

**INDUSTRY, EDUCATION, TRAINING AND INDUSTRIAL RELATIONS
COMMITTEE**

REPORT No.4 ON THE

**EDUCATION AND CARE SERVICES NATIONAL LAW (QUEENSLAND)
BILL 2011**

QUEENSLAND GOVERNMENT RESPONSE

INTRODUCTION

On 31 October 2011 the Industry, Education, Training and Industrial Relations Committee tabled Report No.4 in relation to the Education and Care Services National Law (Queensland) Bill 2011.

The Queensland Government response to recommendations made and clarification on points raised by the Committee are provided below.

RESPONSE TO RECOMMENDATIONS

Recommendation 1 – The Committee recommends that the Bill proceed subject to the amendments recommended and consideration by the Minister of the points raised in the Committee’s report.

Government response:

- The Government thanks the Committee for its consideration of the Bill and appreciates the Committee’s recommendation that the Bill proceed.
- The Committee also invited the Minister to table at the second reading of the Bill a copy of the :
 - Schedule to the *Education and Care Services National Law Act 2012* (Victoria); and
 - *National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care*.
- The Minister will table a copy of each of these documents at the second reading of the Bill.

Recommendation 2 – The Committee recommends that a clause be inserted in the Bill to provide that the member of the Ministerial Council representing Queensland is to make arrangements for the tabling of any amendment to the National Law in this House of Parliament.

Government response:

- The Government supports this recommendation.

- The Government acknowledges the Committee's comments about the apparent inconsistency in the National Law, which requires members of the Ministerial Council to table the Education and Care Services National Regulations in their respective parliaments, but does not require tabling of any amendments to the National Law.
- The National Law requires the tabling of any regulations made under the National Law, in order for the Houses of Parliament in each participating jurisdiction to scrutinise the regulations and to move a motion for their disallowance if considered necessary. However, if a House of Parliament disallows a regulation made by the Ministerial Council, section 303 the National Law provides that the regulation does not cease to have any effect in that jurisdiction, or any other participating jurisdiction, unless the regulation is disallowed in a majority of the participating jurisdictions.
- The process for making amendments to the National Law itself is different from this. Any future amendments will be negotiated by the Ministerial Council. The amendments will then be progressed by amending the Victorian *Education and Care Services National Law Act 2010* and will apply automatically in each participating jurisdiction. Therefore, the Queensland Parliament will not be required to scrutinise amendments to the National Law before they are made.
- Despite this, the Government supports the Committee's recommendation to include a clause in the Bill which would require the tabling in Parliament of any future amendments to the National Law. The Government considers this would provide an appropriate mechanism for ensuring Parliament is informed about any future amendments.
- An amendment will be moved during consideration in detail of the Bill, to insert the recommended clause. The clause will clarify that any failure to table future amendments to the National Law will not affect the application of the amendments in Queensland.

RESPONSE TO ADDITIONAL POINTS RAISED BY THE COMMITTEE

The Committee also invited the Minister to comment on the following three issues:

Issue – While noting that sector development activity is underway to ease the transition to the NQF, the Committee invites the Minister to respond to concerns raised about whether the timeframes for implementation of the NQF should be extended to allow further time for training staff and to reduce the cost impacts of the legislation on parents.

Government response:

- While services will be required to meet certain requirements under the National Law from 1 January 2012, many aspects will be implemented gradually in order to allow adequate time for training staff and for reducing any cost impacts on the community.

- Services will receive information to assist them to transition into the new system from 1 January 2012.
- Under the transitional arrangements in the Bill, a range of educators currently working in the sector will be transitioned into the new system as certified supervisors and nominated supervisors. This will ensure that services will be compliant with the requirements regarding nominated supervisors and assist services to meet the requirement to have a responsible person present at all times from 1 January 2012.
- The first substantial change for services will be the requirement to develop a Quality Improvement Plan.
- To give services time to become familiar with the National Quality Standards under the National Quality Framework and to develop a Quality Improvement Plan, the commencement of quality assessment and rating of existing services has been delayed until June 2012.
- The next substantial change for Queensland services will not be until 2014 when:
 - long day care centres and kindergartens will be required to engage an early childhood teacher; and
 - family day care educators will be required to hold, or be working towards, a minimum Certificate III qualification.
- There are transitional arrangements in the National Law to recognise relevant existing staff as early childhood teachers and this will ease the transition to the requirement for an early childhood teacher when it commences in 2014.
- Queensland's roll out of universal access to kindergarten will also offset some of the impact of having to employ a teacher for those services eligible for funding under the Queensland Kindergarten Funding Scheme.
- A potential cost impact to services will be the revised educator-to-child ratios, which only come into effect from 2016. Impacts will be monitored with staffing changes (qualifications and ratios) to be subject to review in 2013, 2014 and 2019.
- The qualification requirements are expected to have minimal cost impact on community kindergarten services in Queensland due to current staffing practices in the sector.
- The Department will continue to work with services to ensure that they are meeting the minimum requirements and are focussed on areas for improvement that impact on children's development.

Issue – The Committee invites the Minister to consider, in negotiations over the content of the national My Child website where service assessments will be published, taking a Queensland position that a centre that has obtained a waiver is rated as either not required to meet a relevant requirement, with reasons why, or is taken to comply with the requirement.

Government response:

- Information about the rating level of a service will be contained in the Register of Approved Services, which will be kept and maintained by the Regulatory Authority in each jurisdiction and provided to the National Authority and the relevant Commonwealth Department, which is authorised to publish the register of approved services on its own website.
- However, the National Law and the National Regulations do not permit information about waivers, or their impact on the assessment and ratings process, to be included as part of the information about a service's rating level of the service that is contained in the register.
- The Education and Care Services National Law provides for two types of waivers – a Temporary Waiver, which can be in place for up to 12 months at a time; and a Service Waiver, which can be ongoing.
- The National Law contains provisions stating what the effect of each waiver is.
- The effect of a Service Waiver is that the service is taken to comply with the element or elements of the National Quality Standard and the National Regulations that are specified in the waiver, and therefore does not impact on the service's rating.
- The effect of a Temporary Waiver is that the service is not required to comply with the element or elements of the National Quality Standard and the National Regulations that have been waived. How a Temporary Waiver may affect a service's rating is currently being considered and the Department is participating in discussions at the national level to determine the policy in relation to this.
- While the National Law and Regulation prevents information about waivers being published with assessment information on the Register of Approved Services, the public are able to find out about existing service waivers. For example, the details of any waiver granted to a service must be included on a copy of the service approval which is given to the Approved Provider of the service.
- The Approved Provider is also obliged to display information at their service about a range of matters, including any waivers which have been granted to the service. Information about waivers must include details of the element or elements of the National Quality Standards and National Regulations that have been waived, as well as the duration of the waiver and whether it is a Temporary Waiver or a Service Waiver. Displaying this information at the service enables parents and others visiting the service to be aware of the existence of the waiver.

Issue – The Committee invites the Minister to comment on what Queensland will do between now and 2016 and 2017 when the most significant cost drivers take effect in Queensland, to support parents, ensure that access to a quality kindergarten program is truly universal, and that parents have a choice between community kindergartens and private providers, including in long day care settings.

Government response:

- Although the National Quality Framework will be implemented from 1 January 2012, these reforms will not have any impact on child care fees until 2014 when the first substantial change for Queensland services comes into effect.
- From 2014, long day care services will be required to engage an early childhood teacher and family day care educators will require a minimum Certificate III qualification.
- The Government is committed to providing every child in Queensland with access to a quality kindergarten program by mid-2013. Queensland's roll out of universal access to kindergarten will offset some of the impact of having to employ a teacher for kindergartens and long day care centres eligible for funding under the Queensland Kindergarten Funding Scheme.
- This needs-based funding scheme was introduced in 2010 to support long day care and kindergarten services to provide kindergarten programs. Extra funding is provided to services in disadvantaged and remote areas, and kindy-fee relief is available for eligible families.
- To achieve universal access from 2014, the Queensland Government is investing in kindergarten reforms through:
 - Improving the quality and consistency of early childhood programs
 - Building kindergarten infrastructure in areas of unmet need
 - Supporting the development of a skilled early childhood education workforce
 - Increasing access and participation for children across Queensland ensuring cost is not a barrier to access.
- The National Quality Framework ensures that parents will have access to information to help families make informed choices about which service is best for their child. Services will be rated against seven quality areas and will be given an overall rating that they will be required to display. Parents will also be able to view these ratings online, thereby providing them with useful information to guide their decision-making about education and care for their child.