

Renovation

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The Education and Care Services National Regulations (the National Regulations) prescribe savings provisions that relate to indoor and outdoor space requirements for centre based education and care services in South Australia that were declared approved on 1 January 2012. This fact sheet provides an overview of the effect of these savings provisions and details the process if a renovation occurs at a service premises.

Savings provisions under the Education and Care Services National Regulations

Regulation 337 provides a savings provision for declared approved centre-based services that were licensed prior to 3 April 1999 under the *Children's Services Act 1985*, and indicates that regulation 107 relating to indoor space requirements, does not apply to the service premises.

Regulation 338 provides a savings provision for declared approved preschool services and indicates that both regulations 107 and 108 relating to indoor and outdoor space requirements, do not apply to the service premises.

Regulation 339 provides a savings provision for declared approved services that provide education and care to children over preschool age, and indicates that regulation 107 relating to indoor space requirements does not apply to the service premises if there is indoor space of not less than 2.8 square metres per child.

When do the savings provisions cease to apply?

The savings provisions cease to apply when a service approval is transferred to another approved provider or when the service premises are renovated.

Once the savings provisions cease to apply, the service is required to meet the unencumbered indoor and outdoor space requirements per child that are specified in regulations 107 and 108. Consequently the unencumbered indoor and outdoor space available for children's activities at the service premises is required to be re-calculated by a building practitioner, using the criteria in regulations 107 and 108.

Definition of renovate

The definition of renovate under the National Regulations is as follows:

renovate, in relation to premises means –

- construction, demolition, removal or relocation of a building or other fixed structure (or part of a building or other fixed structure); or
- carrying out structural alterations on a building or other fixed structure.

In addition to any requirements under the National Regulations, all building work classed as 'development' requires Development Approval generally obtained from Local Government.

Renovate in this definition relates to the whole education and care service premises, therefore any construction, demolition, removal or relocation of all or part of a building or other fixed structure that occurs on the service premises, is captured in the definition of renovate.

In order for a structure to be fixed, it must be attached in some manner to the ground or to another building or structure on the premises.

A renovation also includes structural alterations to a building or other fixed structure. Structural alterations involve works that change or affect the fabric of the structure of a building or other fixed structure.

The following are some examples of work that will be captured within the existing definition of renovate: (Please note that this is not an exhaustive list)

- the demolition of a storage shed and construction of a new storage shed
- construction of a new stand-alone building or shed
- the construction or demolition of a fixed verandah
- replacement of an existing verandah
- removal or installation of a wall in a building
- replacing a window in a wall of a building with a door.

However, the Board is aware that the existing definition of renovate is broad and means that any building work that involves a fixed structure causes the savings provision to cease. Subsequently, the Board has considered a concession in the manner in which certain building work can be undertaken without triggering the cessation of the savings provision while still conforming to its obligations under the legislation.

This will enable approved providers to undertake some developments to support ongoing continuous improvement within their service premises. The work must not reduce any of the existing indoor and outdoor space at the premises.

Therefore, the following list provides examples of work that will not be considered a renovation:

- work related to repair, maintenance or replacement of equipment
 - replacing paving, replacing impact absorbing surfaces, removal of concrete paths
 - removing, replacing or erecting fencing
 - replacing internal flooring and floor coverings
 - replacing structures that have deteriorated such as an existing verandah or pergola
- work related to health and safety issues and identified hazards
 - removal of equipment due to corrosion or deterioration
 - replacing shade structures or relocating shade structures to be more effective
 - increasing the amount of shade available such as the construction of, or expansion of an existing shade structure or verandah
 - rectifying drainage issues
- improving the outdoor environment to incorporate or expand the natural environment
 - playground design and upgrade
 - addition of moss rocks, dry creek beds
 - addition of timber decking
- installation of solar panels without affecting the structure of the roof.

It is important to note that a general replacement or refurbishment of a kitchen, bathroom or staff area will not necessarily trigger the cessation of the savings provision; however, this may depend on the extent of building work to be undertaken. As with any building work it is recommended that the approved provider discusses their proposal with an authorised officer from the Board prior to commencement of the work.

Renovating a service premises

If you are intending to renovate the service premises, it is recommended that you contact the Education Standards Board (the Board) to discuss your proposal and any implications it may have on the indoor and outdoor space requirements. A preliminary plan may also be provided to the Board to facilitate feedback regarding the design and suitability of the proposed renovation prior to formal plans being prepared. This process is useful in identifying issues before plans are submitted for council approval or any building work commences.

In most instances, a renovation is linked to an amendment to the maximum number of children that can be educated and cared for at a service. In this circumstance approved providers are required to submit an Application for amendment of service approval (SA03) and include a copy of the current floor and site plan indicating all details along with building practitioner calculations of the unencumbered indoor and outdoor space available for children's use.

In all instances, the approved provider is required to notify the Board if a renovation is planned for the service premises. If an amendment to the maximum number of children is not required, the approved provider is required to submit a Notification of change to information about an approved service (SA12) that outlines proposed changes to a centre-based service's premises. Similarly a current floor and site plan is required to be submitted also indicating all details together with building practitioner calculations of the unencumbered indoor and outdoor space available.

Assessing an application or notification

To facilitate the assessment of an Application for amendment of service approval (SA03) or a Notification of change to information about an approved service (SA12), the Board will ordinarily conduct a site inspection prior to a new area being used. It is at this time that the Board will review the facilities of the whole service premises to ensure it is meeting the current regulatory requirements. To assist with facilities requirements, the Board has developed fact sheets that provide information about the building, planning and development approval processes and facilities requirements for new centre-based education and care services. These fact sheets are available on the Board's website.

Indoor and outdoor space requirements

Regulation 107 prescribes that for each child being educated and cared for by the service there must be at least 3.25 square metres of unencumbered indoor space.

When calculating unencumbered indoor space the following areas are excluded:

- any passageway or thoroughfare (including door swings)
- any toilet and hygiene facilities
- any nappy changing area or area for preparing bottles
- any area permanently set aside for the use or storage of cots
- any area permanently set aside for storage
- any area or room for staff or administration
- any other space that is not suitable for children.

The area of a kitchen is also to be excluded unless the kitchen is primarily to be used by children as part of the educational program provided by the service.

Regulation 108 prescribes that for each child being educated and cared for by the service there must be at least 7.00 square metres of unencumbered outdoor space.

When calculating unencumbered outdoor space the following areas are excluded:

- any pathway or thoroughfare, except where used by children as part of the education and care program
- any car parking area
- any storage shed or other storage area
- any other space that is not suitable for children.

Information about thoroughfare areas

Passageways or thoroughfare areas, including door swings, are not included as countable play spaces as they are not considered to be usable unencumbered space for children. These areas are determined to be used for the purposes of ingress and egress (circulation space) and allow for the movement of adults or children through.

In these circumstances, 1.0 square metre for each single thoroughfare opening and 2.0 square metres for each double thoroughfare opening is deducted from the total space that is able to be counted for capacity purposes. This applies to all thoroughfares into and between children's rooms regardless of where the thoroughfare is located or how doors are configured. Additionally, other encumbrances such as built in cupboards, sinks, lockers etc are also deducted from the total space to determine the unencumbered space available to children. Similarly 1.0 or 2.0 square

metre deductions also apply to thoroughfare openings, gates and doors located in the outdoor space.

This information is required to be provided by the building practitioner and detailed in a schedule, and is used to calculate the maximum number of children that can be educated and cared for at the service premises.

Declared approved services

Long day care services that were previously licensed under the *Children's Services Act 1985* were taken to hold a service approval from 1 January 2012 with their current indoor and outdoor status. It is important to note that the method used to calculate usable unencumbered space for children prior to 1 January 2012 was different to the current method. For example, cot sleep rooms were able to be counted towards the unencumbered space under the previous law and thoroughfare areas were not excluded. Prior to 1 January 2012, there were also different minimum indoor and outdoor space requirements applied at different times. As a result, calculations under the current requirements may impact on the approved maximum number of children to be educated and cared for at a service. Staff of the Board are able to assist by providing advice regarding unencumbered space calculations if you are unsure. It is important to note that the maximum number of children an education and care service can be approved for is also reliant on the number of junior sized toilets and children's hand wash basins provided for children. This is a requirement of the Building Code of Australia.

Preschool and Out of School Hours care services that were operating immediately before 1 January 2012 were taken to hold a service approval at that time with their existing indoor and outdoor spaces.

Once a renovation occurs, calculations of unencumbered indoor and outdoor space will be determined under the current regulatory requirements which may subsequently impact on the maximum number of children able to be educated and cared for at a service.

Counting a verandah area as indoor space

In addition, under the current legislation, a verandah area may be included in calculating the area of indoor space only with the written approval of the Board if the area is suitable for children, can be suitably weatherproofed and is appropriate for the safety and wellbeing of children. Please refer to the fact sheet Verandah areas counted as indoor space for information to consider when applying for a verandah area to be counted as indoor space. If approved, counting the verandah area as indoor space can assist with calculating the maximum number of children able to be educated and cared for at a service.

Fencing, shade and supervision

Another savings provision that ceases to apply when a declared approved service is renovated is detailed in regulation 249. This regulation only applies to declared approved centre-based services. The regulation indicates that regulations 104 fencing, 114 shade and 115 premises designed to facilitate supervision do not apply, if prior to 1 January 2012 the declared approved service was not required to comply with similar requirements under the former education and care services law. While these services are not required to comply with these provisions until a service approval is transferred or the premises is renovated, as of 1 January 2016 for the purposes of assessment and rating, the service will no longer be taken to comply. Non-compliance of these requirements may have an effect on a service's rating.

Contact details

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