

**EXPLANATORY STATEMENT
No. 122 of 1995**

Exemption to *Children's Services Act 1986* Part VII

The *Children's Services Act 1986* governs the care and protection of children in the Australian Capital Territory Part VII of the Act deals specifically with Children's Day Care Services and the licensing of child care centres Section 119 of the Act allows the Minister to exempt certain classes of child care from the provisions of Part VII of the Act

This instrument

- a) revokes the previous instrument exempting certain classes of child care under Section 119 of the *Children's Services Act 1986*, dated 14 May 1987, and published in the Commonwealth Government Gazette No GN 5 on 3 June 1987,
- b) exempts certain classes of child care under Section 119 of the Act

The original exemption document (Attachment A) exempts ancillary care from the provisions of licensing Ancillary care is defined as care which is incidental to any activity which is undertaken **for the benefit of children** This allows activities such as Scouts and Guides to be exempt from licensing

Exemption is also allowed for skills instruction in a variety of fields if the instruction is provided to any child for less than three hours per week, or religious instruction if that instruction is for less than two hours per week

There has been over the years a great increase in the range and particularly duration of recreational programs available for children Children now often attend sports training or dance lessons, for example, more than once a week, and could be attending such activities for more than three hours in some weeks and particularly during school holiday periods Such programs do not currently meet the grounds for exemption because of the time limit stipulated

The continued imposition of the time limit means that the current exemption is no longer realistic given the changes that have occurred in the provision of skills-based recreation programs for children It does not accurately reflect actual practice in the community

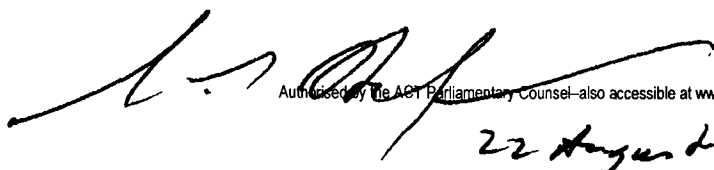
It is important that programs which genuinely offer care for the children as their primary goal continue to be licensed It is equally important that those programs where care is incidental to the focus activity are not unintentionally caught by the legislation.

The setting of specific time limits tends to confuse the issue as it detracts from the question of whether

- a) the activity is primarily for the **care** of the child, or
- b) for the **benefit** of the child, with the care being purely incidental and ancillary to the activity

The proposed new instrument simplifies the categories under ancillary care and removes the time restriction for activities

Circulated by the authority of William George Stefaniak, Minister for Children's and Youth Services



Authorised by The ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

22 August 1995

ATTACHMENT A

**AUSTRALIAN CAPITAL TERRITORY
Children's Services Ordinance 1986**

EXEMPTION

I, GORDON GLEN DENTON SCHOLES, Minister of State for Territories, under *section 119* of the *Children's Services Ordinance 1986* ("the Ordinance") exempt the following classes of child care from the provisions of Part VII of the Ordinance

1. **Ancillary Child Care:**
Child care provided incidentally to the following activities undertaken for the benefit of children
 - (a) Clubs or classes sponsored by non-profit organisations (for example but not limited to, scouting, guide or cadet organisations) for children who are members or are training to become members of those organisations,
 - (b) Religious instruction, when it is provided to any one child for a period of less than two hours per week,
 - (c) Sporting events or the provision of training for sporting events,
 - (d) Social events, including attendance at entertainment or recreational events, or
 - (e) Instruction in or the exercising of skills (for example but not limited to, educational, deportment, artistic, musical, gymnastic or cultural instruction) when instruction is provided to any one child for a period of less than three hours per week
2. **Play Groups:**
Child care provided at play groups in which no adult is responsible for more than four children under 6 years of age
3. **Care During Meetings or Religious Services:**
Child care provided while a parent is attending a meeting or religious service on the same or nearby premises

Dated this 14th day of May 1987

G. SCHOLES
Minister of State for Territories