

1. The Schedule to the *Education and Care Services National Law Act 2010* (Vic) sets out the Education and Care Services National Law.
For the current version of the National Law, use the following link:

<http://www.legislation.vic.gov.au/>

2. Regulations may be made under section 301 of the National Law. A link to the National Regulations are published on the NSW Legislation website, see the below link:

<https://www.legislation.nsw.gov.au/#/view/regulation/2011/653>

NORTHERN TERRITORY OF AUSTRALIA

EDUCATION AND CARE SERVICES (NATIONAL UNIFORM LEGISLATION) ACT 2011

As in force at 1 January 2022

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 January 2022

EDUCATION AND CARE SERVICES (NATIONAL UNIFORM LEGISLATION) ACT 2011

**An Act to provide for a national law to regulate education and care
services for children, and for related purposes**

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Education and Care Services (National Uniform Legislation) Act 2011*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Interpretation

(2) In this Act:

Education and Care Services National Law (NT) means the provisions applying in this jurisdiction because of section 4.

(3) Terms used in this Act and also in the Education and Care Services National Law set out in the Schedule to the *Education and Care Services National Law Act 2010* (Vic) have the same meanings in this Act as they have in that Law.

Part 2 Adoption of National Law

Division 1 Provisions for adoption of National Law

4 Adoption of Education and Care Services National Law

- (1) The Education and Care Services National Law, as in force from time to time, set out in the Schedule to the *Education and Care Services National Law Act 2010* (Vic):
 - (a) applies as a law of this jurisdiction; and
 - (b) as so applying may be referred to as the *Education and Care Services National Law (NT)*; and
 - (c) as so applying, is a part of this Act.
- (2) Section 303(4) of the Education and Care Services National Law set out in the Schedule to the *Education and Care Services National Law Act 2010* (Vic) does not apply as a law of this jurisdiction.

6 Disallowing national regulations and other matters

- (1) The purpose of this section is to provide for matters relevant to Part 14, Division 8 of the *Education and Care Services National Law (NT)*.
- (2) Section 63C of the *Interpretation Act 1978* is a law of this jurisdiction relevant to the disallowance of regulations of the Territory and applies to national regulations as if they were subordinate legislation.
- (3) If, as mentioned in section 303(3) of the *Education and Care Services National Law (NT)*, national regulations are disallowed by the Legislative Assembly, section 63C of the *Interpretation Act 1978* applies to the disallowance.
- (4) If a resolution as mentioned in section 63C(2) to (4) of the *Interpretation Act 1978* is expressed to take effect on a day after the day of the resolution, the resolution may be amended or revoked by the Legislative Assembly before it takes effect.
- (5) Regulations made under section 16 may provide for appropriate arrangements required because national regulations are disallowed as mentioned in subsection (3) or section 303(5) of the *Education and Care Services National Law (NT)*.

- (6) For section 303(1) of the *Education and Care Services National Law (NT)*, the Minister must table a copy of national regulations in the Legislative Assembly within 6 sitting days after the national regulations are made but a failure to do so does not affect the making of the national regulations.
- (7) To avoid doubt, it is declared that this section does not limit section 303(5) of the *Education and Care Services National Law (NT)*.
- (8) In this section:

national regulations includes a provision of the national regulations.

7 Exclusion of legislation of this jurisdiction

- (1) Each of the following do not apply to the *Education and Care Services National Law (NT)* or to instruments made under that Law:
 - (a) Parts 2 to 8 of the *Information Act 2002* (despite section 9 of that Act);
 - (b) an Act prescribed by regulation.
- (2) Each of the following do not apply to the *Education and Care Services National Law (NT)* or to instruments made under that Law, except to the extent that Law and those instruments apply to the Regulatory Authority and the employees, decisions, actions and records of the Regulatory Authority:
 - (a) the *Audit Act 1995*;
 - (b) the *Financial Management Act 1995*;
 - (c) the provisions of the *Information Act 2002* not mentioned in subsection (1)(a);
 - (d) the *Ombudsman Act 2009*;
 - (e) the *Procurement Act 1995*;
 - (f) the *Public Information Act 2010*;
 - (h) the *Public Sector Employment and Management Act 1993*;
 - (i) an Act prescribed by regulation.

(3) Even though the *Interpretation Act 1978* applies to this Act, it does not apply to the *Education and Care Services National Law (NT)* or to instruments made under that Law other than as provided for in section 6 or as prescribed by regulation for this subsection.

(4) To avoid doubt, this section does not affect the application of an Act to an education and care service.

(5) In this section:

employee, of the Regulatory Authority, includes a public sector employee employed in the Agency administering this Act.

Division 2 Provisions for interpretation of National Law as adopted

8 Meaning of generic terms

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

child protection law means the *Care and Protection of Children Act 2007*.

court, for section 203, means the Local Court.

de facto relationship, see section 3(1) of the *De Facto Relationships Act 1991*.

local authority means a local government council.

magistrate means a Local Court Judge.

public authority means any of the following:

- (a) an Agency;
- (b) the Police Force of the Northern Territory established under section 5(1) of the *Police Administration Act 1978*;
- (c) an office or body (whether incorporated or not) established for a public purpose by or under a law of the Territory;
- (d) any other entity established for a public purpose (including a non-government organisation) that is prescribed by regulation.

superior court means the Supreme Court.

this jurisdiction means the Territory.

9 Meaning of other terms

- (1) For the definition **education law** in section 5(1) of the *Education and Care Services National Law (NT)*, each of the following is an education law:
 - (a) the *Education Act 2015*;
 - (b) the *Teacher Registration (Northern Territory) Act 2004*.
- (2) For the definition **former education and care services law** in section 5(1) of the *Education and Care Services National Law (NT)*, each of the following, as in force immediately before the commencement of Part 3 of that Law, is a former education and care services law:
 - (a) Chapter 4 of the *Care and Protection of Children Act 2007*;
 - (b) the *Care and Protection of Children (Children's Services) Regulations 2009*;
 - (c) Part 7 of the *Education Act 2015*.
- (3) For the definition **infringements law** in section 5(1) of the *Education and Care Services National Law (NT)*, regulations made under this Act are an infringements law.
- (4) For the definition **public sector law** in section 5(1) of the *Education and Care Services National Law (NT)*, the *Public Sector Employment and Management Act 1993* is a public sector law.
- (5) For the definition **Regulatory Authority** in section 5(1) of the *Education and Care Services National Law (NT)*, the Chief Executive Officer is the Regulatory Authority for this jurisdiction.
- (6) For the definition **relevant tribunal or court** in section 5(1) of the *Education and Care Services National Law (NT)*, the Local Court is the relevant tribunal or court.
- (7) For the definition **working with children law** in section 5(1) of the *Education and Care Services National Law (NT)*, each of the following is a working with children law:
 - (a) Part 3.1 of the *Care and Protection of Children Act 2007*;
 - (b) the regulations made under Part 3.1 of the *Care and Protection of Children Act 2007*.

10 **References to State**

In sections 9 and 224(3) of the *Education and Care Services National Law (NT)*, a reference to the State is a reference to the Territory.

11 **References to Parliament, Legislature or House of Parliament**

In the *Education and Care Services National Law (NT)*, a reference to any of the following is a reference to the Legislative Assembly:

- (a) the Legislature of this jurisdiction;
- (b) the Parliament of this jurisdiction;
- (c) a House of the Parliament or each House of the Parliament of this jurisdiction.

12 **Meaning of terms used in transitional provisions**

(1) For the definition ***declared approved provider*** in section 305 of the *Education and Care Services National Law (NT)*, each of the following is a declared approved provider:

- (a) a person who holds a licence under Part 4.3 of the *Care and Protection of Children Act 2007*;
- (b) the Minister responsible for administering Part 2 of the *Education Act 2015*;
- (c) the governing body of a non-Government school that is registered under Part 7 of the *Education Act 2015* with a condition that authorises the school to provide a preschool program.

(2) For the definition ***declared approved service*** in section 305 of the *Education and Care Services National Law (NT)*, each of the following is a declared approved service:

- (a) a children's service mentioned in section 226(1)(b) of the *Care and Protection of Children Act 2007* that is an education and care service;
- (b) a preschool program delivered in the Territory.

- (3) For the definition **declared certified supervisor** in section 305 of the *Education and Care Services National Law (NT)*, each of the following is a declared certified supervisor:
- (a) a person who, under the *Care and Protection of Children (Children's Services) Regulations 2009*, is the nominee of a children's service mentioned in section 226(1)(b) of the *Care and Protection of Children Act 2007*;
 - (b) a person who, under the *Care and Protection of Children (Children's Services) Regulations 2009*, is the person in charge of a children's service mentioned in section 226(1)(b) of the *Care and Protection of Children Act 2007*.
- (4) For the definition **declared nominated supervisor** in section 305 of the *Education and Care Services National Law (NT)*, a person who, under the *Care and Protection of Children (Children's Services) Regulations 2009*, is the nominee of a children's service mentioned in section 226(1)(b) of the *Care and Protection of Children Act 2007*, is the declared nominated supervisor for the service.
- (5) For the definition **declared out of scope service** in section 305 of the *Education and Care Services National Law (NT)*, each education and care service operating in this jurisdiction that is not a declared approved service is a declared out of scope service.
- (6) For the definition **former approval** in section 305 of the *Education and Care Services National Law (NT)*, each of the following is a former approval:
- (a) a licence granted under Part 4.3 of the *Care and Protection of Children Act 2007* authorising the provision of a children's service mentioned in section 226(1)(b) of that Act;
 - (b) authority given to the Minister under section 6 of the *Education Act 2015* to establish and maintain a school delivering a preschool program;
 - (c) registration of a non-Government school under Part 7 of the *Education Act 2015* with a condition that authorises the school to provide a preschool program.

13 Holder of former approval

For sections 306, 307 and 312 of the *Education and Care Services National Law (NT)*, the governing body of a non-Government school is taken to hold the registration of the non-Government school under Part 7 of the *Education Act 2015*.

Part 3 Miscellaneous matters

14 Acquisition on just terms

If the operation of the *Education and Care Services National Law (NT)* would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

15 Penalty at end of provision

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

16 Regulations

The Administrator may make regulations under this Act.

16A Delegation

The Regulatory Authority may, in writing, delegate any of the Regulatory Authority's powers and functions under any regulations made under this Act to a person.

Part 4 Transitional matters

Division 1 Transitional matters for Education and Care Services (National Uniform Legislation) Act 2011

17 National regulations made before commencement

Regulations made by the Ministerial Council under section 301 of the *Education and Care Services National Law* set out in the Schedule to the *Education and Care Services National Law Act 2010 (Vic)* before this section commences have effect in this jurisdiction as if they were made under that section on the commencement of this section.

Division 2 Transitional matters for Education and Care Services (National Uniform Legislation) Amendment Act 2019

18 Definition

In this Division:

commencement means the commencement of section 5 of the *Education and Care Services (National Uniform Legislation) Amendment Act 2019*.

19 Continuation of the national law

The *Education and Care Services National Law (NT)* as in force after the commencement is taken to be a continuation of the *Education and Care Services National Law (NT)* as in force immediately before the commencement.

20 Continuation of the national regulations

The national regulations as in force under sections 301 and 324 of the *Education and Care Services National Law (NT)* after the commencement are taken to be a continuation of the national regulations as in force under the Appendix immediately before the commencement.

21 General transitional provision

Any statutory instrument made or other thing done under the Appendix or the national regulations before the commencement, or having effect as if made or done, and which could have been made or done under the *Education and Care Services National Law (NT)* or national regulations as in force after the commencement, has effect as if made or done under the *Education and Care Services National Law (NT)* or national regulations as in force after the commencement.

22 Meaning of terms used in transitional provisions for the Education and Care Services (National Uniform Legislation) (Act Amendment) Regulation 2017

- (1) For the definition **commencement day** in section 325 of the *Education and Care Services National Law (NT)* the date of commencement is taken to be 1 October 2017.
- (2) For the definition **commencement day** in section 332 of the *Education and Care Services National Law (NT)* the date of commencement is taken to be 1 February 2018.

ENDNOTES
1**KEY**

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced

od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2**LIST OF LEGISLATION*****Education and Care Services (National Uniform Legislation) Act 2011 (Act No. 46, 2011)***

Assent date 21 December 2011
 Commenced Appendix ss 70(d), 152, 153(2) to (4) and 154 to 159, pt 5, div 6, ss 172(d), 266 to 268 and 270(1)(d), (2), (3) and (4): 27 March 2013 (*Gaz* G13, 27 March 2013, p 3); rem: 1 January 2012 (*Gaz* S76, 23 December 2011)

Local Government Amendment Act 2014 (Act No. 19, 2014)

Assent date 2 June 2014
 Commenced s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014, (s 2)

Local Court (Related Amendments) Act 2016 (Act No. 8, 2016)

Assent date 6 April 2016
 Commenced 1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

Education and Care Services (National Uniform Legislation) (Act Amendment) Regulations 2017 (No. 27, 2017)

Notification date 31 August 2017
 Commenced rr 28, 29 and 72: 1 February 2018; rem: 1 October 2017 (r 3)

Independent Commissioner Against Corruption (Consequential and Related Amendment) Act 2018 (Act No. 3, 2018)

Assent date 21 February 2018
 Commenced 30 November 2018 (s 2, s 2 *Independent Commissioner Against Corruption Act 2017* (Act No. 23, 2017) and *Gaz* S94, 30 November 2018)

Education and Care Services (National Uniform Legislation) Amendment Act 2019 (Act No. 28, 2019)

Assent date 3 September 2019
 Commenced 18 December 2019 (*Gaz G51*, 18 December 2019, p 2)

Interpretation Amendment Act 2021 (Act No. 28, 2021)

Assent date 15 December 2021
 Commenced 1 January 2022 (s 2)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 6, 7, 8, 9, 12 and 13.

4 LIST OF AMENDMENTS

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s 5	rep No. 28, 2019, s 6
s 6	amd No. 28, 2021, s 20
s 7	amd No. 3, 2018, s 107; No. 28, 2019, s 7
s 8	amd No. 19, 2014, s 26; No. 8, 2016, s 45
s 9	amd No. 28, 2019, s 8
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s 52	amd SL No. 27, 2017, r 15 rep No. 28, 2019, s 12
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s 54	amd SL No. 27, 2017, r 16 rep No. 28, 2019, s 12
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div 2 hdg	rep No. 28, 2019, s 12
s 192	amd SL No. 27, 2017, r 54 rep No. 28, 2019, s 12
s 193	rep No. 28, 2019, s 12

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pt 8	
div 3 hdg	rep No. 28, 2019, s 12
s 194	amd SL No. 27, 2017, r 55
	rep No. 28, 2019, s 12
pt 9 hdg	rep No. 28, 2019, s 12
pt 9	
div 1 hdg	rep No. 28, 2019, s 12
ss 195 – 196	rep No. 28, 2019, s 12
pt 9	
div 2 hdg	rep No. 28, 2019, s 12
ss 197 – 199	rep No. 28, 2019, s 12
s 200	amd SL No. 27, 2017, r 56
	rep No. 28, 2019, s 12
s 200A	ins SL No. 27, 2017, r 57
	rep No. 28, 2019, s 12
s 201	amd SL No. 27, 2017, r 58
	rep No. 28, 2019, s 12
s 202	amd SL No. 27, 2017, r 59
	rep No. 28, 2019, s 12
s 203	rep No. 28, 2019, s 12
pt 9	
div 3 hdg	rep No. 28, 2019, s 12
ss 204 – 205	rep No. 28, 2019, s 12
s 206	amd SL No. 27, 2017, r 60
	rep No. 28, 2019, s 12
pt 9	
div 4 hdg	rep No. 28, 2019, s 12
ss 207 – 213	rep No. 28, 2019, s 12
pt 9	
div 5 hdg	rep No. 28, 2019, s 12
ss 214 – 219	rep No. 28, 2019, s 12
pt 10 hdg	rep No. 28, 2019, s 12
ss 220 – 223	rep No. 28, 2019, s 12
pt 11 hdg	rep No. 28, 2019, s 12
pt 11	
div 1 hdg	rep No. 28, 2019, s 12
s 224	rep No. 28, 2019, s 12
s 225	amd SL No. 27, 2017, r 61
	rep No. 28, 2019, s 12
ss 226 – 229	rep No. 28, 2019, s 12
pt 11	
div 2 hdg	rep No. 28, 2019, s 12
pt 11	
div 2	
subdiv 1 hdg	rep No. 28, 2019, s 12
ss 230 – 232	rep No. 28, 2019, s 12
pt 11	
div 2	
subdiv 2 hdg	rep No. 28, 2019, s 12
ss 233 – 238	rep No. 28, 2019, s 12
pt 11	
div 2	
subdiv 3 hdg	rep No. 28, 2019, s 12
ss 239 – 247	rep No. 28, 2019, s 12
pt 11	
div 2	
subdiv 4 hdg	rep No. 28, 2019, s 12
s 248	rep No. 28, 2019, s 12

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s 249	amd SL No. 27, 2017, r 62 rep No. 28, 2019, s 12
ss 250 – 256	rep No. 28, 2019, s 12
pt 11	
div 2	
subdiv 5 hdg	rep No. 28, 2019, s 12
ss 257 – 259	rep No. 28, 2019, s 12
pt 12 hdg	rep No. 28, 2019, s 12
s 260	rep No. 28, 2019, s 12
s 261	amd SL No. 27, 2017, r 63 rep No. 28, 2019, s 12
s 262	rep No. 28, 2019, s 12
pt 13 hdg	rep No. 28, 2019, s 12
pt 13	
div 1 hdg	rep No. 28, 2019, s 12
s 263	rep No. 28, 2019, s 12
pt 13	
div 2 hdg	rep No. 28, 2019, s 12
s 264	rep No. 28, 2019, s 12
pt 13	
div 3 hdg	rep No. 28, 2019, s 12
s 265	rep No. 28, 2019, s 12
pt 13	
div 4 hdg	rep No. 28, 2019, s 12
ss 266 – 267	rep No. 28, 2019, s 12
s 268	rep SL No. 27, 2017, r 64
s 269	sub SL No. 27, 2017, r 64 rep No. 28, 2019, s 12
pt 13	
div 5 hdg	rep No. 28, 2019, s 12
s 270	amd SL No. 27, 2017, r 65 rep No. 28, 2019, s 12
pt 13	
div 6 hdg	rep No. 28, 2019, s 12
ss 271 – 272	sub SL No. 27, 2017, r 66 rep No. 28, 2019, s 12
s 273	rep No. 28, 2019, s 12
pt 14 hdg	rep No. 28, 2019, s 12
pt 14	
div 1 hdg	rep No. 28, 2019, s 12
ss 274 – 278	rep No. 28, 2019, s 12
pt 14	
div 2 hdg	rep No. 28, 2019, s 12
ss 279 – 281	rep No. 28, 2019, s 12
pt 14	
div 3 hdg	rep No. 28, 2019, s 12
s 282	rep No. 28, 2019, s 12
pt 14	
div 4 hdg	rep No. 28, 2019, s 12
s 283	rep No. 28, 2019, s 12
s 284	amd SL No. 27, 2017, r 67 rep No. 28, 2019, s 12
ss 285 – 290	rep No. 28, 2019, s 12
s 291	amd SL No. 27, 2017, r 68 rep No. 28, 2019, s 12
s 292	amd SL No. 27, 2017, r 69 rep No. 28, 2019, s 12

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div 5 hdg	rep No. 28, 2019, s 12
ss 293 – 294	rep No. 28, 2019, s 12
pt 14	
div 6 hdg	rep No. 28, 2019, s 12
s 295	rep No. 28, 2019, s 12
pt 14	
div 7 hdg	rep No. 28, 2019, s 12
ss 296 – 300	rep No. 28, 2019, s 12
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div 8 hdg	rep No. 28, 2019, s 12
s 301	amd SL No. 27, 2017, r 70
	rep No. 28, 2019, s 12
ss 302 – 304	rep No. 28, 2019, s 12
pt 15 hdg	rep No. 28, 2019, s 12
pt 15	
div 1 hdg	rep No. 28, 2019, s 12
s 305	rep No. 28, 2019, s 12
pt 15	
div 2 hdg	rep No. 28, 2019, s 12
ss 306 – 318	rep No. 28, 2019, s 12
pt 15	
div 3 hdg	rep No. 28, 2019, s 12
ss 319 – 321	rep No. 28, 2019, s 12
pt 15	
div 4 hdg	rep No. 28, 2019, s 12
ss 322 – 324	rep No. 28, 2019, s 12
pt 15	
div 5 hdg	ins SL No. 27, 2017, r 71
	rep No. 28, 2019, s 12
ss 325 – 331	ins SL No. 27, 2017, r 71
	rep No. 28, 2019, s 12
pt 15	
div 6 hdg	ins SL No. 27, 2017, r 72
	rep No. 28, 2019, s 12
ss 332 – 335	ins SL No. 27, 2017, r 72
	rep No. 28, 2019, s 12
sch 1 – 2	rep No. 28, 2019, s 12