
PARLIAMENT OF VICTORIA

**Early Childhood Legislation Amendment (Child
Safety) Bill 2025**

TABLE OF PROVISIONS

<i>Clause</i>	<i>Page</i>
Part 1—Preliminary	1
1 Purposes	1
2 Commencement	5
Part 2—Amendments to the Education and Care Services National Law relating to offences, recruitment agencies and powers of the Regulatory Authority	6
3 Definitions	6
4 Heading to section 188A substituted	6
5 New section 188B inserted	7
6 Heading to section 206 substituted	8
7 New section 206A inserted	8
8 Power of Regulatory Authority to obtain information, documents and evidence by notice	9
9 Disclosure of information to approved providers	9
10 New section 272A inserted	10
11 Section 284 amended	12
12 New section 324A inserted	13
Part 3—Amendments to the Education and Care Services National Law relating to penalties and infringement offences	15
13 Conditions on provider approval	15
14 Notice to parents of suspension or cancellation	15
15 Conditions on service approval	15
16 Confirmation of transfer	15
17 Notice to parents	16
18 Notice to parents of suspension or cancellation	16
19 Offence to provide an education and care service without service approval	16
20 Offence relating to places where education and care is provided as part of a family day care service	16
21 Offence to advertise education and care service without service approval	17
22 Offence to operate education and care service without nominated supervisor	17

<i>Clause</i>		<i>Page</i>
23	Offence for nominated supervisor not to meet prescribed minimum requirements	17
24	Offence to operate education and care service unless responsible person is present	17
25	Offence relating to appointment or engagement of family day care co-ordinators	18
26	Offence relating to assistance to family day care educators	18
27	Offence relating to the education and care of children by family day care service	18
28	Offence to inadequately supervise children	19
29	Offence to use inappropriate discipline	19
30	Offence relating to protection of children from harm and hazards	20
31	Offence relating to required programs	20
32	Offence relating to staffing arrangements	21
33	Offence relating to unauthorised persons on education and care service premises	22
34	Offence relating to direction to exclude inappropriate persons from education and care service premises	22
35	Offence to fail to display prescribed information	22
36	Offence to fail to notify certain circumstances to Regulatory Authority	23
37	Offence to fail to notify certain information to Regulatory Authority	23
38	Family day care educator to notify certain information to approved provider	24
39	Offence relating to requirement to keep enrolment and other documents	24
40	Compliance directions	24
41	Compliance notices	25
42	Notice to suspend education and care by a family day care educator	25
43	Emergency action notices	25
44	Person must not contravene prohibition notice	25
45	Offence to engage person to whom prohibition notice applies	26
46	False or misleading information about prohibition notice	26
47	Identity card	26
48	Offence to obstruct authorised officer	27
49	Offence to fail to assist authorised officer	27
50	Offence to destroy or damage notices or documents	27
51	Offence to impersonate authorised officer	27
52	Offence to fail to comply with notice or requirement	28
53	Offence to hinder or obstruct Regulatory Authority	28
54	Register of family day care educators, co-ordinators and assistants	28
55	Duty of confidentiality	29
56	Infringement offences	29

<i>Clause</i>	<i>Page</i>
57 False or misleading information or documents	29
58 Protection from reprisal	30
59 National regulations	30
60 Information retention and sharing	30
Part 4—Other amendments to the Education and Care Services National Law	31
61 New section 2A inserted	31
62 Objectives and guiding principles	33
63 Definitions	33
64 New sections 5B, 5C and 5D inserted	34
65 Matters to be taken into account in assessing whether fit and proper person	38
66 Amendment of provider approval by Regulatory Authority	38
67 Grounds for suspension of provider approval	39
68 Decision to suspend after show cause process	39
69 Grounds for cancellation of provider approval	40
70 Regulatory Authority may seek further information	40
71 Determination of application	41
72 Grounds for refusal	41
73 Amendment of service approval by Regulatory Authority	41
74 Grounds for suspension of service approval	42
75 Decision in relation to suspension	42
76 Grounds for cancellation of service approval	43
77 Matters to be considered	43
78 Section 162A substituted and new section 162B inserted	44
79 New section 166A inserted	45
80 Offence to fail to notify certain circumstances to Regulatory Authority	48
81 New Part 6A inserted	49
82 Compliance directions	66
83 Compliance notices	67
84 New sections 178A, 178B, 178C, 178D and 178E inserted	68
85 Enforceable undertakings	80
86 Certain actions prohibited while undertaking is in force	81
87 Certain actions prohibited if undertaking is complied with	81
88 Failure to comply with enforceable undertakings	81
89 Grounds for giving prohibition notice	82
90 Content of prohibition notice	82
91 Person must not contravene prohibition notice	83
92 Reviewable decision—internal review	83
93 Reviewable decision—external review	84
94 New section 197A inserted	84
95 Powers of entry for investigating approved education and care service	87
96 New section 199A inserted	88
97 Powers of entry to business premises	91

<i>Clause</i>	<i>Page</i>
98 New section 206B inserted	92
99 Protection against self incrimination	93
100 New sections 216A, 216B and 216C inserted	93
101 Offence to fail to comply with notice or requirement	97
102 Offence to hinder or obstruct Regulatory Authority	97
103 Self incrimination not an excuse	97
104 Functions of National Authority	97
105 Powers of Regulatory Authority	98
106 Register of approved providers	98
107 New Division 4A of Part 13 inserted	98
108 Publication of information	107
109 Disclosure of information to other authorities	107
Part 5—Amendment of Application Act	109
Division 1—First tranche of modifications to the Law	109
110 New Part 2B inserted	109
Division 2—Second tranche of modifications to the Law	124
111 New Division heading inserted into Part 2B	124
112 Definitions	124
113 New section 16HA inserted	125
114 New sections 16T to 16V and Division 2 of Part 2B inserted	127
115 Updating of certain penalty levels in modifications to provide for large provider penalties	134
Division 3—Third tranche of modifications to the Law	135
116 Definitions	135
117 New section 16HAA to 16HAH inserted	137
118 New section 16HB inserted	142
119 New sections 16KA and 16KB inserted	145
120 Publication of information	148
121 Amendment of modifications being made by section 16U	149
122 Updating of certain penalty levels in modifications to provide for large provider penalties	150
Division 4—Other amendments	150
123 Relevant tribunal or court	150
124 New sections 18A and 18B inserted	150
Part 6—Repeal of this Act	154
125 Repeal of this Act	154
Endnotes	155
1 General information	155

PARLIAMENT OF VICTORIA

Introduced in the Assembly

Early Childhood Legislation Amendment (Child Safety) Bill 2025

A Bill for an Act to amend the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, and to make Victorian specific modifications to that Law as it applies as a law of Victoria, to improve child safety in education and care services and for other purposes.

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are to amend the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) in relation to the disclosure of information to approved providers and recruitment agencies; and

- 5

(b) in relation to the period in which a proceeding for an offence against the Education and Care Services National Law may be commenced; and
- (c) to triple the maximum penalty amounts for offences against the Education and Care Services National Law; and
- (d) to provide for new infringement offences; and
- 10

(e) to provide that the safety, rights and best interests of children is the paramount consideration in the operation of an education and care service and the delivery of education and care services to children; and
- 15

(f) in relation to related providers of approved providers and applicants for provider approvals; and
- 20

(g) in relation to the mandatory completion of child protection training and child safety training; and
- (h) to provide for new offences relating to inappropriate conduct; and
- 25

(i) to require an approved provider that is a body corporate to notify the Regulatory Authority in relation to a change of the approved provider's ownership or voting rights; and
- 30

(j) to regulate the use of devices in education and care services; and

- 5
- (k) to provide that the Regulatory Authority may direct—
- (i) an approved provider to suspend the provision of education and care by a nominated supervisor, a staff member (other than a family day care educator) or a volunteer; or
- 10
- (ii) an approved provider to ensure that a staff member (other than a family day care co-ordinator) or a volunteer is directly supervised while providing education and care; or
- (iii) a nominated supervisor, a staff member or a volunteer to complete training; and
- 15
- (l) to provide for new powers of entry for authorised officers in relation to a family day care service and the business premises of a related provider of an approved provider; and
- 20
- (m) to establish and provide for the National Early Childhood Worker Register; and
- (n) to make Victorian specific modifications to the Education and Care Services National Law (Victoria) including—
- 25
- (i) modifications that confer a range of powers on the Minister, including a power to issue guidelines about any matter relating to the delivery of education and care services to children
- 30
- and a power to give directions to approved providers; and
-

-
- 5 (ii) modifications that confer a range of
Victorian specific enforcement powers
on the Regulatory Authority, including
powers to give prohibition notices and
directions, a power to close education
and care services and family day care
services because of an emergency
event, a power to conduct disciplinary
proceedings against relevant persons
10 and powers to publish and disclose
certain specified information; and
- 15 (iii) modifications that confer jurisdiction
on the relevant tribunal or court under
the Law to make orders of a
disciplinary nature against relevant
persons; and
- 20 (iv) modifications that prohibit approved
providers from entering into, or being a
party to, contracts of insurance to
indemnify certain persons, including
approved providers, in respect of the
payment of any criminal fine, or
disciplinary penalty imposed by the
relevant tribunal or court, for
25 contraventions of the Law or the
national regulations; and
- 30 (v) modifications that impose higher
maximum penalties for large providers
for certain offences against the Law and
enable the imposition of higher
maximum penalties for large providers
for certain offences against the national
regulations; and
- 35 (o) to make other amendments to improve the
operation of the Act; and
- (p) to make other amendments of a minor and
consequential nature.
-

2 Commencement

- 5
- (1) This Part and Part 2, Division 1 of Part 5, section 124 and Part 6 come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Part 3 and Division 2 of Part 5 come into operation on 2 January 2026.
- 10 (3) Subject to subsection (4), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (4) If a provision referred to in subsection (3) does not come into operation before 27 February 2026, it comes into operation on that day.

Part 2—Amendments to the Education and Care Services National Law relating to offences, recruitment agencies and powers of the Regulatory Authority

5 **3 Definitions**

In section 5(1) of the Education and Care Services
National Law set out in the Schedule to the
**Education and Care Services National Law
Act 2010** insert the following definitions—

10 *"education and care related work* means work in
or as part of an education and care service
involving the provision of education and
care;

15 *recruitment agency* means a person that carries on
(whether or not with a view to profit and
whether or not in conjunction with any other
business) the business of procuring education
and care related work for individuals seeking
20 such work, whether or not the business
includes procuring any other kind of work
for those individuals or any other
individuals;"

4 Heading to section 188A substituted

25 For the heading to section 188A of the Education
and Care Services National Law set out in the
Schedule to the **Education and Care Services
National Law Act 2010** substitute—

30 **"Offence to give false or misleading
information to approved provider about
prohibition notice".**

5 New section 188B inserted

After section 188A of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 insert—

**"188B Offence to make false or misleading
statement to recruitment agency about
prohibition notice**

- (1) A specified person who is subject to a
prohibition notice that is in force under this
Law as applying in any participating
jurisdiction must not make a statement to a
recruitment agency about the content or
existence of the prohibition notice that is
false or misleading in any material particular
because of—

- (a) the inclusion in the statement of a false
or misleading matter; or
(b) the omission from the statement of a
material matter.

Penalty: \$20 400.

- (2) In this section—

specified person means an individual who
has entered into an agreement with a
recruitment agency for the agency to
procure for that individual education
and care related work."

6 Heading to section 206 substituted

5 For the heading to section 206 of the Education
and Care Services National Law set out in the
Schedule to the **Education and Care Services
National Law Act 2010** substitute—

**"Power of authorised officers to obtain
information, documents and evidence from
approved providers, nominated supervisors,
staff members and volunteers".**

10 **7 New section 206A inserted**

After section 206 of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010** insert—

15 **"206A Power of authorised officers to obtain
information, documents and evidence
from recruitment agencies**

- 20 (1) An authorised officer, by written notice, may
require a recruitment agency to provide to
the authorised officer, by writing signed by a
competent officer of that agency and within
the time and in the manner specified in the
notice, any relevant information specified in
the notice for the purposes of monitoring
25 compliance with this Law.
- (2) The time specified in the notice must not be
less than 14 days from the date the notice is
issued."

8 Power of Regulatory Authority to obtain information, documents and evidence by notice

For section 215(6) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 substitute—

"(6) In this section, *specified person* means—

(a) a person who is or has been an
approved provider, a nominated
supervisor or a staff member of, or a
volunteer at, an approved education and
care service; or

(b) a person who is or has been a family
day care educator; or

(c) a recruitment agency."

9 Disclosure of information to approved providers

For section 272(1) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 substitute—

"(1) The National Authority or the Regulatory
Authority may disclose the following
information to an approved provider if the
National Authority or Regulatory Authority
considers on reasonable grounds that the
information may assist the provider to
comply with this Law—

(a) whether an individual who is employed,
appointed or engaged by the approved
provider has given an enforceable
undertaking under section 179A that is
in force, including information about
the following—

Early Childhood Legislation Amendment (Child Safety) Bill 2025

Part 2—Amendments to the Education and Care Services National Law relating to
offences, recruitment agencies and powers of the Regulatory Authority

- 5
- (i) the provisions of this Law that the individual has contravened or is alleged to have contravened;
- (ii) the actions that the individual must take or refrain from taking to comply with the enforceable undertaking;
- 10
- (iii) whether the individual is complying with the enforceable undertaking;
- (b) whether an individual who is employed, appointed or engaged by the approved provider is subject to a prohibition notice that is in force under this Law as applying in any participating jurisdiction;
- 15
- (c) whether a family day care educator employed, appointed or engaged by the approved provider has been suspended from providing education and care to children under section 178."
- 20

10 New section 272A inserted

25

After section 272 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"272A Disclosure of information to recruitment agencies

- 30
- (1) The National Authority or the Regulatory Authority may disclose the following information to a recruitment agency for the purposes of promoting the objectives of the National Quality Framework—

Early Childhood Legislation Amendment (Child Safety) Bill 2025

Part 2—Amendments to the Education and Care Services National Law relating to
offences, recruitment agencies and powers of the Regulatory Authority

- 5
- (a) whether a specified person has given an enforceable undertaking under section 179A that is in force, including information about the following—
- 10
- (i) the provisions of this Law that the specified person has contravened or is alleged to have contravened;
- (ii) the actions that the specified person must take or refrain from taking to comply with the enforceable undertaking;
- (iii) whether the specified person is complying with the enforceable undertaking;
- 15
- (b) whether a specified person is subject to a prohibition notice that is in force under this Law as applying in any participating jurisdiction;
- 20
- (c) whether a specified person has been suspended from providing education and care to children as part of a family day care service under section 178.
- 25
- (2) A disclosure of information under this section is subject to Division 1 and any protocol agreed for the purposes of this section by—
- 30
- (a) the National Authority, all participating jurisdictions and the Commonwealth; and
- (b) subject to any protocol referred to in paragraph (a), the National Authority and the Regulatory Authority, or the National Authority, the Regulatory Authority and any Regulatory
-

Authority of another participating
jurisdiction.

(3) In this section—

5 *specified person* means an individual who
has entered into an agreement with a
recruitment agency for the agency to
procure for that individual education
and care related work."

11 Section 284 amended

10 (1) In the heading to section 284 of the Education and
Care Services National Law set out in the
Schedule to the **Education and Care Services
National Law Act 2010**, for "**brought**"
substitute "commenced".

15 (2) In section 284 of the Education and Care Services
National Law set out in the Schedule to the
**Education and Care Services National Law
Act 2010**—

- (a) after "181(6)" **insert** "and subsection (3)";
- 20 (b) after "commenced" **insert** "by a person
referred to in section 283(1)";
- (c) for "of the date of the alleged offence"
substitute "after the date on which the
person becomes aware of the alleged
25 offence".

(3) At the end of section 284 of the Education and
Care Services National Law set out in the
Schedule to the **Education and Care Services
National Law Act 2010** **insert**—

30 "(2) Subsection (1) applies whether the date on
which the person referred to in section
283(1) becomes aware of the alleged offence
is before, on or after the commencement of
section 11 of the **Early Childhood**

**Legislation Amendment (Child Safety)
Act 2025.**

- (3) If the Regulatory Authority becomes aware of an alleged offence but is required to suspend taking action under this Law in relation to the alleged offence because of a concurrent investigation or proceeding in relation to the same conduct under another Act, proceedings for the offence against this Law must be commenced within 2 years after any investigation or proceeding (as the case requires) in relation to the conduct under the other Act have been finalised."

12 New section 324A inserted

After section 324 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"324A Regulations dealing with transitional matters—Early Childhood Legislation Amendment (Child Safety) Act 2025

- (1) The Ministerial Council may make regulations containing provisions of a transitional nature, including matters of an application or savings nature, arising as a result of the enactment of the **Early Childhood Legislation Amendment (Child Safety) Act 2025**, including any repeals and amendments made by, or as a result of, the enactment of that Act.
- (2) Regulations made under this section may—
- (a) have a retrospective effect to the day on which the **Early Childhood Legislation Amendment (Child Safety) Act 2025** receives the Royal Assent; and

Early Childhood Legislation Amendment (Child Safety) Bill 2025

Part 2—Amendments to the Education and Care Services National Law relating to
offences, recruitment agencies and powers of the Regulatory Authority

- 5
- (b) be of limited or general application; and
 - (c) differ according to time, place or circumstances; and
 - (d) leave any matter or thing to be decided by a specified person or class of person.
- 10
- (3) Regulations under this section have effect despite anything to the contrary in any Act (other than this Law) or in any subordinate instrument.
 - (4) This section is **repealed** on the second anniversary of its commencement."

Part 3—Amendments to the Education and Care Services National Law relating to penalties and infringement offences

13 Conditions on provider approval

5 In the penalty at the foot of section 19(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$11 400" **substitute** "\$34 200";
- 10 (b) for "\$57 400" **substitute** "\$172 200".

14 Notice to parents of suspension or cancellation

15 In the penalty at the foot of section 36(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$3400" **substitute** "\$10 200";
- (b) for "\$17 200" **substitute** "\$51 600".

15 Conditions on service approval

20 In the penalty at the foot of section 51(8) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".

16 Confirmation of transfer

25 In the penalty at the foot of section 68(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- 30 (a) for "\$4500" **substitute** "\$13 500";
 - (b) for "\$22 900" **substitute** "\$68 700".
-

17 Notice to parents

In the penalty at the foot of section 69(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$3400" **substitute** "\$10 200";

(b) for "\$17 200" **substitute** "\$51 600".

18 Notice to parents of suspension or cancellation

In the penalty at the foot of section 84(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$3400" **substitute** "\$10 200";

(b) for "\$17 200" **substitute** "\$51 600".

19 Offence to provide an education and care service without service approval

In the penalty at the foot of section 103(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$22 900" **substitute** "\$68 700";

(b) for "\$114 900" **substitute** "\$344 700".

20 Offence relating to places where education and care is provided as part of a family day care service

In the penalty at the foot of section 103A of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$22 900" **substitute** "\$68 700";

(b) for "\$114 900" **substitute** "\$344 700".

21 Offence to advertise education and care service without service approval

In the penalty at the foot of section 104(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$6800" **substitute** "\$20 400";

(b) for "\$34 400" **substitute** "\$103 200".

22 Offence to operate education and care service without nominated supervisor

In the penalty at the foot of section 161 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$5700" **substitute** "\$17 100";

(b) for "\$28 700" **substitute** "\$86 100".

23 Offence for nominated supervisor not to meet prescribed minimum requirements

In the penalty at the foot of section 161A of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$5700" **substitute** "\$17 100";

(b) for "\$28 700" **substitute** "\$86 100".

24 Offence to operate education and care service unless responsible person is present

In the penalty at the foot of section 162(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$5700" **substitute** "\$17 100";

(b) for "\$28 700" **substitute** "\$86 100".

25 Offence relating to appointment or engagement of family day care co-ordinators

5 In the penalty at the foot of section 163(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$5700" **substitute** "\$17 100";

(b) for "\$28 700" **substitute** "\$86 100".

10 **26 Offence relating to assistance to family day care educators**

In the penalty at the foot of section 164(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

15 (a) for "\$5700" **substitute** "\$17 100";

(b) for "\$28 700" **substitute** "\$86 100".

27 Offence relating to the education and care of children by family day care service

20 (1) In the penalty at the foot of section 164A(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$11 400" **substitute** "\$34 200";

(b) for "\$57 400" **substitute** "\$172 200".

25 (2) In the penalty at the foot of section 164A(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$2200" **substitute** "\$6600".

28 Offence to inadequately supervise children

- 5 (1) In the penalty at the foot of section 165(1) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**—
- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".
- 10 (2) In the penalty at the foot of section 165(2) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**, for "\$11 400"
substitute "\$34 200".
- 15 (3) In the penalty at the foot of section 165(3) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**, for "\$11 400"
substitute "\$34 200".

29 Offence to use inappropriate discipline

- 20 (1) In the penalty at the foot of section 166(1) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**—
- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".
- 25 (2) In the penalty at the foot of section 166(2) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**, for "\$11 400"
substitute "\$34 200".
- 30 (3) In the penalty at the foot of section 166(3) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**, for "\$11 400"
substitute "\$34 200".
-

- 5 (4) In the penalty at the foot of section 166(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" substitute "\$34 200".

30 Offence relating to protection of children from harm and hazards

- 10 (1) In the penalty at the foot of section 167(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$11 400" substitute "\$34 200";
- (b) for "\$57 400" substitute "\$172 200".
- 15 (2) In the penalty at the foot of section 167(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" substitute "\$34 200".
- 20 (3) In the penalty at the foot of section 167(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" substitute "\$34 200".

31 Offence relating to required programs

- 25 (1) In the penalty at the foot of section 168(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$4500" substitute "\$13 500";
- 30 (b) for "\$22 900" substitute "\$68 700".

- 5 (2) In the penalty at the foot of section 168(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$4500" **substitute** "\$13 500".

32 Offence relating to staffing arrangements

- 10 (1) In the penalty at the foot of section 169(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".
- 15 (2) In the penalty at the foot of section 169(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".
- 20 (3) In the penalty at the foot of section 169(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" **substitute** "\$34 200".
- 25 (4) In the penalty at the foot of section 169(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" **substitute** "\$34 200".
- 30 (5) In the penalty at the foot of section 169(5) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$11 400" **substitute** "\$34 200".
-

33 Offence relating to unauthorised persons on education and care service premises

- 5 (1) In the penalty at the foot of section 170(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$1100" **substitute** "\$3300";
- (b) for "\$5700" **substitute** "17 100".
- 10 (2) In the penalty at the foot of section 170(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$1100" **substitute** "\$3300".
- 15 (3) In the penalty at the foot of section 170(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$1100" **substitute** "\$3300".

34 Offence relating to direction to exclude inappropriate persons from education and care service premises

- 20 In the penalty at the foot of section 171(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- 25 (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".

35 Offence to fail to display prescribed information

- 30 (1) In the penalty at the foot of section 172(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$3400" **substitute** "\$10 200";

(b) for "\$17 200" **substitute** "\$51 600".

(2) In the penalty at the foot of section 172(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$3400" **substitute** "\$10 200";

(b) for "\$17 200" **substitute** "\$51 600".

36 Offence to fail to notify certain circumstances to Regulatory Authority

(1) In the penalty at the foot of section 173(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$4500" **substitute** "\$13 500";

(b) for "\$22 900" **substitute** "\$68 700".

(2) In the penalty at the foot of section 173(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$4500" **substitute** "\$13 500";

(b) for "\$22 900" **substitute** "\$68 700".

37 Offence to fail to notify certain information to Regulatory Authority

(1) In the penalty at the foot of section 174(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$4500" **substitute** "\$13 500";

(b) for "\$22 900" **substitute** "\$68 700".

(2) In the penalty at the foot of section 174(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- 5 (a) for "\$4500" **substitute** "\$13 500";
 (b) for "\$22 900" **substitute** "\$68 700".

38 Family day care educator to notify certain information to approved provider

10 In the penalty at the foot of section 174A of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$2200" **substitute** "\$6600".

15 **39 Offence relating to requirement to keep enrolment and other documents**

- (1) In the penalty at the foot of section 175(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
20 (a) for "\$4500" **substitute** "\$13 500";
 (b) for "\$22 900" **substitute** "\$68 700".

(2) In the penalty at the foot of section 175(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$4500" **substitute** "\$13 500".
25

40 Compliance directions

30 In the penalty at the foot of section 176(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
 (a) for "\$2200" **substitute** "\$6600";
 (b) for "\$11 400" **substitute** "\$34 200".

41 Compliance notices

5 In the penalty at the foot of section 177(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$6800" **substitute** "\$20 400";

(b) for "\$34 400" **substitute** "\$103 200".

42 Notice to suspend education and care by a family day care educator

10 In the penalty at the foot of section 178(7) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$6800" **substitute** "\$20 400";

15 (b) for "\$34 400" **substitute** "\$103 200".

43 Emergency action notices

20 In the penalty at the foot of section 179(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$6800" **substitute** "\$20 400";

(b) for "\$34 400" **substitute** "\$103 200".

44 Person must not contravene prohibition notice

25 (1) In the penalty at the foot of section 187(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$22 900" **substitute** "\$68 700".

30 (2) In the penalty at the foot of section 187(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$22 900" **substitute** "\$68 700".

45 Offence to engage person to whom prohibition notice applies

- 5 (1) In the penalty at the foot of section 188(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$22 900" **substitute** "\$68 700";
- (b) for "\$114 900" **substitute** "\$344 700".
- 10 (2) In the penalty at the foot of section 188(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$22 900" **substitute** "\$68 700";
- (b) for "\$114 900" **substitute** "\$344 700".
- 15 (3) In the penalty at the foot of section 188(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—
- (a) for "\$22 900" **substitute** "\$68 700";
- 20 (b) for "\$114 900" **substitute** "\$344 700".

46 False or misleading information about prohibition notice

25 In the penalty at the foot of section 188A of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$6800" **substitute** "\$20 400".

47 Identity card

- 30 (1) In the penalty at the foot of section 196(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$1100" **substitute** "\$3300".
-

(2) In the penalty at the foot of section 196(5) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$1100" substitute "\$3300".

48 Offence to obstruct authorised officer

In the penalty at the foot of section 207 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$9100" substitute "\$27 300";

(b) for "\$45 900" substitute "\$137 700".

49 Offence to fail to assist authorised officer

In the penalty at the foot of section 208 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$9100" substitute "\$27 300";

(b) for "\$45 900" substitute "\$137 700".

50 Offence to destroy or damage notices or documents

In the penalty at the foot of section 209 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$9100" substitute "\$27 300";

(b) for "\$45 900" substitute "\$137 700".

51 Offence to impersonate authorised officer

In the penalty at the foot of section 210 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$9100" substitute "\$27 300".

52 Offence to fail to comply with notice or requirement

In the penalty at the foot of section 217 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$9100" **substitute** "\$27 300";
- (b) for "\$45 900" **substitute** "\$137 700".

53 Offence to hinder or obstruct Regulatory Authority

In the penalty at the foot of section 218 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$9100" **substitute** "\$27 300";
- (b) for "\$45 900" **substitute** "\$137 700".

54 Register of family day care educators, co-ordinators and assistants

- (1) In the penalty at the foot of section 269(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$4500" **substitute** "\$13 500";
- (b) for "\$22 900" **substitute** "\$68 700".

- (2) In the penalty at the foot of section 269(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$2200" **substitute** "\$6600";
- (b) for "\$11 400" **substitute** "\$34 200".

(3) In the penalty at the foot of section 269(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$4500" **substitute** "\$13 500";

(b) for "\$22 900" **substitute** "\$68 700".

(4) In the penalty at the foot of section 269(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

(a) for "\$4500" **substitute** "\$13 500";

(b) for "\$22 900" **substitute** "\$68 700".

55 Duty of confidentiality

In the penalty at the foot of section 273(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "\$5700" **substitute** "\$17 100".

56 Infringement offences

For section 291(1)(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** **substitute**—

"(a) section 36(3), 68(1), 69(1), 84(3), 161, 161A, 162(1), 163(1), 170(2), (3) or (4), 172, 173, 174(1) or (2), 175(1) or (3), 176(3), 177(3), 178(7), 179(3), 217 or 269; or".

57 False or misleading information or documents

In the penalty at the foot of section 295(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**—

- (a) for "\$6800" **substitute** "\$20 400";
- (b) for "\$34 400" **substitute** "\$103 200".

58 Protection from reprisal

5

In the penalty at the foot of section 297(1) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**—

- (a) for "\$11 400" **substitute** "\$34 200";
- (b) for "\$57 400" **substitute** "\$172 200".

10

59 National regulations

In section 301(4)(g) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010**, for "\$2,200" **substitute** "\$6600".

15

60 Information retention and sharing

In the penalty at the foot of section 322(3) of the
Education and Care Services National Law set out
in the Schedule to the **Education and Care
Services National Law Act 2010**—

20

- (a) for "\$4500" **substitute** "\$13 500";
- (b) for "\$22 900" **substitute** "\$68 700".

Part 4—Other amendments to the Education and Care Services National Law

61 New section 2A inserted

5 After section 2 of the Education and Care Services
National Law set out in the Schedule to the
Education and Care Services National Law
Act 2010 insert—

"2A Paramount consideration—safety, rights and best interests of children

- 10 (1) The safety, rights and best interests of
children is the paramount consideration in
the operation of an education and care
service and the delivery of education and
15 care services to children (the *paramount
consideration*).
- (2) The following persons must have regard to
and apply the paramount consideration when
making any decision or taking any action in
20 relation to the operation of an education and
care service or the delivery of education and
care services to children—
- (a) an approved provider of an education
and care service;
- 25 (b) a person with management or control of
an education and care service;
- (c) a person in day-to-day charge of an
education and care service;
- (d) a nominated supervisor of an education
and care service;
- 30 (e) a staff member of an education and care
service;
- (f) a volunteer at an education and care
service.
-

(3) For the purposes of this section—

- 5 (a) in the case of an approved provider that is a body corporate, the constitution or rules of the body corporate is taken to include a provision requiring the body corporate to have regard to and apply the paramount consideration; and
- 10 (b) in the case of an approved provider that is an eligible association, the constitution or rules of the eligible association is taken to include a provision requiring the eligible association to have regard to and apply the paramount consideration; and
- 15 (c) in the case of an approved provider that is a partnership, the partnership agreement is taken to include a provision requiring the partnership to have regard to and apply the paramount consideration.
- 20
- 25 (4) Subsections (2)(a) and (b) and (3)(a) are declared to be Corporations legislation displacement provisions for the purposes of section 5G of the Corporations Act 2001 of the Commonwealth in relation to the provisions of that Act.

Note

30 Section 5G of the Corporations Act 2001 of the Commonwealth provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision for the purposes of that section, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not operate to the extent necessary to avoid the inconsistency."

35

62 Objectives and guiding principles

For section 3(3)(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** substitute—

"(a) the paramount consideration set out in section 2A(1);".

63 Definitions

(1) In section 5(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert the following definitions—

"excursion" means an outing organised by an education and care service to and from a destination outside of the education and care service premises, but does not include an outing organised by an education and care service provided at a school if—

(a) the children taking part in the excursion leave the education and care service premises in the company of an educator; and

(b) the children do not leave the school;

former provider means a person who held a provider approval that is surrendered, suspended or cancelled under this Law;

National Early Childhood Worker Register means the register established under section 269B;

related provider has the meaning given by section 5B;

related provider determination means a determination made under section 5C(1)(a) or (b);

5 *systemic risk*, in relation to an applicant for a
 provider approval, an approved provider, a
 related provider of an applicant for a
 provider approval or a related provider of an
 approved provider, has the meaning given by
 section 5D;".

10 (2) In section 5(1) of the Education and Care Services
 National Law set out in the Schedule to the
 Education and Care Services National Law
 Act 2010, in the definition of *prohibition notice*,
 for "section 182(1) or 182(3)" substitute
 "section 182(1), (3) or (4)".

64 New sections 5B, 5C and 5D inserted

15 After section 5A of the Education and Care
 Services National Law set out in the Schedule to
 the **Education and Care Services National Law**
 Act 2010 insert—

"5B Who is a *related provider*?"

20 In this Law, a *related provider* means a
 person who is—

- 25 (a) a related provider within the meaning
 of section 4A(3) of the A New Tax
 System (Family Assistance)
 (Administration) Act 1999 of the
 Commonwealth; or
- 30 (b) an approved provider who is
 determined to be related to another
 approved provider or an applicant for a
 provider approval under a related
 provider determination; or
- (c) a former provider who is determined to
 be related to an approved provider or an
 applicant for a provider approval under
 a related provider determination.

5C Related provider determination

- 5 (1) The Regulatory Authority may determine that—
- (a) one or more approved providers or former providers are related to an applicant for a provider approval; or
 - (b) one or more approved providers or former providers are related to each other.
- 10 (2) The Regulatory Authority must not make a related provider determination under this section unless it is satisfied that the prescribed circumstances apply.
- 15 (3) A related provider determination must—
- (a) set out the reasons for the determination; and
 - (b) be given in accordance with the national regulations to—
 - 20 (i) in the case of a determination under subsection (1)(a), the applicant for the provider approval and each approved provider or former provider who is determined to be related to the applicant; or
 - 25 (ii) in the case of a determination under subsection (1)(b), each approved provider or former provider who is determined to be related to each other.
- 30
-

- 5 (4) The Regulatory Authority may revoke a related provider determination if it is satisfied that the circumstances prescribed for the purposes of subsection (2) no longer apply.

5D What is a *systemic risk*?

- 10 (1) In this Law, a *systemic risk* arises in relation to—
- (a) an applicant for a provider approval if the provider approval is granted and there is—
- 15 (i) a risk to the safety, health or wellbeing of a child or children to be educated and cared for by an education and care service proposed to be operated by the applicant; or
- 20 (ii) a risk of the applicant contravening this Law or the national regulations; or
- (b) an approved provider if there is—
- 25 (i) a risk to the safety, health or wellbeing of a child or children being educated and cared for by an education and care service operated by the approved provider; or
- 30 (ii) a risk of the approved provider contravening this Law or the national regulations; or

- 5
- (c) a related provider of an applicant for a provider approval or a related provider of an approved provider if there is—
- (i) a risk to the safety, health or wellbeing of a child or children being educated and cared for by an education and care service operated by the related provider; or
- 10
- (ii) a risk of the related provider contravening this Law or the national regulations.
- (2) In determining whether there is a systemic risk, the Regulatory Authority may have regard to the following—
- 15
- (a) the nature of the risk;
- (b) whether the risk is connected to, or is a result of, the governance, ownership or operation of an approved provider or one or more related providers of the approved provider;
- 20
- (c) whether the risk is shared between an approved provider and any related provider of the approved provider;
- 25
- (d) how the risk affects an approved provider and any related provider of the approved provider;
- (e) any other matter the Regulatory Authority considers relevant."
-

65 Matters to be taken into account in assessing whether fit and proper person

5 (1) After section 13(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

10 "(2A) Without limiting subsections (1) and (2), the Regulatory Authority may have regard to the matters set out in subsections (1) and (2) in respect of any related provider of the applicant if the Regulatory Authority is satisfied that there may be a systemic risk in relation to the applicant or the related provider of the applicant."

15 (2) In section 13(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "or (2)" **substitute** ", (2) or (2A)".

20 **66 Amendment of provider approval by Regulatory Authority**

After section 23(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

25 "(2A) Without limiting subsections (1) and (2), the Regulatory Authority may amend an approved provider's provider approval, vary a condition on an approved provider's provider approval or impose a new condition on an approved provider's provider approval if the Regulatory Authority is satisfied that—

30 (a) there is a systemic risk in relation to the approved provider or a related provider of the approved provider; and

- 5 (b) the amendment of the provider approval, the variation of the condition on the provider approval or the imposition of the new condition on the provider approval is reasonably necessary to address the systemic risk."

67 Grounds for suspension of provider approval

10 At the end of section 25 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

15 "(2) Without limiting subsection (1), the Regulatory Authority may suspend an approved provider's provider approval if one or more grounds set out in subsection (1) apply to a related provider of the approved provider and the Regulatory Authority is satisfied that—

- 20 (a) there is a systemic risk in relation to the approved provider or a related provider of the approved provider; and
(b) the suspension is reasonably necessary to address the systemic risk."

68 Decision to suspend after show cause process

25 In section 27(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "section 25(a)" substitute "section 25(1)(a)".

69 Grounds for cancellation of provider approval

At the end of section 31 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(2) Without limiting subsection (1), the Regulatory Authority may cancel an approved provider's provider approval if one or more grounds set out in subsection (1) apply to a related provider of the approved provider and the Regulatory Authority is satisfied that—

(a) there is a systemic risk in relation to the approved provider or the related provider of the approved provider; and

(b) the cancellation is reasonably necessary to address the systemic risk."

70 Regulatory Authority may seek further information

(1) After section 45(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(1A) The Regulatory Authority may ask a related provider of an applicant for a service approval to provide any further information that is reasonably required for the purpose of assessing the application."

(2) In section 45(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "applicant" substitute "applicant or a related provider of the applicant".

71 Determination of application

After section 47(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(2A) In addition, the Regulatory Authority may have regard to the history of compliance of a related provider of the applicant with this Law or this Law as applying in any participating jurisdiction, including in relation to any education and care service operated by the related provider of the applicant, if the Regulatory Authority is satisfied that there is a systemic risk in relation to the applicant or the related provider of the applicant."

72 Grounds for refusal

After section 49(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(1A) The Regulatory Authority may refuse to grant a service approval on a ground set out in section 47(2A)."

73 Amendment of service approval by Regulatory Authority

After section 55(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(2A) Without limiting subsections (1) and (2), the Regulatory Authority may amend an approved provider's service approval, vary a condition on an approved provider's service approval or impose a new condition on an

approved provider's service approval if the
Regulatory Authority is satisfied that—

- 5
- (a) there is a systemic risk in relation to the
approved provider or a related provider
of the approved provider; and
 - (b) the amendment of the service approval,
the variation of the condition on the
service approval or the imposition of
10 the new condition on the service
approval is reasonably necessary to
address the systemic risk."

74 Grounds for suspension of service approval

15 At the end of section 70 of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010** insert—

- 20 "(2) Without limiting subsection (1), the
Regulatory Authority may suspend an
approved provider's service approval if one
or more grounds set out in subsection (1)
apply to a related provider of the approved
provider and the Regulatory Authority is
satisfied that—
- 25 (a) there is a systemic risk in relation to the
approved provider or the related
provider of the approved provider; and
 - (b) the suspension is reasonably necessary
to address the systemic risk."

75 Decision in relation to suspension

30 In section 72(a) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010**, for "section 70(a)" substitute
"section 70(1)(a)".

76 Grounds for cancellation of service approval

At the end of section 77 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

- "(2) Without limiting subsection (1), the Regulatory Authority may cancel an approved provider's service approval if one or more grounds set out in subsection (1) apply to a related provider of the approved provider and the Regulatory Authority is satisfied that—
- (a) there is a systemic risk in relation to the approved provider or the related provider of the approved provider; and
 - (b) the cancellation is reasonably necessary to address the systemic risk."

77 Matters to be considered

After section 90(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

- "(ab) the history of compliance of a related provider of the applicant with this Law or this Law as applying in any participating jurisdiction, including in relation to any education and care service operated by the related provider of the applicant; and"

78 Section 162A substituted and new section 162B inserted

5 For section 162A of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 substitute—

"162A Child protection training

10 An approved provider of an education and
care service must ensure that each of the
following persons completes prescribed child
protection training within the prescribed
period—

- (a) a nominated supervisor of the service;
- 15 (b) a person in day-to-day charge of the
service;
- (c) a staff member of the service;
- (d) a volunteer at the service.

Penalty: \$6600, in the case of an
individual.
20 \$34 200, in any other case.

162B Child safety training

25 An approved provider of an education and
care service must ensure that each of the
following persons completes prescribed child
safety training within the prescribed
period—

- (a) a person with management and control
of the service;
 - (b) a nominated supervisor of the service;
 - 30 (c) a person in day-to-day charge of the
service;
 - (d) a staff member of the service;
-

(e) a volunteer at the service.

Penalty: \$6600, in the case of an individual.

\$34 200, in any other case."

5 **79 New section 166A inserted**

After section 166 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

10 **"166A Offences relating to inappropriate conduct**

- 15 (1) An approved provider of an education and care service must ensure that no child is subjected to conduct that a reasonable person would consider to be inappropriate in an education and care service while that child is being educated and cared for by the service.

Penalty: \$34 200, in the case of an individual.

20 \$172 000, in any other case.

- 25 (2) A nominated supervisor of an education and care service must ensure that no child is subjected to conduct that a reasonable person would consider to be inappropriate in an education and care service while that child is being educated and cared for by the service.

Penalty: \$34 200.

- 30 (3) An approved provider of an education and care service must not subject a child being educated or cared for by the service to conduct that a reasonable person would consider to be inappropriate in an education and care service.

Penalty: \$34 200.

- 5 (4) A nominated supervisor of an education and care service must not subject a child being educated or cared for by the service to conduct that a reasonable person would consider to be inappropriate in an education and care service.
- Penalty: \$34 200.
- 10 (5) A staff member of an education and care service must not subject a child being educated or cared for by the service to conduct that a reasonable person would consider to be inappropriate in an education and care service.
- Penalty: \$34 200.
- 15 (6) A volunteer at an education and care service must not subject a child being educated or cared for by the service to conduct that a reasonable person would consider to be inappropriate in an education and care service.
- 20 Penalty: \$34 200.
- 25 (7) For the purposes of subsections (1) to (6), whether or not a reasonable person would consider the conduct to be inappropriate in an education and care service depends on the circumstances.
- (8) For the purposes of subsection (7)—
- 30 (a) the circumstances may include any of the following—
- (i) whether the conduct is generally accepted practice in the provision of education and care;
-

- 5 (ii) whether the conduct is likely to cause or result in harm (including emotional, psychological or physical harm) or injury to a child or children enrolled at the service;
- (iii) the child's age and stage of development;
- (iv) whether the conduct is sexual, aggressive or violent; and
- 10 (b) it is immaterial whether—
- (i) the child has consented to being subjected to the conduct; or
- (ii) the person subjecting the child to the conduct believes the child has consented to being subjected to the conduct; or
- 15 (iii) the person subjecting the child to the conduct is related to the child.
- (9) For the purposes of this section, filming, recording, taking or otherwise capturing an image of a child is subjecting a child to conduct.
- 20 (10) For the purposes of this section, the conduct may be constituted by conduct—
- 25 (a) engaged in on a single occasion; or
- (b) engaged in on a number of occasions over a period of time; or
- (c) that is part of an ongoing pattern.
- (11) In this section—
- 30 **conduct** means—
- (a) an act; or
- (b) an omission to perform an act."
-

**80 Offence to fail to notify certain circumstances to
Regulatory Authority**

5 (1) After section 173(1) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010** insert—

10 "(1A) An approved provider that is a body
corporate must notify the Regulatory
Authority if 50 per cent or more of the
approved provider's ownership or voting
rights is acquired.

Penalty: \$68 700."

15 (2) In section 173(3) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010**, for "or (2)" **substitute** ", (1A) or (2)".

20 (3) After section 173(4) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010** insert—

25 "(4A) A notice under subsection (1A) must be
provided to the Regulatory Authority that
granted the approved provider's provider
approval within 7 days after the date on
which 50 per cent or more of the approved
provider's ownership or voting rights is
acquired."

81 New Part 6A inserted

After Part 6 of the Education and Care Services
National Law set out in the Schedule to the
Education and Care Services National Law
Act 2010 insert—

**"PART 6A—DEVICES IN EDUCATION AND
CARE SERVICES**

Division 1—Interpretation

175A Definitions

In this Part—

capture, in relation to an image of a child,
includes to film, record or take an
image of the child;

personal device means a device that is—

(a) owned or controlled by a person;
and

(b) capable of—

(i) capturing an image; or

(ii) storing or transmitting an
image—

but does not include a service-supplied
device, a service-authorised device or a
class of device that is prescribed not to
be a personal device;

Examples

A phone, tablet computer, camera or
smartwatch is a personal device that is capable
of capturing an image. A USB drive, memory
card or hard drive is a personal device that is
capable of storing or transmitting an image.

service-authorised device means a device
authorised under section 175C(1);

service-supplied device means a device
supplied under section 175B(1).

**Division 2—Service-supplied devices and
service-authorised devices**

5 **175B Approved provider may supply device for
 use in education and care service**

(1) An approved provider of an education and
care service may supply a device that is to be
used by a person employed, engaged or
10 appointed at the service exclusively for the
 purposes of providing education and care to
 children as part of that service.

(2) In supplying a device under subsection (1),
an approved provider must ensure that the
15 device is configured to operate in accordance
 with any policies or procedures of the
 education and care service that relate to child
 safety or the security of devices.

20 **175C Approved provider may authorise device
 for use in family day care services**

(1) An approved provider of a family day care
service may authorise a device that is to be
used by a person employed, engaged or
25 appointed at the service exclusively for the
 purposes of providing education and care to
 children as part of that service.

(2) In authorising a device under subsection (1),
an approved provider must ensure that the
device is configured to operate in accordance
30 with any policies or procedures of the family
 day care service that relate to child safety or
 the security of devices.

175D Requirement to use service-supplied device in education and care service (other than family day care service)

- 5 (1) An approved provider of an education and care service (other than a family day care service) must take every reasonable precaution to ensure that, while each person specified in subsection (2) is providing education and care to children as part of the service, the person does not use a device to capture, store or transmit an image of a child being educated or cared for by the service unless the person uses a service-supplied device to do so.

10
15 Penalty: \$6600, in the case of an individual.

\$34 200, in any other case.

- (2) The following persons are specified—
- (a) a nominated supervisor;
 - 20 (b) a staff member;
 - (c) a volunteer.
- (3) A nominated supervisor of an education and care service (other than a family day care service) must take every reasonable precaution to ensure that, while each person specified in subsection (4) is providing education and care to children as part of the service, the person does not use a device to capture, store or transmit an image of a child being educated or cared for by the service unless the person uses a service-supplied device to do so.

25
30 Penalty: \$6600.

(4) The following persons are specified—

- (a) a staff member;
- (b) a volunteer.

175E Requirement to use service-authorised device or service-supplied device in family day care service

(1) An approved provider of a family day care service must take every reasonable precaution to ensure that, while each person specified in subsection (2) is providing education and care to children as part of the service, the person does not use a device to capture, store or transmit an image of a child being educated or cared for by the service unless the person uses a service-authorised device or a service-supplied device to do so.

Penalty: \$6600, in the case of an individual.

\$34 200, in any other case.

(2) The following persons are specified—

- (a) a nominated supervisor;
- (b) a staff member;
- (c) a volunteer.

(3) A nominated supervisor of a family day care service must take every reasonable precaution to ensure that, while each person specified in subsection (4) is providing education and care to children as part of the service, the person does not use a device to capture, store or transmit an image of a child being educated or cared for by the service unless the person uses a service-authorised device or a service-supplied device to do so.

Penalty: \$6600.

(4) The following persons are specified—

- (a) a staff member;
- (b) a volunteer.

175F Offences relating to capturing, storing or transmitting images of children

(1) An approved provider of an education and care service (other than a family day care service) must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the approved provider captures, stores or transmits the image of the child on a service-supplied device for the purposes of, or in connection with, the provision of education and care services.

Penalty: \$6600.

(2) An approved provider of a family day care service must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the approved provider captures, stores or transmits the image of the child on a service-supplied device or service-authorised device for the purposes of, or in connection with, the provision of education and care services.

Penalty: \$6600.

(3) A nominated supervisor of an education and care service (other than a family day care service) must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the nominated supervisor captures, stores or transmits the image of the child on a service-supplied device for the purposes of,

or in connection with, the provision of education and care services.

Penalty: \$6600.

- 5 (4) A nominated supervisor of a family day care service must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the nominated supervisor captures, stores or transmits the image of the child on a service-supplied device or service-authorised device for the purposes of, or in connection with, the provision of education and care services.

Penalty: \$6600.

- 15 (5) A staff member of an education and care service (other than a family day care service) must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the staff member captures, stores or transmits the image of the child on a service-supplied device for the purposes of, or in connection with, the provision of education and care services.

Penalty: \$6600.

- 25 (6) A staff member of a family day care service must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the staff member captures, stores or transmits the image of the child on a service-supplied device or service-authorised device for the purposes of, or in connection with, the provision of education and care services.

Penalty: \$6600.

- 5 (7) A volunteer at an education and care service (other than a family day care service) must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the volunteer captures, stores or transmits the image of the child on a service-supplied device for the purposes of, or in connection with, the provision of education and care services.
- 10 Penalty: \$6600.
- 15 (8) A volunteer at a family day care service must not capture, store or transmit an image of a child while the child is being educated or cared for by that service unless the volunteer captures, stores or transmits the image of the child on a service-supplied device or service-authorised device for the purposes of, or in connection with, the provision of education and care services.
- 20 Penalty: \$6600.
- 25 (9) This section does not apply in relation to an image of a child that is captured, stored or transmitted at an education and care service premises by an optical surveillance device within the meaning of the Surveillance Devices Act 2004 of the Commonwealth that is installed at the service premises and authorised by the approved provider for security purposes.

Division 3—Personal devices

175G Meaning of *working directly with children*

(1) For the purposes of this Division, a person is *working directly with children* at a given time if the person is—

(a) physically present with a child or children at that time; and

(b) employed, engaged or appointed to provide education and care to the child or children at that time.

(2) For the purposes of this Division, a person is not working directly with children at a given time if the person is taking a short break from providing education or care to children in accordance with the person's employment, engagement or appointment.

175H Offences relating to possession or control of personal devices—approved providers and nominated supervisors

(1) An approved provider of an education and care service (other than a family day care service) must take every reasonable precaution to ensure that, while each person specified in subsection (2) is working directly with children as part of the service, the person does not have a personal device in the person's possession or under the person's control.

Penalty: \$6600, in the case of an individual.

\$34 200, in any other case.

- (2) The following persons are specified—
- (a) a nominated supervisor;
 - (b) a staff member;
 - (c) a volunteer.
- 5 (3) Subsection (1) does not apply to an approved provider if—
- (a) the nominated supervisor, staff member or volunteer has the personal device in the person's possession or under the
10 person's control—
 - (i) in accordance with an authorisation given by the approved provider under section 175J; or
 - 15 (ii) during an excursion with children being educated or cared for by the service, and the possession or control of the personal device is necessary for the purposes of
20 safety or the provision of education and care to the children; or
 - 25 (iii) while the children are being transported by the service or on transportation arranged by the service, and the possession or control of the personal device is necessary for the purposes of
30 safety or the provision of education and care to the children; or
-

- 5 (b) it is not practicable for an authorisation to be given under section 175J and a reasonable person would consider the possession or control of the personal device is necessary for the purposes of—
- 10 (i) providing support or assistance with the disability or health needs of the nominated supervisor, staff member or volunteer; or
- 15 (ii) the nominated supervisor, staff member or volunteer communicating with a family member; or
- (iii) safety or the provision of education and care to the children if a service-supplied device ceases working; or
- 20 (iv) use in an emergency; or
- (v) work health and safety; or
- (c) any prescribed circumstances apply in relation to the possession or control of the personal device.
- 25 (4) A nominated supervisor of an education and care service (other than a family day care service) must take every reasonable precaution to ensure that, while each person specified in subsection (5) is working directly with children as part of the service,
- 30 the person does not have a personal device in the person's possession or under the person's control.
- Penalty: \$6600.
-

- 5
- (5) The following persons are specified—
- (a) a staff member;
 - (b) a volunteer.
- (6) Subsection (4) does not apply to a nominated supervisor if—
- 10
- (a) the staff member or volunteer has the personal device in the person's possession or under the person's control—
- 15
- (i) in accordance with an authorisation given by the approved provider under section 175J; or
 - (ii) during an excursion with children being educated or cared for by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children;
- 20
- or
 - (iii) while the children are being transported by the service or on transportation arranged by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children;
- 25
- or
- 30

- 5 (b) it is not practicable for an authorisation to be given under section 175J and a reasonable person would consider the possession or control of the personal device is necessary for the purposes of—
- 10 (i) providing support or assistance with the disability or health needs of the staff member or volunteer; or
- 15 (ii) the staff member or volunteer communicating with a family member; or
- (iii) safety or the provision of education and care to the children if a service-supplied device ceases working; or
- (iv) use in an emergency; or
- (v) work health and safety; or
- 20 (c) any prescribed circumstances apply in relation to the possession or control of the personal device.

25 **175I Offences relating to possession or control of personal devices—persons working directly with children**

- 30 (1) A nominated supervisor of an education and care service (other than a family day care service) must not have a personal device in the nominated supervisor's possession or under the nominated supervisor's control while the nominated supervisor is working directly with children as part of the service.

Penalty: \$6600.

- 5
- (2) Subsection (1) does not apply to a nominated supervisor if—
- (a) the nominated supervisor has the personal device in the nominated supervisor's possession or under the nominated supervisor's control—
- 10
- (i) in accordance with an authorisation given by the approved provider under section 175J; or
- 15
- (ii) during an excursion with children being educated or cared for by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children; or
- 20
- (iii) while the children are being transported by the service or on transportation arranged by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children; or
- 25
- (b) it is not practicable for an authorisation to be given under section 175J and a reasonable person would consider the possession or control of the personal device is necessary for the purposes of—
- 30
- (i) providing support or assistance with the nominated supervisor's disability or health needs; or
- 35
-

- 5
- (ii) the nominated supervisor communicating with a family member; or
 - (iii) safety or the provision of education and care to the children if a service-supplied device ceases working; or
 - (iv) use in an emergency; or
 - (v) work health and safety; or
- 10
- (c) any prescribed circumstances apply in relation to the nominated supervisor's possession or control of the personal device.
- 15
- (3) A staff member of an education and care service (other than a family day care service) must not have a personal device in the staff member's possession or under the staff member's control while the staff member is working directly with children as part of the
- 20
- service.
- Penalty: \$6600.
- (4) Subsection (3) does not apply to a staff member if—
- 25
- (a) the staff member has the personal device in the staff member's possession or under the staff member's control—
- 30
- (i) in accordance with an authorisation given by the approved provider under section 175J; or
 - (ii) during an excursion with children being educated or cared for by the service, and the possession or control of the personal device is
-

- necessary for the purposes of
safety or the provision of
education and care to the children;
or
- 5 (iii) while the children are being
transported by the service or on
transportation arranged by the
service, and the possession or
control of the personal device is
10 necessary for the purposes of
safety or the provision of
education and care to the children;
or
- 15 (b) it is not practicable for an authorisation
to be given under section 175J and a
reasonable person would consider the
possession or control of the personal
device is necessary for the purposes
of—
- 20 (i) providing support or assistance
with the staff member's disability
or health needs; or
- (ii) the staff member communicating
with a family member; or
- 25 (iii) safety or the provision of
education and care to the children
if a service-supplied device ceases
working; or
- (iv) use in an emergency; or
- 30 (v) work health and safety; or
- (c) any prescribed circumstances apply in
relation to the staff member's
possession or control of the personal
device.
-

5 (5) A volunteer at an education and care service (other than a family day care service) must not have a personal device in the volunteer's possession or under the volunteer's control while the volunteer is working directly with children as part of the service.

Penalty: \$6600.

10 (6) Subsection (5) does not apply to a volunteer if—

(a) the volunteer has the personal device in the person's possession or under the person's control—

15 (i) in accordance with an authorisation given by the approved provider under section 175J; or

20 (ii) during an excursion with children being educated or cared for by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children; or

25 (iii) while the children are being transported by the service or on transportation arranged by the service, and the possession or control of the personal device is necessary for the purposes of safety or the provision of education and care to the children; or

30

- 5 (b) it is not practicable for an authorisation to be given under section 175J and a reasonable person would consider the possession or control of the personal device is necessary for the purposes of—
- 10 (i) providing support or assistance with the volunteer's disability or health needs; or
- 15 (ii) the volunteer communicating with a family member; or
- (iii) safety or the provision of education and care to the children if a service-supplied device ceases working; or
- (iv) use in an emergency; or
- (v) work health and safety; or
- 20 (c) any prescribed circumstances apply in relation to the volunteer's possession or control of the personal device.

175J Authorisation to have possession or control of personal device while working directly with children

- 25 (1) An approved provider of an education and care service (other than a family day care service) may authorise a person to have a personal device in the person's possession or under the person's control while the person is working directly with children as part of the service if the approved provider is
- 30 reasonably satisfied that the possession or control is necessary for the purposes of—
- (a) providing support or assistance with the person's disability or health needs; or
-

- 5
- (b) communication with a family member of the person; or
 - (c) safety or the provision of education and care to the children if a service-supplied device ceases working; or
 - (d) use in an emergency; or
 - (e) work health and safety.
- 10
- (2) An approved provider who authorises a personal device under subsection (1) must—
 - (a) record the authorisation in writing; and
 - (b) include the prescribed information in that written record.
 - (3) An approved provider must keep a written record required to be made under subsection (2) for the prescribed period.
 - (4) A period prescribed for the purposes of subsection (3) must be at least 3 years."
- 15

82 Compliance directions

- 20
- (1) After section 176(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—
- 25
- "(2A) Without limiting subsection (2), the Regulatory Authority may give an approved provider of the education and care service a written direction (a *compliance direction*) requiring the approved provider to take the steps specified in the direction if the Regulatory Authority is satisfied that—
- 30
- (a) there is a systemic risk in relation to the approved provider or a related provider of the approved provider; and
-

(b) the direction is reasonably necessary to address the systemic risk."

(2) In section 176(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "subsection (2)" **substitute** "subsection (2) or (2A)".

83 Compliance notices

(1) After section 177(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(2A) Without limiting subsection (2), the Regulatory Authority may give an approved provider of the education and care service a notice (a **compliance notice**) requiring the approved provider to take the steps specified in the notice if the Regulatory Authority is satisfied that—

(a) there is a systemic risk in relation to the approved provider or a related provider of the approved provider; and

(b) the notice is reasonably necessary to address the systemic risk."

(2) In section 177(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "subsection (2)" **substitute** "subsection (2) or (2A)".

**84 New sections 178A, 178B, 178C, 178D and 178E
inserted**

After section 178 of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law
Act 2010** insert—

**"178A Direction to suspend education and care
by staff member (other than a family day
care educator) or volunteer**

(1) The Regulatory Authority may give a notice
to an approved provider of an education and
care service that directs the provider to
suspend the provision of education and care
by a staff member of the service (other than a
family day care educator), or by a volunteer
at the service, for a period of time
determined by the Regulatory Authority (a
suspension direction) if the Regulatory
Authority is reasonably satisfied that—

(a) because of the conduct of, or the
inadequacy of education and care
provided by, the staff member or
volunteer—

(i) the approved provider is not
complying with any provision of
this Law; or

(ii) a nominated supervisor of the
service is not complying with any
provision of this Law; or

(iii) there is a risk to the safety, health
or wellbeing of children being
educated or cared for by the
service; or

- (b) the staff member or volunteer has contravened or is alleged to have contravened section 166(3) or 166A(5) or (6).
- 5 (2) Before giving the approved provider a suspension direction, the Regulatory Authority may give the provider a notice (*show cause notice*) stating—
 - 10 (a) that the Regulatory Authority intends to give the provider a suspension direction; and
 - (b) the reasons for the proposed suspension direction; and
 - 15 (c) that the provider may, within 14 days after the show cause notice is given (the *show cause period*), make submissions to the Regulatory Authority in respect of the proposed suspension direction.
- 20 (3) After the Regulatory Authority gives the approved provider a show cause notice, the Regulatory Authority—
 - (a) must consider any submissions from the approved provider received within the show cause period; and
 - 25 (b) may consider any other submissions and any other matters the Regulatory Authority considers relevant; and
 - (c) may decide—
 - 30 (i) to give the approved provider a suspension direction; or
 - (ii) not to give the provider a suspension direction.

- 5 (4) If, after the show cause period, the
Regulatory Authority decides not to give the
approved provider a suspension direction,
the Regulatory Authority must give the
provider written notice of the Regulatory
Authority's decision.
- 10 (5) The Regulatory Authority may immediately
give the approved provider a suspension
direction without giving the provider a show
cause notice if the Regulatory Authority is
reasonably satisfied that—
- 15 (a) there is an immediate risk to the safety,
health or wellbeing of a child or
children being educated or cared for by
the service; and
- (b) the suspension direction is necessary to
protect the safety, health or wellbeing
of the child or children.
- 20 (6) An approved provider to whom a suspension
direction is given must not contravene that
direction.
- Penalty: \$20 400, in the case of an
individual.
\$103 200, in any other case.
- 25 **178B Direction to suspend education and care
by nominated supervisor**
- 30 (1) The Regulatory Authority may give a notice
to an approved provider of an education and
care service that directs the provider to
suspend the provision of education and care
by a nominated supervisor of the service for
a period of time determined by the
Regulatory Authority (a *suspension*
direction) if the Regulatory Authority is
35 reasonably satisfied that—
-

- 5
- (a) because of the conduct of, or the inadequacy of education and care provided by, the nominated supervisor—
- 10
- (i) the nominated supervisor is not complying with any provision of this Law; or
- (ii) the approved provider is not complying with any provision of this Law; or
- (iii) there is a risk to the safety, health or wellbeing of children being educated or cared for by the service; or
- 15
- (b) the nominated supervisor has contravened or is alleged to have contravened section 166(2) or 166A(2) or (4).
- 20
- (2) Before giving the approved provider a suspension direction, the Regulatory Authority may give the provider a notice (***show cause notice***) stating—
- 25
- (a) that the Regulatory Authority intends to give the provider a suspension direction; and
- (b) the reasons for the proposed suspension direction; and
- 30
- (c) that the provider may, within 14 days after the show cause notice is given (the ***show cause period***), make submissions to the Regulatory Authority in respect of the proposed suspension direction.
-

- 5
- (3) After the Regulatory Authority gives the approved provider a show cause notice, the Regulatory Authority—
- (a) must consider any submissions from the approved provider received within the show cause period; and
- (b) may consider any other submissions and any other matters the Regulatory Authority considers relevant; and
- 10 (c) may decide—
- (i) to give the approved provider a suspension direction; or
- (ii) not to give the provider a suspension direction.
- 15 (4) If, after the show cause period, the Regulatory Authority decides not to give the approved provider a suspension direction, the Regulatory Authority must give the provider written notice of the Regulatory
- 20 Authority's decision.
- (5) The Regulatory Authority may immediately give the approved provider a suspension direction without giving the provider a show cause notice if the Regulatory Authority is
- 25 reasonably satisfied that—
- (a) there is an immediate risk to the safety, health or wellbeing of a child or children being educated or cared for by the service; and
- 30 (b) the suspension direction is necessary to protect the safety, health or wellbeing of the child or children.
-

- (6) An approved provider to whom a suspension direction is given must not contravene that direction.

Penalty: \$20 400, in the case of an individual.

\$103 200, in any other case.

178C Direction requiring supervision of staff member (other than a family day care co-ordinator) or volunteer

- (1) The Regulatory Authority may give a notice to an approved provider of an education and care service that directs the provider to ensure that a staff member of the service (other than a family day care co-ordinator), or a volunteer at the service, is directly supervised while providing education and care to children as part of the service (a *supervision direction*) if the Regulatory Authority is reasonably satisfied that—

(a) because of the conduct of the staff member or volunteer—

(i) the approved provider is not complying with any provision of this Law; or

(ii) a nominated supervisor of the service is not complying with any provision of this Law; or

(b) the staff member or volunteer has contravened or is alleged to have contravened section 166(3) or 166A(5) or (6).

- 5
- (2) A supervision direction must specify—
- (a) that the staff member of, or volunteer at, the service is to be directly supervised—
 - (i) by a suitably qualified and experienced person specified in subsection (3); and
 - (ii) for a period of time determined by the Regulatory Authority; and
 - 10 (b) details of any conditions applying to the supervision of the staff member or volunteer.
- (3) The following persons are specified—
- 15 (a) a person in day-to-day charge of the service;
 - (b) a nominated supervisor of the service;
 - (c) a staff member of the service.
- 20 (4) Before giving the approved provider a supervision direction, the Regulatory Authority may give the provider a notice (***show cause notice***) stating—
- (a) that the Regulatory Authority intends to give the approved provider a supervision direction; and
 - 25 (b) the reasons for the proposed supervision direction; and
 - (c) that the approved provider may, within 14 days after the show cause notice is given (the ***show cause period***), make submissions to the Regulatory Authority in respect of the proposed supervision direction.
- 30
-

- 5
- (5) After the Regulatory Authority gives the approved provider a show cause notice, the Regulatory Authority—
- (a) must consider any submissions from the approved provider received within the show cause period; and
- (b) may consider any other submissions and any other matters the Regulatory Authority considers relevant; and
- 10 (c) may decide—
- (i) to give the approved provider a supervision direction; or
- (ii) not to give the provider a supervision direction.
- 15 (6) If, after the show cause period, the Regulatory Authority decides not to give the approved provider a supervision direction, the Regulatory Authority must give the provider written notice of the Regulatory
- 20 Authority's decision.
- (7) The Regulatory Authority may immediately give the approved provider a supervision direction without giving the provider a show cause notice if the Regulatory Authority is
- 25 reasonably satisfied that—
- (a) there is an immediate risk to the safety, health or wellbeing of a child or children being educated or cared for by the service; and
- 30 (b) the supervision direction is necessary to protect the safety, health or wellbeing of the child or children.
-

- (8) An approved provider to whom a supervision direction is given must not contravene that direction.

Penalty: \$20 400, in the case of an individual.

\$103 200, in any other case.

178D Direction requiring nominated supervisor to complete training

- (1) The Regulatory Authority may give a notice to a nominated supervisor of an education and care service that directs the nominated supervisor to complete training determined by the Regulatory Authority within the period determined by the Regulatory Authority (a *training direction*) if the Regulatory Authority is reasonably satisfied that—

(a) because of the conduct of the nominated supervisor—

(i) the nominated supervisor is not complying with any provision of this Law; or

(ii) the approved provider of the service is not complying with any provision of this Law; or

(b) the nominated supervisor has contravened or is alleged to have contravened section 166(2) or 166A(2) or (4).

- (2) A training direction must specify details of any conditions applying to the nominated supervisor's training.

- 5
- (3) Before giving the nominated supervisor a training direction, the Regulatory Authority may give the nominated supervisor a notice (*show cause notice*) stating—
- 10
- (a) that the Regulatory Authority intends to give the nominated supervisor a training direction; and
- (b) the reasons for the proposed training direction; and
- 15
- (c) that the nominated supervisor may, within 14 days after the show cause notice is given (the *show cause period*), make submissions to the Regulatory Authority in respect of the proposed training direction.
- (4) After the Regulatory Authority gives the nominated supervisor a show cause notice, the Regulatory Authority—
- 20
- (a) must consider any submissions from the nominated supervisor received within the show cause period; and
- (b) may consider any other submissions and any other matters the Regulatory Authority considers relevant; and
- 25
- (c) may decide—
- (i) to give the nominated supervisor a training direction; or
- (ii) not to give the nominated supervisor a training direction.
-

- 5 (5) If the Regulatory Authority decides to give the nominated supervisor a training direction, the Regulatory Authority must give the approved provider of the service written notice of the Regulatory Authority's decision.
- 10 (6) If, after the show cause period, the Regulatory Authority decides not to give the nominated supervisor a training direction, the Regulatory Authority must give the nominated supervisor written notice of the Regulatory Authority's decision.
- 15 (7) A nominated supervisor to whom a training direction is given must not contravene that direction.

Penalty: \$20 400.

178E Direction requiring staff member or volunteer to complete training

- 20 (1) The Regulatory Authority may give a notice to a staff member of, or a volunteer at, an education and care service that directs the staff member or volunteer to complete training determined by the Regulatory Authority within the period determined by
- 25 the Regulatory Authority (a ***training direction***) if the Regulatory Authority is reasonably satisfied that—
- (a) because of the conduct of the staff member or volunteer—
- 30 (i) the approved provider of the service is not complying with any provision of this Law; or
- 35 (ii) the nominated supervisor of the service is not complying with any provision of this Law; or
-

- (b) the staff member or volunteer has contravened or is alleged to have contravened section 166(3) or 166A(5) or (6).
- 5 (2) A training direction must specify details of any conditions applying to the training of the staff member or volunteer.
- (3) Before giving the staff member or volunteer a training direction, the Regulatory Authority may give the staff member or volunteer a notice (*show cause notice*) stating—
 - 10
 - (a) that the Regulatory Authority intends to give the staff member or volunteer a training direction; and
 - 15 (b) the reasons for the proposed training direction; and
 - 20 (c) that the staff member or volunteer may, within 14 days after the show cause notice is given (the *show cause period*), make submissions to the Regulatory Authority in respect of the proposed training direction.
 - 25 (4) After the Regulatory Authority gives the staff member or volunteer a show cause notice, the Regulatory Authority—
 - 30
 - (a) must consider any submissions from the staff member or volunteer received within the show cause period; and
 - (b) may consider any other submissions and any other matters the Regulatory Authority considers relevant; and
 - (c) may decide—
 - (i) to give the staff member or volunteer a training direction; or

(ii) not to give the staff member or
volunteer a training direction.

5 (5) If the Regulatory Authority decides to give
the staff member or volunteer a training
direction, the Regulatory Authority must
give the approved provider of the service
written notice of the Regulatory Authority's
decision.

10 (6) If, after the show cause period, the
Regulatory Authority decides not to give the
staff member or volunteer a training
direction, the Regulatory Authority must
give the staff member or volunteer written
notice of the Regulatory Authority's
15 decision.

(7) A staff member or volunteer to whom a
training direction is given must not
contravene that direction.

Penalty: \$20 400."

20 **85 Enforceable undertakings**

After section 179A(2) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 insert—

25 "(2A) Without limiting subsection (2), if subsection
(1)(a) applies in relation to a related provider
of an approved provider, the Regulatory
Authority may accept a written undertaking
from the approved provider, under which the
30 approved provider undertakes to take certain
actions, or refrain from taking certain
actions, to comply with this Law if the
Regulatory Authority is satisfied that there is
a systemic risk in relation to the approved
35 provider or the related provider."

86 Certain actions prohibited while undertaking is in force

5 In section 179B(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "179A(2)" **substitute** "179A(2) or (2A)".

87 Certain actions prohibited if undertaking is complied with

10 After section 180(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010 insert—**

15 "(1A) If an approved provider complies with the requirements of an undertaking under section 179A(2A), no further proceeding may be commenced for any offence constituted by the contravention or alleged contravention in respect of which the
20 undertaking was given."

88 Failure to comply with enforceable undertakings

25 (1) After section 181(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010 insert—**

30 "(3A) If the relevant tribunal or court determines that an approved provider has failed to comply with a term of an undertaking under section 179A(2A), a proceeding may be commenced for any offence constituted by the contravention or alleged contravention in respect of which the undertaking was given."

- 5 (2) In section 181(6) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "subsection (3)" **substitute** "subsection (3) or (3A)".

89 Grounds for giving prohibition notice

10 After section 182(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

- 15 "(4) Without limiting subsection (1), the Regulatory Authority may give a prohibition notice to an approved provider if a related provider of the approved provider is subject to a prohibition notice that is in force under this Law as applying in any participating jurisdiction and the Regulatory Authority is satisfied that—
- 20 (a) there is a systemic risk in relation to the approved provider or the related provider; and
- (b) the prohibition notice is reasonably necessary to address the systemic risk."

90 Content of prohibition notice

- 25 (1) In section 185(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "section 182(1)" **substitute** "section 182(1) or (4)".
- 30 (2) In section 185(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "section 182(1) or (3)" **substitute** "section 182(1), (3) or (4)".
-

91 Person must not contravene prohibition notice

5 In section 187(1) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010, for "section 182(1)" substitute
"section 182(1) or (4)".

92 Reviewable decision—internal review

10 For section 190(h) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 substitute—

- "(h) to issue a compliance notice; or
- 15 (i) to direct an approved provider of a family
day care service to suspend the provision of
education and care by a family day care
educator under section 178; or
- 20 (j) to direct an approved provider of an
education and care service to suspend the
provision of education and care by a staff
member (other than a family day care
educator) or a volunteer under section 178A;
or
- 25 (k) to direct an approved provider of an
education and care service to suspend the
provision of education and care by a
nominated supervisor under section 178B; or
- 30 (l) to direct an approved provider of an
education and care service under
section 178C to ensure that a staff member
(other than a family day care co-ordinator) or
a volunteer is directly supervised while
providing education and care; or
- 35 (m) to direct a nominated supervisor of an
education and care service to complete
training under section 178D; or
-

- (n) to direct a staff member of, or a volunteer at, an education and care service to complete training under section 178E."

93 Reviewable decision—external review

5 Section 192(b)(vi) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** is repealed.

94 New section 197A inserted

10 After section 197 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

15 **"197A Powers of entry to family day care service premises—monitoring compliance with prescribed requirement relating to the safety, health and wellbeing of children**

(1) An authorised officer may exercise the powers under this section if the authorised officer reasonably believes it is necessary to do so to assess or monitor compliance of an approved provider of a family day care service with any prescribed requirement in relation to the safety, health and wellbeing of children.

(2) Subject to subsections (5) and (7), an authorised officer, with the consent of the occupier of family day care service premises, may enter the family day care service premises and do any of the following—

- (a) inspect any part of the premises;
- (b) inspect any plant, equipment, vehicle or other thing at the premises;

- 5
- (c) photograph or film, or make audio recordings or make sketches of, any part of the premises or anything at the premises;
- (d) inspect and make copies of, or take extracts from, any document kept at the premises;
- (e) take any document or any other thing at the premises;
- 10
- (f) ask a person at the premises—
- (i) to answer a question to the best of that person's knowledge, information and belief; or
- 15
- (ii) to take reasonable steps to provide information or produce a document.
- (3) An authorised officer who enters family day care service premises under this section—
- 20
- (a) must enter the premises during ordinary business hours; and
- (b) may enter the premises with such assistants as may reasonably be required.
- 25
- (4) Before entering the family day care service premises under this section, the authorised officer must inform the occupier of the premises of—
- (a) the purpose of the entry; and
- (b) the powers that may be exercised.
- 30
- (5) A power under subsection (2)(a) to (e) is limited to a document or thing that is used or likely to be used in the provision of the family day care service.
-

- 5
- (6) If the authorised officer takes any document or thing under subsection (2), the authorised officer must—
- (a) give notice of the taking of the document or thing to the person apparently in charge of it or to the occupier of the premises; and
- 10 (b) return the document or thing to that person or the premises within 7 days after taking it.
- (7) An authorised officer must not enter any family day care service premises that is a family day care residence under this section unless—
- 15 (a) the authorised officer reasonably believes that an approved family day care service is operating at the residence at the time of entry; and
- 20 (b) at the time of entry, the register of family day care educators records that the approved family day care service operates at the residence.
- (8) In this section—
- 25 ***family day care service premises***, in relation to a family day care service, means any of the following—
- (a) an approved family day care venue;
- 30 (b) an area in a family day care residence whether or not that area is used to provide education and care to children as part of the service;
-

- (c) an area outside but near a family day care residence whether or not that area is used to provide education and care to children as part of the service.

Example

A shed or garage at the same premises on which a family day care residence is located."

95 Powers of entry for investigating approved education and care service

- (1) In section 199(2) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "premises at" **substitute** "premises and the education and care service premises of any related provider of the approved provider of the approved education and care service at".

- (2) After section 199(4) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

"(5) An authorised officer must not enter the education and care service premises of a related provider of the approved provider under this section unless the authorised officer is satisfied that—

- (a) there is a systemic risk in relation to the approved provider; and
(b) the entry is reasonably necessary to address the systemic risk."

96 New section 199A inserted

After section 199 of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 insert—

**"199A Powers of entry to family day care service
premises—investigation of offences**

- (1) An authorised officer may exercise the
powers under this section to investigate a
family day care service if the authorised
officer reasonably suspects an offence may
have been or may be being committed
against this Law.
- (2) Subject to subsections (5) and (7), an
authorised officer, with the consent of the
occupier of family day care service premises,
may enter the family day care service
premises and do any of the following—
- (a) search any part of the premises;
 - (b) inspect, measure, test, photograph or
film, or make audio recordings of,
anything that may afford evidence of an
offence against this Law at any part of
the premises;
 - (c) take for analysis, measurement or
testing a thing, or a sample of or from a
thing, at the premises that may afford
evidence of an offence against this
Law;
 - (d) copy, or take an extract from, a
document at the premises that may
afford evidence of an offence against
this Law;

- 5 (e) take into or onto the premises any person, equipment and materials the authorised officer reasonably requires for exercising a power under this section;
- 10 (f) require the occupier of the premises or a person at the premises to give the authorised officer information the authorised officer reasonably requires for exercising a power under this section.
- (3) An authorised officer who enters family day care service premises under this section—
- 15 (a) must enter the premises during ordinary business hours; and
- (b) may enter the premises with such assistants as may reasonably be required.
- 20 (4) Before entering the family day care service premises under this section, the authorised officer must advise the occupier of the premises of—
- (a) the purpose of the entry; and
- (b) the powers that may be exercised.
- 25 (5) A power under subsection (2)(b) to (d) is limited to a document or thing that is used or likely to be used in the provision of the family day care service.

- 5
- (6) If the authorised officer takes any document or thing under subsection (2), the authorised officer must—
- (a) give notice of the taking of the document or thing to the person apparently in charge of it or to an occupier of the premises; and
- 10 (b) return the document or thing to that person or the premises within 7 days after taking it.
- (7) An authorised officer must not enter any family day care service premises that is a family day care residence under this section unless—
- 15 (a) the authorised officer reasonably believes that an approved family day care service is operating at the residence at the time of entry; and
- 20 (b) at the time of entry, the register of family day care educators records that the approved family day care service operates at the residence.
- 25 (8) An occupier of family day care service premises must not unreasonably refuse to give consent to an authorised officer under this section.
- Penalty: \$27 300, in the case of an individual.
- \$137 700, in any other case.

(9) In this section—

family day care service premises, in relation to a family day care service, means any of the following—

- 5 (a) an approved family day care venue;
- (b) an area in a family day care residence whether or not that area is used to provide education and care to children as part of the service;
- 10
- (c) an area outside but near a family day care residence whether or not that area is used to provide education and care to children as part of the service.
- 15

Example

A shed or garage at the same premises on which a family day care residence is located."

20

97 Powers of entry to business premises

(1) For section 200(1) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** substitute—

25

"(1) An authorised officer may exercise powers under this section if the authorised officer reasonably suspects that documents or other evidence relevant to the possible commission of an offence against this Law by an approved provider of an education and care service are present at—

30

- (a) the principal office of the approved provider; or
-

- 5 (b) any other business office of the approved provider; or
- (c) the principal office of a related provider of the approved provider; or
- 10 (d) any other business office of a related provider of the approved provider."
- (2) After section 200(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—
- 15 "(4) An authorised officer must not enter the principal office of a related provider of the approved provider or any other business office of a related provider of the approved provider under this section unless the authorised officer is satisfied that—
- (a) there is a systemic risk in relation to the approved provider; and
- 20 (b) the entry is reasonably necessary to address the systemic risk."

98 New section 206B inserted

After section 206A of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

- 25 **"206B Power of authorised officers to obtain information, documents and evidence from former provider for purposes of related provider determinations**
- 30 (1) For the purposes of a related provider determination, an authorised officer, by written notice, may require a former provider to provide to the authorised officer any relevant information specified in the notice.
-

- 5
- (2) A former provider who is required to provide information under subsection (1) must provide that information—
- (a) in writing signed by that former provider or, if the former provider is not an individual, by a competent officer of that former provider; and
- (b) within the time specified in the notice; and
- 10 (c) in the manner specified in the notice.
- (3) The time specified in the notice must not be less than 14 days from the date the notice is issued."

99 Protection against self incrimination

15 In section 211(2)(c) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "section 215 or 216" substitute "section 215, 216, 216A or 216B".

20 **100 New sections 216A, 216B and 216C inserted**

After section 216 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

25 **"216A Power of Regulatory Authority to obtain information, documents and evidence from approved provider for the purposes of a related provider determination**

- 30 (1) For the purposes of making a related provider determination in relation to an approved provider, the Regulatory Authority, by written notice, may require the approved provider—
-

- 5 (a) to provide to the Regulatory Authority,
in writing signed by that provider or, if
the provider is not an individual, by a
competent officer of that provider,
within the time and in the manner
specified in the notice, any relevant
information that is specified in the
notice; or
- 10 (b) to produce to the Regulatory Authority,
or to a person specified in the notice
acting on the Regulatory Authority's
behalf, in accordance with the notice,
any relevant document referred to in the
notice; or
- 15 (c) to appear before the Regulatory
Authority, or a person specified in the
notice acting on the Regulatory
Authority's behalf, at a time and place
specified in the notice, to give any
20 evidence or to produce any relevant
document specified in the notice.
- (2) The notice must—
- 25 (a) warn the approved provider that failure
or refusal to comply with the notice
may constitute an offence; and
- (b) warn the provider about the effect of
sections 217, 218 and 219.
- 30 (3) The Regulatory Authority or the person
specified in the notice acting on the
Regulatory Authority's behalf may require
the evidence referred to in subsection (1)(c)
to be given on oath or affirmation and for
that purpose may administer an oath or
affirmation.
-

5 (4) The approved provider may give evidence under subsection (1)(c) by telephone or video conference or other electronic means unless the Regulatory Authority, on reasonable grounds, requires the provider to give that evidence in person.

10 **216B Power of Regulatory Authority to obtain information, documents and evidence from specified person at education and care service for the purposes of a related provider determination**

15 (1) For the purposes of making a related provider determination in relation to an approved provider or former provider, the Regulatory Authority, by written notice, may require a specified person at an education and care service—

20 (a) to provide the Regulatory Authority, or a person acting on the Regulatory Authority's behalf, with any specified information that is relevant to the related provider determination; or

25 (b) to produce to the Regulatory Authority, or to a person acting on the Regulatory Authority's behalf, any specified document that is relevant to the related provider determination.

(2) The Regulatory Authority must—

30 (a) warn the person that failure or refusal to comply with the requirement may constitute an offence; and

(b) warn the person about the effect of sections 217, 218 and 219.

5 (3) The Regulatory Authority must not require a specified person to remain at the education and care service for more than a reasonable time for the purposes of providing information or producing documents under subsection (1).

(4) In this section—
specified person means a person who is or has been—
10 (a) a nominated supervisor of an education and care service; or
(b) a staff member of an education and care service; or
15 (c) a volunteer at an education and care service.

216C Approved provider that is a related provider must disclose certain information to Regulatory Authority

20 At the request of the Regulatory Authority, an approved provider who is a related provider must disclose to the Regulatory Authority within 14 days after the Regulatory Authority's request—

- 25 (a) details of any arrangement entered into by the provider relating to the provider's governance or the operation of an education and care service by the provider; and
30 (b) the prescribed information relating to the approved provider's ownership or operation.

Penalty: \$27 300, in the case of an individual.

\$137 700, in any other case."

101 Offence to fail to comply with notice or requirement

5 In section 217 of the Education and Care Services
National Law set out in the Schedule to the
Education and Care Services National Law
Act 2010, for "section 215 or 216" **substitute**
"section 215, 216, 216A or 216B".

102 Offence to hinder or obstruct Regulatory Authority

10 In section 218 of the Education and Care Services
National Law set out in the Schedule to the
Education and Care Services National Law
Act 2010, for "section 215 or 216" **substitute**
"section 215, 216, 216A or 216B".

103 Self incrimination not an excuse

15 (1) In section 219(1) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010, for "section 215 or 216" **substitute**
"section 215, 216, 216A or 216B".

20 (2) In paragraphs (a) and (b) of the definition of
disclosed information in section 219(4) of the
Education and Care Services National Law set
out in the Schedule to the **Education and**
Care Services National Law Act 2010, for
"section 215 or 216" **substitute** "section 215, 216,
25 216A or 216B".

104 Functions of National Authority

30 After section 225(1)(g) of the Education and Care
Services National Law set out in the Schedule to
the **Education and Care Services National Law**
Act 2010 **insert—**

"(ga) to establish, maintain and publish the
National Early Childhood Worker Register;"

105 Powers of Regulatory Authority

5 In section 261(2)(b) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, for "family day care educators and nominated supervisors" **substitute** "nominated supervisors, staff members and volunteers".

106 Register of approved providers

10 After section 266(2)(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010 insert—**

"(ab) the name of each related provider of each approved provider; and".

15 **107 New Division 4A of Part 13 inserted**

After Division 4 of Part 13 of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010 insert—**

20 **"Division 4A—National Early Childhood Worker Register**

269A Who is an *education and care service worker*?

25 In this Division, each of the following is an ***education and care service worker***—

- (a) a nominated supervisor of an education and care service;
 - (b) a staff member of an education and care service;
 - 30 (c) a volunteer at an education and care service.
-

269B National Early Childhood Worker Register

- 5 (1) The National Authority must establish and maintain the National Early Childhood Worker Register.
- (2) The National Authority may include the following information in the National Early Childhood Worker Register about each education and care service worker—
- 10 (a) the person's full name and any alias name or former name;
- (b) the person's address and telephone number;
- (c) the person's date of birth;
- 15 (d) in relation to each education and care service where the education and care service worker is or has been employed, engaged or appointed—
- 20 (i) the role in which the person is or has been employed, engaged or appointed in or as part of the service; and
- (ii) the name of the service; and
- 25 (iii) the date that the person was employed, engaged or appointed in or as part of the service; and
- (iv) the date the person ceased to be employed, engaged or appointed in or as part of the service (if applicable); and
- 30 (e) any other prescribed information.
-

269C National Authority may access and use information on other registers

- 5 (1) The National Authority may use any information on the register of approved providers kept under section 266 for the purposes of the National Authority establishing and maintaining the National Early Childhood Worker Register under this Law.
- 10 (2) The National Authority may access and use any information on the register of approved education and care services kept under section 267 or the register of family day care educators, co-ordinators and assistants kept
- 15 under section 269 for the purposes of the National Authority establishing and maintaining the National Early Childhood Worker Register under this Law.

269D Access to National Early Childhood Worker Register

- 20 (1) The National Authority is authorised to access the National Early Childhood Worker Register for the purposes of the National Authority—
- 25 (a) maintaining the register under this Law; or
- (b) performing any other function of the National Authority under this Law.
- 30 (2) The Regulatory Authority is authorised to access the National Early Childhood Worker Register for the purposes of the Regulatory Authority performing its functions under this Law.
-

5 (3) An approved provider of an education and care service is authorised to access the National Early Childhood Worker Register to the extent that the register relates to the service for purposes related to providing information to the National Authority in accordance with section 269E.

10 **269E Approved provider must give information to the National Authority for the National Early Childhood Worker Register**

(1) An approved provider of an education and care service must take reasonable steps to ensure that the information set out in section 269B(2) is provided to the National Authority—

15 (a) within the prescribed time after an education and care service worker is employed, engaged or appointed at the service; and

20 (b) in the manner and form approved by the Authority.

Penalty: \$6600, in the case of an individual.

\$34 200, in any other case.

25 (2) An approved provider of an education and care service must take reasonable steps to ensure that the National Authority is notified about any changes to information on the National Early Childhood Worker Register about an education and care service worker employed, engaged or appointed at the service—

30 (a) within the prescribed time after the approved provider becomes aware of the change; and

35

(b) in the manner and form approved by the Authority.

Penalty: \$6600, in the case of an individual.

\$34 200, in any other case.

- (3) An approved provider of an education and care service does not contravene subsection (1) or (2) during the period beginning on the day on which Part 4 of the **Early Childhood Legislation Amendment (Child Safety) Act 2025** commences and ending on the day that is one month after that commencement.

269F Collection by National Authority of information for the purposes of maintaining the National Early Childhood Worker Register

The National Authority may collect information from an approved provider of an education and care service or a recruitment agency for the purposes of maintaining the National Early Childhood Worker Register.

269G Collection, use and disclosure by National Authority of information on the National Early Childhood Worker Register

- (1) The National Authority may collect and use information on the National Early Childhood Worker Register for the purposes of the National Authority performing any of its functions under this Law.
- (2) The National Authority may disclose information on the National Early Childhood Worker Register for a purpose listed in subsection (3) to—
- (a) a relevant Commonwealth Government Department; or

- (b) any State or Territory Government Department; or
 - (c) any Commonwealth, State or Territory public authority; or
 - 5 (d) any State or Territory local authority; or
 - (e) the Regulatory Authority.
 - (3) The purposes for disclosure of information under this section are—
 - 10 (a) the disclosure is for the purposes of enabling or assisting the National Authority to perform any of its functions under this Law; or
 - 15 (b) the disclosure is reasonably necessary to promote the objectives of the national education and care services quality framework; or
 - 20 (c) the disclosure is for the purposes of enabling or assisting the other entity to perform any of its functions under this Law or any other Act; or
 - 25 (d) the disclosure is for the purposes of research or the development of National, State or Territory policy with respect to education and care services; or
 - 30 (e) the disclosure is for a purpose relating to the funding of education and care services; or
 - (f) the disclosure is for a purpose relating to the payment of benefits or allowances to persons using education and care services, provided the disclosure of information is not otherwise prohibited by law.
-

- 5
- (4) A disclosure of information under this section is subject to Division 1 and any protocol agreed for the purposes of this section by—
- (a) the National Authority, all participating jurisdictions and the Commonwealth; and
- 10 (b) subject to any protocol referred to in paragraph (a), the National Authority and the Regulatory Authority, or the National Authority, the Regulatory Authority and any Regulatory Authority of another participating jurisdiction.
- 15 (5) Information disclosed under this section for the purpose of research or the development of National, State or Territory policy with respect to education and care services must not include information that could identify or
- 20 lead to the identification of an individual other than—
- (a) an approved provider or a nominated supervisor; or
- 25 (b) a family day care educator who has been suspended from providing education and care to children as part of a family day care service; or
- (c) a person to whom a prohibition notice applies; or
- 30 (d) a person who is being prosecuted for an offence against this Law.
-

**269H Collection, use and disclosure by
Regulatory Authority of information on
the National Early Childhood Worker
Register**

- 5 (1) The Regulatory Authority may collect and
use information on the National Early
Childhood Worker Register for the purposes
of the Regulatory Authority performing any
of its functions under this Law.
- 10 (2) The Regulatory Authority may disclose
information on the National Early Childhood
Worker Register for a purpose listed in
subsection (3) to—
- 15 (a) a relevant Commonwealth Government
Department; or
- (b) any State or Territory Government
Department; or
- (c) any Commonwealth, State or Territory
public authority; or
- 20 (d) any State or Territory local authority; or
(e) another Regulatory Authority.
- (3) The purposes for disclosure of information
under this section are—
- 25 (a) the disclosure is for the purposes of
enabling or assisting the other
Regulatory Authority to perform any of
its functions under this Law or any
other Act; or
- 30 (b) the disclosure is reasonably necessary
to promote the objectives of the
national education and care services
quality framework; or
-

- 5
- (c) the disclosure is for the purposes of enabling or assisting the other entity to perform or exercise any of its functions under this Law or any other Act; or
- (d) the disclosure is for the purposes of research or the development of National, State or Territory policy with respect to education and care services; or
- 10
- (e) the disclosure is for a purpose relating to the funding of education and care services; or
- 15
- (f) the disclosure is for a purpose relating to the payment of benefits or allowances to persons using education and care services, provided the disclosure of information is not otherwise prohibited by law.
- 20
- (4) A disclosure of information under this section is subject to Division 1 and any protocol agreed for the purposes of this section by—
- 25
- (a) the National Authority, all participating jurisdictions and the Commonwealth; and
- 30
- (b) subject to any protocol referred to in paragraph (a), the National Authority and the Regulatory Authority, or the National Authority, the Regulatory Authority and any Regulatory Authority of another participating jurisdiction.
- 35
- (5) Information disclosed under this section for the purpose of research or the development of National, State or Territory policy with respect to education and care services must
-

not include information that could identify or lead to the identification of an individual other than—

- 5 (a) an approved provider or a nominated supervisor; or
- (b) a family day care educator who has been suspended from providing education and care to children as part of a family day care service; or
- 10 (c) a person to whom a prohibition notice applies; or
- (d) a person who is being prosecuted for an offence against this Law."

108 Publication of information

15 After section 270(1)(d) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

20 "(da) any prescribed information in relation to a related provider determination made in respect of an approved provider;"

109 Disclosure of information to other authorities

(1) After section 271(3) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010** insert—

25

30 "(3A) The National Authority and the Regulatory Authority may disclose to each other information about a related provider of an approved provider or a related provider determination if the disclosure is reasonably necessary for the purposes of monitoring compliance with this Law."

Early Childhood Legislation Amendment (Child Safety) Bill 2025

Part 4—Other amendments to the Education and Care Services National Law

5

- (2) In section 271(8)(a) of the Education and Care Services National Law set out in the Schedule to the **Education and Care Services National Law Act 2010**, after "provider" **insert** "(including any related provider of an approved provider)".

Part 5—Amendment of Application Act

Division 1—First tranche of modifications to the Law

110 New Part 2B inserted

5 After Part 2A of the **Education and Care Services National Law Act 2010** insert—

'Part 2B—Modifications to the Education and Care Services National Law (Victoria)

10 **16G Application and interpretation**

- (1) Without limiting section 4, the Education and Care Services National Law (Victoria) applies as a law of Victoria subject to this Part and is to be read as if the modifications
- 15 under this Part were part of that Law.
- (2) In addition, a reference in the Education and Care Services National Law (Victoria) to "this Law", or the Law as it applies in this jurisdiction, includes a reference to the
- 20 Education and Care Services National Law (Victoria) as modified under this Part.

16H Definitions

- (1) Section 5(1) of the Education and Care Services National Law (Victoria) applies as a
- 25 law of Victoria as if in the definition of *prohibition notice* after "182(1)" there were inserted ", (1A)".

(2) Section 5(1) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if the following definitions were inserted in the appropriate alphabetical place—

"emergency action notice means a notice under section 179;

suspension direction means a direction under section 178(4)(c)(i);

Victorian Minister means the Minister administering section 4 of the **Education and Care Services National Law Act 2010** of Victoria;

Victorian regulations means regulations made under section 18A of the **Education and Care Services National Law Act 2010** of Victoria;".

16I Grounds for giving prohibition notice

Section 182 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after subsection (1) of that section there were inserted—

"(1A) The Regulatory Authority may give a prohibition notice to a person who is in any way involved in, or has been in any way involved in, an education and care service if it considers that there may be an unacceptable risk of harm to a child or children if the person were allowed to provide education and care to children."

16J Content of prohibition notice

Section 185 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if—

- 5 (a) in subsection (1) of that section, after "182(1)" there were inserted ", (1A)"; and
- (b) in subsection (3) of that section, after "182(1)" there were inserted ", (1A)".

10 **16K Person must not contravene prohibition notice**

Section 187(1) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if in subsection (1) of that section, after "182(1)" there were inserted ", (1A)".

16L Internal review of reviewable decisions

Section 191 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after subsection (2) of that section there were inserted—

- "(2A) An application under subsection (1) does not stay the operation of the reviewable decision."

25 **16M Regulatory Authority's power to close services because of emergency event**

- (1) Division 5 of Part 9 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if in the heading to that Division, for "**Powers**" there were substituted "**Information powers**".
- 30

- (2) Part 9 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 216C there were inserted—

5 **"Division 5A—Emergency event closure powers of Regulatory Authority**

216D Regulatory Authority may close services because of emergency event

- 10 (1) This section applies if, because of an emergency event, the Regulatory Authority reasonably believes it is necessary to take any of the following actions (*relevant actions*) to protect children—
- 15 (a) close all education and care services and family day care services in Victoria;
- (b) close all education and care services and family day care services in a part of Victoria.
- 20 (2) The Regulatory Authority may, by order, take the relevant action.
- (3) An order under this section takes effect on the later of the following—
- 25 (a) when the order is made by the Regulatory Authority;
- (b) the date specified in the order.
- (4) An order must be published in the Government Gazette as soon as practicable after being made by the
- 30 Regulatory Authority.
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- (5) Failure to comply with subsection (4) does not invalidate the order.
 - (6) Notice of the making of an order under this section may be given to approved providers or approved education and care services to which the order applies in the way the Regulatory Authority considers appropriate including, for example, by electronic means or publication in the media or on a Government website.
 - (7) An order remains in force—
 - (a) for the period specified in the order, unless revoked earlier; or
 - (b) if no period is specified—until revoked.
 - (8) An approved provider or approved education and care service must comply with an emergency order.

Penalty: \$34 200, in the case of an individual.
\$172 200, in any other case.
 - (9) In this section—

emergency event means an emergency due to an actual or imminent occurrence that—

 - (a) endangers, or threatens to endanger, the safety or health of persons in the State; or
 - (b) destroys or damages, or threatens to destroy or damage, property or the environment in the State; or

- (c) causes a failure of, or a significant disruption to, an essential service or infrastructure;

5 *emergency order* means an order under subsection (2);

10 *occurrence* includes an accident, earthquake, epidemic, explosion, fire, flood, storm, terrorist act and warlike action."

16N Ministerial guidelines and Ministerial directions to approved providers

15 Part 10 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 223 there were inserted—

"223A Victorian Minister may issue guidelines

20 (1) The Victorian Minister may issue guidelines about any matter relating to the delivery of education and care services to children in this jurisdiction, including in relation to the following—

25 (a) best practice for early childhood education;

(b) guidance about standards for ensuring approved providers provide services that are fit for purpose;

30 (c) disciplinary proceedings.

- 5 (2) If there is an inconsistency between a guideline issued under subsection (1) and a guideline issued by the Regulatory Authority, the guideline issued under subsection (1) prevails to the extent of the inconsistency.

223B Victorian Minister may give directions to approved providers

- 10 (1) The Victorian Minister may, by written notice, direct an approved provider to take action specified in the direction to prioritise the safety, welfare or wellbeing of children attending education and care services operated by the approved provider.
- 15 (2) The Victorian Minister may give a direction under this section only if—
- 20 (a) the Victorian Minister believes on reasonable grounds giving the direction is necessary to prevent unacceptable risk to the safety of a child or children; and
- 25 (b) the Victorian Minister has consulted, and considered any advice given by, the Regulatory Authority.
- 30 (3) A direction under this section takes effect on the later of the following—
- (a) when the Victorian Minister gives the direction to the approved provider;
- Note**
- Also see section 293 of this Law.
- (b) the date specified in the direction.
-

- (4) An approved provider to whom a direction is given under this section must comply with the direction.

Penalty: \$34 200, in the case of an individual.

\$172 200, in any other case."

16O Regulatory Authority direction powers

Part 12 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 261 there were inserted—

"261A Regulatory Authority may give directions to approved providers

- (1) The Regulatory Authority may, by written notice, direct an approved provider to take action specified in the direction for the safety, welfare or wellbeing of a child or children to whom education and care is provided by the approved provider.
- (2) The Regulatory Authority may give a direction under this section only if the Regulatory Authority has reasonable grounds to believe giving the direction is necessary to prevent unacceptable risk to the safety, welfare or wellbeing of a child or children to whom education and care is provided by the approved provider.

- 5
- (3) A direction under this section takes effect on the later of the following—
- (a) when the Regulatory Authority gives the direction to the approved provider;

Note

Also see section 293 of this Law.

- (b) the date specified in the direction.
- 10 (4) An approved provider to whom a direction is given under this section must comply with the direction.
- Penalty: \$34 200, in the case of an individual.
- 15 \$172 200, in any other case.".

16P Ministerial control of Regulatory Authority

20 Part 12 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if immediately before section 262 there were inserted—

"261B Ministerial control of Regulatory Authority

- 25 (1) The Regulatory Authority is subject to the direction and control of the Victorian Minister in relation to the following—
- (a) policies to be applied by the Regulatory Authority in exercising functions and powers under this Law;
- 30

- (b) other systemic matters relating to the Regulatory Authority's exercise of functions and powers under this Law.
- 5 (2) To avoid doubt, the Regulatory Authority is not subject to the direction and control in relation to—
- (a) the contents of any advice, report or recommendation given to the
10 Victorian Minister; or
- (b) decisions about particular persons, matters or things including the following—
- (i) decisions about whether to
15 grant, suspend, cancel or take other action in relation to particular approvals;
- (ii) decisions about instituting
20 criminal or disciplinary proceedings in particular cases.
- (3) However, subsection (2)(b) does not prevent the Victorian Minister giving a direction to, or in relation to, a
25 particular person, matter or thing under section 223B."

16Q Publication of information

30 Section 270 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if for subsection (5) of that subsection there were substituted—

"(5) The Regulatory Authority may publish information about enforcement action taken, or being taken, under this Law,

including details about any of the following—

- 5 (a) amendments of provider approvals or service approvals for enforcement purposes;
 - (b) the suspension or cancellation of provider approvals or service approvals;
 - 10 (c) directions under section 171 to exclude persons from education and care services premises;
 - (d) compliance directions;
 - (e) compliance notices;
 - (f) suspension directions;
 - 15 (g) emergency action notices;
 - (h) enforceable undertakings;
 - (i) prohibition notices;
 - (j) the emergency removal of children under Division 4 of Part 7;
 - 20 (k) prosecutions for offences against this Law;
 - (l) infringement notices.
 - 25 (6) The information the Regulatory Authority may publish under subsection (5) about enforcement action includes the following—
 - 30 (a) information about the nature of enforcement action taken and the outcome of the enforcement action;
-

- 5 (b) details of persons in relation to whom enforcement action has been taken;
- (c) the reason for taking enforcement action, including details of the breach or alleged breach;
- (d) other information prescribed by the Victorian regulations.
- 10 (7) However, the information the Regulatory Authority may publish under subsection (5) about enforcement action does not include information that may identify, or lead to the identification of, a child."
- 15 **16R Protection from liability for republication of information**
- Part 13 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 270 there were
- 20 inserted—
- "270A Protection from liability for publications under section 270**
- 25 (1) This section applies if a protected person, in good faith, republishes information published under section 270.
- (2) The protected person is not liable, civilly or administratively, for the republication of the information.
- 30 (3) Without limiting subsection (2), no liability for defamation is incurred by the protected person because of the republication of the information.
-

(4) In this section—

protected person means—

- (a) the Minister; or
- 5 (b) the Regulatory Authority if it republishes information published by the National Authority under section 270; or
- 10 (c) the proprietor, editor or publisher of a newspaper; or
- (d) the proprietor or broadcaster of a radio or television station or the producer of a radio or television show; or
- 15 (e) an internet service provider or internet content host; or
- (f) a member of staff of, or a person acting at the direction of, a person referred to in
- 20 this definition; or
- (g) a person, or a person belonging to a class of persons, prescribed by the Victorian regulations."

25 **16S Disclosure of certain information about persons to approved providers and others**

Division 6 of Part 13 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after

30 section 272A there were inserted—

**"272B Disclosure of certain information
about persons to approved providers
and others**

- 5 (1) The Regulatory Authority may disclose
the following information to an
approved provider, if the Regulatory
Authority considers, on reasonable
10 grounds, that the provider requires the
information to comply with the
provider's obligations under this Law—
- (a) the identity of a person;
 - (b) whether a person is subject to a
supervision direction, suspension
direction or training direction;
 - 15 (c) if a person is subject to a
supervision direction, suspension
direction or training direction—
 - 20 (i) the provision of the Law that
formed the basis for the
giving of the supervision
direction, suspension
direction or training
direction; and
 - (ii) the conditions (if any)
25 attached to the supervision
direction, suspension
direction or training
direction;
 - 30 (d) information about any current
investigation into whether a
person has not complied with a
supervision direction, suspension
direction or training direction
applying to them.
-

- 5 (2) The Regulatory Authority may disclose the following information to a recruitment agency or labour hire agency about a person the agency supplies or offers to supply to education and care services—
- 10 (a) the identity of the person;
- (b) whether the person is subject to a supervision direction, suspension direction or training direction;
- 15 (c) if the person is subject to a supervision direction, suspension direction or training direction—
- (i) the provision of the Law that formed the basis for the giving of the supervision direction, suspension direction or training direction; and
- 20 (ii) the conditions (if any) attached to the supervision direction, suspension direction or training direction;
- 25 (d) information about any current investigation into whether the person has not complied with a supervision direction, suspension direction or training direction
- 30 applying to them.".'.
-

Division 2—Second tranche of modifications to the Law

111 New Division heading inserted into Part 2B

5 Insert the following Division heading before section 16G of the **Education and Care Services National Law Act 2010**—

 "**Division 1—General modifications**".

112 Definitions

10 For section 16H(2) of the **Education and Care Services National Law Act 2010** substitute—

 '(2) Section 5(1) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if the following definitions were inserted in the appropriate alphabetical place—

15 "***emergency action notice*** means a notice under section 179;

large provider means—

20 (a) a large child care provider within the meaning of the A New Tax System (Family Assistance) (Administration) Act 1999 of the Commonwealth; or

25 (b) a person prescribed under the Victorian regulations;

suspension direction means a direction under section 178(4)(c)(i);

30 ***Victorian Minister*** means the Minister administering section 4 of the **Education and Care Services National Law Act 2010** of Victoria;

Victorian regulations means regulations made under section 18A of the **Education and Care Services National Law Act 2010** of Victoria;".

5 **113 New section 16HA inserted**

After section 16H of the **Education and Care Services National Law Act 2010** insert—

10 **'16HA Approved providers must notify Regulatory Authority of reportable sexual conduct committed by staff**

Part 6 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 174A there were inserted—

15 **"174B Offence for approved provider to fail to notify Regulatory Authority of any reportable sexual conduct committed by relevant staff members**

20 (1) An approved provider must notify the Regulatory Authority, in writing, of any reportable sexual conduct within the relevant prescribed time after becoming aware of that reportable sexual conduct.

25 Penalty: \$13 500, in the case of an individual.

\$206 100, in the case of a large provider.

\$68 700, in any other case.

30 (2) A notice under subsection (1) must contain the prescribed information.

(3) In this section—

relevant staff member, of an approved provider, means—

- 5 (a) a nominated supervisor of an education and care service operated by the approved provider;
- 10 (b) an educator who provides education and care for children as part of an education and care service operated by the approved provider;
- 15 (c) a family day educator engaged by or registered with a family day care service to provide education and care for children in a residence or at an approved family day care venue operated by the approved provider;
- 20 (d) a person (other than a person referred to in paragraph (a), (b) or (c)) employed or engaged to perform work or provide services at an education and care service operated by the approved provider; or
- 25 (e) a volunteer at an education and care service operated by the approved provider;
- 30

reportable sexual conduct means—

- 5 (a) a sexual offence committed
by a relevant staff member of
an approved provider
against, with or in the
presence of, a child, whether
or not a criminal proceeding
in relation to the offence has
been commenced or
10 concluded; or
- (b) sexual misconduct,
committed by a relevant staff
member of an approved
provider against, with or in
15 the presence of, a child;

sexual misconduct includes behaviour,
physical contact or speech or other
communication of a sexual nature,
inappropriate touching, grooming
behaviour and voyeurism;
20

sexual offence means an offence
referred to in clause 1 of
Schedule 1 to the **Sentencing
Act 1991**."'.
25

**114 New sections 16T to 16V and Division 2 of Part 2B
inserted**

After section 16S of the **Education and Care
Services National Law Act 2010** insert—

'16T Infringement offences

30 Section 291(1) of the Education and Care
Services National Law (Victoria) applies as a
law of Victoria as if after paragraph (a) there
were inserted—

"(ab) an offence against a provision
modifying the application of this Law
as it applies as a law of this
jurisdiction—

5 (i) that, under Part 2B of the
**Education and Care Services
National Law Act 2010** of
Victoria, is to be read as if it were
part of this Law; and

10 (ii) that is prescribed under the
Victorian regulations for the
purposes of this paragraph; or

Note

15 See also section 16H of the **Education and
Care Services National Law Act 2010** of
Victoria.

(ac) an offence against the national
regulations prescribed by the Victorian
regulations for the purposes of this
20 paragraph; or".

16U Additional court and tribunal orders

25 Part 14 of the Education and Care Services
National Law (Victoria) applies as a law of
Victoria as if after Division 4 there were
inserted—

**"Division 4A—Additional court and
tribunal orders**

**292A Court orders requiring offenders to
publicise offending**

30 (1) This section applies if a court convicts
an offender of an offence against—
(a) this Law; or
(b) the national regulations.

- 5 (2) The court may, in addition to any penalty that may be imposed or any other action taken in relation to the penalty, order the offender to take specified action to publicise—
- (a) the offence, including the circumstances of the offence; and
- (b) the consequences of the offence."

16V Offences relating to contracts of insurance

10 Part 14 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after Division 6 there were inserted—

15 **"Division 6A—Insurance contract offence**

295A Offence to enter into contracts of insurance indemnifying the payment of fines

- 20 (1) An approved provider must not, without reasonable excuse, enter into a contract of insurance or other arrangement under which a relevant person is indemnified in respect of the payment of a financial penalty by the relevant person.

25 Penalty: \$34 200, in the case of an individual.

\$516 600, in the case of a large provider.

30 \$172 200, in any other case.

- 5 (2) An approved provider must not, on or after the relevant day, without reasonable excuse, be a party to a contract of insurance or other arrangement under which a relevant person is indemnified in respect of the payment of a financial penalty by the relevant person.
- 10 Penalty: \$34 200, in the case of an individual.
\$516 600, in the case of a large provider.
\$172 200, in any other case.
- 15 (3) A term of a contract of insurance or other arrangement is void to the extent that it purports to indemnify a relevant person in respect of the payment of a financial penalty by the relevant person.
- 20 (4) In this section—
financial penalty means—
- 25 (a) a fine ordered by a court to be paid on a finding of guilt for an offence against this Law or the national regulations; or
- (b) an amount ordered by the relevant tribunal or court to be paid under section 188F(b);
- 30 *relevant day* means the day which is the first anniversary of the day on which section 114 of the **Early Childhood Legislation Amendment (Child Safety) Act 2025** comes into operation;
- 35
-

relevant person means—

- (a) the approved provider; or
- (b) a nominated supervisor of an education and care service of the approved provider; or
- (c) a staff member of an education and care service of the approved provider; or
- (d) a volunteer at an education and care service of the approved provider; or
- (e) a person providing education and care as part of an education and care service of the approved provider."

Division 2—Large provider penalty modifications

16W National Law criminal offence penalties modified for large providers that commit offences

The Education and Care Services National Law (Victoria) applies as a law of Victoria as if—

- (a) for the penalty at the foot of section 170(2) there were substituted—
 - "Penalty: \$3300, in the case of an individual.
 - \$51 300, in the case of a large provider.
 - \$17 100, in any other case.";
 - and

- 5 (b) for the penalty at the foot of sections
162A, 162B, 175D(1), 175E(1),
175H(1), 176(3), 269(2), 269E(1) and
269E(2) there were substituted—
"Penalty: \$6600, in the case of an
individual.
\$102 600, in the case of a
large provider.
\$34 200, in any other case.";
10 and
(c) for the penalty at the foot of sections
36(3), 69(1), 84(3), 172(1) and 172(2)
there were substituted—
"Penalty: \$10 200, in the case of an
15 individual.
\$154 800, in the case of a
large provider.
\$51 600, in any other case.";
and
20 (d) for the penalty at the foot of sections
68(1), 168(1), 173(1), 173(2), 174(1),
174(2), 175(1), 269(1), 269(3), 269(4)
and 322(3) there were substituted—
"Penalty: \$13 500, in the case of an
25 individual.
\$206 600, in the case of a
large provider.
\$68 700, in any other case.";
and
-

- 5 (e) for the penalty at the foot of sections
161, 161A, 162(1), 163(1), 164(1) and
164A(1) there were substituted—
"Penalty: \$17 100, in the case of an
individual.
\$258 300, in the case of a
large provider.
\$86 100, in any other case."; and
- 10 (f) for the penalty at the foot of sections
104(1), 177(3), 178(7), 179(3) and
295(1) there were substituted—
"Penalty: \$20 400, in the case of an
individual.
15 \$309 600, in the case of a
large provider.
\$103 200, in any other
case."; and
- 20 (g) for the penalty at the foot of sections
199A(8), 207, 208, 209, 216C, 217 and
218 there were substituted—
"Penalty: \$27 300, in the case of an
individual.
25 \$413 100, in the case of a
large provider.
\$137 700, in any other
case."; and

- 5 (h) for the penalty at the foot of sections
19(4), 51(8), 165(1), 166(1), 166A(1),
167(1), 169(1), 169(2), 171(2) and
297(1) there were substituted—
"Penalty: \$34 200, in the case of an
individual.
\$516 600, in the case of a
large provider.
\$ 172 200, in any other
10 case."; and
- (i) for the penalty at the foot of sections
103(1), 103A, 188(1), 188(2) and
188(3) there were substituted—
"Penalty: \$68 700, in the case of an
15 individual.
\$1 034 100, in the case of a
large provider.
\$344 700, in any other
case."; and
- 20 (j) for the penalty at the foot of section
173(1A) there were substituted—
"Penalty: \$1 034 100, in the case of a
large provider.
\$68 700, in any other
25 case."!.

**115 Updating of certain penalty levels in modifications
to provide for large provider penalties**

- 30 (1) In section 16M of the **Education and Care
Services National Law Act 2010**, for the penalty
at the foot of section 216D(8) of the Education
and Care Services National Law (Victoria)
substitute—
-

"Penalty: \$34 200, in the case of an individual.
\$516 600, in the case of a large
provider.
\$172 200, in any other case."

5 (2) In section 16N of the **Education and Care
Services National Law Act 2010**, for the penalty
at the foot of section 223B(4) of the Education
and Care Services National Law (Victoria)
substitute—

10 "Penalty: \$34 200, in the case of an individual.
\$516 600, in the case of a large
provider.
\$172 200, in any other case."

15 (3) In section 16O of the **Education and Care
Services National Law Act 2010**, for the penalty
at the foot of section 261A(4) of the Education
and Care Services National Law (Victoria)
substitute—

"Penalty: \$34 200, in the case of an individual.
20 \$516 600, in the case of a large
provider.
\$172 200, in any other case."

Division 3—Third tranche of modifications to the Law

25 **116 Definitions**

For section 16H(2) of the **Education and Care
Services National Law Act 2010 substitute—**

30 '(2) Section 5(1) of the Education and Care
Services National Law (Victoria) applies as a
law of Victoria as if the following definitions
were inserted in the appropriate alphabetical
place—

- 5 "**disciplinary agreement**" means agreed
 action under section 188E(a);
- disciplinary order** means an order under
 section 188F;
- emergency action notice** means a notice
 under section 179;
- large provider** means—
- 10 (a) a large child care provider within
 the meaning of the A New Tax
 System (Family Assistance)
 (Administration) Act 1999 of the
 Commonwealth; or
- (b) a person prescribed under the
 Victorian regulations;
- 15 **supervision direction** means a notice under
 section 178C(1);
- suspension direction** means a direction
 under section 178(4)(c)(i), 178A(1),
 178B(1) or 178BA(2);
- 20 **training direction** means a direction under
 section 178D(1) or 178E(1);
- Victorian Minister** means the Minister
 administering section 4 of the
 Education and Care Services
25 **National Law Act 2010** of Victoria;
- Victorian regulations** means regulations
 made under section 18A of the
 Education and Care Services
 National Law Act 2010 of Victoria;".
-

117 New section 16HAA to 16HAH inserted

After section 16H of the **Education and Care Services National Law Act 2010** insert—

'16HAA Application for provider approval

5 Section 10 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if for subsection (1) of that section there were substituted—

10 "(1) A person, other than the following persons, may apply to the Regulatory Authority for a provider approval—

 (a) a prescribed ineligible person;

 (b) a person who—

15 (i) 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; and

20 (ii) has not been notified by the Regulatory Authority that the person may apply for a provider approval again within 12 months after receiving the notice referred to in subparagraph (i).".

16HAB Grounds for cancellation of provider approval

30 Section 31 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after subsection (2) of that section there were inserted—

"(3) The Regulatory Authority may also cancel a provider approval if the provider has ceased to operate or exist because the provider—

- 5 (a) has been deregistered under the Corporations Act; or
- (b) is under administration or in liquidation; or
- 10 (c) is an association that has been wound up or its incorporation has been cancelled under **Associations Incorporation Reform Act 2012** of Victoria; or
- 15 (d) is an association that has been wound up or its incorporation or registration has been cancelled under a law of another participating jurisdiction that substantially corresponds to the **Associations Incorporation Reform Act 2012** of Victoria; or
- 20 (e) has otherwise ceased to operate or exist.

16HAC Show cause notice before cancellation

25 Section 32(2) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if for paragraph (c) of that subsection there were substituted—

30 "(c) that the approved provider may give the Regulatory Authority a written response to the proposed cancellation—

- (i) for a proposed cancellation under section 31(1) or (2)—within 30 days after the notice is given; and
- 35
-

- (ii) for a proposed cancellation under section 31(3)—within 14 days after the notice is given."

16HAD Application for service approval

5 Section 43(1) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if for that subsection there were substituted—

10 "(1) A person, other than a specified person, may apply to the Regulatory Authority for a service approval.

(1A) For the purposes of subsection (1), a specified person is a person who—

15 (a) 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; and

20 (b) has not been notified by the Regulatory Authority that the person may apply for a service approval again within 12 months after receiving the notice referred to in paragraph (a)."

25 **16HAE Ratings levels**

Section 134(2) of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if at the foot of that subsection there were inserted—

30 **"Note**

The Regulatory Authority may also give the highest rating level prescribed by the national regulations—see section 138A."

**16HAF Regulatory Authority power to suspend or
revoke rating of approved education and
care services**

5 Division 2 of Part 5 of the Education and
Care Services National Law (Victoria)
applies as a law of Victoria as if after
section 138 there were inserted—

10 **"138A Reassessment and re-rating—
Regulatory Authority may suspend
or revoke rating of approved
education and care services**

- 15 (1) This section applies if the Regulatory
Authority is investigating an approved
education and care service under this
Law.
- 20 (2) The Regulatory Authority may, if the
Regulatory Authority is satisfied it is in
the public interest, suspend the
approved education and care service's
rating level while the investigation is
being conducted.
- 25 (3) On or as soon as practicable after the
conclusion of the investigation, the
Regulatory Authority may—
- 30 (a) revoke the approved education
and care service's rating level if
the Regulatory Authority
considers the revocation necessary
or appropriate; and
- (b) re-rate the approved education and
care service against the National
Quality Standard or the national
regulations.
-

5 (4) Despite section 134, in re-rating the approved education and care service the Regulatory Authority may give the education and care service operating the highest rating level prescribed by the national regulations."

16HAG Reassessment and re-rating—scope of Regulatory Authority's power to reassess, suspend or revoke the rating level

10 Division 2 of Part 5 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after section 140 there were inserted—

15 **"140A Application of Division to education and care service with highest rating level**

20 To avoid doubt, the Regulatory Authority may reassess, suspend or revoke the rating level for an education and care service even if the rating level is the highest rating level prescribed by the national regulations."

16HAH Offence to fail to display prescribed information

25 Section 172 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after subsection (2) of that section there were inserted—

30 "(3) An approved provider of an education and care service must ensure the approved provider's quality and compliance history for the education and care service provided by the approved provider is displayed, in the form approved by the Regulatory Authority, at the education and care

5 \$154 800, in the case of a
large provider.
\$51 600, in any other case

10 *quality and compliance history* means
the information prescribed by the
Victorian regulations."!

15 **'16HB Directions to cease providing education**
 and care for period determined by
 Regulatory Authority

"178BA Directions to cease providing education and care for period determined by Regulatory Authority"

30

- (i) a nominated supervisor of an education and care service;
- (ii) a staff member of an education and care service;

- 5
- (iii) a volunteer at an education and care service; or
- (b) there is a risk to the safety, health or wellbeing of children being educated and cared for at an education and care service if any of the following persons continue to provide education and care at the education and care service—
- 10
- (i) a nominated supervisor of the education and care service;
- (ii) a staff member of the education and care service;
- 15
- (iii) a volunteer at the education and care service.
- (2) The Regulatory Authority may give a notice to the person that directs the person to cease providing education and care for a period of time determined by the Regulatory Authority (a *suspension direction*).
- 20
- (3) Before giving the person a suspension direction under subsection (2), the Regulatory Authority may give the person a notice (*show cause notice*) stating—
- 25
- (a) that the Regulatory Authority intends to give the person a suspension direction under subsection (2); and
- 30
- (b) the reasons for the proposed suspension direction; and
-

- 5 (c) that the person may, within
14 days after the show cause
notice is given (the *show cause
period*), make submissions to the
Regulatory Authority in respect of
the proposed suspension direction.
- 10 (4) If the Regulatory Authority gives the
person a show cause notice, the
Regulatory Authority—
- 15 (a) must consider any submissions
from the person received within
the show cause period; and
- (b) may consider any other
submissions and any other matters
the Regulatory Authority
considers relevant; and
- 20 (c) may decide—
- (i) to give the person a
suspension direction; or
- (ii) not to give the person a
suspension direction.
- 25 (5) If, after the show cause period, the
Regulatory Authority decides not to
give the person a suspension direction,
the Regulatory Authority must give the
person written notice of the Regulatory
Authority's decision.
- 30 (6) The Regulatory Authority may
immediately give the person a
suspension direction without giving the
person a show cause notice if the
Regulatory Authority is reasonably
satisfied that—
-

- 5 (a) there is an immediate risk to the safety, health or wellbeing of a child or children being educated or cared for by the person; and
- (b) the notice is necessary to protect the safety, health or wellbeing of the child or children.
- 10 (7) A person to whom a suspension direction is given must comply with that direction.

Penalty: \$20 400."

119 New sections 16KA and 16KB inserted

After section 16K of the **Education and Care Services National Law Act 2010** insert—

15 **'16KA Disciplinary action**

Part 7 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after Division 3 of that Part there were inserted—

20 **"Division 3A—Disciplinary action**

188C Definitions

In this Division—

25 *grounds for disciplinary action*, in relation to a relevant person, see section 188D;

relevant person means—

- 30 (a) an approved provider of an education and care service; or
- (b) a nominated supervisor of an education and care service; or
-

(c) a person with management or control of an education and care service; or

(d) a family day care educator engaged by or registered with an education or care service.

188D Grounds for disciplinary action

Grounds for disciplinary action exist against a relevant person if—

(a) the person has contravened any of the following—

(i) this Law;

(ii) the national regulations; or

(b) the person is a person with management or control of a body corporate that is a relevant person and—

(i) the body corporate has failed to comply with this Law or the national regulations; and

(ii) the person with management or control of the body corporate has failed to exercise due diligence to prevent the failure.

188E Disciplinary proceedings

If the Regulatory Authority reasonably believes grounds for disciplinary action exist against a relevant person—

(a) the Regulatory Authority and relevant person may agree on action to be taken in relation to the grounds for disciplinary action; or

5 (b) if the Regulatory Authority and relevant person are unable to agree under paragraph (a)—the Regulatory Authority may apply to the relevant tribunal or court for the making of an order under section 188F in respect of the relevant person.

10 **188F Relevant tribunal or court proceedings in relation to the grounds for disciplinary action**

15 On application under section 188E(b), the relevant tribunal or court, may, if satisfied that the grounds for disciplinary action exist against a relevant person, make any one or more of the following orders—

- 20 (a) an order reprimanding the person;
- (b) an order requiring the person to pay a penalty, payable to the Regulatory Authority, not exceeding—
- 25 (i) \$68 700, in the case of an individual; and
- (ii) \$1 034 100, in the case of a large provider; and
- (iii) \$344 700, in any other case;
- 30 (c) an order that the person takes certain actions, or refrains from taking certain actions, to comply with this Law or the national regulations.

Note

See also section 292B."

16KB Reviewable decision—internal review

Section 190 of the Education and Care Services National Law (Victoria) applies as a law of Victoria as if after paragraph (k) of that section there were inserted—

"(ka) to direct, under section 178BA, a person referred to in section 178BA(1)(a) or (b) to cease the provision of education and care; or".

120 Publication of information

In section 16Q of the **Education and Care Services National Law Act 2010**, for subsection (5) of section 270 of the Education and Care Services National Law (Victoria) **substitute—**

"(5) The Regulatory Authority may publish information about enforcement action taken, or being taken, under this Law, including details about any of the following—

(a) amendments of provider approvals or service approvals for enforcement purposes;

(b) the suspension or cancellation of provider approvals or service approvals;

(c) directions under section 171 to exclude persons from education and care services premises;

(d) compliance directions;

(e) compliance notices;

(f) suspension directions;

(g) supervision directions;

(h) training directions;

(i) emergency action notices;

- 5 (j) enforceable undertakings;
(k) prohibition notices;
(l) disciplinary proceedings conducted by
the Regulatory Authority under
Division 3A of Part 7;
(m) orders made by the relevant tribunal or
court under section 188F;
(n) the emergency removal of children
under Division 4 of Part 7;
10 (o) prosecutions for offences against this
Law;
(p) infringement notices.'

**121 Amendment of modifications being made by
section 16U**

- 15 (1) In section 16U of the **Education and Care
Services National Law Act 2010**, in section
292A(2)(b) of the of the Education and Care
Services National Law (Victoria), for 'offence.'"'
substitute "offence.".

- 20 (2) In section 16U of the **Education and Care
Services National Law Act 2010**, after
section 292A of the Education and Care Services
National Law (Victoria) **insert**—

25 **'292B Relevant tribunal or court order
requiring publication of contraventions**

- (1) This section applies if the relevant tribunal or
court finds, under section 188F, that a
relevant person (within the meaning of
section 188C) has contravened—
30 (a) this Law; or
(b) the national regulations.
-

(2) The relevant tribunal or court may, in addition to any other order it may make under section 188F, order the relevant person to take specified action to publicise—

- 5 (a) the relevant person's contravention, including the circumstances of the contravention; and
- (b) the consequences of the contravention.".'.

10 **122 Updating of certain penalty levels in modifications to provide for large provider penalties**

In section 16W(f) of the **Education and Care Services National Law Act 2010**, after "178(7)" insert "178A(6), 178B(6), 178C(8)".

15 **Division 4—Other amendments**

123 Relevant tribunal or court

In section 7(b) of the **Education and Care Services National Law Act 2010**, before "Part 8" insert "Division 3A of Part 7 and".

20 **124 New sections 18A and 18B inserted**

After section 18 of the **Education and Care Services National Law Act 2010** insert—

"18A Regulations

- 25 (1) The Governor in Council may make regulations for or with respect to any matter required or permitted by this Act to be prescribed or necessary or convenient to be prescribed to give effect to this Act.
- 30 (2) Without limiting subsection (1), regulations may be made by the Governor in Council that prescribe—
-

- 5 (a) an offence against a provision
modifying the application of the
Education and Care Services National
Law (Victoria), as it applies as a law of
Victoria, that, under Part 2B, is to be
read as if it were part of that Law; and
- 10 (b) an offence against the national
regulations in respect of which an
infringement notice may be served
under section 291 of the Education and
Care Services National Law (Victoria);
and
- 15 (c) a penalty not exceeding \$19 800 for a
contravention against the national
regulations committed by a large
provider.
- (3) The regulations may—
- 20 (a) be of general or limited application; and
- (b) differ according to differences in time,
place or circumstances; and
- 25 (c) confer a discretionary authority or
impose a duty on a specified person or
a specified class of person; and
- (d) leave any matter or thing to be from
time to time determined, applied,
dispensed with or regulated by a
specified person; and
- 30 (e) provide, in a specified case or class of
case, for the exemption of persons or
things or a class of persons or things
from any of the provisions of the
regulations—
- (i) whether unconditionally or on
specified conditions; and
-

- 5 (ii) either wholly or to any extent that
is specified; and
- (f) apply, adopt or incorporate any matter
contained in any document whether—
- 5 (i) wholly or partially or as amended
by the regulations; or
- (ii) as in force at a particular time; or
- (iii) as in force from time to time; and
- 10 (g) impose penalties not exceeding
20 penalty units for a contravention of
the regulations.

**18B Regulations dealing with transitional
matters**

- 15 (1) The Governor in Council may make
regulations containing provisions of a
transitional nature, including matters of an
application or savings nature, arising as a
result of the enactment of the **Early
Childhood Legislation Amendment (Child
20 Safety) Act 2025**, including any repeals,
modifications and amendments made by or
as a result of the enactment of that Act.
- (2) Regulations made under this section may—
- 25 (a) have a retrospective effect to a day on
or after a date not earlier than the day
on which the **Early Childhood
Legislation Amendment (Child
Safety) Act 2025** receives the Royal
Assent;
- 30 (b) be of limited or general application;
- (c) differ according to time, place or
circumstances;
- (d) leave any matter or thing to be decided
by a specified person or class of person.
-

- 5
- (3) Regulations under this section have effect despite anything to the contrary in—
- (a) this Act or any other Act (other than the **Early Childhood Legislation Amendment (Child Safety) Act 2025** or the **Charter of Human Rights and Responsibilities Act 2006**);
- (b) any subordinate instrument.
- 10
- (4) This section is **repealed** on the second anniversary of the day on which it comes into operation."

Part 6—Repeal of this Act

125 Repeal of this Act

This Act is **repealed** on 27 February 2027.

Note

5

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.