

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Children and Young People)

# Education and Care Services National Law (ACT) Bill 2011

## Contents

---

	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Terms used in Education and Care Services National Law (ACT)	3
5	Notes	3
<b>Part 2</b>	<b>Adoption of National Law</b>	
6	Adoption of Education and Care Services National Law	4
7	Exclusion of territory laws	4

## Contents

---

	Page	
8	Meaning of generic terms in Education and Care Services National Law for this jurisdiction	5
9	Relevant tribunal or court	5
10	Regulatory Authority	6
11	Children's services law	6
12	Education law	6
13	Former education and care services law	6
14	Infringements law	6
15	Public sector law	6
16	Working with children law	7
17	Working with vulnerable people law	7
18	Penalty at end of provision	7
<b>Part 3</b>	<b>Miscellaneous</b>	
19	Regulation-making power	8
<b>Part 4</b>	<b>Transitional</b>	
20	Definitions—pt 4	9
21	Transitional definitions	9
22	Transitional regulations	10
23	Expiry—pt 4	10
<b>Dictionary</b>		11

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Children and Young People)

## **Education and Care Services National Law (ACT) Bill 2011**

---

### **A Bill for**

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

---

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

---

J2010-353

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

5 **2 Commencement**

6 (1) This Act commences on a day fixed by the Minister by written  
7 notice.

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

10 *Note 2* A single day or time may be fixed, or different days or times may be  
11 fixed, for the commencement of different provisions (see Legislation  
12 Act, s 77 (1)).

13 (2) If this Act has not commenced within 2 years beginning on its  
14 notification day, it automatically commences on the first day after  
15 that period.

16 (3) The Legislation Act, section 79 (Automatic commencement of  
17 postponed law) does not apply to this Act.

18 **3 Dictionary**

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

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

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

1   **4**       **Terms used in Education and Care Services National**  
2           **Law (ACT)**

3           Terms used in this Act and also in the Education and Care Services  
4           National Law set out in the schedule to the Victorian Act have the  
5           same meaning in this Act as they have in that Law.

6   **5**       **Notes**

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

8           *Note*     See the Legislation Act, s 127 (1), (4) and (5) for the legal status of  
9                    notes.

1 **Part 2 Adoption of National Law**

2 **6 Adoption of Education and Care Services National Law**

3 The Education and Care Services National Law, as in force from  
4 time to time, set out in the schedule to the Victorian Act—

- 5 (a) applies as a territory law; and  
6 (b) as so applying may be referred to as the *Education and Care*  
7 *Services National Law (ACT)*; and  
8 (c) so applies as if it were part of this Act.

9 **7 Exclusion of territory laws**

10 (1) The following territory laws do not apply to the *Education and Care*  
11 *Services National Law (ACT)* or to the instruments made under that  
12 Law:

- 13 (a) the *Criminal Code 2002*;  
14 (b) the *Freedom of Information Act 1989*;  
15 (c) the *Legislation Act 2001*.

16 (2) The following territory laws do not apply to the *Education and Care*  
17 *Services National Law (ACT)* or to the instruments made under that  
18 Law, except to the extent that that Law and those instruments apply  
19 to the Regulatory Authority and the employees, decisions, actions  
20 and records of the Regulatory Authority:

- 21 (a) the *Annual Reports (Government Agencies) Act 2004*;  
22 (b) the *Auditor-General Act 1996*;  
23 (c) the *Financial Management Act 1996*;  
24 (d) the *Ombudsman Act 1989*;

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

2 (f) the *Territory Records Act 2002*.

3 **8 Meaning of generic terms in Education and Care Services**  
4 **National Law for this jurisdiction**

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

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

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

10 ***de facto relationship*** means a domestic partnership.

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

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

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

17 ***superior court*** means the Supreme Court.

18 ***this jurisdiction*** means the Australian Capital Territory.

19 **9 Relevant tribunal or court**

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

22 (a) the Magistrates Court is the relevant court or tribunal for that  
23 Law, section 181; and

24 (b) the ACAT is declared to be the relevant court or tribunal for  
25 that Law, part 8.

- 1    **10**        **Regulatory Authority**
- 2                For the definition of *Regulatory Authority* in the *Education and*  
3                *Care Services National Law (ACT)*, section 5, the chief executive is  
4                the Regulatory Authority.
- 5    **11**        **Children’s services law**
- 6                For the definition of *children’s services law* in the *Education and*  
7                *Care Services National Law (ACT)* the *Children and Young People*  
8                *Act 2008*, chapter 20 is a children’s services law.
- 9    **12**        **Education law**
- 10               For the definition of *education law* in the *Education and Care*  
11               *Services National Law (ACT)*, section 5, the *Education Act 2004* is  
12               an education law.
- 13   **13**        **Former education and care services law**
- 14               For the definition of *former education and care services law* in the  
15               *Education and Care Services National Law (ACT)*, section 5, the  
16               *Children and Young People Act 2008*, chapter 20 is a former  
17               education and care services law.
- 18   **14**        **Infringements law**
- 19               For the definition of *infringements law* in the *Education and Care*  
20               *Services National Law (ACT)*, section 5, the *Magistrates Court*  
21               *Act 1930*, part 3.8 is an infringements law.
- 22   **15**        **Public sector law**
- 23               For the definition of *public sector law* in the *Education and Care*  
24               *Services National Law (ACT)*, section 5, the *Public Sector*  
25               *Management Act 1994* is a public sector law.



1   **16**       **Working with children law**

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

6   **17**       **Working with vulnerable people law**

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

11 **18**       **Penalty at end of provision**

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

1 **Part 3 Miscellaneous**

2 **19 Regulation-making power**

3 The Executive may make regulations for this Act.

4 *Note* A regulation must be notified, and presented to the Legislative  
5 Assembly, under the Legislation Act.

1     **Part 4**                             **Transitional**

2     **20**             **Definitions—pt 4**

3             In this part:

4             *licensed childcare service*—see the *Children and Young People*  
5             *Act 2008*, section 728.

6     **21**             **Transitional definitions**

- 7             (1) For the definition of *declared approved family day care service* in  
8             the *Education and Care Services National Law (ACT)*, section 305,  
9             a family day care scheme that was a licensed childcare service is a  
10            declared approved family day care service.
- 11            (2) For the definition of *declared approved provider* in the *Education*  
12            and *Care Services National Law (ACT)*, section 305, a person who  
13            was a licensed proprietor of a licensed childcare service is a  
14            declared approved provider.
- 15            (3) For the definition of *declared approved service* in the *Education*  
16            and *Care Services National Law (ACT)*, section 305, a service that  
17            was a licensed childcare service is a declared approved service.
- 18            (4) For the definition of *declared certified supervisor* in the *Education*  
19            and *Care Services National Law (ACT)*, section 305—
- 20            (a) a person who was the director of a licensed childcare service  
21            providing centre based care or school aged care is a declared  
22            certified supervisor; and
- 23            (b) a person who was the senior teacher of a licensed childcare  
24            service operating an independent preschool is a declared  
25            certified supervisor.

- 1 (5) For the definition of *declared compliance notice* in the *Education*  
2 *and Care Services National Law (ACT)*, section 305, a compliance  
3 notice issued under the *Children and Young People Act 2008*,  
4 chapter 20, is a declared compliance notice.
- 5 (6) For the definition of *declared nominated supervisor* in the  
6 *Education and Care Services National Law (ACT)*, section 305—
- 7 (a) a person who was the director of a licensed childcare service  
8 providing centre based care or school aged care is a declared  
9 certified supervisor; and
- 10 (b) a person who was the senior teacher of a licensed childcare  
11 service operating an independent preschool is a declared  
12 certified supervisor.
- 13 (7) For the definition of *former approval* in the *Education and Care*  
14 *Services National Law (ACT)*, section 305, a childcare service  
15 licence issued under the *Children and Young People Act 2008*,  
16 chapter 20, is a former approval.

17 **22 Transitional regulations**

- 18 (1) A regulation may prescribe transitional matters necessary or  
19 convenient to be prescribed because of the enactment of this Act.
- 20 (2) A regulation may modify this part (including in relation to another  
21 territory law) to make provision in relation to anything that, in the  
22 Executive's opinion, is not, or is not adequately or appropriately,  
23 dealt with in this part.
- 24 (3) A regulation under subsection (2) has effect despite anything else in  
25 this Act or another territory law.
- 26 (4) This section expires 1 year after the day it commences.

27 **23 Expiry—pt 4**

28 This part expires 3 years after the day it commences.

## 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
- chief executive (s 163)
- domestic partnership (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 1* The Victorian Act is accessible at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au).

*Note 2* 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 Presentation speech**

Presentation speech made in the Legislative Assembly on 2011.

**2 Notification**

Notified under the Legislation Act on 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2011