

Children's Services Law Reform

Presentation for Neighbourhood Houses Victoria
September 2019



Education
and Training

Welcome

Presenter:

Madeleine Smith
Executive Director

Quality Assessment and Regulation Division
Department of Education and Training

Aims of today's session:

- Inform you about the Children's Services Amendment Bill 2019 currently before Victorian Parliament
- Discuss the likely impact on you and your service
- Inform you about future consultation on new Children's Services Regulations
- Alert you to the likely timeframes for implementation.

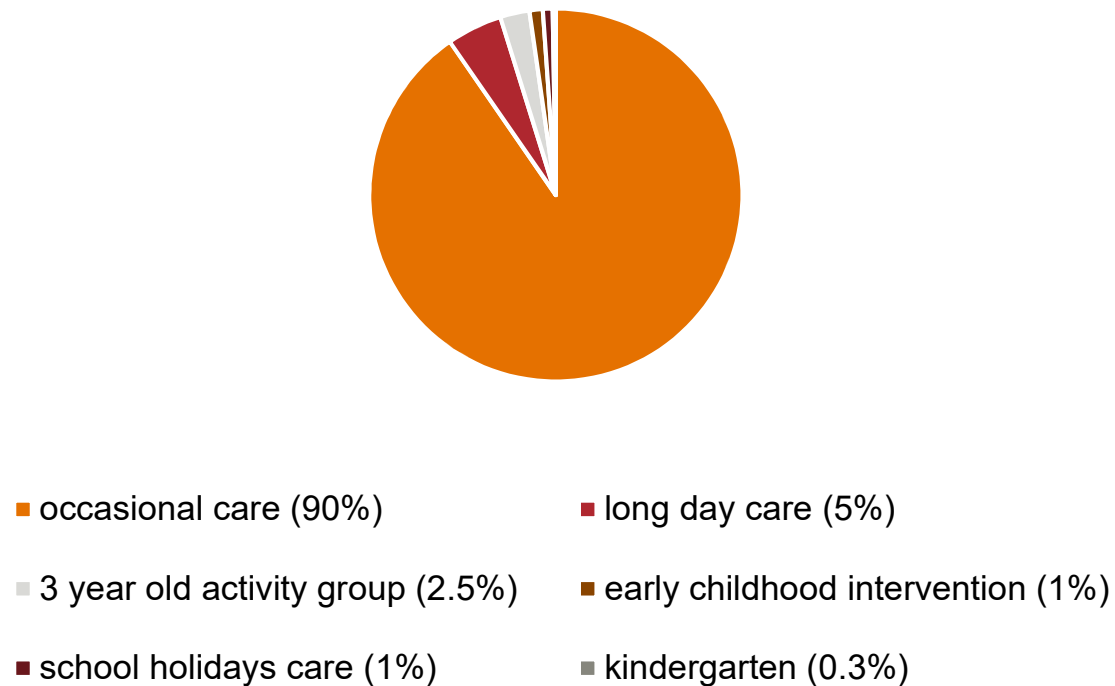
Background to the Children's Services Law Reform

- The Education and Care Services National Law established a National Quality Framework (NQF) for the regulation of the majority of early childhood services across the country.
- Today, about **340** children's services (8%) fall outside the scope of the National Law and continue to be regulated under the Children's Services Act (CS Act).
- The 2014 Review of the NQF considered, but decided against, bringing the out of scope services (nationally) within scope of the NQF.

Picture of the sector

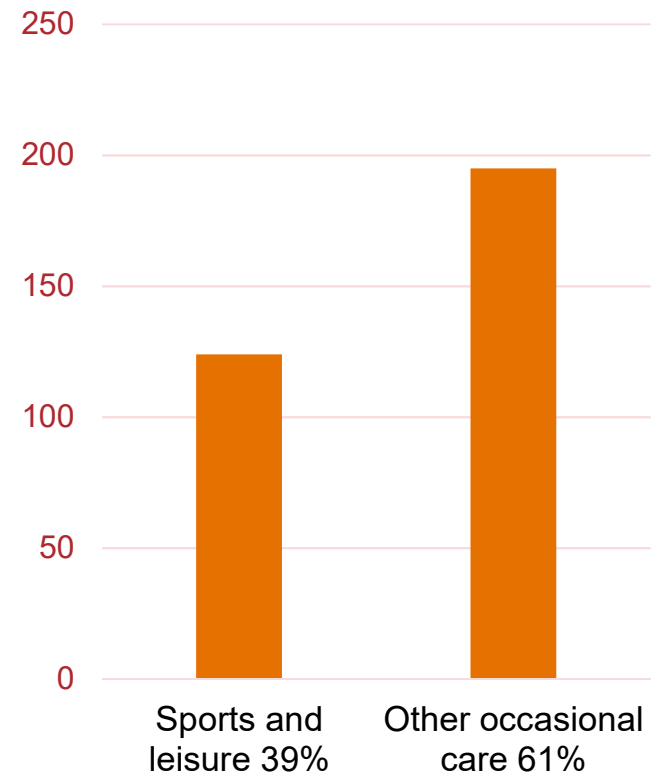
340 children's services
90% of services provide occasional case

Children's services by care type



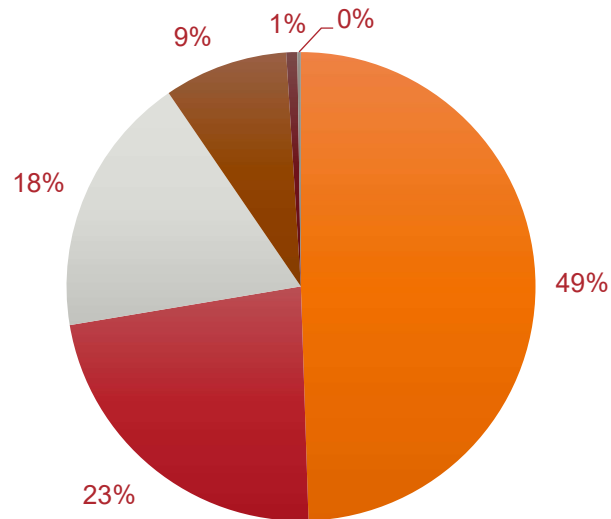
as at 31 January 2019

Breakdown of occasional care



Picture of the sector

Management organisation type



■ private not for profit community managed (49%)

■ State/Local Government (18%)

■ Government school (1%)

■ private for profit (23%)

■ private not for profit other (9%)

■ Independent school (0.3%)

as at 31 January 2019

Aligning the two regulatory regimes

- The regulatory regimes in the NQF and CS Act are similar, but not identical.
- The Children's Services Amendment Bill 2019 (Bill) seeks to align the CS Act with the Education and Care Services National Law (National Law).
- The Bill simplifies licensing arrangements for providers, and ensures consistency across the two regulatory regimes.
- There will still be a CS Act (and children's services), but it will have language and processes like the NQF.
- The changes are subject to the Bill being passed by the Victorian Parliament.

What does the Bill do?

➤ The Bill seeks to align:

- the objectives and guiding principles of the law
- terminology
- roles of key personnel
- licensing and service approval processes
- operational requirements for services (that are in the law)
- requirements for educational programs
- compliance, monitoring and enforcement approaches
- offences and penalties
- the regulator's powers and duties.

What will change?

- Existing approvals and roles will change to approvals and roles equivalent to those under the NQF.
- Approved associated children's services (services operated as part of an education and care service under the NQF) will be phased out by 2022.
- Systems – in future no longer paper based.

What is not changing?

- **No** change to the types of services regulated under the CS Act - mainly occasional care and limited hours services
- **No** reduction of minimum standards for safety and quality
- National Quality Standard **will not apply** to licensed children's services
- **No** assessment and quality rating against the National Quality Standard.

CS Act will adopt the...

Relevant NQF Objectives:

- To ensure the safety, health and wellbeing of children attending children's services.
- To improve the educational and developmental outcomes for children attending children's services.
- To promote continuous improvement in the provision of quality children's services.

CS Act will adopt the...

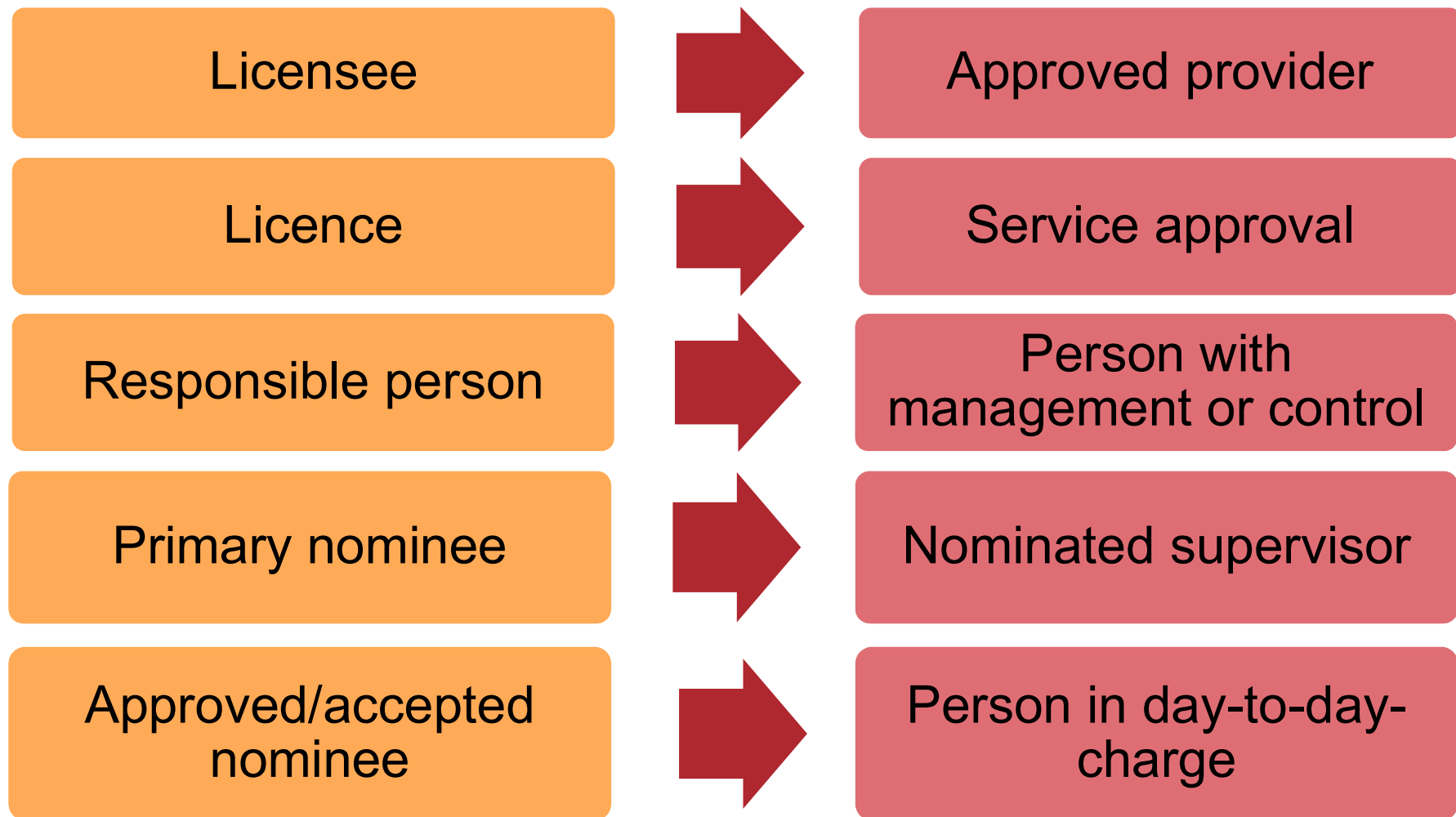
Guiding Principles of the NQF:

- The rights and best interests of the child are paramount
- Children are successful, competent and capable learners
- Principles of equity, inclusion and diversity underlie the law
- Australia's Aboriginal and Torres Strait Islander cultures are valued
- The role of parents and families is respected and supported
- Best practice is expected in the provision of children's services

Who will be affected by the Bill?

- Current proprietor or licensee of a children's service
- NQF approved provider who operates an approved associated children's service
- Nominee, primary nominee or accepted nominee under the Children's Services Act 1996
- Services and educators who are not already familiar with the NQF.

Terminology and roles of key personnel

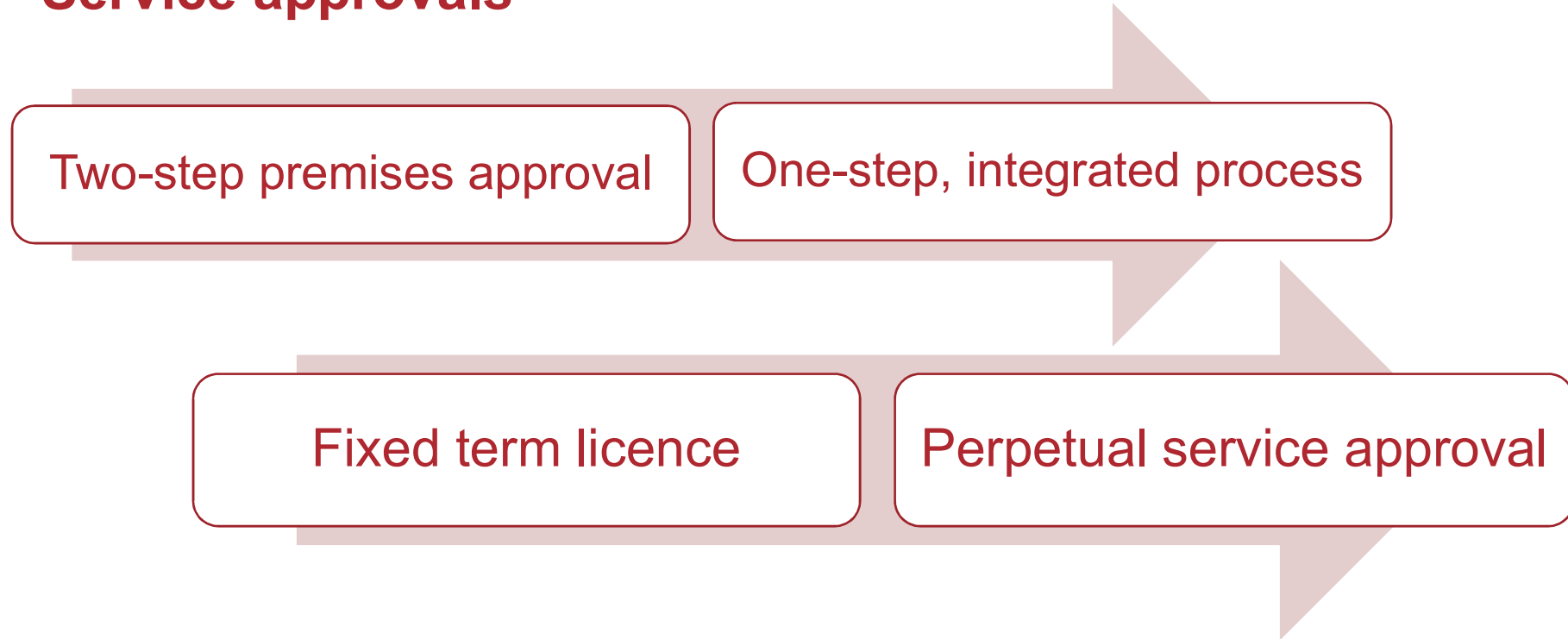


The term '**proprietor**' will become redundant.

Provider approvals

- Fit and proper person requirements more comprehensive and explicit
- **All existing** responsible persons and nominees **will be taken to be** fit and proper under the revised CS Act
- Provider can operate multiple services under a single provider approval
- **All existing** approved providers under the National Law **will be taken to be** approved providers under the CS Act.

Service approvals



- Service approvals transferrable between approved providers
- Service approvals end when surrendered or cancelled

Key operational requirements for services (in the law)

- Requirements for nominated supervisors and persons in day-to-day charge of services
- More explicit requirements for appointing responsible persons
- Ensure adequate supervision of children
- Protect children from harm and hazard
- Notify the regulatory authority about serious incidents and complaints
- Service waivers – more streamlined, delegated powers to exempt services from prescribed regulatory requirements.

Requirement for educational program

CS Act: an educational or recreational program based on the developmental needs, interests and experiences of each child that is designed to take into account the individual differences of those children, and that enhances each child's development.

National Law: a program based on an **approved learning framework**, that is delivered in a manner that accords with the approved learning framework, is based on the developmental needs, interests and experiences of each child, and which is designed to take into account the individual difference of each child.



- Belonging, Being and Becoming: The Early Years Learning Framework for Australia
- My Time, Our Place: Framework for School Age Care in Australia

Compliance and enforcement

- A more comprehensive, modern range of compliance and enforcement options than under CS Act
- Enforceable undertaking -- alternative to prosecution
- Power to prohibit unsuitable persons from working in the sector
- Prohibited status information will be available to potential employers.

Offences and penalties

- The offences in the CS Act will be aligned with the equivalent offences in the National Law
- Many similar offences e.g. offence to inadequately supervise children
- Alignment will introduce some new offences e.g. operating a children's service without a nominated supervisor
- Fewer direct liability offences for individual educators
- Different maximum penalties for individuals and corporate bodies
- Victoria uses penalty units – these will be matched as closely as possible to the dollar amounts in the National Law
- Maximum penalties mostly substantially lower for individuals and higher for corporate bodies than the current maximum penalties.

Children's Services Regulations 2009

- The Regulations will need to be updated to reflect the changes to the Children's Services Act 1996
- The regulatory requirements in the Regulations are being reviewed, including:
 - licence types
 - Staffing
 - Outdoor space

Reform timeline



- Parliamentary process for Bill is underway.
- The review of the Regulations is underway
- Consultation on new Regulations will begin in late 2019 (subject to the Bill being passed by Parliament).
- Regulatory Impact Statement process, including draft regulations
- State-wide consultation from December to February
- Changes to the CS Act and the Regulations will be implemented together in May 2020.

Transitional arrangements and implementation

- We will provide information, guidance and support in the months leading up to commencement
- Transitional arrangements will minimise the impact of changes for service providers
- Existing exemptions – there will be 6 months to apply for equivalent service waivers
- Processes to deal with licence applications that are in train when the reforms commence.

Information and contacts

- For more information on the reforms, visit the website:
www.education.vic.gov.au/childhood/providers/regulation/Pages/csareform.aspx
- Contact the reform team to ask a question:
cs.law.reform@edumail.vic.gov.au

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