



New South Wales

Centre Based and Mobile Child Care Services Regulation (No 2) 1996

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

The object of this Regulation is to make provision for the control and regulation of centre based and mobile child care services. In particular, this Regulation:

- prescribes centre based and mobile child care services as services for the purposes of Division 1 of Part 3 of the Act, and
- provides for the granting of licences for centre based and mobile child care services, and
- prescribes the conditions imposed on each kind of licence, including compliance with the Code of Conduct, licensing standards and child number and staffing standards set out in the Regulation, and
- requires the maintenance of the buildings and grounds of centre based and mobile child care services and furniture, furnishings and other equipment on the premises, and
- requires certain records and registers to be kept and made available for inspection, and
- requires the provision of certain information concerning centre based and mobile child care services to the Director-General.

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Explanatory note

The *Centre Based and Mobile Child Care Services Regulation 1996* published in the Gazette on 30 August 1996 replaced the *Centre-based Child Care Services Regulation 1989* and the *Mobile Child Care Services Regulation 1989*. The disallowance of that Regulation by resolution of the Legislative Council on 23 October 1996 together with the repeal of the Regulations it replaced (by the operation of section 10 of the Subordinate Legislation Act 1989) had the effect of removing from force any existing licences for the child care services prescribed as child care services under clause 3 of that Regulation.

The Regulation includes provisions (Part 6) to exempt former licensees and authorised supervisors from the operation of certain offence provisions of the Act so long as they comply with the provisions of the Regulation that would apply to them if they were still licensees and authorised supervisors. It thus preserves the rights of those persons subject to compliance with the provisions of this Regulation.

The Regulation in general reflects the national child care standards agreed by the Council of Social Welfare Ministers. These include upgraded licensing standards.

This Regulation is made under the *Children (Care and Protection) Act 1987*, in particular sections 30,48 (3) and 124 (1) (a) and (i) and (3) and clause 6 of Schedule 1.

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Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Centre Based and Mobile Child Care Services Regulation (No 2) 1996*.

2 Commencement

This Regulation commences on 6 November 1996.

3 Child care services to which this Regulation applies

(1) This Regulation applies to the following child care services:

- (a) centre based child care services, and
- (b) mobile child care services,

that are provided for fee, gain or reward.

(2) However this Regulation does not apply to:

- (a) a babysitting, playgroup or child-minding service that is organised on an informal basis by the parents of the children involved for no fee, gain or reward, or
- (b) a child-minding service provided by a person for one or more children (disregarding any children who are related to the person) at the premises at which at least one of the children resides, or

Note. This provision makes it clear that the Regulation does not, for example, apply to care provided by a nanny at one child's home, for the children of several families.

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

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4 Prescribed classes of child care service

For the purposes of Division 1 of Part 3 of the Act each of the child care services to which this Regulation applies is prescribed as a class of child care service.

5 Definitions

In this Regulation:

approved means approved for the time being by the Minister.

AS 1851.1—1995 means the standard published by Standards Australia under the title “Maintenance of fire protection equipment, Part 1: Portable fire extinguishers and fire blankets,” and numbered AS 1851.1—1995 as in force on the commencement of this Regulation.

authorised officer means:

- (a) the Director-General, or
- (b) any officer authorised by the Director-General for the purposes of this Regulation.

authorised supervisor has the same meaning as it has in the Act.

Building Code of Australia means the document entitled “Building Code of Australia” published by the Australian Uniform Building Regulations Co-ordinating Council, and incorporating the New South Wales variations set out in the relevant appendix to that Code, as in force on the commencement of this Regulation.

centre means the premises at which a centre based child care service is provided.

centre based child care service means a child care service that is provided at fixed premises (other than the home of the licensee of the service) by a person for the purpose of educating, minding or caring for (but without providing residential care for) 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school.

Note. Examples of centre based services are services of the kind provided at a long day care centre, a preschool centre, an occasional care centre, a children’s neighbourhood centre or a multipurpose child care centre.

child care record means a record required to be kept under clause 27.

child numbers and staffing standards means the child numbers and staffing standards set out in Part 5.

Code of Conduct means the code of conduct set out in Schedule 2.

excursion means an activity carried out for a recreational or educational purpose under the supervision of one or more members of staff of a service at a place other than the premises of the service.

home means the premises where a licensee resides.

license place means one of the total number of child care places a service is licensed to offer at any one time.

licensee of a service means the holder of a licence for a centre based child care service or a mobile child care service.

licensing standards means the licensing standards set out in Schedule 1.

mobile child care service means an itinerant child care service that is provided in more than one place by a person for the purpose of educating, minding or caring for (but without providing residential care for) 4 or more children (disregarding any children who are related to the person providing the service) who are under 6 years of age and who do not ordinarily attend school.

parent has the same meaning as it has in the Act.

Note. Parent of a child is defined in the Act to include:

- (a) a guardian of the child, and
- (b) a person who has the custody of the child,

but not to include the Minister or the Director-General, or the father or mother of the child if the father or mother has neither guardianship nor custody of the child.

premises of a service means:

- (a) in the case of a centre based child care service—the centre, and

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- (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.

primary contact staff means persons who are 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.

service means a centre based child care service or a mobile child care service.

the Act means the *Children (Care and Protection) Act 1987*.

6 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

7 Operation of other legislation not affected

This Regulation does not affect the operation of any Act or law in its application to any matter with respect to which this Regulation makes provision.

Part 2 Licences

8 Application for licence for a service

- (1) An applicant for a licence for a service must be 21 or more years of age.
- (2) An application for a licence is to be made in the approved form.
- (3) The application is to include the following:
 - (a) the applicant's full name and all known former names,
 - (b) the applicant's postal address and telephone number,
 - (c) the applicant's residential address (if different to the postal address),
 - (d) details of the experience and training of the applicant,
 - (e) details of any child care services previously operated by the applicant,
 - (f) the address of the premises where the service is to be provided,
 - (g) an authority to obtain details of any record of criminal conviction,
 - (h) details of any criminal conviction of the applicant relating to neglect or assault (including sexual assault) of a child,
 - (i) such other information as the Minister may reasonably require to assist in the determination of the application.
- (4) The Director-General may require an applicant for a licence for a service to furnish such further particulars with respect to the application as the Director-General may require.
- (5) The applicant must advertise notice of the making of the application in a daily newspaper circulating generally throughout New South Wales within 10 working days of the making of the application.

9 Information to accompany application for licence for service

- (1) An application for a licence for a service must be accompanied by information to demonstrate that the applicant:
 - (a) is a fit and proper person to be concerned in the provision of the service to which the licence relates, and

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Part 2 Licences

- (b) intends to make adequate provision for the training and development of primary contact staff.
- (2) An application for a licence for a centre based child care service must also be accompanied by:
 - (a) a site plan of the premises at which the service is to be provided that shows the location of every building and other structure on the premises, including playgrounds, and
 - (b) a plan of each building on the premises, showing its elevations, dimensions and the proposed use of each part of the building, and
 - (c) a certificate from the applicant stating that the premises comply with the applicable requirements of Schedule 1.
- (3) An application for a licence for a mobile child care service must be accompanied by:
 - (a) a description of all premises at which the service is to be provided, and
 - (b) a certificate from the proprietor of each of the premises verifying that the proprietor has given permission for the premises to be used for the purposes of the service.

10 Proposed authorised supervisor

- (1) An applicant for a licence for a service must nominate the person that the applicant proposes to be authorised by the licence to have the overall supervision of the provision of the service.
- (2) An application for a licence for a service must be accompanied by information to demonstrate that the proposed authorised supervisor:
 - (a) is sympathetic to the welfare of children, and
 - (b) has adequate training, knowledge, understanding and experience 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) has sufficient experience in the provision of child care services, and

- (e) has demonstrated a capacity to exercise overall supervision of the provision of a child care service, and
 - (f) is of suitable maturity, health and personality to care for children, and
 - (g) is a fit and proper person to be concerned in the provision of the service to which the licence relates.
- (3) The authorised supervisor of a service:
- (a) must have:
 - (i) completed a full time course of not less than 3 years duration, at a university, in early childhood studies, or
 - (ii) obtained a child care certificate, a Certificate of Child Care Studies or an Associate Diploma of Social Science (Child Studies) from a College of Technical and Further Education, or
 - (iii) other qualifications approved by the Minister, and
 - (b) must have management training or a minimum of 12 months postgraduate experience in the provision of a child care service.

11 Inquiries about proposed licensee and authorised supervisor

For the purposes of establishing whether or not an applicant for a licence for a service, or a proposed authorised supervisor of a service, is a fit and proper person, an officer:

- (a) must, subject to the *Criminal Records Act 1991*, make such inquiries as the officer considers appropriate as to the person's criminal record, if any, and
- (b) may make such other inquiries as the officer considers appropriate.

12 Service policies

- (1) An application for a licence for a service is to be accompanied by a written statement and implementation plan for the service setting out the policies, practices and procedures to be implemented by the service with respect to the operation of the service.

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- (2) The statement is to include descriptions of the following:
- (a) the philosophy and aim of the service,
 - (b) the level of parent and staff participation in the development of the curriculum,
 - (c) the ways in which the service ensures that individual developmental needs of children are taken into account,
 - (d) the way staff interact with children,
 - (e) the ways in which staff ensure that programs are culturally relevant,
 - (f) the ways in which self-reliance and self-esteem of children are fostered,
 - (g) the ways in which the needs of children with a disability are met,
 - (h) the ways of ensuring that children are treated without bias regardless of ability, gender, religion, culture, family structure or economic status,
 - (i) the procedures to be followed for excursions,
 - (j) the procedures for reporting of suspected abuse of any child enrolled for the service,

Note. Abuse of a child is defined in the Act to mean:

- (a) to assault (including sexual assault) the child, or
- (b) to ill-treat the child, or
- (c) to expose or subject the child to behaviour that psychologically harms the child,

whether or not with the consent of the child.

- (k) the procedures to be followed in dealing with complaints,
- (l) training to be provided for staff of the service,
- (m) the way in which children will be given positive guidance towards socially acceptable behaviour,
- (n) the procedures to be followed to ensure the health (including nutritional needs) and safety of children,
- (o) the procedures for caring for sick children provided with the service,
- (p) the procedure to be followed for excluding sick children from the service.

13 Form of licence

- (1) A licence for a service is to be in the approved form.
- (2) A licence is to be endorsed with any condition imposed on it by the Minister under clause 6 (b) or 7 of Schedule 1 to the Act.
- (3) A separate licence is to be issued for each centre based child care service. However, a single composite licence will be issued in respect of more than one service if the services are to be provided by the same licensee at the same premises.

Note. For example a composite licence might be issued for a long day care centre and a sessional preschool conducted at the same place by a licensee. However, if the licensee conducted the same services at different places separate licences would be required for each service.

- (4) A person may be a licensee for more than one of the services to which this Regulation applies.

14 Report on application for licence

In making a report on an application for a licence for a service to the Minister under clause 3 of Schedule 1 to the Act, an officer is to state whether, in the officer's opinion:

- (a) the grounds and buildings of the premises at which the proposed service is to be provided and any equipment and amenities to be used at the proposed service comply with the applicable requirements of this Regulation, and
- (b) the applicant has taken or will take any measures necessary to comply with the staffing standards, licensing standards and other applicable requirements of this Regulation.

15 Conditions of licence for service

- (1) **Prescribed conditions**
For the purposes of clause 6 of Schedule 1 to the Act, subclauses (2)–(8) are prescribed as conditions for licences for services.
- (2) **Inspection of premises**
The licensee of a service must permit an authorised officer:
 - (a) to enter, during the normal business hours during which the service is provided, any part of the premises of the licensee on which the service is provided, and
 - (b) to inspect any child care record kept at the premises.

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- (3) **Records**
The licensee of a service must permit any child care record kept at the premises to be taken and copied by an authorised officer.
- (4) **Child numbers and staffing standards**
The licensee of a service must comply with the child numbers and staffing standards set out in Part 5.
- (5) **Licensing standards—responsibility of licensee of centre based child care service**
The licensee of a centre based child care service must ensure that the grounds and buildings of the premises at which the service is provided and any equipment and amenities used in providing the service comply with the licensing standards set out in Schedule 1 (other than clause 7 (5) and 8 (2)) that are applicable to the service.
- (6) **Licensing standards—responsibility of licensee of mobile child care service**
The licensee of a mobile child care service is to use the licensee's best endeavours to ensure that the grounds and buildings of the premises at which the service is provided and any equipment and amenities used in providing the service comply with the licensing standards set out in Schedule 1 (other than clause 7 (5) and 8 (2)) that are applicable to the service.
- (7) **Licensing standards—responsibility of authorised supervisor**
The authorised supervisor of a service must ensure that equipment and amenities used in providing the service comply with the licensing standards set out in clause 7 (5) and 8 (2) of Schedule 1.
- (8) **Code of conduct**
The licensee, authorised supervisor of a service and staff of the service must comply with the provisions of the code of conduct set out in Schedule 2.

16 Notice of changes relating to licensed premises

- (1) The licensee of a centre based child care service must cause notice in writing to be given to the Director-General of any proposed structural alteration to, or demolition of, any building or other structure on the premises at which the service is provided:

- (a) at least 6 weeks before the alteration or demolition commences, or
 - (b) before the consent or approval of any public or local authority is sought for the alteration or demolition,
- whichever is earlier.
- (2) If a service ceases to operate, the licensee must give the Director-General notice in writing that the service has ceased to operate within 7 days of the cessation of the service.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

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Clause 17 Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Part 3 Administrative procedures

Part 3 Administrative procedures

17 Authority for emergency medical and other treatment

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

if the member of staff 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.

- (2) If any treatment or service referred to in subclause (1) is obtained for a child, the licensee of the service must notify the parent as soon as possible.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

Note. Nothing in this clause affects the ability of a doctor or dentist to carry out emergency medical or dental treatment on a child without the consent of the child's parent as referred to in section 20A of the Act.

18 Confidentiality guidelines

- (1) The licensee of a service is to prepare or cause to be prepared written guidelines setting out the policies and practices to be observed by staff of the service to ensure confidentiality about records of the service, or information obtained by staff, concerning:
 - (a) staff and their families, and
 - (b) the families of children enrolled for the service.
- (2) The licensee of a service is to ensure confidentiality about records of the service, or information obtained by the licensee concerning:
 - (a) children enrolled for the service, and
 - (b) the families of children enrolled for the service.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

19 Authority for excursions

- (1) The licensee of a service must ensure that no child leaves the premises of the service to participate in an excursion without the appropriate authorisation referred to in subclause (2) or (3).
- (2) The licensee of a service must ensure that a child enrolled for the service is not permitted to participate in any routine excursions unless the licensee has obtained written authorisation for the child to participate in excursions of that kind from a parent of the child.

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

- (3) The licensee of a service must ensure that no child leaves the premises of the service to participate in an excursion other than a routine excursion specified in an authorisation referred to in subclause (2) unless the licensee has obtained written authorisation for the child to participate in the excursion from a parent of the child.

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

- (4) Such an authorisation must state the following:
 - (a) the date of the excursion,
 - (b) the proposed destination,
 - (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 person with first aid qualifications who will accompany the children on the excursion.

Maximum penalty (subclauses (1) and (3)): 5 penalty units.

20 Conduct of excursions

- (1) The authorised supervisor of a service must conduct all excursions in a safe manner.
- (2) The licensee of a service must ensure that any vehicles used to transport children on excursions are fitted with suitable child restraints within the meaning of Regulation 110G of the *Motor Traffic Regulations 1935*.

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Part 3 Administrative procedures

Note. Regulation 110G defines a suitable child restraint to mean any of the following restraints fitted to a motor vehicle:

- (a) a child restraint that conforms to standard AS 1754 of the Standards Association of Australia and which is referred to in that standard as suitable for use by the child concerned,
 - (b) a seat belt, but only if the child concerned is not under the age of 1 year,
 - (c) a child restraint of a type approved by the Roads and Traffic Authority for use by a child of the age, weight or height of the child concerned.
- (3) The licensee of a service must ensure that children are not taken on any excursion that does not require the use of motor or other transport or the crossing of a major road unless the adult to child ratio of persons participating in the excursion is:
- (a) one adult for each 5 children under 3 years of age, and
 - (b) one adult for each 10 children 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 there is a minimum adult to child ratio of persons participating in the excursion of one adult for each 4 children.
- (5) The licensee of a service must ensure that children are not taken on any excursion to swim or to a beach, river, lake or other place where there is a significant water hazard unless the minimum adult to child ratio of persons participating in the excursion is:
- (a) one adult for each child under 3 years of age, and
 - (b) one adult for each two children 3 or more years of age.
- (6) The licensee of a service must ensure that the person in charge of any excursion on which children are taken to swim or to a beach, river, lake or other place where there is a significant water hazard has a current approved resuscitation qualification and the knowledge and ability to implement water safety procedures.
- (7) The authorised supervisor of a service must ensure that a suitable and fully stocked first-aid kit is taken on all excursions.

Maximum penalty (subclauses (1)–(7)): 5 penalty units.

21 Swimming pools

- (1) The licensee of a service must ensure that no child enrolled for the service swims in a swimming pool on the premises of the service unless the licensee has obtained written authorisation for the child to do so from a parent of the child.
- (2) The authorised supervisor of a service must ensure that if children enrolled for the service are to swim at any pool situated on the premises of the service, a minimum of 2 adults are present and that the minimum adult to child ratios are:
 - (a) one adult for each child under 3 years of age, and
 - (b) one adult for each two children 3 or more years of age.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

- (3) The licensee of a service must ensure that no child enrolled for the service swims in a swimming pool on the premises of the service unless supervised by a person who has a current approved resuscitation qualification and the knowledge and ability to implement water safety procedures.

22 Emergency procedures

- (1) The authorised supervisor of a service must ensure that at least one person who holds a current approved first aid qualification is on the premises of the service at all times when children enrolled for the service are at the premises.
- (2) The authorised supervisor 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 in each playroom in any building on the premises of the service and at each main exit from the building.
- (3) The authorised supervisor of a service must ensure that primary contact staff practice emergency procedures with children enrolled for the service at least once every 4 months so that they and the children are prepared for emergencies.
- (4) The authorised supervisor of a service must ensure that a record of each practice is taken and is kept at the premises of the service for a period of 2 years after the practice.

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Clause 22 Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Part 3 Administrative procedures

(5) In this clause:

approved first aid qualification means completion of any of the following:

- (a) any first aid course, at senior first aid level, accredited by the WorkCover Authority and that is specific to first aid and emergency care of children,
- (b) any first aid course, at senior first aid level, accredited by the Vocational Education Training Accreditation Board and that is specific to first aid and emergency care of children,
- (c) any other first aid course approved by the Minister.

Maximum penalty (subclauses (1)–(4)): 5 penalty units.

23 Cooking staff

- (1) The licensee of a service must ensure that a cook is employed by the service if food is prepared and provided to children on the premises of the service.
- (2) The cook is to be available for the period necessary to prepare food for the number of children being catered for.
- (3) The licensee of a service must not employ a person as a cook at the service on or after 1 December 1996 unless the person has completed basic training in food safety and nutrition.
- (4) The licensee of a service is not guilty of an offence under subclause (3) if the licensee ensures that a person who has not completed basic training in food safety and nutrition before he or she is employed by the service completes such training within 12 months of being so employed.

Maximum penalty (subclauses (1)–(3)): 5 penalty units.

24 Information for parents

- (1) The licensee of a service must provide parents of children enrolled for the service with access to the following information:
 - (a) copies of all written policies required by this Regulation or other policies and procedures relating to the conduct of the service developed by the service,

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- (b) procedures for dealing with parents' concerns and complaints about the service,
 - (c) if the service is registered as a provider with the Health Insurance Commission of the Commonwealth, the service provider number,
 - (d) details of emergency evacuation procedures,
 - (e) the telephone number, address and other relevant information concerning the nearest appropriate office of the Department of Community Services,
 - (f) procedures adopted by the service for the arrival and departure of children,
 - (g) hours and days of operation of the service,
 - (h) details of parent participation in service programming,
 - (i) fees,
 - (j) details of staffing, including support and relief staff,
 - (k) training undertaken by staff,
 - (l) developmental records concerning the child,
 - (m) a copy of 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.
- (2) The licensee of a service must ensure that the licence 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 to whom services are provided.
- (3) During the period between the commencement of this Regulation and ending with 31 May 1997 the licensee of a service who, on the commencement of this Regulation, has not provided the information referred to in subclause (1) (a), (b) or (m) is not guilty of an offence merely because the licensee fails to comply with subclause (1) (a), (b) or (m).

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

25 Provision of information to the Director-General

- (1) The licensee of a service must provide the Director-General with such information in relation to the service as the Director-General may from time to time reasonably require.

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Clause 25 Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Part 3 Administrative procedures

- (2) If the licensee of a service:
- (a) is charged with or convicted of an offence for which a penalty of penal servitude or imprisonment for 12 months or more may be imposed, or
 - (b) becomes aware that a member of staff of the service has been charged with or convicted of such an offence, or
 - (c) becomes aware that a person who is normally resident at any residential premises adjoining the premises of the service has been charged with or convicted of such an offence,

the licensee must immediately cause written notice of that fact to be given to the Director-General.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

26 Public liability insurance

- (1) The licensee of a service must obtain and keep current a policy of insurance that adequately meets the licensee's public liability in respect of the provision of child care. The cover provided must not be less than \$5,000,000.
- (2) The licensee of a service must not require or request any parent of any child enrolled for the service to release or indemnify the licensee against any liability in proceedings against the licensee involving injury caused to the child while being provided with the service.

Maximum penalty (subclauses (1) and (2)): 5 penalty units.

Part 4 Records and registers

27 Records

- (1) The licensee of a service must ensure that the authorised supervisor of the service maintains and keeps up to date the following records in relation to each child enrolled for the service:
- (a) the child's full name, date of birth, residential address and sex,
 - (b) details of any allergies suffered by the child or other relevant medical history or details of the child,
 - (c) the full name, residential address, place of employment and contact telephone number of a parent of the child,
 - (d) any special requirements concerning the child notified by the parent,

Note. Special requirements notified by a parent may relate to the child's culture or religion or, if the child has a disability or other special need, the needs of the child.

- (e) the ethnic group to which the child belongs 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,
- (f) any court orders affecting the custody or residence of or access to the child of which the authorised supervisor is aware,
- (g) the full name, address and telephone number of any person authorised by a parent to collect the child from the premises of the service,
- (h) the full name, address and telephone number of a person who may be contacted in an emergency if the parent is not available,
- (i) the name, address and telephone number of the child's doctor (if any),
- (j) if any medication is administered to the child by a member of staff of the service:
 - (i) the name of the medication, and
 - (ii) the date, time and dosage administered, and

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Part 4 Records and registers

- (iii) the name of the person who checked the dosage and administered the medication, and
- (iv) the parent's written permission for and any doctor's instructions relating to its administration,
- (k) a parent's permission for emergency medical, hospital and ambulance service,
- (l) a parent's permission for a child to be taken on an excursion or escorted to or from a specified place,
- (m) the nature and circumstances of any injury to the child while being provided with the service,
- (n) particulars of treatment given to a child who is injured or becomes ill while being provided with the service,
- (o) if a child dies while being provided with the service, the details surrounding the death,
- (p) the actual times during which the child is provided with the service,
- (q) a program of development for the child.

Note. Section 42C of the *Public Health Act 1991* also requires the person in charge of a service to record in a register the immunisation status of each child enrolled for the service.

- (2) The licensee of a service must ensure that the authorised supervisor of the service maintains and keeps up to date the following records:
 - (a) a staff roster detailing the hours to be worked by each member of staff of the service,
 - (b) the actual times of attendance of all staff of the service,
 - (c) details of any complaint made by a parent of a child enrolled for the service concerning the operations of the service and the action taken to resolve the complaint.
- (3) The authorised supervisor of a service must maintain and cause to be kept up to date the following records in relation to each member of staff of the service:
 - (a) a certified copy of any relevant qualification held by the member,
 - (b) a certified copy of any first aid certificate held by the member,

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- (c) staff rosters,
 - (d) the day to day attendance including arrival and departure time of the member of staff on duty,
 - (e) any other authorities approved by the Director-General.
- (4) The authorised supervisor of a service must maintain and keep up to date the following written records in relation to the service:
- (a) the day to day attendances including arrival and departure times of children at the premises of the service,
 - (b) the daily routine of the service,
 - (c) a weekly program of the service.
- (5) The authorised supervisor of a service must keep the records referred to in this clause in a safe and secure area.
- Maximum penalty (subclauses (1)–(5)): 5 penalty units.

28 Retention of records

- (1) The licensee of a service must ensure that the authorised supervisor of the service keeps the records for the following period:
- (a) the records referred to in clause 27 (1) (m) and (n) are to be retained until the child is 24 years of age (or, if the child dies after leaving the service, until the licensee or authorised supervisor is notified of the death),
 - (b) the records referred to in clause 27 (1) (o) is to be retained for a period of 6 years from the date of the child's death,
 - (c) the records referred to in clause 27 (1) (i) (i), (ii) and (iii) are to be retained for a period of 2 years after the member of staff leaves the service,
 - (d) the record referred to in clause 27 (1) (i) (iv) is to be retained for a period of 2 years from the date the record is made.
- (2) The authorised supervisor must keep the records referred to in subclause (1) up to date and in a safe and secure area.
- (3) The licensee or authorised supervisor must, if requested to do so by a parent of a child who was formerly enrolled for the service, provide the parent with copies of the developmental records concerning the child kept by the service.
- Maximum penalty (subclauses (1) and (3)): 5 penalty units.

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Part 4 Records and registers

29 Inspection of records

The licensee of a service must ensure that the records relating to a child remain confidential and are made available only to the following persons:

- (a) the licensee,
- (b) the authorised supervisor of the service,
- (c) a member of staff of the service authorised to access the records by the licensee or the authorised supervisor of the service,
- (d) an authorised officer,
- (e) a person otherwise authorised by law to inspect the records,
- (f) a parent of the child,
- (g) any person authorised in writing to inspect the records by a parent of the child.

Maximum penalty: 5 penalty units.

Part 5 Child numbers and staffing standards

30 Number of children

- (1) The maximum number of children who may be provided with a service at any one time at the premises of the service is as specified in the licence for the service.
- (2) The maximum number of children that may be so specified is:
 - (a) 30 children under the age of 2 years, and
 - (b) 60 children of or above the age of 2 years but under the age of 6 years who do not ordinarily attend school,unless the Minister otherwise approves in a particular case.

31 Emergency child care arrangements

- (1) The Minister may give approval for more children to be enrolled for a service than the maximum number specified in the licence for the service if the Minister is of the opinion that one or more children than the maximum specified in the licence need to be provided for by the service as a matter of urgency.
- (2) Each child concerned is to be named in the approval.
- (3) The Minister may give such an approval only if
 - (a) the total number of children that may be enrolled above the maximum number specified in the licence for the service is specified in the approval, and does not exceed 10% of the total number of children at the service, or 4, whichever is the lesser, at any one time, and
 - (b) each child the subject of the approval:
 - (i) is a client of the Department or is a member of a family that is a client of the Department, or
 - (ii) is, in the Minister's opinion, likely to become a client of the Department, or is a member of a family that is likely become a client of the Department, or
 - (iii) has a parent whose health needs necessitate urgent care for the child, or

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Part 5 Child numbers and staffing standards

- (iv) has a parent who is undertaking a rehabilitation program, or
 - (v) is a client of or is a member of a family that is a client of an organisation funded by the Department, or
 - (vi) has a parent who is participating in an approved job skills program for the long-term unemployed.
- (4) The period for which a child may be enrolled for a service under such an approval must not exceed 6 months.
- (5) The licensee must admit a child who is the subject of such an approval to the first available vacancy at the service, to enable the service to return to its licensed capacity.
- (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 Community Services.

32 Group size

- (1) The licensee of a service must ensure that each child provided with the service is placed in a group that is supervised by a team of staff:
- (a) working in a specified room or part of a room of the premises of the service, and
 - (b) nominated by the licensee as the staff to be responsible for children in that group.
- (2) The licensee of a service must ensure that children are arranged in groups as follows:
- (a) if the children are under 2 years of age—in groups of not more than 10,
 - (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 25.

- (3) Despite subclause (1), two or more groups may be combined if it is necessary to do so to carry out any activity set out in the program of activities provided by the service. However, groups may be combined only if the staff to child ratios set out in this Part are maintained.

33 Primary contact staff

The authorised supervisor of a service must ensure that no primary contact member of staff both supervises children and performs other duties at the same time.

34 Primary contact staff to child ratios

- (1) The licensee of a service must ensure that the ratio of primary contact staff to children being provided with the service is:
- (a) 1:5 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 licensee of a service must ensure that, on and after 1 June 1997, at least 2 persons who are staff of the service are present on the premises of the service whenever children are being provided with the service at the premises.

35 Qualified staff

- (1) The licensee of a service must ensure that the following number of teaching staff are in attendance at the premises of the service:
- (a) if there are 30 or more but less than 40 children being provided with the service—1,
 - (b) if there are 40 or more but less than 60 children being provided with the service—2,
 - (c) if there are 60 or more but less than 80 children being provided with the service—3,
 - (d) if there are 80 or more children being provided with the service—4.

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Part 5 Child numbers and staffing standards

- (2) The licensee of a centre based child care service must ensure that at least one primary contact staff member who:
- (a) is an enrolled nurse (mothercraft) within the meaning of the *Nurses Act 1991*, or
 - (b) is a registered nurse within the meaning of the *Nurses Act 1991* who has had previous work experience in providing a child care service, or
 - (c) has obtained a child care certificate, a Certificate of Child Care Studies or an Associate Diploma of Social Science (Child Studies) from a College of Technical and Further Education, or
 - (d) has other approved qualifications,

is in attendance at the premises of the service if any child under the age of 2 years is being provided with the service.

- (3) In this clause:

teaching staff member means a primary contact staff member who:

- (a) has completed a full-time course of not less than 3 years' duration, at a university, of early childhood studies, or
- (b) has other approved qualifications or other approved training and experience.

36 Additional staff

- (1) The Minister may, by notice in writing, require the licensee of a service to employ additional staff in such number and with such qualifications as are specified in the notice if the Minister considers that having regard to any particular function carried out by the service sufficient staff with suitable qualifications are not employed by the service.
- (2) The licensee must not without lawful excuse fail to comply with such a requirement.

Part 6 Exemptions

37 Purpose of Part

The purpose of this Part is to remove any doubt that persons who were licensees and authorised supervisors of centre based and mobile child care services before the disallowance of the *Centre Based and Mobile Child Care Services Regulation 1996* can legally continue to provide those child care services. The Part exempts such persons from the operation of offence provisions in section 31 of the Act so long as they comply with the provisions of this Regulation that are applicable to licensees and authorised supervisors of services.

38 Definitions

In this Part:

affected authorised supervisor means:

- (a) a person who, immediately before 23 October 1996, was the authorised supervisor of a service within the meaning of the disallowed Regulation, or
- (b) a person replacing that person approved by the Minister under clause 42.

affected licence means a licence held by an affected licensee.

affected licensee means a person who, immediately before 23 October 1996, was a licensee of a service within the meaning of the disallowed Regulation.

disallowed Regulation means the *Centre Based and Mobile Child Care Services Regulation 1996* published in the Gazette No. 99 on 30 August 1996 at pages 5132 to 5179.

repealed 1989 Regulation means:

- (a) the *Centre-based Child Care Services Regulation 1989*, or
- (b) the *Mobile Child Care Services Regulation 1989*.

39 Temporary exemptions from the operation of the Act

- (1) An affected licensee is, subject to clause 40, exempt from the operation of section 31 (1) and (2) of the Act.

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Clause 39 Centre Based and Mobile Child Care Services Regulation (No 2) 1996

Part 6 Exemptions

- (2) A person who has the overall supervision of the provision of a service is, subject to clause 40, exempt from the operation of section 31 (3) of the Act if the person is an affected authorised supervisor.
- (3) An exemption under this clause has effect for the remainder of the period that the particular affected licence would have remained in force if the disallowed Regulation had not ceased to have effect.

40 Conditions of exemptions

- (1) The exemption of a particular affected licensee of a service may be revoked by the Minister if the affected licensee fails to comply with any provision of this Regulation or the Act that would be applicable to the affected licensee if he or she were a licensee of a service.
- (2) For the purposes of subclause (1), an affected licensee does not fail to comply with a licensing standard set out in clause 1 (1)–(5), 2 (3), 3, 4 (2) or (4), 5 (3), 6 (2), 11 or 14 (3) of Schedule 1 if the affected licensee complies with the licensing standards set out in a repealed 1989 Regulation that would be applicable if he or she were a licensee within the meaning of that Regulation and that Regulation was still in force.
- (3) The exemption of a particular person having overall supervision of the provision of a service may be revoked by the Minister if the person fails to comply with any provision of this Regulation or the Act that would be applicable to the person if he or she were the authorised supervisor of the service.

41 Revocation of exemptions

- (1) The Minister may revoke an exemption under this Part in relation to a particular person in the same way as the Minister may revoke an exemption given under section 48 (1) of the Act.
- (2) Without limiting clause 40 or any other grounds on which the Minister may revoke an exemption, the Minister may revoke an exemption of an affected licensee of a service on any ground on which if the affected licensee were the licensee of a service the Minister might, under clause 9 of Schedule 1 to the Act, revoke the licence.

42 Change of authorised supervisor

- (1) An affected licensee may apply to the Minister for the Minister's consent to the replacement of the affected supervisor by another person for the purposes of clause 39 (2).
- (2) The application is to be made and dealt with as if it were an application made by a licensee under clause 4 of Schedule 1 to the Act.

43 References to licences, licensee of a service and authorised supervisor of a service

A reference in a provision of this Regulation (other than this Part):

- (a) to the *licensee of a service* includes a reference to an affected licensee, and
- (b) to the *licence of a service* includes a reference to an affected licence, and

Note. See, for example, clause 24 (2).

- (c) to the *authorised supervisor of a service* includes a reference to an affected authorised supervisor.

Schedule 1 Licensing standards

(Clause 15)

Note. Clause 15 sets out the respective responsibilities of licensees and authorised supervisors for complying with this Schedule.

1 Space requirements for centre based child care services

- (1) A centre must have areas set aside for administration of the service, private consultation between staff of the service and parents of children provided with the service and for respite of staff.
- (2) A centre must have 3.25 square metres of Unencumbered indoor play space per child.
- (3) For the purposes of calculating unencumbered 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) A centre must (except as provided by subclause (7)) have 7 square metres of useable outdoor play space per child.
- (5) For the purposes of calculating useable outdoor 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.
- (7) If the Minister is satisfied that the location of a centre makes it impracticable to provide the required amount of useable outdoor play space (for example, because the centre is situated in a central business district) the Minister may, in a particular case, consent to the provision of some or all of the useable outdoor play space in an indoor area designed and equipped as a gross motor play area.

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

2 Laundry

- (1) A service must have laundry arrangements either on the premises of the service or through another facility, service or arrangement.
- (2) The premises of a service must have safe, sanitary facilities for the storage of soiled clothes, linen and nappies before laundering or disposal.
- (3) A centre must comply with clause F2.3 (c) (iii) of the Building Code of Australia.

Note. Clause F2.3 (c) (iii) provides that Class 3 to 9 buildings that are early childhood centres must, if accommodating children younger than 2 years old, be provided with a laundry facility comprising a washtub and space in the same room for a washing machine or wash copper.

3 Craft preparation facilities

The premises of a service must have a sink for use in craft activities that is separate from any food preparation facilities at the premises.

4 Food preparation facilities

- (1) The premises of a service must (except as provided by subclause (3)) have a designated area for food preparation and storage. The area must be safe and hygienic.
- (2) Facilities in the designated area must include a stove or microwave, double sink, refrigerator, suitable disposal facilities and hot water supply.
- (3) A mobile child 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 child care service.

- (4) The premises of a service must have separate facilities for the preparation of bottles if children under 2 years of age are provided for by the service.

5 Toilets and washing facilities

- (1) The premises of a service must have toilet, hand washing and bathing facilities that are safe and appropriate to the ages of the children at the service and facilities for cleaning those facilities whenever necessary.
- (2) The premises of a service must be equipped with one potty for every 5 children under 3 years of age provided with the service at the premises.
- (3) The sanitary facilities of a centre must comply with the requirements for class 9b buildings (early childhood centres) of clause F2.3 of the Building Code of Australia.

Note. Table F2.3—9b, provides that for every 15 children or part thereof there must be:

- (a) a junior toilet or adult toilet with a firm step and a junior seat,
- (b) one hand basin either with a firm step, or at a height so as to provide reasonable child access.

6 Nappy change facilities

- (1) The following facilities must be provided at the premises of a service if children under 3 years of age are provided with the service:
- (a) facilities for the storage of clean nappies,
- (b) a nappy changing bench or mat with an impervious washable surface that is cleaned after each use,
- (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 service, adequate facilities for laundering the clothing,
- (e) hand washing facilities in the immediate vicinity of the nappy changing area for use by staff.

- (2) In addition to the facilities referred to in subclause (1), a centre must be equipped with the following:
- (a) a nappy changing bench or mat with an impervious washable top for every 10 children or part thereof,
 - (b) a hand basin connected to hot and cold water and drainage in the immediate vicinity of the nappy changing area,
 - (c) an infant bath with temperature regulated hot and cold running water in, or adjacent to, the nappy change area,
 - (d) a sluice or contaminated waste disposal unit in the nappy change area.

7 Sleeping facilities

- (1) The premises of a service must be equipped with one cot for each child under 2 years of age filling a licenced place at the service.
- (2) The premises of a service providing long day care must provide one bed or mattress or other age and culturally appropriate form of bedding for each 2 licensed places filled by children who are 2 or more years of age.
- (3) The premises of a service (other than a service providing long day care) must be equipped with an adequate number of beds or mattresses or other age and culturally appropriate form of bedding for each child who is 2 or more years of age and who may wish or need to sleep at the premises on any one day. In determining this, 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.
- (4) Provision must be made at the premises of a 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

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- (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
 - (h) no child sleeps in the same room in which an adult is sleeping.
- (5) Beds, cots, stretchers or mattresses at the premises of the service must be arranged so:
- (a) as to allow easy exit of any child,
 - (b) as to allow easy access to any child,
 - (c) as to reduce the risk of cross infection between children.

Note. The authorised supervisor is responsible for ensuring that this licensing standard is complied with.

- (6) In this clause:

long day care means a service provided for a child for 6 or more hours at a time.

8 Storage facilities

- (1) The premises of a service must have storage facilities that are secure and inaccessible to children for dangerous cleaning materials, disinfectants, poisonous and other dangerous substances, tools, equipment, toiletries, medications and first aid equipment.
- (2) The premises of a service must have independent access for children to books and equipment that is suitable to the children's development and needs and that is representative of a wide range of cultures.
- Note.** The authorised supervisor is responsible for ensuring that this licensing standard is complied with.
- (3) The premises of a service must be equipped to provide each child with access to a space for storage of the child's personal belongings.

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- (4) A centre must have storage facilities for indoor and outdoor equipment.

9 Fencing—centre based and mobile services

- (1) That part of the premises of a service that is designated for outdoor play spaces must be fenced on all sides.
- (2) The design of any fence on the premises must prevent children from scaling or crawling under it and intruders from entering the premises.
- (3) If the premises of a service are adjacent to, or provide access to, any hazards, including water hazards or roads, the premises must be isolated from the hazards by an effective barrier or fence.
- (4) Gates in fences on the premises of a service must be equipped with a child-proof locking mechanism.
- (5) Any side of a stairway, ramp, corridor, hallway or external balcony on the premises of a service that is not abutting a wall must be enclosed to prevent a child being trapped or falling through.
- (6) Age appropriate child-proof barriers must be provided at the top and bottom of stairs on the premises of a service.

10 Fencing—additional requirements for centre based services

- (1) In addition to complying with the requirements of clause 9, outdoor spaces of a centre must be fenced on all sides with fences at least 1200 mm high.
- (2) All gates leading to or from play areas of a centre must be of the same height as the fence and be equipped with a child-proof self-locking mechanism.
- (3) If a centre is adjacent to or provides access to any hazards, including water hazards or main roads, the centre must be isolated from such hazards by a fence that is at least 1500 mm in height or by an approved pool fence.

11 Glass

- (1) Glazing materials used in any area of the premises of a service that is accessible to children must be selected and installed in accordance with the relevant provisions of AS 1288.

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(2) To the extent AS 1288 requires the use of safety glass in such an area, glass in a centre must be selected and installed in accordance with AS 2208.

(3) In this clause:

AS 1288 means the standard published by Standards Australia under the title “Glass in buildings—Selection and installation”, and numbered AS1288, as in force on the commencement of this Regulation.

AS2208 means the standard published by Standards Australia under the title “Safety glazing materials for use in buildings (human impact considerations)”, and numbered AS2208, as in force on the commencement of this Regulation.

12 Telephone

(1) The premises of a service must be equipped with an operating telephone or two-way radio capable of communication with, at the least, the nearest police station, ambulance station, fire service, and medical emergency facility and that is readily accessible to staff of the service.

(2) In areas where telephone services are not available, an effective emergency communication plan for the service must be in place.

13 Pools

(1) There must not be a swimming pool (within the meaning of the *Swimming Pools Act 1992*) on the premises of any service on which there is no swimming pool on the commencement of this Regulation and for which a licence is issued after the commencement of this Regulation.

(2) Any swimming pool on the premises of a service on the commencement of this Regulation must be fenced. The fence must be in accordance with any applicable provisions of the *Swimming Pools Act 1992*.

(3) Provision must be made at the premises of a service to ensure that:

(a) all paddling pools are emptied after use and stored to prevent the collection of water, and

- (b) water containers are safely covered or are inaccessible to children, and
- (c) pool filters are inaccessible to children.

14 Premises cleanliness, maintenance and repairs

- (1) The premises of the 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.
- (2) The building in which the service is provided must be properly ventilated, lit and heated and be maintained at a temperature that is a comfortable temperature for children at all times.
- (3) Exterior windows and doorways in the building must be fitted with flyscreens, unless the fitting of flyscreens is prohibited under the *Local Government Act 1993*.
- (4) Any buildings and grounds on the premises of the service must be kept free of vermin.

15 Heating and cooling equipment

- (1) All heating and cooling units on the premises of the 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.
- (2) The controls of all equipment on the premises of a service that may be hazardous to children must be guarded to prevent access by children.
- (3) Fans on the premises of the service must be placed in a position that is inaccessible to children.

16 First aid

- (1) The premises of a service must be equipped with a suitable and fully stocked first-aid kit that is kept in a position that is inaccessible to children but readily accessible to primary contact staff and other staff in an emergency.

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- (2) A cardio pulmonary resuscitation flow chart must be displayed in a prominent position on the premises of the service.

17 Outdoor play equipment

- (1) Provision must be made at the premises of a service to ensure that outdoor play equipment (whether fixed or not) used on the premises does not constitute a hazard to children at the service because:
 - (a) the surfacing used underneath or around the equipment does not comply with the requirements of AS/NZS 4422:1996, or
 - (b) of the height from which a child can fall, or
 - (c) of the likelihood that a child can be trapped, pinched or crushed in the equipment or struck by it, or
 - (d) of sharp or rough edges and projections or rust, or
 - (e) of lack of stability.
- (2) Outdoor play equipment used on the premises of a service must comply with any relevant standards in force from time to time.
- (3) Outdoor play equipment used on the premises of a service must be safe and in good repair.
- (4) In this clause:

AS/NZS 4422:1996 means the standard published jointly by Standards Australia and Standards New Zealand under the title “Playground surfacing—Specifications, requirements and test method” and numbered AS/NZS 4622:1996, as in force on the commencement of this Regulation.

18 Emergency procedures and fire safety-centre based and mobile services

- (1) The premises of the service must be provided with:
 - (a) appropriately placed smoke detectors, and
 - (b) a fire blanket that is kept adjacent to the cooking facilities at the premises, and
 - (c) a fire extinguisher.

- (2) All fire protection equipment with which the premises of a service is equipped must be tested in accordance with the requirements of AS1851.1—1995 for Level 1 service and be kept in proper working condition.

Note. AS 1851. 1—1995 requires equipment to be tested every 6 months at Level 1 service levels.

19 Hot water

Hot water connected to any basin, bath or shower used by children at a centre must be regulated so as to keep it below the temperature at which a child can be scalded.

20 Plants

- (1) Any poisonous vegetation on the premises of a service must be identified and provision made to ensure that the vegetation is not accessible to children.
- (2) Any vegetation on the premises of a service that can lead to injury or severe discomfort (for example, because of sharp prickles or prominent thorns) must be identified and provision made to ensure that the vegetation is not accessible to children.

21 Equipment to support program

- (1) The premises of a service must be equipped with adequate equipment to meet the developmental and other needs of children and be readily available for use by the children and staff of the service.
- (2) In determining the adequacy and sufficiency of equipment, the age, number and interests of children provided with the service must be taken into account.

Schedule 2 Code of Conduct

(Clause 15)

Note. Clause 15 (8) sets out the responsibilities of the authorised supervisor and licensee of a service to ensure that primary contact staff and other staff of the service comply with the Code of Conduct.

1 Arrival and departure of child

- (1) The authorised supervisor of a service must ensure that a system is in place at the premises of the service that allows for the person who brings a child to the premises to record in the service's attendance book the time of the child's arrival at the premises and sign the record.
- (2) The authorised supervisor of a service must ensure that a system is in place at the premises of the service that allows for the person who collects a child from the premises to record in the service's attendance book the time of the child's departure from the premises and sign the record.
- (3) The authorised supervisor of a service must ensure that when a child leaves the premises of a service the person who collects the child is the child's parent or a responsible person who is authorised in writing by the child's parent to collect the child.
- (4) If it is not possible to comply with subclause (3), the authorised supervisor of a service must ensure that alternative arrangements to secure the safety and welfare of the child have been made before the child is permitted to leave the premises.
- (5) The authorised supervisor of a service must ensure that when a child arrives at the premises of the service a member of staff of the service receives the child.
- (6) The authorised supervisor of a service must ensure that if a school age child arrives at or leaves a service unaccompanied by a parent the arrival or departure is in accordance with procedures agreed to in writing by the child's parent.

2 Child health

- (1) The authorised supervisor of a service must ensure that primary contact staff observe strict health and hygiene practices:

- (a) that have regard to current community standards, and
 - (b) are in accord with relevant government guidelines to minimise risks to children in relation to children at the service.
- (2) Primary contact staff must encourage children to observe these practices.

3 Food and drinks

- (1) The authorised supervisor of a service must ensure that food and drink provided to children at the premises of the service on or after 1 June 1997 is consistent with the Dietary Guidelines.

Note. See also relevant provisions of the *Food Act 1989* and the *Food (General) Regulation 1992*.

- (2) Primary contact staff must ensure that drinking water is provided and available to children at all times while the service is being provided.
- (3) The authorised supervisor of a service must ensure that each child at the service is provided with food and drinks that are nutritious, adequate in quantity, varied, offered at frequent intervals and appropriate to the developmental needs of the child.
- (4) The authorised supervisor of a service must ensure that information is readily accessible to parents of children enrolled for the service outlining the approach taken to meet the nutritional needs of children, including each child's special dietary needs, culture and religion.
- (5) The authorised supervisor of a centre based child care service must ensure that a menu that outlines the food to be provided each day at the premises of the service during each two week period is prominently displayed in a place visible to parents.
- (6) The authorised supervisor of a service must ensure that, on or after 1 June 1997, information is readily accessible to parents providing food for their children to consume at the premises of the service to assist them in providing food that is varied, adequate in quantity, appropriate to the developmental needs of children and consistent with the Dietary Guidelines.

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- (7) The authorised supervisor of a service must ensure that, on or after 1 June 1997, if a child is provided with the service for 8 hours or more, the child is provided with at least 50% of the recommended intake set out in the Dietary Guidelines.
- (8) In this clause:
Dietary Guidelines means the “Dietary guidelines for children and adolescents” endorsed by the National Health and Medical Research Council, June 1995..

4 Illness and accident

- (1) The authorised supervisor of a service must ensure that if a child has an accident or becomes ill while being provided with the service that:
- (a) the child is kept under adult supervision until the child recovers or a parent of the child or some other responsible person takes charge of the child, and
 - (b) if the child requires medical aid, all reasonable attempts are taken to secure that attention, and
 - (c) every reasonable attempt is made to notify a parent of the accident or illness as soon as practically possible, and
 - (d) the child is returned as soon as practicable to the care of a person responsible for the child.
- (2) The authorised supervisor of a service must ensure that a record of the accident is given to the child’s parent.
- (3) The authorised supervisor of a service must ensure that a parent or other responsible person is notified of any medication administered to a child being provided with the service and of any other matter concerning the child’s health that comes to any of the primary contact staff’s notice while the child is being provided with the service.
- (4) Primary contact staff must ensure that if a child has a serious accident that causes hospitalisation or death while being provided with the service, notice of the accident is immediately given to the authorised supervisor.

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- (5) On being notified of a serious accident that causes hospitalisation of a child being provided with a service, the authorised supervisor of the service must immediately cause notice of that fact to be given to:
- (a) a parent of the child, and
 - (b) the Director-General.
- (6) On being notified of the death of a child being provided with a service, the authorised supervisor of the 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 Director-General.

5 Infectious diseases

- (1) The authorised supervisor of a service must ensure that on and after 1 June 1997 a policy on infectious diseases that 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 is developed and maintained for the service, 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.
- (2) Primary contact staff must ensure that the policy is practised.
- (3) The authorised supervisor of a service must ensure that information about the occurrence within the service of significant infectious disease in either staff of the service or children is made available to the parents of children at the service in a manner that is not prejudicial to the rights of individual children or staff.
- (4) Nothing in this clause authorises the disclosure of any information concerning exposure to or infection by Human Immunodeficiency Virus or Acquired Immunodeficiency Syndrome.

6 Medication

- (1) The authorised supervisor of a service must ensure that a parent of any child who wishes medication to be administered while the service is being provided is notified of the following:
 - (a) the name of the medication, and
 - (b) the date, time and dosage administered, and
 - (c) the name and signature of the person who administered the medication and the person who checked the dosage.
- (2) The authorised supervisor of a service must ensure that primary contact staff only administer medication to a child from its original packaging. In the case of prescription medication, this must only be administered to the child for whom it has been prescribed, from a container bearing the child's name and with a current use by date.
- (3) The authorised supervisor of a service must ensure that medication is only administered to a child for whom the service is being provided with the written permission of a parent of the child or with the approval of a doctor.

7 Parental access to children

- (1) The licensee of a service must ensure that procedures are in place to ensure that any parent that the licensee knows to have been denied access to a child by a court order affecting the custody or residence of, or access to the child, is excluded from the premises of the service at all times.
- (2) The licensee of a service must ensure that any parent not subject to such orders can:
 - (a) have access to his or her child at any time during the hours the child is at the service, and
 - (b) exchange information about his or her child with primary contact staff on an ongoing basis.

8 Service program

- (1) The authorised supervisor of a service must ensure that primary contact staff provide a program of activities designed to stimulate and develop each child's social, physical, emotional, cognitive, language and creative potential and must provide activities that are appropriate to the development of children.

- (2) The authorised supervisor of a service must ensure that the program has a balance of indoor and outdoor activities and include activities that can be freely chosen by the child.

9 Interactions with children

- (1) The primary contact staff of a service must interact with children for whom the service is being provided in a way that ensures that:
- (a) the children are guided towards positive and responsible behaviour, and
 - (b) the children have the opportunity to freely choose activities and problem solve and have access to learning experiences, and
 - (c) the children are encouraged and supported towards self reliance and the development of positive self-esteem.
- (2) The primary contact staff of a service must ensure that the dignity and rights of each child for whom the service is being provided 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 has such access to the primary contact staff as the child needs to assist the child's learning experiences.

10 Animals

- (1) The authorised supervisor of a service must ensure that any animal or bird kept on the premises of the service is in a clean and healthy condition.

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- (2) The authorised supervisor of a service must ensure that any animal or bird kept on the premises of the service does not constitute a health or safety risk to children.
- (3) The authorised supervisor of a service must ensure that every domestic pet or farm animal or other potentially dangerous animal kept on the premises of the service is made inaccessible to a young child unless the child is under the supervision of primary contact staff.
- (4) The authorised supervisor of a service must provide an area where animals' feed and water containers can be kept separate from children.