

2026

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ELEVENTH ASSEMBLY

**EDUCATION AND CARE SERVICES NATIONAL AMENDMENT REGULATIONS
2026 (NSW)**

AS ADOPTED BY THE

EDUCATION AND CARE SERVICES NATIONAL LAW (ACT) ACT 2011

**Presented by
YVETTE BERRY MLA
MINISTER FOR EDUCATION AND EARLY CHILDHOOD
MARCH 2026**

Education and Care Services National Amendment Regulations 2026

under the

Education and Care Services National Law

The Education Ministers Meeting has made the following regulations under sections 301 and 324 of the Education and Care Services National Law as applied by the law of the States and Territories.

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Director, Intergovernmental Team
National Reform Division
Australian Government Department of Education

23 February 2026

Education and Care Services National Amendment Regulations 2026

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1 Name of regulations

These Regulations may be cited as the *Education and Care Services National Amendment Regulations 2026*.

2 Commencement

These Regulations commence on 27 February 2026.

Schedule 1 Amendment of Education and Care Services National Regulations

[1] Regulation 4 Definitions

Omit the definition of *working with vulnerable people registration*. Insert instead—

working with vulnerable people registration means—

- (a) in relation to the Australian Capital Territory—a registration issued to a person under the *Working with Vulnerable People (Background Checking) Act 2011* of the Australian Capital Territory allowing the person to be engaged in an education and care service; or
- (b) in relation to Tasmania—a registration issued to a person under the *Registration to Work With Vulnerable People Act 2013* of Tasmania allowing the person to be engaged in childcare services.

[2] Chapter 4 Operational requirements

Insert “child safety training and child protection training requirements,” after “qualification requirements,” in Guide to Chapter 4, matter relating to Part 4.4.

[3] Regulation 84 Awareness of child protection law

Omit “who works with children” from regulation 84(1).

Insert instead “, whether or not the person works with children,”.

[4] Regulation 84(2)

Omit the following—

service;

- (d) a student who participates in the service.

Insert instead—

service.

[5] Part 4.4, Division 4A

Insert after Part 4.4, Division 4—

Division 4A Child protection training

128A Application of Division 4A

This Division prescribes the child protection training that an approved provider of an education and care service must ensure the persons specified in section 162A of the Law complete for the purposes of that section.

128B Child protection training

- (1) The child protection training is the child protection training for the relevant jurisdiction published on the National Authority website.
- (2) An approved provider must ensure that a person specified in section 162A of the Law completes the relevant training under subregulation (1) in accordance with the requirements published for the jurisdiction on the National Authority website.
- (3) For the purposes of section 162A of the Law, an approved provider must ensure a person completes the training before the earlier of the following—

- (a) 14 days after the person is employed, engaged or appointed at the service,
- (b) the person commences working directly with children at the service.

Division 4B Child safety training

128C Application of Division 4B

This Division prescribes the child safety training that an approved provider of an education and care service must ensure the persons specified in section 162B of the Law complete for the purposes of that section.

128D Foundation child safety training

- (1) The foundation child safety training is the training for the relevant jurisdiction published on the National Authority website.
- (2) An approved provider must ensure that each person specified in section 162B of the Law completes the relevant foundation child safety training under subregulation (1).
- (3) An approved provider must ensure that each person specified in section 162B of the Law completes the relevant foundation child safety training every 2 years.
- (4) For the purposes of section 162B of the Law, an approved provider must ensure a person completes the training before the earlier of the following—
 - (a) 14 days after the person is employed, engaged or appointed at the service,
 - (b) the person commences working directly with children at the service.

128E Advanced child safety training

- (1) The advanced child safety training is the training for the relevant jurisdiction published on the National Authority website.
- (2) An approved provider must ensure that each of the following persons specified in section 162B of the Law completes the relevant advanced child safety training under subregulation (1)—
 - (a) a person with management and control of the service;
 - (b) a nominated supervisor of the service;
 - (c) a person in day-to-day charge of the service;
 - (d) a staff member of the service if the staff member works directly with children.
- (3) An approved provider must ensure that each person specified in subregulation (2) completes the relevant advanced child safety training every 2 years.
- (4) For the purposes of section 162B of the Law, an approved provider must ensure a person specified in subregulation (2) completes the training within 3 months of the person being employed, engaged or appointed at the service.

[6] Regulation 146 Nominated supervisor

Insert after regulation 146(c)—

- (ca) for child protection training the nominated supervisor is required to complete in accordance with regulation 128B—

- (i) evidence the nominated supervisor has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (cb) for any other child protection training the nominated supervisor is required to complete in a participating jurisdiction—
 - (i) evidence the nominated supervisor has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (cc) for child safety training the nominated supervisor is required to complete in accordance with regulations 128D and 128E—
 - (i) evidence the nominated supervisor has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);

[7] Regulation 147 Staff members

Insert after regulation 147(c)—

- (ca) for child protection training the staff member is required to complete in accordance with regulation 128B—
 - (i) evidence the staff member has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (cb) for any other child protection training the staff member is required to complete in a participating jurisdiction—
 - (i) evidence the staff member has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (cc) for child safety training the staff member is required to complete in accordance with regulations 128D and 128E—
 - (i) evidence the staff member has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);

[8] Regulation 149, heading

Omit “and students”.

[9] Regulation 149

Omit “student or” wherever occurring.

[10] Regulation 149(1)(b)

Omit “student’s or”.

[11] Regulation 153 Register of family day care educators, co-ordinators and educator assistants

Insert after regulation 153(1)(ja)—

- (jb) for child protection training the educator is required to complete in accordance with regulation 128B—

- (i) evidence the educator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (jc) for any other child protection training the educator is required to complete in a participating jurisdiction—
 - (i) evidence the educator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (jd) for child safety training the educator is required to complete in accordance with regulations 128D and 128E—
 - (i) evidence the educator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);

[12] Regulation 153(2)(gb)–(gd)

Insert after regulation 153(2)(ga)—

- (gb) for child protection training the co-ordinator is required to complete in accordance with regulation 128B—
 - (i) evidence the co-ordinator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (gc) for any other child protection training the co-ordinator is required to complete in a participating jurisdiction—
 - (i) evidence the co-ordinator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (gd) for child safety training the co-ordinator is required to complete in accordance with regulations 128D and 128E—
 - (i) evidence the co-ordinator has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);

[13] Regulation 153(3)(ib)–(id)

Insert after regulation 153(3)(ia)—

- (ib) for child protection training the educator assistant is required to complete in accordance with regulation 128B—
 - (i) evidence the educator assistant has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (ic) for any other child protection training the educator assistant is required to complete in a participating jurisdiction—
 - (i) evidence the educator assistant has completed the training; and
 - (ii) the date the training was completed and the expiry date of the training (if applicable);
- (id) for child safety training the educator assistant is required to complete in accordance with regulations 128D and 128E—
 - (i) evidence the educator assistant has completed the training; and

- (ii) the date the training was completed and the expiry date of the training (if applicable);

[14] Regulation 154A National Early Childhood Worker Register

Insert “, the date the worker completed the training” after “of the Law” wherever occurring in regulation 154A(e)(i) and (f).

[15] Regulation 154A(e)(ii)

Insert “, the date the worker completed the training” after “jurisdiction”.

[16] Regulation 154A(2)

Insert at the end of regulation 154A—

- (2) For the purposes of section 269B(2)(e) of the Law, the following information is prescribed in relation to each family day care educator and educator assistant providing education to children from a residence or approved family day care venue—
 - (a) the address of the residence or approved family day care venue where each family day care educator and educator assistant will be providing education and care to children as part of the service;
 - (b) whether the education and care will be provided from a residence or a venue.

[17] Regulations 176B and 176C

Insert after regulation 176A—

176B Nominated supervisor, staff member or volunteer must notify approved provider of changes

- (1) This regulation applies to staff at a service operating in a participating jurisdiction that conducts checks under a working with children law or a working with vulnerable people law (a *check*).
- (2) A nominated supervisor of, staff member of or volunteer at a service must notify the approved provider of the service of a change in a check or teacher registration status for the nominated supervisor, staff member or volunteer within 24 hours of becoming aware of the change.

Note. A reference to a teacher registration only applies in jurisdictions in which teacher registration is available as an alternative to a check.

Penalty: \$6600.

- (3) Subregulation (2) does not apply if the nominated supervisor, staff member or volunteer is already required to notify the approved provider under a law of a participating jurisdiction.

176C Approved providers must notify Regulatory Authority of changes

- (1) This regulation applies to an approved provider operating a service in a participating jurisdiction that conducts checks under a working with children law or a working with vulnerable people law (a *check*).
- (2) An approved provider must notify the Regulatory Authority of a change in a check or a teacher registration status for any nominated supervisor of, staff member of or volunteer at a service operated by the approved provider within 24 hours of becoming aware of the change.

Note. A reference to a teacher registration only applies in jurisdictions in which teacher registration is available as an alternative to a check.

Penalty: \$6600.

- (3) Subregulation (2) does not apply if the approved provider is already required to notify the Regulatory Authority under a law of a participating jurisdiction.

[18] Regulation 179A

Insert after Regulation 179—

179A Record of child safety training

An approved provider must ensure that the following information is kept for child safety training that each person with management or control of the service is required to complete in accordance with section 162B of the Law—

- (a) evidence the person with management or control of the service has completed the training; and
- (b) the date the training was completed and the expiry date of the training (if applicable).

[19] Regulation 190 Infringement offences

Omit “available).” from regulation 190(zi).

Insert instead—

- available);
- (zj) regulation 176B(2) (notification requirements for staff);
- (zk) regulation 176C(2) (notification requirements for approved providers);
- (zl) regulation 267A(1) and (2) (working with vulnerable people registration);
- (zm) regulation 294A(1) and (2) (working with children check);
- (zn) regulation 344(1) and (2) (working with vulnerable people registration);
- (zo) regulation 358(1) and (2) (working with children check);
- (zp) regulation 383A(1) and (2) (working with children check).

[20] Regulation 191A

Insert after regulation 191—

191A Information related provider must disclose to Regulatory Authority

For the purposes of section 216C(b) of the Law, the following information is prescribed—

- (a) information about the approved provider’s corporate or group ownership structure;
- (b) information about any beneficial owners, trustees or other people who may be able to significantly influence the governance, management, financial or other operational arrangements of the approved provider;
- (c) information describing how the approved provider’s decision-making, compliance or safety functions are structured or delivered;
- (d) information about any mandatory operational or compliance requirements imposed on the approved provider, including under any franchise, brand or management arrangement.

[21] Part 7.2, Division 4

Insert after Part 7.2, Division 3—

Division 4 Staffing arrangements

268 Working with vulnerable people registration—staff members

- (1) The approved provider of an education and care service must not engage a person as a staff member or nominated supervisor of that service unless the staff member or nominated supervisor holds a current working with vulnerable people registration.
Penalty: \$6600.
- (2) The approved provider of an education and care service must ensure that a volunteer at the service holds proof that the person holds a current working with vulnerable people registration.
Penalty: \$6600.

[22] Part 7.4, Division 4

Insert after Part 7.4, Division 3—

Division 4 Staffing arrangements

295 Working with children check—staff members

- (1) The approved provider of an education and care service must not engage a person as a staff member or nominated supervisor of that service unless the staff member or nominated supervisor holds a current working with children check.
Penalty: \$6600.
- (2) The approved provider of an education and care service must ensure that a volunteer at the service who is aged 18 years or over holds proof that the person holds a current working with children check.
Penalty: \$6600.

[23] Regulation 344 Working with vulnerable people registration—staff members

Omit “of that service unless the staff member” from regulation 344(1).

Insert instead “or nominated supervisor of that service unless the staff member or nominated supervisor”.

[24] Regulation 344(2)

Omit “at, or a student on a practicum placement”.

[25] Regulation 344(2)

Insert at the end of the subregulation—

Penalty: \$6600.

[26] Regulation 358

Omit the regulation. Insert instead—

358 Working with children check—staff members

- (1) The approved provider of an education and care service must not engage a person as a staff member or nominated supervisor of that service unless the staff member or nominated supervisor holds a current working with children check.
Penalty: \$6600.

- (2) The approved provider of an education and care service must ensure that a person who is aged 18 years or over who is a volunteer at the service holds proof that the person holds a current working with children check.
Penalty: \$6600.
- (3) Subregulations (1) and (2) do not apply in relation to the following—
 - (a) a person who holds a current Victorian Institute of Teaching registration under the *Education and Training Reform Act 2006* of Victoria and the approved provider of the education and care service has checked the relevant register kept under that Act to ensure that the person is registered;
 - (b) a person who is not required to hold a working with children check in accordance with the *Worker Screening Act 2020* of Victoria and the approved provider of the education and care service has confirmed the person is exempt under that Act.

[27] Part 7.9, Division 6

Insert after Part 7.9, Division 5—

Division 6 Staffing arrangements

384 Working with children check—staff members

- (1) The approved provider of an education and care service must not engage a person as a staff member or nominated supervisor of that service unless the staff member or nominated supervisor holds a current working with children check.
Penalty: \$6600.
- (2) The approved provider of an education and care service must ensure that a person who is aged 18 years or over who is a volunteer at the service holds proof that the person holds a current working with children check.
Penalty: \$6600.

[28] Part 7.16

Insert after Part 7.15—

Part 7.16 Transitional and savings provisions—Education and Care Services National Amendment Regulations 2026

Division 1 General transitional and savings provisions

417 Child protection training

Despite regulation 128B(3), a person required to complete child protection training in accordance with regulation 128B, as inserted by the *Education and Care Services National Amendment Regulations 2026*, must complete the training before 27 August 2026 if the person was—

- (a) employed, engaged or appointed immediately before the commencement of regulation 128B(3), or
- (b) employed, engaged or appointed after the commencement of regulation 128B(3) and before 14 August 2026.

418 Foundation child safety training

Despite regulation 128D(4), a person required to complete foundation child safety training in accordance with regulation 128D, as inserted by the *Education and Care Services National Amendment Regulations 2026*, must complete the training before 27 August 2026 if the person was—

- (a) employed, engaged or appointed immediately before the commencement of regulation 128D(4), or
- (b) employed, engaged or appointed after the commencement of regulation 128D(4) and before 14 August 2026.

419 Advanced child safety training

Despite regulation 128E(4), a person required to complete advanced child safety training in accordance with regulation 128E, as inserted by the *Education and Care Services National Amendment Regulations 2026*, who was employed, engaged or appointed immediately before the date the training is published on the National Authority website must complete the training within 6 months from the date the training is published.

Division 2 Australian Capital Territory

420 Application of Division

This Division applies to the Australian Capital Territory.

421 Child protection training

Despite regulations 128B and 417, a person required to complete child protection training in accordance with regulation 128B, as inserted by the *Education and Care Services National Amendment Regulations 2026*, is taken to have satisfied the requirement in the regulation if the person completed the training within the period specified on the National Authority website, whether or not the training was completed before the commencement of regulation 128B.

Division 3 Queensland

422 Application of Division

This Division applies to Queensland.

423 Child protection training

Despite regulations 128B and 417, only the following are required to complete child protection training in accordance with regulation 128B, as inserted by the *Education and Care Services National Amendment Regulations 2026*, before 27 August 2026—

- (a) each nominated supervisor for the service;
- (b) each person in day-to-day charge of the service;
- (c) each family day care co-ordinator employed or engaged by the service.

Division 4 Victoria

424 Application of Division

This Division applies to Victoria.

425 Child protection training

Despite regulations 128B and 417, a person required to complete child protection training in accordance with regulation 128B, as inserted by the *Education and Care Services National Amendment Regulations 2026*, is taken to have satisfied the requirement in regulation 128B if the person completed the training within the period specified on the National Authority website, whether or not the training was completed before the commencement of regulation 128B.

[29] Schedule 3 Compliance directions—prescribed provisions

Insert in appropriate order—

Regulation 267A(1) and (2)	Working with vulnerable people registration
Regulation 294A(1) and (2)	Working with children check
Regulation 344(1) and (2)	Working with vulnerable people registration
Regulation 358(1) and (2)	Working with children check
Regulation 383A (1) and (2)	Working with children check

2026

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

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**EDUCATION AND CARE SERVICES NATIONAL AMENDMENT REGULATIONS
2026 (NSW)**

AS ADOPTED BY THE

EDUCATION AND CARE SERVICES NATIONAL LAW (ACT) ACT 2011

EXPLANATORY STATEMENT

**Presented by
YVETTE BERRY MLA
MINISTER FOR EDUCATION AND EARLY CHILDHOOD
MARCH 2026**

Education and Care Services National Amendment Regulations 2026

made under the Education and Care Services National Law as applied by the law of the States and Territories.

EXPLANATORY STATEMENT

Overview

1. The National Quality Framework (**NQF**) is a national scheme for the regulation of early childhood education and care (ECEC) services and includes the Education and Care Services National Law (**National Law**) and *Education and Care Services National Regulations* (**National Regulations**).
2. The NQF operates as a national applied law scheme. The National Law is enacted by Victoria, as host jurisdiction, and the National Regulations are hosted by NSW.
3. The National Law is adopted in the Australian Capital Territory (ACT) by the *Education and Care Services National Law (ACT) Act 2011* (**Adopting Act**).
4. On 20 February 2026, Education Ministers Meeting (EMM), being the Ministerial Council as defined in section 5(1) of the National Law, made the *Education and Care Services National Amendment Regulations 2026* (**Amendment Regulations**).
5. The Amendment Regulations amend the **National Regulations**.

Background

6. In December 2023, the Australian Children's Education and Care Quality Authority (ACECQA) published the [Review of Child Safety Arrangements under the National Quality Framework](#) (CSR).
7. The CSR made 16 recommendations to strengthen national approaches for improving child safe cultures, expanded regulatory tools, safer online environments, more effective information sharing systems across jurisdictions, and building workforce knowledge and capabilities in the education and care sector.
8. In February 2024, EMM agreed to the implementation of recommendations from the CSR, subject to expert advice, broad consultation, and regulatory impact analysis. EMM agreed to progress an initial set of recommendations informed by targeted stakeholder consultation. Those initial recommendations were implemented by the *Education and Care Services National Amendment Regulations 2025*, and presented to the ACT Legislative Assembly on 26 June 2025.
9. Remaining CSR recommendations proceeded to public consultation via Consultation Regulation Impact Statement open from April to June 2025. EMM

endorsed the [Decision Regulation Impact Statement](#) (DRIS) on 22 August 2025, published by the Office of Regulatory Impact Analysis. In August and October 2025, EMM also agreed to some additional reforms recommended by recent reviews undertaken in New South Wales and Victoria.

10. On 7 November 2025, EMM approved the Early Childhood Legislation Amendment (Child Safety) Bill 2025 (**the Bill**) for presentation to Victoria's Cabinet ahead of introduction to Parliament. The Bill was presented to the ACT Legislative Assembly on 4 December 2025 and was given Royal Assent in Victoria on 9 December 2025.
11. Parts 1 to 4 and Part 6 of the Early Childhood Legislation Amendment (Child Safety) Act 2025 (**Amending Act**) apply to the National Law. Part 5 applies to Victoria's application Act only.
12. On 24 December 2025, EMM made the *Education and Care Services National Further Amendment Regulations 2025* (Further Amendment Regulations), which support some of the reforms in the Amending Act and implement some additional reforms to the National Regulations. The Further Amendment Regulations were presented to the ACT Legislative Assembly on 26 February 2026.
13. On 20 February 2026, EMM made the **Amendment Regulations**, which support most of the remaining reforms in the Amending Act, and implement some additional reforms, in the following areas:
 - (a) Information-gathering powers regarding related providers;
 - (b) National child safety training;
 - (c) Jurisdiction-specific child protection training, including for the ACT;
 - (d) Working with Vulnerable People (WWVP) Registration (including supporting Penalty Infringement Notices);
 - (e) Transitional provisions

Commencement

14. The Amendment Regulations came into operation on 27 February 2026.

Authorising and Tabling Provisions

15. The Amendment Regulations are made under sections 301 and 324 of the National Law.
16. Section 301 of the National Law empowers the Ministerial Council to make regulations for the purposes of the National Law, and section 324 permits regulations of a savings or transitional nature in certain circumstances.
17. Section 303 of the National Law provides for parliamentary scrutiny of amendments to the National Regulations, in the same way and within the same period as disallowable instruments. Amendments may commence operation

prior to presentation to the Assembly, which is the case with the Amendment Regulations.

Publication

18. The Amendment Regulations were published on 26 February 2026, on the New South Wales Legislation website in accordance with section 302(1) of the National Law and Part 6A of the *Interpretation Act 1987* (NSW).

CONSISTENCY WITH HUMAN RIGHTS

19. The *Human Rights Act 2004* (HR Act) applies to the ACT National Law and National Regulations.

Rights Engaged

The Amendment Regulations promote section 11 (Protection of the family and children) of the HR Act.

The amendments in the Further Amendment Regulations limit section 22 (Rights in Criminal Proceedings) and section 27B (Work)

Rights Promoted

Section 11(2) Protection of the family and children

Built into the ACT National Law is an obligation upon the Regulatory Authority to carry out its functions in a way that protects children.

Section 3 of the National Law sets out objectives and guiding principles of the Law, including the objectives at sections 3(2)(a), (b) and (c):

- (a) to ensure the safety, health and wellbeing of children attending education and care services;
- (b) to improve the educational and developmental outcomes for children attending education and care services;
- (c) to promote continuous improvement in the provision of quality education and care services

There are two relevant guiding principles at sections 3(3)(a) and (f):

- (d) that the rights and best interests of the child are paramount;
- (f) that best practice is expected in the provision of education and care services.

From 27 February 2026, the National Law will also impose a statutory obligation to apply the **paramount consideration**. This requires that the safety, rights and best interests of children must be the paramount consideration in the operation and delivery of an education and care service. The paramount consideration must be applied by providers, persons with management or control, nominated supervisors, staff, and volunteers.

The Amendment Regulations promote protection of children by:

- (a) embedding increased risk management in recruitment and staff management through WWVP registration reforms;
- (b) implementing mandated nationally consistent child safety training;
- (c) implementing mandated jurisdiction-specific child protection training.

Rights Limited

Section 22 HRA—Rights in Criminal Proceedings

New Regulation 176B Nominated supervisor, staff member or volunteer must notify approved provider of changes

New Regulation 176C Approved providers must notify Regulatory Authority of changes

New Regulation 268 – Working with vulnerable people registration—staff members

1. *Nature of the right and the limitation (s 22(1))*

The rights in criminal proceedings provide that everyone has the right to be presumed innocent until proved guilty according to law. Clause 17 of the Schedule to the Amendment Regulations creates a new strict liability offence for nominated supervisors, staff members and volunteers. This is a new offence of failing to notify their approved provider of a change in their WWVP or Teacher Registration status. There is also a new offence for approved providers of failing to notify the regulatory authority of a change in WWVP or Teacher Registration status for any nominated supervisor, staff member or volunteer.

Clause 21 of the Schedule to the Amendment Regulations creates a new strict liability offence for approved providers engaging a staff member, nominated supervisor or volunteer of that service unless they have a valid WWVP registration.

These new offences align with other similar offences under the National Regulations.

2. *Legitimate purpose (s 28(2)(b))*

The legitimate purpose of the amendments is to protect children by better ensuring that those working directly with children in education and care services are suitable to do so.

The WWVP scheme protects children by ensuring that those who work or volunteer with them undergo a background check to assess for potential risks, including sexual, physical or emotional harm.

Background checks include criminal history and non-conviction information, and any other information that may indicate risk. The assessment ensures that only suitable individuals are registered to work with children.

Ensuring that all employees and volunteers have a valid WWVP registration that allows engagement in an ECEC service, is an important protective factor for children.

3. *Rational connection between the limitation and the purpose (s 28(2)(d))*

The *Education and Care Services National Law Act 2011*, requires that children's safety, rights and best interests are the paramount consideration in any decisions about the operation and delivery of education and care. Approved providers are also required to take every reasonable precaution to protect child from harm and hazard.

Where new information about an individual's suitability to work with children is reported, Access Canberra may condition, suspend or cancel their registration. Although Access Canberra will inform the individual's employer if the registration is suspended or cancelled, the education and care workforce is highly transient and there is no requirement for individuals to update Access Canberra when they change employer.

Once informed of a change in registration status, the approved provider must take action to remove the individual if their WWVP registration is no longer valid to work with children. If the approved provider is not informed of the change in WWVP status they are unable to take any action to protect children.

There is a new offence for approved providers failing to notify the regulatory authority of a change in WWVP or Teacher Registration status. The regulatory authority require this information to consider whether to take further action to prohibit the individual from working in the ECEC sector. Prohibitions are national and are shared across all regulatory authorities, preventing individuals from seeking work in other parts of the country.

The WWVP background check and registration act to ensure inappropriate individuals are not permitted to work or volunteer with children. By ensuring that all staff and volunteers have a valid WWVP registration before commencing work, approved providers can protect children from unsuitable individuals.

The *Working with People (Background Checking) Act 2011 (ACT)* allows individuals to commence working with children, under supervision, as soon as they apply for a WWVP card. This allows unsuitable individuals access to children for a period of up to eight weeks prior to the background check being completed. The new offence will also address this particular risk.

4. *Proportionality (s 28(2)(e))*

The individuals subject to any change in status of their WWVP registration will be the first to become aware of this. It is unlikely that Access Canberra will have their current employer's details and therefore the onus is on the employee or volunteer to let their approved provider know about this change as soon as possible.

There is no requirement under the *Working with People (Background Checking) Act 2011 (ACT)* for Access Canberra to inform the regulatory authority of this

change and in some cases individuals may work across multiple sectors. The approved provider is therefore best placed to provide the regulatory authority with information of any change in employee or volunteer's registration status. The regulatory authority can then take action to prohibit that individual from working in the sector.

It is EMM's intention that all offences set out in the National Law and Regulations are strict liability. ECEC is a highly regulated area due to the vulnerability of the young children that attend these services. There are high expectations of knowledge, qualifications and expertise from those involved in the provision of ECEC, to ensure that children's safety, rights and best interest are paramount.

An accepted argument against a limitation of human rights in the context of strict liability offences is that strict liability offences are crafted to address unlawful behaviour in a context where the person or entity knows, or ought to know, their legal obligations.

This concept, known as the licensing concept or approach, is discussed by Cory J (judgment of L'Heureux-Dube and Cory JJ) in *R v Wholesale Travel Group Inc* [1991] 3 SCR 154 at [55]:

The licensing concept rests on the view that those who choose to participate in regulated activities have, in doing so, placed themselves in a responsible relationship to the public generally and must accept the consequences of that responsibility. Therefore, it is said, those who engage in regulated activity should, as part of the burden of Responsible conduct attending participation in the regulated field, be deemed to have accepted certain terms and conditions applicable to those who act within the regulated sphere. Foremost among these implied terms is an undertaking that the conduct of the regulated actor will comply with and maintain a certain minimum standard of care. [p. 93]

The new offence in the Amendment Regulations will apply to individuals who are regulated under the National Law. Individuals seeking to be involved in the ECEC sector must apply in some form to join the sector, are assessed for suitability in some form, must be appropriately qualified where relevant and are obliged to familiarise themselves with their obligations under the National Law. There is a community expectation that the education and care of children is closely monitored and proactively regulated.

The strict liability offences meet a legitimate aim, namely the protection of the safety, health and wellbeing of children attending education and care services. The offences are also proportionate in the context of the high degree of knowledge expected of participants in the ECEC sector.

Additionally, all statutory enforcement actions are subject to review rights and, where appropriate, show cause processes. The ultimate arbiter of the characterisation of the offence will be a relevant Court.

Penalties are pecuniary and do not extend to imprisonment. To the extent that an accused person is unable to receive a fair hearing or usual rights, courts retain the discretion to stay an unfair prosecution (such as due to unreasonable delay, unavailability of key witnesses, or deterioration of exculpatory evidence).

International human rights jurisprudence has found that strict liability offences are not inherently a breach of human rights.

Section 27B HRA – Right to work and work-related rights

New Regulation 268 – Working with vulnerable people registration—staff members

1. *Nature of the right and the limitation (s 28(2)(a) and (c))*

The right to work and other work-related rights provides that everyone has the right to work, including the right to choose their occupation or profession freely, and is entitled to enjoy those rights without discrimination. Under section 15 of the *Working with Vulnerable People (Background Checking) Act 2011*, unregistered persons may engage in supervised employment after applying for WWVP registration and pending grant or refusal of registration.

New regulation 268 is an ACT-specific provision that requires a provider to ensure that all nominated supervisors, staff and volunteers who require WWVP registration hold that registration before commencing a role in an education and care service. Regulation 268 may result in a person having to delay commencement of work in an education and care service until they hold WWVP registration.

2. *Legitimate purpose (s 28(2)(b))*

The legitimate purpose of the amendment is to better ensure that those working directly with children in education and care services are suitable to do so. Jurisdictions that did not already have a statutory ‘no card, no start’ WWVP provision have implemented that in the Amendment Regulations.

3. *Rational connection between the limitation and the purpose (s 28(2)(d))*

Existing provisions in the National Law, such as the paramount consideration, oblige approved providers to ensure child safe recruitment practices.

Current WWVP registration is an essential factor in those recruitment practices. Other reforms support improved information sharing, knowledge of individuals who are working in the sector, and ensuring they have been appropriately risk assessed. Regulation 268 is part of a package of new reforms to reduce the risk of potentially unsafe individuals moving between education and care services in participating jurisdictions and improve child safety

4. Proportionality (s 28(2)(e))

Many other jurisdictions already had a ‘no card, no start’ requirements, and this reform was supported in public consultation. Regulation 268 creates a potential delay to commencement where an individual has not applied for WWVP registration in sufficient time for completion of the process before commencement.

ACT Regulatory Impact

20. Section 7 of the Adopting Act operates to exclude section 34 of the *Legislation Act 2001* from application. Additionally, there is no appreciable cost on the community or part of the community. Accordingly, a regulatory impact statement is not required.

21. The DRIS was presented to ACT Cabinet for noting in November 2025.

DETAILED NOTES

Regulation 1 — Name of regulations

Regulation 1 provides that the name of the Amendment Regulations is the *Education and Care Services National Amendment Regulations 2026*.

Regulation 2 — Commencement

Regulation 2 provides that the Amendment Regulations commence on 27 February 2026.

Schedule 1 – Amendment of Education and Care Services National Regulations

Clause 1 — Regulation 4 Definitions

Clause 1 inserts definitions of “working with vulnerable people registration” for the ACT and Tasmania into regulation 4. For the ACT this means a registration under the *Working with Vulnerable People (Background Checking) Act 2011* (ACT) allowing a person to be engaged in an education and care service.

Clause 2 — Chapter 4 Operational requirements

Clause 2 of Amendment Regulations amends the Guide to Chapter 4, to reflect changes to Part 4.4 (which contains provisions for staffing requirements) to include provisions relating to child safety training and child protection training requirements.

Clause 3 — Regulation 84 Awareness of child protection law

Clause 3 amends regulation 84, which requires an approved provider to ensure that nominated supervisors, staff members, volunteers and students who work with children are advised of current child protection laws and any obligations they may have under the law, so that the regulation 84 applies to those people regardless of whether they work with children.

Clause 4 — Regulation 84(2)

Clause 4 omits the reference to a student who participates in the service from regulation 84(2) because all students are volunteers.

Clause 5 — Part 4.4, Division 4A

Clause 5 inserts a new Division 4A of Part 4.4 of Chapter 4 of the National Regulations, comprising new regulations 128A and 128B.

New regulations 128A and 128b prescribe information on Child protection training.

Division 4A Child protection training

128A Application of Division 4A

New regulation 128A provides that the new division prescribes child protection training requirements that approved providers must ensure persons specified in section 162A of the National Law complete.

128B Child protection training

New regulation 128B requires an approved provider to ensure that each specified person completes the relevant child protection training published on the ACECQA website for the jurisdiction within 14 days of being employed, engaged or appointed at the service, or before the person starts working directly with children, whichever is the earlier. At the commencement of the regulation the approved ACT child protection training is the ACT Government [Keeping Children and Young People Safe](#).

Clause 5 also inserts a new Division 4B of Part 4.4 of Chapter 4 of the National Regulations., comprising new regulations 128C, 128D and 128E.

Division 4B Child safety training

128C Application of Division 4B

New regulation 128C provides that the new division prescribes child safety training requirements that approved providers must ensure persons specified in section 162B of the National Law complete.

128D Foundational child safety training

New regulation 128D requires an approved provider to ensure that the persons specified in section 162B complete the relevant foundation child safety training published on the ACECQA website for the jurisdiction every two years Regulation 128D further requires an approved provider to ensure that each person specified in section 162B of the National Law completes the child safety training within 14 days of being employed, engaged or appointed at the service, or before the person starts working directly with children, whichever is the earlier.

128E Advanced child safety training

New regulation 128E requires an approved provider to ensure the following persons specified in section 162B of the National Law complete the relevant prescribed advanced child safety training published on the ACECQA website for

the jurisdiction every two years.

- i. A person with management and control of the service
- ii. A nominated supervisor of the service
- iii. A person in day-to-day charge of the service
- iv. A staff member of the service who works directly with children

New regulation 128E further requires an approved provider to ensure each specified person completes the advanced child safety training within three months of being employed, engaged or appointed at the service.

Clause 6 — Regulation 146 Nominated Supervisor

Clause 6 amends regulations 146, which prescribe information that must be recorded about nominated supervisors to include evidence that they have completed:

- a. Child protection training in accordance with regulation 128B
- b. Any other child protection training they are required to complete in a participating jurisdiction and
- c. Child safety training in accordance with regulations 128D and 128E

Clause 6 further provides that the records must include the date the training was completed, and the expiry date of the training (if applicable).

Clause 7 — Regulation 147 Staff members

Clause 7 amends regulations 147, which prescribe information that must be recorded about staff members to include evidence that they have completed:

- a. Child protection training in accordance with regulation 128B
- b. Any other child protection training they are required to complete in a participating jurisdiction and
- c. Child safety training in accordance with regulations 128D and 128E

Clause 7 further provide that the records must include the date the training was completed, and the expiry date of the training (if applicable).

Clause 8 — Regulation 149, heading

Regulation 149 of Amendment Regulations omits “and students” from heading because all students are volunteers.

Clause 9 — Regulation 149

Regulation 149 of Amendment Regulations omit “student or” wherever occurring because all students are volunteers.

Clause 10 — Regulation 149(1)(b)

Regulation 149(1)(b) of Amendment Regulations omit “student’s or” because all students are volunteers.

Clause 11 — Regulation 153 Register of family day care educators, co-ordinators and educator assistants

Clause 11 amends regulations 153, which prescribe information that must be recorded about family day care educators to include evidence that they have completed:

- a. Child protection training in accordance with regulation 128B
- b. Any other child protection training they are required to complete in a participating jurisdiction and
- c. Child safety training in accordance with regulations 128D and 128E

Clause 11 further provide that the records must include the date the training was completed, and the expiry date of the training (if applicable).

Clause 12 — Regulation 153(2)(gb)-(gd)

Clause 12 amends regulations 147, which prescribe information that must be recorded about family day care co-ordinators to include evidence that they have completed:

- a. Child protection training in accordance with regulation 128B;
- b. Any other child protection training they are required to complete in a participating jurisdiction; and
- c. Child safety training in accordance with regulations 128D and 128E.

Clause 12 further provide that the records must include the date the training was completed, and the expiry date of the training (if applicable).

Clause 13 — Regulation 153(3)(ib)-(id)

Clause 13 amends regulations 147, which prescribe information that must be recorded about family day care education assistants to include evidence that they have completed:

- a. Child protection training in accordance with regulation 128B;
- b. Any other child protection training they are required to complete in a participating jurisdiction; and
- c. Child safety training in accordance with regulations 128D and 128E.

Clause 13 further provide that the records must include the date the training was completed, and the expiry date of the training (if applicable).

Clause 14 — Regulation 154A National Early Childhood Worker Register

Clauses 14 amends regulation 154A, which prescribes information about a worker that an approved provider must ensure is provided to ACECQA and that ACECQA

may include on the National Early Childhood Worker Register. Clause 14 amends regulation 154A(e)(i) and (f) which prescribe evidence that a worker has completed prescribed child protection and child safety training, to include the date when the training was completed.

Clause 15 — Regulation 154A(e)(ii)

Clauses 15 amends regulation 154A(e)(ii), to include the date when a worker has completed prescribed child protection and child safety training.

Clause 16 — Regulation 154A(2)

Clause 16 further amends 154A by inserting new regulation 154A(2) to prescribe the address of an FDC residence or approved FDC venue where each FDC educator and educator assistant will be providing education and care to children as part of the FDC services and whether education and care will be provided from an FDC residence or FDC venue.

Clause 17 — Regulations 176B and 176C

Clause 17 inserts new regulations 176B and 176C. Each of these requirements is an offence with a maximum penalty of \$6600.

76B Nominated supervisor, staff member or volunteer must notify approved provider of changes

New regulation 176B requires a nominated supervisor, staff member and volunteer at a service in a participating jurisdiction that conducts working with children or working with vulnerable people checks to inform the approved provider if their working with children check, working with vulnerable people check, or teacher registration status changes within 24 hours of becoming aware of the change (except where the law of the participating jurisdiction already requires this).

176C Approved providers must notify Regulatory Authority of changes

New regulation 176C requires approved providers in a participating jurisdiction that conducts working with children or working with vulnerable people checks to inform the Regulatory Authority if a working with children check, working with vulnerable people check, or teacher registration status of a nominated supervisor, staff member or volunteer changes within 24 hours of becoming aware of the change (except where the law of the participating jurisdiction already requires this).

Clause 18 — Regulation 179A

Clause 18 inserts new regulation 179A which requires an approved provider keep evidence of the child safety training that each person with management or control of the services is required to complete, the date the training was completed, and the expiry date of that training (if applicable).

Clause 19 — Regulation 190 Infringement offences

Clause 19 amends regulation 190 to prescribe additional infringement offences in relation to:

- a. The new notification requirements for staff and approved providers
- b. Working with children check requirements and
- c. Working with vulnerable people registration requirements

Clause 20 — Regulation 191A

191A Information related provider must disclose to Regulatory Authority

Clause 20 inserts new regulation 191A, which prescribes information for the purposes of section 216C(b) of the National Law that an approved provider who is a related provider must provide to the Regulatory Authority on request. Regulation 191A prescribes the following information relating to the approved provider's ownership or operation:

- a. Information about the approved provider's corporate or ownership structure
- b. Information about persons who may be able to significantly influence the approved provider's operational arrangements
- c. Information about the structure and delivery of the approved provider's decision making, compliance or safety functions and
- d. Information about any mandatory operational or compliance requirements imposed on the approved provider.

Clause 21 — Part 7.2, Division 4 (ACT specific)

Division 4 Staffing arrangements

268 Working with vulnerable people registration—staff members

Clause 21 inserts new Division 4 into Part 7.2 of Chapter 7 of the National Regulations, which prescribes jurisdiction specific staffing requirements for the ACT. New regulation 268 provides an approved provider of an education and care service must not engage a person as a staff member or nominated supervisor of the service unless that person holds a current working with vulnerable people registration. New regulation 268 further provides that an approved provider of an education and care service must ensure that a volunteer at the service holds proof that they hold a current working with vulnerable people registration. Each of these requirements is an offence with a maximum penalty of \$6600.

Clause 22 — Part 7.4, Division 4 — does not apply to the ACT

Clause 23 — Regulation 344 Working with vulnerable people registration—staff members — does not apply to the ACT

Clause 24 — Regulation 344(2) — does not apply to the ACT

Clause 25 — Regulation 344(2) — does not apply to the ACT

Clause 26 — Regulation 358 — does not apply to the ACT

Clause 27 — Part 7.9, Division 6 — does not apply to the ACT

Clause 28 — Part 7.16

Part 7.16 — Transitional and savings provisions—Education and Care Services National Amendment Regulations 2026

Clause 28 inserts new Part 7.16 into the National Regulations, which contains transitional and savings provisions in relation to the Amendment Regulations.

Division 1 General transitional and savings provisions

New Division 1 of Part 7.16 prescribes general transitional provisions.

417 Child protection training

New regulation 417 is a transitional provision in relation to regulation 128B, which requires specified persons to complete child protection training within 14 days of being employed, engaged or appointed, or before directly working with children (whichever is earlier), to allow staff employed, engaged or appointed immediately before the commencement of regulation 128B(3), or after the commencement of regulation 128B(3) and before 14 August 2026, to complete the training by 27 August 2026.

418 Foundation child safety training

New regulation 418 is a transitional provision in relation to regulation 128D, which requires specified persons to complete foundation child safety training within 14 days of being employed, engaged or appointed, or before directly working with children (whichever is earlier), to allow staff employed, engaged or appointed immediately before the commencement of regulation 128D(4), or after the commencement of regulation 128D(4) and before 14 August 2026, to complete the training by 27 August 2026.

419 Advanced child safety training

New regulation 419 is a transitional provision in relation to regulation 128E, which requires specified persons to complete advanced child safety training within 3 months of being employed, engaged or appointed, to allow staff employed, engaged or appointed immediately before the training is published on the ACECQA website 6 months after the training is published to complete the training.

Division 2 Australian Capital Territory

420 Application of Division

New regulation 420 provides that new Division 2 of Part 7.16 applies to the ACT. New Division 2 prescribes jurisdiction specific transitional and savings provisions.

421 Child protection training

New regulation 421 provides that despite regulations 128B and 417, a person required to complete child protection training in accordance with regulation 128B, as inserted by the Amendment Regulations, is taken to have satisfied that requirement if the person completed the training in the period specified on the

ACECQA website regardless of whether they completed the training before the commencement of regulation 128B.

Part 7.16, Divisions 3 and 4 do not apply in the ACT

Clause 29 — Schedule 3 Compliance directions—prescribed provisions

Clause 29 amends Schedule 3 of the National Regulations, which specifies provisions in respect of which the Regulatory Authority may issue an approved provider a compliance direction, to include 5 additional regulations in relation to requirements for working with children checks or working with vulnerable people registrations.