



New South Wales

Centre Based and Mobile Child Care Services Amendment Regulation 1997

under the

Children (Care and Protection) Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Children (Care and Protection) Act 1987*.

Ron Dyer

Minister for Community Services

Explanatory note

This Regulation makes miscellaneous amendments to the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996* for the following purposes:

- (a) so that the Regulation will apply to a service provided by a person for 4 or more children (disregarding any children who are related to the person) at the premises at which at least one of the children resides (item [1]),
- (b) so that the Regulation (which currently does not apply to a child minding service organised by a person conducting a casino, fitness club or other recreational facility irrespective of where the service is located) will only not apply to such a child minding service if the service is located at a place that makes it readily accessible to the parents of the children, and so that the Regulation will apply to such a service provided for children of persons employed at recreational facilities (clause 3 (2) (c)—item [2]),

1997 Nb 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Explanatory note

- (c) to clarify the definition of *premises of a service* and to define various other terms used in the Regulation (items [3] and [4]),
- (d) to make it clear that the primary contact staff of a service may include the licensee of a service but do not include persons who work at the service in a voluntary capacity (clause 5—item [4]),
- (e) to expand the particulars to be included in an application for a licence for a service made by an individual to include details of charges and disciplinary action or departmental or other proceedings relating to neglect or assault (including sexual assault) of a child in the 5 years' immediately before the application is made and to require any applicant for a licence to include such details concerning the proposed authorised supervisor of the service (clauses 8 (3) (h1) and (h2) and 10 (2A)—items [8] and [17]),
- (f) to set out the particulars that are to be included in an application for a licence for a service made by a corporation (clause 8 (3A)—item [9]),
- (g) to remove the requirement for an applicant for a licence to advertise the making of the application if the application is an application for a further licence in relation to the same service and to require a notice advertising an application to include details of all former names under which the applicant has provided a service (clause 8 (5) and (6)—item [10]),
- (h) to require an application for a licence for a service to include details of the intentions of the licensee with respect to the primary contact staff of the service (clause 9 (1) (c)—item [11]),
- (i) to remove the requirement for an application for a licence for a mobile child care service to be accompanied by details of the premises at which the service is to be provided (item [13]),
- (j) to give some examples of the information that an applicant may supply to demonstrate that the applicant is a fit and proper person to hold a licence (clause 9 (4)—item [14]),
- (k) to make it clear that only one person may be nominated to be the authorised supervisor of a service (clause 10 (1A)—item [15]),
- (l) to extend the application of certain provisions currently referring only to parents of children enrolled at a service to refer also to other persons responsible for such children (clauses 12 (2) (b), 17 (1), 19 (2), 24, 29 (f) and (g) and clauses 5 (3) and 6 (1) and (3) of Schedule 2—items [21], [30], [34], [54], [56], [58], [61], [81], [131]–[133]),

- (m) to include further matters that must be described in the written statement of service policies that is to accompany any application for a licence (clause 12 (2) (c1), (h), (h1), (q) and (r)—items [22]-[25]),
- (n) to require the licensee of a mobile child care service to keep a register containing details relating to the premises at which the service is provided and to provide for the inspection of the register (clauses 15 (2A) and 28A—items [27] and [79]),
- (o) to require a licensee to give the Director-General 21 days' (instead of 7 days') notice after a service ceases to operate (clause 16—item [29]),
- (p) to require authority for primary contact staff (rather than staff generally) of a service to seek emergency medical and other treatment for a child at a service to be given by a parent or other person responsible for the child (clause 17 (1)—item [30]),
- (q) to require the licensee for a service to ensure that a minimum of 2 adult persons accompany children on any excursion (clause 20 (1A)—item [36]),
- (r) to alter the adult to child ratio required for taking children on certain excursions (clauses 20 (3) and (4)—item [37]),
- (s) to permit children to be taken on an excursion to swim or use any pool on the premises of a service only for the purposes of learning water safety or learning to swim, to specify the adult to child ratio to be maintained while children are participating in that activity and to make other changes relating to safety of children near water (clauses 20 (5A) and 21 (2), (3) and (4)—items [41] and [44]-[46]),
- (t) to specify the adult to child ratio that is to apply when children are taken on an excursion to a beach, river, lake or other significant water hazard (clause 20 (6)—item [42]),
- (u) to modify the emergency procedure requirements in relation to mobile child care services and centre based child care services providing an occasional child care service (clause 22 (2) and (3A)—items [47] and [49]),
- (v) to require a service to employ a cook if meals (not food only) are prepared at the service (clause 23—item [52]),
- (w) to omit the requirement for a licensee to provide parents of children with access to the “Guidelines for the control of infectious diseases in child care” prepared by the Department of Health as a consequence of

- a new requirement to prepare a service policy on control of infectious diseases (parents are required to be provided with copies of all written policies) (clauses 12 (2) (q) and 24 (1) (m)—items [25] and [59]),
- (x) to specify ways in which access to the information about a service that is required to be given to parents who do not speak English may be provided (clause 24 (1A)—item [60]),
 - (y) to increase (from 1 September 1997) the public liability insurance cover required to be maintained by the licensee of a service from 5 to 10 million dollars (clause 26—item [62]),
 - (z) to ensure that the religion and cultural background of a child enrolled at the service is respected and records of the child's parent's preferences kept (clause 27 (1) (e1)—item [65]),
 - (aa) to ensure that records are kept of the treatment to be given to any child who the licensee has been advised suffers from epilepsy, asthma or any other medical condition if the child is severely physically affected by the condition at the service (clause 27 (1) (j1)—item [67]),
 - (ab) to modify the record keeping requirements so far as they relate to children who attend the service only on an occasional basis (clause 5 (proposed definition of *occasional child care service*) and clause 27 (1) (r)—items [3] and [68]),
 - (ac) to clarify the requirements and obligations relating to records kept for long periods (clauses 27 (5) and 28—items [73]–[78]),
 - (ad) to enable a person who was formerly a child enrolled at a service to access his or her records (clause 29 (2)—item [82]),
 - (ae) to impose on the licensee rather than the authorised supervisor responsibility to ensure requirements of clauses 22 (2) and (4), 27 (3) and 28 (1) and clauses 1 (1) and (6), 3, 5 and 10 of Schedule 2 are complied with (items [47], [50], [70], [77], [119], [121], [124], [129], [139]),
 - (af) to make further provision with respect to the employment, and duties, of primary contact staff (clauses 32A, 33 (2) and 35 (2)—items [87], [88] and [90]),
 - (ag) to include additional licensing standards concerning children with a disability (Schedule 1, clauses 6 and 8—items [99] and [107]),
 - (ah) to recognise that beds or cots may not be the appropriate sleeping facility for children from some cultural backgrounds (Schedule 1, clause 7—items [103] and [104]),

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Explanatory note

- (ai) to make it a condition of a licence that alcohol and other drugs are not consumed, and tobacco is not smoked, on the premises of the service (Schedule 2, clause 2 (3)—item [123]),
- (aj) to make it a condition of the licence that school age children who are not enrolled at the service only be cared for at the service in a way that does not prejudice the care of children under school age enrolled at the service (Schedule 2, clause 12—item [1401]).

The Regulation also includes a number of consequential amendments and amendments to clarify provisions of the principal Regulation or to correct typographical and other errors.

The Regulation contains savings and transitional provisions to expand certain of the existing exemptions contained in clause 37 so as to cover a licensee's successor, to remove the existing exemptions in relation to the licensing standards set out in clauses 5 (3), 6 (2) (a) and (d) of Schedule 1 and to provide a qualified exemption in respect of the licensing standard set out in clause 11 of Schedule 1 (clause 37—items [93] and [94]). The provisions will ensure that if a licensee providing a child care service at premises that do not comply with certain specified licensing standards sells the business to another person who provides the same service at the premises, the new licensee will not need to alter the premises to comply with those licensing standards.

This Regulation is made under the *Children (Care and Protection) Act 1987*, including clause 6 of Schedule 1, and clause 1 of Schedule 3, to that Act and sections 48 (3) and 124 (the general regulation making power, in particular section 124 (1) (a) and (i)).

1997 No 186

Clause 1 Centre Based and Mobile Child Care Services Amendment Regulation 1997

**Centre Based and Mobile Child Care Services
Amendment Regulation 1997**

1 Name of Regulation

This Regulation is the *Centre Based and Mobile Child Care Services Amendment Regulation 1997*.

2 Commencement

This Regulation commences on 30 May 1997.

**3 Amendment of Centre Based and Mobile Child Care Services
Regulation (No 2) 1996**

The *Centre Based and Mobile Child Care Services Regulation (No 2) 1996* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Child care services to which this Regulation applies

Omit “one or more” from clause 3 (2) (b).
Insert instead “not more than 4”.

[2] Clause 3 (2) (c)

Omit the paragraph. Insert instead:

- (c) a child-minding service that is provided at or in the immediate vicinity of a casino, fitness club or other recreational facility by or on behalf of the person conducting the facility for persons using the facility who are parents of the children provided with the service.

[3] Clause 5 Definitions

Insert in alphabetical order:

child with a disability means a child:

- (a) with a physical, intellectual or sensory disability, or with multiple disabilities, or
- (b) in respect of whom a child disability allowance is paid or payable under the *Social Security Act 1991* of the Commonwealth, or
- (c) who requires a level of care and assistance in daily life of an intensity significantly higher than that of children without a disability.

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

mobile child care service register is a register for a mobile child care service required to be kept under clause 28A.

occasional child care service means a service provided at a centre based child care service for the purpose of educating, minding or caring for children for short periods on an irregular or intermittent basis.

Note. Occasional child care may be used for a variety of reasons, including provision of care while a parent is shopping, attending an appointment, doing casual work or in need of respite.

person responsible has the same meaning in relation to a child as it has in the Act.

stuff of a service means those adult persons employed for remuneration by the licensee of the service who are engaged in the provision of the service.

[4] **Clause 5**

Omit the definitions of *premises of a service* and *primary contact staff*. Insert instead:

premises of a service means:

- (a) in the case of a centre based child care service—the premises at which the service is provided described in the licence for the service, and
- (b) in the case of a mobile child care service—any premises at which the mobile child care service is provided from time to time.

Note. *Premises* is defined in the Act to include a structure, building, vehicle, vessel or place (including a public or other place), whether built on or not, and any part thereof.

primary contact staff of a service means any member of the staff of the service who is actually involved in educating, minding or caring for children at the service and includes the licensee of the service at any time at which the licensee is actually involved in educating, minding or caring for children at the service, but does not include:

- (a) a person who is engaged solely in administrative, clerical or domestic duties at the service, or

- (b) a person who is at the service for the purpose of work experience or a work training program, or
- (c) a person who is at the service as a formal part of studies at an educational institution, or
- (d) a person who works at the service on a voluntary basis.

[5] Clause 8 Application for licence for a service

Omit “An applicant” from clause 8 (1).

Insert instead “An individual who is an applicant”.

[6] Clause 8 (3)

Omit “The application”.

Insert instead “In the case of an individual, the application”.

[7] Clause 8 (3) (e)

Insert “, or youth related activities previously carried out,” after “previously operated”.

[8] Clause 8 (3) (h1) and (h2)

Insert after clause 8 (3) (h):

- (h1) details of any charges for offences referred to in paragraph (h) preferred against the applicant in the period of 5 years immediately before the application is made,
- (h2) details of any disciplinary action or departmental or other proceedings of which the applicant is aware that have been taken in respect of the applicant relating to neglect or assault (including sexual assault) of a child in the period of 5 years immediately before the application is made,

[9] Clause 8 (3A)

Insert after clause 8 (3):

- (3A) In the case of a corporation, the application is to include the following:
- (a) the corporate name of the corporation,
 - (b) a copy of the certificate of incorporation,
 - (c) the address and telephone number of the registered office of the corporation,
 - (d) the full name, residential address and position of:
 - (i) each current director of the corporation, and
 - (ii) the principal executive officer of the corporation, and
 - (iii) the secretary or, if there is more than one, each secretary of the corporation,
 - (e) if the business name in respect of which the corporation is registered under the *Business Names Act 1962* is different to its corporate name—the business name,
 - (f) details of any child care services previously operated, or youth related activities previously carried out, by the applicant or any person referred to in paragraph (d),
 - (g) the address of the premises where the service is to be provided,
 - (h) an authority to obtain details of any record of criminal conviction of the applicant,
 - (i) details of any criminal conviction of the applicant relating to the neglect of a child,
 - (i) details of any criminal conviction relating to the neglect or assault (including sexual assault) of a child by any person referred to in paragraph (d),
 - (k) details of any charges for offences referred to in paragraph (i) preferred against the applicant,

-
- (l) details of any charges for offences referred to in paragraph (j) preferred against a person referred to in paragraph (d) in the period of 5 years immediately before the application is made,
 - (m) details of any disciplinary action or departmental or other proceedings of which the applicant is aware that have been taken in respect of the applicant relating to neglect or assault (including sexual assault) of a child in the period of 5 years immediately before the application is made,
 - (n) details of any disciplinary action or departmental or other proceedings of which the applicant is aware that have been taken in respect of a person referred to in paragraph (d) relating to neglect or assault (including sexual assault) of a child in the period of 5 years immediately before the application is made.

[10] Clause 8 (5)

Omit the subclause. Insert instead:

- (5) An applicant must advertise notice of the making of the application in a daily newspaper circulating generally throughout New South Wales, and in a newspaper (if any) circulating generally in the locality where the service is to be provided, unless the application is for a further licence in relation to the same service as that to which a licence held by the applicant relates.
- (6) A notice under subclause (5) is to include details of any former name under which the applicant has provided a child care service.

[11] Clause 9 Information to accompany application for licence for service

Insert at the end of clause 9 (1):

, and

- (c) intends to ensure that primary contact staff at the service:

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

- (i) are sympathetic to the welfare of children, and
- (ii) have adequate training, knowledge, understanding and experience of children and families so as to be capable of meeting their needs, and
- (iii) are able adequately to care for and supervise children, and
- (iv) are of suitable age, maturity, health and personality to care for children, and
- (v) are fit and proper persons to care for children.

[12] Clause 9 (2) (c)

Omit “certificate from”.

Insert instead “statement in writing signed by”.

[13] Clause 9 (3)

Omit the subclause.

[14] Clause 9 (4)

Insert after clause 9 (3):

- (4) Without limiting the information that may accompany an application for a licence for the purpose of demonstrating that the applicant is a fit and proper person to be concerned in the provision of the service to which the licence relates, the information may include:
 - (a) copies of character references,
 - (b) copies of references describing any relevant experience the applicant has in providing a child care service,
 - (c) copies of bank statements, financial records and any other documents indicating that the applicant has a sound financial reputation and stable financial background.

[15] Clause 10 Proposed authorised supervisor

Insert after clause 10 (1):

- (1A) Only one person may be nominated under subclause (1)

[16] Clause 10 (2) (h)

Insert at the end of clause 10 (2) (g):

and

- (h) such other information as the Minister may reasonably require to assist in the determination of the application.

[17] Clause 10 (2A)

Insert after clause 10 (2):

- (2A) An application for a licence is to include the following information about the proposed authorised supervisor:
 - (a) details of any criminal conviction of the proposed authorised supervisor relating to neglect or assault (including sexual assault) of a child,
 - (b) details of any charges for offences referred to in paragraph (a) preferred against the proposed authorised supervisor in the period of 5 years immediately before the application is made,
 - (c) details of any disciplinary action or departmental or other proceedings of which the applicant is aware that have been taken in respect of the proposed authorised supervisor relating to neglect or assault (including sexual assault) of a child in the period of 5 years immediately before the application is made.

[18] Clause 10 (3) (b)

Omit the paragraph. Insert instead:

- (b) must have a minimum of 12 months experience (either gained while obtaining, or after obtaining, the qualifications referred to in paragraph (a)) in providing a child care service as a member of the primary contact staff of a service.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[19] Clause 11 Inquiries about proposed licensee and authorised supervisor

Insert “authorised” before “officer” wherever occurring.

[20] Clause 12 Service policies

Insert “that are proposed” before “to be implemented” in clause 12 (1).

[21] Clause 12 (2) (b)

Omit the paragraph. Insert instead:

- (b) the level of participation of parents, and other persons responsible for children, and staff in the development of the curriculum,

[22] Clause 12 (2) (c1)

Insert after clause 12 (2) (c):

- (c1) the ways in which children will be assisted in the transition to being educated at schools or in the transition to other organisations providing services for children during early childhood,

[23] Clause 12 (2) (h)

Insert “, including the ways in which the service enables children with a disability or with a non-English speaking or Aboriginal background to be enrolled at, and to fully participate (with any necessary help and support) in programs at the service” after “status”.

[24] Clause 12 (2) (h1)

Insert after clause 12 (2) (h):

- (h1) the ways in which the service ensures that children with a disability enrolled at the service:
 - (i) have access to buildings and to areas and facilities in which the service is provided to children enrolled at the service, and

- (ii) are provided with access to support services and any specialised equipment or resources,

[25] Clause 12 (2) (q) and (r)

Insert after clause 12 (2) (p):

- (q) the procedures to be followed for controlling infectious diseases,
- (r) the procedures to be followed in relation to administration of medications to children enrolled at the service.

[26] Clause 14 Report on application for licence

Insert “authorised” before “officer” and “officer’s”, respectively.

[27] Clause 15 Conditions of licence for service

Insert after clause 15 (2):

(2A) Inspection of register

The licensee of a mobile child care service must permit an authorised officer to enter any premises (or part of premises) of the licensee at which the mobile child care service register of the service is kept and to inspect and take a copy of the register.

[28] Clause 15 (6)

Omit “use the licensee’s best endeavours”.
Insert instead “take all practicable steps”.

[29] Clause 16 Notice of changes relating to licensed premises

Omit “7 days” from clause 16 (2).
Insert instead “21 days”

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[30] Clause 17 Authority for emergency medical and other treatment

Omit clause 17 (1). Insert instead:

- (1) The licensee of a service must ensure that a child is not enrolled for a service unless a parent of the child, or other person responsible for the child, has given written authorisation for any member of the primary contact staff of the service to seek urgent:
 - (a) medical or dental treatment (from either a doctor or dentist nominated by the parent, or person responsible for the child, or another doctor or dentist) or hospital treatment or ambulance service, or
 - (b) assistance from some other person or body nominated by the parent or person responsible for the child,

if the member is of the opinion that it is necessary to do so because the child has been injured, or is ill, while being provided with the service.

[31] Clause 17 (2)

Omit “notify the parent”.

Insert instead “ensure the parent is notified”.

[32] Clause 18 Confidentiality guidelines

Insert “the licensee and” after “observed by” in clause 18 (1).

[33] Clause 18 (1)

Insert “the licensee or ” after “obtained by”.

[34] Clause 19 Authority for excursions

Insert “or other person responsible for the child” after “parent of the child” in clause 19 (2).

[35] Clause 19 (4) (g) and (h)

Insert at the end of clause 19 (4), Before the penalty provision:

- (g) the proposed period of time during which the excursion is to take place,
- (h) if practicable, an emergency contact number for the excursion.

[36] Clause 20 Conduct of excursions

Omit clause 20 (1). Insert instead:

- (1) The authorised supervisor of a service must ensure all excursions are conducted in a safe manner.
- (1A) The licensee for a service must ensure that at least 2 adult persons accompany children on any excursion.

[37] Clause 20 (3) and (4)

Omit the subclauses. Insert instead:

- (3) The licensee of a service must ensure that, if children are taken on an excursion other than an excursion referred to in subclause (4) or (5), the 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.
- (4) The licensee of a service must ensure that children are not taken on any excursion that involves the use of motor or other 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.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[38] Clause 20 (5)

Omit “to swim or”.

[39] Clause 20 (5) (a)

Insert “who is” after “child”.

[40] Clause 20 (5) (b)

Insert “who are” after “children”.

[41] Clause 20 (5A)

Insert after clause 20 (5):

(5A) The licensee of a service must ensure that:

- (a) children enrolled for 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.

[42] Clause 20 (6)

Omit the subclause. Insert instead:

- (6) The licensee of a service must ensure that children are not taken on an excursion to a beach, river, lake or other place where there is a significant water hazard unless 2 of the adult persons accompanying the children have:
 - (a) a certificate issued on completion, within the period of 12 months immediately before the excursion, of a senior first aid course that relates to resuscitation approved by the WorkCover Authority for the purposes of the *Occupational Health and Safety (First-aid) Regulation 1989*, and

- (b) a Bronze Medallion Award, or award given on completion of a water rescue test, issued by the Royal Life Saving Society Australia, and
- (c) the knowledge and ability to implement water safety procedures.

[43] Clause 20 (8)

Insert after clause 20 (7):

- (8) In this clause:

major road means any main road (including any State highway, freeway or controlled access road), or secondary road, within the meaning of the *Roads Act 1993*.

[44] Clause 21 Swimming pools

Omit clause 21 (2). Insert instead:

- (2) The authorised supervisor of a service must ensure that children enrolled for the service swim at any pool situated on the premises of the service:
- (a) for the purposes only of learning water safety or learning to swim, and
 - (b) that when children are in the pool, the minimum adult to child ratio of persons in the pool is one adult for each child.

[45] Clause 21 (3)

Omit “has a current approved resuscitation qualification and the knowledge and ability to implement water safety procedures.”.

Insert instead:

has:

- (a) a certificate issued on completion, within the period of 12 months immediately before the child swims in the swimming pool, of a senior first aid course that relates to resuscitation approved by the

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

WorkCover Authority for the purposes of the *Occupational Health and Safety (First-aid) Regulation 1989*, and

- (b) a Bronze Medallion Award, or award given on completion of a water rescue test, issued by the Royal Life Saving Society Australia, and
- (c) the knowledge and ability to implement water safety procedures.

[46] Clause 21 (4)

Insert after clause 21 (3):

- (4) The authorised supervisor of a service must ensure that children enrolled for the service do not use a paddling pool on the premises of the service unless supervised by at least 2 adults.

[47] Clause 22 Emergency procedures

Omit clause 22 (2). Insert instead:

- (2) The licensee of a service must develop, and keep up to date, a written emergency plan for fire and other emergencies. A copy of the plan must be displayed:
 - (a) in the case of a centre based child care services—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 child care service—at the premises of the service.

[48] Clause 22 (3)

Insert “(other than a centre based child care service providing an occasional child care service)” after “service” where firstly occurring.

[49] Clause 22 (3A)

Insert after clause 22 (3):

- (3A) The authorised supervisor of a centre based child care service providing an occasional child care service must ensure that primary contact staff practice emergency procedures at least once every 4 months with each child enrolled for the occasional child care service who attends the service at least one day per month so that they and the child are prepared for emergencies.

[50] Clause 22 (4)

Omit the subclause. Insert instead:

- (4) The licensee of a 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 for a period of 2 years after the practice.

[51] Clause 22 (5)

Omit the definition of *approved first aid qualification*. Insert instead:

approved first aid qualification means completion of

- (a) a first aid course:
- (i) that is approved by the WorkCover Authority for the purposes of the *Occupational Health and Safety (First-aid) Regulation 1989* and that specifically relates to first aid and emergency care of children and meets the guidelines issued for the purposes of this definition by the Department, and
 - (ii) that is provided by an approved organisation, or
- (b) any other first aid course approved by the Minister for the purposes of this definition.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

approved organisation means an organisation specified on a list published from time to time by the WorkCover Authority of organisations providing first aid courses approved by the Authority for the purposes of the *Occupational Health and Safety (First-aid) Regulation 1989*.

[52] Clause 23 Cooking staff

Omit “food is” from clause 23 (1). Insert instead “meals are”.

[53] Clause 23 (2)

Omit the subclause. Insert instead:

- (2) The cook is 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.

[54] Clause 24 Information for parents and other persons responsible for children

Omit “parents of” from clause 24(1)
Insert instead “parents and other persons responsible for”.

[55] Clause 24 (1)

Omit “access”. Insert instead “ready access”.

[56] Clause 24 (1) (b)

Insert “and responsible persons’ after “parents”.

[57] Clause 24 (1) (e)

Insert “and the Community Services Commission” after “Services”.

[58] Clause 24 (1) (h)

Omit the paragraph. Insert instead:

- (h) details of participation of parents, and other persons responsible for children, in service programming,

[59] Clause 24 (1) (m)

Omit the paragraph.

[60] Clause 24 (1A)

Insert after clause 24 (1):

- (1A) The information referred to in subclause (1) is to be provided in the English language. However, if any parent of a child enrolled at the service does not speak English the licensee of the service is to ensure that access to the information:
 - (a) is, if practicable, provided in a language likely to be readily understood by the parent, or
 - (b) if so requested by the parent, the information is provided through an interpreter or other person chosen by the parent who is capable of explaining it to the parent in a language that can be understood by the parent and who has volunteered his or her services for this purpose.

[61] Clause 24 (2)

Omit “parents of”.

Insert instead “parents and other persons responsible for”.

[62] Clause 26 Public liability insurance

Omit “be less than \$5,000,000” from clause 26(1).

Insert instead “, before 1 September 1997, be less than \$5,000,000 and, on or after 1 September 1997, be less than \$10,000,000”.

[63] Clause 27 Records

Omit “the authorised supervisor of the service maintains and keeps up to date the following records in relation to each child enrolled for the service” from section 27 (1).

Insert instead “the following records in relation to each child enrolled for the service are maintained and kept up to date”.

[64] Clause 27 (1) (e)

Omit “the ethnic group to which the child belongs”.

Insert instead “the ethnic and cultural identity of the child”.

[65] Clause 27 (1) (e1)

Insert after clause 27 (1) (e):

- (e1) information (if any) provided by the child’s parent or parents concerning the child’s religion and cultural background and any practise that the parent or parents consider should, to the greatest extent possible, be observed at the service in respect of the child because of that religion or background,

[66] Clause 27 (1) (9)

Omit “authorised supervisor is”.

Insert instead “staff of the service are”.

[67] Clause 27 (1) (j1)

Insert after clause 27(i) (j):

- (j1) particulars of treatment to be given to a child who the licensee has been advised suffers from epilepsy, asthma or any other specified medical condition if the child appears to be severely physically affected by the condition at the service,

[68] Clause 27 (1) (q) and (r)

Omit the paragraph. Insert instead:

- (q) if the service is a service other than a centre based service providing an occasional child care service—a program of development for each child enrolled for the service,
- (r) if the service is a centre based service providing an occasional child care service—a program of age appropriate activities and a program of development for each child enrolled for the service who attends the service more than once a month.

[69] Clause 27 (2)

Omit “the authorised supervisor of the service maintains and keeps up to date the following records”.

Insert instead “the following records are maintained and kept up to date”.

[70] Clause 27 (3)

Omit “authorised supervisor”. Insert instead “licensee”.

[71] Clause 27 (3) (a) and (b)

Omit the paragraphs. Insert instead:

- (a) a copy of any relevant qualification that is held by the member,
- (b) a copy of any first aid certificate that is held by the member,

[72] Clause 27 (4) (b) and (c)

Omit “of the service” wherever occurring.

Insert instead “of children at the service”.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[73] Clause 27 (5)

Omit the subclause. Insert instead:

- (5) The licensee of a service:
 - (a) must keep a record referred to in this clause relating to a child enrolled for the service and a member of staff of the service for a period of 6 months after the child ceases to be enrolled, or the member to be employed, at the service in a safe and secure area on the premises of the service, and
 - (b) must keep records kept under this clause relating to children formerly enrolled for the service and former staff of the service in a safe and secure place from which they can be obtained within one working day or give them to a person who was a licensee of the same service during the period to which the records relate or another appropriate person.

[74] Clause 28 Retention of records

Omit “authorised supervisor of the service keeps the records” from clause 28 (1).

Insert instead “records are kept”.

[75] Clause 28 (1) (c)

Omit “(i), (ii) and (iii)”.

[76] Clause 28 (1) (d)

Omit the paragraph.

[77] Clause 28 (2)

Omit “authorised supervisor”. Insert instead “licensee”.

[78] Clause 28 (3)

Insert “within the period of 6 months after the child ceases to be enrolled at the service” after “service” where firstly occurring.

[79] Clause 28A

Insert after clause 28:

28A Mobile child care services register

The licensee of a mobile child care service is to keep a register of the following particulars:

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

[80] Clause 29 Inspection of records

Omit clause 29 (a). Insert instead:

- (a) if the licensee is an individual—the licensee,
- (a1) if the licensee is a corporation—an individual nominated by the licensee,

[81] Clause 29 (9) and (g)

Omit “parent of” wherever occurring.

Insert instead “parent or other person responsible for”.

[82] Clause 29 (2)

Insert at the end of clause 29:

- (2) Nothing in the clause prevents records relating to a person who was formerly a child enrolled at the service being made available to that person.

Note. Clause 18 sets out the confidentiality guidelines for records.

[83] Clause 31 Emergency child care arrangements

Insert “, with the agreement of the licensee of the service,” after “may” in clause 31 (1).

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[84] Clause 31 (5A)

Insert after clause 31 (5):

- (5A) The Minister may give an approval for a particular child to be enrolled for a service under this clause on more than one occasion.

[85] Clause 32 Group size

Omit clause 32 (1). Insert instead:

- (1) In this clause:

group 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 on the premises of the service, or
(b) an outdoor area of the premises of the service.

[86] Clause 32 (3)

Omit the subclause.

Clause 32A

Insert after clause 32:

32A Employment of primary contact staff

For the purpose of determining whether a person is a fit and proper person to be a member of the primary contact staff of a service, the licensee of the service may make such inquiries (including, subject to the *Criminal Records Act 1991*) inquiries as to the person's criminal record, if any) as the licensee considers appropriate.

[88] Clause 33

Omit the clause. Insert instead:

33 Duties of primary contact staff

- (1) The authorised supervisor of a service must ensure that no primary contact member of staff is, while supervising children, performing other duties.
- (2) The authorised supervisor of a service must ensure that children at the service are adequately supervised by primary contact staff at all times, having regard to their ages and physical and intellectual development.

[89] Clause 34 Staff to child ratios

Insert “(whether or not primary contact staff)” after “staff” in clause 34 (2).

[90] Clause 35 Qualified staff

Omit “centre based child care” from clause 35 (2).

[91] Clause 35 (2) (a)

Omit the paragraph. Insert instead:

- (a) is an enrolled nurse (mothercraft) within the meaning of the *Nurses Act 1991* or an enrolled nurse within the meaning of that Act who has obtained a Certificate IV from a College of Technical and Further Education on completion of a course in Parenthood, or

[92] Clause 35 (3)

Omit “primary contact staff member” from the definition of *teaching staff member*.

Insert instead “members of the staff of the service”.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[93] Clause 37 Transitional provisions relating to licensing standards

Insert in alphabetical order in clause 37 (1):

licensee's successor means:

- (a) a person holding a further licence for the same child care service as that for which a licence held by the person that was in force immediately before 23 October 1996 relates, or
- (b) a person holding a licence for the same child care service as that to which a licence held by another person that was in force immediately before 23 October 1996 relates.

[94] Clause 37 (2)

Omit the subclause. Insert instead:

- (2) For the purposes of this Regulation, the licensee of a service for which a licence was in force immediately before 23 October 1996, or the licensee's successor, does not fail to comply with a licensing standard set out in clause 1 (1)-(5), 2 (3), 4 (2) or 11 of Schedule 1 on or after the commencement of this subclause if the licensee or licensee's successor complies with any corresponding standard set out in the repealed 1989 Regulation that would be applicable if the licensee or licensee's successor were a licensee within the meaning of that Regulation and that Regulation were still in force.
- (3) Subclause (2) applies in respect of a licensing standard set out in clause 11 of Schedule 1 only if the licensee or licensee's successor replaces (unless it is impracticable to do so) any glass in an area of the premises that is accessible to children broken after the commencement of subclause (2) with safety glass as described in that clause.

-
- (4) For the purposes of this Regulation, the licensee of a service for which a licence was in force immediately before 23 October 1996, or the licensee's successor, does not fail to comply with a licensing standard set out in clause 3, 4 (4), 6 (2) (b) or (c) or 14 (3) of Schedule 1 during the period beginning on the commencement of this subclause and ending on 9 November 1999 if the licensee or licensee's successor complies with any corresponding standard set out in the repealed 1989 Regulation that would be applicable if the licensee or licensee's successor were a licensee within the meaning of that Regulation and that Regulation were in force.

[95] Clause 38

Insert after clause 37:

38 Savings, transitional and other provisions

- (1) In this clause:
- amending Regulation* means the *Centre Based and Mobile Child Care Services Amendment Regulation 1997*.
- (2) Clauses 8 and 9, as in force immediately before the commencement of the amending Regulation, continue to apply in relation to an application for a licence made but not finally determined before the commencement.
- (3) Clause 10 (3) (b), as in force immediately before the commencement of the amending Regulation, continues to apply to a person who, immediately before that commencement, was the authorised supervisor of a service for so long as the person is the authorised supervisor of that service.

[96] Schedule 1 Licensing standards, clause 1 Space requirements for centre based child care services

Omit clause 1 (1), Insert instead:

- (1) A centre must have an area set aside for:
- (a) administration of the service, and

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

(b) private consultation between staff of the service and parents of children provided with the service, and

(c) respite of staff.

[97] Schedule 1, clause 4 Food preparation facilities

Omit “separate facilities” from clause 4 (4).

Insert instead “facilities that are separate from any nappy changing facilities”.

[98] Schedule 1, clause 5 Toilets and washing facilities

Omit clause 5 (2).

[99] Schedule 1, clause 6 Nappy change facilities

Insert after clause 6 (1):

(1A) In addition to the facilities referred to in subclause (1), age appropriate nappy changing facilities are to be provided at the premises of a service for any child with a disability who is enrolled at the service and who needs such a facility.

[100] Schedule 1, clause 6 (2) (a)

Insert “fixed” before “nappy changing”.

[101] Schedule 1, clause 6 (2) (c)

Insert “that is age appropriate” after “infant bath”.

[102] Schedule 1, clause 6 (3)

Insert after clause 6 (2):

(3) Nothing in subclause (2) prevents a centre 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 change nappies.

[103] Schedule 1, clause 7 Sleeping facilities

Insert “or culturally appropriate form of bedding” after “cot” in clause 7 (1).

[104] Schedule 1, clause 7 (2)

Omit the subclause. Insert instead:

- (2) The premises of a service providing long day care must provide an adequate number of beds or sleeping mats with waterproof covers or culturally appropriate forms of bedding for all children who may wish or need to sleep at the premises on any one day.

[105] Schedule 1, clause 7 (3)

Omit “mattresses”.

Insert instead “sleeping mats with waterproof covers”.

[106] Schedule 1, clause 7 (6)

Omit “for 6 or more hours”.

Insert instead “for more than 6 hours”.

[107] Schedule 1, clause 8 Storage facilities

Insert “(including each child with a disability)” after “child” in clause 8 (3).

[108] Schedule 1, clause 9 Fencing—centre based and mobile services

Insert “or gate” after “fence” in clause 9 (2).

[109] Schedule 1, clause 9 (2)

Insert “inhibit or impede” before “intruders”.

[110] Schedule 1, clause 9 (4)

Omit “locking”. Insert instead “self-locking”.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[111] Schedule 1, clause 9 (6)

Insert “self-locking” after “child-proof”.

[112] Schedule 1, clause 13 Pools

Insert “immediately” after “emptied” in clause 13 (3) (a).

[113] Schedule 1, clause 13 Pools

Insert “which could constitute a drowning hazard” after “water containers”.

[114] Schedule 1, clause 16 First aid

Insert “of a kind approved by the WorkCover Authority for the purposes of the *Occupational Health and Safety (First-aid) Regulation 1989*” after “first-aid kit” in clause 16 (1).

[115] Schedule 1, clause 16 (2)

Omit “A”. Insert instead “An adult and child”.

[116] Schedule 1, clause 17 Play equipment

Omit “outdoor” from clause 17 (1).

[117] Schedule 1, clause 17 (2) and (3)

Omit “Outdoor play” wherever occurring. Insert instead “Play”.

[118] Schedule 1, clause 19

Omit the clause. Insert instead:

19 Hot water

Hot water from any outlet used by children at the centre must be regulated to keep the temperature of water from the outlet below 50° Celsius.

[119] Schedule 2 Code of Conduct, clause 1 Arrival and departure of child

Omit “authorised supervisor” from clause 1 (1).
Insert instead “licensee”.

[120] Schedule 2, clause 1 (1) and (2)

Omit “attendance book” wherever occurring.
Insert instead “attendance records”.

[121] Schedule 2, clause 1 (6)

Omit “authorised supervisor”. Insert instead “licensee”.

[122] Schedule 2, clause 2 Child health

Omit “primary contact staff” from clause 2 (1).
Insert instead “all members of staff of the service”.

[123] Schedule 2, clause 2 (3)

Insert after clause 2 (2):

- (3) The authorised supervisor of a service must ensure that no alcohol or other drugs are consumed, and no tobacco is smoked, on the premises of the service.

[124] Schedule 2, clause 3 Food and drinks

Omit “authorised supervisor” from clause 3 (5).
Insert instead “licensee”.

[125] Schedule 2, clause 3 (7)

Insert “whether or not food is provided for the child by a parent of the child” after “Guidelines”.

[126] Schedule 2, clause 4 Illness and accident

Insert “both the licensee and” after “given to” in clause 4 (4).

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[127] Schedule 2, clause 4 (5) (c)

Insert at the end of clause 4 (5):

and

- (c) the licensee of the service (unless the licensee is also the authorised supervisor).

[128] Schedule 2, clause 4 (6) (d)

Insert at the end of clause 4 (6):

, and

- (d) the licensee of the service (unless the licensee is also the authorised supervisor).

[129] Schedule 2, clause 5 Infectious diseases

Omit “authorised supervisor” from clause 5 (1).
Insert instead “licensee”.

[130] Schedule 2, clause 5 (1)

Omit “, in accordance with the guidelines for the control of infectious diseases in child care prepared on behalf of the Working Party on Infectious Diseases in Child Care, NSW Department of Health, 1993”.

[131] Schedule 2, clause 5 (3)

Omit “parents of”.
Insert instead “parents and other persons responsible for”.

[132] Schedule 2, clause 6 Medication

Omit “a parent of any child who wishes medication to be administered while the service is being provided” from clause 6 (1).
Insert instead “if medication is administered to a child at the service at the request of a parent or other person responsible for the child, the parent or other responsible person”.

[133] Schedule 2, clause 6 (3)

Omit “parent of”.

Insert instead “parent or other person responsible for”.

[134] Schedule 2, clause 8 Service program

Insert “that is appropriate to the individual needs and development level of each child” after “potential and” in clause 8 (1).

[135] Schedule 2, clause 8 (1)

Omit “must provide activities that are appropriate to the development of children.”.

Insert instead “, The activities that are provided must be capable of engaging the interest of children and be appropriate to the development of children.”.

[136] Schedule 2, clause 8 (2)

Insert “and are easily accessible to” after “freely chosen by”.

[137] Schedule 2, clause 9 Interactions with children

Insert at the end of clause 9 (1):

, and

- (d) the children are not required to perform duties that are unreasonable, having regard to each child’s age and physical and intellectual development.

[138] Schedule 2, clause 9 (2) (e)

Omit the paragraph. Insert instead:

- (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.

1997 No 186

Centre Based and Mobile Child Care Services Amendment Regulation 1997

Schedule 1 Amendments

[139] Schedule 2, clause 10 Animals

Omit “authorised supervisor” wherever occurring in clause 10 (1) and (2).

Insert instead “licensee”.

[140] Schedule 2, clauses 11 and 12

Insert after clause 10:

11 Service to be provided only to children enrolled at service

The authorised supervisor of a service must ensure that only children under school age who are enrolled for the service are provided with the service.

12 Caring for school age children at service

The licensee of a service must ensure that if any school age children who are not enrolled at the service are cared for at the premises of the service:

- (a) the access of children enrolled at the service to facilities and staff of the service is not diminished, and
- (b) any programs provided for children enrolled at the service are not impinged upon, and
- (c) the total number of children who are not enrolled at the service does not exceed by more than 10% the licensed places at the service, unless separate facilities and staff are provided to care for those children.