
EDUCATION

ED301

Education and Care Services National Law (WA) Act 2012

**Education and Care Services National
Amendment Regulations 2020****SL 2020/143**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Education and Care Services National Amendment Regulations 2020*.

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) regulations 3, 5 and 10 — on 1 September 2020;
- (c) the rest of the regulations — on 1 October 2020.

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:

regular transportation, in relation to an education and care service, means the transportation by the service or arranged by the service (other than as part of an excursion) of a child being educated and cared for by the service, where the circumstances relevant to a risk assessment are substantially the same for each occasion on which the child is transported;

- (2) In regulation 4(1) in the definition of ***regular outing*** paragraph (b) after “risk assessment are” insert:

substantially

5. Regulation 5 amended

Delete regulation 5(2)(q) and insert:

- (q) an approved children's service under the *Children's Services Act 1996* of Victoria that, immediately before 17 May 2020, was a licensed limited hours Type 2 service under that Act;

6. Regulation 100 amended

In regulation 100(1), (2) and (3) delete "is sought under regulation 102" and insert:

referred to in regulation 102(4) is sought

7. Regulation 101 amended

Delete regulation 101(2)(d) and insert:

- (d) if the excursion involves transporting children —
 - (i) the means of transport; and
 - (ii) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (iii) the process for entering and exiting the education and care service premises and, as required, the pick-up location or destination; and
 - (iv) procedures for embarking and disembarking the means of transport, including how each child is to be accounted for on embarking and disembarking;
- and

8. Regulation 102 amended

In regulation 102(4) —

- (a) delete paragraph (c) and insert:

- (c) if the authorisation is for a regular outing, a description of when the child is to be taken on the regular outings; and

- (ca) if the authorisation is for an excursion that is not a regular outing, the date the child is to be taken on the excursion; and
 - (b) delete paragraph (e) and insert:
 - (e) if the excursion involves transporting children —
 - (i) the means of transport; and
 - (ii) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported;
- and

9. Part 4.2 Division 7 inserted

At the end of Part 4.2 insert:

Division 7 — Transportation of children other than as part of excursion

102A. Application of Division

This Division does not apply to transportation of a child by or arranged by an education and care service that is undertaken as part of an excursion.

102B. Transport risk assessment must be conducted before service transports child

- (1) The approved provider of an education and care service must ensure a risk assessment is carried out in accordance with regulation 102C before an authorisation referred to in regulation 102D(4) is sought to transport a child.

Penalty for this subregulation: a fine of \$2 000.

- (2) A nominated supervisor of an education and care service must ensure a risk assessment is carried out in accordance with regulation 102C before an authorisation referred to in regulation 102D(4) is sought to transport a child.

Penalty for this subregulation: a fine of \$2 000.

- (3) A family day care educator must carry out a risk assessment in accordance with regulation 102C before an authorisation referred to in regulation 102D(4) is sought to transport a child.

Penalty for this subregulation: a fine of \$2 000.

- (4) A risk assessment is not required under this regulation for transporting a child if —
 - (a) the transportation is regular transportation; and
 - (b) a risk assessment has been conducted for the regular transportation of the child within the previous 12 months.

102C. Conduct of risk assessment for transporting of children by education and care service

- (1) A risk assessment for the transportation of a child by or arranged by the education and care service must —
 - (a) identify and assess risks that transporting the child may pose to the safety, health or wellbeing of the child; and
 - (b) specify how the identified risks will be managed and minimised.
- (2) Without limiting subregulation (1), a risk assessment must consider —
 - (a) the proposed route and duration of the transportation; and
 - (b) the proposed pick-up location and destination; and
 - (c) the means of transport; and
 - (d) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (e) any water hazards; and
 - (f) the number of adults and children involved in the transportation; and
 - (g) given the risks posed by transportation, the number of educators or other responsible adults that is appropriate to provide supervision and whether any adults with specialised skills are required; and
 - (h) whether any items should be readily available during transportation; and

Example for this paragraph:

A mobile phone and a list of emergency contact numbers for the children being transported.

- (i) the process for entering and exiting —
 - (i) the education and care service premises; and
 - (ii) the pick-up location or destination (as required);
- and

- (j) procedures for embarking and disembarking the means of transport, including how each child is to be accounted for on embarking and disembarking.

102D. Authorisation for service to transport children

- (1) The approved provider of an education and care service must ensure that a child being educated and cared for by the service is not transported by the service or on transportation arranged by the service unless written authorisation has been given under subregulation (4).

Penalty for this subregulation: a fine of \$1 000.

- (2) A nominated supervisor of an education and care service must ensure that a child being educated and cared for by the service is not transported by the service or on transportation arranged by the service unless written authorisation has been given under subregulation (4).

Penalty for this subregulation: a fine of \$1 000.

- (3) A family day care educator must ensure that a child being educated and cared for by the educator as part of a family day care service is not transported by the service or on transportation arranged by the service unless written authorisation has been given under subregulation (4).

Penalty for this subregulation: a fine of \$1000.

- (4) The authorisation must be given by a parent or other person named in the child's enrolment record as having authority to authorise the child being transported by the service or on transportation arranged by the service and must state —

- (a) the child's name; and
- (b) the reason the child is to be transported; and
- (c) if the authorisation is for regular transportation, a description of when the child is to be transported; and
- (d) if the authorisation is not for regular transportation, the date the child is to be transported; and
- (e) a description of the proposed pick-up location and destination; and
- (f) the means of transport; and
- (g) the period of time during which the child is to be transported; and
- (h) the anticipated number of children likely to be transported; and

- (i) the anticipated number of staff members and any other adults who will accompany and supervise the children during the transportation; and
 - (j) any requirements for seatbelts or safety restraints under a law of each jurisdiction in which the children are being transported; and
 - (k) that a risk assessment has been prepared and is available at the education and care service; and
 - (l) that written policies and procedures for transporting children are available at the education and care service.
- (5) If the transportation is regular transportation, the authorisation is only required to be obtained once in a 12 month period.

10. Regulation 126 amended

In regulation 126(1B) delete “Wales or South Australia.” and insert:

Wales.

11. Regulation 168 amended

After regulation 168(2)(g) insert:

- (ga) if the service transports or arranges transportation of children other than as part of excursions, transportation including procedures complying with Chapter 4 Part 4.2 Division 7;

R. NEILSON, Clerk of the Executive Council.
