

- (3) A reference in subregulation (1)(a) to the day of conviction means (as applicable) —
- (a) the day on which the conviction is recorded; or
  - (b) if no conviction is recorded —
    - (i) the day on which the finding of guilt is made in relation to the building service provider; or
    - (ii) the day on which the plea of guilty by the building service provider is accepted.

N. HAGLEY, Clerk of the Executive Council.

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## COMMUNITY AND CHILD SERVICES

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CN301

Education and Care Services National Law (Western Australia)

# Education and Care Services National Amendment Regulations (No. 3) 2023

SL 2023/71

Made by the Governor in Executive Council.

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Education and Care Services National Amendment Regulations (No. 3) 2023*.

### 2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette* (**gazettal day**);
- (b) Part 2 — on the day after gazettal day;
- (c) the rest of the regulations — on 1 July 2023.

### 3. Regulations amended

These regulations amend the *Education and Care Services National Regulations 2012*.

## Part 2 — Amendments relating to fees

### 4. Regulation 33 replaced

Delete regulation 33 and insert:

### 33. Annual fees

The approved provider of an education and care service must pay the relevant prescribed annual fee for the service approval on or before 1 July in each year.

Note for this regulation:

Part 6.3 Divisions 2 and 3 provide for the calculation of prescribed annual fees.

### 5. Regulation 138 amended

Delete regulation 138(2)(b) and insert:

- (b) the relevant fee calculated in accordance with Part 6.3.

### 6. Regulation 139 amended

Delete regulation 139(1)(b) and insert:

- (b) be accompanied by the relevant fee calculated in accordance with Part 6.3.

### 7. Part 6.3 replaced

Delete Part 6.3 and insert:

## Part 6.3 — Fees

### Division 1 — Provisions applying generally to fees

### 232. Definitions

In this Part and Schedule 2 —

*commencement day* means the day on which the *Education and Care Services National Amendment Regulations (No. 3) 2023* regulation 7 comes into operation.

Note for this definition:

This definition does not form part of the national regulations made by the Ministerial Council.

***extra-large service*** means —

- (a) in relation to a centre-based service, a centre-based service that has 101 or more approved places or places to be offered; or
- (b) in relation to a family day care service, a family day care service that has 61 or more family day care educators engaged by or registered with the service;

***indexation factor***, in relation to a financial year, means the indexation factor for the financial year calculated in accordance with regulation 233;

***large service*** means —

- (a) in relation to a centre-based service, a centre-based service that has 81 or more but fewer than 101 approved places or places to be offered; or
- (b) in relation to a family day care service, a family day care service that has 21 or more but fewer than 61 family day care educators engaged by or registered with the service;

***medium service*** means —

- (a) in relation to a centre-based service, a centre-based service that has 25 or more but fewer than 81 approved places or places to be offered; or
- (b) in relation to a family day care service, a family day care service that has 6 or more but fewer than 21 family day care educators engaged by or registered with the service;

***small service*** means —

- (a) in relation to a centre-based service, a centre-based service that has 24 or fewer approved places or places to be offered; or
- (b) in relation to a family day care service, a family day care service that has 5 or fewer family day care educators engaged by or registered with the service.

**233. Calculation of indexation factor for financial year**

- (1) For the purposes of this Part, the indexation factor for a financial year is to be worked out using the following formula —

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where —

*index number*, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics for that quarter;

*most recent March year* means the period of 12 months ending on 31 March in the immediately preceding financial year;

*previous March year* means the period of 12 months immediately preceding the most recent March year;

*quarter* means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

- (2) The result worked out under subregulation (1) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.
- (3) A calculation made under subregulation (1) is to be made —
- (a) using the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
  - (b) disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the reference base).

**234. Fee amount to be rounded down to nearest whole dollar**

The amount of a prescribed fee calculated in accordance with this Part is to be rounded down to the nearest whole dollar.

**235. Late payment fees (annual fees)**

- (1) If the annual fee for a service approval is not paid on or before 1 July, the Regulatory Authority may charge the approved provider a late payment fee, in addition to the annual fee, for every 30 days (or part of every 30 days) that the annual fee is overdue.

- (2) For the purposes of subregulation (1), the late payment fee is 15% of the relevant prescribed annual fee that is overdue.

**236. Waiver, reduction, deferral and refund of fees**

The National Authority may waive, reduce, defer or refund any fee payable or paid to it under the Law if there are exceptional circumstances.

**236A. Publication of prescribed and other required fees**

- (1) The National Authority must publish, before the financial year beginning on 1 July in each year, the fees applicable for that financial year calculated in accordance with this Part.
- (2) The Regulatory Authority may also publish the fees referred to in subregulation (1).

**Division 2 — Prescribed and other fees between commencement day and 30 June 2023**

Note for this Division:

This Division heading differs from the heading of Chapter 6 Part 6.3 Division 2 of the national regulations made by the Ministerial Council.

**236B. Prescribed fees and other fees for period beginning on commencement day and ending on 30 June 2023**

- (1) For the purposes of the Law, for the period beginning on the commencement day and ending on 30 June 2023, the prescribed fee for the purposes of a provision of the Law specified in column 2 of Table 1 or 2 set out in Schedule 2 is the relevant corresponding fee in column 4 of that Table.
- (2) For the purposes of regulation 138(2)(b), for the period beginning on the commencement day and ending on 30 June 2023, the relevant fee is \$2 426.
- (3) For the purposes of regulation 139(1)(b), for the period beginning on the commencement day and ending on 30 June 2023, the relevant fee is \$116.

Note for this regulation:

This regulation differs from regulation 236B of the national regulations made by the Ministerial Council.

**Division 3 — Prescribed and other fees on and after  
1 July 2023**

**236C. Prescribed fee — application for provider approval**

- (1) For the purposes of section 11(d) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 is to be calculated in accordance with the following formula —

$$\$241 \times FX \times 1.05$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 11(d) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236C of the national regulations made by the Ministerial Council.

**236D. Prescribed fees — application for service approval**

- (1) For the purposes of section 44(1)(e) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to a small service, a medium service or a large service is to be calculated in accordance with the following formula —

$$F \times FX \times 1.05$$

where —

**F** is —

- (a) in the case of a small service other than a family day care service — \$482;
- (b) in the case of a medium service other than a family day care service — \$725;
- (c) in the case of a large service other than a family day care service — \$967;

- (d) in the case of a small service, medium service or large service that is a family day care service — \$725;

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 44(1)(e) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to an extra-large service that is a centre-based service is to be calculated in accordance with the following formula —

$$\$967 \times FX \times 1.3125$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (3) For the purposes of section 44(1)(e) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to an extra-large service that is a family day care service is to be calculated in accordance with the following formula —

$$\$725 \times FX \times 1.05$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (4) For the purposes of section 44(1)(e) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the relevant fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236D of the national regulations made by the Ministerial Council.

**236E. Prescribed annual fees**

- (1) For the purposes of section 53 of the Law, the prescribed annual fee for the financial year beginning on 1 July 2023 in relation to a small service, a medium service or a large service is to be calculated in accordance with the following formula —

$$F \times FX \times 1.05$$

where —

**F** is —

- (a) in the case of a small service — \$218;
- (b) in the case of a medium service — \$329;
- (c) in the case of a large service — \$438;

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 53 of the Law, the prescribed annual fee for the financial year beginning on 1 July 2023 in relation to an extra-large service is to be calculated in accordance with the following formula —

$$\$438 \times FX \times 1.3125$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (3) For the purposes of section 53 of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed annual fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the relevant fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236E of the national regulations made by the Ministerial Council.



**236F. Prescribed fee — application for amendment of service approval**

- (1) For the purposes of section 54(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 is to be calculated in accordance with the following formula —

$$\$116 \times FX$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 54(2)(c) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236G. Prescribed fee — notification of intended transfer of service approval**

- (1) For the purposes of section 59(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 is to be calculated in accordance with the following formula —

$$\$116 \times FX \times 1.05$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 59(2)(c) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236G of the national regulations made by the Ministerial Council.

**236H. Prescribed fee — application for service waiver**

For the purposes of section 88(c) of the Law, in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236I. Prescribed fee — application for temporary waiver**

For the purposes of section 95(c) of the Law, in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236J. Prescribed fee — application to extend temporary waiver**

For the purposes of section 98(4) of the Law, in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236K. Prescribed fee — application for reassessment and re-rating**

- (1) For the purposes of section 139(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to a small service, a medium service or a large service is to be calculated in accordance with the following formula —

$$F \times FX$$

where —

**F** is —

- (a) in the case of a small service — \$482;
- (b) in the case of a medium service — \$725;
- (c) in the case of a large service — \$967;

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 139(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to an extra-large service is to be calculated in accordance with the following formula —

$$\$967 \times FX \times 1.25$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (3) For the purposes of section 139(2)(c) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the relevant fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236L. Prescribed fee — application for review by Ratings Review Panel of rating level**

- (1) For the purposes of section 145(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to a small service, a medium service or a large service is to be calculated in accordance with the following formula —

$$F \times FX \times 1.06$$

where —

**F** is —

- (a) in the case of a small service — \$482;
- (b) in the case of a medium service — \$725;
- (c) in the case of a large service — \$967;

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of section 145(2)(c) of the Law, the prescribed fee for the financial year beginning on 1 July 2023 in relation to an extra-large service is to be calculated in accordance with the following formula —

$$\$967 \times FX \times 1.325$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (3) For the purposes of section 145(2)(c) of the Law, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the prescribed fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the relevant fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236L of the national regulations made by the Ministerial Council.

**236M. Prescribed fees — copy of or extract from registers**

- (1) For the purposes of section 266(4) of the Law, the prescribed fee in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*) is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

- (2) For the purposes of section 267(4) of the Law, the prescribed fee in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*) is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**236N. Prescribed fees — other applications**

For the purposes of sections 22(2)(c), 37(2)(c), 39(6)(c), 40(3)(c), 85(2)(c), 141(4)(d), 152(3)(c) and 159(3)(c) of the Law, the prescribed fee is nil.

**236O. Relevant fee — application for qualification to be assessed for inclusion on list of approved qualifications**

- (1) For the purposes of regulation 138, the relevant fee for the financial year beginning on 1 July 2023 is to be calculated in accordance with the following formula —

$$\$2\,426 \times FX \times 1.06$$

where —

**FX** is the indexation factor for the financial year beginning on 1 July 2023.

- (2) For the purposes of regulation 138, in a financial year beginning on 1 July 2024 or 1 July in a later year (the *relevant financial year*), the relevant fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

Note for this regulation:

This regulation differs from regulation 236O of the national regulations made by the Ministerial Council.

**236P. Relevant fee — application for determination of equivalent qualification**

For the purposes of regulation 139, in a financial year beginning on 1 July 2023 or 1 July in a later year (the *relevant financial year*), the relevant fee is to be calculated in accordance with the following formula —

$$P \times FX$$

where —

**P** is the amount of the fee payable in the previous financial year;

**FX** is the indexation factor for the relevant financial year.

**8. Schedule 2 replaced**

Delete Schedule 2 and insert:

**Schedule 2 — Prescribed fees for period beginning on commencement day and ending on 30 June 2023**

[r. 236B]

**Table 1 — Prescribed fees for provider approvals, service approvals, assessments and ratings**

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Section of the Law</i>	<i>Column 3</i> <i>Description</i>	<i>Column 4</i> <i>Fee</i>
1	Section 11(d)	Application for a provider approval	\$241

<i>Column 1 Item</i>	<i>Column 2 Section of the Law</i>	<i>Column 3 Description</i>	<i>Column 4 Fee</i>
2	Section 22(2)(c)	Application to amend a provider approval	Nil
3	Section 37(2)(c)	Application to voluntarily suspend a provider approval	Nil
4	Section 39(6)(c)	Application to approve an executor as approved provider	Nil
5	Section 40(3)(c)	Application to approve legal personal representative or guardian as approved provider	Nil
6	Section 44(1)(e)	Application for service approval — centre-based service	Small service \$482 Medium service \$725 Large service \$967 Extra-large service \$967
7	Section 44(1)(e)	Application for service approval — family day care service	\$725
8	Section 53	Annual fee — centre-based service	Small service \$218 Medium service \$329 Large service \$438 Extra-large service \$438
9	Section 53	Annual fee — family day care service	Small service \$218 Medium service \$329 Large service \$438 Extra-large service \$438

<i>Column 1 Item</i>	<i>Column 2 Section of the Law</i>	<i>Column 3 Description</i>	<i>Column 4 Fee</i>
10	Section 54(2)(c)	Application to amend service approval	Nil
11	Section 59(2)(c)	Notification of intended transfer of service approval	\$116
12	Section 85(2)(c)	Application to voluntarily suspend service approval	Nil
13	Section 88(c)	Application for service waiver	\$116
14	Section 95(c)	Application for temporary waiver	\$116
15	Section 98(4)	Application to extend temporary waiver	\$116
16	Section 139(2)(c)	Application for reassessment and re-rating	Small service \$482 Medium service \$725 Large service \$967 Extra-large service \$967
17	Section 141(4)(d)	Request for review by Regulatory Authority	Nil
18	Section 145(2)(c)	Application for further review by Ratings Review Panel	Small service \$482 Medium service \$725 Large service \$967 Extra-large service \$967
19	Section 152(3)(c)	Application for highest rating	Nil
20	Section 159(3)(c)	Re-application for highest rating	Nil



**Table 2 — Other prescribed fees**

<i>Column 1 Item</i>	<i>Column 2 Section of the Law</i>	<i>Column 3 Description</i>	<i>Column 4 Fee</i>
1	Section 266(4)	Copy of or extract from register of approved providers	\$5 per page or \$75 for an electronic copy
2	Section 267(4)	Copy of or extract from register of approved education and care services	\$5 per page or \$75 for an electronic copy

### **Part 3 — Other amendments**

#### **9. Regulation 123A replaced**

Delete regulation 123A and insert:

#### **123A. Family day care co-ordinator to educator ratios — family day care service**

- (1) For the purposes of section 163(1) of the Law, if a family day care service has provided education and care to children for less than 12 months, the prescribed minimum number of qualified persons employed or engaged as family day care co-ordinators of the family day care service is 1 full-time equivalent family day care co-ordinator for every 15 family day care educators (or part of that number).

Examples for this subregulation:

1. If between 1 and 15 family day care educators are engaged by or registered with the family day care service, a full-time equivalent family day care co-ordinator is employed or engaged by the approved provider.
  2. If between 16 and 30 family day care educators are engaged by or registered with the family day care service, 2 full-time equivalent family day care co-ordinators are employed or engaged by the approved provider.
- (2) For the purposes of section 163(1) of the Law, if a family day care service has provided education and care to children for 12 months or more, the prescribed minimum number of qualified persons employed or engaged as family day care co-ordinators of the family day care service is to be calculated in accordance with the following ratios —

- (a) if the number of family day care educators engaged by or registered with the service is not more than 25 — 1 full-time equivalent family day care co-ordinator;
- (b) if the number of family day care educators engaged by or registered with the service exceeds 25 — an additional 0.2 full-time equivalent family day care co-ordinator for every additional 5 family day care educators (or part of that number).

Examples for this subregulation:

1. If between 1 and 25 family day care educators are engaged by or registered with the family day care service, a full-time equivalent family day care co-ordinator is employed or engaged by the approved provider.
2. If between 26 and 30 family day care educators are engaged by or registered with the family day care service, a full-time equivalent family day care co-ordinator is employed or engaged by the approved provider and a 0.2 full-time equivalent family day care co-ordinator is also employed or engaged.
3. If between 31 and 35 family day care educators are engaged by or registered with the family day care service, a full-time equivalent family day care co-ordinator is employed or engaged by the approved provider and a 0.4 full-time equivalent family day care co-ordinator is also employed or engaged.

#### 10. Regulation 126 amended

- (1) In regulation 126(1)(a) and (b) delete “have,” and insert:

hold,

- (2) In regulation 126 in note 2 delete “have” and insert:

hold

#### 11. Regulation 126A inserted

After regulation 126 insert:

##### 126A. Illness or absence of qualified educator who is required to meet relevant educator to child ratio

- (1A) In this regulation —

*approved education and care qualification* means —

- (a) an approved certificate III level education and care qualification; or
- (b) an approved diploma level education and care qualification; or

- (c) an approved early childhood teaching qualification.
- (1) This regulation applies if an educator referred to in regulation 126(1)(a) or (b) is absent from a centre-based service in any of the following circumstances —
    - (a) short-term illness;
    - (b) the educator’s resignation;
    - (c) a practicum placement required to be undertaken by the educator for an approved education and care qualification;
    - (d) leave.
  - (2) During the educator’s absence, for the purposes of regulation 126(1)(a) or (b), a person who holds a qualification in primary teaching may be taken to hold an approved diploma level education and care qualification or an approved certificate III level education and care qualification (as the case requires).
  - (3) An educator may be replaced in accordance with subregulations (1) and (2) for a maximum of 30 days in any 12 month period.
  - (4) For the purposes of subregulation (3), in relation to a part-time educator, 30 days is to be calculated on a pro rata basis.

## **12. Regulation 127 amended**

- (1) In regulation 127 delete “have,” and insert:

hold,

- (2) At the end of regulation 127 insert:

Note for this regulation:

This regulation differs from regulation 127 of the national regulations made by the Ministerial Council.

## **13. Regulation 128 amended**

In regulation 128 delete “have” and insert:

hold

**14. Regulation 135 amended**

- (1) Before regulation 135(1) insert:
  - (1A) In this regulation —  
*approved education and care qualification* means —
    - (a) an approved certificate III level education and care qualification; or
    - (b) an approved diploma level education and care qualification; or
    - (c) an approved early childhood teaching qualification.
- (2) In regulation 135(1) and (2) delete “short-term illness or leave,” and insert:

a circumstance specified in subregulation (6),
- (3) After regulation 135(5) insert:
  - (6) For the purposes of subregulations (1) and (2), the following circumstances are specified —
    - (a) short-term illness;
    - (b) the resignation of the early childhood teacher, the second early childhood teacher or the suitably qualified person (as the case may be);
    - (c) a practicum placement required to be undertaken by the early childhood teacher or the second early childhood teacher (as the case may be) for an approved education and care qualification;
    - (d) a practicum placement required to be undertaken by the suitably qualified person for an approved education and care qualification;
    - (e) leave.

**15. Regulations 152A and 152B inserted**

At the end of Chapter 4 Part 4.4 Division 9 insert:

**152A. Record of replacement of educator**

The approved provider of a centre-based service must keep a record of an educator who is replaced in accordance with regulation 126A that includes the following information —

- (a) the full name of the educator;
- (b) the qualification that the educator who is replaced holds, or is actively working towards, for the purposes of regulation 126;
- (c) the qualification of the person who replaced the educator;
- (d) the dates on which the educator was replaced;
- (e) the reason for the educator's absence.

Note for this regulation:

See regulation 126A(1) for the circumstances in which an educator may be absent from a centre-based service.

**152B. Record of replacement of early childhood teacher or suitably qualified person**

The approved provider of a centre-based service must keep a record of an early childhood teacher or a suitably qualified person who is replaced in accordance with regulation 135(1) or (2) that includes the following information —

- (a) the full name of the early childhood teacher or the suitably qualified person;
- (b) whether the person who is replaced is an early childhood teacher or suitably qualified person at the service;
- (c) the qualification of the person who replaced the early childhood teacher or the suitably qualified person (as the case may be);
- (d) the dates on which the early childhood teacher or the suitably qualified person was replaced;
- (e) the reason for the early childhood teacher's or the suitably qualified person's absence.

Note for this regulation:

See regulation 135(6) for the circumstances in which an early childhood teacher or a suitably qualified person may be absent from a centre-based service.

**16. Regulation 239A amended**

In regulation 239A(1) delete "31 December 2023" and insert:

31 December 2024

**17. Regulation 240 amended**

In regulation 240(1) delete "31 December 2023" and insert:

31 December 2024

**18. Regulation 242 amended**

In regulation 242(1) delete “before 31 December 2023.” and insert:

until 31 December 2024.

**19. Regulation 254 amended**

At the end of regulation 254 insert:

Note for this regulation:

This regulation differs from regulation 254 of the national regulations made by the Ministerial Council.

**20. Note for Chapter 7 Part 7.9 Division 3A inserted**

At the beginning of Chapter 7 Part 7.9 Division 3A insert:

Note for this Division:

This Division heading differs from the heading to Chapter 7 Part 7.9 Division 3A of the national regulations made by the Ministerial Council.

**21. Regulation 373A amended**

In regulation 373A delete the note and insert:

Note for this regulation:

This regulation differs from regulation 373A of the national regulations made by the Ministerial Council.

**22. Note for Chapter 7 Part 7.10 Division 2 replaced**

At the beginning of Chapter 7 Part 7.10 Division 2 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 2 which were not relevant to Western Australia. Those provisions (except the heading to Division 2) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**23. Note for Chapter 7 Part 7.10 Division 4 replaced**

At the beginning of Chapter 7 Part 7.10 Division 4 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 4 which were not relevant to Western Australia. Those provisions (except the heading to Division 4) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**24. Note for Chapter 7 Part 7.10 Division 5 replaced**

At the beginning of Chapter 7 Part 7.10 Division 5 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 5 which were not relevant to Western Australia. Those provisions (except the heading to Division 5) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**25. Regulations 393 and 394 deleted**

Delete regulations 393 and 394.

**26. Note for Chapter 7 Part 7.12 Division 1 replaced**

At the beginning of Chapter 7 Part 7.12 Division 1 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 1 which were not relevant to Western Australia. Those provisions (except the heading to Division 1) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**27. Note for Chapter 7 Part 7.12 Division 2 replaced**

At the beginning of Chapter 7 Part 7.12 Division 2 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 2 which were not relevant to Western Australia. Those provisions (except the heading to Division 2) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**28. Note for Chapter 7 Part 7.12 Division 3 replaced**

At the beginning of Chapter 7 Part 7.12 Division 3 delete the note and insert:

Note for this Division:

The national regulations made by the Ministerial Council included provisions as Division 3 which were not relevant to Western Australia. Those provisions (except the heading to Division 3) were repealed by the *Education and Care Services National Amendment Regulations 2023*.

**29. Regulations 410 and 411 deleted**

Delete regulations 410 and 411.

**30. Part 7.14 inserted**

After Part 7.13 insert:

**Part 7.14 — Transitional and savings  
provisions for *Education and Care Services  
National Amendment Regulations (No. 3) 2023***

**Division 1 — General**

Note for this Division:

The national regulations made by the Ministerial Council include provisions as Division 1 which are not relevant to Western Australia.

N. HAGLEY, Clerk of the Executive Council.