



NEW SOUTH WALES

AMENDMENTS TO THE EDUCATION AND CARE SERVICES NATIONAL REGULATIONS

Changes affecting providers and educators in all states and territories

The amendments to the Education and Care Services National Regulations came into effect on Sunday 1 September 2013 in all states and territories except Western Australia, where they started on 31 December 2013.

The minor amendments will deliver benefits for providers, educators and regulatory authorities by streamlining processes and reducing paperwork.

The main amendments include:

- clarifying the definition of a 'serious incident' (except in Western Australia)
- reducing the amount of paperwork providers need to show when they want to temporarily relocate a centre-based service for less than 12 months, or to locate the service on a school site
- clarifying the requirements to rehearse emergency and evacuation procedures every three months
- making it easier for educators who gained their qualification overseas to have it assessed for equivalence to Australian qualifications
- making it easier for centre-based service providers to educate and care for extra children in emergency situations by temporarily waiving space, educator-to-child ratios and early childhood teacher requirements.

The amendments also include notes under a range of regulations to reflect where Western Australia's Regulations are slightly different from the National Regulations as applied in other states and territories.

A copy of the National Regulations (except Western Australia) with the amendments included is available on the [NSW Legislation Register](#).

There are also a number of state and territory specific amendments. More information on those changes is available on the ACECQA website or from your [regulatory authority](#).

Changes affecting all states and territories		
Affected regulation	Topic	What the amendment means
Reg 12	Serious incident	<ul style="list-style-type: none"> • The 'serious incidents' definition has been revised to clarify what matters have to be reported to regulatory authorities. • The modification of the 'serious incidents' definition means providers only need to notify their regulatory authority of serious injury, trauma or illness which a reasonable person would consider required urgent medical attention from a medical practitioner or hospital treatment. Examples of serious incidents include whooping cough, broken limb or anaphylaxis. • This change does not affect the other 'serious incidents' which must be reported, including the death of a child, the attendance of emergency services and any incident where a child is missing, locked in or out, or appears to have been taken or removed from the service.

		<ul style="list-style-type: none"> The definition has not changed for services in Western Australia.
Reg 97	Emergency and evacuation procedure rehearsals	<ul style="list-style-type: none"> This change makes it clear that a family day care educator must rehearse emergency and evacuation procedures every three months with the children who are present on that day. For centre-based services, procedures must be rehearsed every three months by staff members, volunteers and children attending the service on that day and the responsible person who is present at the time. This might be the nominated supervisor, approved provider or a person in day-to-day charge.
Reg 25	Service approval applications	<ul style="list-style-type: none"> This amendment makes it easier for providers to apply for a service approval if they need to temporarily relocate their centre-based service, or are seeking to establish a service on a school site. Regulatory authorities will have discretion to accept an application for service approval without certain information about the proposed new premises, such as plans prepared by a builder. This reduction in the amount of paperwork will be extremely helpful for providers who need to relocate their service in an emergency, such as a natural disaster.
Reg 139 Reg 140 Reg 141 Reg 143	Assessing qualifications for equivalence	<ul style="list-style-type: none"> This amendment makes it easier to apply to ACECQA to have a qualification assessed for equivalence with an approved qualification. It removes the requirement to supply details of primary schooling and the certification of the level of qualifications gained overseas.
Reg 107 Reg 108 Reg 123 Reg 129 Reg 175 Reg 176	Educating and caring for extra children in emergency	<ul style="list-style-type: none"> This change makes it easier for centre-based service providers to accommodate extra children in an emergency situation. An example of when this provision will apply is where a child is in need of protection under a child protection order, or if their parents need emergency health care. One extra child can be educated or cared for, or two or more children if they are in the same family for up to two consecutive days. The inclusion of extra children must not affect the health, safety and wellbeing of all children attending the service. The provider will need to notify the regulatory authority when they educate and care for extra children in an emergency. Notification forms are available on the ACECQA website and through the NQA IT System.
Reg 14 Reg 20 Reg 22	Fitness and propriety checking	<ul style="list-style-type: none"> Applicants for provider approval only have to submit a criminal history statement if they have used a criminal history record check as evidence of their fitness and propriety.
Reg 208	FOI requests	<ul style="list-style-type: none"> This amendment is a correction to align the National Regulations with the Commonwealth <i>Freedom of Information Act 1988</i>, which uses the term 'principal officer'.
Reg 242	General saving and transitional provisions	<ul style="list-style-type: none"> This change clarifies that to be recognised under regulation 242 the person must be working towards an <i>approved</i> early childhood teaching qualification.
Reg 4	Interpreting ratio requirements	<ul style="list-style-type: none"> This amendment ensures that each time a requirement applies to a stated number of children; it also applies to a part of the stated number. For example, if the educator to child requirement ratio requirement was 1:11, 3 educators would be required for 30 children.
Reg 9	Definition of a person	<ul style="list-style-type: none"> The 'person' definition has been amended to include 'body politics', to ensure local governments can apply to become approved providers.

Amendments specific to New South Wales

There are also a number of state and territory specific amendments. The amendments specific to New South Wales include:

Amendments affecting services in New South Wales only		
Affected regulation	Topic	What the amendment means
Reg 4	Definition of 'working with children check number'	<ul style="list-style-type: none"> A definition of 'working with children check number' has been added, which aligns with the NSW <i>Child Protection (Working with Children) Act 2012</i>.
Reg 14 Reg 20 Reg 22 Reg 46	Fitness and propriety checking	<ul style="list-style-type: none"> These changes require an applicant for provider approval or supervisor certificate in NSW to provide their working with children check number, or a copy of their current working with children card or check, for the regulatory authority to assess their fitness and propriety.
Reg 163	Fitness and propriety checking	<ul style="list-style-type: none"> This amendment clarifies that the approved provider of a family day care service in NSW must consider a current working with children check or card for family day care educator assistants, and for people aged over 18 who reside at a family day care residence.

For more information about these amendments and how they affect your service you are encouraged to contact your [regulatory authority](#).