

Children's Services Regulations 2020

Regulatory Impact Statement (RIS) Public Consultation

February to March 2020



Aims of this session

- **Consult** you on the:
 - Proposed Children's Services Regulations 2020
 - Transitional and savings provisions in the proposed Regulations
- **Discuss** the likely impact of the proposed Regulations on you and your service
- **Provide** information to support children's services with transitional arrangements
- **Invite** your comments on the proposed Regulations and the options presented in the Regulatory Impact Statement (RIS)
- **Respond** to any queries you may have about the reform

Public consultation **closes** at midnight Tuesday 17 March 2020

Collection Notice

Privacy laws require us to make clear how your comments and submissions will be handled

- The primary purpose of collecting this information is to **inform decision-making** on the final Children’s Services Regulations 2020
- Information provided during the consultation period will be handled in accordance with the Victorian *Privacy Data and Protection Act 2014*, the *Health Records Act 2001* and the *Public Records Act 1973*
- All comments and submissions will be treated as public documents unless clearly marked as “confidential” and will be published in full or in part in a *de-identified summary report* on the Department of Education and Training website following the public consultation period
- For any queries in relation to the information contained in this notice or if you would like to make a request to access or correct your information, please contact cs.law.reform@edumail.vic.gov.au

Children's Services Law Reform – Background

- In 2012, the Education and Care Services National Law established a National Quality Framework (NQF) for the regulation of the majority of early childhood services across the country
- Today, about **320 children's services** (8%) in Victoria fall outside the scope of the National Law and continue to be regulated under the Children's Services Act (CS Act)
- NQF and CS Act regulatory regimes are similar, but not consistent
- The Victorian government is progressing the reform of the Children's Services regulatory regime to align it with the NQF (where appropriate)
- The reform aims to simplify licensing arrangements for providers, and ensure more consistent minimum standards across the two regulatory regimes – it is not about moving services to the NQF

Children's Services Law Reform – Context

- Amendments to the Children's Services Act were passed by Parliament on 6 November 2019, which is the **first step in the process** of alignment to the NQF
- There will still be a CS Act (and children's services), but it will have language and processes like the NQF
- The current Children's Services Regulations **must be remade** to support the amended Act and before they expire in May 2020
- The amended Act and new Children's Services Regulations will come into effect together, on **17 May 2020**



Children's Services **will not** be assessed and quality rated against the National Quality Standard

A photograph of three young children sitting together and smiling. The child on the left is a girl with long brown hair, wearing a pink top. The child in the middle is a boy with blonde hair, wearing a blue and white plaid shirt. The child on the right is a girl with dark hair in braids, wearing a white long-sleeved shirt with pink stripes on the sleeves. They are all looking towards the camera with joyful expressions. The background is slightly blurred, showing colorful objects on a shelf.

Overview of amendments to the Children's Services Act (coming into effect in May 2020)

Amendments that align the CS Act to the NQF

- Objectives and guiding principles
- Terminology and roles of key personnel
- Licensing architecture and approval processes
- Operational requirements for services (that are in the law)
- Requirements for educational programs
- Compliance, monitoring and enforcement approaches
- Offences and penalties
- Regulator's powers and duties

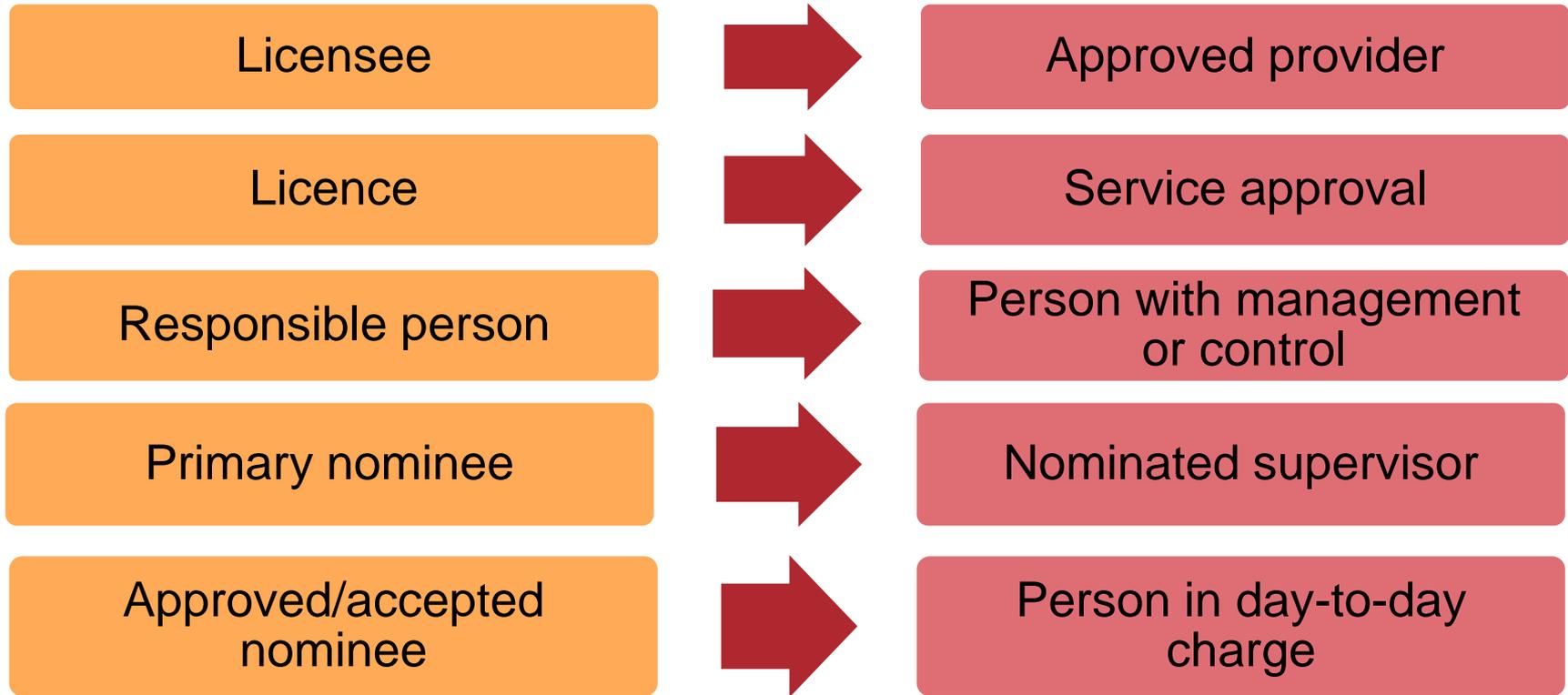
The Act contains the **high level** licensing “architecture” and some **key operational requirements** (such as supervision of children)

The Regulations support the Act and provide the **operational details**

Key operational requirements now aligned in the law

- Ensure adequate supervision of children
- Protect children from harm and hazard
- More explicit requirements for appointing responsible persons
- Requirements for nominated supervisors and persons in day-to-day charge of services
- Notify the regulatory authority about serious incidents and complaints
- Service waivers – more streamlined, delegated powers to exempt services from prescribed regulatory requirements

Terminology and roles of key personnel in the amended Act



The term **‘proprietor’** will become redundant

Further detail about amendments to the Act are in
Appendix 10.3 of the RIS

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Proposed new Children's Services Regulations 2020

Quality early childhood education and care has a direct impact on outcomes for children

The opportunity for change

- The NQF provides a best practice framework for 90% of Victorian education and care services
- Some of the requirements in the CS Regulations, such as educator to child ratios, are now out of step with the NQF, and national and international best practice
- The expiry of the current Regulations provides an opportunity to update the key regulatory settings **to keep pace with best practice**
- The proposed regulations aim to ensure there are no adverse impacts on service provision, by setting appropriate regulatory requirements and providing transitional arrangements to allow services time to adjust

Proposed Children's Services Regulations 2020

- Reflect the amendments to the Children's Services Act
- Regulatory requirements in the proposed Children's Services Regulations 2020 are in the following areas:
 - Approval processes and service types
 - Staffing: educator to child ratios, and educator qualifications
 - Educational program and relationships with children
 - Indoor and outdoor space requirements
 - Safety, health and wellbeing of children
 - Policies, procedures and practices
 - Fees and waivers

Service types

- The Act will provide a new **approval process** for providers and services:
 - From a two-step premises approval to a **one-step integrated process** (one provider approval; can hold multiple service approvals)
 - From fixed-term licence to **perpetual service approval** (no need to renew)
 - Service approvals are **transferrable** between approved providers and **end** when surrendered or cancelled
- The current **licence structure** will also change to proposed new service types

Service types

The proposed Regulations streamline the former seven (7) licence types to two (2) service types:

Limited Hours

- Services that care for each child for not more than 3 hours per day, for up to 6 hours per week
- Could include **former** *Limited Hours (type 1) and Short term (type 2) licence types*

Occasional Care

- All other services
- Could include **former** *Standard, Limited Hours (type 2), Short term (type 1), and school holidays care licence types*

Existing licences will automatically convert to the new service types
Services can request to change to the other service type

Staff to child ratios

- There is a terminology change from “staff” to “**educator**” in the amended Act – this **acknowledges the professionalism of the sector** and reinforces the importance of education and care provided in services that offer short-term, ad hoc care
- When the current regulations were made in 2009, staffing ratios for very young children (aged birth to 3 years) were improved, with the expectation that ratios for children over 3 years of age would be addressed the next time the regulations were reviewed
- The proposed ratios align with those in the NQF, support the safety, health and wellbeing of children, and promote quality education and care
- There will be **simplified and clearer** ratio requirements for the different ages of children, **greater flexibility** in how the ratios are applied to mixed age groups, and **less onerous** minimum staffing requirements

Staff to child ratios

Regulations propose aligning ratios with the NQF

- All services must have at least 1 educator whenever children are in attendance
- To be counted in ratios, educators must be working directly with children
- Flexibility in counting ratios for mixed age groups

Age of children	Educator to child ratio
From birth to under 36 months	1 : 4
36 months and over (not including children over preschool age)	1 : 11
Over preschool age (enrolled in school)	1 : 15

- Services can go above ratios in emergency situations, but must notify the Regulatory Authority
- There must be adequate supervision at all times

Qualifications of staff – Limited Hours service type

***Limited Hours** = services that care for each child for not more than 3 hours per day, for up to 6 hours per week*

- Only educators required to meet the relevant ratios requirements need a qualification
- All educators must have **at least** an approved **Certificate III** level education and care qualification
- There is **no requirement** to employ a diploma qualified educator or early childhood teacher for Limited Hours services

Educator qualifications directly impact the quality of education and care

Qualifications of staff – Occasional Care service type

Occasional Care = all other services that are not Limited Hours services

- Only educators required to meet the relevant ratios requirements need a qualification
- All educators must have or be actively working towards at least an approved **Certificate III** qualification
- At least 50% of educators must have or be actively working towards at least an approved **Diploma** level qualification
- Services providing care to any child for **more than 30 hours** per week on average over any given 4 week period - must have an **early childhood teacher** in attendance for:
 - at least 50% of the time the service is operating or
 - 20 hours per week (whichever is lower)
- 'Approved qualifications' are those approved for the NQF by ACECQA (the National Authority under the NQF)

'Actively working towards' means...

Educators are considered '**actively working towards**' a **Certificate III** level qualification if they are:

- Enrolled in the course and have started study
- Making satisfactory progress towards completion, AND
- Meeting requirements to maintain enrolment

Educators are considered '**actively working towards**' a **Diploma** level qualification if they:

- Can satisfy all of the above requirements, AND
- Hold an approved Certificate III level qualification, OR
- Have completed the approved Cert III units, OR
- Have completed 30% of the units in an approved ECT qualification

Flexibility for educator qualifications in Occasional Care service type

Regulations propose the flexibility to recognise educators:

- who are **actively working towards** at least a diploma level qualification
- who have not yet commenced study to be counted in ratios during a **3 month probationary period** prior to their enrolment in at least a Certificate III qualification
- Students and volunteers can be counted in ratios if they are actively working towards an early childhood qualification
- This could include students on placements or practicum

First aid qualifications

Regulations propose less onerous requirements for first aid training across the service

All services **must** ensure that **at least 1 staff member or 1 nominated supervisor:**

- is **in attendance** and immediately available in an emergency
- on the premises has an **approved:**
 - first aid qualification
 - anaphylaxis management training
 - emergency asthma management training

Asthma management training is not required until 1 January 2022

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Educational program and relationships with children

The programming requirement in the revised Act is a step up and aims to set children up for life-long learning

Many children's services are already using the approved learning frameworks – so this will not be a change from what you are already doing

Requirement for educational program – in the Act

- The amended Children's Services Act requires a program based on an **approved learning framework**, that is
- **delivered** in a manner that accords with the approved learning framework,
- **based** on the developmental needs, interests and experiences of each child, and which
- is **designed** to take into account the individual difference of each child.
 - Victorian Early Years Learning & Development Framework
 - Early Years Learning Framework
 - My Time, Our Place



Program documentation

- Documenting child assessments or evaluations for delivery of educational program will involve:
 - Assessment of child's developmental needs, interests, experiences and participation and progress on outcomes
 - When preparing the documentation, consider the period of time that the child is being educated and cared for by the service and how the documentation will be used by educators
 - Ensure information about the educational program is readily understandable and made available on premises
 - Provide information about the educational program to parents on request

Interactions and relationships with children

- Proposed regulations include more explicit requirements for:
 - Interactions with children
 - Relationships in groups

Programming support

- **Information and resources to help** services develop programs appropriate to their service will be provided
- There is a **guide to programming in limited hours services** already available on our [website](#) (under Resources > Guides)
- This guide will be updated before May to reflect the current edition of the VEYLDF and ensure it provides best practice advice
- [Educators' guides](#) are currently available to support the approved learning frameworks, including [resources](#) to support the VEYLDF

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Indoor and outdoor space requirements

Indoor and outdoor space requirements

Service Type	Indoor space	Outdoor space
Limited Hours	<ul style="list-style-type: none"> • Must provide 3.25 square metres per child • No second babies room required 	<ul style="list-style-type: none"> • No requirement
Occasional Care	<ul style="list-style-type: none"> • Must provide 3.25 square metres per child • No second babies room required 	<ul style="list-style-type: none"> • Must provide 7 square metres per child or have access to public outdoor space • Grandfathering provision for existing services without outdoor space

- **Verandah** – may be included in indoor space with Regulatory Authority’s approval. If calculated in outdoor space area, it cannot also be calculated in indoor space area (and vice versa)
- **Fencing** – outcomes based i.e. premises is enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it

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Safety, health and wellbeing of children

Safety of children

Awareness of child protection law

- All services must ensure that nominated supervisors and staff at the service are advised of the existence and application of child protection law and any obligations that applies under the law
- Includes mandatory reporting, Child Safe Standards and Reportable Conduct.

Risk assessments and authorisations for excursions

- More comprehensive considerations in risk assessments
- More detailed authorisations for excursions

Medical conditions

- Current requirements for policies and procedures in anaphylaxis management will apply to **all** medical conditions.
- Medical conditions policy which includes requirement:
 - for a medical management plan for each child with a medical condition
 - for a risk minimisation plan for each child with a medical condition
 - to develop a communications plan

Medical Conditions Policy will commence 1 January 2021

Policies and procedures



Policies and procedures

- Comprehensive set of policies and procedures required from 1 January 2021
- Many policies and procedures are already in place - there will be a few additional requirements
- Current requirements for policies, procedures and documentation/information to be made available will remain in place until 1 January 2021
- Template policies, procedures and resources are readily available and should be tailored to your service. Resources available at:
www.ecrh.edu.au

Policies and procedures

Current

- Delivery and collection of children
- Excursions
- Dealing with infectious diseases
- Emergency and evacuation
- Incident, injury trauma and illness
- Enrolment and orientation
- Payment of fees
- Staffing
- Dealing with complaints
- Anaphylaxis management
- Behaviour management

Additional

- Health and safety (including water safety and sleep)
- Acceptance and refusal of authorisations ([more information](#))
- Dealing with medical conditions
- Providing a child safe environment
- Interactions with children
- Governance and management of the service

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Notifications to Regulatory Authority

Notification requirements

Streamlined notification requirements are aligned with NQF and include:

- Circumstances posing a risk to the safety health and wellbeing of children
- Allegations of physical or sexual abuse
- Complaints
- One notification requirement – in writing with specified timeline – no longer phone notification
- [More information](#) on notification of incidents and complaints under the NQF
- ACECQA's [summary of notification types and timeframes](#) under the NQF

Proposed Fees



Proposed fee structure

- Fee structure will support amended CS Act—approvals and other processes
- Approvals fees differ by service category and size (approved places)
- Licence renewal fees replaced by annual service fee
- Fixed fees for new processes e.g. application for service waiver
- Many fees no longer prescribed e.g. application for approval of new nominee
- Fees are consistent with and proportional to the NQF fees
- Fees recognise nature of sector—many not-for-profit and small services
- Fees do not represent cost recovery and are not for the purpose of raising revenue

Modest increases in some cases will be offset by reduction in administrative burden and costs (e.g. of updating police checks)

Transition



Transition

There will be time to adjust to the new requirements:

- Grandfathering (**savings** provisions) will maintain the status quo for some services where they cannot meet new requirements – e.g. outdoor space
- **Service waivers** will be available for specific requirements
- **Transitional** provisions provide time to adjust to the new requirements
- We will provide **guidance and support** throughout the implementation process of any new changes

Transitional timeline

New Services	Existing Services	All Services
<ul style="list-style-type: none">➤ Must meet all requirements by 17 May 2020	<ul style="list-style-type: none">➤ Must meet new requirements in relation to policies and procedures by 1 January 2021➤ Must meet other new or amended operational requirements (e.g. staffing, qualifications, asthma management training) by 1 January 2022	<ul style="list-style-type: none">➤ New annual service fee payment will be applicable from 1 July 2021

Guidance and support will be provided throughout the implementation process

Questions



Tell us what you think...

Visit **Engage Victoria**

www.engage.vic.gov.au

- **Read** the Regulatory Impact Statement and proposed Regulations
- **Complete** a short survey
- **Submit** a written response

Closes at midnight on
Tuesday 17 March 2020



Document Library



Children's Services Regulations 2020-Exposure Draft
PDF (368.45 KB)



Children's Services Regulations 2020-Regulatory Impact Statement-Feb2020
PDF (4.15 MB)



Children's Services Regulations 2020-Regulatory Impact Statement-Feb2020
MS Word (762.73 KB)

Tell us what you think

Your views on the proposed regulations and the options presented in the Regulatory Impact Statement (RIS) will inform the final Children's Services Regulations 2020

[ONLINE SURVEY](#)

[SUBMIT A WRITTEN RESPONSE](#)

[REGISTER FOR A SESSION](#)

For more information

Children's Services Law Reform
Department of Education and Training

- email: cs.law.reform@edumail.vic.gov.au
- website: [Children's Services Law Reform](#)
- consultation website: www.engage.vic.gov.au

Written submissions can also be **posted** to:

- Children's Services Regulations 2020
Department of Education and Training
Level 20, 80 Collins Street
Melbourne 3000

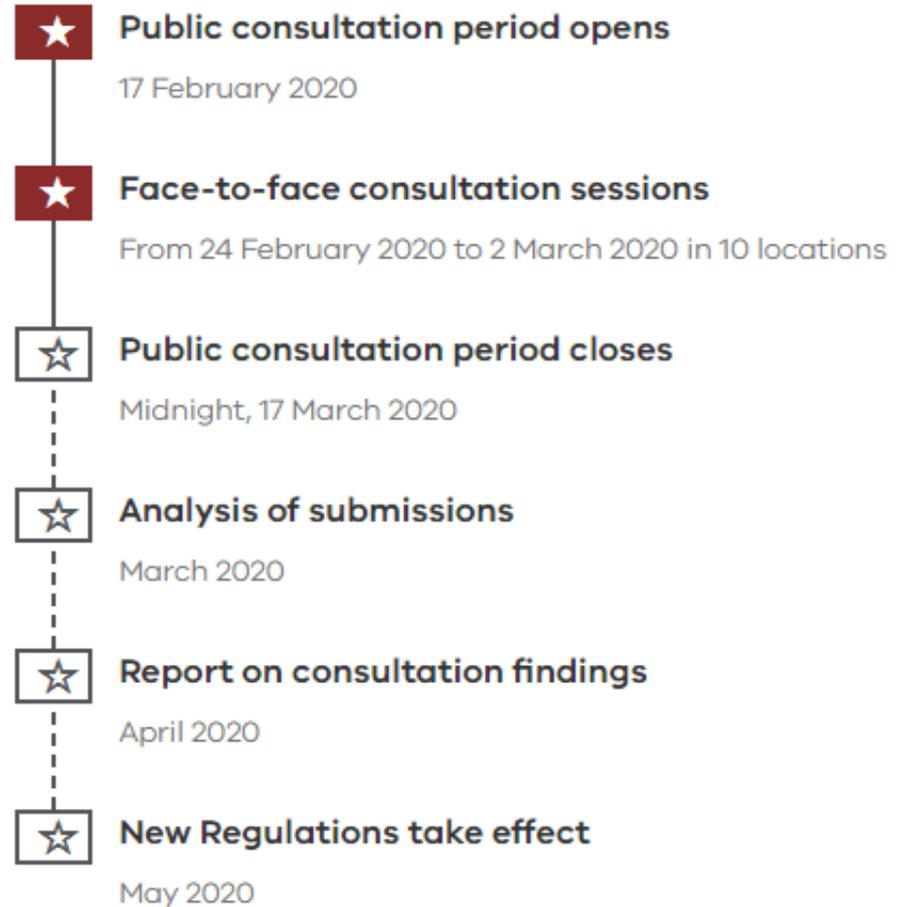
Consultation period **closes at midnight, Tuesday 17 March 2020**

Next steps...

Your say matters

- All feedback will be summarised and published on the DET website
- All feedback will inform the development of the final Children's Services Regulations 2020
- We will keep you informed about implementation

Timeline



Thank you