Limited hours licence fact sheet

On 25 May 2009 amendments to the *Children’s Services Act 1996* (Act) and the new *Children’s Services Regulations 2009* (Regulations) commenced. Existing restricted licence services from 25 May 2009 are deemed to have a limited hours type 2 licence with the existing licence expiry date.

**What is a limited hours service?**

A limited hours service is a children’s service that may care for or educate children under three and children three and over, including school aged children. Typically limited hours services provide occasional care for children, including sports and leisure services and neighbourhood houses.

Places for school aged children can comprise up to 30 per cent of the total number of places. These services are not required to meet all the premises requirements of a standard service, they are not required to have outdoor space, and they care for or educate children for limited hours.

**Limited hours type 2 service (formerly restricted licence services)**

A limited hours type 2 service is a service where each child is cared for or educated for not more than five hours a day and not more than a total of 15 hours a week. These services must meet a child/staff ratio (section 29A and regulation 55(2)) as follows:

- for children under three a child/staff ratio of one staff member or volunteer for every five children and one qualified staff member for every 15 children
- for children three years or more, a child/staff ratio of one staff member or volunteer for every 15 children and one qualified staff member for every 30 children

Regulation 59 allows a child/staff ratio of one staff member or volunteer for every five children and one qualified staff member for every 15 children where there are children under three years and children three years or more being cared for or educated by the service.

At least two staff members must be on duty whenever children are being cared for or educated by the service (regulation 50).

**Change of licence type**

Services deemed to have a limited hours type 2 licence may request a change in licence type without a fee until 31 December 2009. Other licence types include standard, limited hours type 1, short term type 1 and type 2, outside school hours care type 1 and type 2 and family day care.
Limited hours type 1 service
A limited hours type 1 service is a service where each child is cared for or educated for not more than two hours a day and not more than a total of six hours a week. These services must meet a child/staff ratio (section 29A and regulation 55(1)) as follows:

• for children under three years a child/staff ratio of one staff member or volunteer for every five children
• for children three years or more, a child/staff ratio of one staff member or volunteer for every 15 children

Regulation 59 allows a child/staff ratio of one staff member or volunteer for every five children where there are children under three years and children three years or more being cared for or educated by the service.

At least two staff members must be on duty whenever children are being cared for or educated by the service (regulation 50).

Transitional provisions
Transitional provisions will allow existing services additional time to meet some of the new requirements of the Regulations. Existing services deemed to have a limited hours type 2 licence will have until:

• 1 January 2012 to meet the minimum training (regulation 60)
• 1 January 2012 to meet the minimum age of staff members (current staff members only) (regulation 5 - definitions)

The transitional provisions are prescribed in regulations 107 to 125.

Licensing
From 25 May 2009 there are a number of changes to the licensing process:

• new Approval of Premises (AOP) replaces the Approval in Principle. All services licensed prior to 25 May 2009 are deemed to have an AOP (regulation 107)
• removal of the ability to transfer a licence
• extension of the maximum period of a licence to five years
• streamlining of the fit and proper process
• replacement of a restricted licence with a limited hours type 2 licence.

Integrated licence
Where a limited hours service and another type of children’s services are operated from one location by the same licensee, an application for an integrated licence can be made. A short term or a family day care service cannot be operated as part of an integrated licence.

What are the licence conditions?
A children’s service licence is granted subject to a number of conditions. For example, section 25E requires that the children’s service is operated in a way that ensures the safety of the children being cared for or educated, that their developmental needs are met and that supports the health and wellbeing of those children.

Fit and proper assessment
A person managing or controlling a children’s service will be assessed at least once in a 5 year period. These assessments may be relied on by the Secretary in relation to additional licence applications during that period. Nominees can now be approved by the Department (approved nominees) or assessed by the licensee (accepted nominees). Existing licensees or their designated director(s) or officer(s) (representative) and primary nominees will be deemed fit and proper until a new licence application is submitted. A fact sheet will be available at www.education.vic.gov.au/licensedchildservices.
Assessment of the licensee, representative, primary nominee and approved nominee

When a person is first nominated to manage or control a children’s service the fit and proper assessment includes:

- providing the following information and declarations to the Department
  - identity statement
  - charges and convictions declaration
  - referee statement
  - financial declaration
  - original criminal history notification (within 6 months of date of issue)
  - a current assessment notice (Working with Children Check) or Victorian Institute of Teaching registration.

- an interview and completion of a questionnaire (at the relevant office of the Department) is used to assess each person’s knowledge of controlling or managing a children’s service.

Assessment of accepted nominees

Accepted nominees are nominees who have been assessed by the licensee and nominated to the Department as a person who is fit and proper to manage or control the children’s service in the absence of the licensee.

The licensee assessment includes examining the following documents and making a declaration to the Department that they consider the proposed nominee is fit and proper to manage or control the children’s service. In assessing the nominee the licensee must consider:

- two forms of identification which confirm the nominee’s full name
- a current assessment notice (Working with Children Check) or Victorian Institute of Teaching registration
- original certificates or certified copies of qualifications
- a summary of the person’s experience relevant to a children’s service
- information from two referees chosen by each nominee confirming the nominee’s integrity, good character and repute.

Principles of the Act

Limited hours services must comply with fundamental principles of the Act, which ensure children are cared for or educated in an environment that is safe and meets their developmental needs. These principles include or relate to:

- protection of children from harm and any hazard likely to cause injury (section 26)
- children’s service to have an anaphylaxis management policy (section 26A)
- children’s programs must be available based on the developmental needs, interests and experiences of each child, taking into account individual differences and enhancing each child’s development (section 26B)
- adequate supervision of children (section 27)
- discipline of children (section 28)
- maintenance of premises (section 29)
- child/staff ratios (section 29A)
- notification of serious incidents to the Secretary or Delegate (section 29C).

Records

There is a new requirement for a staff roster to be available for inspection (section 32B and regulation 28) and additional information must be kept in the enrolment records (regulations 31 to 34). A form with the additional questions has been prepared to enable services to seek this information from parents or guardians, then to attach it to the existing enrolment record.
Staffing

Changes to the staffing requirements for limited hours services include:

- **Alternative child/staff ratios (regulation 59)**: allows the child/staff ratio to be determined as if all the children cared for or educated by the service are under three.

- **Minimum training (regulation 60)**: requires each staff member caring for or educating children to hold a Certificate III in Children’s Services or a substantially equivalent or superior qualification. This requirement does not need to be met until 1 January 2014 for existing licensed services or those that have pending applications for either an AOP or a licence on 25 May 2009 and that subsequently become a limited hours type 2 service.

  This requirement does not apply to existing staff members in licensed children’s services continuously employed for the previous five years full time or 10 years part time, who complete a professional development course approved by the Secretary by 1 January 2012. Staff members at limited hours type 1 and type 2 services may be eligible.

  Limited hours type 1 services must ensure that all non-exempt staff members hold a Certificate III in Children’s Services or commence obtaining that training by 1 January 2010. Training must be completed within 12 months.

- **Minimum age of staff (regulation 5 – definitions)**: requires a staff member to be a minimum of 18 years of age. Services have until 1 January 2012 to meet this requirement for current staff members employed as of 25 May 2009.

Criminal History Checks

Regulation 70 requires the licensee or primary nominee to read a current assessment notice (Working with Children Check) before a person becomes an employee or is engaged as a staff member. Teachers registered with the Victorian Institute of Teaching (VIT) are not required to have a Working with Children Check (regulation 70(6)). Currency is checked for a Working with Children Check at [https://online.justice.vic.gov.au/wwc/wwc-online-check](https://online.justice.vic.gov.au/wwc/wwc-online-check) and VIT registration at [http://vitonline.vit.vic.edu.au/vitis/prod/register.nsf](http://vitonline.vit.vic.edu.au/vitis/prod/register.nsf).

Health and welfare of children

Children must have access to fresh drinking water (regulation 79), food must be offered frequently (regulation 80) and if it is provided by the service it must be nutritious, varied, adequate in quantity and appropriate to children's growth, cultural and developmental needs (regulation 81). A smoke-free environment must be provided for children (regulation 82).

Notification of serious incidents and complaints

The Secretary or Delegate must be notified of:

- a serious incident including the death of a child, where a child is injured or traumatised and medical attention is required, a child is missing (section 29C) or attendance of emergency services is required (regulation 90). Notification must be by phone within 24 hours followed by written notification as soon as practicable.

- a complaint that alleges that the health, safety or wellbeing of a child may have been compromised or there may have been a contravention of the Act and Regulations. Notification must be by phone within 48 hours followed by written notification as soon as practicable (regulation 105).

Equipment and Facilities

Adequate natural lighting (not applicable to limited hours type 1 services) must be provided in children’s rooms (regulation 95(3)). Adequate, age-appropriate and safe toilet and hand washing facilities (regulation 101) must be provided. Where children in nappies attend the service, nappy changing facilities that are adequate and age-appropriate must be provided for changing nappies in a safe and hygienic manner (regulation 102).

Where can I find more information?

More information can be found at the website: [www.education.vic.gov.au/licensedchildservices](http://www.education.vic.gov.au/licensedchildservices) by contacting a regional Children’s Services Adviser at the relevant office of the Department of Education and Early Childhood Development or by contacting the Children’s Services Licensing and Regulations Branch on 1300 307 415 or by email on earlyyearsprogram@dhs.vic.gov.au.