

ED301\*

Education and Care Services National Law (WA) Act 2012

## **Education and Care Services National Amendment Regulations (No. 2) 2014**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Education and Care Services National Amendment Regulations (No. 2) 2014*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 December 2014.

**3. Regulations amended**

These regulations amend the *Education and Care Services National Regulations 2012*.

**4. Regulation 4 amended**

- (1) In regulation 4(1) insert in alphabetical order:

*authorised emergency contact*, in relation to a child, means a person named in the child's enrolment record as a person who is to be notified of an emergency involving the child if any parent of the child cannot be immediately contacted;

*working with vulnerable people registration* means a registration issued to a person under the *Registration to Work With Vulnerable People Act 2013* of Tasmania allowing the person to be engaged in childcare services.

- (2) In regulation 4(1) in the definition of *working with vulnerable people check* delete "jurisdiction." and insert:

jurisdiction;

**5. Regulation 10 amended**

In regulation 10(b)(iv):

- (a) in item (B) delete "Authority." and insert:

Authority; or

- (b) after item (B) insert:

- (C) has completed the percentage of total units of study required for completion of an approved early childhood teaching qualification determined by the National Authority.

**6. Regulation 14 amended**

In regulation 14(fc) delete "clearance;" and insert:

clearance or working with vulnerable people registration;

**7. Regulation 20 amended**

In regulation 20(gc) delete “clearance;” and insert:

clearance or working with vulnerable people registration;

**8. Regulation 22 amended**

In regulation 22(gc) delete “clearance;” and insert:

clearance or working with vulnerable people registration;

**9. Regulation 31 amended**

In regulation 31(c) delete “parents” and insert:

family members

Note:

At the end of amended regulation 31 the following note is to be inserted:

3 This regulation differs from regulation 31 of the national regulations made by the Ministerial Council.

**10. Regulation 46 amended**

In regulation 46(1)(i) delete “clearance.” and insert:

clearance or working with vulnerable people registration.

**11. Regulation 50 amended**

In regulation 50(b) before “the name of the school” insert:

if applicable,

**12. Regulation 55 amended**

(1) In regulation 55(1) delete “ensure that” and insert:

ensure that, within 3 months of the grant of the service approval,

(2) In regulation 55(2) delete “within 3 months of the grant of the service approval.” and insert:

on request.

**13. Regulation 75 amended**

In regulation 75(a) delete “parents” and insert:

family members

Note:

At the end of amended regulation 75 the following note is to be inserted:

2 This regulation differs from regulation 75 of the national regulations made by the Ministerial Council.

**14. Regulation 80 amended**

In regulation 80(1)(a), (2)(a) and (3)(a) delete “parents” and insert:

family members

Note:

At the end of amended regulation 80 the following note is to be inserted:

2 This regulation differs from regulation 80 of the national regulations made by the Ministerial Council.

**15. Regulation 86 amended**

In regulation 86 delete “the service” and insert:

the service, or if a parent cannot be immediately contacted, an authorised emergency contact for the child

Note:

At the end of amended regulation 86 the following note is to be inserted:

Note: This regulation differs from regulation 86 of the national regulations made by the Ministerial Council.

**16. Regulation 92 amended**

In regulation 92(3)(c) delete “administered;” and insert:

administered and the medical condition the medication is being used to treat;

Note:

At the end of amended regulation 92 the following note is to be inserted:

Note: This regulation differs from regulation 92 of the national regulations made by the Ministerial Council.

**17. Regulation 94 amended**

Delete regulation 94(2)(a) and insert:

- (a) a parent of the child, or if a parent of the child cannot be immediately contacted, an authorised emergency contact for the child;

Note:

At the end of amended regulation 94 the following note is to be inserted:

Note: This regulation differs from regulation 94 of the national regulations made by the Ministerial Council.

**18. Regulation 98 amended**

In regulation 98 delete “parents” and insert:

parents, family members and other adults who may need to be in contact about a child

Note:

At the end of amended regulation 98 the following note is to be inserted:

2 This regulation differs from regulation 98 of the national regulations made by the Ministerial Council.

**19. Regulation 104 amended**

After regulation 104(2) insert:

- (3) This regulation does not apply in respect of a family day care residence or a family day care venue if all the children being educated and cared for at that residence or venue as part of a family day care service are over preschool age.

**20. Regulation 111 amended**

In regulation 111(b) delete “parents” and insert:

family members

Note:

At the end of amended regulation 111 the following note is to be inserted:

2 This regulation differs from regulation 111 of the national regulations made by the Ministerial Council.

**21. Regulation 117 amended**

Delete regulation 117(1)(b) and insert:

- (b) either —
  - (i) is 1 metre or less above floor level; or
  - (ii) if the residence or family day care venue was approved before 1 December 2014, is 0.75 metres or less above floor level.

Note:

At the end of amended regulation 117 the following note is to be inserted:

- 2 This regulation differs from regulation 117 of the national regulations made by the Ministerial Council.

**22. Regulation 126 amended**

(1) After regulation 126(1) insert:

- (1A) The qualification requirements in subregulation (1)(b) do not apply to an educator if the educator has been employed by an approved provider on a probationary basis for not more than 3 months, at one or more centre-based services operated by the approved provider.
- (1B) Subregulation (1A) does not apply in relation to New South Wales or South Australia.

(2) In regulation 126(3) delete “that teacher” and insert:

that teacher, or a person taken to be an early childhood teacher under regulation 135(1)(b),

**23. Regulation 136 amended**

Delete regulation 136(2) and insert:

- (2) If children are being educated and cared for at service premises on the site of a school, it is sufficient for the purposes of subregulation (1) if the following are in attendance at the school site and immediately available in an emergency—
  - (a) an educator referred to in subregulation (1)(a) or at least one staff member of the school who holds a current approved first aid qualification;
  - (b) an educator referred to in subregulation (1)(b) or at least one staff member of the school who



has undertaken current approved anaphylaxis management training;

- (c) an educator referred to in subregulation (1)(c) or at least one staff member of the school who has undertaken current approved emergency asthma management training.

**24. Regulation 137 amended**

Delete regulation 137(4) and insert:

- (4) The National Authority may publish on its website the following for the purposes of the definition of *actively working towards* a qualification —
  - (a) units of approved certificate III level education and care qualifications;
  - (b) the percentage of total units required for completion of an approved early childhood teaching qualification.

**25. Regulation 146 amended**

Delete regulation 146(f) and insert:

- (f) in relation to Tasmania, a record of the identifying number of the nominated supervisor's safety screening clearance or working with vulnerable people registration and the expiry date of that clearance or registration.

**26. Regulation 147 amended**

Delete regulation 147(f) and insert:

- (f) in relation to Tasmania, a record of the identifying number of the staff member's safety screening clearance or working with vulnerable people registration and the expiry date of that clearance or registration.

**27. Regulation 157 amended**

Delete regulation 157(4)(b) and insert:

- (b) the provider, supervisor or family day care educator reasonably believes that permitting the parent's entry would contravene a court order.

**28. Regulation 160 amended**

In regulation 160(3)(g) delete “parents;” and insert:

parents or any other family members;

Note:

At the end of amended regulation 160 the following note is to be inserted:

Note: This regulation differs from regulation 160 of the national regulations made by the Ministerial Council.

**29. Regulation 162 amended**

In regulation 162:

(a) in paragraph (g) delete “effect.” and insert:

effect; and

(b) after paragraph (g) insert:

(h) in relation to New South Wales, certificates for immunisation or exemption for the child, as required under section 87(1), (2) and (3) of the *Public Health Act 2010* of New South Wales.

**30. Regulation 163 amended**

In regulation 163(4C) delete “clearance.” and insert:

clearance or working with vulnerable people registration.

**31. Regulation 185 amended**

In regulation 185 delete “parents” and insert:

family members

Note:

At the end of amended regulation 185 the following note is to be inserted:

2 This regulation differs from regulation 185 of the national regulations made by the Ministerial Council.

**32. Regulation 231 amended**

In regulation 231(a)(iii) before “the name of the school” insert:

if applicable,



**33. Chapter 7 Part 7.1 Division 1A inserted**

After regulation 238 insert:

**Division 1A — Prescribed classes of persons for grant of supervisor certificate**

**238A. Prescribed classes of persons for grant of supervisor certificate**

Note: Regulation 238A of the national regulations made by the Ministerial Council does not apply as a law of WA.

**34. Regulation 239A inserted**

After regulation 239 insert:

**239A. Centre-based services in remote and very remote areas — attendance of early childhood teachers**

- (1) This regulation applies until 1 January 2018 to a centre-based service that is located in a remote area or a very remote area.
- (2) The centre-based service may meet the requirements of regulation 132, 133 or 134 for attendance of an early childhood teacher if the service has access to an early childhood teacher working with the service at least 20 per cent of the time that the service provides education and care.
- (3) To comply with subregulation (2), the early childhood teacher may be working with the service by means of information communication technology.
- (4) For the purposes of this regulation, the period that an early childhood teacher works with the centre-based service may be calculated on a quarterly basis.
- (5) In this regulation and regulation 240 —

**ARIA+ score** means the score calculated in accordance with the ARIA+ Index, produced by the University of Adelaide;

**remote area**, in relation to the location of a centre-based service, means a geographic area that is Remote Australia (average ARIA+ score greater than 5.92 but less than or equal to 10.53) in the *Australian Statistical Geography Standard: Volume 5 - Remoteness Structure*. Canberra, Australian Capital Territory: Australian Bureau of Statistics. Cat No. 1270.0.55.005;

**very remote area**, in relation to the location of a centre-based service, means a geographic area that is

Very Remote Australia (ARIA+ score greater than 10.53) in the *Australian Statistical Geography Standard: Volume 5 - Remoteness Structure*. Canberra, Australian Capital Territory: Australian Bureau of Statistics. Cat No. 1270.0.55.005.

**35. Regulation 240 amended**

Delete regulation 240(1) and insert:

- (1) This regulation applies to a centre-based service —
  - (a) if the service is located in a remote area or a very remote area, until 1 January 2018; or
  - (b) otherwise, until 31 December 2015.

**36. Regulation 241 amended**

Delete regulation 241(1)(a) and insert:

- (a) was —
  - (i) recognised under the former education and care services law, or for the purposes of a preschool funding program, of any participating jurisdiction as an early childhood teacher; and
  - (ii) employed or engaged in a declared approved service as an early childhood teacher;

or

**37. Regulation 242 amended**

In regulation 242(1) delete “1 January 2016.” and insert:

1 January 2018.

**38. Regulation 243 amended**

Delete regulation 243(a) and insert:

- (a) was —
  - (i) recognised under the former education and care services law of any participating jurisdiction as a diploma level educator; and

- (ii) employed or engaged in a declared approved service;

or

**39. Regulation 244 amended**

Delete regulation 244(a) and insert:

- (a) was —

- (i) recognised under the former education and care services law of any participating jurisdiction as a certificate III level educator; and
- (ii) employed or engaged in a declared approved service;

or

**40. Chapter 7 Part 7.9 Division 1A heading replaced**

Delete the heading to Chapter 7 Part 7.9 Division 1A and insert:

**Division 1A — Exceeding National Quality Standard**

**41. Regulation 368A amended**

In regulation 368A(1) delete “Standards” and insert:

Standard

Note: The heading to amended regulation 368A is to read:

**Exceeding National Quality Standard: educational program and practice quality area**

R. KENNEDY, Clerk of the Executive Council.

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