



Australian Capital Territory

Education and Care Services National Law (ACT) Act 2011

A2011-42

Republication No 9

Effective: 12 July 2024 – 9 October 2024

Republication date: 12 July 2024

Last amendment made by [A2024-33](#)
(republishing for expiry of provision (s 6 (7), (8)))

About this republication

The republished law

This is a republication of the *Education and Care Services National Law (ACT) Act 2011* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 July 2024. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 12 July 2024.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Education and Care Services National Law (ACT) Act 2011

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Australian Capital Territory

Education and Care Services National Law (ACT) Act 2011

An Act to apply a national law relating to the regulation of education and care services for children

R9
12/07/24

Education and Care Services National Law (ACT)
Act 2011

page 1

Effective: 12/07/24-09/10/24

Part 1 Preliminary

1 Name of Act

This Act is the *Education and Care Services National Law (ACT) Act 2011*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act.

Note 2 A definition in the dictionary applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Terms used in Education and Care Services National Law (ACT)

Terms used in this Act and also in the Education and Care Services National Law set out in the schedule to the [Victorian Act](#) have the same meaning in this Act as they have in that Law.

5 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Adoption of National Law

6 Adoption of Education and Care Services National Law

- (1) Subject to this section, the Education and Care Services National Law, as in force from time to time, set out in the schedule to the [Victorian Act](#)—
 - (a) applies as a territory law; and
 - (b) as so applying may be referred to as the *Education and Care Services National Law (ACT)*; and
 - (c) so applies as if it were part of this Act.
- (1A) For the *Education and Care Services National Law (ACT)*, section 105 (Application of Part to certain participating jurisdictions only)—
 - (a) the Territory is a participating jurisdiction; and
 - (b) part 4 (Approval in principle for education and care service premises located in certain types of buildings) of that Law applies as a territory law.
- (2) A law that amends the Education and Care Services National Law set out in the schedule to the [Victorian Act](#) and is passed by the Victorian Parliament after this Act's notification day must be presented to the Legislative Assembly.
- (3) The amending law may be disallowed by the Legislative Assembly in the same way, and within the same period, that a disallowable instrument may be disallowed.

Note See the [Legislation Act](#), s 65 (Disallowance by resolution of Assembly).

- (4) If the amending law is not presented to the Legislative Assembly in accordance with subsection (2), or is disallowed under subsection (3), the Education and Care Services National Law applying under subsection (1) is taken—
- (a) not to include the amendments made by the amending law; and
 - (b) to include any provision repealed or amended by the amending law as if the amending law had not been made.
- (5) Section 303 (4) (Parliamentary scrutiny of national regulations) of the Education and Care Services National Law set out in the schedule to the [Victorian Act](#) does not apply as a territory law.
- (6) To remove any doubt, the *Education and Care Services National Law (ACT)*, section 303 (5) and section 304 (Effect of disallowance of national regulation) apply as a territory law.

7 Exclusion of territory laws

- (1) The following territory laws do not apply to the *Education and Care Services National Law (ACT)* or to the instruments made under that Law:
- (a) the *Criminal Code 2002*;
 - (b) the *Freedom of Information Act 2016*;
 - (c) the *Information Privacy Act 2014*;
 - (d) the *Legislation Act 2001*.
- (2) Subsection (1) (d) does not limit the application of the [Legislation Act](#) to this Act.

- (3) The following territory laws do not apply to the *Education and Care Services National Law (ACT)* or to the instruments made under that Law, except to the extent that that Law and those instruments apply to the Regulatory Authority and the employees, decisions, actions and records of the Regulatory Authority:
- (a) the *Annual Reports (Government Agencies) Act 2004*;
 - (b) the *Auditor-General Act 1996*;
 - (c) the *Financial Management Act 1996*;
 - (d) the *Ombudsman Act 1989*;
 - (e) the *Public Sector Management Act 1994*;
 - (f) the *Territory Records Act 2002*.

8 Meaning of generic terms in Education and Care Services National Law for this jurisdiction

In the *Education and Care Services National Law (ACT)*:

child protection law means the *Children and Young People Act 2008*.

Note A reference to a law includes a reference to the statutory instruments made or in force under the law (see [Legislation Act](#), s 104).

de facto relationship means a domestic partnership.

magistrate means a Magistrate under the *Magistrates Court Act 1930*.

public authority means a body established for a public purpose under an Act.

registered teacher means a registered teacher under the *ACT Teacher Quality Institute Act 2010*.

superior court means the Supreme Court.

this jurisdiction means the Australian Capital Territory.

9 Relevant tribunal or court

For the definition of *relevant tribunal or court* in the *Education and Care Services National Law (ACT)*, section 5—

- (a) the Magistrates Court is the relevant court or tribunal for that Law, section 181; and
- (b) the ACAT is declared to be the relevant court or tribunal for that Law, part 8.

10 Regulatory Authority

For the definition of *Regulatory Authority* in the *Education and Care Services National Law (ACT)*, section 5, the director-general is the Regulatory Authority.

11 Children's services law

For the definition of *children's services law* in the *Education and Care Services National Law (ACT)* the *Children and Young People Act 2008*, chapter 20 is a children's services law.

12 Education law

For the definition of *education law* in the *Education and Care Services National Law (ACT)*, section 5, the *Education Act 2004* is an education law.

13 Former education and care services law

For the definition of *former education and care services law* in the *Education and Care Services National Law (ACT)*, section 5—

- (a) the *Children and Young People Act 2008*, chapter 20, is a former education and care services law; and
- (b) the *Education Act 2004* is a former education and care services law.

14 Infringements law

For the definition of *infringements law* in the *Education and Care Services National Law (ACT)*, section 5, the [Magistrates Court Act 1930](#), part 3.8 is an infringements law.

15 Public sector law

For the definition of *public sector law* in the *Education and Care Services National Law (ACT)*, section 5, the [Public Sector Management Act 1994](#) is a public sector law.

16 Working with children law

For the definition of *working with children law* in the *Education and Care Services National Law (ACT)*, in section 5, the [Working with Vulnerable People \(Background Checking\) Act 2011](#) is a working with children law.

17 Working with vulnerable people law

For the definition of *working with vulnerable people law* in the *Education and Care Services National Law (ACT)*, section 5, the [Working with Vulnerable People \(Background Checking\) Act 2011](#) is a working with vulnerable people law.

17A Part 4 building law and Part 4 planning law

- (1) For the definition of *Part 4 building law* in the *Education and Care Services National Law (ACT)*, section 5, the [Building Act 2004](#) is a Part 4 building law.
- (2) For the definition of *Part 4 planning law* in the *Education and Care Services National Law (ACT)*, section 5, the [Planning Act 2023](#) is a Part 4 planning law.

17B Application for approval in principle

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

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

18 Penalty at end of provision

In the *Education and Care Services National Law (ACT)* a penalty specified at the end of a provision indicates that a contravention of the provision is punishable on conviction by a penalty not more than the specified penalty.

Part 3 Miscellaneous

19 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- director-general (see s 163)
- domestic partnership (see s 169 (2))
- Magistrates Court
- Supreme Court
- territory law.

Education and Care Services National Law (ACT) means the provisions applying in this jurisdiction because of section 6.

Victorian Act means the [Education and Care Services National Law Act 2010](#) (Vic).

Note A reference to a law (including a Victorian Act) includes a reference to the law as originally made and as amended (see [Legislation Act](#), s 102).

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Education and Care Services National Law (ACT) Act 2011 A2011-42

notified LR 3 November 2011

s 1, s 2 commenced 3 November 2011 (LA s 75 (1))

remainder commenced 1 January 2012 (s 2 and [CN2011-16](#))

as amended by

[Statute Law Amendment Act 2013 \(No 2\) A2013-44 sch 1 pt 1.1](#)

notified LR 11 November 2013

s 1, s 2 commenced 11 November 2013 (LA s 75 (1))

sch 1 pt 1.1 commenced 25 November 2013 (s 2)

[Freedom of Information Act 2016 A2016-55 sch 4 pt 4.9 \(as am by A2017-14 s 19\)](#)

notified LR 26 August 2016

s 1, s 2 commenced 26 August 2016 (LA s 75 (1))

sch 4 pt 4.9 commenced 1 January 2018 (s 2 as am by [A2017-14 s 19](#))

[Justice and Community Safety Legislation Amendment Act 2017 \(No 2\) A2017-14 s 19](#)

notified LR 17 May 2017

s 1, s 2 commenced 17 May 2017 (LA s 75 (1))

s 19 commenced 24 May 2017 (s 2 (1))

Note This Act only amends the Freedom of Information Act 2016 [A2016-55](#).

[Statute Law Amendment Act 2021 A2021-12 sch 3 pt 3.12](#)

notified LR 9 June 2021

s 1, s 2 commenced 9 June 2021 (LA s 75 (1))

sch 3 pt 3.12 commenced 23 June 2021 (s 2 (1))

[Education and Care Services National Law \(ACT\) Amendment Act 2024 A2024-33](#)

notified LR 10 July 2024

s 1, s 2 commenced 10 July 2024 (LA s 75 (1))

s 4, s 6, ss 9-12 commenced 11 July 2024 (s 2 (1))

remainder awaiting commencement

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Adoption of Education and Care Services National Law

s 6 am [A2013-44](#) amdt 1.1
(6), (7) exp 25 November 2013 (s 6 (7))
am [A2024-33](#) s 4, s 6, s 9
(7), (8) exp 11 July 2024 (s 6 (8))

Exclusion of territory laws

s 7 am [A2016-55](#) amdt 4.11; [A2024-33](#) s 10, s 11; pars, ss renum
R8 LA

Regulatory Authority

s 10 am [A2021-12](#) amdt 3.28

Part 4 building law and Part 4 planning law

s 17A ins [A2024-33](#) s 12

Application for approval in principle

s 17B ins [A2024-33](#) s 12

Transitional

pt 4 hdg exp 1 January 2015 (s 23)

Definitions—pt 4

s 20 exp 1 January 2015 (s 23)
def **childcare services standards** exp 1 January 2015 (s 23)
def **government preschool** exp 1 January 2015 (s 23)
def **licensed childcare service** exp 1 January 2015 (s 23)

Transitional definitions

s 21 exp 1 January 2015 (s 23)

Transitional regulations

s 22 exp 1 January 2013 (s 22 (4))

Expiry—pt 4

s 23 exp 1 January 2015 (s 23)

Dictionary

dict am [A2021-12](#) amdt 3.29, amdt 3.30

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Jan 2012	1 Jan 2012– 1 Jan 2013	not amended	new Act
R2 2 Jan 2013	2 Jan 2013– 24 Nov 2013	not amended	expiry of transitional provision (s 22)
R3 25 Nov 2013	25 Nov 2013– 25 Nov 2013	A2013-44	amendments by A2013-44
R4 26 Nov 2013	26 Nov 2013– 1 Jan 2015	A2013-44	expiry of provision (s 6 (6), (7))
R5 2 Jan 2015	2 Jan 2015– 31 Dec 2017	A2013-44	expiry of transitional provision (pt 4)
R6 1 Jan 2018	1 Jan 2018– 22 June 2021	A2017-14	amendments by A2016-55 (as amended by A2017-14)
R7 23 June 2021	23 June 2021– 10 July 2024	A2021-12	amendments by A2021-12
R8 11 July 2024	11 July 2024– 11 July 2024	A2024-33	amendments by A2024-33

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