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K Woodward
Chief Parliamentary Counsel
Dated 8 July 2025



TASMANIA

CHILD CARE ACT 2001

No. 62 of 2001

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CHILD CARE ACT 2001

No. 62 of 2001

An Act to provide for the regulation of child care services and child care workers that are not otherwise regulated under the Education and Care Services National Law (Tasmania) and for related purposes

[Royal Assent 19 September 2001]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Child Care Act 2001*.

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2. Commencement

- (1) Part 1, Division 4 of Part 8 and sections 71, 72, 73, 74, 75 and 76 commence on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act commence on a day to be proclaimed.

3. Interpretation

- (1) In this Act, unless the contrary intention appears –

amend means –

- (a) omit matter; and
- (b) insert matter; and
- (c) omit matter and substitute other matter;

ancillary staff means persons employed in respect of a child care service otherwise than as child carers;

applicant means a person who has applied for a licence under section 13;

approved premises means premises approved by the Secretary, or premises of a class approved by the Secretary, under subsection (2);

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approved registration body means a person who holds an approved registration body licence;

approved registration body licence means a licence granted under section 16 that authorises one or more of the activities specified in section 10;

authorised officer means a person appointed as an authorised officer under section 72;

centre-based child care licence means a centre-based child care licence granted under section 16 that authorises the activity specified in section 11;

child means a person who has not attained the age of 13 years;

child care has the meaning given by section 4;

child care centre means premises, other than a person's primary residence or approved premises or the primary or other residence of the child, at which a child may be provided with child care;

child care service means –

- (a) the operation by an approved registration body of any business that involves one or more of the activities authorised by the licence; and

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- (b) the operation by the holder of a centre-based child care licence of any business that involves the activity authorised by the licence; and
- (c) the operation by the holder of a home-based child care licence of any business that involves the activity authorised by the licence; and
- (d) the provision of child care by a registered carer –

but does not include an education and care service;

child carer, in respect of a child who is being provided with child care, means a person who, for fee or other material benefit, cares for the child –

- (a) in that person's primary residence; or
- (b) in that person's approved premises; or
- (c) in the child's primary or other residence; or
- (d) in premises in which child care is provided under a centre-based child care licence;

close relative, in relation to a person, means –

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- (a) another person who resides with that person; and
 - (b) another person who is a guardian of that person; and
 - (c) another person who, in the opinion of the Secretary, may have frequent or extended contact with a child for whom that person is operating or providing, or may operate or provide, a child care service;

director, in relation to a body corporate –

- (a) if the body corporate is a corporation within the meaning of the Corporations Act, has the same meaning as in the Corporations Act; and
- (b) if the body corporate is not a corporation within the meaning of the Corporations Act, means a person holding a position in the body corporate that is equivalent to or substantially the same as the position of director in a corporation that is a corporation within the meaning of the Corporations Act;

education and care service has the same meaning as in the Education and Care Services National Law (Tasmania);

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educator has the same meaning as in the Education and Care Services National Law (Tasmania);

employ means employ for payment or other reward and includes engage the services of, whether as an employee or an independent contractor or otherwise;

extended family has the same meaning as in the *Children, Young Persons and Their Families Act 1997*;

guardian has the same meaning as in the *Children, Young Persons and Their Families Act 1997*;

home-based child care means the provision of child care –

- (a) in the child’s primary or other residence; or
- (b) in the child carer’s primary residence; or
- (c) in the approved premises of the child carer;

home-based child care licence means a licence granted under section 16 that authorises the activity specified in section 12;

licence means –

- (a) an approved registration body licence; and

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(b) a centre-based child care licence;
and

(c) a home-based child care licence;

parent includes a stepmother, stepfather and guardian;

person-in-charge means –

(a) in relation to a child care service operated or provided by an approved registration body, the person who is directly in charge of the day-to-day coordination of the child care service; and

(b) in relation to a child care service operated or provided by the holder of a centre-based child care licence or a home-based child care licence, the person who –

(i) is physically at the centre, residence or other facility or premises where children are provided with child care by that service; and

(ii) is in charge of the day-to-day running and supervision of that service or the centre, residence or other facility or premises –

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whether the person referred to in paragraph (a) or (b) is the holder of the licence under which the child care service operates or is provided or an individual employed by that holder;

potential child carer means a person who is desirous of obtaining employment as a child carer;

premises includes –

- (a) a vehicle, vessel and other means of transport; and
- (b) a part of premises;

registered carer means a person who has been registered as a child carer by an approved registration body;

registration means registration of a person as a child carer by an approved registration body in accordance with the Standards;

regulations means the regulations made and in force under this Act;

responsible person, in respect of a child care service provided under a licence held by an individual or an incorporated or unincorporated body, means –

- (a) an individual, other than the person in charge of the child care service, to whom is assigned by the licensee the general

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responsibility for, and supervision of the operations of, the provision of the child care service under the licence; or

- (b) any other body or individual, other than the person-in-charge of the child care service, who has the authority to give directions and make decisions in respect of the management of that child care service;

reviewable decision has the meaning given by section 50;

school has the same meaning as in the *Education Act 2016*;

Secretary means the Secretary of the Department;

spouse, in relation to a person, includes the person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with that person.

Standards means the Child Care Standards issued under section 47, as amended or substituted from time to time;

statutory authority means an incorporated or unincorporated body which is established, constituted or continued by or under an Act or under the royal prerogative, being a body which, or of which the governing authority, wholly or

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partly comprises a person or persons appointed by the Governor, a Minister of the Crown or another statutory authority.

(2) The Secretary –

- (a) by written notice to a person who is providing child care, or intends to provide child care, in premises, may approve those premises as providing a home-like environment; or
- (b) by notice in the *Gazette*, may approve a class of premises as providing a home-like environment.

4. Child care defined

- (1) Child care is the provision, for fee or other material benefit, of care to a child by a person other than –
 - (a) the child's parent; or
 - (b) a member of the child's extended family.
- (2) Child care may be provided in the child's residence, a person's residence, a school, a church, a shop or any other premises.
- (3) Except as provided in subsection (4), the provision of education at a school, or by home education, within the meaning of the *Education Act 2016*, is not the provision of child care.
- (3A) The provision of an education and care service, and the education and care of a child as part of

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an education and care service, are not the provision of child care.

- (4) If a school or other person provides early childhood education for a child who is less than 5 years of age, the Secretary may determine, by written notice provided to the school or other person –
- (a) that the school or other person is providing child care for that child; and
 - (b) the kind of child care being provided.

5. Objects of Act

The objects of this Act are –

- (a) to provide for a system of licensing child care services; and
- (b) to provide for the establishment and maintenance of standards for the provision of –
 - (i) quality child care; and
 - (ii) child care that is a safe, nurturing and educational experience; and
 - (iii) child care programs that promote the emotional, intellectual, social and physical development of children.
- (c - e)

6. Interests of children paramount

The interests of children are to be regarded as the paramount consideration in the interpretation, enforcement and administration of this Act, the regulations and the Standards.

7. Exemption from operation of Act, &c.

(1) The Secretary may –

- (a) by notice published in the *Gazette* and 3 daily newspapers published and circulating in the State, determine that a class of persons is exempt from the operation of this Act or a provision of this Act, the regulations or the Standards; and
- (b) by notice provided to a person, determine that the person is exempt from the operation of this Act or a provision of this Act, the regulations or the Standards.

(2) An exemption under subsection (1) –

- (a) may be limited to a class or kind of child care or child care service specified in it or not so limited; and
- (b) may be for an indefinite period or for a time specified in it; and
- (c) is subject to the conditions specified in it.

(3) An exemption under subsection (1) may specify the conditions to which it is subject –

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-
- (a) in the case of an exemption referred to in subsection (1)(a) or (b) –
 - (i) by stating the conditions in the exemption; or
 - (ii) by reference to the Standards; or
 - (b) in the case of an exemption referred to in subsection (1)(a), by attaching the conditions to the exemption.
- (4) At any time, the Secretary may revoke or amend an exemption under subsection (1) (including the conditions to which it is subject).

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Part 2 – Child Care to be Licensed

PART 2 – CHILD CARE TO BE LICENSED

8. Child care to be licensed

A person must not operate or provide child care or a child care service except as authorised by a licence or registration.

Penalty: Fine not exceeding 100 penalty units.

PART 3 – LICENCES

Division 1 – Types of licences

9. Types of licences

The following licences may be granted under section 16:

- (a) approved registration body licence;
- (b) centre-based child care licence;
- (c) home-based child care licence.

10. Authority of approved registration body licence

- (1) An approved registration body licence authorises the person specified in it to do, in accordance with this Act, the regulations, the Standards, the licence and any conditions specified in the licence, one or more of the following, as specified in the licence:

- (a - b)
- (c) to arrange, organise or coordinate the placement of a potential child carer with a child who needs child care within the primary or other residence of the child;
- (d) to arrange, organise or coordinate meetings, or provide information that enables meetings, between a potential child carer and the parent of a child in relation to the provision of child care by

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the potential child carer in the primary or other residence of the child;

- (e) to hold himself, herself or itself out as arranging, organising or coordinating the placement of potential child carers with children who need child care in the primary or other residences of the children;
 - (f) to approve and register persons as child carers;
 - (g) to do any other thing specified by the Standards.
- (2) The Standards may provide for different classes of approved registration body licences and the types of activities that may be operated, provided or undertaken by the holders of those classes of licences.

11. Authority of centre-based child care licence

- (1) A centre-based child care licence authorises the person specified in it to operate, in accordance with this Act, the regulations, the Standards, the licence and any conditions specified in the licence, a child care centre in the premises specified in the licence.
- (2) The Standards may provide for different classes of centre-based child care licences and the types of child care centres, child care and other activities that may be operated, provided or

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undertaken by the holders of those classes of licences.

12. Authority of home-based child care licence

- (1) A home-based child care licence authorises the person specified in it to operate or provide, in accordance with this Act, the regulations, the Standards, the licence and any conditions specified in the licence, child care in the primary residence of that person or the approved premises of that person.
- (2) The Standards may provide for different classes of home-based child care licences and the types of child care and activities that may be provided or undertaken by the holders of those classes of licences.

Division 2 – Application for licence

13. Application for licence

- (1) A person may apply to the Secretary for a licence.
- (2) An application –
 - (a) is to be in a form approved by the Secretary; and
 - (b - c)
 - (d) is to be accompanied by any documents and information the Secretary requires.

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- (3)
- (4) If a change occurs in the information provided in or in connection with an application (including in any document provided with the application) before the application is determined, the applicant must provide the Secretary with written particulars of the change as soon as is reasonably practicable and in any case not later than 7 days after the change occurs.

14.

15. Investigation of application

- (1) On receiving an application for a licence, the Secretary may carry out any investigation he or she considers necessary or appropriate to enable the making of a decision as to whether or not to grant the licence.
- (2) In an investigation, the Secretary may be aided by such authorised officers as the Secretary considers appropriate.
- (3) For the purposes of an investigation, the Secretary and any authorised officer aiding the Secretary may do one or more of the following:
 - (a) enter, remain in and inspect the premises in respect of which application is made;
 - (b) require any of the following persons to provide information and documents or further information and documents:

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- (i) the applicant;
 - (ii) a director or other person concerned in the management of the applicant;
 - (iia) each person who the applicant intends to employ or use, or is likely to be employed or used, as a responsible person;
 - (iii) a person who the applicant intends to employ or use as a child carer, person-in-charge or ancillary staff;
 - (iv) a spouse or close relative of a person referred to in subparagraph (i), (ii), (iia) or (iii);
 - (v) any other person the Secretary or authorised officer considers may have frequent or extended contact with a child who would be provided with child care under the licence if granted;
- (c - d)
- (e) take photographs, films and video recordings in those premises;
 - (f) operate electric and electronic equipment in those premises;
 - (g) do any other thing the Secretary or authorised officer considers appropriate

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to facilitate and enable the investigation
and the obtaining of all relevant
information.

(4) If, during an investigation, a person referred to in subsection (3)(b) requests that the person conducting the investigation or an authorised officer aiding in the investigation produce identification –

(a) the person or officer must produce his or her certificate of identification; and

(b) the person or officer may not take any action or further action in the investigation in relation to the person making the request until that certificate of identification has been produced.

(5 - 7)

(8) The Secretary may require an applicant to pay all or part of the cost of an investigation under this section.

Division 3 – Grant, issue and terms of licence

15A. Criteria for grant of, or holding, licence

(1) In this section –

applicant means applicant for a licence;

child care service includes a child care service that would be authorised by the prospective licence if granted;

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former Act means the *Child Care Act 1960* (cited as the *Child Welfare Act 1960* before 1 July 2000);

licence includes a prospective licence;

person-in-charge, ancillary staff and child carer includes a person that an applicant has nominated in the application for a licence, or has later been nominated by the holder of a licence, by notice provided to the Secretary, to be employed or used in that position.

- (2) In determining whether an applicant for a licence or a holder of a licence is a fit and proper person to hold or to continue to hold a licence, the Secretary must take into account any matter the Secretary considers relevant including, but not limited to, any of the following matters:
- (a) whether the applicant or holder is a suitable person to operate or provide the child care service;
 - (b) where the applicant or holder is –
 - (i) an incorporated or unincorporated body; or
 - (ii) the servant or agent of an incorporated or unincorporated body –whether each director and other person concerned in the management of that body is a suitable person to be concerned

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in the operation or provision of the child care service;

- (c) whether any responsible person is a suitable person –
 - (i) to have responsibility for, and supervision of the operations of, the provision of the child care service under the licence; or
 - (ii) to have the authority to give directions and make decisions in relation to the management of the child care service provided under the licence;
- (d) whether any person-in-charge, child carer and ancillary staff are suitable persons to care for or have contact with children who are being, or would be, provided with the child care service under the licence;
- (e) whether any spouse or other close relative of a person referred to in paragraph (a), (b), (c), (d) or (f) might have contact with children who are being, or would be, provided with the child care service under the licence and, if so, whether that spouse or other close relative is a suitable person to have contact with such children;
- (f) whether any other person who the Secretary considers may have frequent or extended contact with children who are

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being, or would be, provided with the child care service under the licence is a suitable person to have contact with such children;

- (g) whether any person referred to in paragraph (a), (b), (c), (d), (e) or (f) is registered under the *Registration to Work with Vulnerable People Act 2013*;
- (h) whether any person referred to in paragraph (a), (b), (c), (d), (e) or (f) has been charged with, or found guilty of, or otherwise disciplined for, an offence against –
 - (i) this Act, the regulations or the Standards; or
 - (ii) a previous Act or law that substantially corresponds to this Act, the regulations or the Standards, including the former Act, the *Child Protection Act 1974* and any regulations or Standards made under either of those Acts; or
 - (iia) the Education and Care Services National Law (Tasmania) or any regulations made under that Law, whether that offence was committed in Tasmania or elsewhere; or
- (iii - iv)

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- (v) an enactment or law of another State or a Territory that substantially corresponds to this Act, the regulations, the Standards or another enactment or law referred to in subparagraph (ii) or (iia);
- (i)
- (j) whether any person referred to in paragraph (a), (b), (c), (d), (e) or (f) has, in Tasmania or elsewhere –
 - (i) been refused a licence, or other permission of any type, to provide child care or provide, manage or operate a service or business which provides child care; or
 - (ii) had such a licence or other permission suspended or cancelled;
- (k) whether any person referred to in paragraph (a), (b), (c), (d), (e) or (f) is, or previously has been, concerned in the provision, management or operation of a service or business which provides child care, or in the provision of child care, in Tasmania or elsewhere and, if so, the quality and standard of that service or business and the child care so provided;

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-
- (l) any reports provided by the Commissioner of Police under section 15B(5);
 - (m) the result of any assessment undertaken in respect of any person referred to in paragraph (a), (b), (c), (d), (e) or (f) in compliance with a requirement of the Standards or otherwise undertaken;
 - (n) whether each person referred to in paragraph (a), (b), (c), (d), (e) or (f) is of good repute having regard to character, honesty and integrity;
 - (o) the qualifications and experience of the persons referred to in paragraphs (a), (b), (c) and (d);
 - (p) the knowledge of the persons referred to in paragraphs (a), (b), (c) and (d) relating to this Act, the regulations and the relevant Standards;
 - (q) any other matter prescribed by the regulations or Standards.
- (3) In determining whether any person, other than the applicant, is a fit and proper person, or a suitable person, for the purposes of subsection (2), the Secretary must apply that subsection, with necessary modification and adaptation, as if the person concerned were the applicant or holder of the licence.
- (4) In determining whether the applicant or any other person is a fit and proper person, or a

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suitable person, the Secretary may, despite subsections (2) and (3), determine that the applicant or other person is a fit and proper person, or a suitable person, on the basis only that the applicant or other person has been determined to be a fit and proper person under the Education and Care Services National Law (Tasmania) and that determination is current.

15B. Police report for determination of fit and proper person

(1) In this section –

investigation means an investigation by the Secretary to determine –

- (a) whether an applicant for a licence should be granted that licence; or
- (b) whether a holder of a licence is a fit and proper person to continue to hold that licence; or
- (c) whether a person nominated by an applicant for a licence or a holder of a licence, either in an application for a licence or by notice provided to the Secretary, for a position of responsible person, person-in-charge, child carer or ancillary staff is a fit and proper person to hold or to continue to hold that position.

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- (2) In an investigation, the Secretary may require one or more of the following persons to authorise the Secretary to obtain a report from the Commissioner of Police in respect of convictions and proceedings taken against the person:
- (a) the applicant for the licence or holder of the licence;
 - (b) if that applicant or holder is –
 - (i) an incorporated or unincorporated body; or
 - (ii) any servant or agent of any such body –

each director and other person concerned in the management of that body;
 - (c) any responsible person;
 - (d) any person-in-charge, child carer or ancillary staff;
 - (e) any spouse or other close relative of a person referred to in paragraph (a), (b), (c), (d) or (f) who might have contact with children who are being, or would be, provided with the child care service under the licence;
 - (f) any other person who the Secretary considers may have frequent or extended contact with children who are being, or

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would be, provided with the child care service under the licence.

- (3) In an investigation, the Secretary may require a person referred to in subsection (2) to have his or her photograph, fingerprints and palm prints taken as specified in the requirement for the purposes of the report of the Commissioner of Police made under subsection (5).
- (4) The Secretary may refer to the Commissioner of Police –
 - (a) the name of any person referred to in subsection (2); and
 - (b) any photographs, fingerprints and palm prints taken from that person; and
 - (c) any information and documentation that the Secretary considers relevant to the investigation.
- (5) The Commissioner of Police must inquire into, and report to the Secretary on, any matters concerning the application that the Secretary requests.
- (6) Sections 22(1), 31(1), 45(1) and 108 of the *Youth Justice Act 1997* do not apply to the identification in a report under subsection (5) of a youth, within the meaning of that Act, in respect of any action or proceedings referred to in those sections.

16. Grant or refusal of licence

- (1) In this section –
 - (a) a reference to ancillary staff, child carer, person-in-charge or responsible person is a reference to a person that the applicant has nominated in the application to be employed or used in that position if the licence applied for is granted; and
 - (b) a reference to a child care service is a reference to the child care service which would be authorised by the licence if granted.
- (2) On receipt of an application for a licence, the Secretary may grant a licence or refuse to grant a licence.
- (3) The Secretary must not grant a licence unless the Secretary is satisfied –
 - (a) that the applicant is a fit and proper person to hold that licence; and
 - (b) that, if the licence is granted, the licence holder and the child care service operated or provided under the licence are likely to comply with all relevant provisions of the Standards; and
 - (c) that the applicant has paid any cost that the applicant has been required to pay under section 15(8).

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- (4) In determining whether an applicant is a fit and proper person to hold the licence applied for, the Secretary must take into account any matter that the Secretary considers relevant including, but not limited to, the matters specified in section 15A(2).
- (5)
- (6) If the Standards provide for different classes of a particular type of licence and the Secretary grants a licence of that type, the Secretary must determine which class the licence is to be and endorse that class on the licence.
- (7) If the Secretary grants a licence, the Secretary may specify in the licence the premises, or the class of premises, in which the holder of the licence may or may not operate or provide the child care service.

17. Issue of licence or notice of refusal

- (1) On granting a licence and on receipt of payment of any prescribed licence fee, the Secretary must issue the appropriate licence to the applicant.
- (2) On refusing to grant a licence, the Secretary must provide to the unsuccessful applicant for the licence written notice of that refusal.
- (3) Within 14 days after receiving the written request of an unsuccessful applicant for a licence for the reasons for which the Secretary refused to grant the licence, the Secretary must provide to the applicant written notice of those reasons.

18. Licence subject to conditions

- (1) When granting a licence, the Secretary may specify in the licence conditions to which the licence is subject.
- (2) A licence is subject to –
 - (a) the conditions specified in it; and
 - (b) all relevant conditions specified in the Standards.
- (3) Without limiting the conditions that may be specified by the Secretary under subsection (1), those conditions may include conditions relating to any one or more of the following matters:
 - (a) the safety and wellbeing of children provided with child care under the licence;
 - (b) the provision of child care and the quality of child care provided under the licence;
 - (c) the size, layout, facilities, equipment and safety features of the premises in which the child care service is operated or provided under the licence and their compliance with specified standards or criteria;
 - (d) who may or may not be allowed entry to those premises or specified parts of those premises;

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- (e) the qualifications and experience of persons caring for children under the licence or otherwise employed in relation to the operation or provision of the child care service under the licence;
- (f) the times and days when the child care service may be operated or provided and child care may be provided;
- (g) the minimum number of child carers and other persons employed in relation to the operation or provision of the child care service under the licence who must be in attendance during the operation or provision of that child care service;
- (h) the ages of children in respect of whom a child care service may be operated or provided or child care may be provided;
- (i) the number of children who may be cared for under the licence at any, or any specified, time or in any specified situation;
- (j) the monitoring of the operation or provision of the child care service under the licence;
- (k) the administration and management of the child care service operated or provided under the licence;
- (l) the keeping of records and the provision of reports and information;

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- (m) the insurance cover to be taken out in respect of the child care service and the provision of child care.
- (4) Conditions are specified in a licence by being set out in the licence or in an attachment to the licence.
- (5) Conditions specified in a licence form part of the licence.

19. When licence takes effect

- (1) A licence takes effect on the day it is granted or on a later day determined by the Secretary and specified in the licence.
- (2) If a licence specifies that it is to take effect on a day other than the day it is granted, the day on which the licence takes effect may be specified by reference to –
 - (a) a date; or
 - (b) the occurrence of a specified event; or
 - (c) the fulfilment of a specified condition; or
 - (d) the issue of a certificate as to the compliance of the size, layout, facilities and safety features of the premises in which the child care service is to be operated or provided; or
 - (e) any other matter the Secretary considers appropriate.

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20. Period of licence

Unless sooner cancelled or surrendered, a licence has effect for the period not exceeding 2 years commencing on the day on which the licence takes effect.

21. Licence not transferable

A licence is not transferable to any other person.

22. Amendment of licence

(1) The holder of a licence may request the Secretary to amend the licence.

(2) A request –

(a) is to be in writing; and

(b)

(c) is to be accompanied by any documents and information the Secretary requires.

(2A) A prescribed fee is payable to the Secretary for a request under this section.

(3) At the Secretary's discretion or on the request of the holder of a licence, the Secretary by notice provided to the holder of a licence may amend the licence.

23. Renewal of licence

- (1) Not less than 90 days before the expiration of a licence, the holder of the licence may apply to the Secretary for the renewal of the licence.
- (2) The Secretary, at his or her discretion, may accept an application for the renewal of a licence lodged less than 90 days before the expiration of the licence.
- (3) An application for renewal must be –
 - (a) in a form approved by the Secretary; and
 - (b) accompanied by any prescribed fee and, in the case of an application accepted under subsection (2), any further prescribed late fee; and
 - (c) accompanied by any documents and information the Secretary requires.
- (4)
- (5) Section 13(2) and (4) and sections 15, 15A, 15B, 16, 17 and 18 apply to an application for, and the grant and issue of, the renewal of a licence in the same manner as they apply to an application for and the grant and issue of a licence.
- (6) If an application for renewal of a licence is made under this section, the current licence continues in force until it is renewed or its renewal is refused.
- (7) The renewal of a licence takes effect from the day on which the licence was due to expire.

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- (8) The refusal to renew a licence takes effect on the day specified in the refusal.

24. Replacement licence

The Secretary may issue a replacement for a licence –

- (a) if satisfied that the licence has been lost, destroyed or badly defaced; and
- (b) on payment of any prescribed fee.

Division 4 – Disciplinary action

25. Disciplinary action

- (1) In this section,

disciplinary action means any one or more of the following:

- (a) the issuing of a letter of censure;
 - (b) the imposition of a fine not exceeding 20 penalty units;
 - (c) the amendment of a licence;
 - (d) the suspension of a licence;
 - (e) the cancellation of a licence.
- (2) Subject to this section, the Secretary may take disciplinary action if satisfied –

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- (a) that the holder of a licence, as the holder of the licence or as an applicant for the licence, has contravened this Act, the regulations, the Standards or a condition to which the licence is subject; or
 - (b) that the holder of a licence is no longer a fit and proper person to hold the licence, having regard to the matters specified in section 15A(2); or
 - (c) of any other matter prescribed by the regulations or Standards for the purposes of this section.
- (2A) Subject to this section, the Secretary may take disciplinary action, by issuing a letter of censure or by the imposition of a fine not exceeding 20 penalty units, against a responsible person who has contravened this Act, the regulations, the Standards or a condition to which the relevant licence is subject.
- (3) The Secretary may not take disciplinary action, other than the issue of a letter of censure, without first allowing the holder of the licence or responsible person an opportunity to make submissions in relation to the matter and considering any submissions so made.
- (4) A letter of censure may direct the holder of the licence or responsible person to take the action specified in the letter for the purposes of rectifying any matter giving rise to the letter of censure and may direct that the action be taken within a period specified in the letter.

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- (5) Without limiting the actions that a letter of censure may direct the holder of a licence to take, the letter of censure may direct a holder of a licence who is an approved registration body to cancel or suspend the registration of a registered carer or to amend that registration (including the conditions to which that registration is subject).
- (6) The holder of a licence or responsible person must comply with a direction given in a letter of censure within the time specified in the letter of censure.
- (7) On making a determination under subsection (2), the Secretary must notify the holder of the licence or responsible person in writing as to whether disciplinary action is being taken and, if so, what disciplinary action is being taken.
- (8) The cancellation, suspension or amendment of a licence, or the amendment of the conditions specified in, or attached to, a licence, takes effect on the day the holder of the licence receives the notice given under subsection (7) or on a later day specified in that notice.
- (9) The Secretary may at any time terminate or reduce a period of suspension.
- (10) A fine imposed under this section may be recovered as a debt due to the Crown.

Division 5 – End of licence

26. When licence ceases to have effect

- (1) A licence ceases to have effect –
 - (a) at the end of the period for which it has effect under section 20; or
 - (b) if the licence is surrendered, when that surrender takes effect under section 27; or
 - (c) if it is cancelled, on the day specified in the notice of cancellation provided to the holder of the licence under section 25(7).
- (2) If a licence is suspended, the licence has no effect during the period of suspension.

27. Surrender of licence

- (1) The holder of a licence may surrender the licence by written notice provided to the Secretary.
- (2) The surrender of a licence takes effect on a day determined by the Secretary.

28. Continuation of child care after end of licence

- (1) If –
 - (a) the holder of a licence dies, absconds or goes into liquidation; or

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- (b) a licence is cancelled or suspended; or
- (c) the Secretary considers that circumstances warrant it –

the Secretary may continue the child care service, or authorise another person to continue the child care service, for the purposes and period determined by the Secretary.

- (2) The licence referred to in subsection (1) and the conditions to which it is subject, as amended by the Secretary, apply in respect of the continuation of a child care service under that subsection.
- (3) If the Secretary under subsection (1) determines that a child care service is to be continued, the Secretary may –
 - (a) determine the purpose and period of the continuation; and
 - (b) amend the licence (including the conditions specified in or attached to it); and
 - (c) determine how the profits from the operation or provision of the child care service earned during the period of continuation are to be disbursed; and
 - (d) determine the amount –
 - (i) that a person authorised to continue the child care service may receive as remuneration in

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respect of operating or providing
the child care service; or

(ii) that the Crown may receive in
respect of operating or providing
the child care service; and

(e) make provision in respect of any other
matter the Secretary considers
appropriate.

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Part 4 – Duties and Offences

PART 4 – DUTIES AND OFFENCES

29. Safe and suitable child care

- (1) The holder of a licence, responsible person, person-in-charge and person employed by the holder of a licence to care for a child must ensure that, at all times during which a child is provided with child care under the licence –
- (a) the child is provided with a safe environment and proper and appropriate care and supervision; and
 - (b) every reasonable precaution is taken to protect the child from a hazard likely to cause injury.

Penalty: Fine not exceeding –

- (a) 50 penalty units in the case of a first offence; and
 - (b) 100 penalty units in the case of a second or subsequent offence.
- (2) A registered carer must ensure that, at all times during which a child is provided with child care under his or her registration –
- (a) the child is provided with a safe environment and proper and appropriate care and supervision; and

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- (b) every reasonable precaution is taken to protect the child from a hazard likely to cause injury.

Penalty: Fine not exceeding –

- (a) 20 penalty units in the case of a first offence; and
- (b) 50 penalty units in the case of a second or subsequent offence.

(3) The Standards may specify –

- (a) the measures, practices and procedures that a holder of a licence, responsible person, person-in-charge, person employed by the holder of a licence to care for a child or registered carer must take, follow or use to ensure that –
 - (i) a child who is provided with child care under a licence or the registration is provided with a safe environment and proper and appropriate care and supervision; and
 - (ii) every reasonable precaution is taken to protect the child from a hazard likely to cause injury; and
- (b) that compliance with any particular or all relevant provisions of the Standards is sufficient to ensure compliance with subsection (1) or (2).

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Part 4 – Duties and Offences

30. Insurance

The holder of a licence must ensure that insurance cover is taken out and maintained in respect of the child care service as required by the regulations, the Standards or a condition to which the licence is subject.

Penalty: Fine not exceeding 20 penalty units.

31. Limited access to child care premises

The holder of a licence, a responsible person, a person-in-charge and a registered carer must not allow access to the premises at which a child is being provided with child care under a licence or registration to any person that the holder, responsible person, person-in-charge or registered carer suspects is not at the premises for a legitimate reason.

Penalty: Fine not exceeding 5 penalty units.

32. Keeping and availability of Act, regulations and Standards

- (1) Each holder of a licence and registered carer must ensure that a copy of this Act and all relevant provisions of the regulations and the Standards are held at the premises at which child care is provided under the licence or registration.

Penalty: Fine not exceeding 2 penalty units.

- (2) Each holder of a licence, responsible person, person-in-charge and registered carer must

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ensure that the copy of this Act and all relevant provisions of the regulations and the Standards are made available, upon request, for inspection by –

- (a) any parent of a child being provided with child care under the licence or registration; and
- (b) any person employed by the holder of the licence to care for such a child or who may have contact with such a child.

33. Display of licence or certificate of registration

(1) In this section –

certificate of registration means a certificate or other document that –

- (a) is issued to a person by an approved registration body; and
- (b) acknowledges that the person is registered by that body as a registered carer;

parent means a parent of a child who is being provided, or may be provided, with child care by a registered carer.

(2) The holder of a licence must ensure that the current licence is displayed in a prominent position for public view at the address where child care is provided or at the address of the child care service.

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Penalty: Fine not exceeding 2 penalty units.

- (3) A registered carer must display any certificate of registration issued to him or her in a prominent position for view by parents at the address where the carer provides child care.

Penalty: Fine not exceeding 2 penalty units.

34. Advertising not to be false or misleading

The holder of a licence and a responsible person must ensure that an advertisement in relation to the child care, or child care service, operated or provided by the holder or in which the responsible person has an interest –

- (a) is not false or misleading in a material particular; and
- (b) does not advertise any matter or activity that is not permitted under this Act, the regulations, the Standards, the conditions to which the licence is subject or another Act.

Penalty: Fine not exceeding 10 penalty units.

35. Compliance with licence and registration conditions

- (1) The holder of a licence must comply with any condition to which the licence is subject.

Penalty: Fine not exceeding 50 penalty units.

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- (2) A registered carer must comply with any condition to which the registration is subject.

Penalty: Fine not exceeding 20 penalty units.

36. Providing false information, &c.

A person must not, without reasonable excuse, knowingly provide any false or misleading information, document or answer to a question under this Act, the regulations or the Standards.

Penalty: Fine not exceeding 10 penalty units.

37. Unauthorised alteration of licence

A person must not alter or deface a current licence without the authorisation of the Secretary.

Penalty: Fine not exceeding 10 penalty units.

PART 5 – INSPECTIONS

38. Inspections of child care and child care services

- (1) For the purpose of determining whether or not a person is contravening this Act, the regulations, the Standards or the conditions to which a licence or registration is subject, an authorised officer may at any time –
 - (a) enter, remain in and inspect the premises –
 - (i) in or from which child care or a child care service is operated or provided or the officer has reasonable grounds for believing is being operated or provided; or
 - (ii) in which any document relating to the provision of child care or the operation or provision of a child care service is kept; and
 - (b) examine, seize, make copies of or take extracts from any document in those premises; and
 - (c) take photographs, films and video recordings in those premises; and
 - (d) seize any thing that appears to indicate that an offence under this Act, the regulations or the Standards has been or is being committed; and

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- (e) operate electric and electronic equipment in those premises.
- (2) For the purposes of subsection (1) –
- (a) an authorised officer may be assisted by such police officers or other persons as the authorised officer considers appropriate; and
 - (b) a police officer or other person assisting the authorised officer has the same powers under subsection (3) as the authorised officer; and
 - (c) subsections (4) and (5) and section 39 apply as if the police officer or other person assisting the authorised officer were the authorised officer.
- (3) In any premises lawfully entered under subsection (1), an authorised officer may require any person in those premises to –
- (a) provide the authorised officer with his or her name and address; and
 - (b) answer any question that the authorised officer considers relevant; and
 - (c) provide as directed a document, or a copy of a document, that is in the person's possession or control and that the authorised officer considers relevant; and

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- (d) otherwise provide information that the person has access to and that the authorised officer considers relevant; and
 - (e) provide reasonable assistance in relation to the exercise of the authorised officer's powers.
- (4) Subsection (3) does not apply to a person who is the parent of a child being provided with child care under a licence or registration unless that person is also –
 - (a) the holder of the licence or the registered carer; or
 - (b) where the applicant or holder is –
 - (i) an incorporated or unincorporated body; or
 - (ii) a servant or agent of any such body –
a director or other person concerned in the management of that body; or
 - (c) a responsible person, person-in-charge, child carer or ancillary staff in respect of the licence.
- (5) A person must not, without reasonable excuse, fail or refuse to comply with a requirement made under subsection (3).

Penalty: Fine not exceeding 10 penalty units.

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- (6) On convicting a person of an offence under subsection (5), in addition to imposing a penalty the court may order that person to provide the answer, other information or document in respect of which the offence was committed.

39. Access to and possession of seized document or thing

- (1) If an authorised officer has seized or otherwise taken possession of a document or other thing under section 38 –
 - (a) the Secretary has possession of the document or thing; and
 - (b) the Secretary may retain the document or thing for so long as is necessary for the purposes of this Act, the regulations or the Standards; and
 - (c) the authorised officer must provide written notice of the seizure or taking of possession as soon as is reasonably practicable; and
 - (d) on the request of a person who would be entitled to possession of the document if it were not in the possession of the Secretary, the Secretary must provide that person with a copy of the document certified by the Secretary to be a true copy.
- (2) A copy of a document certified by the Secretary to be a true copy is to be received in all courts

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and elsewhere as if it were the original document.

40. Authorised officer may give directions

- (1) As the result of or during an inspection under section 38, an authorised officer may give written directions to a holder of a licence, responsible person, person-in-charge or registered carer.
- (2) Without limiting the directions that may be given under subsection (1), those directions may include directions requiring a holder of a licence, responsible person, person-in-charge or registered carer to take any action or measures to ensure that the holder, responsible person, person-in-charge or carer is not in, or does not continue to be in, contravention of this Act, the regulations, the Standards or the conditions to which the licence or registration is subject.
- (3) A person given a direction under subsection (1) must comply with the direction.

Penalty: Fine not exceeding 10 penalty units.

- (4) On convicting a person of an offence under subsection (3), in addition to imposing a penalty the court may order that person to comply with the direction in respect of which the offence was committed.

41. Authorised officer to show identification

If, during an inspection under section 38, a person to whom section 38(3) applies requests that the authorised officer produce identification –

- (a) the officer must produce his or her certificate of identification as an authorised officer to that person; and
- (b) the officer may not take any action or further action under this Act in relation to the inspection until he or she has so produced that certificate of identification.

42. Warrant to enter premises

- (1) If a person refuses to allow an authorised officer to enter, remain in and inspect premises that the authorised officer, on reasonable grounds, believes –

- (a) are being or may be used for the provision of child care or the operation or provision of a child care service; or
- (b) are premises in which any documents relating to the provision of child care or the operation or provision of a child care service are or may be kept –

the authorised officer may apply to a justice of the peace for a warrant.

- (2) On receipt of an application under subsection (1), a justice of the peace may issue a

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warrant if satisfied, by information on oath, that a person has refused to allow an authorised officer to enter, remain in and inspect premises of a kind referred to in that subsection and that the authorised officer has reasonable grounds for the belief referred to in that subsection.

- (3) A warrant authorises an authorised officer and such police officers and other assistants as the authorised officer considers appropriate, using such force as is reasonable –
 - (a) to enter, remain in and inspect the premises specified in the warrant; and
 - (b) to perform and exercise any functions and powers the authorised officer and assistants may perform and exercise in, or in respect of, any premises lawfully entered under section 38.
- (4) An application for a warrant –
 - (a) may be in a written form approved and provided by the Secretary; or
 - (b) if the justice of the peace is satisfied that the circumstances are urgent or that the delay resulting from a written application would frustrate the effective execution of the warrant, may be made by telephone, telex, facsimile, e-mail or other electronic means.
- (5) Section 15 of the *Search Warrants Act 1997* applies, with necessary modifications and adaptations, in respect of an application under

subsection (4) and a warrant issued as a result of such an application.

- (6) A person must not refuse to allow an authorised officer or any police officer or other person assisting the authorised officer to enter, remain in and inspect premises when authorised by a warrant under this section.

Penalty: Fine not exceeding 10 penalty units.

43. Offences in relation to authorised officer

A person must not, without reasonable excuse –

- (a) resist, impede, obstruct or assault –
 - (i) an authorised officer who is performing or exercising any function or power under this Act, the regulations, the Standards or the conditions to which a licence is subject; or
 - (ii) a person assisting that officer; or
- (b) use threatening, abusive or insulting language to such an officer or assistant; or
- (c) prevent or attempt to prevent a person from answering questions, giving information or providing documents to such an officer or assistant; or
- (d) impersonate an authorised officer.

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Penalty: Fine not exceeding 10 penalty units.

PART 6 – EMERGENCY POWERS

44. Emergency removal of children

(1) In this section,

prescribed officer means an authorised officer or person approved by an approved registration body for the purposes of this section.

(2) If a prescribed officer considers, on reasonable grounds, that a child being provided with a child care service –

- (a) is not in a safe environment; or
- (b) is not being properly and appropriately cared for and supervised; or
- (c) is in or may be exposed to a situation where every reasonable precaution is not taken to protect the child from a hazard likely to cause injury –

and that the child is neglected or has suffered injury or death, or is at risk of being neglected or suffering injury or death, the prescribed officer may remove the child from the premises at which he or she is being provided with child care.

(3) In the exercise of a power under subsection (2) –

- (a) a prescribed officer may enter the premises in which the child is being

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- provided with child care, without warrant; and
- (b) a prescribed officer may use reasonable force as necessary; and
 - (c) a prescribed officer may be assisted by such police officers and other persons as the prescribed officer considers appropriate; and
 - (d) a police officer or other person assisting the prescribed officer has the same powers as the prescribed officer.
- (4) If a child is removed from premises under subsection (2) –
- (a) the prescribed officer must ensure that the child's parent is notified of the situation and the child's whereabouts as soon as practicable; and
 - (b) the child is in the custody of the Secretary or the person-in-charge of the approved registration body, as the case requires, until the child's parent removes the child from that custody.
- (5) The Standards may make further provision in respect of the exercise of powers under this section.
- (6) A prescribed officer who is a person approved by an approved registration body for the purposes of this section may only exercise powers under this section in relation to a child

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being provided with child care by a registered carer registered with that approved registration body.

45. Emergency suspension of licence or registration

- (1) If the Secretary or an approved registration body considers, on reasonable grounds, that a child being provided with a child care service –
 - (a) is not in a safe environment; or
 - (b) is not being properly and appropriately cared for and supervised; or
 - (c) is in or may be exposed to a situation where every reasonable precaution is not taken to protect the child from a hazard likely to cause injury –

and it is appropriate to do so to prevent that child or another child being put at risk of being neglected or suffering injury or death, the Secretary or approved registration body may suspend the licence or registration of that child care service for a period not exceeding 7 days.

- (2) The Secretary or an approved registration body may further suspend a licence or registration suspended under subsection (1) or this subsection if the Secretary or approved registration body considers it appropriate to do so to prevent a child being put at risk of being neglected or suffering injury or death.

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- (3) A suspension of a licence or registration takes effect on written notice of it being provided to the holder of the licence or the registered carer.
- (4) If the Secretary or an approved registration body suspends a licence or registration under this section, the Secretary or approved registration body may revoke the suspension at any time.
- (5) If the Secretary suspends a licence under this section, the Secretary may proceed to take disciplinary action under Division 4 of Part 3 or the Standards.
- (5A) If an approved registration body suspends a registration under this section, it may proceed to take disciplinary action under the Standards.
- (6) An approved registration body may only exercise powers under this section in relation to a person who has been registered by that body as a registered carer.

46. Interim orders

- (1) If a person is charged with an offence against this Act, the regulations or the Standards, the Secretary may apply to a magistrate for an order preventing the person from providing child care or otherwise caring for or looking after a child who is not the child of that person.
- (2) An application –
 - (a) is to be in a form approved by the Chief Magistrate; and

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- (b) may be served on the person charged with the offence in the same manner as a summons under the *Justices Act 1959* –

and service of the application may be proved in the same manner as the service of such a summons may be proved.

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Part 7 – Child Care Standards

PART 7 – CHILD CARE STANDARDS

47. Child Care Standards

- (1) The Secretary must issue the Child Care Standards.
- (2) The Standards may provide for any matter relating or incidental to the provision of child care and the operation or provision of child care services.
- (3) Without limiting subsection (2), the Standards may make provision with respect to the following matters:
 - (a) the regulation of –
 - (i) child care and child care services; and
 - (ii) the persons operating or providing child care and child care services; and
 - (iii) persons employed by the operators or providers of child care and child care services; and
 - (iv) responsible persons;
 - (b) the internal administration of operators or providers of child care and child care services;

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- (c) the physical specifications of premises at which child care or a child care service is operated or provided;
 - (d) all matters connected with the safety and wellbeing of children being provided with child care or a child care service;
 - (e) the assessment of –
 - (i) the operators or providers of child care or child care services; and
 - (ii) persons employed by the operators or providers, or employed in the operation or provision, of child care or child care services; and
 - (iii) other responsible persons –and the provision of assessments and the recognition of assessments and qualifications gained by such persons;
 - (f) classes of licences;
 - (g) all matters relating to –
 - (i) the approval and registration of persons as child carers by an approved registration body; and
 - (ii) the arrangement and placing of children with child carers by an approved registration body; and

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- (iii) the taking of disciplinary action by an approved registration body against a child carer registered with that approved registration body;
 - (h) the taking of disciplinary action by the Secretary against the operators or providers of a child care service;
 - (i) exemptions under section 7;
 - (j) dispute resolution;
 - (k) principles and matters on which the Secretary or another person is to base any direction, decision or determination under this Act, the regulations or the Standards;
 - (l) the review of any direction, decision or determination made under this Act, the regulations or the Standards;
 - (m) amendment, revocation and substitution of the Standards;
 - (n) administration of the Standards;
 - (o) enforcement of the Standards;
 - (p) any other matter for which the Secretary considers it appropriate for the Standards to provide.
- (4) The Standards may be made so as to apply differently according to matters, limitations or

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restrictions, whether as to time, circumstance or otherwise, specified in the Standards.

- (5) The Standards may –
 - (a) provide that a contravention of any of the Standards is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.
- (6) The Standards may authorise any matter to be from time to time determined, applied or regulated by the Secretary or another person specified in the Standards.
- (7) The Standards may adopt either wholly or partly and with or without modification, and either specifically or by reference, any enactment, any regulations or other instrument made under an enactment or any other document wherever made whether the enactment, regulations, instrument or document was made or published before or after the commencement of this section.
- (8) A reference in subsection (7) to an enactment, regulations or another instrument made under an enactment or any other document includes a reference to an amendment to the enactment, regulations or other instrument made under an enactment or the other document, whether the

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amendment is published or issued before or after the commencement of this section.

- (9) If the Standards require the Commissioner of Police to provide a report in respect of any person, sections 22(1), 31(1), 45(1) and 108 of the *Youth Justice Act 1997* do not apply to the identification in that report of a youth, within the meaning of that Act, in respect of any action or proceedings referred to in those sections.
- (10) The Standards must be consistent with this Act, the regulations and the public interest.
- (11) If there is an inconsistency between the Standards and this Act or the regulations, the Standards are invalid to the extent of the inconsistency.
- (12) The Standards –
 - (a) are to be treated for all purposes as a law of the State; and
 - (b) are not a statutory rule for the purposes of the *Rules Publication Act 1953*.

48. Review, amendment and replacement of Standards

- (1) The Secretary may review the Standards –
 - (a) at his or her discretion; or
 - (b) on the request of any person.
- (2) The Secretary must review the Standards when required to do so by the Minister.

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- (3) The Secretary may amend or revoke and substitute the Standards as specified in, and in accordance with, the Standards.

49. Availability of Standards

- (1) The Secretary must provide a person with a copy of the Standards or part of the Standards if the person –
 - (a) requests it; and
 - (b) pays to the Secretary any reasonable fee determined by the Secretary.
- (2) The Secretary, free of charge, must allow a person to peruse the Standards at the appropriate office at any time within the hours during which that office is normally open.

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Part 8 – Review of Decisions

PART 8 – REVIEW OF DECISIONS

Division 1 – Reviewable decisions

50. Reviewable decisions

- (1) The following decisions are reviewable decisions:
 - (a) the refusal to grant or renew a licence;
 - (b) the cancellation of a licence;
 - (c) the suspension of a licence;
 - (d) the imposition under section 25 of a fine exceeding 5 penalty units;
 - (e) a letter of censure that requires the holder of a licence to –
 - (i) dismiss or suspend the employment of an employee; or
 - (ii) suspend or cancel the registration of a registered carer;
 - (f) a decision under this Act, the regulations or the Standards prescribed by the regulations to be a reviewable decision.
- (2) A person aggrieved by a reviewable decision may apply to the Tasmanian Civil and Administrative Tribunal for a review of the decision.
- (3) If, on the commencement of the *Child Care Amendment Act 2005*, an appeal against a

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reviewable decision has been instituted but not finally determined under this Act, this Act continues to apply to the appeal as if the amendments made by that Act had not taken effect.

Division 2 –

51 - 56.

Division 3 –

57 - 60.

Division 4 –

61 - 63.

PART 9 – MISCELLANEOUS

64. Register of child care services

- (1) The Secretary must keep a register of –
 - (a) the holders of licences; and
 - (b) persons-in-charge and persons acting in the position of person-in-charge.
- (2) Subject to this section, the Secretary must make the register available for inspection by any person during normal business hours.
- (3) The holder of a home-based child care licence may request, in writing, that the Secretary not publish or make available for inspection to any person any entry in the register relating to that holder.
- (4) If the holder of a home-based child care licence has made a request under subsection (3), the Secretary –
 - (a) must not publish to or make available for inspection by any person, other than the parent of a child being provided with child care by that holder, any entry in the register relating to that holder; but
 - (b) on the inquiry of a person as to whether that holder is the holder of a home-based child care licence, may inform that person that the holder does hold such a licence.

65. Protection of person notifying of contravention of Act, &c.

- (1) A person who believes on reasonable grounds that this Act, the regulations, the Standards or the conditions to which a licence is subject are being, or have been, contravened and notifies the Secretary or an authorised officer of that belief and those grounds is not liable –
 - (a) to any action or proceedings for unprofessional conduct or a breach of professional ethics in respect of that notification; or
 - (b) in any legal proceedings in respect of that notification.
- (2) In any legal proceedings, evidence as to the grounds contained in a notification referred to in subsection (1) may be given but evidence that a particular matter is contained in such a notification or evidence that identifies, or is likely to lead to the identification of, the person who made the notification is only admissible in the proceedings if the court grants leave or that person consents in writing.
- (3) A witness in a legal proceeding must not be asked and, if asked, may refuse to answer –
 - (a) any question to which the answer would or might identify the person who made a notification referred to in subsection (1); or

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- (b) any question as to whether any matter is contained in a notification referred to in subsection (1) –

unless the court grants leave for the question to be asked or that person has consented to the question being asked.

- (4) A court may only grant leave under subsection (2) or (3) if it is satisfied that –
 - (a) it is necessary to ensure the safety and wellbeing of a child who is being provided with a child care service; or
 - (b) the interests of justice require it.
- (5) Except as allowed by subsection (2) or (3), a person concerned in the administration or enforcement of this Act, the regulations or the Standards who learns the identity of a person who made a notification referred to in subsection (1) must not disclose to a person not so concerned in the administration or enforcement of this Act, the regulations or the Standards –
 - (a) the identity of the person who made the notification; or
 - (b) any information likely to lead to the identification of the person who made the notification.

Penalty: Fine not exceeding 40 penalty units.

- (6) The *Right to Information Act 2009* does not apply to the identity of a person who made a notification referred to in subsection (1) or any information contained in or relating to such a notification that may lead to the identification of that person.

66. Registration body may charge for services

Nothing in this Act prevents an approved registration body from determining and requiring the payment of charges and fees in respect of the performance of its functions under this Act and the provision of its services.

67. General immunity

A person does not incur any personal liability in respect of any act done or omitted in good faith –

- (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act, the regulations or the Standards; or
- (b) in the administration or execution, or the purported administration or execution, of this Act, the regulations or the Standards.

68. Offences by bodies corporate

- (1) If a body corporate is convicted of an offence against this Act, the regulations or the Standards, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount

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that, but for this section, the court could impose as a pecuniary penalty for that offence.

- (2) If a body corporate is convicted of an offence against this Act, the regulations or the Standards, any director or other person concerned in the management of the body corporate who knowingly authorised or permitted the contravention that is the subject of the offence is also guilty of that offence and liable to the penalty for that offence.

69. Offences are summary offences

An offence against this Act, the regulations or the Standards is a summary offence.

70. Evidentiary matters

- (1) In any proceeding under or in respect of this Act, the regulations or the Standards, a certificate signed by the Secretary or purportedly signed by the Secretary that relates to any one or more of the following matters is evidence of the matters contained in it:
- (a) whether at any particular time a person held or did not hold a licence;
 - (b) the terms of a licence;
 - (c) the conditions to which a licence was subject at any particular time;
 - (d) whether or not at a particular time a person was an authorised officer or was

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assisting an authorised officer in an inspection under section 38;

- (e) whether or not child care or a child care service was, or the premises in which child care or a child care service was operated or provided were, at any particular time exempt from compliance with a provision of this Act, the regulations or the Standards;
 - (f) any other matter prescribed in the regulations.
- (2) All courts and persons acting judicially must take judicial notice of –
- (a) the official signature of a person who is or has been the Secretary if the signature purports to be attached or appended to the Standards or any certificate or other document under this Act, the regulations or the Standards; and
 - (b) the fact that the person holds or has held the office of Secretary.
- (3) A court or person acting judicially must –
- (a) take judicial notice of the Standards, as amended from time to time; and
 - (b) admit as evidence a copy of the Standards, as amended from time to time, if the copy is certified as a true copy by the Secretary.

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71. Employees

Subject to and in accordance with the *State Service Act 2000*, persons may be appointed for the purposes of this Act.

72. Appointment of authorised officers

- (1) The Secretary may appoint a State Service officer or State Service employee employed in the Department to be an authorised officer and that officer or employee may hold that office in conjunction with State Service employment.
- (2) The Secretary, with the consent of another Head of a State Service Agency, may appoint a State Service officer or State Service employee employed in that Agency to be an authorised officer and that officer or employee may hold that office in conjunction with State Service employment.

73. Advisory council

- (1) The Minister may establish any advisory council the Minister considers necessary to advise and assist the Minister in the exercise of powers and the performance of functions under and in respect of this Act.
- (2) The Minister may appoint persons as members of an advisory council on any terms and conditions the Minister considers appropriate.
- (3) A State Service officer or State Service employee appointed as a member of an advisory

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council may hold that office in conjunction with State Service employment.

74. Delegation

- (1) The Secretary may delegate any of his or her functions or powers under this Act, the regulations or the Standards, other than this power of delegation.
- (2) The Commissioner of Police may delegate any of his or her functions or powers under this Act, the regulations or the Standards, other than this power of delegation.
- (3) Subsections (1) and (2) do not derogate any right the Secretary or Commissioner of Police otherwise would have to authorise another person to perform a function or exercise a power on his or her behalf.

75. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may prescribe the fees payable under this Act, the regulations or the Standards and those fees may be prescribed on an annual or other basis, as a rate of interest or in any other manner.
- (2A) The regulations may provide that any fee payable under this Act may vary by reference to a reasonable estimate of the cost of investigations and other work required to be

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done by the Secretary for the purposes of this Act.

- (2B) The regulations may provide that the Secretary may waive payment of part or all of any fee payable under the regulations.
- (3) Regulations may be made so as to apply differently according to the matters, limitations or restrictions specified in the regulations.
- (4) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 5 penalty units for each day during which the offence continues.
- (5) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.
- (6) The regulations may adopt either wholly or partly and with or without modification, and either specifically or by reference, any enactment, any regulations or other instrument made under an enactment or any other document, whether the enactment, the regulations or other instrument made under an enactment or the other document are published

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or issued before or after the commencement of this section.

- (7) A reference in subsection (6) to an enactment, regulations or other instrument made under an enactment or any other document includes a reference to an amendment to the enactment, the regulations or other instrument made under an enactment or the other document, whether the amendment is published or issued before or after the commencement of this section.
- (8) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or the making of the regulations or the Standards.
- (9) A provision referred to in subsection (8) may take effect on and from the day on which this Act commences or a later day.

76. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Education; and
- (b) the department responsible to the Minister for Education in relation to the administration of this Act is the Department of Education.

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77.

78. Repeal of *Child Care Act 1960*

The *Child Care Act 1960* is repealed.

79. *See Schedule 2.*

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SCHEDULE 1 –

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SCHEDULE 2

The amendments effected by Section 79 and this Schedule have been incorporated into authorised versions of the following Acts:

- (a) *Approvals (Deadlines) Act 1993;*
- (b) *Children, Young Persons and Their Families Act 1997;*
- (c) *Hospitals Act 1918.*

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NOTES

The foregoing text of the *Child Care Act 2001* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 July 2025 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Child Care Act 2001</i>	No. 62 of 2001	19.9.2001 (Part 1, Div. 4 of Part 8, ss. 71-76)
<i>Child Care Amendment Act 2003</i>	No. 12 of 2003	16.4.2003
<i>Child Care Act 2001</i>	No. 62 of 2001	1.9.2003 (remaining provisions)
<i>Relationships (Consequential Amendments) Act 2003</i>	No. 45 of 2003	1.1.2004
<i>Child Care Amendment Act 2005</i>	No. 67 of 2005	15.12.2005
<i>Right to Information (Consequential and Transitional) Act 2009</i>	No. 54 of 2009	1.7.2010
<i>Education and Care Services National Law (Application) (Consequential Amendments) Act 2011</i>	No. 39 of 2011	1.1.2012
<i>Child Care Amendment Act 2014</i>	No. 16 of 2014	21.11.2014
<i>Education (Consequential Amendments) Act 2016</i>	No. 47 of 2016	10.7.2017
<i>Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Act 2025</i>	No. 7 of 2025	1.7.2025

TABLE OF AMENDMENTS

Provision affected	How affected
The long title	Amended by No. 39 of 2011, s. 4
Section 3	Amended by No. 45 of 2003, Sched. 1, No. 67 of 2005, s. 4, No. 39 of 2011, s. 5 and No. 47 of 2016, s. 4
Section 4	Amended by No. 39 of 2011, s. 6 and No. 47 of 2016, s. 5
Section 5	Amended by No. 39 of 2011, s. 7

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Provision affected	How affected
Section 10	Amended by No. 39 of 2011, s. 8
Section 13	Amended by No. 67 of 2005, s. 5
Section 14	Repealed by No. 67 of 2005, s. 6
Section 15	Amended by No. 12 of 2003, s. 4 and No. 67 of 2005, s. 7
Section 15A	Inserted by No. 67 of 2005, s. 8
	Amended by No. 39 of 2011, s. 9 and No. 16 of 2014, s. 4
Section 15B	Inserted by No. 67 of 2005, s. 8
Section 16	Amended by No. 67 of 2005, s. 9
Section 17	Amended by No. 67 of 2005, s. 10
Section 22	Amended by No. 67 of 2005, s. 11
Section 23	Amended by No. 67 of 2005, s. 12
Section 25	Amended by No. 67 of 2005, s. 13
Section 26	Amended by No. 67 of 2005, s. 14
Section 27	Amended by No. 67 of 2005, s. 15
Section 30	Substituted by No. 67 of 2005, s. 16
Section 33	Substituted by No. 67 of 2005, s. 17
Section 34	Amended by No. 67 of 2005, s. 18
Section 38	Amended by No. 67 of 2005, s. 19
Section 44	Amended by No. 67 of 2005, s. 20
Section 45	Amended by No. 67 of 2005, s. 21
Section 47	Amended by No. 12 of 2003, s. 5 and No. 67 of 2005, s. 22
Section 50	Amended by No. 67 of 2005, s. 23 and No. 7 of 2025, s. 61
Division 2 of Part 8	Repealed by No. 67 of 2005, s. 24
Section 51	Repealed by No. 67 of 2005, s. 24
Section 52	Repealed by No. 67 of 2005, s. 24
Section 53	Repealed by No. 67 of 2005, s. 24
Section 54	Repealed by No. 67 of 2005, s. 24
Section 55	Repealed by No. 67 of 2005, s. 24
Section 56	Repealed by No. 67 of 2005, s. 24
Division 3 of Part 8	Repealed by No. 67 of 2005, s. 24
Section 57	Repealed by No. 67 of 2005, s. 24
Section 58	Repealed by No. 67 of 2005, s. 24
Section 59	Amended by No. 45 of 2003, Sched. 1
	Repealed by No. 67 of 2005, s. 24
Section 60	Repealed by No. 67 of 2005, s. 24
Division 4 of Part 8	Repealed by No. 67 of 2005, s. 24
Section 61	Repealed by No. 67 of 2005, s. 24
Section 62	Repealed by No. 67 of 2005, s. 24
Section 63	Repealed by No. 67 of 2005, s. 24
Section 64	Amended by No. 67 of 2005, s. 25
Section 65	Amended by No. 54 of 2009, Sched. 1
Section 75	Amended by No. 67 of 2005, s. 26
Section 77	Repealed by No. 67 of 2005, s. 27
Schedule 1	Repealed by No. 67 of 2005, s. 28
Part 1 of Schedule 1	Amended by No. 67 of 2005, s. 28
Part 2 of	Amended by No. 67 of 2005, s. 28

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Provision affected	How affected
Schedule 1	
Part 3 of	Amended by No. 67 of 2005, s. 28
Schedule 1	