provision of
10 this Law; or

11

12 **57. Part 7 Division 3A inserted**

13 After Part 7 Division 3 insert:

14

15 **Division 3A — Disciplinary action**

16 **188AA Persons against whom disciplinary action may**
17 **be taken**

18 In this Division—

19 *person linked to a WA service* means any of the
20 following—

21 (a) an approved provider operating a
22 WA service;

23 (b) a nominated supervisor of a
24 WA service;

25 (c) a person with management or control
26 of a WA service;

27 (d) a family day care educator engaged by
28 or registered with a WA service;

1 *WA service* means an education and care service
2 located in this jurisdiction.

3 **188AB Disciplinary action**

4 (1) Grounds for disciplinary action exist in respect of
5 a person linked to a WA service if—

6 (a) the person has failed to comply with this
7 Law as applying in this jurisdiction; or

8 (b) the person is a person with management or
9 control of a body corporate that is itself a
10 person linked to a WA service and—

11 (i) the body corporate has failed to comply
12 with this law as applying in this
13 jurisdiction; and

14 (ii) the person with management or control
15 of the body corporate has failed to
16 exercise due diligence to prevent that
17 failure.

18 (2) If the Regulatory Authority of this jurisdiction
19 considers that grounds for disciplinary action
20 exist in respect of a person linked to a
21 WA service, the Regulatory Authority may make
22 an allegation to the relevant tribunal or court of
23 this jurisdiction in respect of that person.

24 (3) In proceedings commenced by an allegation
25 under subsection (2) in respect of a person, the
26 relevant tribunal or court of this jurisdiction, if
27 satisfied that grounds for disciplinary action exist,
28 may make one or more of the following orders—

29 (a) an order reprimanding the person;

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- 1 (b) subject to section 188AC, an order
2 requiring the person to pay a fine not
3 exceeding \$57 400;
- 4 (c) an order to take certain actions, or refrain
5 from taking certain actions, to comply with
6 this Law.
- 7 (4) The relevant tribunal or court may make an order
8 under subsection (3)(a) or (b) in respect of a
9 person whether or not at the time when the order
10 is made the person is a person linked to a
11 WA service.

12 **188AC Limitation on section 188AB(3)(b)**

- 13 (1) The power described in section 188AB(3)(b) to
14 impose a fine, and the power of a court to impose
15 a penalty for an offence under this Law as it
16 applies in this or another participating
17 jurisdiction, cannot both be exercised in respect
18 of an act or omission of a person that is
19 substantially the same.
- 20 (2) A fine that exceeds the relevant maximum fine
21 cannot be imposed under section 188AB(3)(b).
- 22 (3) In this section—
- 23 *relevant maximum fine* means, if the fine is to be
24 imposed in respect of an act or omission
25 that constitutes an offence under this Law,
26 the maximum fine that could be imposed by
27 a court for that offence.
28

1 **58. Section 197 modified**

2 (1) After section 197(1)(a) insert:

3

4 (aa) monitoring compliance with a working with
5 children law by specified persons in
6 relation to the provision of an education and
7 care service;

8

9 (2) In section 197(3) delete “in the provision” and insert:

10

11 in, or in relation to, the provision

12

13 (3) After section 197(5) insert:

14

15 (6) In this section—

16 *specified person* has the meaning given in
17 section 206(4).

18

19 **59. Section 204 modified**

20 In section 204(1):

21 (a) in paragraph (a) delete “Law; or” and insert:

22

23 Law or a working with children law; or

24

25 (b) in paragraph (b) delete “Law.” and insert:

26

27 Law or a working with children law.

28

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1 **60. Section 206 modified**

2 After section 206(1)(a) insert:

3

4 (aa) monitoring compliance with a working with
5 children law by specified persons in
6 relation to the provision of an education and
7 care service;

8

9 **61. Section 215 modified**

10 (1) In section 215(2) delete “specified” (1st occurrence).

11 (2) Delete section 215(6).

12 **62. Section 216 modified**

13 (1) In section 216(2) delete “specified” (1st occurrence).

14 (2) Delete section 216(5).

15 **63. Section 219 modified**

16 (1) In section 219(2) after “individual” insert:

17

18 in any disciplinary proceedings, or

19

20 (2) Delete section 219(3) and insert:

21

22 (3) Despite subsection (2), any information obtained
23 from a document or documents required to be
24 kept under this Law, or required under
25 section 215(2)(b) or 216(2)(b), that is produced
26 by a person is admissible in evidence against the
27 person in disciplinary proceedings or in criminal
28 proceedings under this Law.

29

1 (3) In section 219(4) in the definition of *disclosed information*:

2 (a) in paragraph (b) delete “216; or” and insert:

3

4 216.

5

6 (b) delete paragraph (c).

7 **64. Section 225 modified**

8 In section 225(1)(1)(i) delete “parents” and insert:

9

10 parents, family members

11

12 **65. Section 270 modified**

13 In section 270(6):

14 (a) in paragraph (c) delete “service.” and insert:

15

16 service; or

17

18 (b) after paragraph (c) insert:

19

20 (d) a person against whom disciplinary action
21 has been taken.

22

23 **66. Section 302 modified**

24 Delete section 302(2).

25 **67. Section 303 modified**

26 Delete section 303(2), (3) and (4).

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1 **68. Part 15 Divisions 1 to 6 deleted**

2 Delete Part 15 Divisions 1 to 6.

3 **69. Section 336 modified**

4 In section 336(3) delete the definition of *commencement day*
5 and insert:

6
7 *commencement day* means the day on which the
8 *Education and Care Services National Law*
9 (WA) section 5 comes into operation.

10
11 **70. Section 337 modified**

12 In section 337(2) delete the definition of *commencement day*
13 and insert:

14
15 *commencement day* means the day on which the
16 *Education and Care Services National Law*
17 (WA) section 5 comes into operation.

18
19 **71. Section 338 modified**

20 In section 338(2) delete the definition of *commencement day*
21 and insert:

22
23 *commencement day* means the day on which the
24 *Education and Care Services National Law*
25 (WA) section 5 comes into operation.

26

1 **72. Section 339 modified**

2 In section 339(2) delete the definition of *commencement day*
3 and insert:

4
5 *commencement day* means the day on which the
6 *Education and Care Services National Law*
7 (WA) section 5 comes into operation.
8

9 **73. Schedule 1 modified**

10 At the end of Schedule 1 Part 2 insert:

11
12 **11A Penalty at end of provision**

13 In this Law, a penalty specified at the end of a
14 provision indicates that a contravention of the
15 provision is an offence, the penalty on conviction
16 for which is the penalty specified.
17

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Part 4 — Other matters

74. Local regulations

- (1) The Governor may make regulations prescribing all matters —
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to this Act.

- (2) Without limiting subsection (1), the regulations may provide for —
 - (a) modifications of the National Regulations for the purpose of applying the National Regulations in Western Australia; or
 - (b) provisions of a savings or transitional nature for the purpose of accommodating differences between the National Regulations and the *Education and Care Services National Law Regulations (WA)*; or
 - (c) matters to be prescribed under the *Criminal Procedure Act 2004* Part 2 for the purposes of the *Education and Care Services National Law (WA)*; or
 - (d) fees for things done under this Act or the *Education and Care Services National Law (WA)*.

- (3) For the purposes of subsection (2)(c), the requirement to prescribe particular matters under the *Criminal Procedure Act 2004* section 6 does not apply to the extent that the matter is provided for in the *Education and Care Services National Law (WA)*.

75. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which section 5 comes into operation.

- 1 (2) The Minister must cause the report to be laid before each House
2 of Parliament as soon as practicable after it is prepared, but not
3 later than 12 months after the 5th anniversary.

1 **Part 5 — Repeals and transitional provisions**

2 **Division 1 — Repeals**

3 **76. Written laws repealed**

4 (1) The *Education and Care Services National Law (WA) Act 2012*
5 is repealed.

6 (2) The *Education and Care Services National Regulations 2012*
7 are repealed.

8 **Division 2 — Transitional provisions**

9 **77. Terms used**

10 (1) In this Division —

11 *former Law* means the provisions applying in this State as the
12 *Education and Care Services National Law (Western Australia)*
13 because of section 4 of the repealed Act;

14 *former regulations* means the *Education and Care Services*
15 *National Regulations 2012*;

16 *new Law* means the provisions applying in this State as the
17 *Education and Care Services National Law (WA)* because of
18 section 5 of this Act;

19 *new regulations* means the provisions applying in this State as
20 the *Education and Care Services National Law Regulations*
21 *(WA)* because of section 11 of this Act;

22 *repealed Act* means the *Education and Care Services National*
23 *Law (WA) Act 2012* as in force immediately before
24 commencement day.

25 (2) Also, in this Division —

26 (a) a provision of this Act *corresponds* to a provision of the
27 repealed Act, and vice versa, if the 2 provisions are
28 substantially the same; and

- 1 (b) a provision of the new Law *corresponds* to a provision
2 of the former Law, and vice versa, if the 2 provisions are
3 substantially the same; and
- 4 (c) a provision of the new regulations *corresponds* to a
5 provision of the former regulations, and vice versa, if
6 the 2 provisions are substantially the same.

7 **78. Application of *Interpretation Act 1984***

- 8 (1) A provision of the *Interpretation Act 1984* about the repeal of
9 enactments and the substitution of other enactments applies as
10 if —
- 11 (a) the provisions of the repealed Act and the former Law
12 were repealed by this Act; and
- 13 (b) a provision of the repealed Act were re-enacted as the
14 corresponding provision of this Act; and
- 15 (c) a provision of the former Law were re-enacted as the
16 corresponding provision of the new Law.
- 17 (2) Despite subsection (1), the *Interpretation Act 1984*
18 sections 36(d) (to the extent it relates to subsidiary legislation)
19 and 38 do not apply in relation to the repealed Act or the former
20 Law.
- 21 (3) Except to the extent that this Division or regulations made for
22 the purposes of this Division provide differently, the
23 *Interpretation Act 1984* applies to and in relation to the repeals
24 effected by section 76.

25 **79. References to the Law and this Law**

- 26 (1) In the *Education and Care Services National Law (WA)*, unless
27 the context otherwise requires —
- 28 (a) a reference to the Law or this Law includes a reference
29 to the former Law; and

1 (b) a reference to something done under the Law includes a
2 reference to the thing being done under the
3 corresponding provision of the former Law.

4 (2) In the *Education and Care Services National Law Regulations*
5 (*WA*), unless the context otherwise requires —

6 (a) a reference to the Law or this Law includes a reference
7 to the former Law; and

8 (b) a reference to something done under the Law includes a
9 reference to the thing being done under the
10 corresponding provision of the former Law or former
11 regulations.

12 (3) This section does not limit, and is not limited by, any other
13 provision in this Division.

14 **80. New Law operates as continuation of former Law**

15 (1) In this section —

16 *administrative process* includes any of the following processes
17 done under the former Law —

18 (a) the making and processing of an application;

19 (b) the giving of, and responding to, a notice;

20 (c) the making of a decision;

21 *compliance measure* means —

22 (a) a compliance direction given to an approved provider
23 under the former Law section 176; or

24 (b) a compliance notice given to an approved provider
25 under the former Law section 177; or

26 (c) a direction given under the former Law section 178(4)
27 or 179(2); or

28 (d) an undertaking from a person or an approved provider
29 accepted under the former Law section 179A; or

30 (e) an order made by the relevant tribunal or court under the
31 former Law section 181(2) or 188AB(3); or

1 (f) a prohibition notice given to a person under the former
2 Law section 182;

3 **conduct**, of a person, includes —

4 (a) an act done, or omitted to be done, by the person; or

5 (b) a failure of the person to comply with a direction or
6 requirement applying to the person under a provision of
7 the former Law or former regulations; or

8 (c) the person inadequately providing an education and care
9 service;

10 **disciplinary action** means any of the following actions —

11 (a) suspension of a provider approval under the former Law
12 section 27, 28 or 33(1)(a)(ii);

13 (b) suspension of a service approval under the former Law
14 section 72, 73 or 79(1)(a)(ii);

15 (c) cancellation of a provider approval under the former
16 Law section 33;

17 (d) cancellation of a service approval under the former Law
18 section 79;

19 (e) disciplinary action taken against a person linked to a
20 WA service under the former Law section 188AB;

21 **notice** includes a show cause notice given under the former Law
22 section 26, 32, 71, 78, 178 or 183;

23 **rating level** means a rating level for an approved education and
24 care service determined by the Regulatory Authority after
25 carrying out a rating assessment under the former Law
26 section 135;

27 **review** means —

28 (a) an internal review of a reviewable decision under the
29 former Law section 191; or

30 (b) an external review of a reviewable decision under the
31 former Law section 193; or

- 1 (c) a review of a rating level of an approved education and
2 care service under the former Law section 151;
- 3 **voluntary suspension** means —
- 4 (a) the voluntary suspension of a provider approval
5 accepted under the former Law section 37; or
- 6 (b) the voluntary suspension of a service approval accepted
7 under the former Law section 85;
- 8 **waiver** means —
- 9 (a) a service waiver granted under the former Law
10 section 91; or
- 11 (b) a temporary waiver granted under the former Law
12 section 98.
- 13 (2) The new Law operates as a continuation of the former Law
14 with —
- 15 (a) administrative processes and proceedings that are
16 pending or current under the former Law immediately
17 before commencement day being continued and dealt
18 with under the new Law; and
- 19 (b) rights, that would have been able to be exercised after
20 commencement day if the former Law had not been
21 repealed, being able to be exercised under the new Law;
22 and
- 23 (c) obligations, that were not discharged in accordance with
24 the former Law before commencement day, being
25 continued and enforceable under the new Law.
- 26 (3) Without limiting subsection (2) —
- 27 (a) anything done or omitted to be done for the purposes of
28 a provision of the former Law before commencement
29 day is taken to have been done or omitted to be done for
30 the purposes of the corresponding provision of the new
31 Law; and

- 1 (b) if, before commencement day, a person engaged in
2 conduct that could have been considered by a person in
3 making a decision, or in exercising a power, under a
4 provision of the former Law, the conduct may be
5 considered under the corresponding provision of the
6 new Law; and
- 7 (c) compliance with a provision of the former Law during a
8 period before commencement day is taken to be
9 compliance with the corresponding provision of the new
10 Law for the same period; and
- 11 (d) a requirement made of an entity, and not complied with,
12 under a provision of the former Law before
13 commencement day, continues in effect as if it were
14 made under the corresponding provision of the new
15 Law; and
- 16 (e) a notice given in accordance with the former Law, and
17 still in effect immediately before commencement day,
18 continues in effect and must be dealt with under the new
19 Law; and
- 20 (f) an administrative process or proceeding commenced,
21 but not concluded, under the former Law before
22 commencement day is continued and must be concluded
23 under the new Law; and
- 24 (g) a rating level for an approved education and care service
25 in effect under the former Law immediately before
26 commencement day continues in effect and is taken to
27 have been determined by the Regulatory Authority
28 under the corresponding provision of the new Law; and
- 29 (h) an application made in accordance with a provision of
30 the former Law, and not decided or withdrawn before
31 commencement day, continues in effect and must be
32 dealt with under the corresponding provision of the new
33 Law; and

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Part 5 Repeals and transitional provisions

Division 2 Transitional provisions

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- 1 (i) the right of a person to apply for a review under a
2 provision of the former Law continues under the
3 corresponding provision of the new Law; and
- 4 (j) any amount payable or recoverable under a provision of
5 the former Law that is unpaid or not recovered before
6 commencement day is payable or recoverable under the
7 corresponding provision of the new Law; and
- 8 (k) a provider approval or service approval in force under
9 the former Law immediately before commencement day
10 continues in force and is taken to have been granted
11 under the corresponding provision of the new Law; and
- 12 (l) a person who, immediately before commencement day,
13 was a nominated supervisor in relation to an education
14 and care service continues to be a nominated supervisor
15 for the service; and
- 16 (m) a waiver in effect under the former Law immediately
17 before commencement day continues in effect and is
18 taken to have been granted under the corresponding
19 provision of the new Law; and
- 20 (n) a compliance measure imposed under a provision of the
21 former Law and in force immediately before
22 commencement day continues in force under the
23 corresponding provision of the new Law; and
- 24 (o) disciplinary action that is pending or unresolved under
25 the former Law immediately before commencement day
26 may be started, continued and resolved under the new
27 Law; and
- 28 (p) a voluntary suspension in force immediately before
29 commencement day continues in force under the new
30 Law; and
- 31 (q) a search warrant issued by a magistrate under the former
32 Law and in effect immediately before commencement
33 day continues in effect under the new Law; and

1 (r) a reference in a document to the former Law may, if the
2 context permits, be taken to be a reference to the new
3 Law.

4 (4) If a thing is continued in force or effect under subsection (2)
5 or (3) —

6 (a) the thing is taken to have been made or granted under
7 the new Law; and

8 (b) the thing may be dealt with under the new Law.

9 (5) To the extent that a thing continued under subsection (2) or (3)
10 is subject to terms and conditions —

11 (a) the thing continues to be subject to those same terms and
12 conditions; and

13 (b) the terms and conditions may be amended or removed
14 under the new Law.

15 **81. New regulations operate as continuation of former**
16 **regulations**

17 (1) In this section —
18 *conduct*, of a person, includes —

19 (a) an act done, or omitted to be done, by the person; or

20 (b) a failure of the person to comply with a direction or
21 requirement applying to the person under a provision of
22 the former Law or former regulations; or

23 (c) the person inadequately providing an education and care
24 service.

25 (2) The new regulations operate as a continuation of the former
26 regulations with —

27 (a) rights, that would have been able to be exercised after
28 commencement day if the former regulations had not
29 been repealed, being able to be exercised under the new
30 regulations; and

- 1 (b) obligations, that were not discharged in accordance with
2 the former regulations before commencement day, being
3 continued and enforceable under the new regulations.
- 4 (3) Without limiting subsection (2) —
- 5 (a) anything done or omitted to be done for the purposes of
6 a provision of the former regulations before
7 commencement day is taken to have been done or
8 omitted to be done for the purposes of the corresponding
9 provision of the new regulations; and
- 10 (b) if, before commencement day, a person engaged in
11 conduct that could have been considered by a person in
12 making a decision, or in exercising a power, under a
13 provision of the former regulations, the conduct may be
14 considered under the corresponding provision of the
15 new regulations; and
- 16 (c) compliance with a provision of the former regulations
17 during a period before commencement day is taken to be
18 compliance with the corresponding provision of the new
19 regulations for the same period; and
- 20 (d) a requirement made of an entity, and not complied with,
21 under a provision of the former regulations before
22 commencement day, continues in effect as if it were
23 made under the corresponding provision of the new
24 regulations; and
- 25 (e) a reference in a document to the former regulations may,
26 if the context permits, be taken to be a reference to the
27 new regulations.
- 28 (4) The *Interpretation Act 1984* sections 36 (except section 36(d) to
29 the extent it relates to subsidiary legislation) and 37 apply and
30 have effect as if the former regulations were repealed and
31 re-enacted as the new regulations.
- 32 (5) Subsection (2) does not affect the operation of section 11.

1 **82. Transitional regulations**

2 (1) In this section —

3 *publication day*, in relation to transitional regulations, means
4 the day on which the transitional regulations are published in
5 accordance with the *Interpretation Act 1984* section 41(1)(a);

6 *transitional matter* —

7 (a) means a matter or issue of a transitional nature that
8 arises as a result of —

9 (i) the repeal of the repealed Act and the former
10 Law, the enactment of this Act and the coming
11 into operation of the new Law; or

12 (ii) the repeal of the former regulations and the
13 coming into operation of the new regulations;

14 and

15 (b) includes a matter or issue of a savings or application
16 nature;

17 *transitional regulations* means local regulations made for the
18 purposes of subsection (2).

19 (2) If there is not sufficient provision in this Division for dealing
20 with a transitional matter, local regulations may prescribe
21 anything required, necessary or convenient to be prescribed in
22 relation to that matter.

23 (3) Without limiting subsection (2), transitional regulations may
24 provide that —

25 (a) specified provisions of this Act or the new Law —

26 (i) do not apply in relation to a specified matter; or

27 (ii) apply with specified modifications to or in
28 relation to a specified matter;

29 and

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Part 5 Repeals and transitional provisions

Division 2 Transitional provisions

s. 82

- 1 (b) specified provisions of the repealed Act or the former
2 Law continue to apply (with or without specified
3 modifications) to, or in relation to, a specified matter as
4 if the repealed Act were not repealed.
- 5 (4) Transitional regulations cannot be made after the end of the
6 period of 2 years beginning on commencement day.
- 7 (5) If transitional regulations provide that a state of affairs is taken
8 to have existed, or not to have existed, on and from a day that is
9 earlier than publication day, but not earlier than commencement
10 day, the regulations have effect according to their terms.
- 11 (6) If transitional regulations contain a provision referred to in
12 subsection (5), the provision does not operate so as to —
- 13 (a) affect in a manner prejudicial to any person (other than
14 the State or an authority of the State), the rights of that
15 person existing before publication day; or
- 16 (b) impose liabilities on any person (other than the State or
17 an authority of the State) in respect of anything done or
18 omitted to be done before publication day.

Part 6 — Consequential amendments

**Division 1 — Amendments consequential to enactment of
*Children and Community Services Amendment Act 2021***

**83. *Children and Community Services Amendment Act 2021*
amended**

(1) This section amends the *Children and Community Services Amendment Act 2021*.

(2) In section 52(2) in the definition of **early childhood worker** paragraph (a) delete “*Education and Care Services National Law (Western Australia) —*” and insert:

Education and Care Services National Law (WA) —

84. *Children and Community Services Act 2004* amended

(1) This section amends the *Children and Community Services Act 2004*.

(2) In section 124A in the definition of **early childhood worker** paragraph (a) delete “*Education and Care Services National Law (Western Australia) —*” and insert:

Education and Care Services National Law (WA) —

85. Repeal of s 83 or 84

(1) If the *Children and Community Services Amendment Act 2021* section 52(2) comes into operation on or before the day on which this section comes into operation, section 83 does not come into operation and is repealed.

- 1 (2) If this section comes into operation on or before the day on
2 which the *Children and Community Services Amendment*
3 *Act 2021* section 52(2) comes into operation, section 84 does
4 not come into operation and is repealed.

5 **Division 2 — *Parliamentary Commissioner Act 1971* amended**

6 **86. Act amended**

7 This Division amends the *Parliamentary Commissioner*
8 *Act 1971*.

9 **87. Section 19D amended**

10 In section 19D(1)(e) delete “Education and Care Services
11 National Law (Western Australia)” and insert:

12

13 *Education and Care Services National Law (WA)*
14

15 **88. Schedule 2 amended**

16 In Schedule 2 in the item relating to Providers of child care
17 services delete “*Education and Care Services National Law*
18 *(Western Australia)*” and insert:

19

20 *Education and Care Services National Law (WA)*
21

22 **Division 3 — *Spent Convictions Act 1988* amended**

23 **89. Act amended**

24 This Division amends the *Spent Convictions Act 1988*.

1 **90. Schedule 3 amended**

2 In Schedule 3 clause 1(5) in the Table item 6A:

3 (a) in paragraph (a) delete “*Education and Care Services*
4 *National Law (Western Australia); or*” and insert:

5
6 *Education and Care Services National Law (WA); or*

7
8 (b) in paragraph (b)(ii) delete “*Education and Care Services*
9 *National Law (Western Australia).*” and insert:

10
11 *Education and Care Services National Law (WA).*

12

13 **Division 4 — Working with Children (Screening) Act 2004**
14 **amended**

15 **91. Act amended**

16 This Division amends the *Working with Children (Screening)*
17 *Act 2004*.

18 **92. Section 4 amended**

19 In section 4 in the definition of *child care service* paragraph (a)
20 delete “*Education and Care Services National Law (Western*
21 *Australia)*” and insert:

22
23 *Education and Care Services National Law (WA)*

24

1 **93. Section 5 amended**

2 In section 5(1) in the definition of *managerial officer*
3 paragraph (b) delete “*Education and Care Services National*
4 *Law (Western Australia)* section 5(1),” and insert:

5

6 *Education and Care Services National Law (WA)* section 5A,

7

8 **Division 5 — Other amendments**

9 **94. References to “*Education and Care Services National Law*
10 *(Western Australia)*” amended**

11 (1) This section amends the Acts listed in the Table.

12 (2) In the provisions listed in the Table delete “*Education and Care*
13 *Services National Law (Western Australia)*” and insert:

14

15 *Education and Care Services National Law (WA)*

16

17

18

Table

<i>Child Care Services Act 2007</i>	s. 3 def. of <i>national child care law</i>
<i>Children and Community Services Act 2004</i>	s. 3 def. of <i>child care services</i> par. (a)
<i>Civil Liability Act 2002</i>	s. 5AAA def. of <i>child care service</i> par. (a) s. 5AAA def. of <i>staff member</i> par. (da)

<i>The Criminal Code</i>	s. 557K(1) def. of child care centre par. (a)
<i>Evidence Act 1906</i>	s. 19L(5A)(b)
<i>Health (Miscellaneous Provisions) Act 1911</i>	s. 337(2A) def. of child care centre par. (a)
<i>Public Health Act 2016</i>	s. 4(1) def. of child care service par. (a)(i)
<i>School Education Act 1999</i>	s. 154(2) def. of school par. (cb)
<i>Teacher Registration Act 2012</i>	s. 3 def. of centre-based service (each occurrence) s. 37(1) def. of nominated supervisor

1



Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
administrative process.....	80(1)
affected modification	32(1)
amend.....	3(1)
amending Act.....	3(1)
amending regulations	3(1)
Board.....	30(2)
child protection law	18
commencement day	3(1)
compliance measure.....	80(1)
conduct.....	80(1), 81(1)
corresponds	77(2)
court	18
de facto relationship.....	18
disallowance period	7(1), 13(1)
disallowance resolution.....	7(1), 13(1)
disciplinary action.....	80(1)
Education and Care Services National Law	5(1)
Education and Care Services National Law Regulations	11(1)
Education and Care Services National Law Regulations (WA).....	3(1)
Education and Care Services National Law (WA).....	3(1)
former Law	77(1)
former regulations.....	77(1)
local authority	18
local regulations.....	3(1)
magistrate.....	18
National Authority	30(2)
National Law.....	3(1)
National Regulations.....	3(1)
new Law.....	77(1)
new regulations	77(1)
notice.....	80(1)
notice period	7(1), 13(1)
parliamentary committee	10(1), 15(1)
publication day.....	82(1)
public authority	18
rating level	80(1)
registered teacher	18
repealed Act.....	77(1)
review	80(1)

superior court	18
this jurisdiction	18
transitional matter	82(1)
transitional modification regulation	3(1), 32(3)
transitional regulations.....	82(1)
voluntary suspension.....	80(1)
waiver	80(1)