

# Transitional Arrangements *Children's Services Regulations 2009*

Fact Sheet | October 2009

Updated March 2011

On 25 May 2009 new provisions of the *Children's Services Act 1996* (Act) and the *Children's Services Regulations 2009* (Regulations) commenced.

There are transitional arrangements in the Act and the Regulations which allow services that were licensed before 25 May 2009 or that had applied for approval in principle (AIP) or a licence before that date as well as outside school hours care (OSHC) and family day care (FDC) services time to comply with new legislative requirements.

## Provisional Licences - OSHC and FDC Services

OSHC and FDC services that were operating prior to 25 May 2009 were eligible to be phased into the regulatory regime through a 12-month provisional licence period.

OSHC services and FDC services operating under a provisional licence must obtain a full licence by the time their provisional licence expires in order to continue operating lawfully. Information and licensing forms can be found on the Department of Education and Early Childhood Development (the Department) website at [www.education.vic.gov.au/licensedchildservices](http://www.education.vic.gov.au/licensedchildservices).

## Transitional Provisions - Regulatory Requirements

Child/staff ratios – children's services with a standard licence

New ratios for standard services apply but only for children aged less than three years. The new ratios are as follows:

- 1 staff member for every 4 children (or fraction of that number) under 3 years of age; and
- 1 qualified staff member for every 12 children (or fraction of that number) under 3 years of age.

A children's service that was licensed before 25 May 2009 or that had applied for an AIP or a licence before that date has until 1 January 2012 to comply with the new ratios. Until then, those services must operate with:

- a child/staff ratio of at least 1 staff member for every 5 children under 3 years of age; and
- 1 qualified staff member for every 15 children under 3 years of age.

Only one qualified staff member is needed if a small number of children are attending a service, regardless of the mix of ages. For existing services, this "small number" is 15 until 1 January 2012 when it will become 12, in line with the transitional period for the new ratios.

Teaching staff members – children's services with a standard licence

The requirement to engage a teaching staff member applies to all standard services including the standard service component of an integrated service. A teaching staff member is a staff member who holds an early childhood teaching qualification at degree level or above or a qualification the Secretary is satisfied is substantially equivalent or superior.

The early childhood teacher must care for or educate children for at least 20 hours per week or 50 per cent of the time the service is open to care for or educate children, whichever is less.

A standard service that was licensed before 25 May 2009 or that had applied for an AIP or a licence before that date has until 1 January 2014 to meet the requirement for engaging a teaching staff member.

## Minimum training – all children’s services

All staff members and family day carers must hold at least a Certificate III in Children’s Services or other qualification or training that the Secretary is satisfied is substantially equivalent to or superior to the Certificate III in Children’s Services. A list of approved Certificate III courses has been published in the Victorian Government Gazette, No. S 275, Tuesday 11 August 2009. Staff or services may apply to Early Childhood Australia (Victoria) (ECA) to have any courses assessed for equivalence to the gazetted courses.

A children’s service, except for a limited hours type 1 service, that was licensed before 25 May 2009 or that had applied for an AIP or a licence before that date has until 1 January 2014 to ensure that all staff members meet the minimum training requirements.

A limited hours type 1 service (where each child is care for or educated for not more than 2 hours per day and not more than a total of 6 hours per week) must ensure that all staff members had commenced minimum training by 1 January 2010 and completed the training within 12 months of commencing it.

All OSHC services have until 1 January 2014 to ensure that all staff members meet the minimum training requirements. After 1 January 2014, new staff members of these services must commence obtaining a requisite qualification or training within 6 months of commencing to work at the service.

Family day care services have until 1 January 2014 to ensure that all of their carers complete minimum training.

## Professional development in lieu of meeting minimum training (grandfathering)

The Regulations contain certain provisions for staff members and family day carers who have substantial experience caring for or educating children in children’s services.

In general, staff members and family day carers are not required to meet the minimum training requirements if they:

- were employed in a licensed children’s service, an OSHC service or a FDC service on 25 May 2009; and
- were employed in a licensed children’s service, an OSHC service or a FDC service continuously for 5 years full-time or 10 years part-time in the years immediately prior to 25 May 2009, and
- complete an approved professional development course by 1 January 2012.

In general, ‘full time’ means employed for at least 20 hours per week for 40 weeks per year, or 800 hours per year, or full time for the service. ‘Part time’ generally means at least 3 hours per week for 40 weeks of the year or 120 hours per year.

Staff members are required to undergo an assessment of their eligibility through ECA and where eligible complete an approved professional development course by 1 January 2012.

Further information is available in a separate fact sheet Professional development in lieu of minimum training (grandfathering) which is available at [www.education.vic.gov.au/licensedchildservices](http://www.education.vic.gov.au/licensedchildservices).

## First aid and anaphylaxis management training – all children’s services

All staff members and family day carers are required to complete approved first aid and anaphylaxis management training by 1 January 2012, with three yearly updates thereafter. Yearly updates in the administration of an adrenaline auto-injection device are required and, once full first aid training has been completed, yearly updates in the use of cardio-pulmonary resuscitation are also required. The Department has developed an Anaphylaxis Resource Kit that is available to services to support their staff in completing the required annual updates on the use of an adrenaline auto-injection device.

Prior to 1 January 2012, at least one staff member or family day carer on duty must have first aid training whenever children are being cared for or educated by the children’s service. In effect, this means that all family day carers need to have completed first aid training as they will not have other carers on duty with them.

Prior to 1 January 2012 if a child who has been diagnosed as at risk of anaphylaxis is being cared for or educated by a children’s service, all staff members on duty whenever that child is attending the service, or the family day carer caring for the child, must have completed the approved anaphylaxis management training.

## Summary Table

The following table provides a summary of the transitional provisions outlined above.

Regulatory requirement	Transitional date to comply	Transitional date applies to
Child/staff ratios for standard services (1:4 for children aged under 3 years)	1 January 2012	A children's service that was licensed before 25 May 2009 or that had applied for an approval in principle or a licence before that date
Qualified child/staff ratios for standard services (1:12 for children aged under 3 years)	1 January 2012	A children's service that was licensed before 25 May 2009 or that had applied for an approval in principle or a licence before that date
Employment of a degree-qualified teacher in a standard service	1 January 2014	A children's service that was licensed before 25 May 2009 or that had applied for an approval in principle or a licence before that date
Minimum training for staff members in standard, OSHC and limited hours type 2 services	1 January 2014	A children's service that was licensed before 25 May 2009 or that had applied for an approval in principle or a licence before that date, except for a limited hours type 1 service All OSHC services
Minimum training for staff in limited hours type 1 services	Commence minimum training by 1 January 2010 Complete minimum training by 1 January 2011	A limited hours type 1 service that was a licensed children's service on 25 May 2009, or that was issued a licence under the previous Regulations on or after 25 May 2009
Minimum training for family day carers	1 January 2014	All FDC services
Completion of professional development course in lieu of minimum training requirements (grandfathering)	1 January 2012	Eligible staff members and family day carers undertaking a professional development course in lieu of minimum training
First aid and anaphylaxis management training for all staff members and family day carers <sup>1</sup>	By 1 January 2012 and every three years thereafter	All services

<sup>1</sup> Notwithstanding the transitional provision, all family day carers and at least one staff member on duty for all other children's services must have first aid training. Additionally, all family day carers and all staff members who are on duty whenever children are attending the service must have annual training in the administration of an adrenaline auto-injection device. Also, if a child diagnosed as at risk of anaphylaxis is being cared for or educated by a children's service, all staff members on duty whenever that child is attending that service or the family day carer caring for that child must have anaphylaxis management training.