Western Australia

Education and Care Services National Law Application Act 2026

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Defined terms

Western Australia

Education and Care Services National Law Application Act 2026

An Act —

- **to apply the Education and Care Services National Law (with modifications) as a law of the State; and**
- **to repeal the *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012*; and**
- **to make savings and transitional arrangements; and**
- **to make consequential amendments to various other Acts; and**
- **for related purposes.**

Part 1 — Preliminary

1. Short title

This is the *Education and Care Services National Law Application Act 2026*.

2. Commencement

(1) This Act comes into operation as follows —

(a) Part 1 (but only sections 1 and 2) — on the day on which this Act receives the Royal Assent;

(b) Part 6 Division 1 comes into operation —

(i) if the *Privacy and Responsible Information Sharing Act 2024* Schedule 1 comes into operation on or before the day on which section 30 of this Act comes into operation — immediately after section 30 of this Act comes into operation; or

(ii) otherwise — on the day on which the *Privacy and Responsible Information Sharing Act 2024* Schedule 1 comes into operation;

(c) Part 6 Division 2 — if the *Early Childhood Legislation Amendment (Child Safety) Act 2025* (Vic) has effect for the purposes of Part 2 under section 7(2), on the last day on which a provision of that Act comes into operation under section 8;

(d) the rest of the Act — on a day fixed by proclamation (***proclamation day***).

(2) If the *Privacy and Responsible Information Sharing Act 2024* section 231 comes into operation before proclamation day, Part 6 Division 4 of this Act —

(a) does not come into operation; and

(b) is deleted on proclamation day.

3. Terms used

(1) In this Act —

amend, the National Law or National Regulations, means —

(a) add to the National Law or National Regulations; or

(b) renumber, replace, substitute or repeal 1 or more provisions of the National Law or National Regulations; or

(c) otherwise vary the National Law or National Regulations;

amending Act means a Victorian Act that —

(a) receives the Royal Assent after 30 April 2025; and

(b) amends the National Law or National Regulations;

amending regulations means regulations that —

(a) are made by the Ministerial Council under the National Law after 1 October 2025; and

(b) amend the National Regulations;

commencement day means the day on which section 5 comes into operation;

Education and Care Services National Law Regulations (WA) means the provisions applying as subsidiary legislation for the purposes of the *Education and Care Services National Law (WA)* because of section 11;

Education and Care Services National Law (WA) means the National Law as it applies in the State because of section 5;

local regulations means regulations made under section 74;

National Law means the Education and Care Services National Law set out in the Schedule to the *Education and Care Services National Law Act 2010* (Victoria);

National Regulations means the regulations made by the Ministerial Council under the National Law;

transitional modification regulation has the meaning given in section 33(3).

(2) If a term used in this Act is given a meaning in the *Education and Care Services National Law (WA)*, it has the same meaning in this Act.

4. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Education and Care Services National Law

Division 1 — Application of National Law

5. Application of National Law as law of the State

(1) In this section —

Education and Care Services National Law means the National Law as in force on 30 April 2025 —

(a) as amended by each amending Act that —

(i) has effect for the purposes of this Part under section 7; and

(ii) has come into operation for the purposes of this Part under section 8;

and

(b) as modified by —

(i) Part 3; and

(ii) the transitional modification regulations (if any).

(2) The Education and Care Services National Law —

(a) applies as a law of the State; and

(b) as so applying, may be referred to as the *Education and Care Services National Law (WA)*; and

(c) so applies as if it were an Act.

6. Tabling amending Acts

An amending Act must be laid before each House of Parliament within 18 sitting days of the House after the day on which that Act receives the Royal Assent.

7. Disallowance of amending Acts

(1) In this section —

disallowance period, in relation to a disallowance resolution of which notice is given in a House of Parliament, means the period of 30 sitting days of the House after the day on which the notice is given;

disallowance resolution means a resolution that an amending Act be disallowed;

notice period, in relation to an amending Act laid before a House of Parliament under section 6, means the period of 14 sitting days of the House after the day on which the amending Act is laid before it.

(2) An amending Act has effect for the purposes of this Part if the amending Act is laid before each House of Parliament under section 6 and either —

(a) no notice of a disallowance resolution is given in either House within the notice period; or

(b) at least 1 notice of a disallowance resolution is given in a House within the notice period and, for each such notice, 1 of the following applies —

(i) the notice is withdrawn or discharged within the disallowance period;

(ii) the disallowance resolution is lost in the House or not agreed to within the disallowance period.

(3) For the purposes of this section and section 6 —

(a) the period specified in section 6, a notice period or a disallowance period continues to run even though a House of Parliament is prorogued or dissolved or expires; and

(b) notice of a disallowance resolution given in a House of Parliament, or a motion that an amending Act be

disallowed in the House, does not lapse even though the House is prorogued or dissolved or expires.

8. Commencement of provisions of amending Acts

(1) If an amending Act has effect for the purposes of this Part under section 7(2), the Governor must declare that fact by proclamation as soon as practicable.

(2) If a provision of the amending Act has come into operation in Victoria before the proclamation is published —

(a) the proclamation must fix a day on which the provision comes into operation for the purposes of this Part, which must be after the day on which the proclamation is published; and

(b) the provision comes into operation for the purposes of this Part on that day.

(3) If a provision of the amending Act has not come into operation in Victoria before the proclamation is published, the provision comes into operation for the purposes of this Part when the provision comes into operation in Victoria.

9. Amending Acts enacted after 30 April 2025 but before commencement day

If an amending Act receives the Royal Assent after 30 April 2025, but before commencement day, sections 6 to 8 apply to that Act as if it received the Royal Assent on commencement day.

10. Tabling of amending Act taken to be publication for Standing Orders

(1) In this section —

parliamentary committee means a committee established by either or both of the Houses of Parliament.

(2) If a Standing Order of a House of Parliament provides that on the publication of an instrument under a written law the instrument is referred to a parliamentary committee for consideration, the laying of an amending Act before the House under section 6 is taken to be publication of that Act for the purposes of the Standing Order.

(3) This section does not apply if the Standing Orders of the House provide specifically for an amending Act to be considered by a parliamentary committee.

Division 2 — Application of National Regulations

11. Application of National Regulations as subsidiary legislation of the State

(1) In this section —

Education and Care Services National Law Regulations means the National Regulations as in force on 1 October 2025 —

(a) as amended by —

(i) the *Education and Care Services National Amendment Regulations 2025* Part 3; and

(ii) each amending regulation that has effect under section 13, and has come into operation under section 14, for the purposes of this Part; and

(iii) each amending Act that has effect under section 7, and has come into operation under section 8, for the purposes of this Part;

and

(b) as modified by local regulations.

(2) The Education and Care Services National Law Regulations —

(a) apply as a law of the State; and

(b) as so applying, may be referred to as the *Education and Care Services National Law Regulations (WA)*; and

(c) apply as subsidiary legislation for the purposes of the *Education and Care Services National Law (WA)*.

12. Tabling amending regulations

Amending regulations must be laid before each House of Parliament within 18 sitting days of the House after the day on which the amending regulations are published on the NSW Legislation website in accordance with section 302(1) of the National Law.

Note for this section:

Under section 30(1), the *Interpretation Act 1984* sections 41 and 42 do not apply to amending regulations.

13. Disallowance of amending regulations

(1) In this section —

disallowance period, in relation to a disallowance resolution of which notice is given in a House of Parliament, means the period of 30 sitting days of the House after the day on which the notice is given;

disallowance resolution means a resolution that amending regulations be disallowed;

notice period, in relation to amending regulations laid before a House of Parliament under section 12, means the period of 14 sitting days of the House after the day on which the amending regulations are laid before it.

(2) Amending regulations have effect for the purposes of this Part if the amending regulations are laid before each House of Parliament under section 12 and either —

(a) no notice of a disallowance resolution is given in either House within the notice period; or

(b) at least 1 notice of a disallowance resolution is given in a House within the notice period and, for each such notice, 1 of the following applies —

(i) the notice is withdrawn or discharged within the disallowance period;

(ii) the disallowance resolution is lost in the House or not agreed to within the disallowance period.

(3) For the purposes of this section and section 12 —

(a) the period specified in section 12, a notice period or a disallowance period continues to run even though a House of Parliament is prorogued or dissolved or expires; and

(b) notice of a disallowance resolution given in a House of Parliament, or a motion that amending regulations be disallowed in the House, does not lapse even though the House is prorogued or dissolved or expires.

14. Commencement of provisions of amending regulations

(1) If amending regulations have effect for the purposes of this Part under section 13(2), the Governor must declare that fact by proclamation as soon as practicable.

(2) If a provision of the amending regulations has come into operation under the National Law before the proclamation is published —

(a) the proclamation must fix a day on which the provision comes into operation for the purposes of this Part, which must be after the day on which the proclamation is published; and

(b) the provision comes into operation for the purposes of this Part on that day.

(3) If a provision of the amending regulations has not come into operation under the National Law before the proclamation is published, the provision comes into operation for the purposes of this Part when the provision comes into operation under the National Law.

15. Tabling of amending regulations taken to be publication for Standing Orders

(1) In this section —

parliamentary committee means a committee established by either or both of the Houses of Parliament.

(2) If a Standing Order of a House of Parliament provides that on the publication of an instrument under a written law the instrument is referred to a parliamentary committee for consideration, the laying of amending regulations before the House under section 12 is taken to be publication of the amending regulations for the purposes of the Standing Order.

(3) This section does not apply if the Standing Orders of the House provide specifically for amending regulations to be considered by a parliamentary committee.

16. Amendment of National Regulations by amending Act provision

(1) If the National Regulations are amended by a provision of an amending Act, the amendment of the regulations has effect for the purposes of this Part if —

(a) the amending Act has effect for the purposes of this Part under section 7; and

(b) the provision of the amending Act comes into operation for the purposes of this Part under section 8.

(2) Sections 12 and 13 do not apply to an amendment of the National Regulations made by an amending Act.

17. Amending regulations made after 1 October 2025 but before commencement day

If amending regulations are made after 1 October 2025 but before commencement day, sections 12 to 14 apply to those regulations as if they were published on the NSW Legislation website in accordance with section 302(1) of the National Law on commencement day.

Division 3 — Jurisdiction-specific matters for National Law

18. Commencement of National Law as law of the State

For the purposes of the *Education and Care Services National Law (WA)* section 2, the Law as it applies in the State because of section 5 of this Act comes into operation on commencement day.

19. Meaning of generic terms in *Education and Care Services National Law (WA)* for purposes of this jurisdiction

In the *Education and Care Services National Law (WA)* —

child protection law means the *Children and Community Services Act 2004*;

court means the Magistrates Court of Western Australia established under the *Magistrates Court Act 2004* section 4(1);

de facto relationship has the meaning given in the *Interpretation Act 1984* section 13A;

local authority means a local government established under the *Local Government Act 1995*;

magistrate means —

(a) a magistrate as defined in the *Magistrates Court Act 2004* section 3; or

(b) a justice of the peace;

public authority means —

(a) a department of the Public Service; or

(b) a State agency or instrumentality; or

(c) a local government, regional local government or regional subsidiary; or

(d) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a written law;

registered teacher has the meaning given in the *Teacher Registration Act 2012* section 3;

superior court means the Supreme Court of Western Australia;

this jurisdiction means Western Australia.

20. Children's services law

For the purposes of the definition of ***children's services law*** in the *Education and Care Services National Law (WA)* section 5(1), the *Child Care Services Act 2007* and the regulations made under that Act are declared to be a children's services law in relation to this jurisdiction for the purposes of that Law.

21. Children's services regulator

For the purposes of the definition of ***children's services regulator*** in the *Education and Care Services National Law (WA)* section 5(1), the chief executive officer of the department principally assisting in the administration of the *Child Care Services Act 2007* is declared to be the children's services regulator in relation to this jurisdiction for the purposes of that Law.

22. Education law

For the purposes of the definition of ***education law*** in the *Education and Care Services National Law (WA)* section 5(1),

each of the following laws is declared to be an education law in relation to this jurisdiction for the purposes of that Law —

(a) the *School Education Act 1999* and the regulations made under that Act;

(b) the *Teacher Registration Act 2012* and the regulations made under that Act.

23. Former education and care services law

For the purposes of the definition of ***former education and care services law*** in the *Education and Care Services National Law (WA)* section 5(1), each of the following laws is declared to be a former education and care services law in relation to this jurisdiction for the purposes of that Law —

(a) the *Education and Care Services National Law (Western Australia)* and the regulations made under that Law;

(b) the *Child Care Services Act 2007* and the regulations made under that Act (both as in force immediately before the commencement of the *Education and Care Services National Law (Western Australia)* Part 3).

24. Infringements law

(1) For the purposes of the definition of ***infringements law*** in the *Education and Care Services National Law (WA)* section 5(1), each of the following laws is declared to be an infringements law in relation to this jurisdiction for the purposes of that Law —

(a) the *Criminal Procedure Act 2004* Part 2 and the regulations made for the purposes of that Part of that Act;

(b) the *Fines, Penalties and Infringement Notices Enforcement Act 1994* and the regulations made under that Act.

(2) For the purposes of the *Criminal Procedure Act 2004* —

(a) the *Education and Care Services National Law (WA)* is taken to be a prescribed Act for the purposes of the definition of ***prescribed Act*** in section 4 of that Act; and

(b) an offence against a provision referred to in, or prescribed for the purposes of, the *Education and Care Services National Law (WA)* section 291, is taken to be an offence prescribed under section 5(1) of that Act; and

(c) the infringement penalty for an offence set out in the *Education and Care Services National Law (WA)* section 291(2) is taken to be the modified penalty for the offence for the purposes of section 5(3) of that Act.

Note for this subsection:

Local regulations may provide for matters to be prescribed under the *Criminal Procedure Act 2004* Part 2 for the purposes of the *Education and Care Services National Law (WA)*: see section 74(2)(c) and (3).

(3) For the purposes of the *Fines, Penalties and Infringement Notices Enforcement Act 1994*, the *Education and Care Services National Law (WA)* is taken to be prescribed under section 12(1) of that Act as an enactment to which Part 3 of that Act applies.

25. Public sector law

For the purposes of the definition of ***public sector law*** in the *Education and Care Services National Law (WA)* section 5(1), the *Public Sector Management Act 1994* and the regulations made under that Act are declared to be a public sector law in relation to this jurisdiction for the purposes of that Law.

26. Regulatory Authority

For the purposes of the definition of ***Regulatory Authority*** in the *Education and Care Services National Law (WA)* section 5(1), the chief executive officer of the department principally assisting in the administration of the *Child Care*

Services Act 2007 is declared to be the Regulatory Authority in relation to this jurisdiction for the purposes of that Law.

27. Relevant tribunal or court

For the purposes of the definition of ***relevant tribunal or court*** in the *Education and Care Services National Law (WA)* section 5(1), the State Administrative Tribunal is declared to be the relevant tribunal or court in relation to this jurisdiction for the purposes of that Law.

28. Working with children law

For the purposes of the definition of ***working with children law*** in the *Education and Care Services National Law (WA)* section 5(1), the *Working with Children (Screening) Act 2004* and the regulations made under that Act are declared to be a working with children law in relation to this jurisdiction for the purposes of that Law.

Division 4 — Relationship with other laws

29. Interaction between *Education and Care Services National Law (WA)* and this Act

If a provision of this Act is inconsistent with the *Education and Care Services National Law (WA)*, the provision of this Act prevails to the extent of the inconsistency.

30. Exclusion of legislation of this jurisdiction

(1) The *Interpretation Act 1984* does not apply to the *Education and Care Services National Law (WA)* or to the *Education and Care Services National Law Regulations (WA)*.

Note for this subsection:

See the *Education and Care Services National Law (WA)* section 6.

(2) The following enactments of this jurisdiction do not apply to the *Education and Care Services National Law (WA)* or to the instruments made under the Law (except as applied under the Law) —

(a) the *Auditor General Act 2006*;

(b) the *Financial Management Act 2006*;

(c) the *Freedom of Information Act 1992*;

(d) the *Parliamentary Commissioner Act 1971*;

(da) the *Privacy and Responsible Information Sharing Act 2024* Part 2 and Schedule 1;

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

(f) the *State Records Act 2000*.

(3) However, an Act mentioned in subsection (2) applies to a public sector body as defined in the *Public Sector Management Act 1994* section 3(1), and an employee of the body, performing a function under the *Education and Care Services National Law (WA)*.

[Section 30 amended: No. 2 of 2026 s. 84.]

31. Application of *Public Sector Management Act 1994* to specific entities

(1) This section applies for the purposes of the *Education and Care Services National Law (WA)* and any other Act or law.

(2) Each of the following bodies is not an agency as defined in the *Public Sector Management Act 1994* section 3(1) —

(a) the Ministerial Council as defined in the *Education and Care Services National Law (WA)* section 5(1);

(b) the Australian Children's Education and Care Quality Authority (the ***National Authority***) established under the *Education and Care Services National Law (WA)* section 224(1);

(c) the Australian Children's Education and Care Quality Authority Board (the ***Board***) established under the *Education and Care Services National Law (WA)* section 230;

(d) a committee established by the Board under the *Education and Care Services National Law (WA)* section 247(1);

(e) a person declared by a law of a participating jurisdiction, other than this jurisdiction, to be the Regulatory Authority for that jurisdiction or for a class of education and care services for that jurisdiction;

(f) the Ratings Review Panel established under the *Education and Care Services National Law (WA)* section 146(1).

(3) To the extent that a person is any of the following under the *Education and Care Services National Law (WA)*, the person is not a public service officer as defined in the *Public Sector Management Act 1994* section 3(1) —

(a) a member of the Board;

(b) the chief executive officer of the National Authority;

(c) an employee of a body mentioned in subsection (2);

(d) a person engaged by the National Authority as a consultant or contractor.

Part 3 — Modification of National Law

32. Modification of National Law

(1) For the purposes of the definition of ***Education and Care Services National Law*** in section 5(1), the National Law applies as if amended as set out in this Part.

(2) However, if a transitional modification regulation is in effect, the National Law applies as if amended as set out in —

(a) this Part, other than the sections disapplied by the regulation; and

(b) the regulation.

33. Transitional modification regulations

(1) This section applies if —

(a) an amending Act has effect for the purpose of Part 2 under section 7; and

(b) a modification of the National Law set out in this Part cannot be given effect because of an amendment of the National Law made by the amending Act (the ***affected modification***).

(2) Local regulations may —

(a) disapply the section that sets out the affected modification; or

(b) set out a modification of the National Law to the extent necessary to give effect to the affected modification; or

(c) provide for a matter or issue of a transitional nature that arises as a result of the amending Act coming into operation or a local regulation setting out a modification as mentioned in paragraph (b); or

(d) provide for a matter or issue of a savings or application nature in relation to an affected modification.

(3) If a local regulation does, or provides for, a thing mentioned in subsection (2) (a ***transitional modification regulation***), the regulation expires 18 months after the day on which the regulation comes into operation.

(4) However, if the transitional modification regulation does either of the following things in relation to an affected modification, the regulation expires within the 18 months when an amendment of the section of this Part that sets out the affected modification comes into operation —

(a) disapplies the section that sets out the affected modification;

(b) sets out a modification of the National Law to give effect to the affected modification.

34. Section 3 of National Law modified

In section 3(3)(a) of the National Law delete "rights and".

35. Section 5 of National Law modified

(1) In section 5(1) of the National Law delete the definitions of:

parent

preschool program

school children

(2) In section 5(1) of the National Law insert in alphabetical order:

community kindergarten means a kindergarten registered under the *School Education Act 1999* Part 5;

disciplinary action means disciplinary action under Part 7 Division 3A;

educational program means an educational programme as defined in the *School Education Act 1999* section 4;

executor, in relation to an approved provider, includes a person —

(a) entitled to a grant of letters of administration in relation to the estate of the approved provider, including with the will annexed; or

(b) granted letters of administration in relation to the estate of the approved provider, including with the will annexed; or

(c) granted probate of the will of the approved provider; or

(d) named as executor in a valid will of the approved provider;

parent, in relation to a child, means a person who at law has responsibility for —

(a) the long-term care, welfare and development of the child; or

(b) the day-to-day care, welfare and development of the child;

school children includes students, as defined in the *School Education Act 1999* section 4, attending school before grade 1;

(3) In section 5(1) of the National Law in the definition of ***education and care service***:

(a) delete paragraphs (a) and (b) and insert:

(a) a school providing an educational program to school children in accordance with the *School Education Act 1999*; or

(b) a community kindergarten providing an educational program to children in accordance with the *School Education Act 1999*; or

(b) after paragraph (h) in the example delete "services, outside school hours services and preschool programs including those delivered in schools," and insert:

services and outside school hours services,

36. Section 10 of National Law modified

In section 10(3)(a) of the National Law after "information" insert:

requested under section 11(c)

37. Section 11 of National Law modified

In section 11(c) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

38. Section 17 of National Law replaced

Delete section 17 of the National Law and insert:

17. Duration of provider approval

A provider approval granted under section 15 continues in force until—

(a) cancelled or suspended under this Law or this Law as applying in a participating jurisdiction; or

(b) if the provider approval is granted to an individual—the individual dies.

39. Section 22 of National Law modified

In section 22(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

40. Section 25 of National Law modified

In section 25 of the National Law:

(a) delete paragraph (a) and insert:

(a) the approved provider, or a person with management or control of an education and care service operated by the approved provider, has been charged with an indictable offence, or with an offence that if committed in this jurisdiction would be an indictable offence, or any other circumstance indicates that the approved

provider, or a person with management or control of an education and care service operated by the approved provider, may not be a fit and proper person to be involved in the provision of an education and care service; or

(b) delete paragraph (g) and insert:

(g) the approved provider has not paid—

(i) an amount due under an order made under, or in relation to proceedings commenced by an allegation made under, section 188AB; or

(ii) any outstanding prescribed fees; or

41. Section 37 of National Law modified

In section 37(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

42. Section 39 of National Law modified

In section 39(6)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

43. Section 40 of National Law modified

In section 40(3)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

44. Section 44 of National Law modified

In section 44(1)(c) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

45. Section 51 of National Law modified

In section 51(4B)(a) of the National Law delete "is, or 2 or more children from the same family are," and insert:

is

46. Section 54 of National Law modified

In section 54(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

47. Section 56 of National Law modified

In section 56(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

48. Section 59 of National Law modified

In section 59(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

49. Section 62 of National Law modified

Delete section 62(4) of the National Law and insert:

(4) A notification under subsection (2) must be in writing.

50. Section 70 of National Law modified

Delete section 70(i) of the National Law and insert:

(i) the approved provider has not paid—

(i) an amount due under an order made under, or in relation to proceedings commenced by an allegation made under, section 188AB; or

(ii) any outstanding prescribed fees.

51. Section 85 of National Law modified

In section 85(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

52. Section 88 of National Law modified

In section 88(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

53. Section 95 of National Law modified

In section 95(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

54. Section 139 of National Law modified

In section 139(2)(b) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

55. Section 141 of National Law modified

In section 141(4)(c) of the National Law delete "information; and" and insert:

information requested by the Regulatory Authority; and

56. Section 179A of National Law modified

Delete section 179A(1)(a) of the National Law and insert:

(a) if—

(i) a person has, or a person believes the person may have, contravened a provision of this Law; or

(ii) the Regulatory Authority alleges a person has contravened a provision of this Law; or

57. Part 7 Division 3A inserted in National Law

After Part 7 Division 3 of the National Law insert:

Division 3A — Disciplinary action

188AA Persons against whom disciplinary action may be taken

In this Division—

person linked to a WA service means any of the following—

(a) an approved provider of a WA service;

(b) a nominated supervisor of a WA service;

(c) a person with management or control of a WA service;

(d) a family day care educator engaged by or registered with a WA service;

WA service means an education and care service located in this jurisdiction.

188AB Disciplinary action

(1) Grounds for disciplinary action exist in respect of a person linked to a WA service if—

(a) the person has failed to comply with this Law as applying in this jurisdiction; or

(b) the person is a person with management or control of a body corporate that is itself a person linked to a WA service and—

(i) the body corporate has failed to comply with this law as applying in this jurisdiction; and

(ii) the person with management or control of the body corporate has failed to exercise due diligence to prevent that failure.

(2) If the Regulatory Authority of this jurisdiction considers that grounds for disciplinary action exist in respect of a person linked to a WA service, the Regulatory Authority may make an allegation to the relevant tribunal or court of this jurisdiction in respect of that person.

(3) In proceedings commenced by an allegation under subsection (2) in respect of a person, the relevant tribunal or court of this jurisdiction, if satisfied that grounds for disciplinary action exist, may make one or more of the following orders—

(a) an order reprimanding the person;

(b) subject to section 188AC, an order requiring the person to pay a fine not exceeding $172 200;

(c) an order to take certain actions, or refrain from taking certain actions, to comply with this Law.

(4) The relevant tribunal or court may make an order under subsection (3)(a) or (b) in respect of a person whether or not at the time when the order is made the person is a person linked to a WA service.

188AC Limitation on section 188AB(3)(b)

(1) The power described in section 188AB(3)(b) to impose a fine, and the power of a court to impose a penalty for an offence under this Law as it applies in this or another participating jurisdiction, cannot both be exercised in respect of an act or omission of a person that is substantially the same.

(2) A fine that exceeds the relevant maximum fine cannot be imposed under section 188AB(3)(b).

(3) In this section—

relevant maximum fine means, if the fine is to be imposed in respect of an act or omission that constitutes an offence under this Law,

the maximum fine that could be imposed by a court for that offence.

58. Section 197 of National Law modified

(1) After section 197(1)(a) of the National Law insert:

(aa) monitoring compliance with a working with children law by specified persons in relation to the provision of an education and care service;

(2) In section 197(3) of the National Law delete "in the provision" and insert:

in, or in relation to, the provision

(3) After section 197(5) of the National Law insert:

(6) In this section—

specified person has the meaning given in section 206(4).

59. Section 204 of National Law modified

In section 204(1) of the National Law:

(a) in paragraph (a) delete "Law; or" and insert:

Law or a working with children law; or

(b) in paragraph (b) delete "Law." and insert:

Law or a working with children law.

60. Section 206 of National Law modified

After section 206(1)(a) of the National Law insert:

(aa) monitoring compliance with a working with children law by specified persons in relation to the provision of an education and care service;

61. Section 215 of National Law modified

(1) In section 215(2) of the National Law delete "specified" (1st occurrence).

(2) Delete section 215(6) of the National Law.

62. Section 216 of National Law modified

(1) In section 216(2) of the National Law delete "specified" (1st occurrence).

(2) Delete section 216(5) of the National Law.

63. Section 219 of National Law modified

(1) In section 219(2) of the National Law after "individual" insert:

in any disciplinary proceedings, or

(2) Delete section 219(3) of the National Law and insert:

(3) Despite subsection (2), any information obtained from a document or documents required to be kept under this Law, or required under section 215(2)(b) or 216(2)(b), that is produced by a person is admissible in evidence against the person in disciplinary proceedings or in criminal proceedings under this Law.

(3) In section 219(4) of the National Law in the definition of ***disclosed information***:

(a) in paragraph (b) delete "216; or" and insert:

216.

(b) delete paragraph (c).

64. Section 225 of National Law modified

In section 225(1)(l)(i) of the National Law delete "parents" and insert:

parents, family members

65. Section 270 of National Law modified

In section 270(6) of the National Law:

(a) in paragraph (c) delete "service." and insert:

service; or

(b) after paragraph (c) insert:

(d) a person against whom disciplinary action has been taken.

66. Section 302 of National Law modified

Delete section 302(2) of the National Law.

67. Section 303 of National Law modified

Delete section 303(2), (3) and (4) of the National Law.

68. Part 15 Divisions 1 to 6 of National Law deleted

Delete Part 15 Divisions 1 to 6 of the National Law.

69. Section 336 of National Law modified

In section 336(3) of the National Law delete the definition of ***commencement day*** and insert:

commencement day means the day on which the *Education and Care Services National Law (WA)* section 5 comes into operation.

70. Section 337 of National Law modified

In section 337(2) of the National Law delete the definition of ***commencement day*** and insert:

commencement day means the day on which the *Education and Care Services National Law (WA)* section 5 comes into operation.

71. Section 338 of National Law modified

In section 338(2) of the National Law delete the definition of ***commencement day*** and insert:

> ***commencement day*** means the day on which the *Education and Care Services National Law (WA)* section 5 comes into operation.

72. Section 339 of National Law modified

In section 339(2) of the National Law delete the definition of ***commencement day*** and insert:

> ***commencement day*** means the day on which the *Education and Care Services National Law (WA)* section 5 comes into operation.

73. Schedule 1 of National Law modified

At the end of Schedule 1 Part 2 of the National Law insert:

> **11A Penalty at end of provision**
>
> In this Law, a penalty specified at the end of a provision indicates that a contravention of the provision is an offence, the penalty on conviction for which is the penalty specified.

Part 4 — Other matters

74. Local regulations

(1) The Governor may make regulations prescribing all matters —

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for giving effect to this Act.

(2) Without limiting subsection (1), the regulations may provide for —

(a) modifications of the National Regulations for the purpose of applying the National Regulations in Western Australia; or

(b) provisions of a savings or transitional nature for the purpose of accommodating differences between the National Regulations and the *Education and Care Services National Law Regulations (WA)*; or

(c) matters to be prescribed under the *Criminal Procedure Act 2004* Part 2 for the purposes of the *Education and Care Services National Law (WA)*; or

(d) fees for things done under this Act or the *Education and Care Services National Law (WA).*

(3) For the purposes of subsection (2)(c), the requirement to prescribe particular matters under the *Criminal Procedure Act 2004* section 6 does not apply to the extent that the matter is provided for in the *Education and Care Services National Law (WA).*

75. Review of Act

(1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 5th anniversary of the day on which section 5 comes into operation.

(2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary.

Part 5 — Repeals and transitional provisions

Division 1 — Repeals

76. Written laws repealed

(1) The *Education and Care Services National Law (WA) Act 2012* is repealed.

(2) The *Education and Care Services National Regulations 2012* are repealed.

Division 2 — Transitional provisions

77. Terms used

(1) In this Division —

former Law means the provisions applying in this State as the *Education and Care Services National Law (Western Australia)* because of section 4 of the repealed Act;

former regulations means the *Education and Care Services National Regulations 2012*;

new Law means the provisions applying in this State as the *Education and Care Services National Law (WA)* because of section 5 of this Act;

new regulations means the provisions applying in this State as the *Education and Care Services National Law Regulations (WA)* because of section 11 of this Act;

repealed Act means the *Education and Care Services National Law (WA) Act 2012* as in force immediately before commencement day.

(2) Also, in this Division —

(a) a provision of this Act ***corresponds*** to a provision of the repealed Act, and vice versa, if the 2 provisions are substantially the same; and

(b) a provision of the new Law ***corresponds*** to a provision of the former Law, and vice versa, if the 2 provisions are substantially the same; and

(c) a provision of the new regulations ***corresponds*** to a provision of the former regulations, and vice versa, if the 2 provisions are substantially the same.

78. Application of *Interpretation Act 1984*

(1) A provision of the *Interpretation Act 1984* about the repeal of enactments and the substitution of other enactments applies as if —

(a) the provisions of the repealed Act and the former Law were repealed by this Act; and

(b) a provision of the repealed Act were re-enacted as the corresponding provision of this Act; and

(c) a provision of the former Law were re-enacted as the corresponding provision of the new Law.

(2) Despite subsection (1), the *Interpretation Act 1984* sections 36(d) (to the extent it relates to subsidiary legislation) and 38 do not apply in relation to the repealed Act or the former Law.

(3) Except to the extent that this Division or regulations made for the purposes of this Division provide differently, the *Interpretation Act 1984* applies to and in relation to the repeals effected by section 76.

79. References to the Law and this Law

(1) In the *Education and Care Services National Law (WA)*, unless the context otherwise requires —

(a) a reference to the Law or this Law includes a reference to the former Law; and

(b) a reference to something done under the Law includes a reference to the thing being done under the corresponding provision of the former Law.

(2) In the *Education and Care Services National Law Regulations (WA)*, unless the context otherwise requires —

(a) a reference to the Law or this Law includes a reference to the former Law; and

(b) a reference to something done under the Law includes a reference to the thing being done under the corresponding provision of the former Law or former regulations.

(3) This section does not limit, and is not limited by, any other provision in this Division.

80. New Law operates as continuation of former Law

(1) In this section —

administrative process includes any of the following processes done under the former Law —

(a) the making and processing of an application;

(b) the giving of, and responding to, a notice;

(c) the making of a decision;

compliance measure means —

(a) a compliance direction given to an approved provider under the former Law section 176; or

(b) a compliance notice given to an approved provider under the former Law section 177; or

(c) a direction given under the former Law section 178(4) or 179(2); or

(d) an undertaking from a person or an approved provider accepted under the former Law section 179A; or

(e) an order made by the relevant tribunal or court under the former Law section 181(2) or 188AB(3); or

(f) a prohibition notice given to a person under the former Law section 182;

conduct, of a person, includes —

(a) an act done, or omitted to be done, by the person; or

(b) a failure of the person to comply with a direction or requirement applying to the person under a provision of the former Law or former regulations; or

(c) the person inadequately providing an education and care service;

disciplinary action means any of the following actions —

(a) suspension of a provider approval under the former Law section 27, 28 or 33(1)(a)(ii);

(b) suspension of a service approval under the former Law section 72, 73 or 79(1)(a)(ii);

(c) cancellation of a provider approval under the former Law section 33;

(d) cancellation of a service approval under the former Law section 79;

(e) disciplinary action taken against a person linked to a WA service under the former Law section 188AB;

notice includes a show cause notice given under the former Law section 26, 32, 71, 78, 178 or 183;

rating level means a rating level for an approved education and care service determined by the Regulatory Authority after carrying out a rating assessment under the former Law section 135;

review means —

(a) an internal review of a reviewable decision under the former Law section 191; or

(b) an external review of a reviewable decision under the former Law section 193; or

(c) a review of a rating level of an approved education and care service under the former Law section 151;

voluntary suspension means —

(a) the voluntary suspension of a provider approval accepted under the former Law section 37; or

(b) the voluntary suspension of a service approval accepted under the former Law section 85;

waiver means —

(a) a service waiver granted under the former Law section 91; or

(b) a temporary waiver granted under the former Law section 98.

(2) The new Law operates as a continuation of the former Law with —

(a) administrative processes and proceedings that are pending or current under the former Law immediately before commencement day being continued and dealt with under the new Law; and

(b) rights, that would have been able to be exercised after commencement day if the former Law had not been repealed, being able to be exercised under the new Law; and

(c) obligations, that were not discharged in accordance with the former Law before commencement day, being continued and enforceable under the new Law.

(3) Without limiting subsection (2) —

(a) anything done or omitted to be done for the purposes of a provision of the former Law before commencement day is taken to have been done or omitted to be done for the purposes of the corresponding provision of the new Law; and

(b) if, before commencement day, a person engaged in conduct that could have been considered by a person in making a decision, or in exercising a power, under a provision of the former Law, the conduct may be considered under the corresponding provision of the new Law; and

(c) compliance with a provision of the former Law during a period before commencement day is taken to be compliance with the corresponding provision of the new Law for the same period; and

(d) a requirement made of an entity, and not complied with, under a provision of the former Law before commencement day, continues in effect as if it were made under the corresponding provision of the new Law; and

(e) a notice given in accordance with the former Law, and still in effect immediately before commencement day, continues in effect and must be dealt with under the new Law; and

(f) an administrative process or proceeding commenced, but not concluded, under the former Law before commencement day is continued and must be concluded under the new Law; and

(g) a rating level for an approved education and care service in effect under the former Law immediately before commencement day continues in effect and is taken to have been determined by the Regulatory Authority under the corresponding provision of the new Law; and

(h) an application made in accordance with a provision of the former Law, and not decided or withdrawn before commencement day, continues in effect and must be dealt with under the corresponding provision of the new Law; and

(i) the right of a person to apply for a review under a provision of the former Law continues under the corresponding provision of the new Law; and

(j) any amount payable or recoverable under a provision of the former Law that is unpaid or not recovered before commencement day is payable or recoverable under the corresponding provision of the new Law; and

(k) a provider approval or service approval in force under the former Law immediately before commencement day continues in force and is taken to have been granted under the corresponding provision of the new Law; and

(l) a person who, immediately before commencement day, was a nominated supervisor in relation to an education and care service continues to be a nominated supervisor for the service; and

(m) a waiver in effect under the former Law immediately before commencement day continues in effect and is taken to have been granted under the corresponding provision of the new Law; and

(n) a compliance measure imposed under a provision of the former Law and in force immediately before commencement day continues in force under the corresponding provision of the new Law; and

(o) disciplinary action that is pending or unresolved under the former Law immediately before commencement day may be started, continued and resolved under the new Law; and

(p) a voluntary suspension in force immediately before commencement day continues in force under the new Law; and

(q) a search warrant issued by a magistrate under the former Law and in effect immediately before commencement day continues in effect under the new Law; and

(r) a reference in a document to the former Law may, if the context permits, be taken to be a reference to the new Law.

(4) If a thing is continued in force or effect under subsection (2) or (3) —

(a) the thing is taken to have been made or granted under the new Law; and

(b) the thing may be dealt with under the new Law.

(5) To the extent that a thing continued under subsection (2) or (3) is subject to terms and conditions —

(a) the thing continues to be subject to those same terms and conditions; and

(b) the terms and conditions may be amended or removed under the new Law.

81. New regulations operate as continuation of former regulations

(1) In this section —

conduct, of a person, includes —

(a) an act done, or omitted to be done, by the person; or

(b) a failure of the person to comply with a direction or requirement applying to the person under a provision of the former Law or former regulations; or

(c) the person inadequately providing an education and care service.

(2) The new regulations operate as a continuation of the former regulations with —

(a) rights, that would have been able to be exercised after commencement day if the former regulations had not been repealed, being able to be exercised under the new regulations; and

(b) obligations, that were not discharged in accordance with the former regulations before commencement day, being continued and enforceable under the new regulations.

(3) Without limiting subsection (2) —

(a) anything done or omitted to be done for the purposes of a provision of the former regulations before commencement day is taken to have been done or omitted to be done for the purposes of the corresponding provision of the new regulations; and

(b) if, before commencement day, a person engaged in conduct that could have been considered by a person in making a decision, or in exercising a power, under a provision of the former regulations, the conduct may be considered under the corresponding provision of the new regulations; and

(c) compliance with a provision of the former regulations during a period before commencement day is taken to be compliance with the corresponding provision of the new regulations for the same period; and

(d) a requirement made of an entity, and not complied with, under a provision of the former regulations before commencement day, continues in effect as if it were made under the corresponding provision of the new regulations; and

(e) a reference in a document to the former regulations may, if the context permits, be taken to be a reference to the new regulations.

(4) The *Interpretation Act 1984* sections 36 (except section 36(d) to the extent it relates to subsidiary legislation) and 37 apply and have effect as if the former regulations were repealed and re-enacted as the new regulations.

(5) Subsection (2) does not affect the operation of section 11.

82. Transitional regulations

(1) In this section —

publication day, in relation to transitional regulations, means the day on which the transitional regulations are published in accordance with the *Interpretation Act 1984* section 41(1)(a);

transitional matter —

(a) means a matter or issue of a transitional nature that arises as a result of —

(i) the repeal of the repealed Act and the former Law, the enactment of this Act and the coming into operation of the new Law; or

(ii) the repeal of the former regulations and the coming into operation of the new regulations;

and

(b) includes a matter or issue of a savings or application nature;

transitional regulations means local regulations made for the purposes of subsection (2).

(2) If there is not sufficient provision in this Division for dealing with a transitional matter, local regulations may prescribe anything required, necessary or convenient to be prescribed in relation to that matter.

(3) Without limiting subsection (2), transitional regulations may provide that —

(a) specified provisions of this Act or the new Law —

(i) do not apply in relation to a specified matter; or

(ii) apply with specified modifications to or in relation to a specified matter;

and

(b) specified provisions of the repealed Act or the former Law continue to apply (with or without specified modifications) to, or in relation to, a specified matter as if the repealed Act were not repealed.

(4) Transitional regulations cannot be made after the end of the period of 2 years beginning on commencement day.

(5) If transitional regulations provide that a state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than publication day, but not earlier than commencement day, the regulations have effect according to their terms.

(6) If transitional regulations contain a provision referred to in subsection (5), the provision does not operate so as to —

(a) affect in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before publication day; or

(b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before publication day.

Part 6 — Consequential amendments

Division 1 — Amendment to this Act

83. Act amended

This Division amends this Act.

84. Section 30 amended

After section 30(2)(d) insert:

(da) the *Privacy and Responsible Information Sharing Act 2024* Part 2 and Schedule 1;

[Division 2 has not come into operation.]

Division 3 — *Parliamentary Commissioner Act 1971* amended

92. Act amended

This Division amends the *Parliamentary Commissioner Act 1971*.

93. Section 19D amended

In section 19D(1)(e) delete "Education and Care Services National Law (Western Australia)" and insert:

Education and Care Services National Law (WA)

94. Schedule 2 amended

In Schedule 2 in the item relating to Providers of child care services delete "*Education and Care Services National Law (Western Australia)*" and insert:

Education and Care Services National Law (WA)

Division 4 — *Privacy and Responsible Information Sharing Act 2024* amended

95. Act amended

This Division amends the *Privacy and Responsible Information Sharing Act 2024*.

96. Part 6 Division 1 deleted

Delete Part 6 Division 1.

Division 5 — *Spent Convictions Act 1988* amended

97. Act amended

This Division amends the *Spent Convictions Act 1988*.

98. Schedule 3 amended

In Schedule 3 clause 1(5) in the Table item 6A:

(a) in paragraph (a) delete "*Education and Care Services National Law (Western Australia)*; or" and insert:

Education and Care Services National Law (WA); or

(b) in paragraph (b)(ii) delete "*Education and Care Services National Law (Western Australia)*." and insert:

Education and Care Services National Law (WA).

Division 6 — *Working with Children (Screening) Act 2004* amended

99. Act amended

This Division amends the *Working with Children (Screening) Act 2004*.

100. Section 4 amended

In section 4 in the definition of ***child care service*** paragraph (a) delete "*Education and Care Services National Law (Western Australia)*" and insert:

Education and Care Services National Law (WA)

101. Section 5 amended

In section 5(1) in the definition of ***managerial officer*** paragraph (b) delete "*Education and Care Services National Law (Western Australia)* section 5(1)," and insert:

Education and Care Services National Law (WA) section 5A,

Division 7 — Other amendments

102. References to "*Education and Care Services National Law (Western Australia)*" amended

(1) This section amends the Acts listed in the Table.

(2) In the provisions listed in the Table delete "*Education and Care Services National Law (Western Australia)*" and insert:

Education and Care Services National Law (WA)

Table

Child Care Services Act 2007	s. 3 def. of ***national child care law***
Children and Community Services Act 2004	s. 3 def. of ***child care services*** par. (a) s. 124A def. of ***early childhood worker*** par. (a)
Civil Liability Act 2002	s. 5AAA def. of ***child care service*** par. (a) s. 5AAA def. of ***staff member*** par. (da)
The Criminal Code	s. 557K(1) def. of ***child care centre*** par. (a)
Evidence Act 1906	s. 19L(5A)(b)
Health (Miscellaneous Provisions) Act 1911	s. 337(2A) def. of ***child care centre*** par. (a)
Public Health Act 2016	s. 4(1) def. of ***child care service*** par. (a)(i)
School Education Act 1999	s. 154(2) def. of ***school*** par. (cb)

Teacher Registration Act 2012	s. 3 def. of ***centre-based service*** (each occurrence) s. 37(1) def. of ***nominated supervisor***

Notes

This is a compilation of the *Education and Care Services National Law Application Act 2026*. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Education and Care Services National Law Application Act 2026 (other than Pt. 6 Div. 2)	2 of 2026	31 Mar 2026	Pt. 1 (but only s. 1 and 2): 31 Mar 2026 (see s. 2(1)(a)); Act other than s. 1 and 2 and Pt. 6 Div. 1 and 2: 1 May 2026 (see s. 2(1)(d) and (2) and SL 2026/50 cl. 2); Pt. 6 Div. 1: 1 Jul 2026 (see s. 2(1)(b) and SL 2026/128 cl. 2(d))

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

Short title	Number and year	Assent	Commencement
Education and Care Services National Law Application Act 2026 Pt. 6 Div. 2	2 of 2026	31 Mar 2026	1 Nov 2026 (see SL 2026/211 cl. 2(2))

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
administrative process	80(1)
affected modification	33(1)
amend	3(1)
amending Act	3(1)
amending regulations	3(1)
Board	31(2)
child protection law	19
commencement day	3(1)
compliance measure	80(1)
conduct	80(1), 81(1)
corresponds	77(2)
court	19
de facto relationship	19
disallowance period	7(1), 13(1)
disallowance resolution	7(1), 13(1)
disciplinary action	80(1)
Education and Care Services National Law	5(1)
Education and Care Services National Law Regulations	11(1)
Education and Care Services National Law Regulations (WA)	3(1)
Education and Care Services National Law (WA)	3(1)
former Law	77(1)
former regulations	77(1)
local authority	19
local regulations	3(1)
magistrate	19
National Authority	31(2)
National Law	3(1)
National Regulations	3(1)
new Law	77(1)
new regulations	77(1)
notice	80(1)
notice period	7(1), 13(1)
parliamentary committee	10(1), 15(1)
proclamation day	2(1)
publication day	82(1)
public authority	19
rating level	80(1)
registered teacher	19
repealed Act	77(1)

review ..... 80(1)
superior court 19
this jurisdiction 19
transitional matter ..... 82(1)
transitional modification regulation ..... 3(1), 33(3)
transitional regulations ..... 82(1)
voluntary suspension ..... 80(1)
waiver ..... 80(1)

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