



Western Australia

# **Children and Community Services Regulations 2006**

Compare between:

[10 Aug 2007, 01-b0-03] and [01 Jan 2009, 01-c0-01]



Western Australia

Children and Community Services Act 2004

## **Children and Community Services Regulations 2006**

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Children and Community Services Regulations 2006*<sup>1</sup>.

**2. Commencement**

These regulations come into operation on the day on which section 250 comes into operation<sup>1</sup>.

**3. Terms used in these regulations**

In these regulations, unless the contrary intention appears —  
***President*** means the President of the Children’s Court;  
***section*** means a section of the Act.

## **Part 2 — Children in the CEO's care**

### **4. Approval of carers**

- (1) The CEO may approve an individual for the purposes of section 79(2)(a)(i) if —
  - (a) the CEO is satisfied that the individual —
    - (i) is able to provide care for a child in a way that promotes the wellbeing of the child, promotes the child's family and interpersonal relationships, and protects the child from harm;
    - (ii) is able to provide a safe living environment for a child;
    - (iii) is able to work cooperatively with officers, a child's family and other people when providing care for a child;
    - (iv) is able to take responsibility for the development of his or her competency and skills as a carer; and
    - (v) is a person of good character and repute; and
  - (b) a negative notice or an interim negative notice has not been issued to the individual under the *Working with Children (Criminal Record Checking) Act 2004*.
- (2) The CEO may, subject to subregulation (3), revoke an approval under subregulation (1) if —
  - (a) the CEO can no longer be satisfied as to a matter referred to in subregulation (1)(a) in relation to the individual;
  - (b) a negative notice or an interim negative notice has been issued to the individual under the *Working with Children (Criminal Record Checking) Act 2004*; or

- (c) there are reasonable grounds for believing that the approval was obtained improperly.
- (3) Before revoking an approval the CEO must —
  - (a) give a written notice to the individual —
    - (i) stating the reasons for the proposed revocation; and
    - (ii) informing the individual that the individual is entitled to make representations to the CEO in respect of the proposed revocation within 28 days after receipt of the notice;
  - and
  - (b) have regard to any representations made within the period referred to in paragraph (a)(ii).

**5. Records — prescribed information**

- (1) The following information is prescribed for the purposes of section 128 —
  - (a) the child's name;
  - (b) the child's date of birth and place of birth to the extent that such information is available;
  - (c) a copy of the child's care plan or provisional care plan and any modifications to it;
  - (d) information about the child's health, including a copy of any medical records and immunisation records —
    - (i) relating to the period in which the child is in the CEO's care; or
    - (ii) otherwise provided to the CEO;
  - (e) information about the child's education, including a copy of any school reports —
    - (i) relating to the period in which the child is in the CEO's care; or
    - (ii) otherwise provided to the CEO;

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- (f) information about the child's cultural, ethnic, religious and family background to the extent that such information is available;
  - (g) any other information considered by the CEO to be relevant to the child.
- (2) In subregulation (1)(c) —
- care plan* has the meaning given to that term in section 89(1);
  - provisional care plan* has the meaning given to that term in section 39(1).

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### Part 3 — Restraint, search and seizure

**6. Prescribed amount (s. 112 — definition of “disposable article”)**

For the purposes of paragraph (c) of the definition of “disposable article” in section 112 the amount of \$30 is prescribed.

**7. Officer to record use of restraint**

An authorised officer who restrains a child in the exercise of the power conferred by section 114 (the *incident*) must —

- (a) record the date and time of the incident; and
- (b) give the CEO a written report on the incident as soon as practicable after it occurs.

**8. How seized articles are to be dealt with**

- (1) In this regulation —  
*seized article* means a thing or substance seized under section 116.
- (2) This regulation applies if it is not reasonably practicable for an officer to return a seized article to a child.
- (3) The CEO may direct that the seized article be sold or destroyed or disposed of in some other way.
- (4) If the CEO issues a direction under subregulation (3), the officer must arrange for the sale, destruction or disposal of the seized article in accordance with the direction.
- (5) If the seized article is sold, the proceeds of the sale, after the deduction of the reasonable costs of the sale, must be credited to the Consolidated Account<sup>2</sup>.

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**Part 4A — Reporting sexual abuse of children**

*[Heading inserted in Gazette 9 Dec 2008 p. 5108.]*

**9A. Information to be included in report**

(1) In this regulation —

*report* and *reporter* have the respective meanings given in section 124A.

(2) For the purposes of section 124C(3)(e) a report is to contain the following information, to the extent that it is known to the reporter, in respect of any person alleged to be responsible for the sexual abuse —

(a) the person's name;

(b) the person's contact details;

(c) the person's relationship to the child.

*[Regulation 9A inserted in Gazette 9 Dec 2008 p. 5108.]*



## Part 4 — Pre-hearing conferences

### 9. Terms used in this Part

In this Part —

*audio link* means facilities, including telephones, that enable, at the same time, the convenor and other people present at a pre-hearing conference to hear a person at another place and vice versa;

*video link* means facilities that enable, at the same time, the convenor and other people present at a pre-hearing conference to see and hear a person at another place and vice versa.

### 10. Appointment of convenors

For the purposes of section 136 the President may appoint as a convenor —

- (a) a person by virtue of the office or position held by the person in the Court; or
- (b) a person who, in the opinion of the President, has appropriate qualifications and experience.

### 11. Tenure, terms and conditions of appointment

- (1) A convenor appointed under regulation 10(b) holds office for the period, not exceeding 3 years, specified in his or her instrument of appointment and is eligible for reappointment.
- (2) The remuneration, allowances, and other terms and conditions of appointment, of a convenor appointed under regulation 10(b) are as described in his or her instrument of appointment.

### 12. Resignation

A convenor appointed under regulation 10(b) may resign from office by giving the President a signed letter of resignation.

**13. Removal from office**

The President may remove a convenor appointed under regulation 10(b) from office at any time.

**14. People who may attend pre-hearing conference**

(1) The following people may attend a pre-hearing conference —

- (a) the child unless the convenor of the conference otherwise directs;
- (b) any other party to the protection proceedings;
- (c) a legal representative of a party to the protection proceedings;
- (d) a person allowed to attend under subregulation (2).

(2) The convenor of a pre-hearing conference may allow a person to attend the conference if the convenor considers that the person is significant in the child's life.

**15. Participation using video link, audio link, etc.**

The convenor of a pre-hearing conference must, if directed by the Court to do so, and may, in any other case, allow a person who is unable to attend the pre-hearing conference in person to participate in the conference by means of video link, audio link or other electronic means.

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## Part 5 — Reports about child

### 16. Terms used in this Part

In this Part —

*panel* means the panel of names referred to in regulation 18(1);

*report* has the meaning given to that term in section 138.

### 17. Appointment of people to provide reports

- (1) Unless subregulation (2) applies, a person referred to in section 139(1) is to be appointed from the panel.
- (2) If the Court considers that a report is required from a person with particular qualifications or experience and such a person is not on the panel, the Court may appoint for the purposes of section 139 a person who, in the opinion of the Court, has the necessary qualifications or experience.

### 18. President to establish panel

- (1) The President must establish and maintain a panel of names of people who —
  - (a) in the opinion of the President have appropriate qualifications and experience in one or more of the fields of medicine, psychology, psychiatry and social work; and
  - (b) are willing to be appointed for the purposes of section 139.
- (2) The President may remove the name of a person from the panel at any time.

### 19. Terms and conditions of appointment

The remuneration, allowances, and other terms and conditions of appointment, of a person appointed for the purposes of section 139 are as described in his or her instrument of appointment.

**20. Costs of report**

- (1) A party to protection proceedings is to pay the costs of a report given in those proceedings if the Court so orders.
- (2) The Court must not make an order under subregulation (1) unless it is satisfied that there are exceptional reasons for doing so.

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**Part 6 — Miscellaneous****21. Payments to enduring parental carers**

- (1) For the purposes of section 65 the scale of amounts set out in the Table to this subregulation is prescribed.

**Table**

<b>Age of child</b>	<b>Amount</b>
0 to 6 years of age	\$294.08
7 to 12 years of age	\$366.00
13 to 18 years of age	\$454.40

- (2) Payments of amounts prescribed under subregulation (1) are to be made at fortnightly intervals.

*[Regulation 21 amended in Gazette 7 Aug 2007 p. 4029.]*

**21A. Work prescribed for s. 191(4)**

Work that involves the collection of shopping trolleys at or in the vicinity of a shop or other retail outlet is prescribed for the purposes of section 191(4).

*[Regulation 21A inserted in Gazette 18 Aug 2006 p. 3367.]*

*[22-23A. Repealed in Gazette 7 Aug 2007 p. 4030.]*

## **Part 7 — Transitional arrangements**

### **24. Terms used in this Part**

In this Part —

*commencement day* means the day on which these regulations come into operation.

*[Regulation 24 amended in Gazette 7 Aug 2007 p. 4030.]*

*[25-28. Repealed in Gazette 7 Aug 2007 p. 4030.]*

### **29. Children in the CEO's care**

- (1) This regulation applies to a child if immediately before commencement day the child —
  - (a) was being cared for by a person pursuant to an arrangement made —
    - (i) by the Director-General as defined in the *Child Welfare Act 1947*<sup>3</sup> section 4(1); and
    - (ii) with the consent of a parent of the child;and
  - (b) was not the subject of an order or proceedings under the *Child Welfare Act 1947*<sup>3</sup>.
- (2) A child to whom this regulation applies is to be taken to be a child —
  - (a) who is in the CEO's care for the purposes of the Act Part 4; and
  - (b) to whom care is provided under a placement arrangement as defined in section 3.

## Notes

- <sup>1</sup> This is a compilation of the *Children and Community Services Regulations 2006* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Children and Community Services Regulations 2006</i>	18 Jan 2006 p. 353-72	1 Mar 2006 (see r. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
<i>Children and Community Services Amendment Regulations 2006</i>	1 Mar 2006 p. 927-9	1 Mar 2006
<i>Children and Community Services Amendment Regulations (No. 2) 2006</i>	18 Aug 2006 p. 3367-8	18 Aug 2006
<i>Children and Community Services Amendment Regulations (No. 3) 2006</i>	8 Dec 2006 p. 5369-70	8 Dec 2006
<b>Reprint 1: The Children and Community Services Regulations 2006 as at 2 Feb 2007</b> (includes amendments listed above)		
<i>Children and Community Services Amendment Regulations 2007</i>	7 Aug 2007 p. 4029-30	r. 1 and 2: 7 Aug 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Aug 2007 (see r. 2(b) and <i>Gazette</i> 9 Aug 2007 p. 4071)
<a href="#"><u><i>Children and Community Services Amendment Regulations 2008</i></u></a>	<a href="#"><u>9 Dec 2008</u></a> <a href="#"><u>p. 5107-8</u></a>	<a href="#"><u>r. 1 and 2: 9 Dec 2008</u></a> <a href="#"><u>(see r. 2(a));</u></a> <a href="#"><u>Regulations other than r. 1 and 2:</u></a> <a href="#"><u>1 Jan 2009 (see r. 2(b) and</u></a> <a href="#"><u><i>Gazette</i> 9 Dec 2008 p. 5107)</u></a>

- <sup>2</sup> Under the *Financial Legislation Amendment and Repeal Act 2006* Sch. 2 cl. 13 a reference to the Consolidated Fund may, where the context so requires, be read as if it had been amended to be a reference to the Consolidated Account. This reference was changed under the *Reprints Act 1984* s. 7(5)(a).
- <sup>3</sup> Repealed by the *Children and Community Services Act 2004* s. 250.