

2024

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Early Childhood Development)

Education and Care Services National Law (ACT) Amendment Bill 2024

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(Minister for Early Childhood Development)

Education and Care Services National Law (ACT) Amendment Bill 2024

A Bill for

An Act to amend the *Education and Care Services National Law (ACT) Act 2011*,
and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Education and Care Services National Law (ACT)*
3 *Amendment Act 2024*.

4 **2 Commencement**

5 (1) This Act (other than the provisions mentioned in subsection (2))
6 commences on the day after its notification day.

7 *Note* The naming and commencement provisions automatically commence on
8 the notification day (see [Legislation Act](#), s 75 (1)).

9 (2) The following provisions commence 3 months after this Act's
10 notification day:

- 11 • section 5
- 12 • sections 7 and 8
- 13 • section 13.

14 **3 Legislation amended**

15 This Act amends the *Education and Care Services National Law*
16 *(ACT) Act 2011*.

17 *Note* This Act also amends other legislation (see sch 1).

18 **4 Adoption of Education and Care Services National Law**
19 **New section 6 (1A)**

20 *insert*

21 (1A) For the *Education and Care Services National Law (ACT)*,
22 section 105 (Application of Part to certain participating jurisdictions
23 only)—

- 24 (a) the Territory is a participating jurisdiction; and
- 25 (b) part 4 (Approval in principle for education and care service
26 premises located in certain types of buildings) of that Law
27 applies as a territory law.

1 **5 New section 6 (1B)**

2 *insert*

3 (1B) The *Education and Care Services National Law (ACT)*, section 49A
4 (Additional ground for refusal in certain participating jurisdictions—
5 mandatory approval in principle) applies as a territory law.

6 **6 Section 6 (2)**

7 *omit*

8 not later than 6 sitting days after the day it is passed

9 **7 Section 6 (5)**

10 *after*

11 regulations)

12 *insert*

13 and section 340 (Transitional provision—approvals in principle—
14 applications for service approval)

15 **8 Section 6 (5)**

16 *omit*

17 does not

18 *substitute*

19 do not

20 **9 New section 6 (6) to (8)**

21 *insert*

22 (6) To remove any doubt, the *Education and Care Services National*
23 *Law (ACT)*, section 303 (5) and section 304 (Effect of disallowance
24 of national regulation) apply as a territory law.

- 1 (7) Despite subsection (4), the *Education and Care Services National*
2 *Law (ACT)* is taken to be amended by the *Freedom of Information*
3 *Amendment (Office of the Victorian Information Commissioner)*
4 *Act 2017* (Vic) and the *Regulatory Legislation Amendment (Reform)*
5 *Act 2022* (Vic) as if those Acts—
- 6 (a) had been presented to the Legislative Assembly in accordance
7 with subsection (2); and
- 8 (b) had not been disallowed under subsection (3).
- 9 (8) Subsection (7) and this subsection expire on the day they commence.

10 **10 Exclusion of territory laws**
11 **New section 7 (1) (ba)**

12 *insert*

- 13 (ba) the *Information Privacy Act 2014*;

14 **11 New section 7 (1A)**

15 *insert*

- 16 (1A) Subsection (1) (c) does not limit the application of the *Legislation Act*
17 to this Act.

18 **12 New sections 17A and 17B**

19 *insert*

20 **17A Part 4 building law and Part 4 planning law**

- 21 (1) For the definition of *Part 4 building law* in the *Education and Care*
22 *Services National Law (ACT)*, section 5, the *Building Act 2004* is a
23 Part 4 building law.
- 24 (2) For the definition of *Part 4 planning law* in the *Education and Care*
25 *Services National Law (ACT)*, section 5, the *Planning Act 2023* is a
26 Part 4 planning law.

1 **17B Application for approval in principle**

2 For the *Education and Care Services National Law (ACT)*,
3 section 107 (2), an application for an approval in principle must be
4 made to the Regulatory Authority not later than—

- 5 (a) if, under the *Planning Act 2023*, a development approval is
6 required for the education and care service premises—the day
7 before the application for development approval is made; or
8 (b) in any other case—the day before an application for building
9 approval for the education and care service premises is made
10 under the *Building Act 2004*.

11 **13 New part 10**

12 *insert*

13 **Part 10 Transitional—Applications for**
14 **service approval**

15 **50 Meaning of commencement day—pt 10**

16 In this part:

17 *commencement day* means the day the *Education and Care Services*
18 *National Law (ACT) Amendment Act 2024*, section 5 commences.

19 **51 Application of national law, s 49A to certain applications**
20 **for approval**

21 (1) This section applies if—

- 22 (a) before, on or after the commencement day, an application for
23 service approval for an education and care service is made under
24 the *Education and Care Services National Law (ACT)*,
25 section 43 (Application for service approval); and

- 1 (b) before the commencement day—
- 2 (i) if, under the *Planning Act 2023*, a development approval
- 3 is required for the education and care service premises—
- 4 an application for a development approval for the premises
- 5 is made; or
- 6 (ii) in any other case—an application for building approval for
- 7 the education and care service premises is made under the
- 8 *Building Act 2004*.
- 9 (2) The *Education and Care Services National Law (ACT)*, section 49A
- 10 (Additional ground for refusal in certain participating jurisdictions—
- 11 mandatory approval in principle) does not apply to the application for
- 12 service approval.

13 **52 Expiry—pt 10**

14 This part expires 5 years after the commencement day.

15 *Note* A transitional provision is repealed on its expiry but continues to have

16 effect after its repeal (see *Legislation Act*, s 88).

1 **Schedule 1** **Other amendments**

2 (see s 3)

3 **Part 1.1** **Children and Young People**
4 **Act 2008**

5 **[1.1] Section 356 (3), new definitions**

6 *insert*

7 *education and care service*—see the *Education and Care Services*
8 *National Law (ACT)*, section 5.

9 *educator*—

10 (a) means an educator within the meaning of the *Education and*
11 *Care Services National Law (ACT)*, section 5; but

12 (b) does not include an educator in a family day care service.

13 *family day care co-ordinator*—see the *Education and Care Services*
14 *National Law (ACT)*, section 5.

15 *family day care service*—see the *Education and Care Services*
16 *National Law (ACT)*, section 5.

17 *Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6
18 applies the Education and Care Services National Law set out in the
19 *Education and Care Services National Law Act 2010* (Vic), schedule as
20 if it were an ACT law called the *Education and Care Services National*
21 *Law (ACT)*.

1 **[1.2] Section 356 (3), definition of *mandated reporter*,**
2 **paragraph (l)**

3 *substitute*

4 (l) a family day care co-ordinator;

5 (la) an educator;

6 (lb) an education and care service provider;

7 **Part 1.2 Crimes Act 1900**

8 **[1.3] Section 66A (5) definition of *relevant institution*,**
9 **examples—par (a)**

10 *omit*

11 child care centres

12 *substitute*

13 education and care services, childcare centres

14 **Part 1.3 Crimes (Child Sex Offenders)**
15 **Act 2005**

16 **[1.4] Section 124 (1) (b)**

17 *omit*

18 child-care centres

19 *substitute*

20 education and care services or childcare centres

1 **[1.5] Section 124 (2), new definitions**

2 *insert*

3 *childcare centre* includes a childcare centre within the meaning of the
4 *Children and Young People Act 2008*, section 733.

5 *education and care service*—see the *Education and Care Services*
6 *National Law (ACT)*, section 5.

7 *Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6
8 applies the Education and Care Services National Law set out in the
9 *Education and Care Services National Law Act 2010* (Vic), schedule as
10 if it were an ACT law called the *Education and Care Services National*
11 *Law (ACT)*.

12 **[1.6] Sections 132B and 132F**

13 *omit*

14 a child care centre

15 *substitute*

16 an education and care service or childcare centre

17 **[1.7] Sections 132K and 132R**

18 *omit*

19 child care centre

20 *substitute*

21 education and care service or childcare centre

1 **Part 1.4 Domestic Animals Act 2000**

2 **[1.8] Section 42 (1) (a)**

3 *omit*

4 a child-care centre

5 *substitute*

6 an education and care service or childcare centre

7 **[1.9] Section 42 (6), new definitions**

8 *insert*

9 *childcare centre* includes a childcare centre within the meaning of the
10 [Children and Young People Act 2008](#), section 733.

11 *education and care service*—

12 (a) means an education and care service within the meaning of the
13 [Education and Care Services National Law \(ACT\)](#), section 5;
14 but

15 (b) does not include a family day care service within the meaning
16 of the [Education and Care Services National Law \(ACT\)](#),
17 section 5.

18 *Note* The [Education and Care Services National Law \(ACT\) Act 2011](#), s 6
19 applies the Education and Care Services National Law set out in the
20 [Education and Care Services National Law Act 2010](#) (Vic), schedule as
21 if it were an ACT law called the [Education and Care Services National](#)
22 [Law \(ACT\)](#).

1 **Part 1.5** **Emergencies Act 2004**

2 **[1.10] Section 34 (1) (m), examples**

3 *omit*

- 4 • child care centres

5 *substitute*

- 6 • education and care service premises
7 • childcare centres

8 **Part 1.6** **Leases (Commercial and Retail)**
9 **Act 2001**

10 **[1.11] Section 12 (1) (g)**

11 *omit*

12 a child care centre

13 *substitute*

14 an education and care service or childcare centre

15 **[1.12] Section 12 (7), new definitions**

16 *insert*

17 ***childcare centre*** includes a childcare centre within the meaning of the
18 [Children and Young People Act 2008](#), section 733.

19 ***education and care service***—

- 20 (a) means an education and care service within the meaning of the
21 *Education and Care Services National Law (ACT)*, section 5;
22 but

1 (b) does not include a family day care service within the meaning
2 of the *Education and Care Services National Law (ACT)*,
3 section 5.

4 *Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6
5 applies the Education and Care Services National Law set out in the
6 *Education and Care Services National Law Act 2010* (Vic), schedule as
7 if it were an ACT law called the *Education and Care Services National*
8 *Law (ACT)*.

9 Part 1.7 Spent Convictions Act 2000

10 [1.13] Section 19 (1) (a)

11 *after*
12 childcare worker,
13 *insert*
14 educator,

15 [1.14] Section 19 (1) (b) (ii)

16 *omit*
17 child-care centre
18 *substitute*
19 education and care service, childcare centre

20 [1.15] New section 19 (12)

21 *insert*
22 (12) In this section:
23 *childcare centre* includes a childcare centre within the meaning of the
24 *Children and Young People Act 2008*, section 733.

- 1 **[1.18] Schedule 1, section 1.3 (2), new definition of *education***
2 ***and care service***
- 3 *insert*
- 4 *education and care service*—see the *Education and Care Services*
5 *National Law (ACT)*, section 5.
- 6 *Note* The *Education and Care Services National Law (ACT) Act 2011*, s 6
7 applies the Education and Care Services National Law set out in the
8 *Education and Care Services National Law Act 2010* (Vic), schedule as
9 if it were an ACT law called the *Education and Care Services National*
10 *Law (ACT)*.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 10 April 2024.

2 Notification

Notified under the [Legislation Act](#) on 2024.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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