

New Children's Services Regulations – consultation

Children's Services Law Reform

Most early childhood education and care services in Victoria are regulated under the National Quality Framework (NQF), with the remaining eight per cent of services (approximately 320 children's services) operating under the Victorian *Children's Services Act 1996* and Children's Services Regulations 2009.

The Victorian government is progressing a reform of the children's services regulatory regime to align it with the National Quality Framework (where appropriate). The reform aims to simplify licensing arrangements for providers, and ensure more consistent minimum standards across the two regulatory regimes.

The first step of the reform is the *Children's Services Amendment Act 2019*, which is expected to come into effect on 17 May 2020.

Proposed Children's Services Regulations 2020

The second step of the reform is to revise and remake the Children's Services Regulations 2009, which are due to expire on 18 May 2020.

The proposed Children's Services Regulations 2020 provide the detailed requirements to support the recent amendments to the Children's Services Act 1996. They also include proposed changes to the licence types, staffing (qualifications and ratios) and premises requirements for some children's services.

The proposed regulations will impact on existing and future providers, educators and families in the children's services sector.

The amended *Children's Services Act 1996* and the Children's Services Regulations 2020 are intended to come into effect together on 17 May 2020.

Regulatory Impact Statement

The Regulatory Impact Statement (RIS) presents regulatory options, quantifies the cost of the proposed regulations to industry and government, includes economic analysis of costs and benefits, and invites public comment about the proposed regulatory options.

TELL US WHAT YOU THINK

We welcome your feedback on the proposed regulations and the regulatory options in the RIS.

Go to the Engage Victoria website www.engage.vic.gov.au (search Children's Services Regulations 2020) where you can complete an online survey or upload a written submission.

You can also physically post a submission to DET or email a submission to our law reform email cs.law.reform@edumail.vic.gov.au

Public consultation closes at midnight, Tuesday 17 March 2020.

SUMMARY OF CHANGES IN THE PROPOSED CHILDREN'S SERVICES REGULATIONS 2020

Area of Regulation	Current Regulation	Proposed Regulation
Approval processes	<p>One premises approval and one licence per service</p> <p>Licence term is fixed for 1, 3 or 5 years and must be renewed</p>	<p>One provider approval can be used to operate multiple services</p> <p>Provider and service approvals are perpetual (no need to renew)</p>
Service approval types	<p>Seven licence types</p> <ul style="list-style-type: none"> • Standard • Limited hours type 1 and type 2 • Short term type 1 and type 2 • School holidays care • Integrated 	<p>Two service approval types</p> <ul style="list-style-type: none"> • Limited Hours = services caring for each child for no more than 3 hours per day or 6 hours per week • Occasional Care = all other services
Staff-to-child ratios	<p>Services holding a 'Standard' licence:</p> <ul style="list-style-type: none"> • 1:4 for under 3 year olds • 1:15 for 3 year olds and over <p>Other licences:</p> <ul style="list-style-type: none"> • 1:5 for under 3 year olds • 1:15 for 3 year olds and over 	<p>All services:</p> <ul style="list-style-type: none"> • 1:4 for children under 36 months • 1:11 for children 36 months and over • 1:15 for children over preschool age (enrolled in school)
Qualifications	<p>Staff must hold the required qualifications</p> <p>All 'educators' must hold at least a Certificate III</p> <ul style="list-style-type: none"> • For 3 year olds and over: 1 in 3 educators must hold at least a Diploma • For under 3 year olds: 1 in 2 educators must hold a Diploma <p>Services holding a 'Standard' licence must have a teaching staff member if approved for or caring for 25 or more children, for at least the lesser of 50% of the operating hours or 20 hours a week</p>	<p>Services holding a 'Limited Hours' service approval:</p> <ul style="list-style-type: none"> • All educators must hold a Certificate III • No need to employ a Diploma qualified educator <p>Services holding an 'Occasional Care' service approval:</p> <ul style="list-style-type: none"> • Educators may be actively working towards (AWT) their qualification or be in the 3 months prior to enrolment and still be counted in ratios • All educators must hold or be AWT a Certificate III • 50% of educators must hold or be AWT a Diploma • Must have an Early Childhood Teacher (ECT) if they provide more than 30 hours of care per week to a child

Area of Regulation	Current Regulation	Proposed Regulation
First aid	All staff members must hold a current first aid and anaphylaxis certificate	Only one staff member or nominated supervisor needs to hold a current first aid, anaphylaxis and asthma certificate
Outdoor space	Services holding a 'Standard' licence must provide outdoor space for children	<p>Services holding an 'Occasional Care' service approval must provide, or have access to, outdoor space for children</p> <p>Services holding a 'Limited Hours' service approval are not required to provide outdoor space for children</p>
Information, policies and procedures	Information, policies and procedures to be made available at the service	<p>Clearer set of required information to be made available by all services</p> <p>Additional policies and procedures will be required to cover areas such as interactions with children (which under current regulation is related to behaviour management)</p> <p>Services will need to keep current insurance policy (if applicable) on premises for inspection</p> <p>Records and documents will be required to be kept for a certain time</p>
Fees	<p>Differentiating fees according to the number of approved places offered by a service in the following five brackets: 0 to 15; 16 to 30; 31 to 60; 61 to 120 and 121 or more approved places</p> <p>Fees vary according to licence type</p> <p>Licence renewal fees apply based on the term of the licence e.g. 1, 3 or 5 years</p> <p>Nil fee payable for small services, and fees apply to notification of nominees, varying/revoking/imposing conditions and restrictions on application, and obtaining extracts of the children's services register</p> <p>Late payment fees apply</p>	<p>Differentiating fees according to the number of approved places offered by a service in the following four brackets: 1 to 15; 16 to 30; 1 to 60 and 61 or more approved places</p> <p>Setting an annual service fee payable on invoice by 30 June of each year (replacing the current licence renewal fee)</p> <p>Removing the nil fee option for small services and discontinuing fees relating to notification of nominees, varying, revoking, or imposing conditions and restrictions on application, and obtaining extracts of the children's services register</p> <p>Retaining the late payment fee (applicable to a late annual service fee)</p> <p>Introducing new fees for waivers and service approval transfers, aligned to the NQF</p>

Area of Regulation	Current Regulation	Proposed Regulation
Transitional	N/A	<p>Transitional provisions and service waivers provided for in the proposed regulations will give services time to adjust to the new requirements.</p> <ul style="list-style-type: none"> • New services must meet all requirements as at 17 May 2020 • Existing services must meet new requirements in relation to policies and procedures by 1 January 2021 • Existing services must meet other new or amended operational requirements (e.g. staffing, qualifications, asthma management training) by 1 January 2022 • For all services the annual service fee payment will be applicable from 1 July 2021