

CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION) AMENDMENT  
BILL 2025

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Schedule of amendments referred to in the Legislative Council's message of 21 October 2025.

No. 1 **GOVT No. 1 [c2025-217I]**

Page 2, clause 2, line 6. Omit all words on the line. Insert instead—

This Act commences as follows—

- (a) for Schedule 1[4], [5], to the extent it inserts Schedule 1[1A], [1B], to the extent it inserts the definitions of *disciplinary agreement*, *disciplinary notice*, *disciplinary order*, *disciplinary proceedings*, *supervision notice* and *suspension notice*, [1C], [1G] and [1ZF], [7], to the extent it inserts Schedule 1[4O], [4PA] and [4W]–[4Y], [8], to the extent it inserts Schedule 1[10], [11], [19], [35], [41], [43] and [44], to the extent it inserts section 300E, and [9], to the extent it inserts Schedule 1A, Schedule 1[10], [16]–[23], [25], [26] and [31]—on a day or days to be appointed by proclamation,
- (b) otherwise—on the date of assent to this Act.

No. 2 **OPP No. 1 [c2025-213B]**

Page 3, Schedule 1. Insert after line 34—

**[4A] Section 21**

Omit the section. Insert instead—

**21 Review of amendments made by amendment Act**

- (1) The NSW Minister must review the amendments made by the amendment Act to determine whether—
  - (a) the policy objectives of the amendments remain valid, and
  - (b) the terms of the amendments remain appropriate for achieving the objectives.
- (2) The review must be undertaken as soon as practicable after the period of 12 months from the date of assent to the amendment Act.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 2 years after the date of assent to the amendment Act.
- (4) In this section—

*amendment Act* means the *Children (Education and Care Services National Law Application) Amendment Act 2025*.

No. 3 **GRNS No. 1 [c2025-216E]**

Page 4, Schedule 1[5], proposed Schedule 1[1], proposed section 3A. Insert after line 2—

- (2) Without limiting subsection (1), the protection of the rights and bests interests of each child and the children attending education and care services prevails over—
  - (a) the financial interests of approved providers; and
  - (b) other fiduciary duties owed by persons with management or control of education and care services.

No. 4 **GRNS No. 2 [c2025-216E]**

Page 4, Schedule 1[5], proposed Schedule 1[1A], lines 4 and 5. Omit all words on the lines. Insert instead—

**[1AA] Section 4 How functions to be exercised**

Omit “section 3”. Insert instead “sections 3 and 3A”.

**[1A] Section 4(2)–(4)**

Insert at the end of section 4—

No. 5 **GOVT No. 2 [c2025-217I]**

Page 6, Schedule 1[5], proposed Schedule 1[1E], line 32. Omit “**5B**”. Insert instead “**5C**”.

No. 6 **GRNS No. 4 [c2025-216E]**

Page 7, Schedule 1[5], proposed Schedule 1[1F], lines 2–17. Omit all words on the lines. Insert instead—

- (b) a person who has, in the previous 12 months, received a notice under section 16 that the Regulatory Authority has refused to grant the person a provider approval, unless the Regulatory Authority has notified the person that the person may apply for a provider approval within 12 months after receiving the notice;
- (c) a person who has, in the previous 12 months, received a notice under section 50 that the Regulatory Authority has refused to grant the person a service approval, unless the Regulatory Authority has notified the person that the person may apply for a provider approval within 12 months after receiving the notice.

No. 7 **GRNS No. 6 [c2025-216E]**

Page 8, Schedule 1[5]. Insert after line 15—

**[1HA] Section 19(5)**

Insert after section 19(4)—

- (5) In this section—

*related entity* includes a related entity within the meaning of the *Corporations Act 2001* of the Commonwealth.

**Note**— This subsection is an additional NSW provision.

No. 8 **GRNS No. 7 [c2025-216E]**

Page 9, Schedule 1[5], proposed Schedule 1[1L], lines 5–20. Omit all words on the lines. Insert instead—

- (a) a person who has, in the previous 12 months, received a notice under section 16 that the Regulatory Authority has refused to grant the person a provider approval, unless the Regulatory Authority has notified the person that the person may apply for a service approval within 12 months after receiving the notice;
- (b) a person who has, in the previous 12 months, received a notice under section 50 that the Regulatory Authority has refused to grant the person a service approval, unless the Regulatory Authority has notified the person that the person may apply for a service approval within 12 months after receiving the notice.

No. 9 **GRNS No. 8 [c2025-216E]**

Page 10, Schedule 1[5]. Insert after line 12—

**[1RA] Section 90 Matters to be considered**

Insert after section 90(a)—

- (a1) whether special circumstances disclosed in the application reasonably justify the grant of the service waiver; and

**Note**— This paragraph is an additional NSW provision.

**[1RB] Section 91 Decision on application**

Omit section 91(4). Insert instead—

- (4) If a service waiver is granted, the service waiver is subject to the following conditions—
- (a) that the approved education and care service provider must disclose the fact that the service waiver is in force to the families of children to whom education and care is provided by the service;
  - (b) any other conditions placed on the service waiver by the Regulatory Authority, including any condition limiting the use of the service waiver.

**Note—** This subsection is a substituted NSW provision.

**No. 10 GRNS No. 9 [c2025-216E]**

Page 11, Schedule 1[5], proposed Schedule 1[ZA], proposed section 138A(2), line 24. Insert “, if the Regulatory Authority is satisfied it is in the public interest,” after “may”.

**No. 11 GOVT No. 3 [c2025-217I]**

Pages 16 and 17, Schedule 1[5], proposed Schedule 1[1ZZC], line 24 on page 16 to line 5 on page 17. Omit all words on the lines.

**No. 12 GRNS No. 13 [c2025-216E]**

Page 18, Schedule 1[7], proposed Schedule 1[4D], lines 12–14. Omit all words on the lines. Insert instead—

and care service provided by the approved provider is—

- (a) displayed, in the form approved by the Regulatory Authority, at the education and care services premises in accordance with the NSW regulations; and
- (b) published in the way prescribed by the NSW regulations or decided by the Regulatory Authority.

**No. 13 GRNS No. 14 [c2025-216E]**

Page 19, Schedule 1[7], proposed Schedule 1[4J], proposed section 174AA(1), line 16. Omit “24 hours”. Insert instead “the relevant period”.

**No. 14 GRNS No. 15 [c2025-216E]**

Page 19, Schedule 1[7], proposed Schedule 1[4J], proposed section 174AA(2), line 38. Omit “section 25A.”. Insert instead—

section 25A;

*relevant period*, in relation to an event, means the earlier of the following—

- (a) 72 hours after the event happens;
- (b) 24 hours after becoming aware of the event happening.

**No. 15 GRNS No. 16 [c2025-216E]**

Page 20, Schedule 1[7], proposed Schedule 1[4J], proposed section 174AB. Insert after line 6—

- (3) The Regulatory Authority must, within 24 hours after receiving a written notice under subsection (2) about an event, notify the Children’s Guardian of the event.

**No. 16 GRNS No. 17 [c2025-216E]**

Page 21, Schedule 1[7], proposed Schedule 1[4O], proposed section 178. Insert after line 39—

- (4A) If the Regulatory Authority gives a direction under subsection (4), the Regulatory Authority must, within 24 hours after giving the direction, notify the Children’s Guardian that the direction has been given.

**No. 17 GRNS No. 18 [c2025-216E]**

Page 22, Schedule 1[7], proposed Schedule 1[4O], proposed section 178A. Insert after line 39—

- (4A) If the Regulatory Authority gives a direction under subsection (4), the Regulatory Authority must, within 24 hours after giving the direction, notify the Children's Guardian that the direction has been given.

No. 18 **GOVT No. 4 [c2025-217I]**

Page 23, Schedule 1[7]. Insert after line 11—

**[4PA] Section 186A**

Insert after section 186—

**186A Review of decisions about prohibition notices [NSW]**

- (1) This section applies if the Regulatory Authority makes either of the following decisions (each a *prohibition notice decision*)—
  - (a) a decision to issue a prohibition notice to an educator,
  - (b) a decision to refuse to grant an application by an educator for the cancellation of a prohibition notice in force for the educator.
- (2) The educator may, within 30 days after being notified of the prohibition notice decision, apply to the independent arbiter appointed under Division 3C for a review of the decision.
- (3) Despite subsection (2), an educator cannot apply for, and the independent arbiter cannot accept an application for, a review of a prohibition notice decision if the Regulatory Authority has notified the educator and independent arbiter that—
  - (a) the educator is subject to allegations of conduct in New South Wales or another State or Territory that, if proven, would constitute a criminal offence against a child, and
  - (b) the Regulatory Authority considers there may be an unacceptable risk of harm to a child or children if the educator were allowed to—
    - (i) remain on education and care services premises, or
    - (ii) provide education and care to children.
- (4) After reviewing the prohibition notice decision, the independent arbiter may—
  - (a) confirm the prohibition notice decision, or
  - (b) amend the prohibition notice decision, or
  - (c) substitute the prohibition notice decision with another decision that—
    - (i) revokes the decision of the Regulatory Authority to issue the prohibition notice, or
    - (ii) revokes the decision of the Regulatory Authority to refuse to grant the application for cancellation of the prohibition order and directs the Regulatory Authority to cancel the prohibition notice, or
    - (iii) remits the matter to the Regulatory Authority for fresh consideration.
- (5) An application for review of a prohibition notice decision does not stay the operation of the decision.

**Note—** This section is an additional NSW provision.

No. 19 **GRNS No. 19 [c2025-216E]**

Page 25, Schedule 1[7], proposed Schedule 1[4W], proposed section 188E. Insert after line 26—

- (2) If the independent arbiter makes a disciplinary order in relation to an individual, the Regulatory Authority must, within 24 hours after the disciplinary order is made, notify the Children's Guardian that the disciplinary order has been made.

No. 20 **GOVT No. 5 [c2025-217I]**

Page 26, Schedule 1[7], proposed Schedule 1[4W], section 188L. Insert after line 34—

- (3) The independent arbiter has the functions conferred or imposed on the independent arbiter by—
  - (a) a NSW provision, or
  - (b) the NSW Minister.

No. 21 **GOVT No. 6 [c2025-217I]**

Page 27, Schedule 1[7], proposed Schedule 1[4ZB], line 32. Omit “(iv)”. Insert instead “(vi)”.

No. 22 **GOVT No. 7 [c2025-217I]**

Page 27, Schedule 1[7], proposed Schedule 1[4ZB], line 33. Omit “(iv)”. Insert instead “(vi)”.

No. 23 **GOVT No. 8 [c2025-217I]**

Page 27, Schedule 1[7], proposed Schedule 1[4ZB], line 34. Omit “(iv)”. Insert instead “(vi)”.

No. 24 **GRNS No. 24 [c2025-216E]**

Page 32, Schedule 1[8], proposed Schedule 1[21], proposed section 261A(6), lines 38–40. Omit all words on the lines. Insert instead—

*relevant persons* means the following persons—

- (a) persons involved in the provision of an approved education and care service within the meaning of section 182(2);
- (b) recruitment agencies or labour hire agencies, or employees of recruitment agencies or labour hire agencies, that supply educators to education and care services.

No. 25 **GOVT No. 9 [c2025-217I]**

Page 34, Schedule 1[8], proposed Schedule 1[26], line 14. Omit “orders;”. Insert instead “notices;”.

No. 26 **GRNS No. 26 [c2025-216E]**

Page 34, Schedule 1[8], proposed Schedule 1[26]. Insert after line 42—

- (7) The Regulatory Authority must not publish the name of an educator being investigated during the period of the investigation unless the Regulatory Authority is satisfied publishing the name is in the public interest.

**Note**— This subsection is an additional NSW provision.

No. 27 **GOVT No. 10 [c2025-217I]**

Page 35, Schedule 1[8], proposed Schedule 1[30], line 39. Omit “order.”. Insert instead “notices.”.

No. 28 **OPP No. 2 [c2025-213B]**

Page 36, Schedule 1[8], proposed Schedule 1[35], proposed section 278A(3), line 38. Omit “The”. Insert instead “Subject to subsection (4), the”.

No. 29 **OPP No. 3 [c2025-213B]**

Page 36, Schedule 1[8], proposed Schedule 1[35], proposed section 278A. Insert after line 42—

- (4) Money received by the Regulatory Authority and paid into the Fund in relation to monetary penalties may only be paid out of the Fund to invest in support of, and improvements within, the early childhood education and care services sector in New South Wales.

No. 30 **GRNS No. 27 [c2025-216E]**

Page 39, Schedule 1[8], proposed Schedule 1[43]. Insert after line 29—

**295B Incentive schemes [NSW]**

If requested by the Regulatory Authority for the purposes of ensuring compliance with section 3A, a large child care provider must provide copies of the following to the Regulatory Authority—

- (a) any employee performance incentive scheme provided by the large child care provider;
- (b) any management or executive incentive scheme provided by the large child care provider.

Penalty—\$258,300.

**Note**— This section is an additional NSW provision.

**No. 31 GRNS No. 28 [c2025-216E]**

Page 45, Schedule 1[8], proposed Schedule 1[47], proposed section 301A(2), lines 7–14. Omit all words on the lines. Insert instead—

- (2) Without limiting subsection (1), regulations made under this section may provide for matters relating to the following—
  - (a) penalties for offences against the regulations, including providing for the modification of penalties for offences against the national regulations;
  - (b) training that must be completed by educators and other members of staff of education and care services;
  - (c) best practice for early childhood education;
  - (d) guidance about standards for ensuring approved providers provide services that are fit for purpose;
  - (e) disciplinary proceedings.

**No. 32 GRNS No. 29 [c2025-216E]**

Page 50, Schedule 1[9], proposed Schedule 1A, proposed Schedule 1[25], lines 4–19. Omit all words on the lines. Insert instead—

Omit regulation 168(2)(h). Insert instead—

- (h) providing a child safe environment, including matters relating to the promotion of a culture of child safety and wellbeing within the service, by having policy and procedures that provide for the following—
  - (i) a commitment that for an action or decision that concerns a particular child, the safety, welfare and wellbeing of the child is paramount;
  - (ii) ensuring requirements for child protection training under the Law, generally, including under section 162A, are met;
  - (iii) a register for child protection concerns;
  - (iv) the reporting decision tree, including the requirement to keep the reporting decision tree in a place accessible by all staff;
  - (v) child protection risk assessments;
  - (vi) day-to-day use of the attendance record required under regulation 158 and other practices to ensure children are accounted for throughout the day;

**No. 33 GRNS No. 30 [c2025-216E]**

Page 51, Schedule 1[9], proposed Schedule 1A, proposed Schedule 1[29], line 2. Omit all words on the line. Insert instead—

Omit the regulation. Insert instead—

**227 Compliance and enforcement information**

For the Law, section 270(6)(a)(iv), the information is the following—

- (a) the details of the person in relation to whom the enforcement action was taken, including the following—
  - (i) the name and provider approval number of the approved provider;
  - (ii) for a centre-based service—
    - (A) the address of the service; and
    - (B) the name by which the service is known;
  - (iii) for a family day care service—

- (A) the address of the service, unless the address is also the home address of a family day care educator; and
  - (B) the service approval number; and
  - (C) the name by which the service is known;
- (iv) for an individual—the name of the individual;
- (b) details of the enforcement action taken, including the following—
  - (i) for a prosecution leading to a conviction or finding of guilt or a plea of guilt—
    - (A) the provision of the Law or these Regulations that the person was convicted or found guilty of, or pleaded guilty to, breaching; and
    - (B) the date of the conviction, finding of guilt or the making of the plea of guilt for the offence; and
    - (C) any penalty imposed for the offence; and
    - (D) information about any steps taken to remedy the subject of the prosecution and the date the steps were taken;
  - (ii) for an enforceable undertaking—
    - (A) the terms of the enforceable undertaking; and
    - (B) the date of the enforceable undertaking; and
    - (C) information about any steps taken to remedy the subject of the enforceable undertaking and the date the steps were taken;
  - (iii) for a compliance notice—
    - (A) the steps specified in the compliance notice that the person must take to comply with the provision of the Law or these Regulations; and
    - (B) the date specified in the notice by which the steps must be taken; and
    - (C) information about any steps taken to remedy the subject of the compliance notice and the date the steps were taken;
  - (iv) for the amendment of a provider approval or service approval—
    - (A) the details of the amendment; and
    - (B) the date on which the amendment took effect;
  - (v) for a suspension of a provider approval or service approval—
    - (A) the date on which the suspension took effect; and
    - (B) the date on which the suspension ends;
  - (vi) for a cancellation of a provider approval or service approval, the date on which the cancellation took effect.

**Note—** This section is a substituted NSW provision.