

Building Newsflash 526

Repeal of Queensland Development Code 5.4 – Child care centres

Purpose

To advise:

- that the Queensland Development Code 5.4 – Child care centres (QDC 5.4) was repealed on 1 January 2014
- building certifiers of their responsibilities when assessing Queensland education and child care services to be regulated under the *Education and Care Services Act 2013* (ECS Act).

Background

In 2012 the *Child Care Act 2002* (CCA) was amended so that it no longer applies to education and care services covered by the Education and Care Services National Law (National Law). Most early childhood education and care services are regulated under the National Law. The early childhood education and care services not captured by the National Law are licensed under the CCA, for which QDC 5.4 currently applies.

The ECS Act and accompanying Education and Care Services Regulation (ECS Regulation), commenced on 1 January 2014 and repeals the CCA and the Child Care Regulation 2003.

Issues

With the commencement of the ECS Act and subsequent repeal of the CCA, QDC 5.4 no longer applies to any new Queensland education and care services that are approved to operate under the new ECS Act. From this time these services will be required to comply with the National Construction Code (NCC).

Building standards for new centre based services

The NCC now applies to all new Queensland education and care services approved to operate under the new ECS Act. The NCC includes provisions for:

- Kitchen facilities
- Bath or shower-bath
- Laundry facilities
- Bench type baby bath
- Number of toilets and hand basins
- Window sill height
- Fencing and barriers

Building standards for existing services

Existing services will continue to be required to comply with the building standards applicable when the original building development approval for that service was given.

Section 266 of the *Building Act 1975* precludes existing lawful buildings from having to be upgraded, subject to certain situations, when laws change. However, if alterations are made to an

existing approved service that involve assessable building work, or the service wishes to voluntarily upgrade their facility to comply with the new requirements, a building development application will need to be submitted to a building certifier for a full assessment against the new requirements.

If an existing approved service wishes to change their use of a facility, such as increasing the number of allowable occupants, they will need to seek the advice of a building certifier. Even if no building work is required to allow for the increase in occupants, a new Certificate of Classification will need to be issued which will show that the building complies with the new standard.

Physical environment requirements

Under the ECS Act Queensland, Approved Providers must ensure their Queensland education and care service premises meets the physical environment requirements contained within ECS Regulation which will include:

- premises, furniture and equipment to be safe, clean and in good repair
- fencing
- space requirements – indoor/outdoor
- ventilation and natural light
- administrative space
- outdoor space – natural environment
- outdoor space – shade
- premises designed to facilitate supervision
- laundry and hygiene facilities
- toilet and hygiene facilities and nappy change facilities
- telephone and other communication equipment.

Transitional arrangements for services

Transitional provisions have been incorporated into the ECS Regulation to protect existing approved services that provide five square metres of unencumbered outdoor play space in accordance with the version of the QDC 5.4 in place when they were originally approved.

An existing approved service can voluntarily choose to undertake upgrades to fully comply with the new standards, however they are unable to pick and choose different parts of different standards.

Contact for more information

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*Calls from mobiles charged at applicable rates

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