

**Authorised Version No. 012**  
**Children's Services Regulations 2009**

**S.R. No. 53/2009**

Authorised Version incorporating amendments as at  
1 October 2017

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**Part 1—Preliminary**

**1 Objective**

The objective of these Regulations is to regulate the licensing and operation of children's services.

**2 Authorising provision**

These Regulations are made under section 56 of, and clause 3 of the Schedule to, the **Children's Services Act 1996**.

**3 Commencement**

These Regulations come into operation on 25 May 2009.

**4 Revocation**

The following Regulations are **revoked**—

- (a) the Children's Services Regulations 1998<sup>1</sup>;
- (b) the Children's Services (Fees) Regulations 2002<sup>2</sup>;
- (c) the Children's Services (Amendment) Regulations 2004<sup>3</sup>;
- (d) the Children's Services (Fees) Regulations 2005<sup>4</sup>;
- (e) the Children's Services Further Amendment Regulations 2008<sup>5</sup>.

## 5 Definitions

(1) In these Regulations—

***adrenaline auto-injection device*** means an intramuscular injection device for the automatic administration of adrenaline;

***anaphylaxis management policy*** means the anaphylaxis management policy the children's service has in place under section 26A of the Act;

***anaphylaxis medical management plan*** means the individual anaphylaxis medical management plan for a child diagnosed as at risk of anaphylaxis that has been developed in accordance with clause 2 of Schedule 3;

***anaphylaxis medication*** means medication prescribed by a registered medical practitioner in respect of anaphylaxis;

***assessment notice*** has the same meaning as in the **Working with Children Act 2005**;

***budget based service*** means a children's service that—

- (a) receives financial assistance under the Budget Based Funding Program element of the Child Care Services Support Program; and
- (b) is not a service that receives the Child Care Benefit in relation to the provision of education and care;

***building practitioner*** means—

- (a) a building surveyor, building inspector, engineer or draftsman registered as a building practitioner under the **Building Act 1993**; or

Reg. 5(1)  
def. of  
*budget based  
service*  
inserted by  
S.R. No.  
162/2011  
reg. 5(1)(a).

- (b) an architect registered under the **Architects Act 1991**; or
- (c) a licensed surveyor within the meaning of the **Surveying Act 2004**;

***building surveyor's statement*** means a statement issued on or after 1 August 1997 by a building surveyor registered under Part 11 of the **Building Act 1993** that states whether the plans and specifications of premises to be used to operate a children's service comply with the provisions of the building regulations under that Act that apply specifically to children's services;

***Certificate III in Children's Services*** means a Certificate III in Children's Services that—

- (a) is awarded by an RTO within the meaning of Part 4.1 of the **Education and Training Reform Act 2006**; and
- (b) is approved by the Secretary under subregulation (3);

***child health record*** means a record that documents a child's health and development assessments and immunisations for use by parents or guardians of the child and the maternal and child health service;

***children's room***, in relation to a children's service, means a room used exclusively for the care or education of children while the children are attending the service, but does not include a toilet, a kitchen, an administration room or any other ancillary area;

***criminal history notification*** means a notification of any criminal history of a person within Australia issued by or on behalf of a duly authorised officer of the police force of

Victoria, the Commonwealth or of another State or a Territory;

***diagnosed as at risk of anaphylaxis***, in relation to a child, means a child who has been diagnosed by a registered medical practitioner as at risk of anaphylaxis;

Reg. 5(1)  
def. of  
*early  
childhood  
intervention  
service*  
inserted by  
S.R. No.  
162/2011  
reg. 5(1)(a).

***early childhood intervention service*** means a children's service provided for the principal purpose of providing intervention (other than purely therapeutic intervention) or support for children with a disability, additional needs or developmental delay;

Reg. 5(1)  
def. of  
*early  
childhood  
intervention  
staff member*  
amended as  
*early  
childhood  
intervention  
worker* by  
S.R. No.  
162/2011  
reg. 5(1)(b).

***early childhood intervention worker*** of a children's service means a person appointed or engaged (whether by the children's service or the Department) specifically to provide care and intervention for a child attending the service who has additional needs;

***employee*** means any person employed at a children's service, including a staff member;

Reg. 5(1)  
def. of  
*integrated  
service*  
amended by  
S.R. No.  
162/2011  
reg. 5(1)(c).

***integrated service*** means a children's service that consists of 2 or more types of children's service (other than a short term service) provided at one premises by one licensee;

***lawful authority*** means a power, duty, responsibility or authority conferred in relation to a child at common law or under an Act (including an Act of the Commonwealth) or by an order of a court;

***limited hours service*** means—

- (a) a limited hours Type 1 service; or
- (b) a limited hours Type 2 service;

***limited hours Type 1 service*** means a children's service that is established to care for or educate each child for not more than 2 hours a day and not more than a total of 6 hours a week;

**Example**

A children's service operating at a sport or leisure facility or a shopping centre.

***limited hours Type 2 service*** means a children's service that is established to care for or educate each child for not more than 5 hours a day and not more than a total of 15 hours a week;

**Example**

A children's service operating at a Neighbourhood House.

***mobile service*** means a children's service that—

- (a) provides education and care primarily to children who are not school children; and
- (b) transports its equipment and materials or staff to one or more locations on each occasion that the service is provided;

Reg. 5(1)  
def. of  
*mobile  
service*  
inserted by  
S.R. No.  
162/2011  
reg. 5(1)(a).

***occasional care service*** means a children's service that provides education and care to children primarily on an ad hoc or casual basis where—

- (a) the service does not usually offer full-time or all day education and care to children on an ongoing basis; and

Reg. 5(1)  
def. of  
*occasional  
care service*  
inserted by  
S.R. No.  
162/2011  
reg. 5(1)(a).

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- (b) most of the children provided with education and care are not school children;

***outdoor space*** means space that is outside a building and that provides access to sunlight and fresh air, and includes that space even if it is—

- (a) enclosed by barriers or fencing (for example to provide security);
- (b) a deck, terrace, patio, pergola, verandah or courtyard;

Reg. 5(1)  
def. of  
*outside  
school hours  
care service*  
revoked by  
S.R. No.  
162/2011  
reg. 5(1)(h).

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Reg. 5(1)  
def. of  
*outside  
school hours  
care Type 1  
service*  
revoked by  
S.R. No.  
162/2011  
reg. 5(1)(h).

\* \* \* \* \*

Reg. 5(1)  
def. of  
*outside  
school hours  
care Type 2  
service*  
revoked by  
S.R. No.  
162/2011  
reg. 5(1)(h).

\* \* \* \* \*

***qualified staff member*** means a staff member who—

- (a) is a teaching staff member; or
- (b) has successfully completed one of the following qualifications that has been approved by the Secretary under subregulation (2)(a)—
  - (i) a 2 year full-time, or part-time equivalent, post-secondary early childhood qualification; or
  - (ii) in the case of a school holidays care service, a 2 year full-time, or part-time equivalent, post-secondary childcare or youth recreation qualification; or
- (c) holds a qualification the Secretary is satisfied is substantially equivalent or superior to a qualification referred to in paragraph (b); or
- (d) holds one of the following qualifications—
  - (i) a qualification included in the list of approved diploma level education and care qualifications published under the national regulations; or
  - (ii) a qualification included in the list of approved early childhood teaching qualifications published under the national regulations; or
- (e) in the case of a school holidays care service—
  - (i) holds a primary school teaching qualification; or

Reg. 5(1)  
def. of  
*qualified staff  
member*  
amended by  
S.R. No.  
162/2011  
reg. 5(2).

- (ii) holds a qualification included in the list of qualifications for working with children over preschool age for Victoria published under the national regulations;

**representative**, of a licensee, means a person appointed under the Act to represent the licensee;

**school child** means a child who—

- (a) is enrolled at a school; and  
(b) is attending a school or, if the school year has not yet commenced, will attend a school from the beginning of the school year, at preparatory level or above; and  
(c) will be at least 5 years of age by 30 April in the year that he or she attends or will attend school;

**school holidays care service** means a children's service that is established to care for or educate children for no more than 4 weeks per calendar year during school holidays;

**short term service** means—

- (a) a short term Type 1 service; or  
(b) a short term Type 2 service;

**short term Type 1 service** means a children's service that is established to care for or educate children for not more than 120 days in a 12 month period;

\* \* \* \* \*

Reg. 5(1)  
def. of  
*school  
holidays care  
service*  
inserted by  
S.R. No.  
162/2011  
reg. 5(1)(a).

Reg. 5(1)  
def. of  
*short term  
Type 1 service*  
amended by  
S.R. No.  
162/2011  
reg. 5(1)(d).

***short term Type 2 service*** means a children's service that is established to care for or educate children for not more than 72 hours in a 3 month period;

\* \* \* \* \*

Reg. 5(1)  
def. of  
***short term Type 2 service***  
amended by  
S.R. No.  
162/2011  
reg. 5(1)(e).

***staff member***, in relation to a children's service—

- (a) means a person who is employed or has been appointed or engaged to be responsible for the care or education of children at the children's service; or
- (b) in the case of a person who is aged under 18 years, means a person who—
  - (i) is employed or has been appointed or engaged to be responsible for the care or education of children at the children's service; and
  - (ii) is under the direct supervision of a qualified staff member who is aged 18 years or over—

but does not include a volunteer or an early childhood intervention worker;

***standard service*** means a children's service that is—

- (a) an early childhood intervention service; or
- (b) an occasional care service; or
- (c) a mobile service; or
- (d) a budget based service;

Reg. 5(1)  
def. of  
***staff member***  
substituted by  
S.R. No.  
96/2010 reg. 4,  
amended by  
S.R. No.  
162/2011  
reg. 5(1)(f).

Reg. 5(1)  
def. of  
***standard service***  
substituted by  
S.R. No.  
162/2011  
reg. 5(1)(g).

Reg. 5(1)  
def. of  
*teaching staff  
member*  
amended by  
S.R. No.  
162/2011  
reg. 5(3).

*teaching staff member* means a staff member  
who—

- (a) holds an early childhood teaching qualification at degree level or above that has been approved by the Secretary under subregulation (2)(b); or
- (b) holds a qualification the Secretary is satisfied is substantially equivalent or superior to a qualification referred to in paragraph (a); or
- (c) holds a qualification included in the list of approved early childhood teaching qualifications published under the national regulations;

*the Act* means the **Children's Services Act 1996**;

\* \* \* \* \*

Reg. 5(1)  
def. of  
*visiting early  
childhood  
intervention  
staff member*  
revoked by  
S.R. No.  
162/2011  
reg. 5(1)(h).

*volunteer*, in relation to a children's service,  
means a person who cares for or educates  
children at the children's service in a  
voluntary or honorary capacity, and includes  
a student or a person who is on a work  
experience program;

*volunteer assessment notice* means an assessment  
notice that states that the notice cannot be  
used in respect of child-related work  
engaged in for profit or gain.

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- (2) The Secretary may by notice in the Government Gazette—
- (a) approve a qualification for the purposes of paragraph (b) of the definition of *qualified staff member*;
  - (b) approve a qualification for the purposes of paragraph (a) of the definition of *teaching staff member*.
- (3) The Secretary may by notice in the Government Gazette approve a Certificate III in Children's Services for the purposes of paragraph (b) of the definition of *Certificate III in Children's Services*.

\* \* \* \* \*

Reg. 5(4)(5)  
revoked by  
S.R. No.  
162/2011  
reg. 5(4).

## **Part 2—Licensing of children's services**

### **Division 1—Applications for approval of premises**

#### **6 Application for approval of premises**

- (1) For the purposes of section 9(2)(b) of the Act, the relevant prescribed information is the relevant information set out in Part 2 of Schedule 1 relating to the type of children's service for which the premises are, or are to be, used.
- (2) For the purposes of section 9(2)(c) of the Act, the relevant prescribed fee is the fee set out in Part 1 of Schedule 2 that is relevant to—
  - (a) the type of children's service that is to be operated at the premises; and
  - (b) the number of places that the children's service is to offer; and
  - (c) the type of application for approval made under section 9(1) of the Act.

### **Division 2—Types of licences**

#### **7 Types of licences**

For the purposes of section 17 of the Act, the following types of licence are prescribed—

- (a) a licence to operate a standard service;
- (b) a licence to operate a school holidays care service;

Reg. 7(b)  
substituted by  
S.R. No.  
162/2011  
reg. 6(1).

Reg. 7(c)  
revoked by  
S.R. No.  
162/2011  
reg. 6(2).

\* \* \* \* \*

- (d) a licence to operate a limited hours Type 1 service;

- (e) a licence to operate a limited hours Type 2 service;
- (f) a licence to operate a short term Type 1 service;
- (g) a licence to operate a short term Type 2 service;
- (h) a licence to operate an integrated service.

\* \* \* \* \*

Note to reg. 7  
revoked by  
S.R. No.  
162/2011  
reg. 6(3).

### **Division 3—Applications for licences**

#### **8 Application for licence**

- (1) For the purposes of section 18(1)(a) of the Act, the relevant prescribed information is the information set out in Part 3 of Schedule 1 that is relevant to the type of licence specified in the application.
- (2) For the purposes of section 18(b)(i) of the Act, the relevant prescribed fee is the fee set out in Part 2 of Schedule 2 that is relevant to—
  - (a) the type of licence specified in the application; and
  - (b) the number of places offered by the children's service; and
  - (c) the term of licence sought.
- (3) For the purposes of section 18(1)(b)(viii) of the Act, the application must be accompanied by the documents set out in Part 3 of Schedule 1.

Reg. 8(1)  
amended by  
S.R. No.  
162/2011  
reg. 7(1).

Reg. 8(2)(b)  
substituted by  
S.R. No.  
162/2011  
reg. 7(2).

Reg. 8(3)  
amended by  
S.R. No.  
162/2011  
reg. 7(3).

## **Division 4—Prescribed conditions on licences**

### **9 Prescribed conditions**

This Division prescribes conditions to which a licence is subject for the purposes of section 25E(4) of the Act.

### **10 Condition limiting number of school children cared for**

- (1) The number of school children cared for or educated by a children's service must not exceed 30 per cent of the total number of places for children at the children's service.
- (2) This condition does not apply to—
  - (a) a licence to operate a school holidays care service; or
  - (b) a component of an integrated licence that consists of a school holidays care service.

Reg. 10(2)  
substituted by  
S.R. No.  
162/2011  
reg. 8.

### **11 Conditions applying to licences to operate limited hours services**

- (1) A limited hours Type 1 service must not care for or educate any child for more than 2 hours a day and not more than a total of 6 hours a week.
- (2) A limited hours Type 2 service must not care for or educate any child for more than 5 hours a day and not more than a total of 15 hours a week.

### **12 Conditions applying to licences to operate short term services**

- (1) A short term Type 1 service must not care for or educate children for more than 120 days in a 12 month period.
- (2) A short term Type 2 service must not care for or educate children for more than 72 hours over a 3 month period.

**13 Conditions applying to licences to operate school holidays care services**

- (1) All the children cared for or educated by a school holidays care service must be school children.
- (2) A school holidays care service may care for or educate children only during school holidays.

\* \* \* \* \*

Reg. 13 substituted by S.R. No. 162/2011 reg. 9.

Reg. 14 amended by S.R. No. 96/2010 reg. 5, revoked by S.R. No. 162/2011 reg. 10.

**Division 5—Applications for approval of nominees**

Pt 2 Div. 5 (Heading) amended by S.R. No. 162/2011 reg. 11.

**15 Approval of new nominees**

For the purposes of section 25M of the Act—

- (a) the relevant prescribed information for an application under section 25K of the Act is the information set out in Part 4 of Schedule 1; and
- (b) the relevant prescribed fee for that application is 3 fee units.

\* \* \* \* \*

Reg. 16 revoked by S.R. No. 162/2011 reg. 12.

## **Division 6—Applications for renewals and variations of licences**

### **17 Renewal of licence to operate a children's service**

Reg. 17  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 13(1).

Reg. 17(1)  
amended by  
S.R. No.  
162/2011  
reg. 13(2).

- (1) For the purposes of section 25N(2)(a) of the Act, the relevant prescribed information for an application to renew a licence to operate a children's service is the information set out in Division 1 of Part 6 of Schedule 1.
- (2) For the purposes of section 25N(2)(b) of the Act, the relevant prescribed renewal fee for an application to which subregulation (1) applies is the fee set out in Part 3 of Schedule 2 that is relevant to—
  - (a) the type of licence specified in the application; and
  - (b) the number of places offered by the children's service; and
  - (c) the term of licence renewal sought.

Reg. 18  
revoked by  
S.R. No.  
162/2011  
reg. 14.

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### **19 Renewal of licence—late application fee**

For the purposes of section 25N(4) of the Act, the prescribed late application fee is the relevant fee set out in Part 3 of Schedule 2 that is relevant to—

- (a) the type of licence specified in the application; and

(b) the number of places offered by the children's service; and

Reg. 19(b)  
substituted by  
S.R. No.  
162/2011  
reg. 15.

(c) the term of licence renewal sought.

## **20 Variation or removal of licence condition**

- (1) This regulation applies to an application under section 25P(3)(b) of the Act—
  - (a) to vary or revoke a condition or restriction on a licence; or
  - (b) to impose a new condition or restriction on a licence.
- (2) For the purposes of section 25P(4)(a) of the Act, the relevant prescribed information is the information set out in Division 1 of Part 7 of Schedule 1.
- (3) For the purposes of section 25P(4)(b) of the Act, the relevant prescribed fee is the fee set out in Part 4 of Schedule 2 that is relevant to—
  - (a) the type of licence specified in the application; and
  - (b) the number of places offered by the children's service.

Reg. 20(3)(b)  
substituted by  
S.R. No.  
162/2011  
reg. 16.

## **21 Variation of period of licence**

- (1) For the purposes of section 25P(4)(a) of the Act, the relevant prescribed information for an application to vary the period of a licence is the information set out in Division 2 of Part 7 of Schedule 1.

Reg. 21(2)(b)  
substituted by  
S.R. No.  
162/2011  
reg. 17.

- (2) For the purposes of section 25P(4)(b) of the Act, the relevant prescribed fee for an application referred to in subregulation (1) is the fee set out in Part 4 of Schedule 2 that is relevant to—
- (a) the type of licence specified in the application; and
  - (b) the number of places offered by the children's service; and
  - (c) the licence period sought.

## **Division 7—Suspension and cancellation of licences**

### **22 Application for voluntary suspension of licence**

- (1) For the purposes of section 25S(2) of the Act, the relevant prescribed information is the information set out in Part 8 of Schedule 1.
- (2) For the purposes of section 25S(3)(b) of the Act, the following conditions are prescribed—
- (a) either—
    - (i) the premises at which the service operates will be undergoing building works or renovation during the proposed period of suspension; or
    - (ii) in the case of a service that is located in a rural or remote area, the number of children enrolled at the service means that it would not be viable to operate the service during the proposed period of suspension;
  - (b) the licence has not previously been suspended during the current term;

- (c) the proposed period of suspension is no longer than 12 months.
- (3) The prescribed fee for an application for voluntary suspension of a licence is—
  - (a) if the premises at which the service operates will be undergoing building works or renovation during the proposed period of suspension, 5 fee units; or
  - (b) in any other case, nil.

### **23 Cancellation of licence at request of licensee**

A request by the licensee under section 25T of the Act to cancel a licence must be accompanied by the information set out in Part 9 of Schedule 1.

## **Division 8—Information not prescribed for certain classes of applications**

### **24 Information not prescribed for certain classes of applications**

- (1) This regulation applies to the following classes of application—
  - (a) applications for approval of premises or alteration or extension of premises;
  - (b) applications for licences;
  - (c) applications to renew licences;
  - (d) applications to vary licences.
- (2) The relevant information prescribed under regulation 6, 8, 17, 20 or 21 is not prescribed for an application if—
  - (a) that information was provided to the Secretary no more than 12 months before the date on which the application was made; and

Reg. 24(2)  
amended by  
S.R. No.  
162/2011  
reg. 18.

Children's Services Regulations 2009  
S.R. No. 53/2009  
Part 2—Licensing of children's services

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(b) there has been no material change to that information since it was provided to the Secretary.

**Note**

Subregulation (2) does not limit the powers of the Secretary to request further information in accordance with the Act.

Pt 2 Div. 9  
(Heading and  
regs 25–27)  
revoked by  
S.R. No.  
162/2011  
reg. 19.

\* \* \* \* \*

## **Part 2A—Service approvals for approved associated children's services**

Pt 2A  
(Heading and  
regs 24A–  
24C)  
inserted by  
S.R. No.  
162/2011  
reg. 20.

### **24A Application for approval of new nominees and primary nominees**

Reg. 24A  
inserted by  
S.R. No.  
162/2011  
reg. 20.

For the purposes of section 25Y of the Act—

- (a) the relevant prescribed information for an application under section 25X of the Act is the information set out in Part 12 of Schedule 1; and
- (b) the relevant prescribed fee for that application is 3 fee units.

### **24AB Notice of change to primary nominee**

Reg. 24AB  
inserted by  
S.R. No.  
96/2017 reg. 5.

For the purposes of section 25WA(2)(b) of the Act, a notice must include the prescribed information set out in Part 11A of Schedule 1.

### **24B Application for voluntary suspension of service approval for approved associated children's service**

Reg. 24B  
inserted by  
S.R. No.  
162/2011  
reg. 20.

- (1) For the purposes of section 25ZA(2) of the Act—
  - (a) the relevant prescribed information for an application under section 25ZA(1) of the Act is the information set out in Part 13 of Schedule 1; and
  - (b) the relevant prescribed fee for that application is 3 fee units.
- (2) For the purposes of section 25ZA(3)(b) of the Act, the following conditions are prescribed—
  - (a) either—

- (i) the premises at which the service operates will be undergoing building works or renovation during the proposed period of suspension; or
  - (ii) in the case of a service that is located in a rural or remote area, the number of children enrolled at the service means that it would not be viable to operate the service during the proposed period of suspension;
- (b) the service approval, to the extent that it relates to an approved associated children's service, has not been suspended during the previous 5 years;
  - (c) the proposed period of suspension is no longer than 12 months.

Reg. 24C  
inserted by  
S.R. No.  
162/2011  
reg. 20.

**24C Cancellation of service approval for approved associated children's service at request of approved provider**

A request by the approved provider of an approved associated children's service under section 25ZB of the Act to cancel a service approval to the extent that it relates to an approved associated children's service must be accompanied by the information set out in Part 14 of Schedule 1.

## Part 2B—Registers

Pt 2B  
(Heading and  
regs 25, 26)  
inserted by  
S.R. No.  
162/2011  
reg. 20.

### 25 Register of licensed children's services and approved associated children's services

New reg. 25  
inserted by  
S.R. No.  
162/2011  
reg. 20.

- (1) For the purposes of section 53(2) of the Act, the prescribed information about a children's service other than an approved associated children's service is—
- (a) the name, address, telephone and email contact details of the children's service; and
  - (b) the name of the licensee; and
  - (c) the name of the representative (if any); and
  - (d) the name of the primary nominee; and
  - (e) the number of the licence; and
  - (f) the type of licence; and
  - (g) the type of services provided by the licensee at the premises; and
  - (h) the date the licence was granted and the date it expires; and
  - (i) the maximum number of children who may be cared for or educated by the service at any one time.
- (2) For the purposes of section 53(2) of the Act, the prescribed information about an approved associated children's service is—
- (a) the name, address, telephone and email contact details of the approved associated children's service; and
  - (b) the name of the approved provider; and

- (c) the name of the primary nominee; and
- (d) the service approval number; and
- (e) the date the service approval was granted;  
and
- (f) the type of children's service provided by the  
approved provider at the premises; and
- (g) the maximum number of children who may  
be cared for or educated by the service at any  
one time.

New reg. 26  
inserted by  
S.R. No.  
162/2011  
reg. 20.

## **26 Fees for copies and extracts**

For the purposes of section 53(4) of the Act, the prescribed fee for a copy of or extract from the register kept under section 53(1) of the Act is 3 fee units.

## Part 3—Records

### Division 1—Enrolment and other documents

#### 28 Enrolment and other documents

(1) For the purposes of section 32B(1) of the Act, the relevant prescribed documents are—

- (a) an attendance record as set out in regulation 29; and
- (b) child enrolment records as set out in regulation 31; and
- (c) a medication record as set out in regulation 36; and
- (d) an accident, injury, trauma and illness record as set out in regulation 37; and
- (e) a staff record as set out in regulation 38; and

\* \* \* \* \*

Reg. 28(1)(f)  
revoked by  
S.R. No.  
162/2011  
reg. 21.

- (g) a staff roster; and
- (h) a record of the educational or recreational programs provided by the service.

(2) The proprietor of a children's service must take reasonable steps to ensure the records referred to in subregulation (1) are accurate.

Penalty: 10 penalty units.

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Reg. 28(3)(4)  
revoked by  
S.R. No.  
162/2011  
reg. 21.

## **Division 2—Attendance records**

### **29 Attendance record kept by proprietor of a children's service**

- (1) The proprietor of a children's service must ensure an attendance record is kept that records the following details for each child being cared for or educated by the children's service—
- (a) the full name of the child;
  - (b) the time the child arrives and departs.

Penalty: 8 penalty units.

- (2) The proprietor of a children's service must ensure that, at the time each child being cared for or educated by the service arrives and departs, the attendance record is signed by—
- (a) the person who delivers the child to the children's service, or the person who collects the child from the service; or
  - (b) a staff member.

Penalty: 8 penalty units.

Reg. 29(2)(b)  
amended by  
S.R. No.  
162/2011  
reg. 22.

Reg. 30  
revoked by  
S.R. No.  
162/2011  
reg. 23.

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## **Division 3—Child enrolment records**

### **31 Child enrolment records—general**

The proprietor of a children's service must ensure an enrolment record is kept that includes the following information for each child enrolled at the service—

- (a) the name, date of birth and address of the child;
- (b) the name, address and telephone number of each parent or guardian with whom the child resides;
- (c) the name, address and telephone number of any other parent or guardian of the child (if applicable);
- (d) the name, address and telephone number of a person who is to be notified of any accident, injury, trauma or illness involving the child;
- (e) details of any court orders provided to the proprietor relating to the powers, duties, responsibilities or authorities of any person in relation to the child or access to the child;
- (f) the name, address and telephone number of each person who has lawful authority to authorise the taking of the child outside the premises of the service by a staff member of the service;
- (g) the name, address and telephone number of any person who has lawful authority to—
  - (i) consent to the medical treatment of the child;
  - (ii) request or permit the administration of medication to the child;
  - (iii) collect the child from the service;
- (h) the language used in the child's home;
- (i) the relevant authorisations set out in regulation 33;

**Reg. 31(f)**  
**substituted by**  
**S.R. No.**  
**162/2011**  
**reg. 24(1).**

**Reg. 31(g)(iii)**  
**amended by**  
**S.R. No.**  
**162/2011**  
**reg. 24(2).**

(j) the relevant health information set out in regulation 34.

Penalty: 10 penalty units.

Reg. 32  
revoked by  
S.R. No.  
162/2011  
reg. 25.

\* \* \* \* \*

### 33 Authorisations to be kept in child enrolment record

The authorisations to be kept in the enrolment record for each child enrolled at the service are—

(a) an authorisation, signed by a person who has lawful authority to consent to the medical treatment of the child, for the proprietor to seek medical treatment for the child from a registered medical practitioner, hospital or ambulance service; and

Reg. 33(b)  
revoked by  
S.R. No.  
162/2011  
reg. 26(1).

\* \* \* \* \*

Reg. 33(c)  
substituted by  
S.R. No.  
162/2011  
reg. 26(2).

(c) if relevant, an authorisation signed by a person whose name has been provided under regulation 31(f) for the children's service to take the child on routine outings.

### 34 Health information to be kept in child enrolment record

The health information to be kept in the enrolment record for each child enrolled at the service is—

(a) the name, address and telephone number of the child's registered medical practitioner or medical service;

- (b) details of any—
  - (i) special needs of the child;
  - (ii) allergies, including whether the child has been diagnosed as at risk of anaphylaxis;
  - (iii) other relevant medical conditions;
- (c) any management procedure to be followed with respect to a special need, allergy or medical condition referred to in paragraph (b);
- (d) details of any dietary restrictions for the child;
- (e) unless paragraph (h) applies, the immunisation status of the child;
- (f) if the child is diagnosed as at risk of anaphylaxis, the current anaphylaxis medical management plan for the child;
- (g) if the proprietor or a staff member of the children's service has sighted a child health record for the child, a notation to that effect;
- (h) in the case of a service (or any part of a service) specified in paragraph (b) of the definition of *early childhood service* as defined in section 3(1) of the **Public Health and Wellbeing Act 2008**—
  - (i) an immunisation status certificate within the meaning of section 147 of that Act—
    - (A) that is issued in relation to the child; and

Reg. 34(e)  
amended by  
S.R. No.  
2/2016  
reg. 4(1).

Reg. 34(g)  
amended by  
S.R. Nos  
162/2011  
reg. 27, 2/2016  
reg. 4(2).

Reg. 34(h)  
inserted by  
S.R. No.  
2/2016  
reg. 4(3).

- (B) that is provided under section 143B of that Act; or
- (ii) details of any exemption in relation to the child under section 143C of that Act.

### **35 Confidentiality of child enrolment records**

- (1) The proprietor of a children's service must ensure that information in a child's enrolment record is not divulged or communicated, directly or indirectly, to another person other than—
  - (a) to the extent necessary for the care or education or medical treatment of the child; or
  - (b) to a parent or guardian of the child or another person who has lawful authority to require the information; or
  - (c) to the Secretary or an authorised officer; or
  - (d) if expressly authorised, permitted or required to be given by or under any Act or law; or
  - (e) with the written consent of the person who provided the information.

Penalty: 10 penalty units.

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Reg. 35(2)  
revoked by  
S.R. No.  
162/2011  
reg. 28.

## **Division 4—Medication records and accident, injury, trauma and illness records**

### **36 Matters to be recorded in medication record**

- (1) The proprietor of a children's service must ensure that a medication record is kept that includes the details set out in subregulation (3) for each child

to whom medication is or is to be administered by the service.

Penalty: 8 penalty units.

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**Reg. 36(2)**  
revoked by  
S.R. No.  
162/2011  
reg. 29(1).

(3) The details to be recorded are—

- (a) the name of the child;
- (b) the authorisation to administer medication signed by a person whose name has been provided under regulation 31(g);
- (c) the name of the medication to be administered;
- (d) the time and date the medication was last administered;
- (e) the time and date, or the circumstances under which, the medication should be next administered;
- (f) the dosage of the medication to be administered;
- (g) if the medication is administered to the child—
  - (i) the dosage that was administered; and
  - (ii) the time and date the medication was administered; and
  - (iii) the name and signature of the person who administered the medication; and
  - (iv) the name and signature of the person who checked the dosage administered, if regulation 83 requires the dosage to be checked by a person other than the

**Reg. 36(3)(b)**  
amended by  
S.R. No.  
162/2011  
reg. 29(2).

person who administered the medication.

**37 Matters to be recorded in accident, injury, trauma and illness record**

- (1) The proprietor of a children's service must ensure that an accident, injury, trauma and illness record is kept in accordance with this regulation.

Penalty: 8 penalty units.

Reg. 37(2)  
revoked by  
S.R. No.  
162/2011  
reg. 30(1).

\* \* \* \* \*

- (3) The accident, injury, trauma and illness record must include—

Reg. 37(3)(a)  
amended by  
S.R. No.  
162/2011  
reg. 30(2)(a).

- (a) details of any accident in relation to a child or injury received by a child or trauma to which a child has been subjected while being cared for or educated by the children's service, including—

- (i) the name of the child; and
- (ii) the circumstances leading to the accident, injury or trauma; and
- (iii) the nature of the accident, injury or trauma; and
- (iv) any products or structures involved; and
- (v) the time and date the accident occurred, the injury was received or the child was subjected to the trauma;

Reg. 37(3)(b)  
amended by  
S.R. No.  
162/2011  
reg. 30(2)(b).

- (b) details of any illness which becomes apparent while the child is being cared for or educated by the children's service, including—

- (i) the name of the child; and
  - (ii) any relevant circumstances surrounding the child becoming ill and any apparent symptoms; and
  - (iii) the time and date of the apparent onset of the illness;
- (c) details of the action taken by the children's service in relation to any accident, injury, trauma or illness which a child has suffered while being cared for or educated by the children's service;
- (d) the name of the person who was notified of any accident, injury, trauma or illness which a child has suffered while being cared for or educated by the children's service and the time and date of the notification;
- (e) the name and signature of the person making an entry in the record.
- (4) The information referred to in subregulation (3) must be included in the accident, injury, trauma and illness record as soon as practicable, but not later than 24 hours after the accident, injury or trauma, or the onset of the illness.

Reg. 37(3)(c)  
amended by  
S.R. No.  
162/2011  
reg. 30(2)(c).

Reg. 37(3)(d)  
amended by  
S.R. No.  
162/2011  
reg. 30(2)(c).

## **Division 5—Staff records**

Pt 3 Div. 5  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 31.

### **38 Matters to be recorded in staff record**

- (1) The proprietor of a children's service must ensure that a staff record is kept in accordance with this regulation.

Penalty: 5 penalty units.

Reg. 38(2)(a)  
amended by  
S.R. No.  
162/2011  
reg. 32(1).

- (2) The staff record must include the following details—
- (a) the name, address and date of birth of each staff member, employee and early childhood intervention worker;
  - (b) a copy of any relevant qualifications or certificates of completed training of each staff member;
  - (c) the working hours of each staff member and employee;
  - (d) the date each staff member undertook and completed training in the administration of an adrenaline auto-injection device and cardio-pulmonary resuscitation pursuant to regulation 65;
  - (e) if relevant, the date each staff member undertook and completed training in first aid and anaphylaxis management pursuant to regulation 63 or 67(2).

Reg. 38(3)  
amended by  
S.R. No.  
162/2011  
reg. 32(2)(a).

- (3) The staff record must also include, in relation to the current assessment notice for each staff member, employee and early childhood intervention worker and the volunteer assessment notice for each volunteer—

Reg. 38(3)(a)  
substituted by  
S.R. No.  
96/2010 reg. 6,  
amended by  
S.R. No.  
162/2011  
reg. 32(2)(b).

- (a) the date the notice was read by the licensee, approved provider, the primary nominee or the nominee who was present and in charge of the children's service at the time the notice was read; and
- (b) the reference number of the notice; and
- (c) the expiry date of the notice.

Children's Services Regulations 2009  
S.R. No. 53/2009  
Part 3—Records

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(4) If an exception in regulation 70 or 70A applies, the staff record must include details of the exception.

**Reg. 38(4)**  
**amended by**  
**S.R. No.**  
**162/2011**  
**reg. 32(3).**

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**Reg. 39**  
**revoked by**  
**S.R. No.**  
**162/2011**  
**reg. 33.**

## Part 4—Provision and display of information

Pt 4 Div. 1  
(Heading)  
revoked by  
S.R. No.  
162/2011  
reg. 34.

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Reg. 40  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 35(1).

### 40 Information to be displayed at children's service

Reg. 40(1)  
amended by  
S.R. No.  
162/2011  
reg. 35(2).

(1) The proprietor of a children's service must ensure the following information is displayed prominently at the main entrance to the premises where the children's service operates—

Reg. 40(1)(b)  
substituted by  
S.R. No.  
162/2011  
reg. 35(3).

(a) the hours and days of operation of the children's service;

(b) the names of—

(i) the licensee and, if the licensee is a body corporate, a representative; or

(ii) in the case of an approved associated children's service, the approved provider and, if the approved provider is a body corporate, a responsible person;

(c) the names of all nominees, identifying which person is the primary nominee;

Reg. 40(1)(d)  
amended by  
S.R. No.  
162/2011  
reg. 35(4).

(d) the name of the licensee, approved provider or nominee currently present and in charge of the children's service;

(e) an outline of the educational or recreational programs provided for children cared for or educated by the service;

- (f) the fees charged by the service;
- (g) details of emergency evacuation procedures;
- (h) the name and telephone number of the person at the children's service to whom complaints may be addressed;
- (i) the address and telephone number of the responsible office of the Department;
- (j) a list of the information available for inspection under regulation 41;
- (k) if applicable, a notice stating that a child who has been diagnosed as at risk of anaphylaxis is being cared for or educated by the children's service.

Penalty: 5 penalty units.

- (2) A notice displayed under subregulation (1)(k) must not contain details that identify any child, unless a parent or guardian of the child consents to that child being identified.

#### **41 Information to be made available at children's service**

The proprietor of a children's service must ensure information about the following matters is available for inspection at the children's service at all times the service is open for the care or education of children—

- (a) admission requirements and enrolment procedures;
- (b) arrangements for the payment of fees;
- (c) the policy of the service with respect to the employment of qualified staff;

Reg. 41  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 36(1).  
Reg. 41  
amended by  
S.R. No.  
162/2011  
reg. 36(2).

- (d) the educational or recreational programs provided for children cared for or educated by the service;
- (e) the policy of the service with respect to behaviour management;
- (f) arrangements for the delivery and collection of children;
- (g) procedures for dealing with illness and emergency care;
- (h) procedures for dealing with infectious disease;
- (i) provision for dealing with complaints;
- (j) the anaphylaxis management policy.

Penalty: 5 penalty units.

Reg. 42  
amended by  
S.R. No.  
162/2011  
reg. 37.

#### **42 Notice of changes to information**

The proprietor of a children's service must, within 28 days of making any change to the information referred to in regulation 40 or 41, notify the parents or guardians of all children being cared for or educated by the children's service of that change.

Penalty: 2 penalty units.

Reg. 43  
amended by  
S.R. No.  
162/2011  
reg. 38.

#### **43 Information to be available— anaphylaxis management policy**

The proprietor of a children's service must provide to a parent or guardian of a child diagnosed as at risk of anaphylaxis enrolled at the service a copy of the service's anaphylaxis management policy.

Penalty: 5 penalty units.

**44 Information to be available—accident, injury, trauma and illness record**

Reg. 44  
amended by  
S.R. No.  
162/2011  
reg. 39.

The proprietor of a children's service must ensure that a parent or guardian of a child being cared for or educated by the children's service—

- (a) may access any accident, injury, trauma and illness record for that child as soon as practicable on their request; and
- (b) is provided with a copy of that record as soon as practicable on their request.

Penalty: 5 penalty units.

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Pt 4 Div. 2  
(Heading and  
regs 45–49)  
revoked by  
S.R. No.  
162/2011  
reg. 40.

## **Part 5—Staffing**

### **Division 1—Minimum staff requirements**

#### **50 Minimum staff requirements**

Reg. 50  
amended by  
S.R. No.  
162/2011  
reg. 41.

The proprietor of a children's service, other than a service referred to in regulation 51, must ensure that at least 2 staff members are on duty whenever children are being cared for or educated by the children's service.

Penalty: 10 penalty units.

#### **51 Minimum staff requirements—certain school holidays care services**

Reg. 51  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 42(1).

Reg. 51(1)  
amended by  
S.R. No.  
162/2011  
reg. 42(2).

(1) This regulation applies to a school holidays care service that—

(a) has a licence capacity of no more than 15 children; and

(b) is located in a remote or rural area where there is no other school holidays care service available within reasonable travelling distance.

Reg. 51(1)(b)  
amended by  
S.R. No.  
162/2011  
reg. 42(3).

(2) The proprietor of the service must ensure that whenever children are being cared for or educated by the service—

(a) a qualified staff member is on duty; and

(b) one other adult is at or near the premises where the service operates and able to attend immediately if required.

Penalty: 8 penalty units.

**52 Minimum hours of teaching staff—services  
educating and caring for 25 or more children**

Reg. 52  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 43(1).

(1AA) This regulation applies to—

Reg. 52(1AA)  
inserted by  
S.R. No.  
162/2011  
reg. 43(2).

- (a) a standard service that is licensed or, in the case of an approved associated children's service, approved to care for and educate 25 or more children at any one time;
- (b) an integrated service that includes a standard service component that is licensed to care for and educate 25 or more children at any one time.

(1) The proprietor of the service must ensure that a teaching staff member is caring for or educating children at the standard service or each standard service component for at least the lesser of—

Reg. 52(1)  
substituted by  
S.R. No.  
162/2011  
reg. 43(2).

- (a) 50 per cent of the time the service is open to care for or educate children; or
- (b) 20 hours per week.

Penalty: 10 penalty units.

(2) If a teaching staff member is absent from the service because of illness or annual leave, the following persons may be taken for the purposes of subregulation (1) to be a teaching staff member during that absence—

- (a) a qualified staff member; or
- (b) a person who holds a qualification in primary school teaching.

(3) To avoid doubt, subregulation (2) does not apply in case of maternity leave, long service leave or other similar leave.

Reg. 52A  
inserted by  
S.R. No.  
162/2011  
reg. 44.

**52A Minimum hours of teaching staff—services educating or caring for fewer than 25 children**

- (1) This regulation applies to—
  - (a) a standard children's service that is licensed or, in the case of an approved associated children's service, approved to care for and educate fewer than 25 children at any one time; or
  - (b) an integrated service that includes a standard service component that is licensed to care for and educate fewer than 25 children at any one time.
- (2) The proprietor of the service must ensure that the standard service or each standard service component has access to a teaching staff member working with the service for at least 20 per cent of the time the service provides education or care.  
Penalty: 10 penalty units.
- (3) If a teaching staff member is absent from the service because of illness or annual leave, the following persons may be taken for the purposes of subregulation (2) to be a teaching staff member during that absence—
  - (a) a qualified staff member; or
  - (b) a person who holds a qualification in primary school teaching.
- (4) To avoid doubt, subregulation (3) does not apply in the case of maternity leave, long service leave or other similar leave.
- (5) For the purposes of subregulation (2)—
  - (a) a teaching staff member is working with the service if he or she is carrying out activities for the service, including caring for and educating children and planning programs;

- (b) the teaching staff member may be working with the service by means of information communication technology.
- (6) For the purposes of this regulation the period that a teaching staff member works with a service may be calculated on a quarterly basis.

## **Division 2—Child/staff ratios**

### **53 Child/staff ratios—standard services**

- (1) For the purposes of section 29A of the Act, the prescribed number of staff members for a standard service is—
  - (a) if the children are aged under 3 years—
    - (i) 1 staff member for every 4 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 12 children or fraction of that number; and
  - (b) if the children are aged 3 years or more—
    - (i) 1 staff member for every 15 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 30 children or fraction of that number.
- (2) Despite subregulation (1), if a standard service cares for or educates 12 children or less, the prescribed number of qualified staff members is one.

### **54 Child/staff ratios—school holidays care services**

For the purposes of section 29A of the Act, the prescribed number of staff members for a school holidays care service is—

- (a) 1 staff member for every 15 children or fraction of that number; and

Reg. 54  
substituted by  
S.R. No.  
162/2011  
reg. 45.

- (b) 1 qualified staff member for every 30 children or fraction of that number.

**55 Child/staff ratios—limited hours services**

- (1) For the purposes of section 29A of the Act, the prescribed number of staff members and volunteers for a limited hours Type 1 service is—
  - (a) if the children are aged under 3 years, 1 staff member or volunteer for every 5 children or fraction of that number; and
  - (b) if the children are aged 3 years or more, 1 staff member or volunteer for every 15 children or fraction of that number.
- (2) For the purposes of section 29A of the Act, the prescribed number of staff members and volunteers for a limited hours Type 2 service is—
  - (a) if the children are aged under 3 years—
    - (i) 1 staff member or volunteer for every 5 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 15 children or fraction of that number; and
  - (b) if the children are aged 3 years or more—
    - (i) 1 staff member or volunteer for every 15 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 30 children or fraction of that number.
- (3) Despite subregulation (2), if a limited hours Type 2 service cares for or educates 15 children or less, the prescribed number of qualified staff members is one.

**56 Child/staff ratios—short term services**

- (1) For the purposes of section 29A of the Act, the prescribed number of staff members and volunteers for a short term Type 1 service is—
  - (a) if the children are aged under 3 years—
    - (i) 1 staff member or volunteer for every 5 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 15 children or fraction of that number; and
  - (b) if the children are aged 3 years or more—
    - (i) 1 staff member or volunteer for every 15 children or fraction of that number; and
    - (ii) 1 qualified staff member for every 30 children or fraction of that number.
- (2) For the purposes of section 29A of the Act, the prescribed number of staff members and volunteers for a short term Type 2 service is—
  - (a) if the children are aged under 3 years, 1 staff member or volunteer for every 5 children or fraction of that number; and
  - (b) if the children are aged 3 years or more, 1 staff member or volunteer for every 15 children or fraction of that number; and
  - (c) if the service cares for or educates 16 children or more, 1 qualified staff member for every 30 children or fraction of that number.
- (3) Despite subregulation (1), if a short term Type 1 service cares for or educates 15 children or less, the prescribed number of qualified staff members is one.

### **57 Qualified staff members**

For the purposes of this Division, a qualified staff member may also be counted as a staff member in determining the prescribed number of staff members.

### **58 Proportion of volunteers counted in child/staff ratio**

In determining the child/staff ratio for a limited hours service or a short term service—

- (a) no more than half of the individuals counted in the prescribed number of staff members may be volunteers; and
- (b) a volunteer must not be counted unless he or she is aged 18 or over; and
- (c) a volunteer must not be counted in the ratio of qualified staff members to children; and
- (d) a volunteer must not be counted in the minimum staff requirements for the purposes of regulation 50.

### **59 Alternative process for determining certain child/staff ratios**

If a children's service referred to in regulation 53, 55 or 56 cares for or educates a child aged under 3 years, the child/staff ratio under that regulation may be determined as if all the children cared for or educated by the service were aged under 3 years.

## **Division 3—Qualifications and training**

### **60 Minimum training**

The proprietor of a children's service must ensure each staff member caring for or educating children for the service—

- (a) holds a Certificate III in Children's Services;  
or

Reg. 60  
amended by  
S.R. No.  
162/2011  
reg. 46(1).

- (b) holds a qualification or has training the Secretary is satisfied is substantially equivalent or superior to the qualification referred to in paragraph (a); or
- (ba) holds a qualification included in the list of approved certificate III level education and care qualifications published under the national regulations; or
- (c) is a qualified staff member or a teaching staff member; or
- (d) holds a primary school teaching qualification; or
- (e) in the case of an early childhood intervention staff member, holds a qualification in a field the Secretary is satisfied is acceptable; or
- (f) in the case of a school holidays care service—
  - (i) holds a qualification or has training referred to in paragraph (a), (b), (c) or (d); or
  - (ii) holds a qualification in a field the Secretary is satisfied is acceptable; or
  - (iii) commences obtaining a qualification or training referred to in subparagraph (i) or (ii) within 6 months of commencing to care for or educate children at the service.

**Reg. 60(ba)**  
inserted by  
S.R. No.  
162/2011  
reg. 46(2).

**Reg. 60(f)**  
amended by  
S.R. No.  
162/2011  
reg. 46(3).

Penalty: 10 penalty units.

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**Reg. 61**  
revoked by  
S.R. No.  
162/2011  
reg. 47.

Reg. 62  
amended by  
S.R. No.  
162/2011  
reg. 48.

## **62 Secretary may declare qualifications or training**

The Secretary, by notice published in the Government Gazette, may declare a qualification or training to be an equivalent or superior qualification for the purposes of regulation 60.

## **63 Staff members to have first aid and anaphylaxis management training**

Reg. 63(1AA)  
inserted by  
S.R. No.  
162/2011  
reg. 49.

(1AA) This regulation applies in respect of a staff member who is—

- (a) counted in the minimum number of staff members required for the purposes of regulation 50; or
- (b) a qualified staff member on duty for the purposes of regulation 51; or
- (c) counted in the prescribed number of staff members or qualified staff members for the purposes of Division 2 of Part 5.

Reg. 63(1)  
substituted by  
S.R. No.  
162/2011  
reg. 49.

(1) The proprietor of a children's service must ensure each staff member has completed at least every 3 years the first aid training and anaphylaxis management training set out in this regulation that is approved by the Secretary in accordance with regulation 66.

Penalty: 10 penalty units.

- (2) The first aid training must include training in the following—
- (a) emergency life support and cardio-pulmonary resuscitation;
  - (b) convulsions;
  - (c) poisoning;
  - (d) respiratory difficulties;
  - (e) management of severe bleeding;

- (f) injury and basic wound care appropriate for children;
- (3) Anaphylaxis management training must include training in the following—
  - (a) nature of severe allergic conditions;
  - (b) signs and symptoms and management of anaphylactic shock including administration of an adrenaline auto-injection device;
  - (c) risk minimisation and management strategies for allergic reactions and anaphylaxis appropriate for children.
- (4) First aid training and anaphylaxis management training may be undertaken as a combined course.

\* \* \* \* \*

Reg. 64  
revoked by  
S.R. No.  
162/2011  
reg. 50.

## **65 Adrenaline auto-injection device and CPR training**

- (1) The proprietor of a children's service must ensure that all staff members on duty whenever children are being cared for or educated by the service have undertaken training in the following at least every 12 months—
  - (a) administration of the adrenaline auto-injection device;
  - (b) cardio-pulmonary resuscitation (CPR).

Penalty: 10 penalty units.

\* \* \* \* \*

Reg. 65(1)  
amended by  
S.R. No.  
162/2011  
reg. 51(1).

Reg. 65(2)  
revoked by  
S.R. No.  
162/2011  
reg. 51(2).

**66 Secretary may approve first aid and anaphylaxis management training**

Reg. 66(1)  
amended by  
S.R. No.  
162/2011  
reg. 52.

- (1) The Secretary may approve a course or courses of training to be first aid and anaphylaxis management training for the purposes of regulation 63.
- (2) The Secretary must not approve a course of training under this regulation unless satisfied that the course is relevant to the needs of children.
- (3) An approval by the Secretary under subregulation (1) must be published in the Government Gazette.

**67 Anaphylaxis training where child diagnosed as at risk**

Reg. 67(2)  
amended by  
S.R. No.  
162/2011  
reg. 53(1).

- (1) This regulation applies if a child who has been diagnosed as at risk of anaphylaxis is being cared for or educated by a children's service.
- (2) The proprietor of a service must ensure that all staff members on duty whenever that child is being cared for or educated by the service have undertaken training in anaphylaxis management that is approved by the Secretary under regulation 66.

Penalty: 10 penalty units.

Reg. 67(3)  
revoked by  
S.R. No.  
162/2011  
reg. 53(2).

\* \* \* \* \*

Reg. 67(4)  
amended by  
S.R. No.  
162/2011  
reg. 53(3).

- (4) This regulation does not apply if the staff member has undertaken training in anaphylaxis management under another provision of this Division.

**68 Health of staff members**

Reg. 68  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 54(1).

- (1) The proprietor of a children's service must ensure that—
- (a) a staff member's health does not adversely affect the staff member's ability to care for or educate children at the children's service; and
  - (b) a staff member is not adversely affected by alcohol, drugs or any other deleterious substances while caring for or educating children at the children's service.

Reg. 68(1)  
amended by  
S.R. No.  
162/2011  
reg. 54(2).

Penalty: 10 penalty units.

\* \* \* \* \*

Reg. 68(2)(3)  
revoked by  
S.R. No.  
162/2011  
reg. 54(3).

- (4) The proprietor of a children's service must ensure alcohol and drugs, except for those required for legitimate medical purposes, are not consumed on the premises while children are being cared for or educated by the children's service.

Penalty: 10 penalty units.

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Reg. 68(5)  
revoked by  
S.R. No.  
162/2011  
reg. 54(3).

\* \* \* \* \*

Reg. 69  
revoked by  
S.R. No.  
162/2011  
reg. 55.

## 70 Assessment notices

Reg. 70(1)  
amended by  
S.R. No.  
96/2010  
reg. 7(1).

- (1) A licensee must read, or must ensure the primary nominee or nominee currently present and in charge of the children's service has read, a person's current assessment notice before that person becomes an employee or is otherwise engaged as a staff member of the children's service.

Penalty: 10 penalty units.

Reg. 70(2)  
revoked by  
S.R. No.  
162/2011  
reg. 56(1).

\* \* \* \* \*

Reg. 70(3)  
amended by  
S.R. No.  
96/2010  
reg. 7(2).

- (3) A licensee must read, or must ensure that the primary nominee or nominee currently present and in charge of the children's service has read, a person's current assessment notice or volunteer assessment notice before the person becomes a volunteer at the children's service.

Penalty: 10 penalty units.

Reg. 70(4)  
amended by  
S.R. Nos  
96/2010  
reg. 7(1),  
162/2011  
reg. 56(2).

- (4) A licensee must read, or must ensure the primary nominee or nominee currently present and in charge of the children's service has read, a current assessment notice for each early childhood intervention worker.

Penalty: 10 penalty units.

- (5) Subregulations (1), (3) and (4) do not apply in respect of a person if—
- (a) an assessment notice or volunteer assessment cannot be issued for the person because of the person's age; and
  - (b) the person cares for or educates children at the children's service only under the immediate supervision of the proprietor or a qualified staff member of the service.

(6) Subregulations (1), (3) and (4) do not apply in respect of a person who is registered as a teacher under the **Education and Training Reform Act 2006**, if the licensee, primary nominee or nominee currently present and in charge of the children's service has checked the relevant register kept under that Act to ensure that the person is so registered.

Reg. 70(6)  
amended by  
S.R. Nos  
96/2010  
reg. 7(3),  
162/2011  
reg. 56(3).

(7) Subregulation (3) does not apply if the volunteer—

- (a) cares for or educates children at the children's service only under the immediate supervision of the proprietor or a qualified staff member of the service; and
- (b) is not included in the child/staff ratios if the service is a limited hours or short term service.

(7A) Subregulation (4) does not apply if the early childhood intervention worker cares for or educates children at the children's service only under the immediate supervision of the proprietor or a qualified staff member of the service.

Reg. 70(7A)  
inserted by  
S.R. No.  
162/2011  
reg. 56(4).

(8) A licensee must ensure that any information in an assessment notice or a volunteer assessment notice referred to in this regulation and read by the licensee, the nominee currently present and in charge of the children's service or the primary nominee of the children's service is not divulged by the licensee, the nominee currently present and in charge of the children's service or the primary nominee, directly or indirectly, to any person except the licensee, the nominee currently present and in charge of the children's service, the primary nominee, the Secretary or an authorised officer.

Reg. 70(8)  
amended by  
S.R. No.  
96/2010  
reg. 7(4).

Penalty: 10 penalty units.

**Note**

It is an offence under section 35 of the **Working with Children Act 2005** to engage a person in child-related work if the person does not have a current assessment notice.

Reg. 70A  
inserted by  
S.R. No.  
162/2011  
reg. 57.

**70A Assessment notices—approved associated children's services**

(1) An approved provider of an approved associated children's service must read, or must ensure the primary nominee or nominee currently present and in charge of the children's service has read, a person's current assessment notice before that person becomes an employee or is otherwise engaged as a staff member of the children's service.

Penalty: 10 penalty units.

(2) An approved provider of an approved associated children's service must read, or must ensure that the primary nominee or nominee currently present and in charge of the children's service has read, a person's current assessment notice or volunteer assessment notice before the person becomes a volunteer at the associated children's service.

Penalty: 10 penalty units.

(3) An approved provider of an approved associated children's service must read, or must ensure the primary nominee or nominee currently present and in charge of the children's service has read, a current assessment notice for each early childhood intervention worker.

Penalty: 10 penalty units.

(4) Subregulations (1), (2) and (3) do not apply in respect of a person if—

(a) an assessment notice or volunteer assessment cannot be issued for the person because of the person's age; and

- (b) the person cares for or educates children at the approved associated children's service only under the immediate supervision of the proprietor or a qualified staff member of the service.
- (5) Subregulations (1), (2) and (3) do not apply in respect of a person who is registered as a teacher under the **Education and Training Reform Act 2006**, if the approved provider, primary nominee or nominee currently present and in charge of the children's service has checked the relevant register kept under that Act and confirmed that the person is so registered.
  - (6) Subregulation (2) does not apply if the volunteer—
    - (a) cares for or educates children at the approved associated children's service only under the immediate supervision of the proprietor or a qualified staff member of the service; and
    - (b) is not included in the child/staff ratios if the service is a limited hours or short term service.
  - (7) Subregulation (3) does not apply if the early childhood intervention worker cares for or educates children at the approved associated children's service only under the immediate supervision of the proprietor or a qualified staff member of the service.
  - (8) An approved provider of an approved associated children's service must ensure that any information in an assessment notice or a volunteer assessment notice referred to in this regulation and read by the approved provider, the nominee currently present and in charge of the children's service or the primary nominee of the children's service is not divulged by the approved provider,

the nominee or the primary nominee, directly or indirectly, to any person except the approved provider, the nominee, the primary nominee, the Secretary or an authorised officer.

Penalty: 10 penalty units.

**Note**

It is an offence under section 35 of the **Working with Children Act 2005** to engage a person in child-related work if the person does not have a current assessment notice.

## **Part 6—Health and welfare of children**

### **Division 1—Access to and removal of children from the premises**

#### **71 Access to the premises**

Subject to any court order or any notice under section 9 of the **Summary Offences Act 1966** to the contrary, the proprietor of a children's service must ensure that any parent or guardian of a child being cared for or educated by the children's service may—

- (a) enter the premises at which the child is being cared for or educated at any time during the hours of operation; and
- (b) exchange information about the child with a staff member of the children's service.

Reg. 71(b)  
amended by  
S.R. No.  
162/2011  
reg. 58.

Penalty: 8 penalty units.

#### **72 Collection of children**

- (1) The proprietor of a children's service must ensure that a child cared for or educated by the children's service is not—
  - (a) given into the care of any person other than—
    - (i) a parent of the child; or
    - (ii) a guardian of the child; or
    - (iii) a person who has lawful authority to collect the child from the children's service; or
    - (iv) a person who is authorised by the child's parent or guardian or a person who has lawful authority to collect the child; or

Reg. 72(1)(b)  
amended by  
S.R. No.  
162/2011  
reg. 59(1).

- (b) taken outside the premises at which the children's service is provided except by a staff member of the children's service.

Penalty: 10 penalty units.

- (2) Subregulation (1)(a) does not apply if a school child leaves the children's service in accordance with written authorisation from the child's parent or guardian.

Example to  
reg. 72(2)  
substituted by  
S.R. No.  
162/2011  
reg. 59(2).

**Example**

A school child's parent may authorise the school child to leave a school holidays care service unaccompanied.

Reg. 73  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 60(1).

**73 Authorisation for removal of child by staff member**

Reg. 73(1)  
amended by  
S.R. No.  
162/2011  
reg. 60(2).

- (1) The proprietor of a children's service must ensure that a staff member of the children's service does not take a child on an excursion outside the premises at which the children's service is provided unless written authorisation for the excursion has been provided in accordance with subregulation (2).

Penalty: 8 penalty units.

Reg. 73(2)  
amended by  
S.R. No.  
162/2011  
reg. 60(3).

- (2) The authorisation must be given by a person named in the child's enrolment record as having lawful authority to authorise the taking of the child outside the premises by a staff member and must state—
- (a) the reason the child is to be taken outside the premises; and
  - (b) the date the child is to be taken on the excursion; and

- (c) the proposed destination for the excursion;  
and
  - (d) the method of transport to be used for the excursion; and
  - (e) the proposed activities to be undertaken by the child during the excursion; and
  - (f) the period the child will be away from the premises; and
  - (g) the number of staff members and any other responsible person who will accompany and supervise the child on the excursion. Reg. 73(2)(g) amended by S.R. No. 162/2011 reg. 60(4).
- (3) Despite subregulation (1), a staff member of a children's service may take a child outside the premises for a routine outing if— Reg. 73(3) amended by S.R. No. 162/2011 reg. 60(5).
- (a) a person named in the child's enrolment record as having lawful authority to authorise the taking of the child outside the premises by a staff member has provided a written authorisation for the routine outing within the previous 12 months; and Reg. 73(3)(a) amended by S.R. No. 162/2011 reg. 60(6).
  - (b) the children's service displays a notice that— Reg. 73(3)(b) amended by S.R. No. 162/2011 reg. 60(7).
    - (i) indicates the children who attend the service are on a routine outing; and
    - (ii) states the location of the routine outing; and
    - (iii) states the time the children are expected to return to the service's premises.
- Example** Example to reg. 73(3) substituted by S.R. No. 162/2011 reg. 60(8).
- Routine outings may include trips taken from a children's service to a library or a park nearby.

Reg. 74  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 61(1).

## **74 Additional requirements where child removed by staff member**

Reg. 74(1)  
amended by  
S.R. No.  
162/2011  
reg. 61(2).

- (1) The proprietor of a children's service must ensure that, before a staff member takes a child outside the premises at which the children's service is provided, the staff member conducts a risk assessment to determine whether there is adequate adult supervision for the excursion or routine outing.

Reg. 74(2)(3)  
revoked by  
S.R. No.  
162/2011  
reg. 61(3).

\* \* \* \* \*

Reg. 74(4)  
amended by  
S.R. No.  
162/2011  
reg. 61(4).

- (4) If a child is taken by a staff member outside the premises at which the children's service is provided, the proprietor of the service must ensure a staff member accompanying the child carries—
- (a) a suitably equipped first aid kit; and
  - (b) the telephone number of—
    - (i) any person who is to be notified of any accident, injury, trauma or illness involving the child; and
    - (ii) the child's registered medical practitioner or medical service; and
  - (c) an operational mobile telephone with an appropriate connection to a mobile telephone network; and
  - (d) if the child has been diagnosed as at risk of anaphylaxis, the child's anaphylaxis medication and anaphylaxis medical management plan.

Penalty: 8 penalty units.

## **75 Removal of child in emergency**

Regulations 72 to 74 do not apply if a child is given into the care of a person or taken outside the premises at which the children's service is provided because—

- (a) the child requires medical, hospital or ambulance care or treatment; or
- (b) of another emergency.

## **Division 2—Safety**

### **76 Emergency procedures**

- (1) The proprietor of a children's service must ensure that emergency procedures are developed and regularly practised with staff members and volunteers of the service and children being cared for or educated by the service.

Penalty: 10 penalty units.

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Reg. 76(1)  
amended by  
S.R. No.  
162/2011  
reg. 62(1).

Reg. 76(2)  
revoked by  
S.R. No.  
162/2011  
reg. 62(2).

### **77 Communication equipment**

- (1) The proprietor of a children's service must ensure that staff members of the children's service have ready access to an operating telephone or other similar means of communication when children are being cared for or educated by the children's service.

Penalty: 5 penalty units.

\* \* \* \* \*

Reg. 77(1)  
amended by  
S.R. No.  
162/2011  
reg. 63(1).

Reg. 77(2)  
revoked by  
S.R. No.  
162/2011  
reg. 63(2).

### **Division 3—Personal hygiene, food and beverage requirements and smoke-free environment**

#### **78 Personal hygiene needs of children**

- (1) The proprietor of a children's service must ensure that the personal hygiene needs of children being cared for or educated by the service are attended to as soon as practicable.

Penalty: 10 penalty units.

- (2) The proprietor of the children's service must ensure that children being cared for or educated by the service do not make common use of items intended for a child's personal care.

Penalty: 8 penalty units.

Reg. 78(3)(4)  
revoked by  
S.R. No.  
162/2011  
reg. 64.

\* \* \* \* \*

#### **79 Water to be available**

- (1) The proprietor of a children's service must ensure that children being cared for or educated by the children's service have access to fresh drinking water at all times.

Penalty: 8 penalty units.

Reg. 79(2)  
revoked by  
S.R. No.  
162/2011  
reg. 65.

\* \* \* \* \*

#### **80 Food and beverage requirements**

- (1) The proprietor of a children's service must ensure that—

- (a) food and beverages are offered to the children being cared for or educated by the children's service at frequent and regular intervals; and
- (b) cleanliness is observed where the food and beverages are stored, handled and prepared on the premises; and
- (c) all food and beverages on the premises intended for consumption are protected at all times from contamination; and
- (d) there are suitable eating arrangements for children at the premises.

Reg. 80(1)(a)  
amended by  
S.R. No.  
162/2011  
reg. 66(1).

Penalty: 8 penalty units.

\* \* \* \* \*

Reg. 80(2)  
revoked by  
S.R. No.  
162/2011  
reg. 66(2).

## **81 Food provided by the children's service**

- (1) If a children's service provides food to children being cared for or educated by the service, the proprietor of the children's service must ensure that—
  - (a) a weekly menu is displayed describing the food to be provided each day; and
  - (b) the food is nutritious, varied and adequate in quantity, and appropriate to the children's growth, cultural and developmental needs.

Reg. 81  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 67(1).

Penalty: 8 penalty units.

\* \* \* \* \*

Reg. 81(2)  
revoked by  
S.R. No.  
162/2011  
reg. 67(2).

## 82 Smoke-free environment

- (1) The proprietor of a children's service must ensure that the children being cared for or educated by the service are provided with a smoke-free environment.

Penalty: 10 penalty units.

Reg. 82(2)  
revoked by  
S.R. No.  
162/2011  
reg. 68.

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## Division 4—Administration of medication

### 83 Authorisation to administer medication

- (1) For the purposes of section 29B(1)(a) of the Act, the prescribed authorisation is—

- (a) an authorisation given in writing by a person recorded in the child's enrolment record as authorised to request or permit the administration of medication to the child (the *authorising person*); or
- (b) in the case of an emergency, an authorisation provided under subregulation (2).

- (2) The authorising person may authorise in writing that, in the case of an emergency, the authorisation for the purposes of section 29B(1)(a) of the Act may be provided by—

- (a) an oral authorisation by the authorising person; or
- (b) an oral authorisation by a medical practitioner or a paramedic if the authorising person cannot reasonably be contacted in the circumstances.

Reg. 83(1)  
amended by  
S.R. No.  
162/2011  
reg. 69(1).

Reg. 83(2)  
amended by  
S.R. No.  
162/2011  
reg. 69(2).

- (3) For the purposes of section 29B(1)(b) of the Act, medication is administered in the prescribed manner if—
- (a) the medication is administered from its original container bearing the original label and instructions and before the expiry or use by date; and
  - (b) if the medication has been prescribed for the child by a registered medical practitioner, the original container or original label bears the name of the child to whom medication is administered; and
  - (c) the dosage of the medication administered to the child is checked by a person other than the person administering the medication, except in the case of a school holidays care service that is not required to have 2 staff members present by operation of regulation 51.

Reg. 83(3)  
amended by  
S.R. No.  
162/2011  
reg. 69(3).

Reg. 83(3)(c)  
amended by  
S.R. No.  
162/2011  
reg. 69(4).

## **Division 5—First aid and illness**

### **84 First aid kit**

- (1) The proprietor of a children's service must supply and maintain a suitably equipped first aid kit at the premises at which the child is being cared for or educated.

Penalty: 10 penalty units.

Reg. 84  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 70(1).

Reg. 84(1)  
amended by  
S.R. No.  
162/2011  
reg. 70(2).

Reg. 84(2)  
amended by  
S.R. No.  
162/2011  
reg. 70(2).

(2) The proprietor of a children's service must ensure the first aid kit referred to in subregulation (1) is—

(a) easily recognisable and readily accessible to staff; and

(b) inaccessible to children.

Penalty: 5 penalty units.

Reg. 84(3)  
amended by  
S.R. No.  
162/2011  
reg. 70(2).

(3) The proprietor of a children's service must ensure that if a child diagnosed as at risk of anaphylaxis is being cared for or educated by the children's service that the child's anaphylaxis medication is—

(a) easily recognisable and readily accessible to staff; and

(b) inaccessible to children; and

(c) stored away from direct sources of heat.

Penalty: 5 penalty units.

Reg. 85  
revoked by  
S.R. No.  
162/2011  
reg. 71.

\* \* \* \* \*

## 86 Provision of first aid

(1) The proprietor of a children's service must ensure that appropriate first aid that is reasonable in the circumstances is provided to any child being cared for or educated by the children's service.

Penalty: 10 penalty units.

(2) A staff member of a children's service must ensure that appropriate first aid that is reasonable in the circumstances is provided to a child in the care of that staff member.

Penalty: 10 penalty units.

\* \* \* \* \*

Reg. 86(3)  
revoked by  
S.R. No.  
162/2011  
reg. 72.

### **87 Anaphylaxis management policy**

For the purposes of section 26A of the Act, the prescribed matters to be included in the anaphylaxis management policy are listed in Schedule 3.

### **88 Sick or injured child**

(1) This regulation applies if a child becomes ill, or has an accident, is injured or traumatised as a consequence of an incident while being cared for or educated by a children's service.

(2) The proprietor of the children's service must ensure that the parent or guardian with whom the child resides is notified as soon as practicable.

Reg. 88(2)  
amended by  
S.R. No.  
162/2011  
reg. 73(1).

Penalty: 8 penalty units.

(3) The proprietor of the children's service must ensure that arrangements are made as soon as practicable to remove the child from the service if it is necessary in the interests of the health, safety or wellbeing of that child or other children attending the children's service.

Reg. 88(3)  
amended by  
S.R. No.  
162/2011  
reg. 73(1).

Penalty: 5 penalty units.

\* \* \* \* \*

Reg. 88(4)(5)  
revoked by  
S.R. No.  
162/2011  
reg. 73(2).

### **89 Notification of infectious disease**

(1) If there is an occurrence at a children's service of an infectious disease listed in Schedule 7 to the Public Health and Wellbeing Regulations 2009, the proprietor of the children's service must ensure

Reg. 89(1)  
amended by  
S.R. No.  
162/2011  
reg. 74(1).

that a parent or guardian of each child cared for or educated by the service is notified as soon as practicable of the occurrence.

Penalty: 5 penalty units.

Reg. 89(2)(3)  
revoked by  
S.R. No.  
162/2011  
reg. 74(2).

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### **Division 6—Serious incidents**

#### **90 Secretary to be notified of a serious incident**

- (1) For the purposes of section 29C of the Act, the prescribed manner for notifying the Secretary is by telephone within 24 hours of the incident, followed by written notification as soon as practicable.
- (2) For the purposes of section 29C(d) of the Act, any incident requiring attendance by emergency services is prescribed as a serious incident.

#### **91 Parents to be notified of a serious incident**

If a child is involved in an incident or occurrence referred to in section 29C of the Act, the proprietor of the children's service must ensure that a parent or guardian of that child is notified as soon as practicable of the incident or occurrence.

Penalty: 8 penalty units.

## **Part 7—Equipment and Facilities**

### **Division 1—Application of Part**

#### **92 Provisions which do not apply to particular services**

A requirement of this Part does not apply if—

- (a) there is a corresponding requirement under the **Building Act 1993** or the regulations under that Act; and
- (b) the premises of the children's service already satisfies that requirement under that Act.

### **Division 2—Equipment**

#### **93 Equipment**

- (1) For the purposes of section 26B(1) of the Act, the proprietor of a children's service must ensure that each child cared for or educated by the children's service has access to furniture, materials and developmentally appropriate equipment suitable for the educational or recreational program provided to that child.

\* \* \* \* \*

Reg. 93(2)  
revoked by  
S.R. No.  
162/2011  
reg. 75.

### **Division 3—Rooms and space**

\* \* \* \* \*

Reg. 94  
revoked by  
S.R. No.  
162/2011  
reg. 76.

#### **95 Children's rooms**

- (1) A licensee must provide a children's room at the children's service.

Penalty: 10 penalty units.

- (2) If children under 3 years of age are being cared for or educated by the service, a licensee must provide at least 2 children's rooms except in the case of a limited hours service or short term service.

Penalty: 10 penalty units.

- (3) A licensee must ensure that adequate natural lighting is provided in a children's room, except for a children's room at a limited hours Type 1 service or a short term Type 2 service.

Penalty: 10 penalty units.

Reg. 95A  
inserted by  
S.R. No.  
162/2011  
reg. 77.

**95A Children's rooms—approved associated children's services**

- (1) An approved provider of an approved associated children's service must provide a children's room at the children's service.

Penalty: 10 penalty units.

- (2) If children under 3 years of age are being cared for or educated by the approved associated children's service, an approved provider must provide at least 2 children's rooms except in the case of an approved associated children's service that is a limited hours service or short term service.

Penalty: 10 penalty units.

- (3) An approved provider of an approved associated children's service must ensure that adequate natural lighting is provided in a children's room, except for a children's room at an approved associated children's service that is a limited hours Type 1 service or a short term Type 2 service.

Penalty: 10 penalty units.

## **96 Area of children's rooms**

- (1) A licensee must ensure that the floor area of a children's room at the children's services allows a clear space for each child being cared for or educated in that room of at least 3.25 square metres.

**Reg. 96(1)**  
**substituted by**  
**S.R. No.**  
**96/2010 reg. 8.**

Penalty: 10 penalty units.

- (1A) An approved provider of an approved associated children's service must ensure that the floor area of a children's room at the children's service allows a clear space for each child being cared for or educated in that room of at least 3.25 square metres.

**Reg. 96(1A)**  
**inserted by**  
**S.R. No.**  
**162/2011**  
**reg. 78.**

Penalty: 10 penalty units.

- (2) In calculating the floor area of a children's room, the following must be excluded—
- (a) a passageway or thoroughfare less than 3 metres wide;
  - (b) a kitchen;
  - (c) a toilet or shower area;
  - (d) a cupboard or other storage area;
  - (e) door swing areas;
  - (f) cot rooms and areas permanently set aside for the use or storage of cots;
  - (g) any other ancillary area.

## **97 Outdoor space**

- (1) A licensee must ensure that outdoor space that meets the requirements of subregulation (1B) is provided at the children's service.

**Reg. 97(1)**  
**substituted by**  
**S.R. No.**  
**162/2011**  
**reg. 79(1).**

Penalty: 10 penalty units.

Children's Services Regulations 2009  
S.R. No. 53/2009  
Part 7—Equipment and Facilities

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**Reg. 97(1A)**  
inserted by  
S.R. No.  
162/2011  
reg. 79(1).

- (1A) An approved provider of an approved associated children's service must ensure that outdoor space that meets the requirements of subregulation (1B) is provided at the approved associated children's service.

Penalty: 10 penalty units.

**Reg. 97(1B)**  
inserted by  
S.R. No.  
162/2011  
reg. 79(1).

- (1B) For the purposes of this regulation outdoor space must—
- (a) have a useable area of at least 7 square metres for each child who is cared for or educated by the children's service; and
  - (b) include features that enable each child who is cared for or educated by the children's service to explore and experience the natural environment; and
  - (c) include adequate shading to protect children from harmful exposure to the sun.
- (2) In calculating the area of useable outdoor space, the following must be excluded—
- (a) pathways or thoroughfares less than 3 metres wide;
  - (b) car parking areas;
  - (c) storage sheds and other fixed items that prevent children from using the space;
  - (d) any other ancillary area.

**Reg. 97(3)**  
substituted by  
S.R. No.  
162/2011  
reg. 79(2).

- (3) This regulation does not apply to a children's service or approved associated children's service that is a limited hours service, a short term service or a school holidays care service.

**98 Outdoor space—school holidays care services**

Reg. 98  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 80(1).

(1) A licensee of a school holidays care service must ensure that the following is provided for each child cared for or educated by the service at or near the service—

Reg. 98(1)  
amended by  
S.R. No.  
162/2011  
reg. 80(2).

(a) outdoor space with a useable area of at least 7 square metres; or

Reg. 98(1)(a)  
amended by  
S.R. No.  
96/2010 reg. 9.

(b) indoor playing space with a useable area of at least 7 square metres.

Reg. 98(1)(b)  
amended by  
S.R. No.  
96/2010 reg. 9.

Penalty: 10 penalty units.

(1A) An approved provider of an approved associated children's service that is a school holidays care service must ensure that the following is provided for each child cared for or educated by the service at or near the service—

Reg. 98(1A)  
inserted by  
S.R. No.  
162/2011  
reg. 80(3).

(a) outdoor space with a useable area of at least 7 square metres; or

(b) indoor playing space with a useable area of at least 7 square metres.

Penalty: 10 penalty units.

(2) The indoor playing space referred to in subregulation (1)(b) and (1A)(b) is in addition to the space required under regulation 96.

Reg. 98(2)  
inserted by  
S.R. No.  
162/2011  
reg. 80(4).

## 99 Fencing

- (1) A licensee must ensure that—
- (a) any outdoor space provided at a children's service is enclosed by a fence or barrier that is at least 1.5 metres high measured from ground level; and
  - (b) a child being cared for or educated by the children's service cannot go through, over or under the fence or barrier or any gate or fitting.

Penalty: 10 penalty units.

Reg. 99(1A)  
inserted by  
S.R. No.  
162/2011  
reg. 81(1).

- (1A) An approved provider of an approved associated children's service must ensure that—
- (a) any outdoor space provided at a children's service is enclosed by a fence or barrier that is at least 1.5 metres high measured from ground level; and
  - (b) a child being cared for or educated by the children's service cannot go through, over or under the fence or barrier or any gate or fitting.

Penalty: 10 penalty units.

Reg. 99(2)  
amended by  
S.R. No.  
162/2011  
reg. 81(2).

- (2) This regulation does not apply to a school holidays care service.

Reg. 100  
amended by  
S.R. No.  
162/2011  
reg. 82 (ILA  
s. 39B(2)).

## 100 Administration room

- (1) A licensee must provide an administration room or space at the children's service for the purpose of—
- (a) conducting administrative functions of the service; and
  - (b) consulting with parents and guardians of children; and

- (c) providing facilities for respite for staff members and volunteers.

Penalty: 2 penalty units.

- (2) An approved provider of an approved associated children's service must provide an administration room or space at the children's service for the purposes of—
  - (a) conducting administrative functions of the service; and
  - (b) consulting with parents and guardians of children; and
  - (c) providing facilities for respite for staff members and volunteers.

Reg. 100(2)  
inserted by  
S.R. No.  
162/2011  
reg. 82.

Penalty: 2 penalty units.

## **Division 4—Toileting, rest and food preparation facilities**

### **101 Toilet and washing facilities**

- (1) A licensee must ensure that—
  - (a) adequate and age-appropriate toilet and hand washing facilities are provided for the use of children being cared for or educated by the children's service; and
  - (b) the location and design of the toilet and hand washing facilities enable safe use by the children.

Penalty: 5 penalty units.

- (2) An approved provider of an approved associated children's service must ensure that—
  - (a) adequate and age-appropriate toilet and hand washing facilities are provided for the use of children being cared for or educated by the children's service; and

Reg. 101  
amended by  
S.R. No.  
162/2011  
reg. 83 (ILA  
s. 39B(2)).

Reg. 101(2)  
inserted by  
S.R. No.  
162/2011  
reg. 83.

- (b) the location and design of the toilet and hand washing facilities enable safe use by the children.

Penalty: 5 penalty units.

Reg. 102  
amended by  
S.R. No.  
162/2011  
reg. 84 (ILA  
s. 39B(2)).

### **102 Nappy changing facilities**

- (1) If children who wear nappies are cared for or educated by a children's service, the licensee must ensure that adequate and age-appropriate facilities are provided for changing nappies in a safe and hygienic manner.

Penalty: 8 penalty units.

Reg. 102(2)  
inserted by  
S.R. No.  
162/2011  
reg. 84.

- (2) If children who wear nappies are cared for or educated by an approved associated children's service, the approved provider must ensure that adequate and age-appropriate facilities are provided for changing nappies in a safe and hygienic manner.

Penalty: 8 penalty units.

### **103 Sleep and rest facilities**

Reg. 103(1)  
amended by  
S.R. No.  
162/2011  
reg. 85(1).

- (1) A licensee of a children's service, other than a school holidays care service, must ensure that—
- (a) an adequate number of suitable cots, beds, stretchers or mattresses are provided for the use of children being cared for or educated by the service; and
  - (b) an adequate supply of bedding and bed linen is available; and
  - (c) all bedding and bed linen is kept clean and maintained in good repair.

Penalty: 8 penalty units.

(1A) An approved provider of an approved associated children's service, other than a school holidays care service, must ensure that—

Reg. 103(1A)  
inserted by  
S.R. No.  
162/2011  
reg. 85(2).

- (a) an adequate number of suitable cots, beds, stretchers or mattresses are provided for the use of children being cared for or educated by the service; and
- (b) an adequate supply of bedding and bed linen is available; and
- (c) all bedding and bed linen is kept clean and maintained in good repair.

Penalty: 8 penalty units.

(2) A licensee of a school holidays care service must ensure that an adequate rest area is provided for the use of children being cared for or educated by the service.

Reg. 103(2)  
amended by  
S.R. No.  
162/2011  
reg. 85(3).

(3) An approved provider of an approved associated children's service that is an outside school hours care service must ensure that an adequate rest area is provided for the use of children being cared for or educated by the service.

Reg. 103(3)  
inserted by  
S.R. No.  
162/2011  
reg. 85(4).

#### **104 Food preparation facilities**

(1) A licensee must ensure that the following are available to and accessible by staff members of the children's service—

Reg. 104  
amended by  
S.R. No.  
162/2011  
reg. 86 (ILA  
s. 39B(2)).

- (a) facilities to cook or heat food;
- (b) washing up facilities;
- (c) refrigerated food storage facilities.

Penalty: 8 penalty units.

Children's Services Regulations 2009  
S.R. No. 53/2009  
Part 7—Equipment and Facilities

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Reg. 104(2)  
inserted by  
S.R. No.  
162/2011  
reg. 86(2).

- (2) An approved provider of an approved associated children's service must ensure that the following are available to and accessible by the staff members of the children's service—
- (a) facilities to cook or heat food;
  - (b) washing up facilities;
  - (c) refrigerated food storage facilities.

Penalty: 8 penalty units.

## **Part 8—General**

### **105 Complaints**

- (1) The proprietor of a children's service must deal with, and respond to, a complaint relating to the children's service—
- (a) as soon as practicable after the complaint is made; and
  - (b) as discreetly as practicable in the circumstances.

Penalty: 8 penalty units.

- (2) The proprietor of a children's service must notify the Secretary by telephone within 48 hours, followed by written notification as soon as practicable, after a complaint is made if the complaint alleges—
- (a) the health, safety or wellbeing of any child being cared for or educated by the children's service may have been compromised; or
  - (b) a contravention of the Act or these Regulations.

Penalty: 8 penalty units.

### **106 Act and Regulations to be available**

The proprietor of a children's service must ensure that a copy of the Act and these Regulations is available at the premises of the children's service at all times for use by staff members, volunteers or any person seeking to make use of the service.

Penalty: 2 penalty units.

Reg. 105(1)  
amended by  
S.R. No.  
162/2011  
reg. 87.

Reg. 106  
amended by  
S.R. No.  
162/2011  
reg. 88.

## Part 9—Transitional and saving provisions

### Division 1—Interpretation

#### 107 Definitions

In this Part—

*commencement day* means the day on which section 8 of the **Children's Legislation Amendment Act 2008** comes into operation;

*existing applicant* means the following—

- (a) a person who had made an application for approval in principle under the old Act provisions that was still pending immediately before the commencement day; or
- (b) a person who was granted an approval in principle under the old Act provisions before the commencement day, but who had not made an application under the old Act provisions for a licence to operate the children's service before the commencement day; or
- (c) a person who was granted an approval in principle under the old Act provisions before the commencement day and had made an application under the old Act provisions for a licence to operate the children's service, but the application was still pending immediately before the commencement day; or
- (d) a person who had made an application under the old Act provisions for a licence to operate a children's service and the application was still pending

immediately before the commencement day;

*existing licensed children's service* means a children's service that, immediately before the commencement day, was licensed under the old Act provisions;

*old Act provisions* means the Act as in force before the commencement day;

*the 1998 Regulations* means the Children's Services Regulations 1998<sup>6</sup> as in force immediately before the commencement day.

## **Division 2—Provisional licences**

### **108 Provisional licences**

For the purposes of clause 6(2) of the Schedule to the Act, the prescribed information for a provisional licence is the relevant information set out in Schedule 4.

## **Division 3—Existing applicants**

### **109 Transitional provision with respect to pending applications for approvals in principle**

- (1) An applicant for approval in principle under the old Act provisions whose application was still pending immediately before the commencement day must submit the following information to the Secretary—
  - (a) calculations of the areas referred to in regulations 42(2) and 43(1)(a) of the 1998 Regulations by a building practitioner; and
  - (b) a copy of an occupancy permit or certificate of final inspection or building surveyor's statement, if relevant.

- (2) If the information referred to in subregulation (1) is provided, the application by the children's service for approval in principle is taken to be an application for approval of premises under the Act.

**110 Transitional provisions for applicants for a licence to operate a children's service—general**

- (1) This regulation applies to an application that was pending immediately before the commencement day for a licence to operate a children's service other than a restricted children's service.
- (2) The applicant for the licence is taken on the commencement day to have applied for a standard licence.

**111 Transitional provisions for applicants for a licence to operate a restricted children's service**

- (1) An applicant for a licence to operate a restricted children's service that was pending immediately before the commencement day is taken on that day to have applied for a licence to operate a limited hours Type 2 service.
- (2) An applicant who is taken to have applied for a licence to operate a limited hours Type 2 service under subregulation (1) may request to change the licence type—
- (a) while the application is still pending; or
  - (b) after the Secretary has granted the application.
- (3) A request under subregulation (2) must be submitted to the Secretary in writing by 31 December 2009 and specify the licence type requested.

- (4) If a request is made under subregulation (2)(a), the Secretary must give notice in writing to the applicant of the Secretary's decision on the application for the licence within 30 days after receiving the request to change the licence type or, if the Secretary requests further information from the licensee, within 30 days after receiving that information.
- (5) If a request is made under subregulation (2)(b), the Secretary must give notice in writing to the licensee of his or her decision regarding the request within 30 days after receiving the request or, if the Secretary requests further information from the licensee, within 30 days after receiving that information.
- (6) A decision by the Secretary to change the licence type under subregulation (5) takes effect 7 days from the date of the written notification to the licensee.

#### **Division 4—Existing licensed children's services**

##### **112 Savings provision for fit and proper persons for existing licensed children's services**

A determination by the Secretary at a particular date under the old Act provisions that a person is a fit and proper person is taken to be a determination by the Secretary at that date that the person is a fit and proper person for the purposes of the Act.

##### **113 Savings provision for nominees for existing licensed children's services**

A person who, immediately before the commencement day, was a nominee for an existing licensed children's service continues to be a nominee for that service.

**114 Transitional provision with respect to existing licensed children's services—standard services**

- (1) A licensed children's service that was operating as a children's service other than a restricted service immediately before the commencement day is taken on the commencement day to be a licensed standard service.
- (2) A licensee of a children's service that is taken under subregulation (1) to be a licensed standard service may request a change in licence type.
- (3) A request under subregulation (2) must be submitted to the Secretary in writing by 31 December 2009 and specify the licence type requested.
- (4) The Secretary must give notice in writing to the licensee of his or her decision regarding a request under subregulation (2) within 30 days after receiving the request or, if the Secretary requests further information from the licensee, within 30 days after receiving that information.
- (5) A decision by the Secretary to change the licence type takes effect 7 days from the date of the written notification to the licensee.
- (6) Regulations 10 and 53 do not apply until 1 January 2010 to a children's service that is taken under subregulation (1) to be a licensed standard service if the children's service complies with regulations 7 and 24 of the 1998 Regulations and any licence conditions in effect on 24 May 2009.
- (7) Despite subregulation (6), if a licensee of a children's service has submitted a request to the Secretary in accordance with subregulations (2) and (3) before 31 December 2009, regulations 10 and 53 do not apply until the time that the requested new licence type becomes effective, if the children's service complies with regulations 7

and 24 of the 1998 Regulations and any licence conditions in effect on 24 May 2009.

**115 Transitional provisions for existing licensed children's services—restricted hours services**

- (1) A children's service that immediately before the commencement day was a restricted children's service licensed under the old Act provisions is taken on the commencement day to be a licensed limited hours Type 2 service.
- (2) A licensee of a children's service that is taken under subregulation (1) to be a licensed limited hours Type 2 service may request a change in licence type.
- (3) A request under subregulation (2) must be submitted to the Secretary in writing by 31 December 2009 and specify the licence type requested.
- (4) The Secretary must give notice in writing to the licensee of his or her decision regarding a request under subregulation (2) within 30 days after receiving the request or, if the Secretary requests further information from the licensee, within 30 days after receiving that information.
- (5) A decision by the Secretary to change the licence type takes effect 7 days from the date of the written notification to the licensee.
- (6) Regulations 10, 11 and 55(2) do not apply until 1 January 2010 to a children's service that is taken under subregulation (1) to be a licensed limited hours Type 2 service if the children's service complies with regulations 7 and 24 of the 1998 Regulations and any other licensing conditions in effect on 24 May 2009.

- (7) Despite subregulation (6), if a licensee of a children's service has submitted a request to the Secretary in accordance with subregulations (2) and (3) before 31 December 2009, regulations 10, 11 and 55(2) do not apply until the time that the requested new licence type becomes effective, if the children's service complies with regulations 7 and 24 of the 1998 Regulations and any other licensing conditions in effect on 24 May 2009.

**116 Transitional provisions to merge licences into an integrated licence**

- (1) A licensee with 2 or more children's services that were licensed as children's services under the old Act provisions and that are operated at the same location may request to merge the licences into an integrated licence.
- (2) A request under subregulation (1) must be submitted to the Secretary in writing by 31 December 2009 and specify the licences to be merged.
- (3) The Secretary must give notice in writing to the licensee of his or her decision within 30 days after receiving the request or, if the Secretary requests further information from the licensee, within 30 days after receiving that information.
- (4) A decision by the Secretary to merge the licences into an integrated licence takes effect 7 days from the date of the written notification to the licensee.
- (5) If the Secretary grants a request to merge 2 or more licences into an integrated licence, the merged licence will remain in force until the first expiry date of the licences which were issued under the old Act provisions.

## **Division 5—Training and staffing**

### **117 Transitional provision with respect to teaching staff members**

Regulation 52 does not apply until 1 January 2014 in respect of a children's service—

- (a) that is an existing licensed children's service; or
- (b) for which a licence was issued on or after the commencement day to an existing applicant in respect of the children's service.

### **118 Transitional provisions with respect to minimum training**

- (1) Regulation 60 does not apply until 1 January 2012 in respect of a staff member of a children's service (other than a family day care service or outside school hours care service) who was such a staff member on the commencement day and—
  - (a) had been employed full-time and continuously as a staff member at a licensed children's service for a period of at least 5 years immediately preceding the commencement day; or
  - (b) had been employed at least part-time and continuously as a staff member at a licensed children's service for a period of at least 10 years immediately preceding the commencement day.
- (2) Regulation 60 does not apply on or after 1 January 2012 in respect of a staff member referred to in subregulation (1) who by that date completes a professional development course approved by the Secretary.

- (3) Subject to subregulation (4), regulation 60 does not apply until 1 January 2014 in respect of a children's service—
  - (a) that is an existing licensed children's service; or
  - (b) for which a licence was issued on or after the commencement day to an existing applicant in respect of the children's service.
- (4) The proprietor of a children's service referred to in subregulation (3) that is a limited hours Type 1 service must ensure that all staff members other than a staff member referred to in subregulations (1) and (2)—
  - (a) hold a Certificate III in Children's Services; or
  - (b) have before 1 January 2010 commenced a Certificate III in Children's Services and completed it within 12 months of commencing it.

**119 Transitional provision with respect to minimum training—outside school hours care services**

- (1) Regulation 60 does not apply until 1 January 2012 in respect of a staff member of an outside school hours care service who was such a staff member on the commencement day and—
  - (a) had been employed full-time and continuously as a staff member at an outside school hours care service for a period of at least 5 years immediately preceding the commencement day; or
  - (b) had been employed at least part-time and continuously as a staff member at an outside school hours care service for a period of at least 10 years immediately preceding the commencement day.

- (2) Regulation 60 does not apply on or after 1 January 2012 in respect of a staff member referred to in subregulation (1) who by that date completes a professional development course approved by the Secretary.
- (3) Regulation 60 does not apply until 1 January 2014 in respect of any other staff member of an outside school hours care service.

**120 Transitional provision with respect to minimum training—family day care services**

- (1) Regulation 61 does not apply until 1 January 2014 in respect of a family day carer who was a family day carer on the commencement day and—
  - (a) had been employed full-time and continuously as a family day carer for a period of at least 5 years immediately preceding the commencement day; or
  - (b) had been employed at least part-time and continuously as a family day carer for a period of at least 10 years immediately preceding the commencement day.
- (2) Regulation 61 does not apply on or after 1 January 2012 in respect of a family day carer referred to in subregulation (1) who by that date completes a professional development course approved by the Secretary.
- (3) Regulation 61 does not apply until 1 January 2014 in respect of any other family day carer.

Reg. 120(1)  
amended by  
S.R. No.  
96/2010  
reg. 10.

Reg. 120(3)  
amended by  
S.R. No.  
96/2010  
reg. 10.

### **121 Transitional provisions with respect to child/staff ratios**

(1) The requirement under regulation 53 for a standard service to have a staff member to child ratio of 1 staff member for every 4 children aged under 3 years does not apply until 1 January 2012 in respect of—

- (a) an existing licensed children's service; or
- (b) a children's service for which a licence is issued after the commencement day to an existing applicant for that licence—

if the children's service operates with a staff member to child ratio of at least 1 staff member for every 5 children aged under 3 years.

(2) The requirement under regulation 53 for a standard service to have a qualified staff member to child ratio of 1 qualified staff member for every 12 children aged under 3 years does not apply until 1 January 2012 in respect of—

- (a) an existing licensed children's service; or
- (b) a children's service for which a licence is issued after the commencement day to an existing applicant for that licence—

if the children's service operates with a qualified staff member to child ratio of at least 1 qualified staff member for every 15 children aged under 3 years.

### **122 Transitional provisions for first aid training**

(1) Until all staff members and family day carers have been trained pursuant to regulation 63(1) or 64(1), as the case requires, the proprietor of a children's service must ensure that at least 1 staff member or family day carer on duty whenever children are being cared for or educated by the children's

service has the requisite training referred to in regulation 63(2) or 64(2).

- (2) The required training in cardio-pulmonary resuscitation under regulation 65 does not apply in respect of a staff member or family day carer until the date that staff member or family day carer undertakes the training referred to in regulation 63(1) or 64(1) as the case requires.

### **123 Transitional provision for minimum ages of staff members**

The minimum age requirement of 18 years for a staff member does not apply until 1 January 2012 in respect of any staff member who, on 24 May 2009, was employed, appointed or engaged to be responsible for the care or education of children—

- (a) at a children's service that was licensed as a children's service under the old Act provisions; or
- (b) at a children's service for which a licence is issued after the commencement day to an existing applicant for that licence.

## **Division 6—Miscellaneous**

### **124 Saving provision for outside school hours care service**

Despite regulation 13(1), an outside school hours care service that cared for up to 4 children who were not school children before the commencement day may continue to care for up to 4 children who are not school children until 1 January 2010.

**125 Secretary may approve professional development courses**

The Secretary may by notice in the Government Gazette approve a professional development course for the purposes of Division 5.

**126 Part ceases to apply on 1 January 2012**

This Part ceases to apply on 1 January 2012.

Reg. 126  
inserted by  
S.R. No.  
162/2011  
reg. 89.

**Part 10—Transitional and saving  
provisions—Children's Services Amendment  
Act 2011**

Pt 10  
(Heading and  
regs 127–131)  
inserted by  
S.R. No.  
162/2011  
reg. 90.

**127 Definitions**

In this Part—

*amending regulations* means the Children's  
Services Amendment Regulations 2011;

*commencement da* means 1 January 2012;

*existing licensed children's service* means a  
children's service that—

- (a) immediately before the commencement  
day, was a licensed children's service;  
and
- (b) on the commencement day continues to  
be licensed under the Act.

Reg. 127  
inserted by  
S.R. No.  
162/2011  
reg. 90.

**128 Transitional provision—existing licensed children's  
services providing education and care during school  
holidays**

If, immediately before the commencement day, an  
existing licensed children's service was a service  
that provided education and care for no more than  
4 weeks per calendar year during school holidays,  
on and from the commencement day the existing  
licensed children's service is taken to be—

- (a) a school holidays care service; or
- (b) if the existing licensed children's service is  
an integrated service, an integrated service  
that includes a school holidays care service  
component.

Reg. 128  
inserted by  
S.R. No.  
162/2011  
reg. 90.

Reg. 129  
inserted by  
S.R. No.  
162/2011  
reg. 90.

**129 Transitional provision with respect to teaching staff members**

Regulation 52 as amended by regulation 43 of the amending regulations does not apply until 1 January 2014 in respect of an existing licensed children's service if—

- (a) immediately before 25 May 2009 the service was a licensed children's service; or
- (b) a licence was issued on or after 25 May 2009 for the service to a person who, immediately before that day—
  - (i) had made an application for approval in principle; or
  - (ii) was granted an approval in principle but had not made an application for a licence to operate the children's service; or
  - (iii) had made an application for a licence to operate a children's service, but that application had not been decided.

Reg. 130  
inserted by  
S.R. No.  
162/2011  
reg. 90.

**130 Transitional provisions with respect to minimum training—services other than school holidays care services**

- (1) Regulation 60 as amended by regulation 46 of the amending regulations does not apply in respect of a staff member of a children's service (other than a school holidays care service) who—
  - (a) on 25 May 2009 was a staff member of a children's service (other than a family day care service or an outside school hours care service) and had been employed—
    - (i) full-time and continuously as a staff member at a licensed children's service for a period of at least 5 years immediately preceding that day; or

- (ii) at least part-time and continuously as a staff member at a licensed children's service for a period of at least 10 years immediately preceding that day; and
  - (b) before the commencement day completed a professional development course approved by the Secretary under regulation 125, as in force immediately before the commencement day.
- (2) Subject to subregulation (3), regulation 60 as amended by regulation 46 of the amending regulations does not apply until 1 January 2014 in respect of an existing licensed children's service if—
  - (a) immediately before 25 May 2009 the service was a licensed children's service; or
  - (b) a licence was issued on or after 25 May 2009 for the service to a person who, immediately before that day—
    - (i) had made an application for approval in principle; or
    - (ii) was granted an approval in principle but had not made an application for a licence to operate the children's service; or
    - (iii) had made an application for a licence to operate a children's service, but that application had not been decided.
- (3) The proprietor of a children's service referred to in subregulation (2) that is a limited hours Type 1 service must ensure that all staff members other than a staff member referred to in subregulation (1) hold a Certificate III in Children's Services.

- (4) In subregulation (2), existing licensed children's service includes a children's service that—
- (a) immediately before the commencement day, was a licensed children's service; and
  - (b) on the commencement day is included in a service approval as an associated children's service under section 19(2) of the **Education and Care Services National Law Act 2010**.

Reg. 131  
inserted by  
S.R. No.  
162/2011  
reg. 90.

**131 Transitional provisions with respect to minimum training—school holidays care services**

- (1) Regulation 60 as amended by regulation 46 of the amending regulations does not apply in respect of a staff member of a school holidays care service who—
- (a) on 25 May 2009 was a staff member of a children's service (other than a family day care service) and had been employed—
    - (i) full-time and continuously as a staff member at a licensed children's service or an outside school hours care service for a period of at least 5 years immediately preceding that day; or
    - (ii) at least part-time and continuously as a staff member at a licensed children's service or an outside school hours care service for a period of at least 10 years immediately preceding that day; and
  - (b) before the commencement day completed a professional development course approved by the Secretary under regulation 125, as in force immediately before the commencement day.

Children's Services Regulations 2009  
S.R. No. 53/2009  
Part 10—Transitional and saving provisions—Children's Services  
Amendment Act 2011

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- (2) Regulation 60 as amended by regulation 46 of the amending regulations does not apply until 1 January 2014 in respect of any other staff member of a school holidays care service.

## Schedules

### Schedule 1—Prescribed information

#### Part 1—Interpretation

##### 1 Definitions

(1) In this Schedule—

*accepted nominee* means a person who is an accepted nominee by application of section 23 of the Act;

*building permit* means a building permit issued under Part 3 of the **Building Act 1993** on or after 1 August 1997;

*certificate of final inspection* means a certificate of final inspection issued under Part 4 of the **Building Act 1993** on or after 1 August 1997;

*charges and convictions declaration* means a declaration referred to in clause 2;

*company* means a company within the meaning of the Corporations Act;

*control declaration*, in relation to an applicant that is a body corporate, means a declaration referred to in clause 3;

*financial declaration* means—

- (a) in relation to a natural person, a declaration made by the person about his or her financial background including whether or not the person is or has been declared bankrupt or insolvent; or

- (b) in relation to a body corporate, means a declaration signed by a director or officer of the body corporate about the ability of the body corporate to meet its debts;

***health declaration*** means a declaration made by a person indicating whether he or she believes on reasonable grounds that he or she has not suffered and does not currently suffer from any mental or physical condition that may impair his or her ability to operate, exercise control over, or manage or control a children's service;

***identity statement*** means a statement referred to in clause 4;

***occupancy permit*** means an occupancy permit issued under Part 5 of the **Building Act 1993** on or after 1 August 1997;

***planning permit***, in relation to a children's service, means a planning permit or certificate of compliance granted under the **Planning and Environment Act 1987** for the land or premises where the children's service is to operate or is operating;

***proposed accepted nominee***, in relation to an application under the Act, means a nominee in respect of whom the applicant has made—

- (a) a declaration under section 18(b)(iii) of the Act; and
- (b) a proposed accepted nominee declaration;

***proposed accepted nominee declaration*** means a declaration referred to in clause 6;

***referee statement*** means a statement referred to in clause 5;

***registered school*** has the same meaning as in the **Education and Training Reform Act 2006**;

***soil assessment*** means an analysis of soil conducted by an environmental consultant, environmental consulting firm, or environmental auditor for the purposes of determining—

- (a) the nature, extent and levels of contamination; and
- (b) the actual or potential risk to human health resulting from that contamination.

## **2 Charges and convictions declaration**

- (1) In this Schedule a ***charges and convictions declaration*** is a declaration made by a person in the 6 months before an application by the person under the Act stating—
  - (a) whether the person has been charged with an offence in any Australian jurisdiction, or in any other jurisdiction, and found guilty; and
  - (b) whether, at the time of making the declaration, the person was the subject of a charge pending for an offence in any Australian jurisdiction, or in any other jurisdiction; and
  - (c) the details of any charges or findings of guilt referred to in paragraphs (a) and (b).
- (2) In this clause ***offence*** does not include parking infringements.

### 3 Control declaration

- (1) In this Schedule, a *control declaration*, in relation to a body corporate that is an applicant under the Act is a declaration that is signed and sealed on behalf of the body corporate in accordance with its constitution indicating a resolution of the body corporate stating—
- (a) the directors or officers who exercise or may exercise control over the operation of the children's service; and
  - (b) the full name of any other person who exercises or may exercise control over the operation of the children's service.
- (2) In this clause, *constitution* of a body corporate includes—
- (a) rules or articles of association of the body corporate; or
  - (b) the Act or regulations under which the body corporate is constituted (including an Act or regulations of the Commonwealth).

### 4 Identity statement

In this Schedule, an *identity statement* means a statement made by a person that—

- (a) includes the person's full name and date of birth; and
- (b) provides adequate information to establish the identity of the person making the statement; and
- (c) is witnessed by another person over the age of 18 years who does not have an interest in the application for which the statement has been made.

## 5 Referee statement

In this Schedule, a *referee statement* is a statement made by a natural person who is over the age of 18 years (the *referee*) about another person indicating—

- (a) the name and address of the person to whom the statement relates; and
- (b) the name, postal address, email address, and telephone and facsimile numbers of the referee; and
- (c) the referee's relationship to the person to whom the statement relates; and
- (d) whether the person to whom the statement relates is of good repute having regard to his or her character, honesty and integrity; and
- (e) whether the person to whom the statement relates is of a sound financial reputation and stable financial background; and
- (f) whether the person to whom the statement relates has—
  - (i) in the case of a person who is to operate a children's service, the appropriate knowledge, ability and experience to operate a children's service; or
  - (ii) in the case of a director or officer of a body corporate, the appropriate knowledge, ability and experience to exercise control over a children's service; or
  - (iii) in the case of a nominee, the appropriate knowledge, ability and experience to manage or control a children's service in the absence of the licensee or approved provider.

Sch. 1  
cl. 5(f)(iii)  
amended by  
S.R. No.  
162/2011  
reg. 91.

## 6 Proposed accepted nominee declaration

In this Schedule, a *proposed accepted nominee declaration* is a declaration by an applicant about a nominee that states—

- (a) the applicant nominates the nominee for acceptance as an accepted nominee under section 23 of the Act; and
- (b) the applicant has made a declaration under section 18(1)(b)(iii)(A) of the Act in respect of the nominee; and
- (c) any of the following—
  - (i) that the applicant will attend and manage or control the children's service on a daily basis; or
  - (ii) if the applicant is a body corporate, that at least one of the directors of the body corporate will attend and manage or control the children's service on a daily basis; or
  - (iii) that the nominee will not be the primary nominee.

Sch. 1 cl. 6(b)  
amended by  
S.R. No.  
162/2011  
reg. 92.

## **Part 2—Application for approval of premises**

### **Division 1—Applications for use of particular premises or to construct premises**

#### **7 Standard children's services**

The following information is required for an application for approval of the use of particular premises for operating a standard children's service or for premises proposed to be constructed for use in operating a standard children's service—

- (a) the full name and postal address of the person applying for the approval of premises;
- (b) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (c) the proposed children's service's name (if known), street address (including number) and the municipal district in which the service is to be located;
- (d) the types of services proposed to be provided by the children's service and the proposed ages of children to be cared for or educated by the children's service;
- (e) the number of places for children proposed to be provided by the service;
- (f) a site plan;
- (g) a diagram drawn by a building practitioner of the proposed indoor and outdoor spaces that will be used by the service, which must include any varying configurations of those spaces that might be used from time to time;

- (h) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor space that will be used by the service, if that information is not provided in the diagram required by paragraph (g);
- (i) calculations carried out by a building practitioner of the areas referred to in regulations 96 and 97, relating to the floor area of children's rooms and outdoor space;
- (j) the elevation plans of the premises;
- (k) a soil assessment for the premises or the site at which the premises will be constructed, if—
  - (i) a soil assessment has not previously been undertaken at the premises or site or the assessment report is not available to the Secretary; or
  - (ii) the premises or site had been used for a purpose other than a children's service in the previous 5 years;
- (l) a copy of the planning permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a planning permit is otherwise required by or under the **Planning and Environment Act 1987**;
- (m) a copy of the building permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a building permit is otherwise required by or under the **Building Act 1993**;
- (n) a copy of an occupancy permit, certificate of final inspection or building surveyor's statement, where applicable, if the

application is for an approval of the use of particular premises for operating a children's service;

- (o) the date that the premises will be ready for inspection by the Department.

Sch. 1 cl. 8  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 93(1).  
Sch. 1 cl. 8  
amended by  
S.R. No.  
162/2011  
reg. 93(2).

## **8 School holidays care services**

The following information is required for an application for approval of the use of particular premises for operating a school holidays care service or for premises proposed to be constructed for use in operating a school holidays care service—

- (a) the full name and postal address of the person applying for the approval of premises;
- (b) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (c) the proposed children's service's name (if known), street address (including number) and the municipal district in which the service is to be located;
- (d) the types of services proposed to be provided by the children's service and the proposed ages of children to be cared for or educated by the children's service;
- (e) the number of places for children proposed to be provided by the service;
- (f) the proposed hours and days of operation of the service.

Sch. 1 cl. 8(e)  
amended by  
S.R. No.  
162/2011  
reg. 93(3).

Sch. 1 cl. 8(f)  
inserted by  
S.R. No.  
162/2011  
reg. 93(4).

**9 Additional information for school holidays care services at locations other than registered schools**

If the school holidays care service is to be provided in a location other than a registered school, the following information is required in addition to that set out in clause 8—

- (a) a site plan;
- (b) the following information regarding indoor spaces and any outdoor spaces, or outdoor space equivalents, that will be included as part of the premises of the children's service—
  - (i) a diagram drawn by a building practitioner of the proposed spaces that will be used by the service, including—
    - (A) the location of toilet and washing facilities and food preparation facilities; and
    - (B) any varying configurations of those spaces that might be used from time to time;
  - (ii) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor spaces, or outdoor space equivalents, that will be used by the service, if that information is not provided in the diagram required in subparagraph (i);
  - (iii) calculations carried out by a building practitioner of the areas referred to in regulations 96 and 98, relating to the floor area of children's rooms and outdoor space;
  - (iv) the elevation plans of the premises;

Sch. 1 cl. 9  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 94(1).  
Sch. 1 cl. 9  
amended by  
S.R. No.  
162/2011  
reg. 94(2).

- (v) a soil assessment for the premises or the site at which the premises will be constructed, if—
  - (A) a soil assessment has not previously been undertaken at the premises or site or the assessment report is not available to the Secretary; or
  - (B) the premises or site had been used for a purpose other than a children's service in the previous 5 years;
- (c) the following information regarding outdoor spaces, or outdoor space equivalents, that will not be included in the premises of the children's service—
  - (i) a brief description or diagram of where the outdoor space, or outdoor space equivalent, is located;
  - (ii) a declaration that the outdoor space, or outdoor space equivalent, complies with regulation 98;
- (d) a copy of the planning permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a planning permit is otherwise required by or under the **Planning and Environment Act 1987**;
- (e) a copy of the building permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a building permit is otherwise required by or under the **Building Act 1993**;

- (f) a copy of an occupancy permit, certificate of final inspection or building surveyor's statement, where applicable, if the application is for an approval of the use of particular premises for operating a children's service;
- (g) the date that the premises will be ready for inspection by the Department.

**10 Additional information for school holidays care services in registered schools**

If the school holidays care service is to be provided in a registered school, the following information and documents are required in addition to those set out in clause 8—

- (a) the name of the registered school and the school's registration number;
- (b) the following information regarding indoor spaces and any outdoor spaces, or outdoor space equivalents, that will be included as part of the premises of the children's service—
  - (i) a site plan or diagram of the proposed spaces that will be used by the service, which must include any varying configurations of those spaces that might be used from time to time;
  - (ii) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor spaces, or outdoor space equivalents, that will be used by the service, if that information is not provided in the site plan or diagram required in subparagraph (i);

Sch. 1 cl. 10  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 95(1).  
Sch. 1 cl. 10  
amended by  
S.R. No.  
162/2011  
reg. 95(2).

- (iii) calculations of the areas referred to in regulations 96 and 98, relating to the floor area of children's rooms and outdoor space;

**Note**

The diagram and calculations in paragraphs (b)(ii) and (b)(iii) are not required to be carried out by a building practitioner.

- (c) the following information regarding outdoor spaces, or outdoor space equivalents, that will not be included in the premises of the children's service—
  - (i) a brief description or diagram of where the outdoor space, or outdoor space equivalent, is located;
  - (ii) a declaration that the outdoor space, or outdoor space equivalent, complies with regulation 98;
- (d) the date that the premises will be ready for inspection by the Department.

## **11 Limited hours services**

The following information is required for an application for approval of the use of particular premises for operating a limited hours service or for premises proposed to be constructed for use in operating a limited hours service—

- (a) the full name and postal address of the person applying for the approval of premises;
- (b) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;

- (c) the proposed children's service's name (if known), street address (including number) and the municipal district in which the service is to be located;
- (d) the types of services proposed to be provided by the children's service and the proposed ages of children to be cared for or educated by the children's service;
- (e) the number of places for children proposed to be provided by the service;
- (f) a site plan;
- (g) a diagram drawn by a building practitioner of the proposed indoor and, if any will be provided, outdoor spaces that will be used by the service, which must include any varying configurations of those spaces that might be used from time to time;
- (h) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor space, if any, that will be used by the service, if that information is not provided in the diagram required in paragraph (g);
- (i) a calculation carried out by a building practitioner of the areas referred to in regulation 96, relating to the floor area of children's rooms;
- (j) if outdoor space will be used or provided, the usable area or dimensions of that space;
- (k) the elevation plans of the premises;

- (l) a soil assessment for the premises or the site at which the premises will be constructed, if—
  - (i) a soil assessment has not previously been undertaken at the premises or site or the assessment report is not available to the Secretary; or
  - (ii) the premises or site had been used for a purpose other than a children's service in the previous 5 years;
- (m) a copy of the planning permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a planning permit is otherwise required by or under the **Planning and Environment Act 1987**;
- (n) a copy of the building permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a building permit is otherwise required by or under the **Building Act 1993**;
- (o) a copy of an occupancy permit, certificate of final inspection or building surveyor's statement, where applicable, if the application is for an approval of the use of particular premises for operating a children's service;
- (p) the date that the premises will be ready for inspection by the Department.

## 12 Short term services

The following information is required for an application for approval of the use of particular premises for operating a short term service or for premises proposed to be constructed for use in operating a short term service—

- (a) the full name and postal address of the person applying for the approval of premises;
- (b) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (c) the proposed children's service's name (if known), street address (including number) and the municipal district in which the service is to be located;
- (d) the types of services proposed to be provided by the children's service and the proposed ages of children to be cared for or educated by the children's service;
- (e) the number of places for children proposed to be provided by the service;
- (f) a site plan;
- (g) a diagram of defined indoor and outdoor spaces, if any, that will be used by the service, which must—
  - (i) include any varying configurations of those spaces that might be used from time to time; and
  - (ii) in the case of premises to be used or constructed for the purposes of a short term Type 1 service, be drawn by a building practitioner;
- (h) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor space, if any, that will be used by the service, if that information is not provided in the diagram required in paragraph (g);

- (i) calculations of the areas referred to in regulation 96, relating to the floor area of children's rooms, which in the case of premises to be used or constructed for purposes of a short term Type 1 service, must be carried out by a building practitioner;

**Note**

In the case of an application for an approval of premises to be used or constructed for purposes of a short term Type 2 service, the diagram and calculations in paragraphs (g) and (i) are not required to be carried out by a building practitioner.

- (j) if outdoor space will be used or provided, the usable area or dimensions of that space;
- (k) a copy of the planning permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a planning permit is otherwise required by or under the **Planning and Environment Act 1987**;
- (l) a copy of the building permit, if the application is for the approval of premises proposed to be constructed for use in operating a children's service or if a building permit is otherwise required by or under the **Building Act 1993**;
- (m) a copy of the occupancy permit, certificate of final inspection or building surveyor's statement, where applicable, if the application is for an approval of the use of particular premises for operating a children's service;
- (n) the date that the premises will be ready for inspection by the Department.

### **13 Integrated services**

- (1) The following information is required for an application for approval of the use of particular premises for operating an integrated service or for premises proposed to be constructed for use in operating an integrated service—
- (a) if the children's service will provide a standard service component, the prescribed information required in clause 7, for that service component;
  - (b) if the children's service will provide a school holidays care service component, the prescribed information required in clauses 8 to 10, for that service component;
  - (c) if the children's service will provide a limited hours service component, the prescribed information required in clause 11 for that service component;
  - (d) the total number of places for children proposed to be provided by the service.
- (2) Despite subclauses (1)(a) to (1)(c), an applicant for an integrated service need not provide duplicate information or duplicate copies of documents such as, for example, multiple site plans or multiple statements indicating address and contact information.

Sch. 1  
cl. 13(1)(b)  
amended by  
S.R. No.  
162/2011  
reg. 96.

### **13A Additional information—education and care service on same premises**

If an education and care service operates or is to operate at the premises or proposed premises, the following information is required in addition to the information required under clauses 7, 8, 11, 12 and 13—

Sch. 1 cl. 13A  
inserted by  
S.R. No.  
162/2011  
reg. 97.

- (a) if the education and care service has been granted a service approval, the service approval number;
- (b) if the education and care service does not have a service approval, whether an application has been made for a service approval.

## **Division 2—Applications for approval of alterations or extensions to premises**

### **14 Applications for approval of alterations or extensions to premises**

Sch. 1 cl. 14  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 98(1).  
Sch. 1 cl. 14  
amended by  
S.R. No.  
162/2011  
reg. 98(2)(4)  
(ILA s. 39B(3)).

- (1) The following information is required for an application for approval of alterations or extensions to premises used or proposed to be used for a children's service—
  - (a) the previously granted approval of premises number (if any);
  - (b) the full name and postal address of the holder of the certificate of approval of premises;
  - (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
  - (d) the children's service's name, street address (including number) and the municipal district in which the children's service is located, and the postal address, and, if available, email address and telephone and facsimile numbers of the children's service;
  - (e) the types of services that are or will be provided by the children's service and the number and ages of children that are or will

- be cared for or educated by the children's service;
- (f) a brief description of the proposed alterations or extensions;
- (g) the following documents if relevant, and to the extent relevant, to the alterations or extensions proposed—
- (i) a site plan, showing both the current approved premises and the proposed alterations and extensions;
  - (ii) a diagram of the indoor and outdoor spaces, if any, that will be used by the service (including the location of toilet and washing facilities and any food preparation facilities), which must—
    - (A) include any varying configurations of those spaces that might be used from time to time; and
    - (B) show both the current approved premises and the proposed alterations and extensions; and
    - (C) except in the case of a school holidays care service operating in a registered school and outdoor spaces or outdoor space equivalents not included in the premises of an outside school hours care service, be drawn by a building practitioner;
  - (iii) a detailed floor plan containing room numbers for all children's rooms and numbered outdoor spaces for all outdoor spaces or, in the case of school holidays care services, outdoor space equivalents, that will be used by the

Sch. 1  
cl. 14(g)(ii)(C)  
amended by  
S.R. No.  
162/2011  
reg. 98(3)(a).

Sch. 1  
cl. 14(g)(iii)  
amended by  
S.R. No.  
162/2011  
reg. 98(3)(b).

Sch. 1  
cl. 14(g)(iv)  
amended by  
S.R. No.  
162/2011  
reg. 98(3)(c).

- service, showing both the current approved premises and the proposed alterations and extensions;
- (iv) calculations of the areas referred to in regulations 96 to 98, relating to the floor area of children's rooms and outdoor space that shows both the current premises and the proposed alterations and extensions, carried out by, except in the case of a school holidays care service operating in a registered school, a building practitioner;
- (v) the elevation plans of the premises showing both the current licensed premises and the proposed alterations and extensions;
- (vi) a soil assessment, if the following criteria are met—
- (A) the proposed alterations or extensions require earthworks or excavations exceeding a depth of 1 metre;
  - (B) the earthworks or excavations will occur in an area that is used for children's outdoor play or will be used for children's outdoor play after the work is completed; and
  - (C) a soil assessment has not previously been undertaken at the site of the proposed alterations or extensions, or that assessment report is not available to the Secretary;

- (vii) a copy of the planning permit for the proposed alterations or extensions, if required by or under the **Planning and Environment Act 1987**;
  - (viii) a copy of the building permit for the proposed alterations or extensions, if required by or under the **Building Act 1993**;
  - (ix) the date that the premises will be ready for inspection by the Department.
- (2) If an education and care service operates or is to operate at the premises, the following information is required in addition to the information required under subclause (1)—
- (a) if the education and care service has been granted a service approval, the service approval number;
  - (b) if the education and care service does not have a service approval, whether an application has been made for a service approval.

Sch. 1 cl. 14(2)  
inserted by  
S.R. No.  
162/2011  
reg. 98(4).

## **Part 3—Application for licence to operate a children's service**

### **15 Children's services other than integrated services**

The following information and documents are required for an application for a licence to operate a children's service, other than an integrated service—

- (a) the full name and postal address of the applicant;
- (b) if the applicant is a natural person, an identity statement regarding the applicant;
- (ba) if the applicant is an approved provider, the applicant's provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the proposed children's service's name, street address (including number) and the municipal district in which the service is to be located, and the postal address, and, if available, email address and telephone and facsimile numbers of the children's service;
- (e) the type of licence sought;
- (f) the licence period sought;
- (g) a copy of the current certificate of approval for the premises where the service will operate;
- (h) either a declaration that there have been no material changes with respect to the design or location of the premises where the service

Sch. 1 cl. 15  
(Heading)  
amended by  
S.R. No.  
162/2011  
reg. 99(1).

Sch. 1 cl. 15  
amended by  
S.R. No.  
162/2011  
reg. 99(2).

Sch. 1  
cl. 15(ba)  
inserted by  
S.R. No.  
162/2011  
reg. 99(3).

- will operate since the most recent approval of premises was granted or, if material changes have been made, the details of those changes;
- (i) the proposed hours and days of operation of the children's service, and the proposed number and ages of children to be cared for or educated by the children's service;
  - (j) if any proposed nominee is to be a proposed accepted nominee, a proposed accepted nominee declaration;
  - (k) if the applicant is a body corporate, an identity statement in relation to any director or officer of the body corporate who may exercise control over the operation of the children's service;
  - (l) the following information and documents regarding any proposed nominee—
    - (i) full name, former name (if any), date of birth and postal address;
    - (ii) an identity statement (except in the case of a proposed accepted nominee);
    - (iii) in respect of each nominee (other than a proposed accepted nominee) about whom a declaration is made under section 18(1)(b)(iii)(A) of the Act—
      - (A) a declaration that the nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
      - (B) evidence that the nominee is a person with management or control of an education and care service operated by an approved provider; or

Sch. 1  
cl. 15(1)(iii)  
substituted by  
S.R. No.  
162/2011  
reg. 99(4).

- (C) the information and documents required in Part 11 to demonstrate that the nominee is a fit and proper person;
- (m) in relation to the applicant, either—
- (i) a declaration that the applicant has been determined by the Secretary, within the previous 5 years, to be a fit and proper person to operate a children's service; or
  - (ia) evidence that the applicant is an approved provider or a person with management or control of an education and care service operated by an approved provider; or
  - (ii) the information and documents required in Part 11 to demonstrate that the applicant is a fit and proper person to operate a children's service;
- (n) if the applicant is a body corporate, for each director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service either—
- (i) a declaration that the director or officer has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
  - (ia) evidence that the director or other officer is an approved provider or a person with management or control of an education and care service operated by an approved provider; or

Sch. 1  
cl. 15(m)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 99(5),  
amended by  
S.R. No.  
96/2017  
reg. 6(1).

Sch. 1  
cl. 15(n)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 99(6),  
amended by  
S.R. No.  
96/2017  
reg. 6(2).

- (ii) the information and documents required in Part 11 to demonstrate that the director or officer is a fit and proper person;
- (o) an outline of the educational or recreational programs that will be provided for the children.

**Note**

Section 18(1)(b) of the Act requires that an application must be accompanied by the following—

- the name and address of any person nominated by the applicant to manage or control the children's service in the absence of the licensee;
- either a declaration by the applicant that the person nominated (proposed nominee) is a fit and proper person to manage or control a children's service or evidence that the person nominated is an approved provider or a nominated supervisor of an education and care service;
- if more than one person is nominated, the name of the person who is to have primary responsibility for the management or control of the service in the absence of the licensee;
- if the applicant is a body corporate, the name and address of any director or officer of the body corporate who may exercise control over the operation of the children's service;
- if the applicant is a body corporate, the name and address of the person appointed to represent the licensee in relation to the application and the operation of the children's service.

Section 18(2) of the Act requires that an application must be accompanied by the written consent of each proposed nominee and proposed primary nominee.

## **16 Integrated services**

The following information and documents are required for an application for a licence to operate an integrated service—

- (a) the full name and postal address of the applicant;

**Note to  
Sch. 1 cl. 15  
substituted by  
S.R. No.  
162/2011  
reg. 99(7),  
amended by  
S.R. No.  
96/2017  
reg. 6(3).**

Sch. 1  
cl. 16(ba)  
inserted by  
S.R. No.  
162/2011  
reg. 100(1).

- (b) if the applicant is a natural person, an identity statement regarding the applicant;
- (ba) if the applicant is an approved provider, the applicant's provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the proposed children's service's name, street address (including number) and the municipal district in which the service is to be located, and the postal address, and, if available, email address and telephone and facsimile numbers of the children's service;
- (e) the licence period sought;
- (f) a copy of the current certificate of approval for the premises where the service will operate;
- (g) either a declaration that there have been no material changes with respect to the design or location of the premises where the service will operate since the most recent approval of premises was granted or, if material changes have been made, the details of those changes;
- (h) the types of services to be provided by the children's service, specifying for each type—
  - (i) the proposed hours and days of operation; and
  - (ii) the proposed number and ages of children to be cared for or educated by the children's service;

- (i) if any proposed nominee is to be a proposed accepted nominee, a proposed accepted nominee declaration;
- (j) if the applicant is a body corporate, an identity statement in relation to any director or officer of the body corporate who may exercise control over the operation of the children's service;
- (k) the following information and documents regarding any proposed nominee—
  - (i) full name, former name (if any), date of birth and postal address;
  - (ii) an identity statement (except in the case of a proposed accepted nominee);
  - (iii) in respect of each nominee (other than a proposed accepted nominee) about whom a declaration is made under section 18(1)(b)(iii)(A) of the Act—
    - (A) a declaration that the nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
    - (B) evidence that the nominee is a person with management or control of an education and care service operated by an approved provider; or
    - (C) the information and documents required in Part 11 to demonstrate that the nominee is a fit and proper person;
- (l) in relation to the applicant, either—
  - (i) a declaration that the applicant has been determined by the Secretary, within the previous 5 years, to be a fit and proper

Sch. 1  
cl. 16(k)(iii)  
substituted by  
S.R. No.  
162/2011  
reg. 100(2).

Sch. 1  
cl. 16(l)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 100(3),  
amended by  
S.R. No.  
96/2017  
reg. 7(1).

person to operate a children's service;  
or

- (ia) evidence that the applicant is an approved provider or a person with management or control of an education and care service operated by an approved provider; or
- (ii) the information and documents required in Part 11 to demonstrate that the applicant is a fit and proper person to operate a children's service;
- (m) if the applicant is a body corporate, for each director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service either—
  - (i) a declaration that the director or officer has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
  - (ia) evidence that the director or other officer is an approved provider or a person with management or control of an education and care service operated by an approved provider; or
  - (ii) the information and documents required in Part 11 to demonstrate that the director or officer is a fit and proper person;
- (n) for each type of service, an outline of the educational or recreational programs that will be provided for the children.

Sch. 1  
cl. 16(m)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 100(4),  
amended by  
S.R. No.  
96/2017  
reg. 7(2).

Children's Services Regulations 2009  
S.R. No. 53/2009  
Schedule 1—Prescribed information

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**Note**

Section 18(1)(b) of the Act requires that an application must be accompanied by the following—

- the name and address of any person nominated by the applicant to manage or control the children's service in the absence of the licensee;
- either a declaration by the applicant that the person nominated (proposed nominee) is a fit and proper person to manage or control a children's service or evidence that the person nominated is an approved provider or a nominated supervisor of an education and care service;
- if more than one person is nominated, the name of the person who is to have primary responsibility for the management or control of the service in the absence of the licensee;
- if the applicant is a body corporate, the name and address of any director or officer of the body corporate who may exercise control over the operation of the children's service;
- if the applicant is a body corporate, the name and address of the person appointed to represent the licensee in relation to the application and the operation of the children's service.

Section 18(2) of the Act requires that an application must be accompanied by the written consent of each proposed nominee and proposed primary nominee.

\* \* \* \* \*

**Note to  
Sch. 1 cl. 16  
substituted by  
S.R. No.  
162/2011  
reg. 100(5),  
amended by  
S.R. No.  
96/2017  
reg. 7(3).**

**Sch. 1 cl. 17  
revoked by  
S.R. No.  
162/2011  
reg. 101.**

## **Part 4—Applications for approval of new nominees**

### **18 Applications for approval of new nominees**

Sch. 1 cl. 18  
amended by  
S.R. No.  
162/2011  
reg. 102(2)  
(ILA s. 39B(3)).

- (1) The following information is required for an application for approval of a new nominee for a children's service—
  - (a) the children's service's licence number;
  - (b) the full name and postal address of the licensee;
  - (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
  - (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers, and email address;
  - (e) if any proposed nominee is to be a proposed accepted nominee, a proposed accepted nominee declaration;
  - (f) the following information regarding each proposed new nominee—
    - (i) full name, former name (if any), date of birth and postal address;
    - (ii) an identity statement, unless the new nominee is a proposed accepted nominee;
    - (iii) unless the proposed new nominee is a proposed accepted nominee—
      - (A) a declaration that the proposed new nominee has been determined by the Secretary, within the

Sch. 1  
cl. 18(1)(f)(iii)  
substituted by  
S.R. No.  
162/2011  
reg. 102(1).

previous 5 years, to be a fit and proper person; or

- (B) evidence that the proposed new nominee is an approved provider, a nominated supervisor of an education and care service or a person with management or control of an education and care service operated by an approved provider; or

Sch. 1 cl. 18(1)  
(f)(iii)(B)  
amended by  
S.R. No.  
96/2017 reg. 8.

- (C) the information and documents required in Part 11 to demonstrate that the proposed new nominee is a fit and proper person;

- (iv) a declaration by the applicant that the person nominated is a fit and proper person to manage or control a children's service;

- (v) a statement indicating whether the proposed nominee is to have primary responsibility for the management or control of the service in the absence of the licensee.

- (2) An application for approval of a new nominee must also include the proposed new nominee's written consent to the nomination.

Sch. 1 cl. 18(2)  
inserted by  
S.R. No.  
162/2011  
reg. 102(2).

\* \* \* \* \*

Sch. 1 Pt 5  
(Heading and  
cl. 19)  
revoked by  
S.R. No.  
162/2011  
reg. 103.

## Part 6—Applications for renewal of licences

Sch. 1 Pt 6  
Div. 1  
(Heading)  
revoked by  
S.R. No.  
162/2011  
reg. 104.

Sch. 1 cl. 20  
(Heading)  
substituted by  
S.R. No.  
162/2011  
reg. 105(1).  
Sch. 1 cl. 20  
amended by  
S.R. No.  
162/2011  
reg. 105(2)(6)  
(LA s. 39B(3)).

### 20 Renewal of licences

- \* \* \* \* \*
- (1) The following information is required for an application to renew a licence to operate a children's service—
- (a) the children's service's licence number;
  - (b) the full name and postal address of the licensee;
  - (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the renewal application;
  - (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
  - (e) the type of licence being renewed;
  - (f) the renewal period sought;
  - (g) either—
    - (i) a declaration that there have been no material changes with respect to the design or location of the premises where the service will operate since the most recent approval of premises was granted or the licence was last renewed, whichever is sooner; or
    - (ii) if material changes have been made, the details of those changes;

- (h) the hours and days of operation of the children's service and the number and ages of children cared for or educated by the children's service;
- (i) if the application is for the renewal of an integrated licence, the types of services provided by the children's service, specifying for each type—
  - (i) the hours and days of operation; and
  - (ii) the number and ages of children cared for or educated;
- (j) with regard to the applicant for the licence renewal, the information contained in subparagraph (i), (ii), (ia) or (ib), whichever is applicable—
  - (i) a declaration that the applicant has been determined by the Secretary, within the previous 5 years, to be a fit and proper person to operate a children's service; or
  - (ii) if the Secretary has determined the applicant to be a fit and proper person more than 5 years previously, each of the following—
    - (A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

Sch. 1  
cl. 20(1)(j)  
amended by  
S.R. No.  
162/2011  
reg. 105(3)(a).

\* \* \* \* \*

Sch. 1 cl. 20(1)  
(j)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 105(3)(b).

(C) a declaration that the Secretary has previously determined that the applicant is a fit and proper person;

(D) a declaration that there are no material changes to the information provided to the Secretary since the applicant's previous fit and proper determination; or

Sch. 1  
cl. 20(1)(j)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 105(3)(c),  
amended by  
S.R. No.  
96/2017  
reg. 9(1).

(ia) evidence that the applicant is an approved provider or a person with management or control of an education and care service operated by an approved provider; or

(iii) the information and documents required in Part 11 to demonstrate that the applicant is a fit and proper person to operate a children's service;

Sch. 1  
cl. 20(1)(k)  
amended by  
S.R. No.  
162/2011  
reg. 105(4)(a).

(k) if the applicant is a body corporate, the information and documents contained in subparagraph (i), (ii), (ia) or (iii), whichever is applicable, with regard to each director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service—

(i) a declaration that the director or officer has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or

(ii) if the Secretary has determined the director or officer to be a fit and proper person more than 5 years previously, each of the following—

(A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

\* \* \* \* \*

Sch. 1 cl. 20(1)  
(k)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 105(4)(b).

(C) a declaration that the Secretary has previously determined that the director or officer is a fit and proper person;

(D) a declaration that there are no material changes to the information provided to the Secretary since the director's or officer's previous fit and proper determination; or

(ia) evidence that the director or officer is an approved provider or a person with management or control of an education and care service operated by an approved provider; or

Sch. 1  
cl. 20(1)(k)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 105(4)(c),  
amended by  
S.R. No.  
96/2017  
reg. 9(2).

(iii) the information and documents required in Part 11 to demonstrate that the director or officer is a fit and proper person;

(l) the information and documents contained in subparagraph (i), (ii), (ia) or (iii), whichever is applicable, with regard to any proposed nominee for the service (except for a proposed accepted nominee)—

Sch. 1  
cl. 20(1)(l)  
amended by  
S.R. No.  
162/2011  
reg. 105(5)(a).

- (i) a declaration that the nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
- (ii) if the Secretary has determined the nominee to be a fit and proper person more than 5 years previously, each of the following—
  - (A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

Sch. 1 cl. 20(1)  
(1)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 105(5)(b).

\* \* \* \* \*

- (C) a declaration that the Secretary has previously determined that the nominee is a fit and proper person;
- (D) a declaration that there are no material changes to the information provided to the Secretary since the nominee's previous fit and proper person determination; or

Sch. 1  
cl. 20(1)(i)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 105(5)(c),  
amended by  
S.R. No.  
96/2017  
reg. 9(3).

- (ia) evidence that the nominee is an approved provider, a nominated supervisor of an education and care service or a person with management or control of an education and care service operated by an approved provider; or

(iii) the information and documents required in Part 11 to demonstrate that the nominee is a fit and proper person.

(2) If an education and care service operates or is to operate at the premises of the children's service, the following information is required in addition to the information required under subclause (1)—

**Sch. 1 cl. 20(2)  
inserted by  
S.R. No.  
162/2011  
reg. 105(6).**

(a) if the education and care service has been granted a service approval, the service approval number;

(b) if the education and care service does not have a service approval, whether an application has been made for a service approval.

\* \* \* \* \*

**Sch. 1 Pt 6  
Div. 2  
(Heading and  
cl. 21)  
revoked by  
S.R. No.  
162/2011  
reg. 106.**

## **Part 7—Applications for variation of licences**

### **Division 1—Application to vary or revoke a condition or impose a new condition on a licence**

#### **22 Application to vary or revoke a condition or impose a new condition on a licence**

Sch. 1 cl. 22  
amended by  
S.R. No.  
162/2011  
reg. 107 (ILA  
s. 39B(3)).

- (1) The following information is required for an application to vary or revoke a condition or restriction of, or impose a new condition or restriction on, a licence—
  - (a) the children's service's licence number;
  - (b) the full name and postal address of the licensee;
  - (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
  - (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
  - (e) a list of the conditions and restrictions on the licence that are proposed to be varied, revoked or imposed;
  - (f) if the applicant seeks to vary a condition or restriction, a specific description of the variation sought;
  - (g) a statement indicating the reasons for seeking each variation, revocation or imposition of a condition or restriction sought;

(h) either—

- (i) a declaration that there have been no material changes with respect to the design or location of the premises where the service will operate since the most recent approval of premises was granted or the licence was granted or last renewed, whichever is sooner; or
- (ii) if material changes have been made, the details of those changes.

(2) If an education and care service operates or is to operate at the premises of the children's service, the following information is required in addition to the information required under subclause (1)—

- (a) if the education and care service has been granted a service approval, the service approval number;
- (b) if the education and care service does not have a service approval, whether an application has been made for a service approval.

Sch. 1 cl. 22(2)  
inserted by  
S.R. No.  
162/2011  
reg. 107.

## **Division 2—Application to vary period of licence**

### **23 Application to vary period of licence**

The following information is required for an application to vary the period of a licence—

- (a) the children's service's licence number;
- (b) the full name and postal address of the licensee;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;

- (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the new licence period sought;
- (f) a statement indicating the reasons for seeking to vary the period of the licence;
- (g) either—
  - (i) a declaration that there have been no material changes with respect to the design or location of the premises where the service will operate since the most recent approval of premises was granted or the licence was granted or last renewed, whichever is sooner; or
  - (ii) if material changes have been made, the details of those changes;
- (h) with regard to the applicant for the licence variation, the information and documents contained in subparagraph (i), (ii), (ia) or (iii), whichever is applicable—
  - (i) a declaration that the applicant has been determined by the Secretary, within the previous 5 years, to be a fit and proper person to operate a children's service; or
  - (ii) if the Secretary has determined the applicant to be a fit and proper person more than 5 years previously, each of the following—
    - (A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

Sch. 1 cl. 23(h)  
amended by  
S.R. No.  
162/2011  
reg. 108(1)(a).

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- \* \* \* \* \*
- (C) a declaration that the Secretary has previously determined that the applicant is a fit and proper person;
- (D) a declaration that there are no material changes to the information provided to the Secretary since the applicant's previous fit and proper person determination; or
- (ia) evidence that the applicant is an approved provider or a person with management or control of an education and care service operated by an approved provider; or
- (ii) the information and documents required in Part 11 to demonstrate that the applicant is a fit and proper person to operate a children's service;
- (i) if the applicant is a body corporate, the information and documents contained in subparagraph (i), (ii), (ia) or (ii), whichever is applicable, with regard to each director or other officer of the body corporate who exercises or may exercise control over the operation of the children's service—
- (i) a declaration that the director or officer has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or

Sch. 1  
cl. 23(h)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 108(1)(b).

Sch. 1  
cl. 23(h)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 108(1)(c),  
amended by  
S.R. No.  
96/2017  
reg. 10(1).

Sch. 1 cl. 23(i)  
amended by  
S.R. No.  
162/2011  
reg. 108(2)(a).

(ii) if the Secretary has determined the director or officer to be a fit and proper person more than 5 years previously, each of the following—

(A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

Sch. 1  
cl. 23(f)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 108(2)(b).

\* \* \* \* \*

(C) a declaration that the Secretary has previously determined that the director or officer is a fit and proper person;

(D) a declaration that there are no material changes to the information provided to the Secretary since the director's or officer's previous fit and proper person determination; or

Sch. 1  
cl. 23(f)(iia)  
inserted by  
S.R. No.  
162/2011  
reg. 108(2)(c),  
amended by  
S.R. No.  
96/2017  
reg. 10(2).

(iia) evidence that the director or officer is an approved provider or a person with management or control of an education and care service operated by an approved provider; or

(iii) the information and documents required in Part 11 to demonstrate that the director or officer is a fit and proper person;

(j) the information and documents contained in subparagraph (i), (ii), (iia) or (iii), whichever is applicable, with regard to any proposed nominee (except for proposed accepted nominees)—

Sch. 1 cl. 23(j)  
amended by  
S.R. No.  
162/2011  
reg. 108(3)(a).

(i) a declaration that the nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or

(ii) if the Secretary has determined the nominee to be a fit and proper person more than 5 years previously, each of the following—

(A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;

\* \* \* \* \*

Sch. 1  
cl. 23(j)(ii)(B)  
revoked by  
S.R. No.  
162/2011  
reg. 108(3)(b).

(C) a declaration that the Secretary has previously determined that the nominee is a fit and proper person;

(D) a declaration that there are no material changes to the information provided to the Secretary since the nominee's previous fit and proper person determination; or

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Sch. 1  
cl. 23(j)(ia)  
inserted by  
S.R. No.  
162/2011  
reg. 108(3)(c),  
amended by  
S.R. No.  
96/2017  
reg. 10(3).

- (ia) evidence that the nominee is an approved provider, a nominated supervisor of an education and care service or a person with management or control of an education and care service operated by an approved provider; or
- (ii) the information and documents required in Part 11 to demonstrate that the nominee is a fit and proper person.

## **Part 8—Application for a voluntary suspension of licence**

### **24 Application for a voluntary suspension of licence**

The following information is required for an application for the voluntary suspension of a licence—

- (a) the children's service's licence number;
- (b) the full name and postal address of the licensee;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the period of suspension sought, including the proposed starting and ending dates of the suspension period;
- (f) one of the following declarations and, if applicable, any evidence supporting that declaration—
  - (i) that the children's service is located in a rural or remote area and the number of children enrolled at the service is such that it would not be viable to operate the service during the proposed period of suspension; or
  - (ii) that the premises at which the service operates will be undergoing building works or renovations during the proposed period of suspension;

- (g) if a declaration under paragraph (f)(ii) is made, a statement indicating whether the licensee has submitted, or intends to submit, an application for approval of alterations or extensions to premises;
- (h) a statement that the licensee intends to resume the operation of the children's service at the end of the period of suspension;
- (i) a statement indicating whether the services offered by the children's service will be different on resumption of the operation;
- (j) a statement indicating the process the licensee proposes to undertake to notify the parents or guardians of children who are cared for or educated by the children's service of the suspension of the licence.

## **Part 9—Request to cancel licence**

### **25 Request by licensee to cancel licence**

The following information is required for a request by a licensee to cancel a licence—

- (a) the children's service's licence number;
- (b) the full name and postal address of the licensee;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the date on which the applicant requests the cancellation of the licence to become effective;
- (f) a statement indicating the reasons for requesting a cancellation of the licence and, if applicable, any evidence supporting those reasons;
- (g) a statement indicating the process the licensee proposes to undertake to notify the parents or guardians of children who are cared for or educated by the children's service of the application to cancel the licence.

\* \* \* \* \*

**Sch. 1 Pt 10  
(Heading and  
cls 26, 27)  
revoked by  
S.R. No.  
162/2011  
reg. 109.**

## **Part 11—Determination of fit and proper person**

### **28 Information and documents relating to the applicant**

For the purposes of this Schedule, the following information is required in respect of an applicant—

- (a) the full name, date of birth, postal address, email address and telephone and facsimile numbers;
- (b) a financial declaration;
- (c) a charges and convictions declaration;
- (d) a criminal history notification issued within the 6 months preceding the application;
- (e) a health declaration;
- (f) the names, postal addresses and telephone numbers of two persons who are able to make a referee statement;
- (g) a summary of experience and evidence of qualifications relevant to operating a children's service;
- (h) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**.

### **29 Information and documents relating to body corporate applicant**

For the purposes of this Schedule the following information is required in respect of an applicant that is a body corporate—

- (a) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the determination of a fit and proper person;

- (b) a control declaration;
- (c) a financial declaration;
- (d) proof of incorporation or registration;
- (e) if the applicant is a company, a current extract from the register of the Australian Securities and Investments Commission showing the company's status, address of principal place of business and directors and company officers.

**30 Information and documents relating to directors and officers of a body corporate applicant**

For the purposes of this Schedule, if an applicant is a body corporate, the following information is required in respect of each director or officer who exercises or may exercise control over the operation of the children's service—

- (a) the full name, date of birth, postal address, email address and telephone and facsimile numbers;
- (b) a financial declaration;
- (c) a charges and convictions declaration;
- (d) a criminal history notification issued within the 6 months preceding the application;
- (e) a health declaration;
- (f) the names, postal addresses, and telephone numbers of two persons who are able to make a referee statement;
- (g) a summary of experience and evidence of qualifications relevant to operating a children's service;

- (h) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**.

### **31 Information and documents relating to nominees**

The following information is required for the purposes of this Schedule in respect of each proposed nominee—

- (a) the full name, date of birth, postal address, email address and telephone and facsimile numbers;
- (b) a financial declaration;
- (c) a charges and convictions declaration;
- (d) a criminal history notification issued within the 6 months preceding the application;
- (e) a health declaration;
- (f) the names, postal addresses and telephone numbers of two persons who are able to make a referee statement;
- (g) a summary of experience and evidence of qualifications relevant to managing or controlling a children's service;
- (h) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**.

**Part 11A—Notice of change to primary nominee for approved associated children's services**

Sch. 1 Pt 11A  
(Heading and  
cls 31A, 31B)  
inserted by  
S.R. No.  
96/2017  
reg. 11.

**31A Notice of change to primary nominee to a person approved by the Secretary**

Sch. 1 cl. 31A  
inserted by  
S.R. No.  
96/2017  
reg. 11.

(1) The following information is required for a notice to change the primary nominee for an approved associated children's service to a person who is approved by the Secretary under section 25X of the Act to have primary responsibility for the management or control of the service in the absence of the approved provider—

- (a) the number of the service approval including the approved associated children's service;
- (b) the full name and postal address of the approved provider, and the provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the notice;
- (d) the approved associated children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the full name, former name (if any), date of birth and postal address of the new primary nominee;
- (f) an identity statement regarding the new primary nominee;

- (g) either—
- (i) a declaration that the new primary nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
  - (ii) if the Secretary has determined the new primary nominee to be a fit and proper person more than 5 years previously, each of the following—
    - (A) a current assessment notice or a copy of a current certificate of registration as a teacher issued under the **Education and Training Reform Act 2006**;
    - (B) a declaration that the Secretary has previously determined that the new primary nominee is a fit and proper person;
    - (C) a declaration that there are no material changes to the information provided to the Secretary since the new primary nominee's previous fit and proper person determination; or
  - (iii) evidence that the new primary nominee is an approved provider or a person with management or control of an education and care service operated by an approved provider; or
  - (iv) the information and documents required in Part 11 to demonstrate that the new primary nominee is a fit and proper person;

(h) the date on which the new primary nominee is to have primary responsibility for the management or control of the approved associated children's service.

(2) A notice to change a primary nominee must also include the new primary nominee's written consent to the nomination.

**Note**

Section 25WA(2)(c) of the Act requires that a notice must be given—

- at least 7 days before the new primary nominee is to have primary responsibility for the management or control of the approved associated children's service; or
- if that period of notice is not possible in the circumstances, as soon as practicable but not more than 14 days after the new primary nominee commences primary responsibility for the management or control of the approved associated children's service.

**31B Notice of change to primary nominee to a person who is a nominated supervisor**

Sch. 1 cl. 31B  
inserted by  
S.R. No.  
96/2017  
reg. 11.

(1) The following information is required for a notice to change the primary nominee for an approved associated children's service to a person who is a nominated supervisor of the associated education and care service—

- (a) the number of the service approval including the approved associated children's service;
- (b) the full name and postal address of the approved provider, and the provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the notice;

- (d) the approved associated children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
  - (e) the full name, former name (if any), date of birth and postal address of the new primary nominee;
  - (f) an identity statement in relation to the new primary nominee;
  - (g) a declaration that the new primary nominee has been nominated as a nominated supervisor by the approved provider and that there are no material changes to the circumstances since that nomination;
  - (h) evidence that the new primary nominee is a nominated supervisor;
  - (i) if the associated education and care service has more than one nominated supervisor, evidence that the nominated supervisor has been designated in writing by the approved provider as the primary nominee for the approved associated children's service;
  - (j) the date on which the new primary nominee is to have primary responsibility for the management or control of the approved associated children's service.
- (2) A notice to change a primary nominee must also include the new primary nominee's written consent to the nomination.

**Notes**

- 1 Section 25W(2) of the Act provides that the primary nominee for an approved associated children's service is, subject to section 25W(2A) of the Act—
- the nominated supervisor of the associated education and care service; or

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- if the associated education and care service has more than one nominated supervisor, the nominated supervisor designated in writing by the approved provider as the primary nominee for the approved associated children's service; or
  - a person who, on the application of the approved provider, is approved by the Secretary under section 25X to have primary responsibility for the management or control of the approved associated children's service in the absence of the approved provider.
- 2 In accordance with section 25W(2)(a) of the Act, a nominated supervisor may be the primary nominee for an approved associated children's service in certain circumstances. Section 25W(2A) of the Act provides that section 25W(2)(a) does not apply to a nominated supervisor of an associated education and care service who is subject to—
- an undertaking under section 179A of the National Law; or
  - a prohibition notice under section 182(3)(a) of the National Law; or
  - a condition imposed by a prohibition notice under section 182(3)(b) of the National Law.
- 3 Section 25WA(2)(c) of the Act requires that a notice must be given—
- at least 7 days before the new primary nominee is to have primary responsibility for the management or control of the approved associated children's service; or
  - if that period of notice is not possible in the circumstances, as soon as practicable but not more than 14 days after the new primary nominee commences primary responsibility for the management or control of the approved associated children's service.

Sch. 1 Pt 12  
(Heading and  
cl. 32)  
inserted by  
S.R. No.  
162/2011  
reg. 110.

## **Part 12—Application for approval of new nominees for approved associated children's services**

Sch. 1 cl. 32  
inserted by  
S.R. No.  
162/2011  
reg. 110.

### **32 Application for approval of new nominees and primary nominees**

- (1) The following information is required for an application for approval of a new nominee or primary nominee for an approved associated children's service—
  - (a) the number of the service approval including the approved associated children's service;
  - (b) the full name and postal address of the approved provider, and the provider approval number;
  - (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
  - (d) the approved associated children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
  - (e) the following information regarding each proposed new nominee or primary nominee—
    - (i) full name, former name (if any), date of birth and postal address;
    - (ii) an identity statement;

- (iii) either—
- (A) a declaration that the proposed nominee has been determined by the Secretary, within the previous 5 years, to be a fit and proper person; or
  - (B) evidence that the proposed nominee is an approved provider, a nominated supervisor of an education and care service or a person with management or control of an education and care service operated by an approved provider; or
  - (C) the information and documents required in Part 11 to demonstrate that the proposed nominee is a fit and proper person;
- (iv) a declaration by the applicant that the person nominated is a fit and proper person to manage or control a children's service;
- (v) a statement indicating whether the proposed nominee is to have primary responsibility for the management or control of the service in the absence of the approved provider.
- (2) An application for approval of a new nominee must also include the proposed new nominee's written consent to the nomination.

Sch. 1 cl. 32(1)  
(e)(iii)(B)  
amended by  
S.R. No.  
96/2017  
reg. 12.

Sch. 1 Pt 13  
(Heading and  
cl. 33)  
inserted by  
S.R. No.  
162/2011  
reg. 110.

## **Part 13—Application for voluntary suspension of service approval for approved associated children's service**

Sch. 1 cl. 33  
inserted by  
S.R. No.  
162/2011  
reg. 110.

### **33 Application for voluntary suspension of service approval for approved associated children's service**

The following information is required for an application for the voluntary suspension of a service approval to the extent that it relates to an approved associated children's service—

- (a) the number of the service approval including the approved associated children's service;
- (b) the full name and postal address of the approved provider, and the provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the approved associated children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the period of suspension sought, including the proposed starting and ending dates of the suspension period;
- (f) one of the following declarations and, if applicable, any evidence supporting that declaration—
  - (i) that the approved associated children's service is located in a rural or remote area and the number of children

- enrolled at the service is such that it would not be viable to operate the service during the proposed period of suspension; or
- (ii) that the premises at which the service operates will be undergoing building works or renovations during the proposed period of suspension;
  - (g) a statement that the approved provider intends to resume the operation of the children's service at the end of the period of suspension;
  - (h) a statement indicating whether the services offered by the approved associated children's service will be different on resumption of the operation;
  - (i) a statement indicating the process the approved provider proposes to undertake to notify the parents or guardians of children who are cared for or educated by the approved associated children's service of the suspension of the service approval.

Sch. 1 Pt 14  
(Heading and  
cl. 34)  
inserted by  
S.R. No.  
162/2011  
reg. 110.

## **Part 14—Application for cancellation of service approval for approved associated children's services**

Sch. 1 cl. 34  
inserted by  
S.R. No.  
162/2011  
reg. 110.

### **34 Application for cancellation of service approval for approved associated children's service at request of approved provider**

The following information is required for a request by an approved provider to cancel a service approval to the extent that it relates to an approved associated children's service—

- (a) the number of the service approval including the approved associated children's service;
- (b) the full name and postal address of the approved provider, and the provider approval number;
- (c) the name, postal address, email address and telephone and facsimile numbers of the contact person for the purposes of the application;
- (d) the approved associated children's service's name, street address (including number), municipal district, postal address, telephone and facsimile numbers and email address;
- (e) the date on which the applicant requests the cancellation of the service approval to become effective;
- (f) a statement indicating the reasons for requesting a cancellation of the service approval and, if applicable, any evidence supporting those reasons;

- (g) a statement indicating the process the approved provider proposes to undertake to notify the parents or guardians of children who are cared for or educated by the approved associated children's service of the application to cancel the service approval.

## Schedule 2—Prescribed fees

Sch. 2 Pt 1  
amended by  
S.R. No.  
162/2011  
regs 111(2)(3),  
112(2)(3).

### Part 1—Fees for applications for approval of premises

Sch. 2 Pt 1  
(Heading 1)  
amended by  
S.R. No.  
162/2011  
reg. 111(1).

#### 1 Fees for applications for approval of premises proposed to be used or constructed for use in operating a children's service

<i>No. of Places</i>	<i>Standard Service Fee Units</i>
Up to and including 15 places	15·0
16 to 30 places	31·0
31 to 60 places	31·0
61 to 120 places	31·0
121 or more places	31·0

<i>No. of Places</i>	<i>Limited Hours (Types 1 and 2) Fee</i>	<i>Short Term (Types 1 and 2) Fee</i>
Up to and including 15 places	15·0 fee units	8·0 fee units
16 to 30 places	15·0 fee units	8·0 fee units
31 to 60 places	15·0 fee units	8·0 fee units
61 to 120 places	15·0 fee units	8·0 fee units
121 or more places	15·0 fee units	8·0 fee units

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<i>No. of Places</i>	<i>Integrated Service Fee Units</i>
Up to and including 60 places	40·0
61 to 120 places	40·0
121 to 180 places	40·0
181 to 250 places	45·0
251 or more places	45·0

<i>No. of Places</i>	<i>School Holidays Care Service Fee Units</i>
Up to and including 15 places	15·0
16 to 60 places	15·0
61 to 90 places	15·0
91 to 120 places	15·0
121 or more places	15·0

**2 Fees for applications for approval of alterations or extensions to premises**

<i>No. of Places</i>	<i>Standard Service Fee Units</i>
Up to and including 15 places	10·0
16 to 30 places	15·0
31 to 60 places	22·0
61 to 120 places	27·0
121 or more places	29·0

Sch. 2  
(Heading 2)  
substituted by  
S.R. No.  
162/2011  
reg. 112(1).

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<i>No. of Places</i>	<i>Limited Hours (Types 1 and 2) Fee</i>	<i>Short Term (Types 1 and 2) Fee</i>
Up to and including 15 places	5.0 fee units	5.0 fee units
16 to 30 places	5.0 fee units	5.0 fee units
31 to 60 places	11.0 fee units	5.0 fee units
61 to 120 places	14.0 fee units	7.0 fee units
121 or more places	14.0 fee units	7.0 fee units

<i>No. of Places</i>	<i>Integrated Service Fee Units</i>
Up to and including 60 places	30.0
61 to 120 places	30.0
121 to 180 places	30.0
181 to 250 places	35.0
251 or more places	35.0

<i>No. of Places</i>	<i>School Holidays Care Service Fee Units</i>
Up to and including 15 places	5.0
16 to 60 places	5.0
61 to 90 places	5.0
91 to 120 places	10.0
121 or more places	10.0

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S.R. No. 53/2009  
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## Part 2—Fees for application for licence to operate a children's service

Sch. 2 Pt 2  
amended by  
S.R. No.  
162/2011  
regs 113(2)(3),  
114.

### 3 Fees for applications for licence to operate a children's service

Sch. 2  
(Heading 3)  
substituted by  
S.R. No.  
162/2011  
reg. 113(1).

<i>No. of Places</i>	<i>Standard Licence</i>		
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	5·0	13·0	19·0
16 to 30 places	10·0	25·0	35·0
31 to 60 places	15·0	38·0	54·0
61 to 120 places	19·0	48·0	68·0
121 or more places	24·0	60·0	84·0

<i>No. of Places</i>	<i>Limited Hours Licence (Types 1 and 2)</i>			<i>Short Term Licence (Types 1 and 2)</i>
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>	<i>Up to and including 1 year</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	3·0	8·0	12·0	3·0
16 to 30 places	5·0	13·0	19·0	3·0
31 to 60 places	8·0	19·0	27·0	5·0
61 to 120 places	10·0	24·0	34·0	6·0
121 or more places	12·0	29·0	41·0	7·0

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Schedule 2—Prescribed fees

<i>School Holidays Care Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	3·0	8·0	12·0
16 to 60 places	5·0	13·0	19·0
61 to 90 places	8·0	19·0	27·0
91 to 120 places	10·0	24·0	34·0
121 or more places	12·0	29·0	41·0

<i>Integrated Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 60 places	18·0	36·0	54·0
61 to 120 places	24·0	48·0	72·0
121 to 180 places	30·0	60·0	90·0
181 to 250 places	34·0	68·0	102·0
251 or more places	38·0	76·0	114·0

Sch. 2  
(Heading 4)  
revoked by  
S.R. No.  
162/2011  
reg. 114.

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Children's Services Regulations 2009  
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Schedule 2—Prescribed fees

## Part 3—Fees for applications for renewal of licences

### 5 Fees for applications for renewal of licence to operate a children's service

Sch. 2 Pt 3  
amended by  
S.R. No.  
162/2011  
regs 115, 116.

<i>No. of Places</i>	<i>Standard Licence</i>		
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 30 places	10·0	25·0	35·0
31 to 60 places	15·0	38·0	54·0
61 to 120 places	19·0	48·0	68·0
121 or more places	24·0	60·0	84·0

<i>No. of Places</i>	<i>Limited Hours Licence (Types 1 and 2)</i>		
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 30 places	5·0	13·0	19·0
31 to 60 places	8·0	19·0	27·0
61 to 120 places	10·0	24·0	34·0
121 or more places	12·0	29·0	41·0
	*	*	*

<i>No. of Places</i>	<i>School Holidays Care Licence</i>		
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 60 places	5·0	13·0	19·0

Authorised by the Chief Parliamentary Counsel

Children's Services Regulations 2009

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<i>School Holidays Care Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
61 to 90 places	8.0	19.0	27.0
91 to 120 places	10.0	24.0	34.0
121 or more places	12.0	29.0	41.0

<i>Integrated Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 60 places	18.0	36.0	54.0
61 to 120 places	24.0	48.0	72.0
121 to 180 places	30.0	60.0	90.0
181 to 250 places	34.0	68.0	102.0
251 or more places	38.0	76.0	114.0
	*	*	*

**6 Fees for late application for renewal of licence to operate children's service**

<i>No. of Places</i>	<i>Standard Licence Fee Units</i>
Up to and including 15 places	10.0
16 to 30 places	10.0
31 to 60 places	10.0
61 to 120 places	15.0
121 or more places	20.0

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<i>No. of Places</i>	<i>Limited Hours Licence (Types 1 and 2) Fee</i>
Up to and including 15 places	5.0 fee units
16 to 30 places	5.0 fee units
31 to 60 places	5.0 fee units
61 to 120 places	8.0 fee units
121 or more places	10.0 fee units

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<i>No. of Places</i>	<i>School Holidays Care Licence Fee Units</i>
Up to and including 15 places	5.0
16 to 60 places	5.0
61 to 90 places	5.0
91 to 120 places	8.0
121 or more places	10.0

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<i>No. of Places</i>	<i>Integrated Licence Fee Units</i>
Up to and including 60 places	20.0
61 to 120 places	20.0
121 to 180 places	20.0
181 to 250 places	20.0
251 or more places	20.0

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Sch. 2 Pt 4  
amended by  
S.R. No.  
162/2011  
regs 117, 118.

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## Part 4—Fees for applications for variation of licences

### 7 Fees for applications to vary or revoke a condition or restriction or to impose a condition or restriction on a licence

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<i>No. of Places</i>	<i>Standard Licence Fee Units</i>
Up to and including 15 places	Nil
16 to 30 places	9.0
31 to 60 places	9.0
61 to 120 places	9.0
121 or more places	9.0

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<i>No. of Places</i>	<i>Limited Hours Licence (Types 1 and 2) Fee</i>
Up to and including 15 places	Nil
16 to 30 places	5.0 fee units
31 to 60 places	5.0 fee units
61 to 120 places	5.0 fee units
121 or more places	5.0 fee units

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<i>No. of Places</i>	<i>Integrated Licence Fee Units</i>
Up to and including 60 places	9.0
61 to 120 places	9.0
121 to 180 places	9.0
181 to 250 places	9.0
251 or more places	9.0

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<i>School Holidays Care Licence</i>	
<i>No. of Places</i>	<i>Fee Units</i>
Up to and including 15 places	Nil
16 to 60 places	5.0
61 to 90 places	5.0
91 to 120 places	5.0
121 or more places	5.0
*	*

**8 Fees for application to vary period of a licence**

<i>Standard Licence</i>			
<i>No. of Places</i>	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 30 places	10.0	20.0	25.0
31 to 60 places	15.0	30.0	38.0
61 to 120 places	19.0	38.0	48.0
121 or more places	24.0	48.0	60.0

<i>Limited Hours Licence (Types 1 and 2)</i>			
<i>No. of Places</i>	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 30 places	5.0	10.0	13.0
31 to 60 places	8.0	16.0	19.0
61 to 120 places	10.0	20.0	24.0
121 or more places	12.0	24.0	29.0
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<i>School Holidays Care Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 15 places	Nil	Nil	Nil
16 to 60 places	5·0	10·0	13·0
61 to 90 places	8·0	16·0	19·0
91 to 120 places	10·0	20·0	24·0
121 or more places	12·0	24·0	29·0
<i>Integrated Licence</i>			
	<i>Up to and including 1 year</i>	<i>More than 1 year and up to and including 3 years</i>	<i>More than 3 years and up to and including 5 years</i>
<i>No. of Places</i>	<i>Fee Units</i>	<i>Fee Units</i>	<i>Fee Units</i>
Up to and including 60 places	18·0	27·0	36·0
61 to 120 places	24·0	36·0	48·0
121 to 180 places	30·0	45·0	60·0
181 to 250 places	34·0	51·0	68·0
251 or more places	38·0	57·0	76·0
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## **Schedule 3—Anaphylaxis management policy**

### **1 Prescribed matters**

The prescribed matters to be included in the anaphylaxis management policy are—

- (a) the procedures for the training of staff, to comply with, at a minimum, regulation 63; and
- (b) the practices and procedures to ensure compliance with regulations 34(b), 34(f), 38(2)(d), 38(2)(e), 40(1)(k), 43, 65, 67, 74(4)(d) and 83(3); and
- (c) a requirement that a risk minimisation plan for each child being cared for or educated by the children's service who has been diagnosed as at risk of anaphylaxis must be developed by the proprietor of the children's service in consultation with the child's parents or guardian; and
- (d) a requirement that the proprietor must obtain an anaphylaxis medical management plan from the child's parents or guardian, prepared in accordance with clause 2, for each child being cared for or educated by the children's service who has been diagnosed as at risk of anaphylaxis; and
- (e) a requirement that if a child who has been diagnosed as at risk of anaphylaxis has an anaphylactic episode while being cared for or educated by the children's service, the child's anaphylaxis medical management plan must be followed; and

**Sch. 3 cl. 1(a)**  
**substituted by**  
**S.R. No.**  
**162/2011**  
**reg. 119(1).**

**Sch. 3 cl. 1(b)**  
**substituted by**  
**S.R. No.**  
**162/2011**  
**reg. 119(2).**

- (f) a requirement that the risk minimisation plan referred to in paragraph (c) must, at a minimum, include the matters contained in clause 3; and
- (g) a communication plan including, at a minimum, the matters contained in clause 4.

## **2 Anaphylaxis medical management plan**

An anaphylaxis medical management plan for a child must—

- (a) be an individual plan for that child; and
- (b) be signed by the registered medical practitioner who is treating the child at the date it is signed; and
- (c) describe the prescribed anaphylaxis medication for that child.

## **3 Risk minimisation plan**

For each child being cared for or educated at the children's service who has been diagnosed as at risk of anaphylaxis, the risk minimisation plan must include—

- (a) an assessment of the risks to the child of anaphylaxis at the children's service and how those risks can be minimised, reviewed and documented; and
- (b) practices and procedures regarding how the risks in paragraph (a) can be managed and minimised; and
- (c) if relevant to the child, practices and procedures regarding the safe handling, preparation, consumption and service of food, including but not limited to food sharing practices, hand washing and equipment cleaning; and

- (d) practices and procedures for ensuring that all parents or guardians of children being cared for or educated at the children's service are notified of the known allergens that pose a risk to the child, the risks identified in paragraph (a) and the strategies for minimisation and management of those risks; and
- (e) practices and procedures to ensure that each staff member (including staff who are relief staff), early childhood intervention worker and volunteer can identify the child; and
- (f) practices and procedures to ensure that each staff member (including staff who are relief staff), early childhood intervention worker and volunteer can identify and is familiar with—
- (i) the child's allergies; and
  - (ii) the child's anaphylaxis medical management plan; and
  - (iii) the location of the child's anaphylaxis medication and anaphylaxis medical management plan; and
- (g) practices and procedures to ensure that the child does not attend the children's service without the child's anaphylaxis medication (if any) that has been prescribed by a registered medical practitioner.

Sch. 3 cl. 3(e)  
amended by  
S.R. No.  
162/2011  
reg. 120(1).

Sch. 3 cl. 3(f)  
amended by  
S.R. No.  
162/2011  
reg. 120(2).

Sch. 3 cl. 3(g)  
amended by  
S.R. No.  
162/2011  
reg. 120(3).

#### 4 Communication plan

The communication plan must include practices and procedures to ensure—

- (a) that all staff members (including staff who are relief staff), early childhood intervention workers, volunteers, and parents or guardians of children being cared for or educated by

Sch. 3 cl. 4(a)  
amended by  
S.R. No.  
162/2011  
reg. 121(1).

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Schedule 3—Anaphylaxis management policy

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the children's service are informed about anaphylaxis management in the children's service and the anaphylaxis management policy of the children's service; and

Sch. 3 cl. 4(b)  
amended by  
S.R. No.  
162/2011  
reg. 121(2).

(b) that a parent or guardian of a child diagnosed as at risk of anaphylaxis who is being cared for or educated by the children's service can communicate with the staff members at the children's service about any changes required to the child's risk minimisation plan and anaphylaxis medical management plan and how that communication can occur; and

Sch. 3 cl. 4(c)  
amended by  
S.R. No.  
162/2011  
reg. 121(3).

(c) that all staff members (including staff who are relief staff), early childhood intervention workers and volunteers are informed about and familiar with the anaphylaxis medical management plan and risk minimisation plan of each child diagnosed as at risk of anaphylaxis who is being cared for or educated by the children's service.

Sch. 4  
revoked by  
S.R. No.  
162/2011  
reg. 122.

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Children's Services Regulations 2009, S.R. No. 53/2009 were made on 19 May 2009 by the Governor in Council under section 56 of, and clause 3 of the Schedule to, the **Children's Services Act 1996**, No. 53/1996 and came into operation on 25 May 2009: regulation 3.

The Children's Services Regulations 2009 will sunset 10 years after the day of making on 19 May 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

#### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

##### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

##### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

##### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule.

This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms.

See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

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Endnotes

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## 2 Table of Amendments

This publication incorporates amendments made to the Children's Services Regulations 2009 by statutory rules, subordinate instruments and Acts.

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Children's Services Amendment Regulations 2010, S.R. No. 96/2010

*Date of Making:* 28.9.10

*Date of Commencement:* 28.9.10

Children's Services Amendment Regulations 2011, S.R. No. 162/2011

*Date of Making:* 21.12.11

*Date of Commencement:* 1.1.12: reg. 3

Children's Services Amendment Regulations 2016, S.R. No. 2/2016

*Date of Making:* 16.2.16

*Date of Commencement:* 1.3.16: reg. 3

Children's Services Amendment Regulations 2017, S.R. No. 96/2017

*Date of Making:* 19.9.17

*Date of Commencement:* 1.10.17: reg. 3

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### **3 Amendments Not in Operation**

There are no amendments which were Not in Operation at the date of this publication.

#### 4 Explanatory details

<sup>1</sup> Reg. 4(a): S.R. No. 59/1998. Reprint No. 1 incorporating amendments as at 10 March 2005. Reprinted to S.R. No. 14/2004 and subsequently amended by S.R. Nos 100/2005 and 120/2008.

<sup>2</sup> Reg. 4(b): S.R. No. 82/2002.

<sup>3</sup> Reg. 4(c): S.R. No. 14/2004.

<sup>4</sup> Reg. 4(d): S.R. No. 100/2005.

<sup>5</sup> Reg. 4(e): S.R. No. 120/2008.

<sup>6</sup> Reg. 107: S.R. No. 59/1998. See note 1.

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#### Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2017 is \$14.22. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

#### Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2017 is \$158.57.

The amount of the calculated penalty may be rounded to the nearest dollar.

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The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.