

Queensland



Subordinate Legislation 1991 No. 216

Child Care Act 1991

**CHILD CARE (FAMILY DAY CARE)
REGULATION 1991**

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PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Child Care (Family Day Care) Regulation 1991*.

Commencement

2. This regulation commences on 6 April 1992.

Application

3. This regulation applies to family day care schemes.

PART 2—MANAGEMENT OF SCHEMES

Management of scheme

4. The licensee of a family day care scheme must ensure that the management of the scheme includes—

- (a) clearly stated procedures and channels of communication and reporting between the licensee and staff; and
- (b) selection criteria, job descriptions, in-service training, employment conditions and grievance procedures for staff; and
- (c) role statements for all persons engaged in the operation of the scheme; and
- (d) procedures for the supervision and support of staff; and
- (e) effective participation, for example, as members of the committee of management, or an advisory committee, of—
 - (i) coordinators; and
 - (ii) care providers; and

- (iii) parents using the scheme; and
- (iv) organisations that, in the licensee's opinion, may assist in the management and operation of the scheme; and
- (v) community representatives;
in the development of policies and practices; and
- (f) procedures that ensure that coordinators monitor the quality of care provided, and adequately address concerns that may arise about that care; and
- (g) procedures that enable care providers and parents to raise concerns about the conduct of the scheme that affect them.

Insurance

5. The insurance cover that a licensee is required under section 27 of the Act to take out and maintain is public liability insurance of not less than \$5 million.

Information to be given to chief executive

6.(1) Within 14 days of employing a person, or engaging a care provider, the licensee must give the chief executive a written notice.

(2) The notice must—

- (a) state the employee's full name, previous names (if any), address, and date and place of birth; and
- (b) if the person is employed as a coordinator—
 - (i) state particulars of the employee's previous child care employment and any other relevant employment; and
 - (ii) be accompanied by a certified copy of the person's qualifications; and
- (c) if the person is engaged as a care provider, state the full name, previous names (if any), address, and date and place of birth of the care provider and any adult member of the care provider's household.

Confidentiality

7. The licensee must ensure that the family day care scheme's policies and practices relating to maintaining confidential information about—

- (a) care providers and their families; and
- (b) families using the scheme;

are acceptable to the chief executive.

Health and hygiene

8. The licensee must ensure that care providers observe strict health and hygiene practices that have regard to current community standards and current information provided by relevant Government departments, to minimise health risks.

Authority for treatment

9.(1) A child must not be enrolled in a family day care scheme unless the child's parent has authorised the scheme to seek emergency medical, hospital and ambulance service.

(2) If a coordinator or a care provider authorises ambulance attention, transport, hospital or medical treatment under subsection (1), the coordinator or care provider must notify a parent as soon as possible.

Illness, injury etc.

10. The licensee must ensure that—

- (a) if a child attending family day care has an accident or becomes ill while care is being provided—all reasonable steps are taken—
 - (i) to provide immediate medical aid, if necessary, to the child; and
 - (ii) to notify the child's parent of the nature of the accident or illness; and
- (b) a parent or other responsible person is notified of any medication administered to the child and any other matter concerning the child's health that comes to the notice of the licensee while the

child is in family day care; and

- (c) if, while in family day care, a child has an accident that necessitates the admission of the child to hospital, or the child dies, the chief executive is notified not later than the next working day of that fact and the circumstances of the injury or death.

Reporting of suspected child abuse

11. If the licensee suspects that a child in family day care has suffered abuse or neglect while in that care, the licensee must, in addition to any other action that the licensee takes having regard to current information provided by relevant Government departments, give the chief executive written notice of the suspected child abuse or neglect within 7 days of the licensee becoming aware of the suspected abuse or neglect.

Information for staff

12. The licensee must ensure that—

- (a) each coordinator has an up to date copy of—
 - (i) the Act and this regulation; and
 - (ii) information that a parent is entitled to receive under section 14; and
 - (iii) other written material relevant to the performance of the coordinator's duties, whether provided by the licensee or the department; and
- (b) other persons engaged have written information relevant to their duties.

Information for care providers

13. The licensee must ensure that each care provider is provided with—

- (a) relevant information about the Act and this regulation, including information about appeal rights under this regulation; and
- (b) information that a parent is entitled to receive under section 14; and

- (c) other written material relevant to the performance of the care provider's duties, whether provided by the licensee or the department.

Information for parents

14. The licensee must ensure that the following written information about the family day care scheme is given to parents—

- (a) the scheme's goals and objectives; and
- (b) the role of coordinators and other persons engaged by the licensee; and
- (c) the processes for selecting care providers and monitoring the quality of care provided by them; and
- (d) parents' rights, including, for example, the right to—
 - (i) participate in a management or advisory capacity; and
 - (ii) information about the licensee's policy of non-discriminatory access to family day care and the application of the policy; and
 - (iii) continued contact with a coordinator; and
 - (iv) information about procedures for dealing with parental concerns; and
 - (v) the name, address and telephone number of the nearest appropriate office of the department; and
- (e) parents' responsibilities, including, for example, responsibilities relating to—
 - (i) the payment of fees; and
 - (ii) delivery and collection of children; and
 - (iii) notification of changes in information recorded about a child; and
 - (iv) compliance with relevant health and hygiene policies of the scheme; and
- (f) the scheme's policies and practice in relation to—

- (i) hygiene, safety, emergency and evacuation procedures; and
- (ii) outings and excursions; and
- (iii) injuries, illness and infectious diseases; and
- (iv) storage and administration of medication for children; and
- (v) in-service training for coordinators, other staff and care providers; and
- (vi) participation of students and volunteers in the scheme.

PART 3—QUALIFICATIONS AND FUNCTIONS OF COORDINATORS

Qualifications and skills of coordinators

15.(1) The licensee must engage as many coordinators as are necessary for the effective operation of the family day care scheme.

(2) A coordinator must have successfully completed—

- (a) a post-secondary course of at least 2 years in early childhood studies or behavioural sciences; or
- (b) a qualification that, in the chief executive's opinion, is a similar qualification.

(3) At least 1 coordinator must have successfully completed a post-secondary course of at least 2 years in early childhood studies.

(4) A coordinator must have—

- (a) a demonstrated knowledge of child development appropriate to the duties of the position; and
- (b) a demonstrated ability to evaluate the needs of children, care providers and parents; and
- (c) a demonstrated knowledge of relevant health, hygiene, welfare and safety issues; and
- (d) a demonstrated high level of communication skills; and

- (e) an awareness of, and sensitivity to, individual needs, including, for example, the needs of children from different cultures and religions and children who have disabilities; and
 - (f) demonstrated community development and networking skills; and
 - (g) demonstrated management and administration skills.
- (5) The licensee may engage as a coordinator a person who—
- (a) is not qualified under subsection (2) or (3); and
 - (b) is approved by the chief executive before the person is engaged;
- on the condition that the person—
- (c) commences a course of study appropriate to the person's employment within 2 years of the commencement of this regulation; and
 - (d) obtains that qualification within 8 years of commencing that employment.
- (6) The chief executive must only give an approval under subsection (5) if the chief executive is satisfied that special circumstances justify the grant of the approval.

Certain persons may continue in employment

16. A person employed as a coordinator immediately before the commencement of this regulation may continue in that employment despite not having a qualification mentioned in section 15(2).

Functions of coordinators

17.(1) The licensee must ensure that coordinators perform the functions specified in subsection (2).

(2) The functions of a coordinator are—

- (a) to develop and implement procedures for the recruitment and assessment of care providers and their homes; and
- (b) to develop and implement procedures for the assessment of the members of care providers' households; and

- (c) to visit care providers as often as is necessary to ensure that the quality of care is being maintained; and
- (d) to provide relevant support and assistance to care providers; and
- (e) to identify and assist in meeting care providers' needs, including, for example, in-service training and equipment needs; and
- (f) to develop effective procedures to meet each child's needs having regard to—
 - (i) the views of the child's parents; and
 - (ii) advice provided by specialist advisers assisting families using the scheme; and
 - (iii) the needs of—
 - (A) children who have disabilities or other special needs; and
 - (B) the families of those children; and
 - (iv) the cultural and religious requirements of children and their families; and
- (g) to develop and implement procedures to ensure that each child using the scheme is placed in the home of the most appropriate care provider available; and
- (h) to maintain the records mentioned in section 18(1)(a),(b),(c),(d) and (f); and
- (i) to develop and implement effective administrative procedures for the scheme; and
- (j) to develop and implement effective referral procedures to ensure that a child who has needs that cannot be met by the scheme is provided with appropriate assistance; and
- (k) to establish effective liaison with parents, staff and community agencies.

Records

18.(1) The records that a licensee must keep under section 26 of the Act are up to date records of—

- (a) in relation to each child provided with care—
 - (i) the child's full name, date of birth, residential address and gender; and
 - (ii) the child's health (including, for example, illnesses, allergies, immunisations and injuries notified by a parent); and
 - (iii) the full name, residential address, place of employment, and contact telephone number of a parent; and
 - (iv) the date of the child's first attendance, the child's age on that day and the hours the child is to attend; and
 - (v) the school, preschool or kindergarten that the child attends, including relevant transport arrangements to and from that place; and
 - (vi) any special requirements notified by a parent including, for example, cultural or religious requirements; and
 - (vii) the needs of a child with a disability or with other special needs; and
 - (viii) the primary language spoken by the child or, if the child has not learned to speak, the child's parents; and
 - (ix) court orders affecting custody of or access to the child notified by a parent; and
 - (x) the name, address and telephone number of a person authorised by a parent to collect the child; and
 - (xi) the name, address and telephone number of a person who may be contacted in an emergency (if the parent is not available); and
 - (xii) the name, address and telephone number of the child's doctor or hospital; and
 - (xiii) if any medication is administered to the child while in family day care—
 - (A) the name of the medication; and
 - (B) the date, time and dosage administered; and
 - (C) the name of the person who administered the

medication; and

(D) the parent's written permission for, and any doctor's instructions relating to, its administration; and

(xiv) a parent's permission for emergency medical, hospital and ambulance service; and

(xv) a parent's permission for a child to be taken on outings or excursions; and

(xvi) the nature and circumstances of any injury to the child while in family day care; and

(xvii) particulars of treatment given to a child who is injured or becomes ill while in family day care; and

(xviii) if a child dies while in family day care, the circumstances of death; and

(b) in relation to each care provider—

(i) the name, date and place of birth of each member of the household and any previous names of an adult member; and

(ii) cultural background, if provided by the care provider; and

(iii) the address of the care provider's home; and

(iv) medical certificates given to the licensee by the care provider; and

(v) details of the care provider's criminal history (if any), and any other information, obtained under section 13 or 14 of the Act; and

(vi) the names of children cared for by the care provider; and

(vii) arrangements that are to apply in an emergency or if the care provider is unable to care for a child; and

(viii) details of any vehicles used for the transport of children; and

(ix) details of in-service training attended by the care provider; and

(x) the dates of issue, and renewal, of certificates of approval; and

(xi) details of the assessment process for each certificate of

approval; and

(xii) details of any requirements of the licensee notified in writing to the care provider; and

(c) excursions; and

(d) attendance records of children; and

(e) in relation to each staff member—

(i) the name, address and telephone number of each person; and

(ii) copies of qualifications; and

(iii) details of in-service training; and

(f) facilities and equipment used in the operation of the scheme.

(2) The records kept under—

(a) subsection (1)(a)(xvi) and (xvii)—are to be retained until the child is 21; or

(b) subsection (1)(a)(xviii)—are to be retained for 6 years from the day the record is made; or

(c) any other provision of subsection (1)(a)—are to be retained for 2 years after the child leaves the scheme; and

(d) subsection (1)(b)—are to be retained for 2 years after the care provider leaves the scheme; and

(e) subsection (1)(e)—are to be retained for 2 years after the staff member leaves the scheme; and

(f) subsection (1)(c), (d) and (f)—are to be retained for 2 years from the day the record is made.

(3) On request a parent of a child is entitled to view the records kept in relation to the child or under subsection (1)(c), (e)(ii) and (f).

PART 4—QUALITY OF CARE

Quality of care

19. The licensee must ensure that—

- (a) policies and procedures are developed that foster quality care, including, for example, care that—
 - (i) is individual, personal and specific to each child's needs; and
 - (ii) nurtures each child's self esteem, self reliance and competence; and
 - (iii) promotes learning for all developmental areas, based on family life; and
 - (iv) ensures that a wide range of activities are available to meet the interests and developing needs of each child; and
 - (v) meets the individual needs of children from different cultures and religions, and values minority groups; and
 - (vi) meets the individual needs of children with disabilities and other special needs; and
 - (vii) reflects the multicultural nature of our society; and
 - (viii) promotes and maintains open communication between each child's family and the care provider; and
- (b) children are at all times cared for in a safe and hygienic environment; and
- (c) food provided to a child by the care provider is nutritious, sufficient, and has regard to the child's health, allergies, cultural and religious requirements and preferences.

Dignity of child to be respected

20. The licensee must ensure that—

- (a) the dignity and rights of the child are respected at all times; and
- (b) positive guidance is used to assist a child to substitute appropriate for inappropriate behaviour; and

- (c) child management techniques used do not include physical, verbal or emotional punishment, including, for example, punishment that humiliates, frightens or threatens a child.

Qualities of care providers

21.(1) A licensee must ensure that a care provider has an appropriate understanding of children's needs and development, including, for example—

- (a) the individual differences between children; and
- (b) activities that stimulate a child's growth and development; and
- (c) nutrition, health, hygiene and safety; and
- (d) behaviour management.

(2) A care provider must—

- (a) be responsive to children; and
- (b) be physically and emotionally able to care for young children; and
- (c) have current training in first aid and resuscitation; and
- (d) be able to respond appropriately in a medical or other emergency; and
- (e) have a commitment to in-service training; and
- (f) be able to communicate easily with adults; and
- (g) be aware of and sensitive to the needs of children and their families, in particular, children of different cultures and religions, and children with disabilities.

(3) A licensee may engage as a care provider a person who does not satisfy subsection (2)(c) if the person demonstrates an adequate knowledge of first aid and resuscitation and undertakes to obtain the training or certificate necessary to satisfy that subsection within 6 months of being engaged as a care provider.

(4) Subject to subsection (5), a licensee must not continue to engage as a care provider a person who does not comply with an undertaking given for the purposes of subsection (3).

(5) If it is not possible to comply with subsection (3) for reasons beyond

the care provider's control, the person must obtain the relevant certificate as soon as is possible.

Medical certificate

22.(1) A person who applies to become a care provider must give to the licensee a certificate from a medical practitioner that states that there is no medical reason that would prevent the person performing the duties of a care provider.

(2) A person who is a care provider must give the licensee a certificate that complies with subsection (1) at least every 2 years.

Certificates of approval

23.(1) A licensee of a family day care scheme must state on a certificate of approval—

- (a) the name of the scheme; and
- (b) the name of the care provider; and
- (c) the names of other persons authorised to care for children; and
- (d) the care provider's address; and
- (e) the maximum number of children who may be cared for by the care provider; and
- (f) the ages of the children who may be cared for by the care provider; and
- (g) the day that the certificate expires; and
- (h) any conditions that the licensee imposes.

(2) A certificate of approval is in force for the period (not longer than 2 years) specified in the certificate.

(3) A care provider must display a certificate of approval in a prominent place in the care provider's home.

(4) If the licensee gives a care provider a written notice requiring the return of the certificate of approval, the care provider must immediately return the certificate.

Limits on numbers

24.(1) A care provider must not provide care at any 1 time for more than—

- (a) the number of children determined by the licensee; or
- (b) 7 children;

whichever is the less.

(2) For the purposes of subsection (1), the care provider's own children who are being cared for by the care provider and have not started school are counted.

(3) There must not be more than—

- (a) 2 children under 1 year; or
- (b) 4 children who have not started school.

(4) A child is taken to have started school in a year if the child is to start the first year of primary school in that year.

Arrival and departure of child

25.(1) The licensee must ensure that—

- (a) a child who is taken to the home of a care provider is not given into the care of a person other than the care provider or another adult named on the certificate of approval; and
- (b) the care provider does not give the child into the care of a person other than the child's parent or a person authorised, in writing, by the child's parent to receive the child.

(2) If it is not possible to comply with subsection (1)(b), the care provider must ensure that alternative arrangements that secure the safety and welfare of the child have been made before the child is permitted to leave the care provider's home.

Excursions and outings

26.(1) A care provider must not take a child on—

- (a) an outing; or

- (b) an excursion;

without the written permission of the child's parent.

(2) If a child is taken on an excursion, the parent must be given prior written notice of—

- (a) the date, proposed destination and times of departure and return; and
- (b) the method of transport to be used and the type of safety restraints in a vehicle to be used.

Swimming

27.(1) If children are able to swim at the care provider's home or when on an outing or excursion, there must be—

- (a) 1 adult for each child up to 3 years; and
- (b) 1 adult for each 2 children—
 - (i) 3 years and over but not old enough to attend school; or
 - (ii) of school age who can not swim at least 50 metres; and
- (c) 1 adult for each 7 children of school age who can swim at least 50 metres.

(2) At least 1 of the adults must have a current resuscitation certificate and the knowledge and ability to implement safety procedures.

Safety

28. The licensee must ensure that a care provider's premises are safe, and, in particular, that—

- (a) each care provider has an evacuation plan for fire and other emergencies; and
- (b) any animal kept on the premises does not constitute a health or safety risk to children; and
- (c) a person does not smoke in the presence of children or when preparing food for the children; and
- (d) if the care provider's motor vehicle is used for the transport of

children, it is fitted with appropriate child restraints; and

- (e) if a sandpit is provided, the sandpit is covered to prevent access by animals and vermin when it is not in use.

Maintenance of premises

29.(1) The licensee must ensure that a care provider's premises are, at all times, kept in a fit and proper state of repair and that—

- (a) there are safe shaded outdoor play areas with fences and gates (where necessary) that provide an effective barrier to children; and
- (b) if there is a swimming pool on the premises, the swimming pool is properly fenced; and
- (c) as far as is practicable, hazards are not accessible to the children; and
- (d) if the premises have staircases, have gates that provide an effective barrier to the staircases; and
- (e) there is maintained a child resistant first aid kit that contains sufficient first aid materials to cater for the likely first aid needs of children attending; and
- (f) the premises have adequate sleeping arrangements for each child; and
- (g) there is a telephone on the premises.

PART 5—APPEALS

Suspension of certificate of approval

30.(1) If the licensee is satisfied that—

- (a) a care provider is or has become ineligible to hold a licence under the Act; or
- (b) the care provider is no longer providing appropriate care for children in family day care; or

- (c) the care provider is providing child care for fee or reward outside the scheme when children in family day care are present; or
- (d) the behaviour of another member of the care provider's household is inappropriate for the care of children; or
- (e) the care provider's home is no longer a safe place in which to provide care to children; or
- (f) any facilities that the care provider uses in the care of children are no longer safe; or
- (g) the care provider has failed to comply with—
 - (i) the licensee's policies, practices and procedures that relate to the care of children as required by a coordinator; or
 - (ii) a reasonable written direction given by a coordinator; within a time specified in the direction;

the licensee may suspend the care provider's certificate of approval.

(2) The licensee must not act under subsection (1) unless—

- (a) the care provider has been given a reasonable opportunity to make the necessary changes; or
- (b) there is an immediate risk to the child.

(3) If a licensee acts under subsection (1), the licensee must—

- (a) give the care provider written reasons for the suspension; and
- (b) inform the care provider that the care provider has a right to make oral and written submissions to the licensee in relation to the suspension within 14 days of the suspension.

(4) The licensee must consider any submissions made under subsection (3)(b) by the care provider and may—

- (a) remove the suspension; or
- (b) remove the suspension and impose such conditions on the certificate of approval; or
- (c) continue the suspension for a specified period (not longer than the period for which the certificate of approval remains in force); or
- (d) cancel the certificate of approval.

(5) The licensee must notify the care provider of the licensee's decision and, if the licensee acts under subsection (4)(b), (c) or (d), must give the care provider—

- (a) written reasons for the licensee's decision within 30 days of receiving the submission; and
- (b) inform the care provider that the care provider may appeal against the licensee's decision to the chief executive.

(6) The appeal must be in writing and must be lodged within 14 days after the day that the care provider receives notice of the licensee's decision.

(7) The holder of a certificate of approval, on receiving written notice of the cancellation of the certificate, must immediately return the certificate for cancellation.

Non-renewal of certificate of approval

31.(1) If the licensee is satisfied that—

- (a) the circumstances set out in section 30(1) exist; and
- (b) the steps set out in section 30(2) have been taken; and
- (c) the care provider's certificate of approval will expire in less than 30 days; and
- (d) suspension of the certificate would be inappropriate having regard to the period for which the certificate of approval is to remain in force;

the licensee may refuse to renew a certificate of approval.

(2) If the licensee acts under subsection (1), the licensee must—

- (a) give the care provider reasons for the non-renewal; and
- (b) inform the care provider that the care provider has the right to make oral and written submissions to the licensee in relation to the reasons for the non-renewal within 14 days of the non-renewal.

(3) The licensee must consider any submissions made under subsection (2) by the care provider and may—

- (a) issue a new certificate of approval, with or without conditions; or

(b) refuse to issue a certificate of approval.

(4) The licensee must notify the care provider of the licensee's decision and, if the licensee imposes conditions on the certificate of approval, or refuses to issue a certificate must give the care provider—

(a) written reasons for the decision within 30 days of receiving the submission; and

(b) inform the care provider that the care provider may appeal against the licensee's decision to the chief executive.

(5) The appeal must be in writing and must be lodged within 14 days after the day that the care provider receives notice of the licensee's decision.

Appeals

32.(1) The procedure on an appeal to the chief executive under section 30 or 31 is to be determined by the chief executive.

(2) The chief executive is to consider any oral or written submissions made to the chief executive by the care provider or the licensee and may—

(a) confirm the cancellation or suspension; or

(b) order the licensee—

(i) to remove the suspension immediately; or

(ii) to issue a fresh certificate of approval to the care provider, with or without any conditions that the chief executive may specify.

(3) The chief executive must give the care provider and the licensee written notice of the decision on the appeal, and the reasons for the decision, within 30 days.

(4) The licensee must comply with an order made under subsection (2)(b)(i) or (ii).

PART 6—REGISTER

Prescribed particulars to be recorded in register

33. For the purposes of section 60 of the Act, the following particulars are prescribed as particulars that are to be recorded in the register in relation to a licensee—

- (a) the name, postal address and telephone number of—
 - (i) if the licensee is an individual—the licensee; or
 - (ii) if the licensee is a partnership—each partner; or
 - (iii) if the licensee is a body corporate—the body corporate; or
 - (iv) if the licensee is an unincorporated community organisation—the nominated contact person; and
- (b) the particulars that under section 17 of the Act are required to be specified on a licence; and
- (c) the names and qualifications of the scheme’s coordinators ; and
- (d) the day that the licence expires; and
- (e) particulars of any suspension, revocation or cancellation of the licence; and
- (f) particulars of any conviction for a breach of the Act.

PART 7—GENERAL

Fees

34. The fee payable for a licence or the renewal of a licence is \$100.

Repeal

35. The *Children’s Services (Family Day Care) Regulations 1982* are repealed.

ENDNOTES

1. Made by the Governor in Council on 19 December 1991
2. Published in the Gazette on 21 December 1991
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of Family Services and Aboriginal and Islander Affairs.