



The Australian, State and Territory Education Ministers Meeting has agreed to changes to the National Quality Framework (NQF).

SUSPENDING OR CANCELLING A PROVIDER APPROVAL UNDER NATIONAL LAW FROM 1 JULY 2023



From 1 July 2023, new grounds will be available for a regulatory authority to suspend or cancel a provider approval under the Education and Care Services National Law (National Law).

This fact sheet explains why this change is being made and how it relates to Australian Government decisions made under the Commonwealth Family Assistance Law (FAL).

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The National Law will change so that refusal or cancellation of a provider approval under the FAL related to issues of fitness and propriety, including non-compliance with the National Law are grounds for suspension or cancellation of a provider approval under the National Law.

Before 1 July 2023, when the Australian Government notifies a regulatory authority of a cancellation or refusal of a provider approval under the FAL, the regulatory authority needs to gather sufficient evidence to establish grounds to progress a cancellation or suspension of a provider approval under the National Law. The time required to do this may pose a significant risk to children's safety, health and wellbeing.

Under the arrangements in place before 1 July 2023, a person found unsuitable to be involved in providing children's education and care under the FAL may continue to hold a provider approval and operate an education and care service under the National Law.

From 1 July 2023, when the Australian Government notifies the regulatory authority that it has refused or cancelled a provider approval under

the FAL for reasons related to fitness and propriety, including non-compliance with the National Law, this decision becomes grounds for the regulatory authority to suspend (section 25 of the National Law) or cancel (section 31 of the National Law) the approved provider's approval to operate an education and care service. These are in addition to the existing grounds in the National Law.

When deciding whether to cancel or suspend a provider approval under the National Law, the regulatory authority will use a risk-based approach to consider:

- any unacceptable risk to the safety, health or wellbeing of children at any service operated by the approved provider
- the fitness and propriety of the approved provider.

Under section 21 of the National Law, a regulatory authority may reassess an approved provider's fitness and propriety at any time, including the fitness and propriety of any person with management or control (PMC). As well as prescribed information, relevant additional information may be obtained by conducting an interview, a written assessment, or both.

- If the regulatory authority is satisfied that the approved provider is no longer fit and proper, the provider approval may be suspended or cancelled.
- The regulatory authority is responsible for implementing the process for suspending or cancelling the approved provider's approval to operate an education and care service.
- The regulatory authority may only cancel a provider approval after consulting with the regulatory authority of each jurisdiction where the approved provider operates an education and care service (section 43(3)). This includes the regulatory authority which granted the provider approval.
- Cancellation or suspension of a provider approval in one state or territory applies to all states and territories.

RESOURCES

- [The Guide to the NQF](#) – Section 1.1 Application for provider approval
- Fact sheet – [Identifying persons with management or control from 1 July 2023](#)
- Contact your [regulatory authority](#)

Acknowledgment: The information in this publication is accurate pending the Australian, state and territory education ministers' agreement of the amended law and regulations.