On 25 May 2009 the amendments to the Children’s Services Act 1996 (Act) and the new Children’s Services Regulations 2009 (Regulations) commenced. Existing standard licence services on that date will continue under the new legislation as a standard service with the same licence expiry date.

What is a standard service?
A standard service is a children’s service that may care for or educate children under three and children three and over, including school aged children. Places for school aged children can comprise up to 30 per cent of the total number of places. Typically standard services provide long day care and/or kindergarten programs.

Transitional Provisions
Transitional provisions will allow existing services additional time to meet some of the new requirements of the Regulations. Existing services have until:

- 1 January 2012 to meet child/staff ratios (regulation 53)
- 1 January 2014 to meet minimum training (regulation 60)
- 1 January 2012 to meet the minimum age of staff members (current staff members only) (regulation 5 - definitions)
- 1 January 2014 to meet the minimum hours of teaching staff (regulation 52).

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 (AIP). 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.

Integrated licence
Where a standard 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
Standard 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 standard services include:

- **Minimum hours of teaching staff (regulation 52):** an early childhood teacher must care for or educate children for 50 per cent of the operating hours of the service or 20 hours per week (to be met by 1 January 2014 for existing services).
- **Child/staff ratios (section 29A and regulation 53):** for children under three a new child/staff ratio of one staff member for every four children and one qualified staff member for every 12 children is required. Where there are 12 children or less at the service, only one qualified staff member is required (to be met by 1 January 2012 for existing services).
- **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 years.
- **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. Existing services do not need to meet this requirement until 1 January 2014. The requirement also, does not apply for existing staff members 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.
- **Minimum age of staff (regulation 5 – definitions):** requires a staff member to be a minimum of 18 years of age. Services are allowed until 1 January 2012 to meet this requirement in respect of any current staff members 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 must be provided in children’s rooms (regulation 95(3)) and 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). The outdoor space must include features that enable each child to explore and experience the natural environment and provide adequate shading (regulation 97(1)).

Where can I find more information?
More information can be found at the website: www.education.vic.gov.au/licensedchildservices or by contacting a regional Children’s Services Adviser at the relevant office of the Department of Education and Early Childhood Development. Children’s Services Advisers support children’s services to comply with the legislation and licence and monitor children’s services. Regional offices are listed on the website above.

The Children’s Services Licensing and Regulations Branch can also be contacted on 1300 307 415 or by email on earlyyearsprogram@dhs.vic.gov.au.