

# Health (Children's Services) Bill

No.

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# LEGISLATIVE COUNCIL

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Read 1° 30 April 1987

*(Brought in by the Honourable C. J. Hogg)*

## A BILL

to amend the *Health Act* 1958 to regulate the conduct of children's services and for other purposes.

### **Health (Children's Services) Act 1987**

The Parliament of Victoria enacts as follows:

#### **Purpose.**

1. The main purpose of this Act is to amend the *Health Act* 1958 to regulate the conduct of children's services.

#### **5 Commencement.**

2. This Act comes into operation on a day to be proclaimed.

#### **Principal Act.**

3. In this Act the *Health Act* 1958 is called the Principal Act.

No. 6270.  
Reprinted to  
No. 10262.  
Subsequently  
amended by  
Nos. 16/1986,  
80/1986,  
119/1986,  
121/1986,  
124/1986 and  
127/1986.

**Amendment to Heading to Part XIA.**

4. For the Heading preceding section 208A of the Principal Act substitute—

**“PART XIA—CHILDREN’S SERVICES CENTRES”****Definitions and application of Part.**

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5. (1) In section 208A (1) of the Principal Act—

(a) after the definition of “Authorised person” insert—

‘“**Children’s Services Centre**” means any premises or place in which five or more children who are under the age of 6 years and who are not enrolled at and attending a school established or registered under the *Education Act 1958* are cared for, educated or minded apart from their parents or guardians—

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(i) for fee or reward; or

(ii) while the parents or guardians of the children use services or facilities provided by the proprietor of the centre.’; and

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(b) after the definition of “Director-General” insert—

‘“**Guardian**”, in relation to a child, means the legal guardian of the child or the person who has the custody and control of the child.’; and

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(c) in the definition of “Proprietor”—

(i) for “child minding” (where first and second occurring) substitute “children’s services”;

(ii) for “carry on the business of child minding at that centre” substitute “conduct the children’s services centre”;

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(d) for the definition of “Registered child minding centre” substitute—

‘“**Registered children’s services centre**” means a children’s services centre in respect of which a certificate of registration as a children’s services centre under this Part is in force.’

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(2) For section 208A (2) of the Principal Act substitute—

“(2) This Part does not apply to any premises or place which is or to any person who conducts or is concerned in the conduct of any premises or place which is—

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(a) a hospital, in respect of any children who are patients in the hospital; or

(b) a school established or registered under the *Education Act 1958*, in respect of children being taught at the school during the hours the school is normally open for teaching; or

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- (c) any premises or place where the only services provided are in respect of children who are over the age of six years or who are enrolled at and attend a school established or registered under the *Education Act 1958*; or
- 5 (d) a house where children who are related are taken into foster care by a family; or
- (e) any premises or a place established under the *Community Welfare Services Act 1970*; or
- 10 (f) any premises or place or any premises or place of a class which is prescribed by the regulations to be exempt from the application of this Part.”

**New section 208B inserted.**

6. For section 208B of the Principal Act substitute—

**Offence to conduct unregistered children's services centre.**

- 15 “208B. (1) A person is deemed to conduct a children's services centre if at any premises or place the person—
- (a) receives for caring, educating or minding five or more children; or
- 20 (b) offers to receive for caring, educating or minding five or more children—
- who are under the age of six years and are not enrolled at and attending a school established or registered under the *Education Act 1958*—
- (c) for fee or reward; or
- 25 (d) while the parents or guardians of the children use services or facilities provided by the person.
- (2) A person must not conduct a children's services centre unless the centre is registered and conducted as a children's services centre in accordance with this Part and the regulations.”

**Questioning.**

- 30 7. In section 208BA of the Principal Act—
- (a) for “the business of child minding is being carried on” substitute “a children's services centre is being conducted”; and
- (b) after “premises” (wherever occurring) insert “or place”; and
- 35 (c) omit “under the age of six years”; and
- (d) for paragraph (a) substitute—
- “(a) the number of children present and their ages; and”;
- and
- (e) after paragraph (c) insert—
- 40 “; and

- (d) whether any person directly supervising the children holds any prescribed qualification”.

### Registration.

8. In section 208C of the Principal Act—
- (a) in sub-section (1) for “a house or place to be registered as a child minding centre” substitute “any premises or place to be registered as a children’s services centre”; and 5
- (b) in sub-section (4)—
- (i) in paragraph (a) after “premises” insert “or place”; and
- (ii) after paragraph (b) insert— 10
- “; and
- (c) if the applicant will not be present at the premises or place at all times the centre is open to manage or control the centre, the suitability of a person to be nominated by the applicant who will be present at the premises or place to manage or control the centre in the absence of the applicant at all times the centre is open.”; and 15
- (c) after sub-section (4) insert—
- “(4A) In considering any application the Director-General may require the applicant and, if the applicant nominates a person under sub-section 4 (c), that person to— 20
- (a) submit to any tests or provide any prescribed references or reports; or 25
- (b) submit to any medical or psychiatric examination that the Director-General considers appropriate.
- (4B) Without limiting the power of the Director-General to impose any other restrictions, terms or conditions, a registration must include conditions— 30
- (a) as to the maximum number of places for children at the centre; and
- (b) as to the ages of the children who may be cared for, educated or minded at the centre; and
- (c) that children who are over the age of six years or are enrolled at or attend a school established or registered under the *Education Act* 1958 must not fill more than 30 per centum of the total number of places for children at the centre; and 35
- (d) that the proprietor or a person nominated under sub-section (4) (c) who is approved by the Director-General must be present at the premises or place to manage or control the centre at all times the centre is open; and 40

- 5 (e) that registration is suspended if the person in whose name a centre is registered relinquishes the ownership, occupation, care or management of the centre until the registration is transferred under section 208E to a person approved by the Director-General to be suitable to conduct the centre.”; and
- (d) in sub-section (5) for “house or place as a child minding” substitute “premises or place as a children’s services”.

**Certificates of registration.**

- 10 9. In section 208D of the Principal Act for “child minding” (wherever occurring) substitute “children’s services”.

**New section 208E substituted.**

- 10. For section 208E of the Principal Act substitute—

**Transfer of management.**

- 15 “208E (1) The proprietor of a registered children’s services centre must notify the Director-General if—

  - (a) the proprietor proposes to relinquish the ownership, occupation, care or management of the centre; or
  - 20 (b) any person nominated under section 208C (4) (c) is no longer present at the premises or place to manage or control the centre in the absence of the person in whose name the centre is registered at all the times the centre is open.”.

- 25 (2) The Director-General may transfer the registration of a children’s services centre at any time during the currency of the registration to—

  - (a) another person if the Director-General is satisfied as to the suitability of that person to conduct a centre; or
  - 30 (b) any other premises or place if the Director-General is satisfied as to the suitability of the proposed premises or place and of the site and the situation thereof.

**Evidence.**

- 11. In section 208FA (a) of the Principal Act—

  - (a) for “a house” (where twice occurring) substitute “any premises”; and
  - 35 (b) for “the house” (wherever occurring) substitute “the premises”; and
  - (c) after “the premises” (wherever occurring) insert “or place”; and

- (d) after "fee or reward" (where first occurring) insert— "or while their parents or guardians used services or facilities provided by the proprietor of the centre"; and
- (e) for sub-paragraphs (i), (ii) and (iii) substitute—
  - "(i) that the children were received at the premises or place for caring, educating or minding for fee or reward or while their parents or guardians used services or facilities provided by the proprietor of the centre; and 5
  - (ii) that the premises or place was a children's services centre; and 10
  - (iii) that a children's services centre was being conducted at the premises or place."

#### **Approval of plans and specifications.**

- 12. In section 208G (1) of the Principal Act—
  - (a) for "house" substitute "premises"; and 15
  - (b) for "child minding" (wherever occurring) substitute "children's services".

#### **Application of sections 198 and 199 to children's services centres.**

- 13. In section 208H of the Principal Act for "child minding" (wherever occurring) substitute "children's services". 20

#### **Regulations.**

- 14. In section 208I of the Principal Act—
  - (a) after "208I" insert "(1); and
  - (b) for "child minding" (wherever occurring) substitute "children's services"; and 25
  - (c) in paragraph (g)—
    - (i) after "suitability" insert "qualifications or training"; and
    - (ii) for "operating" substitute "conducting, operating, managing or controlling"; and 30
  - (d) at the end of the section insert—
    - "(2) Regulations made under this Part—
      - (a) may allow the Director-General to exempt any children's services centre or any class of children's services centres from being registered under this Part if the centre or class of centres complies with prescribed requirements or standards; and 35
      - (b) may be of general or specially limited application; and
      - (c) may differ according to differences in time, place or circumstances." 40



**Consequential amendments.****15. In the Principal Act—**

- (a) in sections 366A and 378 for “child-minding” substitute “children’s services”; and
- 5 (b) in part (a) of the Eleventh Schedule for “Child-minding” substitute “Children’s services”.

**Savings and transitional.**

10 **16. (1)** Any regulations made under Part XIA of the Principal Act immediately before the commencement of this Act continue in operation and apply to a children’s services centre registered under the Principal Act as amended by this Act or to be treated as being registered under the Principal Act by sub-section (2) until amended or revoked by regulations made under Part XIA of the Principal Act as amended by this Act.

15 (2) A child minding centre which was registered under Part XIA of the Principal Act immediately before the commencement of this Act is to be treated as being a children’s services centre registered under and subject to the Principal Act as amended by this Act.

