



Speech by

## Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Tuesday, 6 September 2011

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### EDUCATION AND CARE SERVICES NATIONAL LAW (QUEENSLAND) BILL

#### Introduction and Referral to the Industry, Education, Training and Industrial Relations Committee

 **Hon. CR DICK** (Greenslopes—ALP) (Minister for Education and Industrial Relations) (12.02 pm): I present a bill for an act providing for the adoption of a national law to regulate education and care services for children. I table the bill and the explanatory notes. I nominate the Industry, Education, Training and Industrial Relations Committee to consider the bill.

*Tabled paper:* Education and Care Services National Law (Queensland) Bill [[5220](#)].

*Tabled paper:* Education and Care Services National Law (Queensland) Bill, explanatory notes [[5221](#)].

Improving access to high-quality early childhood education and care for Queensland children continues to be a central priority for the Bligh government. The research shows that increased access to such education and care services ensures that children benefit from a flying start to life and increases their chance of experiencing a successful life in the future. National and international research has found that experiences in the early years of life have long-term impacts on health, learning and behaviour.

The Education and Care Services National Law (Queensland) Bill 2011 provides for Queensland to be part of the national approach to the regulation, assessment and quality improvement of early childhood education and care services through the creation of a National Quality Framework for Early Childhood Education and Care. Development of the bill follows the Council of Australian Government's endorsement in December 2009 of the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care.

In accordance with the agreement, the national quality framework is envisaged to commence on 1 January 2012. It establishes a new nationally consistent set of quality standards for all kindergartens, long-day-care centres, family day care, outside school hours care and pre-prep services that all states and territories are committed to delivering. These account for approximately 95 per cent of licensed early childhood education and care services in Queensland.

A small number of education and care services will be excluded from the national quality framework. They include services currently licensed under the existing regulatory framework such as occasional care services, limited hours care services and Commonwealth budget based funded services, services which are regulated but not licensed—that is, stand-alone care—and unregulated care such as babysitters and nannies.

From 2012 the new early childhood education and care legislative framework will provide Queensland parents with early childhood education and care services which are consistent with their current choices of service—that is, from unregulated care to those partially regulated that must provide minimum safeguards for children to those which are fully regulated—that is, they must hold a provider

approval and service approval under the national law or similar provider and service approvals under the state law.

Introduction of the national quality framework is being facilitated by a cooperative legislative model using an application of laws approach to confer the relevant administrative, quality assessment and review functions on state and territory agencies and officials. Victoria, as host jurisdiction, has developed the legislation in consultation with all jurisdictions, and the Victorian parliament passed its Education and Care Services National Law Act 2010 on 5 October 2010. The Victorian act contains a schedule which sets out the education and care services national law, and it is this national law that the Education and Care Services National Law (Queensland) Bill 2011 proposes to apply as state legislation.

National regulations prescribed under the national law are expected to be approved by the Ministerial Council for Education, Early Childhood Development and Youth Affairs in the near future. Under the national law, after regulations have been approved by the ministerial council, members of the council must arrange for the tabling of the national regulations in their respective houses of parliament. These regulations will provide further detail on the national quality standard, the assessment and rating system, staff to child ratios and fees associated with the national quality framework.

I now wish to highlight some of the significant features of the national quality framework. The framework integrates both regulatory and quality standards and streamlines the regulatory burden, as services covered will need to deal with only one level of government. This is a departure from the current system where most providers must deal with state and territory agencies for licensing purposes and with the Commonwealth for accreditation purposes.

The new national quality standards, which form part of the national quality framework, set a new ambitious benchmark to which all early childhood education and care services will aspire. From 2012 services will begin to be publicly rated on a five-point scale against the new national standards, providing parents and the community with more information about the quality of services and to assist in their educational and care choices for their child. This assessment and rating process is designed with continuous quality improvement in mind, encouraging service providers to strive for continuous improvement and to consider the quality and practices across an early childhood service.

The national law establishes the Australian Children's Education and Care Quality Authority as the national authority responsible for guiding the consistent implementation and management of the national quality standards on behalf of all jurisdictions. It also provides that the ministerial council is responsible for monitoring the performance of the authority.

The legislation is to be administered in each jurisdiction by the regulatory authority of the jurisdiction. In Queensland this will be the Department of Education and Training. Regulatory authorities will administer the 'approval to operate' process—analogue to Queensland's existing licensing system—as well as assessing and rating services. The new legislation will be more outcomes focused than Queensland's current legislation, incorporating the assessment and ratings and licensing and compliance processes.

There will be a dual 'approval to operate' process, with regulatory authority approval being required for both the provider and the service. An approved provider will not be permitted to operate a service unless the service itself has also been granted approval. However, there will be no limit on the number of services that an approved provider can operate.

Although the national law requires an approved provider to apply for a service approval, it streamlines the process so that a person proposing to operate a service can apply for both approvals simultaneously—that is, they do not have to wait to be granted their provider approval before submitting their application for a service approval. Additionally, all existing licensees will be automatically approved to operate as approved providers under the national quality framework.

The granting of applications for new approved providers will be subject to the applicant meeting specified criteria, including a test of their suitability and any other matters relevant to their ability to operate an education and care service, such as whether they are bankrupt or insolvent. In Queensland, the stringent blue card process will continue to be considered by the regulatory authority as to whether or not a person is suitable to provide child related services.

Once granted, a provider approval and a service approval will be ongoing—that is, there will be no need for it to be renewed—unless relinquished by the holder of the approval or revoked by the regulatory authority. Additionally, the granting of approved provider status will be recognised in all other jurisdictions, thus eliminating the need for providers to obtain separate approval from each jurisdiction in which they intend to operate. Providers will be required to ensure that, for each service they operate, there is a person, the nominated supervisor, who will have the primary management and control of the service in the absence of the provider. This person must hold a supervisor certificate that has been granted by a regulatory authority.

The national law will enable approved providers to apply for a waiver to permit a service to operate without meeting a particular requirement under the staffing arrangements or the physical environment standards of the national quality standard and the associated requirements under the regulation. The waiver process is designed to assist providers who are either temporarily or permanently unable to meet

these requirements—for instance, during building renovations or where a staff member may be temporarily unavailable due to accident or illness or where services in very remote areas are unable to comply with particular requirements.

Where a waiver is in place, the approved provider cannot be prosecuted for an offence directly related to meeting the relevant element of the standards. Before granting a waiver, the regulatory authority will be required to consider whether the circumstances justify this and whether the service is able to satisfy the objectives of the relevant requirements by an alternative means to ensure that children's health, safety and wellbeing are not jeopardised.

A key element of the new legislative approach will be the introduction of an assessment and ratings process. Regulatory authorities will be required to assess services against the quality rating system and against seven quality areas, the details of which will be prescribed in the national regulations. The regulatory authorities will be responsible for the majority of the assessments and ratings process which each service is required to participate in.

The only part of the assessment and ratings process which will not be conducted by the regulatory authorities will be where a service aspires to the highest rating—the excellent rating. In this case, the provider must make application to the Australian Children's Education and Care Quality Authority, which will be responsible for assessing and rating a service as excellent. The introduction of a transparent ratings system will give parents access to information about the quality of services so they can make more informed choices about the services their children attend.

Some concerns have been expressed about potential cost impacts that the national law may have on services and families. In 2009 and 2010 Queensland negotiated some flexibility to ensure that the right balance was achieved in the national law between increased quality and affordability for parents, including delaying staff-to-child ratio improvements until 2016, allowing existing services to continue to use staff rest-break and rest-pause arrangements until 2020, and allowing services licensed prior to 2011 to continue to use a ratio of one to five for children aged 15 to 35 months until 2018. The bulk of the cost impact to Queensland services is anticipated to occur in 2014 and 2016, when early childhood teachers will be required in all long-day care and kindergarten services and when improved educator-to-child ratios commence.

The bill also retains certain provisions from the current regulatory framework, for instance, provisions to allow the Department of Education and Training to continue to share information with the Commission for Children and Young People and Child Guardian to ensure the utmost is done to protect the safety of Queensland children. I commend the bill to the House.

### First Reading

 **Hon. CR DICK** (Greenslopes—ALP) (Minister for Education and Industrial Relations) (12.13 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

**Madam DEPUTY SPEAKER** (Ms van Litsenburg): In accordance with standing order 131, the bill is now referred to the Industry, Education, Training and Industrial Relations Committee.