

**SECOND READING SPEECH – THE HON
MICHELLE O'BYRNE MP**

***Education and Care Services National Law (Application)
Bill 2011***

and

***Education and Care Services National Law (Application)
(Consequential Amendments) Bill 2011***

Mr Speaker,

I move that the Bill now be read a second time.

As members of this Chamber would agree, it is extremely important that families and children are able to access quality education and care services throughout Australia.

Across Australia, the proportion of children using formal child care has increased from 14 per cent in 1996 to 24 per cent in 2010. Young children in Tasmania spend on average, 21.4 hours per week in child care.

There has also been steady growth within the child care sector over the last few years. From 2005 to 2011, the number of child care services in Tasmania increased by 18 per cent and there has been a corresponding increase in child care places of 42 per cent.

The life long benefits of quality early childhood education and care are well documented and create an obligation on all of us to ensure children are given the best possible start in life. The child care sector has long been aware of this and have been strong advocates for the reforms under this Bill, which now recognises their sector as providing education and care **and the significant contribution this makes on the lives of young children.**

Research highlights the importance of early years in a child's brain development and on their future intellectual and social potential.

It has been identified in numerous studies that children who have positive early childhood experiences in stimulating, nurturing environments have better outcomes throughout their life.

Mr Speaker, this government is about making sure that Tasmanian children and young people are nurtured, educated and protected. It is vital that early childhood education and care services and those provided by outside school hours care services are of a consistently high standard in a time when more children are spending more time attending these services.

The role that parents, carers, families and communities play in educating young children is also crucial. The Agenda for Children and Young people is also clear evidence that quality childhood education and care services are a priority for this government.

The National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care, was signed by the Council of Australian Governments in December 2009.

The major elements of the COAG agreement were to:

- improve interactions between children and educators based on better qualified staff and lower child-to-staff ratios for children aged less than 2 years;
- provide national uniform standards in the areas of education, health and safety, physical environment and staffing; and
- introduce a new ratings system, allowing parents to compare child care services.

These two Bills provide for the application in Tasmania of the *Education and Care Services National Law Act 2010*.

The objective of this Act is to establish a national education and care services quality framework for the delivery of education and care services to children.

Until now, licensing of child care services has been a function of State and Territory governments requiring compliance by services with

relevant jurisdictional requirements. This has led to different regulations and standards between jurisdictions and has meant that national or cross jurisdictional service providers had numerous pieces of legislation with which they needed to comply. Accreditation has been the responsibility of the National Childcare Accreditation Council which has meant that previously each child care service had to deal with two distinct agencies for the purposes of licensing and accreditation and that some of these processes overlapped.

The National Quality Framework established under this legislation will replace the current licensing and accreditation processes and individual services will liaise with only one organisation for regulatory compliance and quality assessment.

The establishment of a new national body, the Australian Childhood Education and Care Quality Authority will oversee many of the operations under the Act.

I will now outline the key features of the Education and Care Services National Law.

The objectives of the National Law include:

- ensuring the safety, health and wellbeing of children and providing optimal conditions during the educational and developmental journey;
- promoting continuous improvement in the quality of education and care services for children;
- improving access for families to information about the quality of those services; and
- establishing a national regulatory framework.

The National Law Act is intended to apply to long day care, kindergartens (preschools), family day care and outside school hours care.

Nationally at this stage the Act will not apply to a limited number of existing licensed child care services. Mainly occasional care services, in Tasmania these services will continue to operate under the requirements of the *Child Care Act 2001*.

In Tasmania, the National Law Act will apply to long day, family day and outside school hours care services. In most other jurisdictions it also

applies to preschools, the equivalent of Tasmania's kindergartens. Generally preschools in these jurisdictions have been either previously unregulated or provided as part of a child care service and licensed and accredited as such.

Mr Speaker, in Tasmania kindergarten is generally regarded as the first year of schooling and children usually go to kindergarten in the school that is chosen for their primary years of education.

As a result we have over 96% enrolment in a year of schooling which is not compulsory. Whilst some parents chose to send their children to non-government school kindergartens, all Tasmanian children are guaranteed free access to kindergartens in government schools. We are proud of this ongoing commitment.

Because Kindergartens in Tasmania are part of government schools or in non-government schools (which are registered by the Schools Registration Board) they are already regulated under the *Education Act 1994*

Mr Speaker it is for this reason and to avoid duplication of some regulatory and administrative processes that the Government has decided that kindergartens should not be included within the remit of the new legislation but should instead continue to be regulated through the *Education Act 1994* under Minister for Education and Skill's authority.

However as I indicated above it is also important that Kindergartens in Tasmania deliver quality early childhood programs like the rest of the education and care sector in this state and nationally. Minister McKim has indicated to me that he will ensure that processes, policies and other regulatory mechanisms will be put in place under the Education Act to ensure that all Kindergartens substantially correspond with the requirements of the National Law Act including the National Quality Standard and the implementation of the national Early Years Learning Framework, and can demonstrate this.

This will ensure that Kindergartens continue to provide high quality outcomes for children while recognising that implementation of the National Law Act in its entirety would give rise to duplication of regulatory burden which would be costly.

It is on this basis that I bring the legislation before the Parliament.

The new regulatory system will be reviewed by COAG in 2014 with regard to progress in respect of achieving the agreed objectives and outcomes. The review will include:

- whether there have been any unintended consequences associated with the new regulatory system;
- whether governance arrangements are meeting the agreed objectives and what changes might result in improvements;
- the fee structure;
- further improvements to the standards including the staff to child ratio for children in the birth to 24 months age range; and
- the workforce issues and the evidence in relation to workforce supply and take up rate of qualifications.

This review may consider the inclusion of services that are currently excluded from the National Law Act.

The Act streamlines many existing requirements. It allows for the approval of service providers, individual services as well as the certification of supervisors. These approvals are perpetual in nature, subject to ongoing compliance with the Act.

These approvals will be provided by the Regulatory Authority in a particular state or territory, but they are portable, meaning it will not be necessary to obtain provider approval or a supervisor certificate in more than one jurisdiction.

The national law provides for the quality of services to be assessed, and for services to be given quality ratings that are published. The quality rating will be conducted by the Regulatory Authority of the State or Territory in which the service is located. Appeal mechanisms are also provided.

The National Body (Australian Childrens Education and Care Quality Authority (ACECQA) will be located in New South Wales. The functions of ACECQA including guiding the implementation and administration of the regulatory framework, promoting national consistency in its application, and reporting on this to the Ministerial Council for Education, Early Childhood Development and Youth Affairs. ACECQA will be governed by a Board that is appointed by the Ministerial Council following nominations from the Commonwealth, State and Territory Ministers.

The National Law Act sets out the financial management duties of ACECQA, and requires ACECQA to publish annual reports including audited financial statements.

The performance of ACECQA is subject to monitoring and review by the Ministerial Council, and also by the Education and Care Services Ombudsman.

The National Law Act also provides a range of mechanisms for the review of significant decisions with respect to matters such as approval of providers or services, the certification of supervisors, the quality rating of services, and the issue of directions or notices.

The Act also includes a number of offences and provides a range of compliance and enforcement tools, such as compliance notices, enforceable undertakings and prosecutions that may be applied.

The National Law also sets out the role of the regulatory authorities. This includes approving providers and services, certifying supervisors, assessing and rating the quality of services, and monitoring and enforcing compliance with the Law.

The Application Bill before you today provides that the Regulatory Authority in Tasmania is the Secretary of the Department of Education, which is the Tasmanian body currently responsible for regulating child care services in Tasmania.

The National Law Act provides for the exchange of information between regulatory authorities, and between those authorities and ACECQA. It also provides for regulatory authorities and ACECQA to publish information such as registers of approved providers, approved services and certified supervisors, and information about compliance action.

As a result, it is important that a clear and consistent legal framework relating to the disclosure of information applies to all regulatory authorities and ACECQA, in administering this Law.

The National Law Act enables the Ministerial Council to make regulations for the purposes of the Law. These regulations will provide further detail on the national quality standard, the assessment and rating

system, educator to child ratios and fees associated with the National Quality Framework

The new requirements, in particular the educator to child ratio for children aged less than two years and additional qualification requirements, may cause an increase in cost to services, that in turn may increase the fees charged to parents. It is anticipated, however, that the gradual introduction to the improved requirements, will likely see such increases applied as increments over several years.

The National Quality Standard against which services will be assessed and rated covers seven areas; educational program and practice, children's health and safety, physical environment, staffing arrangements, relationships with children, collaborative partnerships with families and communities, and leadership and service management.

The Standard also sees the introduction of two new national learning frameworks; The Early Years Learning Framework – Belonging, Being and becoming, and the School Aged Care Framework – My Time Our Place.

The former will be used in all early childhood education and care settings, the latter in outside schools hours care and vacation care.

Adoption of these Bills will allow for a new approach to regulation, assessment and quality improvement for education and care services, assisting in ensuring Tasmanian children are nurtured, educated and protected.

Tasmania has a proud record of commitment to quality, safe and affordable education and care and in applying the National Law, we are demonstrating our ongoing commitment to ensuring children and families benefit from these important reforms.

In conclusion, it is vital that quality education and care services are available to children and families and this Bill will enable that to happen.

Mr Speaker, the Government fully supports the introduction of this Bill.

I commend this Bill to the House.

Speaking Notes – THE HON MICHELLE O'BYRNE MP

Education and Care Services National Law (Application) Bill 2011 (No. 65)

Mr Speaker, I move that the Council amendments to this Bill - a new clause A, removal of subclause 18 (4) and a new clause B - be agreed to.

The *Education and Care Services National Law (Application) Bill 2011* has been returned from another place with three minor clause amendments. We respect the contribution by the upper House.

The first amendment, listed as new clause A (1), to follow clause 15, provides for the tabling of any amendment to the new *Education and Care Services National Law (Tasmania)* in each House of Parliament within 10 sitting-days from the date the amendment receives the Royal Assent in Victoria.

New clause A (2) will ensure that nothing in this section affects the operation of that amendment.

The second amendment leaves out Clause 18, subclause (4). It is replaced by the new clause B to be inserted before Clause 18.

New clause B (1) confirms that Tasmanian Acts specified under this Act as not applying to the *Education and Care Services National Law Act (Tasmania)* or to instruments made under that Law, will still apply to this Act, (that is the *Education and Care Services National Law (Application) Bill*) or regulations made under section 18 of this Act.

New Clause B (2) provides that a reference to 'this Act' does not include a reference to the *Education and Care Services National Law (Tasmania)*.

The Government is prepared to accept the amendments from the Upper House.