



# Building Newsflash

## Commencement of the *Child Care Act 2002* and the Queensland Development Code Part 22: Child Care Centres

### Purpose

The purpose of this Newsflash is to provide advice on the commencement on 1 September 2003, of Part 22: Child Care Centres, of the Queensland Development Code (QDC).

### Background

The inclusion of the Child Care Standard into the QDC is part of the Government's strategy to progressively consolidate building requirements from various State regulations into the QDC.

The purpose of the Child Care Standard is to ensure a suitable physical environment and facilities are provided in child care centres that -

- safeguard children from harm by ensuring safe and hygienic conditions; and
- foster optimal development of children by providing a suitable environment.

### Legislative Provisions

The *Child Care Act 2002* and its associated *Child Care Regulation 2003* started on 1 September 2003.

Relevant sections of the Child Care Act include:

- **Section 28(6)** For this Act, premises are suitable for use as a child care centre only if the premises comply with the Building Act requirements.
- **“Building Act requirements”** means the requirements under the *Building Act 1975* that must be complied with in carrying out building work for a child care centre.
- **Section 143(4)** An authorised officer may give the licensee a notice requiring the licensee to obtain, and give to the chief executive within a stated period of at least 30 days, a written certificate from a building certifier stating that the child care centre complies with the Building Act requirement.

A copy of the Act is available at <http://www.legislation.qld.gov.au/LEGISLTN/ACTS/2002/02AC055.pdf> and the Regulation is available at <http://www.legislation.qld.gov.au/LEGISLTN/SLS/2003/03SL189.pdf>

When the Regulation amendments were made, changes were also made to the-

- *Integrated Planning Regulation 1998* to identify the chief executive of the department in which the *Child Care Act 2002* is administered (the Department of Families) as a concurrence agency for the assessment of building work against the performance criteria stated in QDC Part 22.
- *Standard Building Regulation 1993* (SBR) in Schedule 13 by including reference to Part 22 published on 1 September 2003.

Section 10A of the SBR states that building work must comply with QDC to the extent QDC applies to the work. Section 11(1) states that each development application must be assessed by a building certifier for compliance with this regulation. This means that building certifiers must assess the application against the acceptable solutions of Part 22 if they receive an application for building work that relates to a child care centre. Alternative solutions must be referred to the Department of Families.

### **Child Care Centre Standard**

An extensive consultation process has been undertaken in regard to the development of the new regulatory framework, and the results of this process are incorporated into the new legislation. This legislation provides a new regulatory framework for child care in Queensland, which strengthens current requirements and ensures that services are better placed to accommodate the needs of families.

The building requirements for child care centres do not appear in the new Act and instead are incorporated into Part 22 of the QDC which commenced on 1 September 2003. A copy of Part 22 is available at [http://www.dlgp.qld.gov.au/corporate/publications/building\\_codes/queensland\\_development\\_code/pdf/qdc022.pdf](http://www.dlgp.qld.gov.au/corporate/publications/building_codes/queensland_development_code/pdf/qdc022.pdf)

Building certifiers are responsible for ensuring that child care centres are constructed in accordance with the standards. Individuals planning to build and operate child care centres should still, however, refer to the Department of Families for information relevant to the licensing and operation of a child care centre.

The building standards are based on the building requirements in the *Child Care (Child Care Centres) Regulation 1991*.

The standards contain specific building requirements for school age care services, based on the National Standards for Outside School Hours Care and include indoor and outdoor space requirements, the number of toilets required and kitchen/food preparation requirements.

The building requirements for child care centres are performance based. The standards contain acceptable solutions that meet the performance criteria. Individuals who do not wish to use the acceptable solutions in the standards can offer alternative solutions. The Department of Families is a concurrence agency and determines whether any alternative solutions meet the performance criteria and are acceptable.

Under the *Child Care Act 2002*, if at any time the chief executive is concerned that the licensee no longer meets the building standards, the chief executive may require the licensee to provide a fresh certificate from a building certifier confirming that all of the building standards are being met (section 143 of the Act).

#### New services

Child care centres built after the commencement of the *Child Care Act 2002* will have to comply with the standards in the building legislation.

#### Existing licensed services

Existing licensed services will not be required to be reassessed against the building standards when the new legislation is introduced. This is because the new standards are based on the requirements in the *Child Care (Child Care Centres) Regulation 1991* and therefore existing services will meet the new building standards.

If an existing licensed service undertakes renovations that require development approval, the building works will be assessed against the new building standards.

In addition, under the *Child Care Act 2002* if the chief executive is concerned that the licensee is no longer meeting one or all of the building standards, the chief executive may require the licensee of an existing service to provide evidence from a building certifier that the building meets the new building standards.

#### School age care services

It is proposed that existing school age care services will have 5 years from the date of commencement of the Act to comply with the building standards.

#### Other building and facility requirements

Building and facility requirements in addition to those contained in Part 22 of the QDC are contained in the *Child Care Regulation 2003*.

There are specific requirements for licensed centre based and licensed home based care. The types of requirements detailed include bedding, telephone, refrigerators and laundry facilities. There is also a general requirement to ensure that the centre or home has all the facilities that are adequate and appropriate for children who use the centre or home.

#### **Further information**

If you would like any further information about the new legislation please contact Lisa McCoy, Senior Policy Officer at the Child Care Unit, Department of Families.

Contact can be made by:

- Emailing [ccis@families.qld.gov.au](mailto:ccis@families.qld.gov.au) or
- Phoning 3224 4225 or freecall 1800 637 711 (outside Brisbane).

More information about the new legislation is available on the Department of Families web site [www.families.qld.gov.au/childcare](http://www.families.qld.gov.au/childcare)