

Changes to the National Regulations 2020

From 1 October, new requirements will apply for services that transport, or arrange for the transportation of, children, as part of the education and care service, including requirements for policies and procedures, risk assessments and written authorisations. Corresponding amendments have also been made to existing provisions relating to excursions.

The Education Council agreed to introduce these requirements to strengthen oversight arrangements of transport that occurs when children are under the care of an education and care service. These changes apply in all states and territories.

Other amendments relate to South Australian educator to child ratios and a probationary period for new educators working without an approved qualification (in certain circumstances). Additionally, a technical amendment is applied to Victoria. These jurisdiction-specific amendments commence from 1 September.

The Amendment Regulations that give effect to these changes were made by the Education Council on 14 August 2020 and are now published on the [New South Wales legislation website](#).

The corresponding regulations that apply the changes in Western Australia were made by the Western Australia Executive Council on 25 August 2020. They are available on the [Western Australia legislation website](#).

Below is a summary of the regulatory changes, including their date of commencement and state or territory in which they will apply.

New requirements relating to the transportation of children

Provision	What this means	Jurisdictions affected by amendment(s)	Commencement of amendment
Regulation 4(1) A definition of 'regular transportation' is inserted.	Regulation 4 is a list of definitions. If transportation meets this definition then the frequency of risk assessments or written authorisations is reduced under new regulations 102B(4) and 102D(5) (see below).	All	1 October 2020

<p>Regulation 4(1) The definition of 'regular outing' is amended to include the word 'substantially'.</p>	<p>Regulation 4 is a list of definitions.</p> <p>This change clarifies the threshold for the conduct of a new risk assessment or written authorisation under existing regulations 100(4) and 102(5).</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 100(1) - (3) Substitute the reference to regulation 102 with 102(4).</p>	<p>Regulation 100 requires an approved provider, nominated supervisor or family day care educator to ensure a risk assessment is carried out before a written authorisation is sought for an excursion.</p> <p>This is a technical amendment that more accurately cross references the basis of the requirement.</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 101(2)(d) Substitute the wording in paragraph (d) with four factors that must be considered as part of a risk assessment – if an excursion involves transportation.</p>	<p>Regulation 101(2) lists the factors (a)-(i) that must be considered as part of a risk assessment for an excursion.</p> <p>These changes expand the number of factors to be considered – if an excursion involves transportation.</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 102(4) Substitute the wording in paragraph (c) with two new paragraphs (c) and (ca).</p> <p>Substitute the wording in paragraph (e) with two items that must be included in a written authorisation – if an excursion involves transporting children.</p>	<p>Regulation 102(4) lists the items (a)-(k) that must be included in a written authorisation for an excursion.</p> <p>These changes now require the authorisation to include the date a child is to be taken on an excursion, or a description of when a child is to be taken on regular outings.</p> <p>They also introduce additional items to be included in a written authorisation – if an</p>	<p>All</p>	<p>1 October 2020</p>

	excursion involves transportation.		
Division 7 - Transportation of children other than as part of an excursion Inserts a new Division.	This new Division is inserted below existing regulation 102. It comprises new regulations 102A-D.	All	1 October 2020
Regulation 102A States that this Division does not apply to transportation of a child that is undertaken as part of an excursion.	This is a new regulation. Separate provisions relate to transportation of a child as part of an excursion – refer regulations 100-102.	All	1 October 2020
Regulation 102B(1)-(3) Requires an approved provider, nominated supervisor or family day care educator to ensure a risk assessment is carried out before a written authorisation is sought to transport a child.	This is a new regulation. It creates new offences for a failure to conduct a risk assessment in line with regulation 102B, each carrying a penalty of \$2,000. This provision mirrors existing regulation 100(1)-(3) relating to excursions.	All	1 October 2020
Regulation 102B(4) States that a risk assessment is not required for regular transportation if a risk assessment for the regular transportation has been conducted within the previous 12 months.	This is a new subregulation. This provision mirrors the existing subregulation 100(4) relating to excursions.	All	1 October 2020
Regulation 102C(1) Requires that a risk assessment for transportation must identify and assess risks to the safety health or wellbeing of children and specify how these will be managed and minimised.	This is a new subregulation. This provision mirrors existing regulation 101(1) relating to excursions.	All	1 October 2020

<p>Regulation 102C(2) Lists the factors (a)-(j) that must be considered as part of a risk assessment for transportation.</p>	<p>This is a new subregulation.</p> <p>This provision largely mirrors the existing regulation 101(2) relating to excursions – including the new requirements on the factors that must be considered as part of a risk assessment when an excursion involves transportation.</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 102D (1)-(3) Requires an approved provider, nominated supervisor or family day care educator to ensure that a child is not transported unless written authorisation has been given.</p>	<p>This is a new regulation.</p> <p>It creates new offences for a failure to obtain a written authorisation in line with regulation 102D, each carrying a penalty of \$1,000.</p> <p>This provision mirrors existing regulation 102(1)-(3) relating to excursions.</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 102D(4) Lists the items (a)-(l) that must be included in a written authorisation for transportation.</p>	<p>This is a new subregulation.</p> <p>This provision largely mirrors existing regulation 102(4) relating to excursions – including the new requirements on the items that must be included in a written authorisation when an excursion involves transportation.</p>	<p>All</p>	<p>1 October 2020</p>
<p>Regulation 102D(5) Provides that for regular transportation the authorisation need only be obtained once in a 12-month period.</p>	<p>This is a new subregulation.</p> <p>This provision mirrors existing regulation 102(5) relating to excursions.</p>	<p>All</p>	<p>1 October 2020</p>

Regulation 168(2)(ga) Inserts a new requirement for policies and procedures relating to transportation.	Regulation 168(2) requires an approved provider to have a range of policies and procedures in place. If a service transports or arranges transportation of children, other than as part of an excursion, the service must now have in place specific transportation policies and procedures, complying with Division 7 (see above).	All	1 October 2020
--	--	-----	----------------

Changes affecting South Australia

Regulation 126(1B) The reference to South Australia is omitted.	Regulation 126 prescribes the qualification requirements for educators at centre-based services. This change means that an existing three-month probationary period in other jurisdictions for new educators working without an approved qualification under Regulation 126(1A) now also applies in South Australia.	South Australia	1 September 2020
Regulations 322 The existing regulation is revoked.	Regulation 322 specified educator to child ratios at disadvantaged preschools in South Australia [in place of regulation 123(1)(c)]. This change brings South Australia in line with national requirements for educator to child ratios at centre-based services under Regulation 123(1)(c).	South Australia	1 September 2020
Regulation 323 The existing regulation is revoked.	Regulation 323 specified educator to child ratios for preschool children at an education and care service	South Australia	1 September 2020

	<p>in South Australia [in place of regulation 123(1)(c)].</p> <p>This change brings South Australia in line with national requirements for educator to child ratios at centre-based services under Regulation 123(1)(c).</p>		
--	--	--	--

Please note: There will be no change for South Australian government provided preschools. Providers across the sector can maintain existing requirements through service policy and operational decisions.

Changes affecting Victoria

<p>Regulation 5(2)(q) Substitutes references to certain services under the Children's Services Act 1996 of Victoria.</p>	<p>Regulation 5(2) lists classes of services that are excluded from the definition of 'education and care service' - meaning they are out of scope of the NQF.</p> <p>This change confirms that services that remain approved services under the Children's Services Act 1996 that were former licensed Limited Hours Type 2 services (before the Act was amended on 17 May 2020) remain out of scope of the NQF.</p>	<p>Victoria</p>	<p>1 September 2020</p>
--	---	-----------------	-------------------------