

# **Education and Care Services National Law (Queensland) Bill 2011**

## **Explanatory Notes for amendments to be moved during consideration in detail by the Honourable Cameron Dick MP**

### **Short title**

Education and Care Services National Law (Queensland) Bill 2011.

### **Objective of the amendment**

The objective of the amendment is to require any future amendments to the Education and Care Services National Law (National Law) to be tabled in the Legislative Assembly. This will provide a formal mechanism for ensuring the Queensland Parliament is informed about any future amendments to the National Law.

### **Achievement of policy objective**

The objective will be achieved by inserting clause 4A in the Bill as explained in the Notes on Provisions section of these Explanatory Notes.

### **Alternative ways of achieving policy objective**

The alternative way of achieving the policy objective would be to establish an administrative process for tabling any future amendments to the National Law in the Legislative Assembly. While this would achieve the policy objective, it would be reliant on compliance with the administrative process alone. Such a process would carry the risk that it could be overlooked. Therefore, inclusion of the proposed clause in the Bill is considered to provide greater certainty than relying purely on an administrative process, to ensure that Parliament is advised of future amendments to the National Law.

## **Estimated cost for government implementation**

There are no costs associated with the amendment.

## **Consistency with fundamental legislative principles**

As stated in the Explanatory Notes for the Bill, the primary objective of the National Law is to establish a national education and care services quality framework for the delivery of education and care services to children across Australia. The application of the National Law, which has been developed by a host jurisdiction, in each State or Territory Parliament is a standard approach to implementing national legislative schemes, where Constitutional powers rest with States and Territories and not with the Commonwealth. However, concerns about abrogating the rights of Parliaments tend to be greatest when, as in this case, the National Law includes pre-determined legislative provisions based on an agreement between governments.

This process also applies to any future amendments to the National Law. Further, any future amendments will be applied automatically following their passage in the host jurisdiction, because the Bill will apply the National Law as it is in force from time to time. However, any future amendments must be negotiated at the national level by the Ministers of each participating jurisdiction, before the amendments can be passed in the Victorian Parliament, the host jurisdiction for this National Law.

Although this is the agreed approach to apply the National Law, it may be considered as undermining the institution of Parliament. The proposed new clause requiring any future amendments to be tabled in the Legislative Assembly would assist in addressing this by ensuring that the Legislative Assembly is notified about any future amendments.

## **Consultation**

Submissions were invited on the Bill when it was tabled in Parliament. The proposed new clause has been recommended by the Industry, Education, Training and Industrial Relations Committee which examined the Bill after it was introduced.

## Notes on provisions

### Amendment 1

*Amendment 1* inserts a new clause 4A (Minister must table amendments of Education and Care Services National Law) into the Bill to require that when the Education and Care Services National Law, as set out in the schedule to the *Education and Care Services National Law Act 2010* of Victoria, is amended, the Minister must table a copy of the amendment in the Legislative Assembly.

Subsection 3 of clause 4A clarifies that failure to table an amendment would not affect the application of the amendment in Queensland under section 4.