
COMMUNITY AND CHILD SERVICES

CN301

Education and Care Services National Law (WA) Act 2012

**Education and Care Services National
Amendment Regulations 2018**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Education and Care Services National Amendment Regulations 2018*.

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* (*gazettal day*);
- (b) the rest of the regulations —
 - (i) if gazettal day is before 1 February 2018 — on 1 February 2018; or
 - (ii) if gazettal day is, or is after, 1 February 2018 — on the day after gazettal day.

3. Regulations amended

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

4. Regulation 59 amended

In regulation 59(1) delete “an unacceptable” and insert:

a significant

5. Chapter 7 Parts 7.10 and 7.11 inserted

At the end of Chapter 7 insert:

Part 7.10 — Transitional and savings provisions

Note for this Part:

The national regulations made by the Ministerial Council include provisions as Part 7.10 which are not relevant to Western Australia.

**Part 7.11 — Transitional and savings provisions
for *Education and Care Services National
Amendment Regulations 2018***

395. Definition

- (1) In this Part —
commencement day means 1 February 2018.
- (2) For the purposes of this Part, an assessment or a reassessment and re-rating is finalised when the National Authority publishes the rating level for the service under section 160 of the Law.

396. Quality improvement plan held prior to commencement day

A quality improvement plan that, immediately before the commencement day, was a current quality improvement plan for an approved education and care service continues, on and after the commencement day, to be a current quality improvement plan for the service for the purposes of these Regulations until the earlier of the following —

- (a) the approved provider for the service next reviews and revises the plan under regulation 56(1)(a);
- (b) the approved provider for the service reviews and revises the plan at the direction of the Regulatory Authority under regulation 56(1)(b).

397. Assessments commenced prior to commencement day

If, immediately before the commencement day, the Regulatory Authority had commenced but not finalised an assessment of an education and care service under section 133(1) of the Law, the Regulatory Authority must, on and after the commencement day, continue to conduct the assessment against the National Quality Standard as in force immediately before the commencement day.

398. Reassessment or partial reassessment commenced prior to commencement day

- (1) This regulation applies to an approved education and care service if, immediately before the commencement day —
 - (a) the Regulatory Authority had commenced but not finalised a reassessment and re-rating of the education and care service or a reassessment and re-rating of an aspect or element of the education and care service under section 138 of the Law; or
 - (b) the Regulatory Authority had decided to commence but had not commenced a reassessment and re-rating of the education and care service or a reassessment and re-rating of an aspect or element of the education and care service on an application under section 139 of the Law.
- (2) Any reassessment and re-rating of the service must, on and after the commencement day, be conducted against the National Quality Standard as in force immediately before the commencement day.

399. Partial reassessment between the commencement day and the relevant day

- (1) This regulation applies to an approved education and care service that has not been assessed and rated, or reassessed and re-rated, against the National Quality Standard as in force on and after the commencement day.
- (2) Any reassessment and re-rating of an aspect or element of the education and care service conducted by the Regulatory Authority under section 138 of the Law or on an application under section 139 of the Law on or after the commencement day but before the relevant day must be conducted against the National Quality Standard as in force immediately before the commencement day, whether the reassessment was commenced or the application made before, on or after the commencement day.
- (3) In this regulation —

relevant day means —

 - (a) in relation to an approved education and care service that was assessed and rated before the commencement day, the day that is 6 months after the commencement day; or
 - (b) in relation to an approved education and care service that was assessed and rated after the

commencement day, the day that is 6 months after the day on which the rating for the service is published under section 160 of the Law.

400. Suspension of initial assessment or reassessment commenced prior to commencement day

- (1) This regulation applies to an approved education and care service if —
 - (a) before the commencement day, the Regulatory Authority had commenced —
 - (i) an assessment of the service under section 133(1) of the Law; or
 - (ii) a reassessment and re-rating of the service under section 138 or on an application under section 139 of the Law;
 - and
 - (b) the assessment or reassessment and re-rating was suspended under section 137(1) of the Law, whether that suspension occurred before, on or after the commencement day; and
 - (c) the suspension is lifted on or after the commencement day.
- (2) The Regulatory Authority must, on and after the commencement day, assess or reassess the approved education and care service against the National Quality Standard as in force on and after the commencement day.

401. Suspension of partial reassessment commenced prior to commencement day

- (1) This regulation applies to an approved education and care service if —
 - (a) the Regulatory Authority had commenced conducting a reassessment and re-rating of an aspect or element of the service before the commencement day; and
 - (b) the reassessment and re-rating was suspended under section 137(1) of the Law, whether that suspension occurred before, on or after the commencement day; and
 - (c) the suspension is lifted on or after the commencement day.
- (2) The Regulatory Authority must, on and after the commencement day, continue to conduct a reassessment against the National Quality Standard as in force immediately before the commencement day.

402. Prescribed provisional rating level held prior to commencement day

If, immediately before the commencement day, an approved education and care service held a prescribed provisional rating level, the service continues, on and after the commencement day, to hold that rating level for the purposes of the Law unless or until the service is assessed under section 133(1) of the Law and rated under section 135 of the Law.

403. Prescribed rating level held prior to commencement day

If immediately before the commencement day, an approved education and care service held a prescribed rating level, the service continues, on and after the commencement day, to hold that rating level for the purposes of the Law unless or until the service —

- (a) is assessed under section 133(1) of the Law and rated under section 135 of the Law; or
- (b) is reassessed and re-rated under section 138 of the Law or on an application under section 139 of the Law; or
- (c) is awarded the highest rating level under section 155 of the Law.

6. Schedule 1 replaced

Delete Schedule 1 and insert:

Schedule 1 — National Quality Standard

Notes for this Schedule:

1. The National Quality Standard is used to assess education and care services to determine rating levels under Part 5 of the Law.
2. The Regulatory Authority may suspend a service approval if an education and care service has operated at a rating level as not meeting the National Quality Standard and there has been no improvement in that rating level and a service waiver or temporary waiver does not apply to the service in relation to the non-compliance — see section 70(1)(d) of the Law.
3. To determine whether and at what rating level an education and care service meets the National Quality Standard and the requirements of these regulations, Part 5 of the Law provides that the Regulatory Authority that granted the service approval for the service may assess the service in accordance with these Regulations.

Quality area 1 — Educational program and practice

The educational program and practice is stimulating, engaging and enhances children's learning and development.

In services for children over preschool age the program nurtures the development of life skills and complements children's experiences, opportunities and relationships at school, at home and in the community.

Standard 1.1 — Program

The educational program enhances each child's learning and development.

Element 1.1.1 — Approved learning framework

Curriculum decision-making contributes to each child's learning and development outcomes in relation to that child's identity, connection with community, wellbeing, confidence as learners and effectiveness as communicators.

Element 1.1.2 — Child-centred

Each child's current knowledge, strengths, ideas, culture, abilities and interests are the foundation of the program.

Element 1.1.3 — Program learning opportunities

All aspects of the program, including routines, are organised in ways that maximise opportunities for each child's learning.

Standard 1.2 — Practice

Educators facilitate and extend each child's learning and development.

Element 1.2.1 — Intentional teaching

Educators are deliberate, purposeful, and thoughtful in their decisions and actions.

Element 1.2.2 — Responsive teaching and scaffolding

Educators respond to children's ideas and play and extend children's learning through open-ended questions, interactions and feedback.

Element 1.2.3 — Child-directed learning

Each child's agency is promoted, enabling them to make choices and decisions and influence events and their world.

Standard 1.3 — Assessment and planning

Educators and co-ordinators take a planned and reflective approach to implementing the program for each child.

Element 1.3.1 — Assessment and planning cycle

Each child's learning and development is assessed or evaluated as part of an ongoing cycle of observation, analysing, learning, documentation, planning, implementation and reflection.

Element 1.3.2 — Critical reflection

Critical reflection on children's learning and development, both as individuals and in groups, drives program planning and implementation.

Element 1.3.3 — Information for families

Families are informed about the program and their child's progress.

Quality area 2 — Children's health and safety

Every child's health and wellbeing is safeguarded and promoted.

Standard 2.1 — Health

Each child's health and physical activity is supported and promoted.

Element 2.1.1 — Wellbeing and comfort

Each child's wellbeing and comfort is provided for, including appropriate opportunities to meet each child's need for sleep, rest and relaxation.

Element 2.1.2 — Health practices and procedures

Effective illness and injury management and hygiene practices are promoted and implemented.

Element 2.1.3 — Healthy lifestyle

Healthy eating and physical activity are promoted and appropriate for each child.

Standard 2.2 — Safety

Each child is protected.

Element 2.2.1 — Supervision

At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.

Element 2.2.2 — Incident and emergency management

Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practised and implemented.

Element 2.2.3 — Child protection

Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.

Quality area 3 — Physical environment

The physical environment is safe, suitable and provides a rich and diverse range of experiences which promote children's learning and development.

Standard 3.1 — Design

The design and location of the premises is appropriate for the operation of a service.

Element 3.1.1 — Fit for purpose

Outdoor and indoor spaces, buildings, fixtures and fittings are suitable for their purpose, including supporting the access of every child.

Element 3.1.2 — Upkeep

Premises, furniture and equipment are safe, clean and well maintained.

Standard 3.2 — Use

The service environment is inclusive, promotes competence and supports exploration and play-based learning.

Element 3.2.1 — Inclusive environment

Outdoor and indoor spaces are organised and adapted to support every child's participation and to engage every child in quality experiences in both built and natural environments.

Element 3.2.2 — Resources support play-based learning

Resources, materials and equipment allow for multiple uses, are sufficient in number, and enable every child to engage in play-based learning.

Element 3.2.3 — Environmentally responsible

The service cares for the environment and supports children to become environmentally responsible.

Quality area 4 — Staffing arrangements

Staffing arrangements create a safe and predictable environment for children and support warm, respectful relationships. Qualified and experienced educators and co-ordinators encourage children's active engagement in the learning program. Positive relationships among educators, co-ordinators and staff members contribute to an environment where children feel emotionally safe, secure and happy.

Standard 4.1 — Staffing arrangements

Staffing arrangements enhance children's learning and development.

Element 4.1.1 — Organisation of educators

The organisation of educators across the service supports children's learning and development.

Element 4.1.2 — Continuity of staff

Every effort is made for children to experience continuity of educators at the service.

Standard 4.2 — Professionalism

Management, educators and staff are collaborative, respectful and ethical.

Element 4.2.1 — Professional collaboration

Management, educators and staff work with mutual respect and collaboratively, and challenge and learn from each other, recognising each other's strengths and skills.

Element 4.2.2 — Professional standards

Professional standards guide practice, interactions and relationships.

Quality area 5 — Relationships with children

Relationships that are responsive, respectful and promote children's sense of security and belonging free them to explore the environment and engage in learning.

Standard 5.1 — Relationships between educators and children

Respectful and equitable relationships are maintained with each child.

Element 5.1.1 — Positive educator to child interactions

Responsive and meaningful interactions build trusting relationships which engage and support each child to feel secure, confident and included.

Element 5.1.2 — Dignity and rights of the child

The dignity and rights of every child are maintained.

Standard 5.2 — Relationships between children

Each child is supported to build and maintain sensitive and responsive relationships.

Element 5.2.1 — Collaborative learning

Children are supported to collaborate, learn from and help each other.

Element 5.2.2 — Self-regulation

Each child is supported to regulate their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts.

Quality area 6 — Collaborative partnerships with families and communities

Collaborative relationships with families are fundamental to achieve quality outcomes for children. Community partnerships that focus on active communication, consultation and collaboration also contribute to children's learning and wellbeing.

Standard 6.1 — Supportive relationships with families

Respectful relationships with families are developed and maintained and families are supported in their parenting role.

Element 6.1.1 — Engagement with the service

Families are supported from enrolment to be involved in the service and contribute to service decisions.

Element 6.1.2 — Parent views are respected

The expertise, culture, values and beliefs of families are respected and families share in decision-making about their child's learning and wellbeing.

Element 6.1.3 — Families are supported

Current information is available to families about the service and relevant community services and resources to support parenting and family wellbeing.

Standard 6.2 — Collaborative partnerships

Collaborative partnerships enhance children's inclusion, learning and wellbeing.

Element 6.2.1 — Transitions

Continuity of learning and transitions for each child are supported by sharing information and clarifying responsibilities.

Element 6.2.2 — Access and participation

Effective partnerships support children's access, inclusion and participation in the program.

Element 6.2.3 — Community engagement

The service builds relationships and engages with its community.

Quality area 7 — Governance and leadership

Effective leadership contributes to sustained quality relationships and environments that facilitate children's learning and development. Well documented policies and practices that are developed and regularly evaluated in partnership with educators, co-ordinators, staff members and families contribute to the ethical management of the service. There is a focus on continuous improvement.

Standard 7.1 — Governance

Governance supports the operation of a quality service.

Element 7.1.1 — Service philosophy and purpose

A statement of philosophy guides all aspects of the service's operations.

Element 7.1.2 — Management systems

Systems are in place to manage risk and enable the effective management and operation of a quality service.

Element 7.1.3 — Roles and responsibilities

Roles and responsibilities are clearly defined and understood, and support effective decision-making and operation of the service.

Standard 7.2 — Leadership

Effective leadership builds and promotes a positive organisational culture and professional learning community.

Element 7.2.1 — Continuous improvement

There is an effective self-assessment and quality improvement process in place.

Element 7.2.2 — Educational leadership

The educational leader is supported and leads the development and implementation of the educational program and assessment and planning cycle.

Element 7.2.3 — Development of professionals

Educators', co-ordinators' and staff members' performance is regularly evaluated and individual plans are in place to support learning and development.

7. Schedule 2 amended

In Schedule 2 Part 1 delete:

Section 152(3)(c)	Application for highest rating	24 or fewer approved places \$200	5 or fewer family day care educators \$200
		25 to 80 approved places \$400	6 to 20 family day care educators \$400
		81 or more approved places \$600	21 or more family day care educators \$600
Section 159(3)(c)	Re-application for highest rating	24 or fewer approved places \$200	5 or fewer family day care educators \$200
		25 to 80 approved places \$400	6 to 20 family day care educators \$400
		81 or more approved places \$600	21 or more family day care educators \$600

and insert:

Section 152(3)(c)	Application for highest rating	24 or fewer approved places nil	5 or fewer family day care educators nil
		25 to 80 approved places nil	6 to 20 family day care educators nil
		81 or more approved places nil	21 or more family day care educators nil
Section 159(3)(c)	Re-application for highest rating	24 or fewer approved places nil	5 or fewer family day care educators nil
		25 to 80 approved places nil	6 to 20 family day care educators nil
		81 or more approved places nil	21 or more family day care educators nil

R. KENNEDY, Clerk of the Executive Council.
