



New South Wales

Children (Education and Care Services) Supplementary Provisions Regulation 2012

under the

Children (Education and Care Services) Supplementary Provisions Act 2011

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Education and Care Services) Supplementary Provisions Act 2011*.

ADRIAN PICCOLI, MP
Minister for Education

Explanatory note

The object of this Regulation is to remake, with minor amendments, the *Children (Education and Care Services) Supplementary Provisions Regulation 2004*, which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation deals with State regulated education and care services, which include home based education and care services, mobile education and care services and centre based education and care services. Other education and care services are regulated by the *Children (Education and Care Services) National Law (NSW)*.

This Regulation makes provision for and with respect to the following:

- (a) approvals for State regulated education and care services and service providers, including the application fees and annual fees payable for service approvals,
- (b) the application of the regulations made under the *Children (Education and Care Services) National Law (NSW)* to State regulated education and care services,
- (c) the requirements for facilities, equipment, staffing and child numbers and other operational and administrative requirements for State regulated education and care services,
- (d) approved child-minding services in retail shopping centres,
- (e) other miscellaneous matters.

This Regulation is made under the *Children (Education and Care Services) Supplementary Provisions Act 2011*, including sections 28, 29, 32, 35 and 36 (the general regulation-making power).

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Children (Education and Care Services) Supplementary Provisions Regulation 2012

under the

Children (Education and Care Services) Supplementary Provisions Act 2011

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Children (Education and Care Services) Supplementary Provisions Regulation 2012*.

2 Commencement

This Regulation commences on 1 September 2012 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Children (Education and Care Services) Supplementary Provisions Regulation 2004*, which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

adult means a person who is of or above the age of 18 years.

approved means approved by the Regulatory Authority.

Building Code of Australia has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

child protection legislation means the *Children and Young Persons (Care and Protection) Act 1998*, the *Commission for Children and Young People Act 1998* and Part 3A of the *Ombudsman Act 1974*.

contractor, in relation to an education and care service, means a person engaged by the approved provider of the education and care service to perform a service on the premises of the education and care service, but does not include:

(a) a person engaged by a contract of employment, or

(b) a person engaged to deliver any item to the service.

developmental record of a child means an ongoing record of all aspects of the individual development of the child.

duly certified means certified in accordance with guidelines approved by the Regulatory Authority.

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Part 1 Preliminary

education and care service means a State regulated education and care service.

excursion means an activity carried out for a recreational or educational purpose:

- (a) in the case of a centre based or mobile education and care service, under the supervision of one or more members of staff of the service at a place other than the premises of the service, and
- (b) in the case of a home based education and care service, under the supervision of the home based service provider at a place other than the home of the home based service provider.

function includes a power, authority or duty and **exercise** a function includes perform a duty.

group of children, in relation to a centre based or mobile education and care service, means one or more children supervised by one or more members of the primary contact staff of the service in:

- (a) an individual room or well-defined space within a room, or
- (b) a part of a room that is recognisably a space for a group, or
- (c) a well-defined outdoor area that is recognisably a space for a group.

home based service provider means the approved provider of a home based education and care service.

home of a home based service provider means the premises at which the approved provider of a home based education and care service resides for most of the time.

local authority means a council or a county council within the meaning of the *Local Government Act 1993*.

National Law Regulations means the national regulations made under the National Law, as in force from time to time.

nominated supervisor of an education and care service means a certified supervisor nominated as the nominated supervisor of the service.

parent of a child has the same meaning as in the National Law Alignment Provisions.

premises includes a structure, building, vehicle, vessel or place (including a public or other place), whether built on or not, and any part of such a structure, building, vehicle, vessel or place.

premises of a centre based education and care service means the premises at which a centre based education and care service is provided as specified in the service approval for the service, and includes any part of those premises.

premises of a mobile education and care service means any premises at which a mobile education and care service is provided from time to time as specified in the service approval for the service, and includes any part of those premises.

premises of an education and care service means:

- (a) in relation to a centre based education and care service, the premises of the service, and
- (b) in relation to a mobile education and care service, the premises of the service, and
- (c) in relation to a home based education and care service, the home of the home based service provider.

prescribed modifications—see Division 5 of Part 2.

primary contact staff, in relation to a centre based or mobile education and care service, means:

- (a) any member of the staff of the service who is directly involved in educating or caring for children at the service, or
- (b) the approved provider of the service at any time while the approved provider is directly involved in educating or caring for children at the service, or
- (c) a trainee who is at the service as a formal part of studies at an educational institution,

but does not include:

- (d) a person who is engaged solely in administrative, clerical or domestic duties at the service, or
- (e) a person who is at the service for the purpose of work experience, or
- (f) a volunteer who is assisting in the provision of the service.

registered training organisation means an NVR registered training organisation within the meaning of the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

relative of a person means:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, or
- (b) a spouse or de facto partner of the person or of a person referred to in paragraph (a).

school age child means a child who is of or above the age of 4 years and 6 months.

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Clause 4

Part 1

Preliminary

school based education and care service means a State regulated education and care service that is conducted by a school within the meaning of the *Education Act 1990*.

school child means a child who has started attending school.

staff of a education and care service means those persons employed for remuneration by the approved provider of the service who are engaged in the provision of the service.

TAFE establishment has the same meaning as in the *Technical and Further Education Commission Act 1990*.

the Act means the *Children (Education and Care Services) Supplementary Provisions Act 2011*.

trainee means a person who is enrolled at a registered training organisation in an approved child care course.

volunteer, in relation to a service, means a person who assists in the provision of the service but is not employed or engaged for remuneration in relation to that assistance.

(2) Notes included in this Regulation do not form part of this Regulation.

4 Meaning of “required abilities to care for children”

For the purposes of this Regulation, a person has the *required abilities to care for children* if the person:

- (a) is sympathetic to the welfare of children, and
- (b) has adequate knowledge and understanding of children and families so as to be capable of meeting their needs, and
- (c) is able adequately to care for and supervise children, and
- (d) is of suitable maturity, health and personality to care for children.

Part 2 General

Division 1 Provider approvals

5 Provider approvals

Part 2.1 of the National Law Regulations applies, with the prescribed modifications, to a provider approval under the Act in the same way as it applies to a provider approval under the National Law.

6 Additional information to be provided by applicant for provider approval for home based education and care service

- (1) An application for a provider approval authorising the provision of a home based education and care service must be accompanied by:
 - (a) information to demonstrate that the applicant:
 - (i) has the required abilities to care for children, and
 - (ii) has experience in caring for children, and
 - (iii) has demonstrated a capacity to exercise overall supervision of the provision of an education and care service, and
 - (iv) has an understanding of nutrition, safe food handling, health, hygiene and safety in caring for children, and

Note. The required abilities to care for children are specified in clause 4.
 - (b) a copy of the applicant's current approved first aid qualification and evidence of any approved anaphylaxis or emergency asthma management training completed by the applicant.
- (2) The information required to be provided under this clause is additional to the other information required to be provided under this Division.

7 Conditions of provider approval

For the purposes of section 19 (1) of the National Law Alignment Provisions, the conditions of a provider approval are the provisions of Parts 3, 4, 5, 6 and 7 of this Regulation that are relevant to the type or types of education and care services that are provided by the approved provider.

Note. Section 12 of the Act makes it an offence to contravene a condition of a provider approval.

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Clause 8

Part 2

General

Division 2 Service approvals

8 Service approval

- (1) Part 2.2 of the National Law Regulations applies, with the prescribed modifications, to a service approval under the Act in the same way as it applies to a service approval under the National Law, subject to subclause (2).
- (2) Regulations 26, 29, 30, 31 and 37, and Divisions 5 and 6 of Part 2.2, of the National Law Regulations do not apply in respect of service approvals under the Act.

9 Additional information—mobile education and care service

- (1) An application for a service approval authorising the operation of a mobile education and care service must be accompanied by the following information and documents:
 - (a) the addresses of the premises where the service will be provided,
 - (b) if an occupation certificate is required under the *Environmental Planning and Assessment Act 1979* for the proposed use of the premises for a mobile education and care service, a copy of the certificate.
- (2) The information required to be provided under this clause is additional to the other information required to be provided under this Division.

10 Venue management plan—mobile education and care service

- (1) An application for a service approval authorising the operation of a mobile education and care service must be accompanied by:
 - (a) a statement as to whether any of the premises at which the service is proposed to be provided do not comply with the requirements relating to facilities and equipment specified in Part 3 that are applicable to a mobile education and care service, and
 - (b) if so, a plan describing how the applicant intends to ensure the safety and well-being of children at those premises.
- (2) The information required to be provided under subclause (1) is additional to the other information required to be provided under this Division.
- (3) The Regulatory Authority:
 - (a) may approve a plan submitted under subclause (1) (b), or
 - (b) may require the applicant to revise the plan as to any matter or in any respect specified by the Regulatory Authority.

- (4) A revised plan may be resubmitted to the Regulatory Authority for the approval of the Regulatory Authority.
- (5) The Regulatory Authority must refuse to grant a service approval authorising the operation of a mobile education and care service if:
 - (a) a plan is required to be submitted under this clause, and
 - (b) the plan has not been submitted or not been approved by the Regulatory Authority.
- (6) A plan approved by the Regulatory Authority under this clause is a *venue management plan*.
- (7) An approved provider of a mobile education and care service who intends to change a venue management plan must apply to the Regulatory Authority:
 - (a) for approval of the revised venue management plan, and
 - (b) for an amendment to the service approval for the service to reflect the revised venue management plan.
- (8) An application for an amendment to a service approval that is made as required by this clause must include, in addition to the information required in relation to an amendment under the National Law Regulations, a copy of the revised venue management plan.

11 Application fee

For the purposes of section 44 (1) (e) of the National Law Alignment Provisions, the fee for an application for a service approval is the fee specified in Schedule 3 in relation to the application concerned.

12 Copy of service approval

For the purposes of section 52 (i) of the National Law Alignment Provisions, the matters to be stated in a copy of a service approval are (in addition to the matters provided for by section 52):

- (a) the type of education and care service for which the service approval has been granted, and
- (b) the date on which the annual fee is due.

13 Annual fee for service approvals

- (1) For the purposes of section 53 of the National Law Alignment Provisions, the annual fee in respect of each service approval held by an approved provider is the fee specified in Schedule 3 in relation to the education and care service concerned.

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Clause 14

Part 2

General

- (2) An application for a service approval must be accompanied by the relevant annual fee (which is first payable when the application is made).
- (3) An annual fee is next payable on the first anniversary of the date the service approval is granted and on every anniversary of that date after that.

14 Refund or waiver of annual fee

- (1) The Regulatory Authority may refund an annual fee that is required to accompany an application for a service approval if:
 - (a) the Regulatory Authority refuses to grant the approval, or
 - (b) the applicant withdraws the application before the Regulatory Authority grants the approval.
- (2) The Regulatory Authority may waive or refund the whole, or any part, of the annual fee for an approval if the Regulatory Authority is satisfied that there are exceptional circumstances that justify waiving the whole or part of the annual fee.

15 Conditions of service approvals

- (1) For the purposes of section 51 (5) of the National Law Alignment Provisions, the conditions of a service approval are the provisions of Parts 3, 4, 5, 6 and 7 of this Regulation that are relevant to the type of education and care service authorised by the approval.
- (2) It is also a condition of a service approval that the approved provider of the approved education and care service must develop, maintain and implement procedures to ensure that the nominated supervisor and all other members of staff of the education and care service comply with the provisions of this Regulation that apply to them.
- (3) It is also a condition of a service approval that the approved provider of the approved education and care service must have the right to occupy the premises at which the service is provided under the approval.
- (4) It is also a condition of a service approval for a home based education and care service that the home based service provider provide that education and care service only at the home of the home based service provider.

Note. Section 14 of the Act makes it an offence to contravene a condition of a service approval.

Division 3 Supervisor certificates

16 Supervisor certificates

- (1) Part 2.3 of the National Law Regulations applies, with the prescribed modifications, to supervisor certificates under the Act in the same way as it applies to supervisor certificates under the National Law, subject to subclause (2).
- (2) Regulations 47 and 54 of the National Law Regulation do not apply in respect of supervisor certificates under the Act.

17 Minimum requirements for qualifications and experience

- (1) For the purposes of sections 108 (1) (b) and 112 (c) of the National Law Alignment Provisions, the following are the minimum requirements for qualifications and experience:
 - (a) the required abilities to care for children and the capacity to exercise overall supervision of the provision of an education and care service,
Note. The required abilities to care for children are specified in clause 4.
 - (b) successful completion of an approved course in child protection (being a course that covers all applicable requirements under the child protection legislation),
 - (c) one or more of the following qualifications:
 - (i) an approved degree or diploma in early childhood education from a university following a course with a duration (on a full-time basis) of not less than 3 years,
 - (ii) a Diploma of Children's Services (Early Childhood Education and Care), a Child Care Certificate, a Certificate of Child Care Studies or an Associate Diploma of Social Science (Child Studies) from a registered training organisation,
 - (iii) another approved qualification,
 - (d) 12 months' full-time experience or its equivalent in part-time experience in providing a relevant education and care service (gained after obtaining the qualification referred to in paragraph (c)).
- (2) An application for a supervisor certificate must be accompanied by:
 - (a) duly certified copies of the person's qualification referred to in subclause (1) (c) and of any other of the person's qualifications in the area of education and care services or any related area (such as a diploma, certificate of competency or statement of attainment from a registered training organisation), and

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Clause 18

Part 2

General

- (b) work references from 2 independent referees (being individuals who are not relatives of the person) describing the person's performance during the training or work experience referred to in subclause (1) (d).
- (3) The information required to be provided under this clause is additional to the other information required to be provided under this Division.

18 Conditions of supervisor certificates

For the purposes of section 115 (1) of the National Law Alignment Provisions, the conditions of a supervisor certificate are the provisions of Parts 3, 4, 5, 6 and 7 of this Regulation that are relevant to the supervisor as a nominated supervisor.

Note 1. See clauses 46, 51, 53, 62–71, 73, 74, 76–83, 92, 94–96 and 106.

Note 2. Section 16 of the Act makes it an offence to contravene a condition of a supervisor certificate.

Division 4 Application of other provisions of National Law Regulations

19 Application to cancel prohibition notice

Regulation 189 of the National Law Regulations applies, with the prescribed modifications, for the purposes of section 186 (3) (b) of the National Law Alignment Provisions.

Note. Regulation 189 of the National Law Regulations sets out the information to be included in an application to the Regulatory Authority to cancel a prohibition notice.

20 Identity cards for authorised officers

An identity card issued to an authorised officer under the National Law is taken to be in the prescribed form, for the purposes of section 196 of the National Law Alignment Provisions, if:

- (a) it complies with Regulation 187 of the National Law Regulations, and
- (b) it also states that the officer is authorised to exercise functions as an authorised officer under the *Children (Education and Care Services) Supplementary Provisions Act 2011*.

21 Register of approved education and care services

- (1) Regulation 230 of the National Law Regulations applies, with the prescribed modifications, for the purposes of section 267 (2) (f) of the National Law Alignment Provisions.

- (2) The reference in Regulation 230 of the National Law Regulations to centre based services is to be read as a reference to a centre based education and care service or mobile education and care service.

Note. Regulation 230 of the National Law Regulations sets out additional information required to be included in the register of approved education and care services.

22 Publication of information

Regulations 226 and 227 of the National Law Regulations apply, with the prescribed modifications, for the purposes of section 270 of the National Law Alignment Provisions.

Note. Regulations 226 and 227 of the National Law Regulations deal with the publication of information by the Regulatory Authority about approved providers, approved education and care services and certified supervisors.

Division 5 Modifications to National Law Regulations

23 Prescribed modifications—meaning

The provisions of this Division are the prescribed modifications to the National Law Regulations.

24 Interpretation of references

- (1) For the purposes of this Regulation, a reference in the National Law Regulations to a provision of the National Law is to be read as a reference to the corresponding provision of the National Law Alignment Provisions.
- (2) For the purposes of this Regulation:
- (a) a reference in the National Law Regulations to a provider approval, service approval or supervisor certificate is to be read as a reference to a provider approval, service approval or supervisor certificate (as the case requires) under the Act (instead of the National Law), and
 - (b) a reference in the National Law Regulations to an approved provider or a certified supervisor is to be read as a reference to an approved provider or a certified supervisor (as the case requires) under the Act (instead of the National Law).
- (3) For the purposes of this Regulation, sections 22, 24 and 26 of the Act apply in relation to the National Law Regulation in the same way they apply in relation to the National Law.

25 Fees

- (1) For the purposes of this Regulation, fees prescribed by the National Law Regulations are to be disregarded.

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Clause 26

Part 2

General

- (2) The fees applicable in relation to State regulated education and care services are the fees (if any) provided for by this Regulation.

Division 6 Miscellaneous**26 Waiver and postponement of certain application requirements**

The Regulatory Authority may waive or postpone a requirement to provide specified information or documents under this Part, or may approve the provision of specified information or documents in place of information or documents the subject of such a requirement.

27 Associated children's services

The Regulatory Authority may dispense with the requirement to obtain a service approval in respect of an associated children's service (within the meaning of the National Law) that is authorised by a service approval under the National Law.

Part 3 Facilities and equipment requirements

Division 1 Facilities

28 Space requirements—centre based education and care services

- (1) The premises of a centre based education and care service must have:
 - (a) a room or an area that is used only for administration of the service and for private consultation between staff and parents, and
 - (b) a room or an area, located away from the areas used by children, that is used for respite of staff, and
 - (c) a room or an area that is used only for sleeping for children under 2 years of age.
- (2) The premises of a centre based education and care service must have at least 3.25 square metres of unencumbered indoor play space per child that is exclusively for the use of children provided with education and care while in attendance at the service.
- (3) For the purposes of calculating unencumbered indoor play space, items such as any passage way or thoroughfare, door swing areas, kitchen, cot rooms, toilet or shower areas located in the building or any other facility such as cupboards and areas set aside as referred to in subclause (1) are to be excluded.
- (4) Subject to subclauses (7) and (8), the premises of a centre based education and care service must have at least 7 square metres of useable outdoor play space per child that is exclusively for the use of children provided with education and care while in attendance at the service.
- (5) For the purposes of calculating useable outdoor play space, items such as car parking areas, storage sheds and other fixed items that prevent children from using the space or that obstruct the view of staff supervising children in the space are to be excluded.
- (6) The outdoor play space must be adequately shaded, having regard to *The Shade Handbook*, published by the New South Wales Cancer Council in 2008.
- (7) If the Regulatory Authority is satisfied that the location of a centre based education and care service makes it impracticable to provide the required amount of useable outdoor play space, the Regulatory Authority may consent to the provision of some or all of that space in an indoor area that is to be designed and equipped to permit children to participate in activities that promote gross motor skills.

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Part 3 Facilities and equipment requirements

- (8) The Regulatory Authority may impose conditions on such a consent relating to any matter the Regulatory Authority sees fit, including the availability of natural light and ventilation.

29 Laundry

(1) **All education and care services**

An education and care service must have laundry arrangements, whether on the premises of the service or through another facility, service or arrangement.

- (2) The premises of an education and care service must have safe, sanitary facilities for the storage of soiled clothes, linen and nappies before laundering or disposal.

(3) **Centre based education and care service**

A centre based education and care service that provides children under 3 years of age with the service must have laundry facilities available on the premises of the service, being facilities that include at least a laundry tub connected to both hot and cold water.

30 Craft preparation facilities—centre based or mobile education and care service

- (1) The premises of a centre based or mobile education and care service must have separate facilities (including a sink, bench top and lockable cupboard) for use in craft activities.

- (2) The area must not be next to any food preparation facilities or nappy change area at the premises.

31 Food preparation facilities

- (1) Facilities in the designated area must include a stove or microwave, sink, refrigerator, suitable disposal facilities and hot water supply.

- (2) The premises of an education and care service must have a designated area, that is both safe and hygienic, for food preparation and storage.

- (3) Facilities for the preparation and storage of food must be designed, located and maintained so as to prevent children from gaining access to any harmful substance, equipment or amenity.

- (4) Without limiting subclause (3), if the premises of a centre based or mobile education and care service contains a separate kitchen, the kitchen must have a door, half-gate or other barrier to prevent unsupervised entry by children into the kitchen.

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- (5) In addition to a food preparation area, a centre based education and care service must also have a designated area, that is both safe and hygienic, for the preparation of bottles for children under the age of 2 years.
 - (6) Any area in which bottles are prepared for children under the age of 2 years, whether in a centre based education and care service or any other education and care service, must be separate from any area in which nappy changing facilities are provided.
 - (7) Despite subclause (1), a mobile education and care service may provide food preparation and storage facilities through another facility, service or regular arrangement if food preparation and storage facilities are not available on the premises used by the mobile education and care service.

32 Toilets and washing facilities

The premises of an education and care service must have toilet, hand washing and bathing facilities that are safe and appropriate to the ages of the children at the service and must have products and equipment for cleaning those facilities whenever necessary.

33 Nappy change facilities

(1) All education and care services

The following facilities must be provided at the premises of an education and care service if any child provided with the service wears nappies:

- (a) a stable surface for changing nappies, together with a mat that has an impervious washable surface, for every 10 children (or part thereof),
 - (b) hand washing facilities for adults in the immediate vicinity of the nappy changing area,
 - (c) sanitary facilities for the storage of soiled nappies pending laundering or disposal of the nappies,
 - (d) if the children's soiled clothing is laundered by the staff of the education and care service, adequate facilities for laundering the clothing or otherwise dealing hygienically with waste,
 - (e) facilities for the storage of clean nappies.
- (2) If any such child is under the age of 3 years, the stable surface referred to in subclause (1) (a) is to be a properly constructed nappy changing bench.
 - (3) Any nappy changing bench or mat must be cleaned after each use.
 - (4) The nappy changing facilities must be designed, located and maintained so as to prevent unsupervised access by children.

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- (5) The nappy changing facilities must be separated from food preparation facilities and craft preparation facilities.
- (6) **Centre based education and care service**
In addition to the facilities referred to in subclause (1), the premises of a centre based education and care service must be equipped with the following:
 - (a) an age appropriate washing facility with temperature regulated hot and cold running water in, or adjacent to, the nappy change area,
 - (b) a sluice or contaminated waste disposal unit in the nappy change area.
- (7) Nothing in subclause (6) prevents the premises of a centre based education and care service from being equipped with an additional movable nappy changing bench. However, if such a bench is provided it must provide a stable surface on which to place a child when changing nappies.

34 Sleeping facilities

- (1) The premises of an education and care service must have an adequate number of cots, beds, stretchers or sleeping mats (together with waterproof covers) or other culturally appropriate forms of bedding for all children who sleep while at the premises.
- (2) For the purposes of subclause (1), the ages of children at the service, the program of activities of the service and hours of operation of the service are to be taken into account when determining adequate sleeping facilities.
- (3) Provision must be made at the premises of an education and care service to ensure that:
 - (a) mattresses and other bedding are clean and comfortable, and
 - (b) bed clothing is appropriate to the climate, and
 - (c) all bed clothing is kept clean and in good repair, and
 - (d) there is individual bed linen and blankets for each child, and
 - (e) children do not share the same bed at the same time, and
 - (f) bed linen used by one child is washed before it is used by another child, and
 - (g) no child who is of or above 7 years of age sleeps in the same room as another child of the opposite sex who is not a relative, and

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- (h) no child who is of or above the age of 2 years, and (except with the written consent of a parent of the child) no child who is under the age of 2 years, sleeps in a room in which an adult is sleeping.
 - (4) Cots, beds, stretchers, mattresses and other bedding at the premises of an education and care service must be arranged so as:
 - (a) to be in an area that has natural light, and
 - (b) to allow easy exit of any child, and
 - (c) to allow easy access to any child, and
 - (d) to reduce the risk of cross infection between children.
 - (5) A sleeping area for children must be designed to ensure that all children in the area are readily accessible to staff of the service or the home based service provider.
 - (6) Cots must comply with the requirements of either the Australian/New Zealand Standard AS/NZS 2172:2010, *Cots for household use—Safety requirements* or the Australian/New Zealand Standard AS/NZS 2195:2010, *Folding cots—Safety requirements*.

35 Storage facilities

(1) All education and care services

The premises of an education and care service must have storage facilities (whether fixed or movable) that are secure and inaccessible to children.

(2) Centre based or mobile education and care service

The premises of a centre based or mobile education and care service must have:

- (a) storage facilities for indoor and outdoor equipment, and
 - (b) storage facilities that give each child provided with the service at the premises access to a space for storage of the child's personal belongings.
- (3) Equipment used for providing a mobile education and care service may be stored at any premises at which the service is provided, at the offices of the service or in any vehicle used to transport equipment used for providing the service.

36 Swimming pools

(1) Centre based or mobile education and care services

There must not be a swimming pool (within the meaning of the *Swimming Pools Act 1992*) on the premises of any centre based or mobile education and care service unless the pool existed on the

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premises before 6 November 1996. Any such existing pool must be fenced in accordance with the *Swimming Pools Act 1992* (whether or not that Act applies to the swimming pool concerned).

(2) **Home based education and care services**

Any swimming pool at the premises of a home based service provider must be fenced to the standard to which a new swimming pool would be required to be fenced under the *Swimming Pools Act 1992*.

37 Venue management plans—mobile education and care services

The approved provider of a mobile education and care service for which there is a venue management plan (within the meaning of clause 10) must ensure that the premises of the service comply with the plan for those premises.

Division 2 Equipment

38 Telephone

- (1) The premises of an education and care service must be equipped with an operating telephone or two-way radio capable of communication with, at least, the nearest police station, ambulance station, fire service, and medical emergency facility and that is readily accessible to staff of the service.
- (2) The telephone may include a mobile telephone, but only if the telephone has a reception adequate for communication as referred to in subclause (1) and is maintained in a state of operation such that it may be used immediately at any time.

39 Development and play equipment

(1) **All education and care services**

Play equipment (whether fixed or not) used on the premises of an education and care service must not constitute a hazard to children at the service because of:

- (a) the height from which a child can fall, or
 - (b) the likelihood that a child can be trapped, pinched or crushed in the equipment or struck by it, or
 - (c) sharp or rough edges and projections or rust, or
 - (d) lack of stability.
- (2) Play equipment used on the premises must be safe and in good repair.
 - (3) All broken equipment and broken toys must immediately be removed from play areas.

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- (4) The premises of an education and care service must have independent access for children to books and equipment that are suitable to the children's development and needs and that are representative of a diverse range of cultures.
- (5) **Centre based or mobile education and care service**
The premises of a centre based or mobile education and care service must be equipped with a balance of indoor and outdoor equipment to meet the developmental and other needs of children that is readily available for use by the children and staff of the service.
- (6) In determining the balance of types of equipment and the sufficiency of equipment for the purposes of subclause (5), the age, number and interests of the children provided with the service must be taken into account.
- (7) The surfacing used underneath or around play equipment on the premises of a centre based education and care service must comply with the requirements of Australian and New Zealand Standard AS/NZS 4422:1996 *Playground surfacing—Specifications, requirements and test method*.
- (8) **Home based education and care service**
The home of a home based service provider must be equipped with equipment that:
- (a) is adequate and sufficient to meet the individual interests and capabilities of each child provided with the service, and
 - (b) is readily available for use by children and the home based service provider.
- (9) In determining the adequacy and sufficiency of equipment for the purposes of subclause (8), the age, number and interests of children provided with the service must be taken into account.

40 First aid kits

- (1) There must be a suitably equipped and well stocked first aid kit at each premises of an education and care service.
- (2) The first aid kit must be inaccessible to children, but readily accessible to staff or a home based service provider.
- (3) Adult and child cardio-pulmonary resuscitation charts must be displayed in a prominent position both inside and outside the premises of a centre based or mobile education and care service, or the part of the home of a home based service provider used to provide the service.

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41 Fire safety equipment

- (1) The premises of an education and care service must be provided with:
 - (a) appropriately located smoke detectors, and
 - (b) a fire blanket that is kept adjacent to the cooking facilities at the premises, and
 - (c) appropriately located fire extinguishers.
- (2) All fire protection equipment with which the premises of a centre based or mobile education and care service, or the home of a home based service provider, is equipped must:
 - (a) be tested in accordance with the Australian Standard entitled AS 1851—2005, *Maintenance of fire protection systems and equipment*, and
 - (b) be kept in proper working condition.
- (3) The approved provider of an education and care service must ensure that a record is kept of any test of fire protection equipment carried out on the premises, including the date of the test and the name of the person who carried out the test. Any such record must be retained for a period of 2 years after the record is made.

Division 3 General

42 Ventilation, light and heating

- (1) The premises of an education and care service must have access to natural light and must be properly ventilated, lit and heated when children are being provided with the service.
- (2) All heating and cooling units on the premises of an education and care service must be adequately secured and guarded to prevent injury to children through contact with hot surfaces or moving parts or the emission of any sparks or flames.
- (3) The controls of all equipment on the premises that may be hazardous to children must be guarded to prevent access by children.
- (4) Fans on the premises or the home must be placed in a position that is inaccessible to children.

43 Hot water

(1) Centre based education and care service

Hot water from any outlet accessible to children at a centre based education and care service must be regulated to keep the temperature of water from the outlet below 43.5 degrees Celsius.

(2) **Home based education and care service**

Children under school age who are provided with an education and care service at the home of a home based service provider must not have unsupervised access to any hot water supply.

- (3) Children of school age who are provided with an education and care service at the home of a home based service provider must not have unsupervised access to any hot water supply unless the hot water supply is regulated so as to keep it below the temperature at which a child can be scalded.

44 Fencing

- (1) Any part of the premises of an education and care service that is designated for outdoor play space must be fenced on all sides.
- (2) The design and height of any fence or gate on the premises must prevent children from scaling or crawling under or through it and must inhibit or impede intruders from entering the premises.
- (3) Any side of a stairway, ramp, corridor, hallway or external balcony on the premises of an education and care service that is not abutting a wall must be enclosed to prevent a child being trapped or falling through.
- (4) All gates leading to or from the premises of an education and care service must be designed so as to prevent children from entering or leaving the premises unsupervised.
- (5) Child-proof barriers that are appropriate to the ages of children provided with the service must be provided at the top and bottom of stairs at the premises of an education and care service if the Regulatory Authority so requires by notice in writing served on the approved provider.

45 Glass

The approved provider of an education and care service must ensure that any glazed area of the premises of the education and care service that is in a room or other place accessible to children and is 0.75 metres or less above the level of the floor:

- (a) is glazed with safety glass, if the *Building Code of Australia* requires the area to be glazed with safety glass, or
- (b) in any other case:
 - (i) is treated with a product that prevents glass from shattering if broken, or
 - (ii) is guarded by barriers that prevent a child from striking or falling against the glass.

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46 Cleanliness, maintenance and repairs

- (1) The premises of an education and care service, and all equipment and furnishing used in providing the education and care service, must be maintained in a safe, clean and hygienic condition and in good repair at all times.
- (2) The approved provider and the nominated supervisor must use their best endeavours to ensure that any buildings and grounds on the premises are kept free of vermin and pests.
- (3) The premises must not be fumigated while children are attending the premises.
- (4) The premises of an education and care service must be fitted with appropriate devices that:
 - (a) are designed to prevent children from gaining access to power points or other electrical outlets, and
 - (b) are designed to minimise the risk of electrical shocks arising from electrical wiring.
- (5) The approved provider and the nominated supervisor of an education and care service must ensure that the premises of the service are kept clean of garbage, rubbish and rubble.

47 Safe environment—centre based or mobile education and care service

The approved provider of a centre based or mobile education and care service must comply with the requirements of the *Work Health and Safety Act 2011* that apply to the approved provider.

48 Repair of premises

If the Regulatory Authority directs the approved provider of a centre based, mobile or home based education and care service to effect any repairs or maintenance at the premises of the service, the approved provider:

- (a) if the approved provider owns the premises (or does not own the premises but has the responsibility in relation to the approved provider's occupation of the premises to effect repairs or maintenance of the kind directed), must comply with the direction within the time specified by the Regulatory Authority, or
- (b) if the approved provider does not own the premises and does not have the responsibility in relation to the approved provider's occupation to effect repairs or maintenance of the kind directed, must use the approved provider's best endeavours to ensure that

the owner of the premises carries out the repairs or maintenance
within the time specified by the Regulatory Authority.

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49 Employment of staff

- (1) The approved provider of a centre based or mobile education and care service must not employ a person as a member of the primary contact staff for the service unless the approved provider is satisfied that the person is a fit and proper person to be a member of the primary contact staff.
- (2) For the purposes of subclause (1), the approved provider of a centre based or mobile education and care service must ensure that each person whom the approved provider employs or proposes to employ as a member of the primary contact staff has:
 - (a) an understanding of the principles set out in section 6 of the Act, and
 - (b) an understanding that the environment of an education and care service must be safe for children, and
 - (c) a basic knowledge of the stages of physical, emotional, cognitive, social and cultural development of children, and
 - (d) a basic knowledge of activities and learning experiences that are appropriate for the various ages and stages of development of children, and
 - (e) a basic knowledge of the health, hygiene and nutrition needs of children, and
 - (f) except in the case of a trainee, experience in caring for children.
- (3) An approved provider of a centre based or mobile education and care service must not employ a person as a member of the primary contact staff of the service unless the person is at least 18 years of age.
- (4) The approved provider of a centre based or mobile education and care service is to ensure that all primary contact staff for the service understand their responsibilities under the child protection legislation.

50 Nomination of supervisor

- (1) The approved provider of a centre based or mobile education and care service must not nominate more than 2 certified supervisors as nominated supervisors of the service at any one time, unless the Regulatory Authority approves otherwise.
- (2) A certified supervisor must not be nominated as a nominated supervisor of more than 2 approved education and care services at any one time, unless the Regulatory Authority approves otherwise.

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- (3) In this clause, an *approved education and care service* includes an approved education and care service under the National Law.

51 Qualified staff

- (1) The approved provider of a centre based or mobile education and care service must ensure that the following number of teaching staff members are in attendance at the premises of the service while the service is being provided:
- (a) 1, if there are 30 or more but less than 40 children (other than school children) being provided with the service,
 - (b) 2, if there are 40 or more but less than 60 children (other than school children) being provided with the service,
 - (c) 3, if there are 60 or more but less than 80 children (other than school children) being provided with the service,
 - (d) 4, if there are 80 or more children (other than school children) being provided with the service.
- (2) The approved provider of a centre based or mobile education and care service must ensure that at all times while a child under 2 years of age is being provided with the service at least one primary contact staff member is in attendance at the service who:
- (a) is an enrolled nurse who has obtained a Certificate III from a registered training organisation on completion of a course in Children's Services, or
 - (b) is a registered nurse who has had previous work experience in providing an education and care service or has another approved qualification, or
 - (c) has obtained:
 - (i) a Child Care Certificate, a Certificate of Child Care Studies or an Associate Diploma of Social Science (Child Studies) from a TAFE establishment, or
 - (ii) a Diploma of Children's Services (Early Childhood Education and Care) or a Diploma of Community Services (Children's Services) from a registered training organisation, or
 - (d) has some other approved qualification.
- (3) The nominated supervisor of a centre based or mobile education and care service must ensure that the following persons are on the premises of the service at all times while children provided with the service are on the premises:
- (a) at least one person who has a current approved first aid qualification,

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- (b) at least one person who has completed approved anaphylaxis management training,
 - (c) at least one person who has completed approved emergency asthma management training.
- (4) In this clause, *teaching staff member* of an education and care service means a member of staff of the service who:
- (a) has a degree or diploma in early childhood education from a university following a course with a duration (on a full-time basis) of not less than 3 years, or
 - (b) has some other approved qualification, or
 - (c) has other approved training and other approved experience.

52 Staff to child ratios

- (1) The approved provider of a centre based or mobile education and care service must ensure that the ratio of primary contact staff to children being provided with the service is:
- (a) 1:4 in respect of all children who are under the age of 2 years, and,
 - (b) 1:8 in respect of all children who are 2 or more years of age but under 3 years of age, and
 - (c) 1:10 in respect of all children who are 3 or more years of age but under 6 years of age.
- (2) The approved provider of a centre based or mobile education and care service must ensure that at least 2 members of the primary contact staff are present on the premises of the service whenever children are being provided with the service at the premises.
- (3) In counting the number of primary contact staff for the purposes of this clause, a trainee referred to in paragraph (c) of the definition of *primary contact staff* in clause 3 is not to be included unless a majority of the staff counted (and at least 2) are primary contact staff who are not trainees.
- (4) If a centre based or mobile education and care service is being provided to a group of children who are not all in the same age bracket, the approved provider of the service must ensure that the ratio of primary contact staff to children in the group is the ratio specified in subclause (1) for the age bracket in which the youngest child in the group belongs.
- (5) In this clause, *age bracket* means a range of ages specified in subclause (1) (a), (b) or (c).

53 Cooking staff

- (1) The approved provider of a centre based or mobile education and care service must ensure that a qualified cook is employed by the service if meals are prepared and provided to children on the premises of the service.
- (2) The cook is to be available for the period necessary to prepare the meals for the number of children being catered for and to clean the area of the premises used to prepare the meals.
- (3) A person is a qualified cook only if the person holds a certificate attesting to the person's successful completion of a basic training course in food safety and nutrition that:
 - (a) complies with guidelines issued by the Regulatory Authority from time to time for the purpose of this clause, and
 - (b) is provided by a registered training organisation.
- (4) The approved provider and the nominated supervisor of a centre based or mobile education and care service must ensure that, for each cook employed by the service to prepare and provide meals to children on the premises, a copy of the cook's certificate, as referred to in subclause (3), is displayed on the premises in a prominent position.

54 Additional staff

- (1) The approved provider of a centre based or mobile education and care service must employ staff, additional to any other staff required by this Part, if the Regulatory Authority so requires by notice in writing served on the approved provider.
- (2) Such a notice may specify both the number of staff to be employed and the qualifications they must have.
- (3) The Regulatory Authority may make such a requirement if satisfied that, having regard to any particular function carried out by the service, sufficient staff with suitable qualifications are not employed by the service.

55 Supervision by nominated supervisor

- (1) **All education and care services**

The approved provider of an education and care service must ensure that the nominated supervisor for the service has the overall supervision of the provision of the service.
- (2) The approved provider of an education and care service must ensure that records are made and kept up to date of the name of the nominated

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supervisor who has the overall supervision of the provision of the service at any time the service is operating.

(3) **Centre based education and care service**

The approved provider of a centre based education and care service must ensure that the nominated supervisor for the service is, each week:

- (a) in the case of a school based education and care service—present on:
 - (i) where the relevant school is located on one premises only, the premises of the school on which the service is based for no less than 50% of the time that the service is provided, or
 - (ii) where the relevant school is located on 2 or more premises, the same premises of the school as the premises of the school on which the service is based for no less than 50% of the time that the service is provided, or
- (b) in the case of any other education and care service—present on the premises of the service for no less than 50% of the time that the service is provided.

56 Use of volunteers

An approved provider of an education and care service may provide an education and care service with the assistance of volunteers, but only if the volunteers:

- (a) in the case of a centre based or mobile education and care service, supplement the staffing requirements specified in this Part and are not counted (except for the purposes of clauses 78 and 79) in determining whether the required staffing levels have been met, and
- (b) are accompanied by primary contact staff whenever they are in the presence of children, and
- (c) are covered by appropriate insurance arrangements.

Part 5 Child number requirements

57 Number of children

(1) **Centre based or mobile education and care service**

The number of children who may attend a centre based or mobile education and care service at any one time while a service is being provided must not exceed the maximum number of children specified in the service approval for the service.

(2) The number of children under the age of 2 years who may attend a centre based or mobile education and care service at any one time while a service is being provided must not exceed 40, unless the Minister otherwise approves in a particular case.

(3) **Home based education and care service**

The approved provider of a home based education and care service must not provide an education and care service for a number of children (including children related to the approved provider) that at any one time exceeds 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

58 Regulatory Authority may approve emergency child care arrangements

(1) **Centre based or mobile education and care service**

The Regulatory Authority may give approval for the approved provider of a centre based or mobile education and care service to provide the service to more children than the number of children specified in the service approval for that service if the Regulatory Authority is of the opinion that the children need to be provided with the service as a matter of urgency.

(2) The Regulatory Authority may give such an approval:

- (a) only with the agreement of the approved provider of the centre based or mobile education and care service, and
- (b) only if the number of additional children specified in the approval does not at any one time exceed 5, or 10% of the number of children specified in the service approval for the service, whichever is the lesser.

(3) **Home based education and care service**

The Regulatory Authority may give approval for one more child to be provided with a home based education and care service than the maximum number of children who may be provided with the service under clause 57 if the Regulatory Authority is of the opinion that the child needs to be provided with the service as a matter of urgency.

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Part 5

Child number requirements

59 Requirements for approval of emergency child care arrangements

- (1) The Regulatory Authority may give an approval under clause 58 only if each child the subject of the approval:
 - (a) is a client of the Department or is a member of a family that is a client of the Department, or
 - (b) is, in the opinion of the Regulatory Authority, likely to become a client of the Department, or is a member of a family that is likely to become a client of the Department, or
 - (c) has a parent whose health needs require urgent care for the child, or
 - (d) has a parent who is undertaking a rehabilitation program, or
 - (e) is a client of, or is a member of a family that is a client of, an organisation funded by the Department of Family and Community Services, or
 - (f) has a parent who is participating in an approved job skills program for the long-term unemployed, or
 - (g) is the holder of a visa of a class of visas described as “protection” visas under the *Migration Act 1958* of the Commonwealth (or is the child of a person who holds such a visa).
- (2) The period for which a child may be provided with a service under such an approval must not exceed 6 months.
- (3) Each child who is the subject of an approval under clause 58 is to be named in the approval.
- (4) The approved provider of a centre based, mobile or home based education and care service must admit a child who is the subject of such an approval to the first available vacancy at the service.
- (5) The Regulatory Authority may give an approval for a particular child to be provided with a service under this clause on more than one occasion.
- (6) In this clause, *client of the Department* means a person to whom services are provided or assistance is given by any person or body under any Act administered by the Minister for Family and Community Services.

60 Group size—centre based or mobile education and care service

The approved provider of a centre based or mobile education and care service must ensure that children are arranged and supervised in groups as follows:

- (a) if the children are under 2 years of age, in groups of not more than 12,

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- (b) if the children are 2 or more years of age but under 3 years of age, in groups of not more than 16,
 - (c) if the children are 3 or more years of age but under 6 years of age and do not ordinarily attend school, in groups of not more than 20.

61 Caring for school children at service—centre based or mobile education and care service

- (1) The approved provider of a centre based or mobile education and care service must ensure that if any school child is provided with education or care by the approved provider at the premises of the service:
 - (a) the access of any pre-school child attending the service to facilities and staff of the service is not diminished, and
 - (b) any programs provided for pre-school children attending the service are not adversely affected, and
 - (c) the safety of any pre-school child attending the service is not adversely affected, and
 - (d) the education and care provided to any pre-school child attending the service meet the child's needs, and
 - (e) if all the school children attending the service are attending school in kindergarten or Year 1, the total number of school children who are cared for at the premises of the service is not greater than 20% of the number of children specified in the service approval for the service, and
 - (f) if any school children attending the service are attending school other than in kindergarten or Year 1, the total number of school children who are cared for at the premises of the service is not greater than 10% of the number of children specified in the service approval for the service.
- (2) The percentages referred to in subclause (1) (e) and (f) may be exceeded if:
 - (a) the indoor and outdoor areas and amenities used by the children are not used at the same time by any other children attending the service, and
 - (b) the staff providing the service to the children are not at the same time providing the service to any other children attending the service.
- (3) Nothing in subclause (1) authorises the approved provider to provide education or care to more children (including school children) than the number specified in the service approval for the service.

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Note. Clause 58 provides that in certain circumstances the Regulatory Authority may authorise the approved provider of the education and care service to provide an education and care service to a number of children that exceeds the number of children specified in the service approval for the service.

- (4) In this clause, *pre-school child* means a child who is under 6 years of age and who does not ordinarily attend school.

62 Service to be provided only to children enrolled at service

The nominated supervisor of an education and care service must ensure that all children (including school children) to whom the approved provider provides education or care are enrolled in the service.

Part 6 Operational requirements

Division 1 General

63 Programs for children

- (1) The approved provider of an education and care service must develop, maintain and implement policies for the development and education of children that set out:
 - (a) the level of involvement of children, parents and staff in the development of the curriculum, and
 - (b) the ways in which the service ensures that individual children's interests are taken into account, and
 - (c) the ways in which children will be assisted in the transition to other early childhood programs or to school.
- (2) The nominated supervisor of an education and care service must ensure that there is provided a program of activities that:
 - (a) balances indoor and outdoor experiences, and
 - (b) stimulates and develops each child's social, physical, emotional, cognitive, language and creative potential, and
 - (c) is appropriate to the individual needs and development level of each child, and
 - (d) is capable of engaging the interest of children, and
 - (e) allows children to freely select experiences, and
 - (f) is appropriate to the development of children.

64 Interaction with children

- (1) The approved provider and nominated supervisor of an education and care service must ensure that interactions with children for whom the service is being provided occur in a way that ensures that the children:
 - (a) are encouraged to express themselves and their opinions, and
 - (b) are given the opportunity to become self-reliant and to develop self-esteem, and
 - (c) are given guidance as to positive and responsible behaviour, and
 - (d) are not required to perform duties that are inappropriate, having regard to each child's family and cultural values, age and physical and intellectual development.

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- (2) The approved provider and nominated supervisor of an education and care service must ensure that the dignity and rights of each child being provided with the service are maintained at all times and that:
 - (a) child management techniques do not include physical, verbal or emotional punishment, including, for example, punishment that humiliates, frightens or threatens the child, and
 - (b) the child is not isolated for any reason other than illness, accident or a pre-arranged appointment with parental consent, and
 - (c) a child is given positive guidance directed towards acceptable behaviour with encouragement freely given, and
 - (d) the values of the child's family are respected, and
 - (e) the child is given support in the child's learning experiences, and
 - (f) the child is given emotional support, and
 - (g) the child is not required to sleep or rest against the child's wishes or needs.
- (3) The approved provider and nominated supervisor of an education and care service must ensure that all children enrolled in the service:
 - (a) are treated without bias regardless of ability, gender, religion, culture, family structure or economic status, and
 - (b) if they have disabilities, or come from different cultural and linguistic backgrounds, are encouraged to fully participate (with any necessary help and support) in programs at the service, and
 - (c) if they have disabilities, are given access to:
 - (i) buildings, areas and facilities at which the service is provided, and
 - (ii) appropriate support services and specialised equipment and resources.

65 Supervision of children

(1) All education and care services

The approved provider and nominated supervisor of an education and care service must ensure that no member of the primary contact staff or the home based service provider is performing other duties while supervising children.

- (2) The approved provider and nominated supervisor of an education and care service must ensure that children at the service are supervised at all times (including while they are asleep) having regard to their ages and physical and intellectual development and to the activities in which they are engaged.

(3) **Centre based or mobile education and care service**

If, in the case of a centre based or mobile education and care service, the toilet, hand washing and bathing facilities are not visible or easily accessible from the main areas where the service is provided, children provided with the service must be supervised when using those facilities.

- (4) The approved provider and nominated supervisor of a centre based or mobile education and care service must use their best endeavours to monitor whether children provided for by the service are able to climb or crawl under any fences or gates on the premises at which the service is provided and, if so, to take appropriate action to prevent them doing so.

66 Child health

(1) **Centre based or mobile education and care service**

The nominated supervisor of a centre based or mobile education and care service must ensure that:

- (a) in relation to children provided with the service, all members of staff of the service observe strict health and hygiene practices that have regard to current community standards, and are in accordance with relevant government guidelines to minimise risks to children, and
- (b) no alcohol or unlawful substances are consumed on any part of the premises of the service at any time when the service is being provided to children, and
- (c) no tobacco or any other substance is smoked on any part of the premises of the service at any time when the service is being provided to children and that all practicable steps are taken to ensure that no tobacco is smoked on any part of the premises that is indoors at any other time.
- (2) The approved provider of a centre based or mobile education and care service must develop, maintain and implement procedures and policies to ensure that the nominated supervisor and primary contact staff of the service comply with the requirements of this clause.

(3) **Home based education and care service**

A home based service provider:

- (a) in relation to children provided with the service, must observe strict health and hygiene practices that have regard to current community standards and are in accordance with relevant government guidelines to minimise risks to children, and
- (b) must encourage children to observe these practices, and

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- (c) must not provide care for children unless he or she is in good health and is free from any medical conditions or dependency on any medication or substance that may affect his or her ability to provide care for children, and
- (d) if the home based service provider requires regular medication, must obtain a medical certificate confirming his or her ability to care for children, and
- (e) must not be under the influence of alcohol or any other drug while the home based service provider is providing children with the service, and
- (f) must not consume any alcohol or unlawful substance while the home based service provider is providing children with the service, and
- (g) must provide a smoke free environment while providing the children with the service at the home of the home based service provider.

67 Food and nutrition

(1) Centre based or mobile education and care service

The approved provider of a centre based or mobile education and care service must ensure a policy is developed and maintained that:

- (a) is consistent with the *Food Act 2003* and the regulations under that Act, and
- (b) is consistent with the Dietary Guide for Children, and
- (c) ensures that each child provided with the service is given food and drinks that are nutritious, adequate in quantity, varied, offered at frequent intervals, appropriate to the developmental needs of the child and any special dietary needs of the child and appropriate to the culture and religion of the child, and
- (d) provides a system for parents of a child to be given information about:
 - (i) the approach taken by the service to meet the nutritional needs of the child, and
 - (ii) the eating habits of the child, and
- (e) outlines a program of nutrition education for primary contact staff covering the following matters:
 - (i) safe eating practices (including the eating environment),
 - (ii) understanding and handling eating behaviour of children (including refusal of food by children),

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- (iii) teaching children provided with the service about nutrition through food-related activities, and
 - (f) requires information to be given to parents of children provided with the service to assist them in providing food for the child that is varied, adequate in quantity, appropriate to the developmental needs of the child and consistent with the Dietary Guide for Children, and
 - (g) requires information to be prominently displayed as to the service's weekly menu for children's meals, and
 - (h) outlines practices for the preparation, storage, handling and hygiene of food, and
 - (i) requires eating utensils and furniture used when eating to have a size and shape that encourage development of eating skills and independence in eating by children, and
 - (j) requires primary contact staff to ensure that drinking water is provided and available to children at all times while the service is being provided.
 - (2) The nominated supervisor of a centre based or mobile education and care service must ensure that the policy referred to in subclause (1) is practised by each member of staff.
 - (3) **Home based education and care service**
A home based service provider must ensure that:
 - (a) each child provided with the service is given food and drinks that are nutritious, adequate in quantity, varied, offered at frequent intervals, appropriate to the developmental needs of the child and any special dietary needs of the child and appropriate to the culture and religion of the child, and
 - (b) drinking water is available to children at all times while the service is being provided, and
 - (c) information is readily available to parents of a child that outlines:
 - (i) the approach taken by the home based service provider to meet the nutritional needs of the child, and
 - (ii) the eating habits of the child.
 - (4) In this clause, *Dietary Guide for Children* means the guide published by the Department of Health under the title *Caring for Children—Food, Nutrition and Fun Activities*, (either the Third or the Fourth Edition).

68 Pool safety

- (1) The nominated supervisor of an education and care service must ensure that the written authorisation of a parent of a child provided with the

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service is obtained before the child enters a pool of water on the premises of the education and care service (whether or not the pool has been identified on the site plan accompanying the application for the service approval for the service or the Regulatory Authority has otherwise been notified about the pool).

- (2) The nominated supervisor of an education and care service must ensure that if children provided with the service are allowed to swim at a swimming pool on the premises of the education and care service, there must be present within the fenced area of the pool at least one adult for each child using the pool.
- (3) The nominated supervisor of an education and care service must ensure that:
 - (a) all paddling pools at the premises of the service are emptied immediately after use and stored to prevent the collection of water, and
 - (b) other water containers at the premises that could constitute a drowning hazard are safely covered or are inaccessible to children, and
 - (c) any pool filters at the premises are inaccessible to children.
- (4) The approved provider of an education and care service (other than a home based education and care service) must develop, maintain and implement procedures and policies to ensure that the nominated supervisor and primary contact staff comply with the requirements of this clause.

69 Storage of dangerous substances and equipment

- (1) The nominated supervisor of an education and care service must ensure that all dangerous cleaning materials, disinfectants, poisonous and other dangerous substances and medications are kept in a child resistant container that is labelled with a description of its contents and directions for their use.
- (2) The nominated supervisor of an education and care service must ensure that the following items are kept in secure storage facilities that are inaccessible to children:
 - (a) dangerous cleaning materials,
 - (b) disinfectants,
 - (c) poisonous and other dangerous substances,
 - (d) dangerous tools and equipment,
 - (e) toiletries,
 - (f) medications,

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- (g) first aid equipment,
 - (h) sharp or jagged objects that pose a hazard to children.
- (3) The nominated supervisor of an education and care service must ensure that if a substance referred to in subclause (2) needs to be refrigerated, it is kept in a child resistant container in the refrigerator.
- (4) The approved provider of an education and care service (other than a home based education and care service) must develop and maintain procedures and policies to ensure that the nominated supervisor complies with the requirements of this clause.

70 Animals

- (1) The approved provider and nominated supervisor of an education and care service must ensure that any animal (including livestock) or domesticated bird that enters or is kept on the premises of the service is in a clean and healthy condition.
- (2) The approved provider and nominated supervisor of an education and care service must ensure that any animal (including livestock) or domesticated bird that enters or is kept on the premises of the service does not constitute a health or safety risk to children (for example, by causing an allergic response or infection or in any other way having a detrimental effect on the well-being of children provided with the service).
- (3) The approved provider and nominated supervisor of an education and care service must ensure that the following are made inaccessible to a child in the care of the service unless the child is under direct supervision:
- (a) every domestic pet or farm animal or other potentially dangerous animal kept on the premises of the service,
 - (b) any bedding, toys, litter tray, food, feeding container or water container used or consumed by animals.
- (4) The approved provider and nominated supervisor of an education and care service must ensure that all play areas are kept free from the following:
- (a) animal droppings,
 - (b) bones,
 - (c) holes dug by animals.
- (5) The approved provider and nominated supervisor of an education and care service must ensure that animals do not have access to the following:
- (a) bedding used by children,

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- (b) toys or play equipment used by children,
 - (c) food preparation areas or food prepared by the service,
 - (d) eating surfaces,
 - (e) eating utensils.
- (6) The approved provider and nominated supervisor of an education and care service must ensure that no animal travels in a motor vehicle with a child in the course of the provision of the service to the child unless the animal is restrained in the car (for example, by a fixed barrier or harness or in a cage).

71 Plants

- (1) The approved provider and nominated supervisor of an education and care service must ensure that any poisonous vegetation in children's play areas on the premises of an education and care service is identified and maintained so as to ensure that it does not present a hazard to children.
- (2) In particular, any vegetation on the premises of an education and care service that can lead to injury or severe discomfort (for example, because of sharp prickles or prominent thorns) must be identified and maintained so as to ensure that it does not present a hazard to children.

Division 2 Information about and access to children**72 Obtaining information about child**

The approved provider of an education and care service must develop, maintain and implement procedures to ensure that a parent of a child attending the service can obtain information from the approved provider, the nominated supervisor or primary contact staff about the health, welfare and conduct of the child.

73 Arrival and departure of child**(1) All education and care services**

The nominated supervisor of a centre based or mobile education and care service, or a home based service provider, must ensure that:

- (a) when a child arrives at the premises of the education and care service, a member of staff of the service or the home based service provider receives the child, and
- (b) when a child leaves the premises of the education and care service, the person who collects the child is a parent of the child or another person who is authorised in writing by a parent of the child to collect the child, and

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- (c) if it is not possible to comply with paragraph (b), alternative arrangements to secure the safety and welfare of the child are made before the child is permitted to leave the premises, and
 - (d) if a school age child arrives at or leaves the premises of the education and care service unaccompanied by a parent of the child, the arrival or departure is in accordance with procedures agreed to in writing by the child's parents.
- (2) For the purposes of subclause (1), a child who is collected or returned by a member of staff of an education and care service is taken to have arrived when he or she is collected from the pick-up address and to have left when he or she is returned to the drop-off address.
 - (3) **Centre based or mobile education and care service**

The nominated supervisor of a centre based or mobile education and care service must ensure that at the end of each day all beds and all areas of the premises (whether indoors or outdoors) are thoroughly checked by at least 2 members of the primary contact staff to ensure that no child remains on the premises after the service closes for the day.
 - (4) The approved provider of a centre based or mobile education and care service must develop, maintain and implement procedures and policies to ensure that the nominated supervisor of the service complies with the requirements of subclause (1).

74 Access to children

- (1) The nominated supervisor of an education and care service must ensure that any parent of a child:
 - (a) can contact the child at any time during the hours the child is at the service, and
 - (b) can exchange information about the child with primary contact staff or with the home based service provider at mutually convenient times on an ongoing basis.
- (2) The approved provider of an education and care service must ensure that the nominated supervisor and members of staff of the service comply with the requirements of subclause (1).
- (3) The approved provider of an education and care service must ensure that video monitoring or surveillance equipment on the premises of the service is not used so as to enable children and staff at the premises to be viewed from a place other than those premises or that home.

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75 Information and access to be denied to certain persons

- (1) Despite any other provision of this Division, a person who has been forbidden by court order from having contact with a child attending an education and care service:
 - (a) must not be given any information concerning the child, and
 - (b) must not be allowed to enter the premises of the education and care service while the child is attending the service, and
 - (c) must not be permitted to collect the child from the service.
- (2) The approved provider of an education and care service must develop, maintain and implement procedures to ensure that the requirements of subclause (1) are complied with.

Division 3 Excursions

76 Risk assessment of excursions

- (1) The approved provider and the nominated supervisor of an education and care service must ensure that a risk assessment is carried out in relation to any excursion before the excursion takes place.
- (2) In this clause, *risk assessment*, in relation to an excursion, means the identification and assessment of the risks associated with the excursion to the safety, welfare and well-being of any child participating in the excursion and includes the identification and implementation of measures to manage and minimise any identified risks.

77 Authority for excursions

(1) All education and care services—routine excursions

The nominated supervisor of an education and care service must ensure that no child provided with the service leaves the premises of the service to participate in any routine excursion unless the approved provider of the service has obtained written authorisation from a parent of the child for the child to participate in excursions of that kind.

(2) All education and care services—non-routine excursions

The nominated supervisor of an education and care service must ensure that no child provided with the service leaves the premises of the service to participate in any non-routine excursion unless the approved provider of the service has obtained written authorisation from a parent of the child for the child to participate in that excursion.

- (3) An authorisation referred to in subclause (2) must state the following:
 - (a) the date of the excursion,
 - (b) the proposed destination,

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- (c) the method of transport or walking itinerary,
 - (d) the activities to be carried out during the excursion,
 - (e) the number of adults to accompany and supervise the children,
 - (f) the name of the persons who have first aid qualifications or who have completed approved anaphylaxis or emergency asthma management training who will accompany the children on the excursion,
 - (g) the proposed period of time during which the excursion is to take place,
 - (h) if practicable, an emergency contact number for the excursion.
- (4) The approved provider of an education and care service (other than a home based education and care service) must develop, maintain and implement procedures and policies to ensure that the nominated supervisor complies with the requirements of this clause.
- (5) Nothing in subclause (1) or (2) requires an authorisation to be obtained in respect of a school based education and care service if the premises of the service are located within the premises of the school that conducts the service and the excursion takes place:
- (a) where the school is located on one premises only—solely within those premises, or
 - (b) where the school is located on 2 or more premises—within the same premises of the school as the premises of the school in which the service is based.

- (6) In this clause:

non-routine excursion, in relation to an education and care service, means an excursion that is not a routine excursion.

Note. An example of a non-routine excursion is a visit to a zoo or museum.

routine excursion, in relation to an education and care service, means an excursion that is undertaken at least once a month to a particular place in the locality of the place where the service is provided.

Note. An example of a routine excursion is a daily walk to a nearby park or to a nearby library to borrow books.

78 Conduct of excursions—general

- (1) **All education and care services**

The nominated supervisor of an education and care service must ensure that all excursions are conducted in a safe manner.

- (2) The nominated supervisor of an education and care service must ensure that any motor vehicle that is used to transport children on excursions

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(other than a motor vehicle with seating for more than 9 persons) is fitted with child restraints approved by Roads and Maritime Services.

- (3) The nominated supervisor of an education and care service must ensure that a suitably equipped and well stocked first aid kit is taken on all excursions and that the children on such an excursion are accompanied by a primary contact staff member who has a current approved first aid qualification, an adult who has completed approved anaphylaxis management training and an adult who has completed approved emergency asthma management training.
- (4) The approved provider of an education and care service (other than a home based education and care service) must develop, maintain and implement procedures and policies to ensure that the nominated supervisor and primary contact staff comply with the requirements of this clause that apply to them.
- (5) **Centre based or mobile education and care service**
The nominated supervisor of a centre based or mobile education and care service must ensure that at least 2 adult persons, at least one of whom is a primary contact staff member, accompany the children on any excursion.
- (6) Subject to subclause (7), the nominated supervisor of a centre based or mobile education and care service must ensure that the minimum adult to child ratio of persons participating in the excursion is:
 - (a) one adult for each 2 children who are under 3 years of age, and
 - (b) one adult for each 5 children who are 3 or more years of age.
- (7) The nominated supervisor of a centre based or mobile education and care service must ensure that children are not taken on any excursion that involves using public transport or crossing a major road unless the minimum adult to child ratio of persons participating in the excursion is:
 - (a) one adult for each 2 children who are under 3 years of age, and
 - (b) one adult for each 4 children who are 3 or more years of age.
- (8) **Home based education and care service**
A home based service provider must conduct all excursions in a safe manner.
- (9) A home based service provider must ensure that a suitably equipped and well stocked first aid kit is taken on all excursions and that the children on such an excursion are accompanied by an adult who has a current approved first aid qualification, an adult who has completed approved anaphylaxis management training and an adult who has completed approved emergency asthma management training.

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- (10) Subclauses (3), (5) and (6) do not apply in respect of an excursion conducted by a school based education and care service (where the service is located within the premises of the school that conducts the service) if the excursion takes place:
- (a) where the school is located on one premises only—solely within those premises, or
 - (b) where the school is located on 2 or more premises—within the same premises of the school as the premises of the school in which the service is based.
- (11) In this clause, *major road* means:
- (a) a two-way road with a dividing line or median strip that indicates the parts of the road to be used by vehicles travelling in opposite directions, or
 - (b) a one-way road with more than one marked lane.

79 Conduct of excursions—additional requirements for water hazards

(1) All education and care services

The nominated supervisor of an education and care service must ensure that:

- (a) children provided with the service are taken on an excursion to swim for the purpose only of learning water safety or learning to swim, and
 - (b) when children are taken on such an excursion, the minimum adult to child ratio of participants in the excursion is one adult for each child.
- (2) The nominated supervisor of an education and care service must ensure that if children provided with the service are taken on any excursion to a beach, river, lake or other place where there is a water hazard (otherwise than for the purpose of learning water safety or learning to swim), the minimum adult to child ratio of persons participating in the excursion is:
- (a) one adult for each child who is under 3 years of age, and
 - (b) one adult for each 2 children who are 3 or more years of age but who do not normally attend school, and
 - (c) one adult for each 5 children who normally attend school.
- (3) The approved provider of an education and care service (other than a home based education and care service) must develop, maintain and implement procedures and policies to ensure that the nominated supervisor and primary contact staff comply with the requirements of this clause that apply to them.

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(4) **Centre based or mobile education and care services**

The nominated supervisor of a centre based or mobile education and care service must ensure that children are not taken on an excursion to a beach, river, lake or other place where there is a water hazard unless 2 of the adult persons accompanying the children have:

- (a) a current approved first aid qualification, and
- (b) the knowledge and ability to implement water safety procedures.

(5) **Home based education and care service**

A home based service provider must ensure that the person in charge of any excursion to a beach, river, lake or other place where there is a water hazard has:

- (a) a current approved first aid qualification, and
- (b) the knowledge and ability to implement water safety procedures.

Division 4 Emergencies

80 Illness, accident and emergency treatment

(1) **All education and care services**

The nominated supervisor of an education and care service must ensure that a child is not enrolled in the service unless a parent of the child:

- (a) has given written authorisation for the service to seek urgent medical, dental or hospital treatment or ambulance service, and
- (b) has given written consent to the carrying out of appropriate medical, dental or hospital treatment,

in the event that such action appears to be necessary because the child has been injured, or is ill, at the premises.

(2) The nominated supervisor of an education and care service must ensure that:

- (a) if a child has an accident or becomes ill while being provided with the service:
 - (i) the child is kept under adult supervision until the child recovers or until a parent of the child or some other responsible person takes charge of the child, and
 - (ii) if the child requires urgent medical or dental treatment, immediate steps are taken to secure that treatment, and
 - (iii) the child is returned as soon as practicable to the care of a parent of the child, and
- (b) if any medication or medical, hospital or dental treatment or ambulance services are obtained for a child, a parent of the child

is notified as soon as practically possible of the accident or illness and the treatment or services arranged for the child, and

- (c) if any other matter concerning the child's health arises while the child is being provided with the service, a parent of the child is given notice of that matter.
- (3) If the written authorisation referred to in subclause (1) (a) nominates a preferred medical practitioner or dentist to treat the child, any medical or dental treatment for the child must, if practicable, be carried out by that medical practitioner or dentist.
- (4) A nominated supervisor of an education and care service who becomes aware of a serious accident involving a child attending the service, being an accident that requires the child to receive medical, dental or hospital treatment, must immediately cause notice of that fact to be given to:
 - (a) a parent of the child, and
 - (b) the Regulatory Authority, and
 - (c) the approved provider of the service (except in the case of a home based service provider).
- (5) The nominated supervisor of an education and care service who becomes aware of a serious accident involving a child attending the service, being an accident that requires the child to be hospitalised or causes the child to die, must immediately cause notice of that fact to be given to the approved provider of the service.
- (6) A nominated supervisor or home based service provider who becomes aware of the death of a child while being provided with the education and care service at the premises of the education and care service, must immediately cause notice of that fact to be given to:
 - (a) a parent of the child, and
 - (b) a police officer, and
 - (c) the Regulatory Authority, and
 - (d) the approved provider of the service (except in the case of a home based service provider).
- (7) **Centre based or mobile education and care service**

The approved provider of a centre based or mobile education and care service must develop, maintain and implement procedures and policies to ensure that the nominated supervisor and the primary contact staff of the service comply with the requirements of this clause.

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81 Medication

- (1) The approved provider of an education and care service must ensure that:
 - (a) a policy is developed and maintained concerning the administration of medication to children, and
 - (b) procedures to implement that policy are developed and observed.
- (2) The nominated supervisor of an education and care service must ensure that:
 - (a) medication is not administered to a child being provided with the service without written authorisation or authority from a parent of the child, and
 - (b) medication is administered from the container in which it was originally packaged, being (in the case of a prescription medicine) a container that is labelled with the child's name, the prescribed dosage and the medicine's use by date, and
 - (c) if it is necessary in an emergency to administer medication to a child that is being provided with the service without the prior consent of the child's parent, every attempt is made to secure that consent.

82 Infectious diseases

(1) All education and care services

The approved provider of an education and care service must ensure that a policy on infectious diseases is developed, maintained and implemented for the service that:

- (a) is consistent with the *Public Health Act 2010* and the regulations under that Act, including the requirements for mandatory reporting, and
- (b) outlines practices to be adopted in the event of an outbreak of an infectious disease at the service, and
- (c) outlines the exclusion practices and conditions for return to care for children who have an infectious disease or who have been exposed to an infectious disease.

(2) Centre based or mobile education and care service

The approved provider and the nominated supervisor of a centre based or mobile education and care service must ensure that primary contact staff, casual employees and contractors of the education and care service practise the policy on infectious diseases.

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- (3) The nominated supervisor of a centre based or mobile education and care service must ensure that information about the occurrence within the service of significant infectious disease:
- (a) in any child provided with the service, or
 - (b) in any member of staff of the service,
- is made available to the parents of children provided with the service in a manner that is not prejudicial to the rights of individual children or staff.
- (4) **Home based education and care service**
- The approved provider of a home based education and care service must ensure that the infectious diseases policy covers all persons normally resident in the home of the home based service provider.
- (5) The approved provider of a home based education and care service must practise the policy on infectious diseases.
- (6) The approved provider of a home based education and care service must ensure that information about the occurrence within the education and care service of significant infectious disease:
- (a) in any child provided with the service, or
 - (b) in the home based service provider, or
 - (c) in any person resident at the home of the home based service provider,
- is made available to the parents of children provided with the service in a manner that is not prejudicial to the rights of individual children or other persons.

83 Emergency and evacuation procedures

- (1) The approved provider of an education and care service must ensure that a written emergency plan for fire and other emergencies (including evacuation procedures) is developed, maintained and implemented.
- (2) A copy of each plan must be displayed:
- (a) in the case of a centre based education and care service, in each playroom in any building on the premises of the service and at each main exit from the building, and
 - (b) in the case of a mobile education and care service, at each of the premises where the service is provided, and
 - (c) in the case of a home based education and care service, at the home of the approved provider of the service.
- (3) The approved provider and nominated supervisor of an education and care service must ensure that primary contact staff or the home based

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service provider practise emergency procedures (including evacuation procedures) with all children provided with the service at least once every 3 months so that they and the children are prepared for emergencies.

- (4) The approved provider and the nominated supervisor of an education and care service must ensure that a record of each practice is taken that includes an evaluation of the procedures followed and is kept at the premises of the service (or the offices of the service or the home of the home based service provider) for a period of 2 years after the practice.
- (5) The approved provider of an education and care service must ensure that an effective emergency communications plan is in place for situations in which the means of communication referred to in clause 38 are unavailable or inoperable.

84 Home based service provider to hold first aid qualification

A home based service provider must hold a current approved first aid qualification and must have completed approved anaphylaxis and emergency asthma management training.

Part 7 Administrative requirements

Division 1 Information

85 Policies to be made available

- (1) The approved provider of an education and care service must develop, maintain and implement policies to promote the health, safety and well-being of children attending the service, and must ensure that copies of those policies are available at the premises of the service for inspection by the children's parents.
- (2) In particular, the policies must deal with the following matters:
 - (a) child protection,
 - (b) ethical conduct,
 - (c) development and education,
 - (d) the treatment of children with special needs,
 - (e) interactions with children,
 - (f) procedures for handling complaints,
 - (g) parental involvement,
 - (h) access,
 - (i) arrival and departure,
 - (j) excursions,
 - (k) confidentiality of records,
 - (l) child health,
 - (m) illness, accident and emergency treatment,
 - (n) administration of medication,
 - (o) infectious diseases,
 - (p) food and nutrition,
 - (q) water safety,
 - (r) sun protection,
 - (s) storage of dangerous substances and dangerous equipment.

86 Information or documents required by Regulatory Authority

The approved provider of any class of education and care service must provide the Regulatory Authority with such information in relation to the service as the Regulatory Authority may from time to time reasonably require.

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Administrative requirements

87 Entry and inspection

The approved provider of any class of education and care service:

- (a) must not hinder any person authorised by or under the Act to enter and inspect the premises of the education and care service, or where documents, records or a register maintained in connection with the service are kept, in the exercise of the person's functions, and
- (b) must ensure that the nominated supervisor, and any staff of the service, do not hinder any person authorised by or under the Act to enter and inspect any premises where the education and care service is provided, or where documents, records or a register maintained in connection with the service are kept, in the exercise of the person's functions.

88 Notice of complaint

- (1) If a parent of a child provided with any class of education and care service makes a complaint to the approved provider about the conduct of the service, the approved provider must, unless the complaint is of an obviously trivial nature:
 - (a) give written notice of the complaint to the Regulatory Authority within one week after the complaint is made, and
 - (b) give written notice to the Regulatory Authority of any action taken in response to the complaint as soon as reasonably practicable after the action is taken.
- (2) A reference in this clause to a complaint about the conduct of an education and care service means a complaint that consists of:
 - (a) an allegation of a contravention of the Act or this Regulation by the approved provider or member of staff of the service, or
 - (b) an allegation of a contravention of a condition of a provider approval or service approval by the approved provider of the service or a member of staff of the service, or
 - (c) an allegation that the safety, health or well-being of a child attending the service has been compromised while the child attended the service.

89 Public liability insurance

The approved provider of any class of education and care service:

- (a) must obtain and keep current a policy of insurance that adequately meets the approved provider's public liability in respect of the provision of education and care services, being a

policy that provides for cover for an amount of not less than \$10,000,000, and

- (b) must provide the Regulatory Authority with a duly certified copy of a certificate of currency with respect to such insurance on request by the Regulatory Authority, and
- (c) must not require or request any parent of a child provided with the service to release or indemnify the approved provider against any liability in proceedings against the approved provider involving injury caused to the child while being provided with the service.

90 Display of service approval

The approved provider of an education and care service must ensure that the service approval for the service is displayed at all times in a prominent place on the premises of the service that is accessible to parents of children attending the service.

91 Copy of Regulation to be kept on premises of service

The approved provider of an education and care service must ensure that at least one copy of this Regulation is available at the premises of the service for inspection by the parents of children in respect of whom the service is provided.

Division 2 Records

92 Records in relation to children

The approved provider and nominated supervisor of an education and care service must ensure that the records referred to in Schedule 1 are made in relation to each child provided with the service and (as appropriate) kept up to date.

93 Records in relation to staff and visitors

(1) Centre based and mobile education and care services

The approved provider of a centre based or mobile education and care service must ensure that the following records are made and kept up to date in relation to each member of staff of the service:

- (a) a copy of any relevant qualification held by the member,
- (b) a copy of any first aid qualification held by the member and evidence of any approved anaphylaxis or emergency asthma management training completed by the member,
- (c) any other particulars that the Regulatory Authority requires, by notice in writing served on the approved provider, to be kept in relation to the member.

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- (2) The approved provider of a centre based or mobile education and care service must ensure that records are made and kept up to date of the day to day attendance of each member of staff, casual employee or contractor of the service, including the full name and times of arrival and departure of each person during the day and details of all absences.
- (3) **All education and care services**
The approved provider of an education and care service must ensure that records are made and kept up to date of the attendance of any visitor to the premises of the service, including the full name and times of arrival and departure of each visitor.
- (4) The records kept under this clause in relation to any person must be signed by the person.
- (5) A record in relation to the attendance of a person at the service must be made at the time of, or as soon as practicable after, the arrival and departure of the person.

94 Records in relation to attendance at education and care service

- (1) **Centre based or mobile education and care service**
The approved provider of a centre based or mobile education and care service must ensure that the nominated supervisor of the education and care service maintains and keeps up to date a record of attendance by children at the service.
- (2) The approved provider of a centre based or mobile education and care service must maintain and keep up to date a staff roster detailing the hours to be worked by each member of staff, casual employee or contractor of the service.
- (3) **Home based education and care service**
The approved provider of a home based education and care service must maintain and keep up to date a record of attendance by children at the service.
- (4) **All education and care services**
A record of attendance by children at an education and care service must be made at the time of, or as soon as practicable after, the arrival and departure of the child.
- (5) For the purposes of this clause, a *record of attendance by children* at an education and care service means a record containing the full name of each child who attends the service each day, including the time of arrival and departure of the child.

95 Records about programs for children, developmental records, daily routine

The approved provider and nominated supervisor of an education and care service must ensure that the following records are maintained and kept up to date:

- (a) the programs provided under clause 63,
- (b) the structure of the children's day,
- (c) a developmental record for each child provided with the service,
- (d) a weekly record of the service.

96 Retention of records

- (1) The approved provider of an education and care service must ensure that the records referred to in clause 92 in respect of a child are kept:
 - (a) in a safe and secure area at the premises of the service for a period of not less than 2 years after the making of the record, and
 - (b) thereafter at a place approved by the Regulatory Authority until the time the child reaches (or would have reached) 24 years of age.
- (2) The approved provider of a centre based or mobile education and care service must ensure that the records referred to in clause 93 in relation to a member of staff are kept:
 - (a) in a safe and secure area at the premises of the service while the member of staff remains a member of staff of the service, and
 - (b) thereafter at a place approved by the Regulatory Authority for a period of not less than 7 years after the member of staff ceases to be a member of staff of the service.
- (3) The approved provider of an education and care service must ensure that the records referred to in clause 93 in relation to a visitor to the premises of the service are kept:
 - (a) in a safe and secure area at the premises of the service for a period of not less than 2 years after the making of the record, and
 - (b) after that, at a place approved by the Regulatory Authority for a period of not less than 7 years after the visit to the premises.
- (4) The approved provider of an education and care service must ensure that the records referred to in clauses 94 and 95 are kept in a safe and secure area at the premises of the service for a period of 12 months after the record is made.
- (5) If the Regulatory Authority so directs, the approved provider must give the records specified in the direction to the person (including the

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Regulatory Authority) specified in the direction within one week after the approved provider receives the direction.

- (6) If an education and care service ceases operation, the approved provider must either:
- (a) keep the records referred to in clauses 92 and 93 at a safe and secure place and, if the records are to be moved to that place, obtain the approval of the Regulatory Authority before the records are moved to that place, or
 - (b) give the records to such person (including the Regulatory Authority) as the Regulatory Authority approves in writing.
- (7) The approved provider or nominated supervisor must give the parent of a child formerly provided with the service copies of the developmental records for the child kept by the service if requested to do so within 6 months after the child ceases to be provided with the service.

97 Inspection of records

- (1) The approved provider of an education and care service must ensure that the records relating to a child remain confidential and are made available only to the following persons:
- (a) if the approved provider is a natural person, the approved provider,
 - (b) if the approved provider is not a natural person, a natural person nominated by the approved provider,
 - (c) the nominated supervisor of the service,
 - (d) a member of staff or contractor of the service authorised to access the records by the approved provider or the nominated supervisor of the service,
 - (e) the Regulatory Authority,
 - (f) a person otherwise authorised by law to inspect the records,
 - (g) a parent of the child,
 - (h) any person authorised in writing to inspect the records by a parent of the child.
- (2) Nothing in this clause prevents records relating to a person who was formerly a child provided with the service being made available to that person.

98 Confidentiality guidelines

The approved provider of an education and care service is to prepare or cause to be prepared written guidelines setting out the policies and practices to be observed by the approved provider, staff and agents and

contractors of the service to ensure confidentiality about records of the service, or information obtained by the approved provider, staff, agents or contractors concerning:

- (a) children provided with the service, and
- (b) staff and their families, and
- (c) the families of children provided with the service, and
- (d) contractors of the service and their families.

99 Mobile education and care service register

An approved provider of a mobile education and care service, must keep a register of the following particulars:

- (a) the address of each of the premises at which the service is provided,
- (b) the name of the proprietor of each of those premises.

Division 3 Miscellaneous

100 Application of conditions if no nominated supervisor

While an education and care service has no nominated supervisor, the supervisor certificate conditions that apply to a nominated supervisor for the service extend to the approved provider of the service.

101 Notice of change in management of approved providers—public authorities

- (1) An approved provider that is a public authority must give the Regulatory Authority written notice of any of the following changes within 14 days after the change:
 - (a) the chief executive officer (however described) of the public authority ceases to be the chief executive officer,
 - (b) if the public authority is a local authority, the manager of community services (however described) ceases to be the manager of community services,
 - (c) a person becomes the chief executive officer (however described) of the public authority,
 - (d) if the public authority is a local authority, a person becomes the manager of community services (however described) of the local authority.
- (2) When giving notice in relation to a change referred to in subclause (1) (c) or (d), the approved provider must include the information and documents in relation to a chief executive officer or manager of

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community services that is required by Part 2 of this Regulation to accompany an application for a provider approval.

- (3) In this clause, *public authority* means:
- (a) a public authority constituted by or under an Act, or
 - (b) a local authority, or
 - (c) a Government Department or government agency, or
 - (d) a statutory body representing the Crown, or
 - (e) a university or TAFE establishment.

102 Notice of change in management of approved provider—bodies other than public authorities

- (1) This clause applies to an approved provider that is neither a natural person nor a public authority (within the meaning of clause 101).
- (2) If a person involved in the control and management of the approved provider substantially alters the person's involvement or ceases to be so involved, the approved provider must, within 14 days after the change, give the Regulatory Authority written notice of the change.
- (3) If a person becomes involved in the control and management of the approved provider, the approved provider must, within 14 days after the change, give the Regulatory Authority written notice of the change, together with the information and documents in relation to persons involved in the control and management of an approved provider that is required by Part 2 of this Regulation to accompany an application for a provider approval.

103 Notice of significant change in circumstances of approved provider

- (1) An approved provider of an education and care service must give the Regulatory Authority written notice of any significant change that may affect the approved provider's capacity to provide the education and care service within 7 days after the change occurs.
- (2) In this clause, *significant change* means a significant change in the circumstances of the approved provider or, in the case of an approved provider that is not a natural person, in the circumstances of a person involved in the control and management of the approved provider.
- (3) A significant change includes a change in financial circumstances, such as the approved provider becoming bankrupt or going into receivership.

104 Notice of change in contact information to be notified

Within 7 days after any change in a approved provider's contact information, the approved provider must give written notice of the fact, and new contact information, to the Regulatory Authority.

105 Notice of changes to premises—centre based, mobile or home based education and care service

The approved provider of a centre based, mobile or home based education and care service must give written notice to the Regulatory Authority of any proposed alteration, renovation or demolition of any building or other structure on the premises of the service:

- (a) at least 6 weeks before any relevant work commences, or
- (b) before the consent or approval of any public or local authority is sought for the relevant work,

whichever is the earlier.

106 Notice of criminal charges or convictions

- (1) The approved provider of any class of education and care service must give written notice to the Regulatory Authority:
 - (a) if the approved provider is charged with or convicted of a notifiable offence, or
 - (b) in the case of an approved provider that is not a natural person, if any person involved in the control and management of the approved provider, or in the control and management of a majority shareholder corporation of the approved provider, is charged with or convicted of a notifiable offence, or
 - (c) if the approved provider becomes aware that a member of the staff of the service (including the nominated supervisor) has been charged with or convicted of a notifiable offence, or
 - (d) if the approved provider becomes aware that a person who normally resides at any residential premises of the service has been charged with or convicted of a notifiable offence.
- (2) The nominated supervisor of an education and care service must give the Regulatory Authority written notice if the nominated supervisor is charged with or convicted of a notifiable offence.
- (3) Notice must be given to the Director-General as soon as practicable and, in any case, no later than 7 days after the charge or conviction is made or, in a case referred to in subclause (1) (c) or (d), the approved provider becomes aware of the charge of conviction.

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Administrative requirements

- (4) For the purposes of this clause, all offences are *notifiable offences* other than the following:
- (a) an offence (other than an offence referred to in subclause (5)) under the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*),
 - (b) an offence that relates to the parking of a motor vehicle.
- (5) The following offences under the road transport legislation are also notifiable offences for the purposes of this clause:
- (a) an offence under section 9, 12, 42 (2), 43 or 70 of the *Road Transport (Safety and Traffic Management) Act 1999*,
 - (b) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999* relating to driving a motor vehicle negligently if the person found guilty is sentenced to imprisonment or fined a sum of not less than \$200,
 - (c) an offence under section 171 (2) of the *Road Transport (General) Act 2005*,
 - (d) an offence under section 25A of the *Road Transport (Driver Licensing) Act 1998*,
 - (e) any other offence under the road transport legislation if the court orders the disqualification of the person found guilty from holding a driver licence.

Part 8 Approved child-minding services in retail shopping centres

107 Application of Part

This Part applies to a centre based education and care service that is a child-minding service provided at premises forming part of a retail shopping centre for the use of customers of the shopping centre.

108 Definitions

In this Part:

approval means an approval granted under clause 111 (1).

approved child-minding service means an education and care service that is the subject of an approval.

retail shopping centre has the same meaning as in the *Retail Leases Act 1994*.

Standards means the provisions set out in Schedule 2.

109 Child-minding services to comply with Standards

- (1) A person who provides an approved child-minding service must ensure that the Standards are complied with in relation to the child-minding service.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to a person acting in his or her capacity as an employee of a person who provides an approved child-minding service.

110 Application for approval

- (1) A person or body may make an application for an approval to provide a specified education and care service to which this Part applies without the need to hold a provider approval or service approval.
- (2) An application for an approval may not be made by a natural person unless he or she is of or above the age of 21 years.
- (3) If development consent under the *Environmental Planning and Assessment Act 1979* is required for the conduct of an education and care service at the premises of the proposed service, an application for an approval may not be made until development consent has been obtained.
- (4) An application for an approval is to be made in the approved form.
- (5) The Regulatory Authority may require an applicant for an approval to furnish such information as is necessary to enable the Regulatory Authority to determine the application.

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Part 8 Approved child-minding services in retail shopping centres

111 Approvals

- (1) The Regulatory Authority may, by notice in writing served on the applicant, approve an application made under clause 110 (1) or refuse the application.
- (2) Without limiting the grounds on which the Regulatory Authority may refuse an application, the Regulatory Authority must refuse an application unless satisfied that the premises on which the education and care service concerned will be provided are capable of complying with the relevant Standards.
- (3) An approval is subject to such conditions as may be specified in the notice and to such further conditions as the Regulatory Authority may from time to time notify in writing to the holder of the approval.
- (4) The Regulatory Authority may from time to time vary or revoke any condition of an approval by notice in writing served on the holder of the approval.
- (5) An approval remains in force until:
 - (a) the expiry date specified in the approval, or
 - (b) it is surrendered or revoked,whichever occurs first.
- (6) The Regulatory Authority may, if the Regulatory Authority sees fit, suspend or cancel an approval by notice in writing served on the holder of the approval.
- (7) Without limiting the grounds on which the Regulatory Authority may suspend or cancel an approval, the Regulatory Authority may suspend or cancel an approval:
 - (a) if the approved child-minding service does not comply with the Standards, or
 - (b) for breach of a condition to which the approval is subject.
- (8) Before the Regulatory Authority makes a final decision:
 - (a) to vary or revoke a condition, or
 - (b) to suspend or revoke an approval,the Regulatory Authority must allow the holder of the approval 28 days within which to show cause why the condition should not be varied or revoked or the approval not be suspended or revoked.
- (9) Subclause (8) does not apply in relation to a variation or revocation of a condition or a revocation of an approval requested by the holder of the approval concerned.
- (10) An approval has no effect during any period of suspension.

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- (11) The holder of an approval who fails to comply with a condition to which the approval is subject is guilty of an offence.
Maximum penalty: 10 penalty units.
- (12) If there is an inconsistency between a condition referred to in subclause (3) and the Standards, the Standards prevail to the extent of the inconsistency.

112 Regulatory Authority may require information or documents

A person who provides an approved child-minding service must provide the Regulatory Authority with such information in relation to the child-minding service as the Regulatory Authority may from time to time reasonably require.

Maximum penalty: 10 penalty units.

113 Effect of approval

A person is not required to hold a provider approval or service approval in relation to an education and care service to which this Part applies if it is an approved child-minding service.

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Clause 114

Part 9

Miscellaneous

Part 9 Miscellaneous

114 Reviewable decisions

For the purposes of section 28 of the Act, the following decisions of the Regulatory Authority are reviewable decisions for external review:

- (a) a decision to require an approved provider to employ additional staff,
- (b) a decision to refuse an application for an approval to provide a child-minding service under Part 8.

115 Further modifications to National Law

- (1) For the purposes of the National Law Alignment Provisions, the following provisions of the National Law are to be disregarded:
 - (a) section 81 (4) (about associated children's services),
 - (b) section 190 (f) (about reviews of decisions to revoke service waivers),
 - (c) section 267 (4) and (5) (about the register of education and care services),
 - (d) section 272 (2) (about disclosures of information about education and care services).
- (2) A reference in section 201 of the National Law to section 103 of the National Law is to be read, for the purpose of the National Law Alignment Provisions, as a reference to section 8 of the Act.

Note 1. Accordingly the power to enter premises under section 201 of the National Law where a contravention of section 103 of the National Law is suspected is, for the purposes of the National Law Alignment Provisions, a power to enter premises where a contravention of section 8 of the Act is suspected.

Note 2. Power to modify the application of the National Law to State regulated education and care services is conferred by section 29 of the Act.

116 Original documents may be used instead of certified copies

A requirement of this Regulation for production of a duly certified copy of a document may be satisfied by production of the original document if the owner of the original document so elects.

117 Transitional provision—cots

Any cots at the premises of a children's service or an approved child-minding service (within the meaning of Part 8) immediately before 1 January 2011 may continue to comply with the requirements of the Australian/New Zealand Standard AS/NZS 2172:2003, *Cots for household use—Safety requirements* for the purposes of clause 34 (6) or

clause 20 (2) of Schedule 2 instead of the Standards referred to in those clauses.

118 Transitional provision—anaphylaxis and emergency asthma management training

- (1) The requirements under clauses 51 (3), 78 (3) and (9) and 84 relating to approved anaphylaxis and emergency asthma management training do not have effect until 1 September 2013.
- (2) However, the nominated supervisor of a centre based or mobile education and care service at which a child at risk is enrolled must comply with clauses 51 (3) and 78 (3) as soon as practicable after 1 September 2012 or as soon as practicable after a child at risk becomes enrolled at the service. This subclause ceases to have effect on 31 August 2013.
- (3) In subclause (2), *child at risk* means a child who has been diagnosed by a medical practitioner as being at risk of anaphylaxis or as having asthma.

119 Savings

Any act, matter or thing that, immediately before the repeal of the *Children (Education and Care Services) Supplementary Provisions Regulation 2004*, had effect under that Regulation continues to have effect under this Regulation.

Note. Part 2 of Schedule 2 to the *Children (Education and Care Services) Supplementary Provisions Regulation 2004* contained particular savings and transitional provisions consequent on the commencement of the *Children (Education and Care Services) Supplementary Provisions Act 2011* and the repeal of Chapter 12 of the *Children and Young Persons (Care and Protection) Act 1998* on 1 January 2012. The operation of those provisions is not affected by their repeal.

Schedule 1 Approval conditions—records to be kept for each child

(Clause 92)

1 Records of personal information

The following written records are to be kept in relation to the child's personal information:

- (a) the child's full name and any other names by which the child is known, and any former names of the child,
- (b) the child's date of birth and place of birth (if possible, verified by the nominated supervisor, within 6 weeks after the child is enrolled at the service, by inspection of a duly certified copy of the child's birth certificate, Australian citizenship certificate or passport or other documentation approved by the Regulatory Authority),
- (c) the child's sex,
- (d) the child's residential address,
- (e) a description of the child's family circumstances, in particular any court orders of which the staff or carers of the service are aware that affect the residence of the child or contact with the child by the parents (if possible, court orders are to be verified by the nominated supervisor or approved provider by inspection of a duly certified copy of the court order at the time of enrolment of the child at the service or after the making of any subsequent court order),
- (f) the full name of each parent of the child, and any other name by which each parent is known,
- (g) the residential address, place of employment, all contact telephone numbers (whether for the residence, place of employment or for a mobile telephone) and any other contact details for each parent of the child,
- (h) any special requirements concerning the child notified by a parent of the child (such as requirements relating to the child's culture or religion or to the child's needs in relation to any disability that the child has),
- (i) the ethnic and cultural identity of the child and the primary language spoken by the child, or if the child has not learned to speak, the primary language or languages of the child's parents,
- (j) information (if any) provided by a parent of the child concerning the child's religion and cultural background and any practice that the parent considers should, to the greatest extent possible, be

observed at the service in respect of the child because of that religion or background,

- (k) the full name, address, all telephone numbers (whether for the residence, place of employment or for a mobile telephone) and any other contact details for each person authorised by a parent of the child to collect the child from the premises of the service,
- (l) the full name, address, all telephone numbers (whether for the residence, place of employment or for a mobile telephone) and any other contact details for each person who may be contacted in an emergency if a parent of the child is not available.

2 Records concerning health matters

- (1) In this clause:

health fund means a registered organisation within the meaning of the *National Health Act 1953* of the Commonwealth.

medicare number has the same meaning as in section 84 of the *National Health Act 1953* of the Commonwealth.

- (2) The following written records are to be kept in relation to the child's health:
- (a) the name, address and telephone number of the child's doctor (if any),
 - (b) any written authorisation by a parent of the child for the administration of any medication by a member of staff of the service or by a carer, and any medical practitioner's instructions relating to its administration,
 - (c) if any medication is administered to the child by a member of staff of the service or by a carer:
 - (i) the name of the medication, and
 - (ii) the date, time and dosage administered, and
 - (iii) the names and signatures of the persons who checked the dosage and administered the medication,
 - (d) any written particulars provided by a parent of the child advising the approved provider that the child suffers from allergies, epilepsy, asthma or any other specified medical condition and of the treatment to be given if the child appears to be severely physically affected by the condition while being provided with the service,
 - (e) any written authorisation by a parent of the child for emergency medical, hospital, dental and ambulance service,

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- (f) the medicare number by which the child is covered, and (if known) the name of any health fund that has issued a policy by which the child is covered,
- (g) the nature and circumstances (including the date and time) of any injury to the child or illness of the child while being provided with the service,
- (h) particulars of treatment given to the child if the child is injured or becomes ill while being provided with the service,
- (i) if the child dies while being provided with the service, the details surrounding the child's death.

3 Records of attendance and excursions

The following written records are to be kept of the child's attendance and excursions:

- (a) the day to day attendance of the child at the premises of the service, including arrival and departure times,
- (b) as far as is practicable, the signature of the person who brings the child to the service each time the child arrives at the service, and the signature of the person who collects the child each time the child departs from the service,
- (c) any authorisation by a parent for a child to be taken on an excursion or escorted to or from a specified place.

4 Records of complaints

The following written records are to be kept in relation to complaints relating to the child:

- (a) details of any complaint by a parent or person responsible for a child provided with the service concerning the care provided to the child or the operations of the service,
- (b) details of any action taken in response to the complaint.

Schedule 2 Standards applying to approved child-minding services in retail shopping centres

(Clause 108)

Part 1 Preliminary

1 Definitions

In this Schedule:

approval means an approval that has been granted under Part 8 and that is in force.

premises of the child-minding service means the premises at which the child-minding service is provided as specified in the approval granted for the service, and includes any part of those premises.

primary contact staff, in relation to the child-minding service, has the same meaning as in clause 3 of this Regulation except that references in paragraph (b) of that definition to the approved provider of the service and the approved provider are to be read as references to the holder of an approval for the child-minding service and the holder, respectively.

staff of the child-minding service means those persons employed for remuneration by the holder of the approval for the service who are engaged in the provision of the service.

the child-minding service means the education and care service to which an approval relates.

Part 2 Staffing standards

2 Employment of staff

- (1) The holder of an approval must not employ any person who has been convicted of a child care related offence within the previous 5 years as a member of the primary contact staff for the child-minding service.
- (2) The holder of an approval must not employ any person who is under the age of 18 years as a member of the primary contact staff for the child-minding service.
- (3) In this clause:
child care related offence means any of the following offences:
 - (a) an offence under section 31 or 33 (1) of the *Children (Care and Protection) Act 1987* (as formerly in force),

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- (b) an offence under section 27 (to the extent it relates to persons who deliver, or who directly supervise or are directly responsible for the provision of, education and care services), 204, 205, 210, 214, 216, 218, 227, 228, 229, 230, 231, 251, 252, 253 or 254 of the *Children and Young Persons (Care and Protection) Act 1998*,
- (c) an offence under this Regulation.

3 Qualified staff

- (1) At all times while children are being provided with the child-minding service:
 - (a) at least one primary contact staff member must be in attendance who has obtained:
 - (i) a Child Care Certificate, a Certificate of Child Care Studies or an Associate Diploma of Social Science (Child Studies) from a TAFE establishment, or
 - (ii) a Diploma of Children's Services (Early Childhood Education and Care) or a Diploma of Community Services (Children's Services) from a registered training organisation, and
 - (b) the majority of the remainder of the primary contact staff members in attendance must be persons who have had training or work experience in providing education and care services (or assisting with providing education and care services).
- (2) The holder of an approval must ensure that staff members with mandatory reporting obligations under section 27 of the *Children and Young Persons (Care and Protection) Act 1998* are aware of those obligations.
- (3) All primary contact staff members must hold a current approved first aid qualification.

4 Staff to child ratios

- (1) A ratio of primary contact staff to children being provided with the child-minding service must be maintained that, in the opinion of the Regulatory Authority, is adequate.
- (2) At least 2 members of the primary contact staff must be present on the premises of the child-minding service whenever children are being provided with the service at the premises.
- (3) A sufficient number of adult persons must be available to assist in the effective evacuation of children from the premises of the child-minding service in the case of an emergency.

Part 3 Operational standards

5 Hours of operation of service

The child-minding service must not operate outside the hours of operation of the retail shopping centre in which it is located.

6 Time limits on attendance of children

A child must not be allowed to attend the child-minding service for more than 3 hours in any one day or 9 hours in any one week.

7 Arrival and departure of children

- (1) A child may only be allowed to be collected from the child-minding service by the person who delivered the child to the service or a person nominated by that person to collect the child (as referred to in clause 9 (3) (e) of this Schedule).
- (2) A form of identification (which includes the name of the child and the names and contact details of the child's parent or other person who delivered the child to the service, and the person who is to be contacted in an emergency) must be attached to each child attending the child-minding service on the child's arrival at the premises of the service.
- (3) A parent or other person who delivers a child to the child-minding service must be required:
 - (a) to give the time at which the child will be collected, and
 - (b) not to leave the retail shopping centre in which the premises of the service are located during the period of the child's attendance at the service.
- (4) Appropriate arrangements must be made with the parent or other person who delivers a child to the child-minding service to ensure that the parent or other person will be contactable at all times during the period of the child's attendance at the service.

8 Failure to comply with certain operational standards

A failure to comply with clause 5, 6 or 7 (1) of this Schedule is not to be treated as a contravention of these Standards if the failure is due only to:

- (a) a parent or other person failing to collect, or being late in collecting, a child from the child-minding service, or
- (b) some other circumstance that is beyond the control of the holder of the approval and the staff of the service.

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9 Enrolment of children

- (1) The child-minding service may only be provided to a child who is enrolled in the service in accordance with this clause.
- (2) A child must be enrolled on each attendance at the child-minding service.
- (3) The parent or other person who delivers a child to the premises of the child-minding service must be required to provide the following details for the purpose of the child's enrolment:
 - (a) the child's full name and any other names by which the child is known,
 - (b) the child's date of birth,
 - (c) the full name of each parent of the child, and any other name by which each parent is known, and the contact details for each parent,
 - (d) the full name of the person who delivers the child to the service (if not the parent), and the contact details for that person,
 - (e) the full name and contact details of a person who is authorised to collect the child from the service in the absence of the person who delivers the child to the service,
 - (f) the full name and contact details for each person who may be contacted in an emergency if a parent of the child is not available,
 - (g) any relevant medical details concerning the child (for example, the child's immunisation status and details of any allergies or other medical condition the child has),
 - (h) any special requirements concerning the child (such as requirements relating to the child's needs in relation to any disability or medical condition the child has).

10 Excursions

A child who has been delivered to the child-minding service must not be allowed to leave the service to participate in any excursion unless:

- (a) the parent or other person who delivered the child to the service has authorised the child's participation in that excursion in writing, and
- (b) the child is accompanied on the excursion by a primary contact staff member.

11 Illness, accident and emergency treatment

A child must not be enrolled in the child-minding service unless a parent of the child:

- (a) has given written authorisation for the service to seek urgent medical, dental or hospital treatment or ambulance service, and
 - (b) has given written consent to the carrying out of appropriate medical, dental or hospital treatment,
- in the event that such action appears to be necessary because the child has been injured, or is ill, at the premises of the service.

12 Drinking water for children

Drinking water must be provided and available to children attending the child-minding service at all times while the service is being provided.

13 Activities for children

Activities must be provided that meet the developmental and physical needs of the children attending the service.

14 Storage of medicines and dangerous substances

All medications and poisonous and other dangerous substances must be kept in secure storage facilities that are inaccessible to children.

15 Emergency and evacuation procedures

- (1) A written emergency plan for fire and other emergencies (including evacuation procedures) must be developed and kept up to date.
- (2) A copy of each plan must be prominently displayed in each playroom on the premises of the child-minding service and at each main exit from the premises.
- (3) Primary contact staff must practise emergency procedures (including evacuation procedures) at least once every 3 months so that they are prepared for emergencies.
- (4) A record of each practice must be taken that includes an evaluation of the procedures followed and must be kept at the premises of the child-minding service (or the offices of the service) for a period of 2 years after the practice.
- (5) Equipment that can be used to transport babies during an evacuation (for example, baby pouches) must be kept easily accessible at all times and must be used in evacuation practice.

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Part 4 Facilities and equipment standards

16 Space requirements

The premises of the child-minding service must have at least 3.25 square metres of unencumbered floor space per child that is exclusively for the use of children while in attendance at the service.

17 Food preparation facilities

- (1) The premises of the child-minding service must have a designated area, that is both safe and hygienic, for food preparation and storage.
- (2) Facilities for the preparation and storage of food must be designed, located and maintained so as to prevent children from gaining access to any harmful substance, equipment or amenity.

18 Toilets and washing facilities

- (1) The premises of the child-minding service must have toilet, hand washing and bathing facilities that are safe and appropriate to the ages of the children attending the service and must have products and equipment for cleaning those facilities whenever necessary.
- (2) The sanitary facilities of the child-minding service must comply with the requirements for class 9b buildings (Early childhood centres) of clause F2.3 of the *Building Code of Australia*.
- (3) Staff toilets must be located within, or in immediate proximity to, the premises of the child-minding service.

19 Nappy change facilities

- (1) The following facilities must be provided at the premises of the child-minding service if any child provided with the service wears nappies:
 - (a) a stable surface for changing nappies, together with a mat that has an impervious washable surface,
 - (b) hand washing facilities for adults in the immediate vicinity of the nappy changing area,
 - (c) sanitary facilities for the storage of soiled nappies pending laundering or disposal of the nappies,
 - (d) if the children's soiled clothing is laundered by staff, adequate facilities for laundering the clothing or otherwise dealing hygienically with waste,
 - (e) facilities for the storage of clean nappies.
- (2) Any nappy changing bench or mat must be cleaned after each use.

- (3) The nappy changing facilities must be designed, located and maintained so as to prevent unsupervised access by children.
- (4) The nappy changing facilities must be separated from food preparation facilities and craft preparation facilities.

20 Sleeping facilities

- (1) The premises of the child-minding service must have adequate, hygienic and safe sleeping facilities for all children who sleep while at the premises. (This may include cots, beds, stretchers, sleeping mats (together with waterproof covers), prams or strollers.)
- (2) Cots must comply with the requirements of either the Australian/New Zealand Standard AS/NZS 2172:2010, *Cots for household use—Safety requirements* or the Australian/New Zealand Standard AS/NZS 2195:2010, *Folding cots—Safety requirements*.

21 Child-proof gates at entry and exit points

- (1) Child-proof gates must be installed at each point of entry to or exit from the premises of the child-minding service.
- (2) The child-proof gates must:
 - (a) be secured by means of child-proof locks, and
 - (b) be designed:
 - (i) to prevent children from entering or leaving the premises unsupervised, and
 - (ii) to inhibit or impede intruders from entering the premises.

22 Play equipment

- (1) The premises of the child-minding service must be equipped with equipment that meets the developmental and physical needs of the children attending the service.
- (2) Play equipment (whether fixed or not) used on the premises of the child-minding service must not constitute a hazard to children at the service because of:
 - (a) the height from which a child can fall, or
 - (b) the likelihood that a child can be trapped, pinched or crushed in the equipment or struck by it, or
 - (c) sharp or rough edges and projections or rust, or
 - (d) lack of stability.
- (3) Play equipment used on the premises of the child-minding service must be safe and in good repair.

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- (4) All broken equipment and broken toys must immediately be removed from play areas.
- (5) The surfacing used underneath or around play equipment on the premises of the child-minding service must comply with the requirements of Australian and New Zealand Standard AS/NZS 4422:1996 *Playground surfacing—Specifications, requirements and test method*.

23 Fire safety equipment

- (1) The premises of the child-minding service must be provided with:
 - (a) appropriately located smoke detectors, and
 - (b) a fire blanket that is kept adjacent to the cooking facilities at the premises, and
 - (c) appropriately located fire extinguishers.
- (2) All fire protection equipment with which the premises of the child-minding service is equipped must:
 - (a) be tested in accordance with the requirements of sections 15 and 16 of AS 1851–2005, *Maintenance of fire protection systems and equipment*, and
 - (b) be kept in proper working condition.

24 Cleanliness, maintenance and repairs

The premises of the child-minding service, and all equipment and furnishing used in providing the service, must be maintained in a safe, clean and hygienic condition and in good repair at all times.

25 Safe environment

The holder of an approval must comply with the requirements of the *Work Health and Safety Act 2011* that apply to the holder.

Part 5 Administrative standards

26 Public liability insurance

Clause 89 (1) applies in relation to the holder of an approval as if references in that clause:

- (a) to the approved provider of any class of education and care service and the approved provider were references to the holder of the approval, and
- (b) to education and care services and the service were references to the child-minding service to which the approval relates.

27 Records relating to child's attendance

- (1) Written records must be kept of the enrolment details (referred to in clause 9 (3) of this Schedule) of each child who attends the child-minding service.
- (2) The following written records must be kept of a child's attendance at the child-minding service:
 - (a) for each day the child attends the service, the day of attendance and the arrival and departure times on that day,
 - (b) the signature of the person who delivers the child to the service each time the child arrives at the service, and the signature of the person who collects the child each time the child departs from the service.
- (3) Written records must be kept of each occasion that a parent or other person who delivers a child to the child-minding service:
 - (a) is uncontactable, or
 - (b) is late in collecting the child, or
 - (c) fails to collect the child.
- (4) A record referred to in this clause must be kept in a safe and secure area at the premises of the child-minding service (or the offices of the service) for a period of not less than 2 years after the making of the record.
- (5) Clause 97 applies in relation to the inspection of records referred to in this clause as if references in that clause:
 - (a) to the approved provider of an education and care service and the approved provider were references to the holder of an approval, and
 - (b) to the nominated supervisor of the service were references to the nominated supervisor of the child-minding service (being the person specified as such in the approval for the service).

28 Policies of service

- (1) Policies must be developed and maintained concerning the following matters in relation to the child-minding service:
 - (a) the conditions of service applying to the parents and other persons who deliver a child to the service (including the requirements referred to in clauses 6, 7 (1), (3) and (4) and 9 (3) of this Schedule) and the procedures that are to apply if a condition is contravened or persistently contravened,
 - (b) child health and safety,

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- (c) infectious diseases,
 - (d) procedures for making complaints (including how complaints may be made to the Department of Education and Communities) and for handling complaints,
 - (e) confidentiality of records,
 - (f) emergency (including evacuation) procedures.
- (2) Copies of the policies must be available at the premises of the child-minding service for inspection by parents of a child attending the service or other persons delivering a child to the service.
- (3) A parent or other person who delivers a child to the child-minding service is to be provided with a written summary of the policies of the service.

Schedule 3 Fees

(Clauses 11 and 13)

Matter	Fee (\$)
Application fee in respect of a service approval authorising the operation of:	
(a) a home based education and care service	400
(b) a mobile education and care service	600
(c) a centre based education and care service:	
(i) provided to not more than 29 children	400
(ii) provided to more than 29 children, but not more than 60 children	600
(iii) provided to more than 60 children	800
Annual fee in respect of a service approval authorising the operation of:	
(a) a home based education and care service	185
(b) a mobile education and care service	275
(c) a centre based education and care service:	
(i) provided to not more than 29 children	185
(ii) provided to more than 29 children, but not more than 60 children	275
(iii) provided to more than 60 children	365