

BACKGROUND INFORMATION FOR THE PUBLIC POLICY

SCRUTINY COMMITTEE

Education and Care Services (National Uniform Legislation)

Amendment Bill 2019

What is the National Quality Framework?

In December 2009, the Council of Australian Governments agreed to establish the National Quality Framework (NQF) for early childhood education and care services and outside school hours care services.

The NQF commenced on 1 January 2012 with the establishment of the Education and Care Services National Law (National Law) and the Education and Care Services National Regulations (National Regulations). Victoria is the host Jurisdiction for the National Law and New South Wales hosts the publication of the National Regulations.

The NQF is made up of the following key components:

- the National Law and National Regulations, providing the legal platform for the NQF;
- the National Quality Standard, against which services are quality rated; and
- approved learning frameworks that guide educational programming and focus on the developmental needs, interests and experiences of each child.

The NQF is a direct response to international research that shows quality early childhood education and care leads to better health, education and employment outcomes in life.

Since the introduction of the NQF the quality of service across Australia has progressively improved, providing numerous benefits for children and families.

NQF Reviews

The 2014 NQF Review included two significant phases of consultation with the sector and community:

1. consultation to identify current issues related to administering the NQF; and
2. consultation on the Regulatory Impact Statement on proposed options to address identified issues.

The review was supported by open and transparent national communications facilitated by the Australian Children's Education and Care Quality Authority and Regulatory Authorities in each jurisdiction.

Following the 2014 review, there was a commitment by all government to review the NQF every five years to ensure the objectives of the NQF are being met and to consider possible improvements to the system.

The 2019 NQF review is currently underway and the same review process will be applied.

How are amendments to the National Law approved?

Since the introduction of the National Law and the National Regulations a national framework for approving amendments to the National Law has been established.

The Department of Education is an active participant in the Australian Education Senior Officials Committee, the national Early Childhood Policy Group and related working groups. These groups oversee national policy reforms in early childhood education and care and endorse regulatory amendments to the National Law and National Regulations through a process of unanimous agreement.

Upon approval of national amendments by the Council of Australian Governments Education Council, the Bill is progress by Victoria (as the host jurisdiction) through its legislative processes. Each state or territory then has its own mechanism for adopting the law in their respective jurisdictions. For noting, there are only two other jurisdictions, South Australia and Western Australia, who do not currently automatically adopt amendments to the National Law

A detailed flowchart of this process is provided in Appendix A to this document.

Appendix A: Education and Care Services National Law amendment process

	National level	Jurisdictional level (as applied in the NT)
Consultation Regulatory Impact Statement	<p>Effects of proposed policy positions evaluated by the Early Childhood Policy Group (ECPG) Legislative Working Group¹ and Early Childhood Subgroups² to develop the Regulatory Impact Statement.</p> <p>Commonwealth Government Office of Best Practice Regulation review of all recommendations and decisions to confirm potential risks to families and the sector have been identified.</p>	<p>Consultation undertaken with community, industry and government facilitated by:</p> <ul style="list-style-type: none"> • face to face feedback sessions • online platform for comments and survey participation • discussions with state and territory government departments regarding policy decisions/recommendations that may affect their portfolio (i.e. <i>Department Attorney-General and Justice regarding penalties</i>).
Decision Regulatory Impact Statement	<p>The Decision Regulatory Impact Statement prepared by Education Services Australia as the legal entity for the Education Council in consultation with the ECPG Legislative Working Group and Early Childhood Subgroups.</p> <p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ ECPG³ ➢ Australian Education Senior Officials Committee (AESOC)⁴ <p>Approved by:</p> <ul style="list-style-type: none"> ➢ Council of Australian Governments (COAG) Education Council⁵ 	<p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ Department of Education senior executive representation at ECPG ➢ Department of Education Chief Executive representation at AESOC ➢ Northern Territory Cabinet informed of proposed policy reform and impact. <p>Approved by:</p> <ul style="list-style-type: none"> ➢ NT Minister for Education representation at Education Council.
Drafting Instructions	<p>Drafting Instructions prepared in consultation with the ECPG Legislative Working Group.</p> <p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ ECPG ➢ AESOC <p>Approved by:</p> <ul style="list-style-type: none"> ➢ COAG Education Council 	<p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ Department of Education senior executive representation at ECPG ➢ Department of Education Chief Executive representation at AESOC. <p>Approved by:</p> <ul style="list-style-type: none"> ➢ NT Minister for Education representation at Education Council.
Draft Bill	<p>Draft Bill prepared in consultation with the ECPG Legislative Working Group.</p> <p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ ECPG ➢ AESOC <p>Approved by:</p> <ul style="list-style-type: none"> ➢ COAG Education Council 	<p>Endorsed by:</p> <ul style="list-style-type: none"> ➢ Department of Education senior executive representation at ECPG ➢ Department of Education Chief Executive representation at AESOC. <p>Noted by:</p> <ul style="list-style-type: none"> ➢ NT Cabinet <p>Approved by:</p> <ul style="list-style-type: none"> ➢ NT Minister for Education representation at Education Council.
Jurisdictional Legislative Processes	<p>The Bill is progressed through Victorian Parliamentary system (host jurisdiction):</p> <ul style="list-style-type: none"> ➢ Introduction of Bill into Victorian Parliament ➢ Passage of Bill through Victorian Parliament <p>National Law is amended and enacted by Victoria (not necessarily in force).</p>	<p>Once the Bill has been enacted in Victoria, each jurisdiction adopts the amended National Law in line with their own legislative process.</p>

The current process in the Northern Territory, in accordance with section 5 of the *Education and Care Services (National Uniform Legislation) Act* (NT), requires that nationally approved amendments to *Education and Care Services National Law* be applied in the NT by regulation. This process involves:

- preparing a Preliminary Regulatory Impact Statement
- ministerial approval to draft regulations to amend the NT's law
- preparing drafting instructions
- Cabinet approval to amend the NT law
- drafting regulations to amend the NT law
- Executive Council endorsement to amend the NT law
- Administrator approval.

¹ ECPG Legislative Working Group is a working group established by the Early Childhood Working Group with representation from each jurisdiction.

² Early Childhood Subgroups include; Regulatory Practice Committee, Children's Health, Safety and Wellbeing Working Group, Lead Assessors Network and Communications working Group consisting of representatives from each state and territory.

³ ECPG consists of Department of Education senior executives from each state and territory

⁴ AESOC consists of Department of Education chief executives from each state and territory

⁵ COAG Education Council consists of education ministers from each state and territory and the Commonwealth Government Minister for Education.