



Australian Capital Territory

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

A2024-33

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

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

A2024-33

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 Name of Act

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

2 Commencement

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

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

- (2) The following provisions commence 3 months after this Act's notification day:
- section 5
 - sections 7 and 8
 - section 13.

3 Legislation amended

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

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

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

insert

- (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.

5 New section 6 (1B)

insert

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

6 Section 6 (2)

omit

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

7 Section 6 (5)

after

regulations)

insert

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

8 Section 6 (5)

omit

does not

substitute

do not

9 New section 6 (6) to (8)

insert

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

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

insert

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

11 New section 7 (1A)

insert

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

12 New sections 17A and 17B

insert

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*.

13 New part 10

insert

Part 10 Transitional—Applications for service approval**50 Meaning of *commencement day*—pt 10**

In this part:

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

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

- (1) This section applies if—
 - (a) before, on or after the commencement day, an application for service approval for an education and care service is made under the *Education and Care Services National Law (ACT)*, section 43 (Application for service approval); and

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

52 Expiry—pt 10

This part expires 5 years after the commencement day.

Note A transitional provision is repealed on its expiry but continues to have effect after its repeal (see *Legislation Act*, s 88).

Schedule 1 Other amendments

(see s 3)

Part 1.1 Children and Young People Act 2008

[1.1] Section 356 (3), new definitions

insert

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

educator—

- (a) means an educator within the meaning of the *Education and Care Services National Law (ACT)*, section 5; but
- (b) does not include an educator in a family day care service.

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

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

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

[1.5] Section 124 (2), new definitions

insert

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

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

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

[1.6] Sections 132B and 132F

omit

a child care centre

substitute

an education and care service or childcare centre

[1.7] Sections 132K and 132R

omit

child care centre

substitute

education and care service or childcare centre

Part 1.4 Domestic Animals Act 2000

[1.8] Section 42 (1) (a)

omit

a child-care centre

substitute

an education and care service or childcare centre

[1.9] Section 42 (6), new definitions

insert

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

education and care service—

- (a) means an education and care service within the meaning of the *Education and Care Services National Law (ACT)*, section 5; but
- (b) does not include a family day care service within the meaning of the *Education and Care Services National Law (ACT)*, section 5.

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

Part 1.5 Emergencies Act 2004

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

omit

- child care centres

substitute

- education and care service premises
- childcare centres

Part 1.6 Leases (Commercial and Retail) Act 2001

[1.11] Section 12 (1) (g)

omit

a child care centre

substitute

an education and care service or childcare centre

[1.12] Section 12 (7), new definitions

insert

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

education and care service—

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

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

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

Part 1.7 Spent Convictions Act 2000

[1.13] Section 19 (1) (a)

after

childcare worker,

insert

educator,

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

omit

child-care centre

substitute

education and care service, childcare centre

[1.15] New section 19 (12)

insert

(12) In this section:

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

education and care service—

- (a) means an education and care service within the meaning of the *Education and Care Services National Law (ACT)*, section 5; but
- (b) does not include a family day care service within the meaning of the *Education and Care Services National Law (ACT)*, section 5.

educator—see the *Education and Care Services National Law (ACT)*, section 5.

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

Part 1.8 **Working with Vulnerable People (Background Checking) Act 2011**

[1.16] Schedule 1, section 1.3 heading

substitute

1.3 Education and care service or childcare service

[1.17] Schedule 1, new section 1.3 (1) (aa)

before paragraph (a), insert

- (aa) an education and care service; or

[1.18] Schedule 1, section 1.3 (2), new definition of *education and care service*

insert

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

Note The *Education and Care Services National Law (ACT) Act 2011*, s 6 applies the Education and Care Services National Law set out in the *Education and Care Services National Law Act 2010* (Vic), schedule as if it were an ACT law called the *Education and Care Services National 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 10 July 2024.

3 Republications of amended laws

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

I certify that the above is a true copy of the Education and Care Services National Law (ACT) Amendment Bill 2024, which was passed by the Legislative Assembly on 26 June 2024.

Clerk of the Legislative Assembly

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