

**EDUCATION AND CARE SERVICES NATIONAL LAW (APPLICATION)
(CONSEQUENTIAL AMENDMENTS) BILL 2011**

CLAUSE NOTES

Clause 1 This Act may be cited as the *Education and Care Services National Law (Application) (Consequential Amendments) Act 2011*.

Clause 2 The Act commences, or is taken to have commenced, on the day on which the *Education and Care Services National Law (Application) Act 2011* commences, or is taken to have commenced.

Clause 3 In Part 2, the *Child Care Act 2001* is referred to as the Principal Act.

Clause 4 The long title of the *Child Care Act 2001* has been amended to specify that it only provides for the regulation of child care services and workers that are not otherwise regulated under the *Education and Care Services National Law (Tasmania)*.

Clause 5 This clause defines certain words and expressions used in the proposed Act. Specifically, section 3(1)(a) further defines child care services as those services not including an education and care service.

Section 3(1)(b) provides definitions of 'education and care services' and 'educator' as having the same meaning as in the *Education and Care Services National Law (Tasmania)*.

Section 3(1)(c) provides a definition of 'Secretary'. [This is an amendment of a statute law revision nature.](#)

Clause 6 provides that the provision of child care does not include the provision of an education and care service, or the education and care of a child as part of an education and care service.

Clause 7 removes three objects of the Act as these are no longer achievable due to the narrowing of the definition of child care and the related legislative responsibility. The removed objects will be met by the overall regulation of child care and education and care services through both the *Child Care Act 2001* and the *Education and Care Services National Law (Tasmania)*.

Clause 8 removes the authority of an approved registration body licence in relation to care provided in the primary residence or approved premises of a person. This is because this type of care, family day care, is under the *Education and Care Services National Law (Tasmania)*.

Clause 9 provides that in determining fitness and propriety for persons concerned with the child care service, an offence against the *Education and Care Services National Law (Tasmania)* is included in the determination (section 15A(2)(h)).

Section 15A(4) has been inserted to provide for applicants who have been assessed as fit and proper under the *Education and Care Services National Law (Tasmania)* to be taken as fit and proper under the *Child Care Act 2001* provided that the determination is current.

Clause 10 In Part 3, the *Annulled Convictions Act 2003* is referred to as the Principal Act.

Clause 11 provides that Schedule 1 of non-exempt applications includes approved providers and certified supervisors within the meaning of the *Education and Care Services National Law (Tasmania)*.

Clause 12 In Part 4, the *Children, Young Persons and Their Families Act 1997* is referred to as the Principal Act.

Clause 13 provides that 'prescribed person' in relation to informing of concern about abuse or neglect or certain behaviour includes a person concerned in the management of an approved education and care service within the meaning of the *Education and Care Services National Law (Tasmania)*.

Clause 14 In Part 5, the *Family Violence Act 2004* is referred to as the Principal Act.

Clause 15 provides that 'prescribed person' in relation to informing of concern about family violence includes a person concerned in the management of an approved education and care service within the meaning of the *Education and Care Services National Law (Tasmania)*.

It also inserts the definition of 'child care' and 'child care service' which have not previously been included.

Clause 16 provides that this Act is repealed on the ninetieth day from the day on which it commences or is taken to have commenced or on which it receives the Royal Assent whichever occurs later.

AMENDMENTS TO THE EDUCATION AND CARE SERVICES NATIONAL LAW (APPLICATION) BILL 2011

CLAUSE NOTES

New Clause A (to follow Clause 15):

Clause A (1): Provides that any amendment to the *Education and Care Services National Law (Tasmania)*, be tabled in both Houses of the Tasmanian Parliament within 10 sitting days of the amendments being given Royal Assent in the Victorian Parliament.

Clause A (2): Provides that nothing in this section affects operation of that amendment.

Clause 18 (4): This subclause is to be left out and replaced with a new Clause B to provide more clarity about the application of Tasmanian Laws to the *Education and Care Services National Law (Application) Bill 2011*.

New Clause B (to be inserted before Clause 18):

Clause B (1): This clause specifies that, for the avoidance of doubt, whilst a provision of this Act specifies Tasmanian Acts which do not apply to the *Education and Care Services National Law Act (Tasmania)*, or instruments made under that Law, this does not affect the application of those Acts to the *Education and Care Services National Law (Application) Bill 2011* (or regulations made under this Law).

Clause B (2): Clarifies that any reference made in relation to 'this Act' in the provision above, does not include the *Education and Care Services National Law (Tasmania)*.