

Western Australia

**Children and Community Services
Regulations 2006**

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Children and Community Services Regulations 2006

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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*¹.

2. Commencement

These regulations come into operation on the day on which section 250 comes into operation¹.

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).

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 Account².

Part 4AA — Warrants

Heading inserted in Gazette 19 Jun 2009 p. 2226.]

9AA. Form of warrant (access)

A warrant (access) as defined in section 121(1) is to be in the form of Schedule 1 Form 1.

[Regulation 9AA inserted in Gazette 19 Jun 2009 p. 2226.]

9AB. Form of warrant (apprehension)

A warrant (apprehension) as defined in section 122(1) is to be in the form of Schedule 1 Form 2.

[Regulation 9AB inserted in Gazette 19 Jun 2009 p. 2226.]

9AC. Form of warrant (provisional protection and care)

A warrant (provisional protection and care) as defined in section 123(1) is to be in the form of Schedule 1 Form 3.

[Regulation 9AC inserted in Gazette 19 Jun 2009 p. 2226.]

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.

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

Age of child	Amount
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. Deleted 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. Deleted 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*³ 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*³.
- (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.

cl. 1

Schedule 1 — Forms of warrants

[r. 9AA, 9AB and 9AC]

[Heading inserted in Gazette 19 Jun 2009 p. 2226.]

1. Warrant (access)

In the Children’s Court at		Warrant (access)			
File No.					
To	All authorised officers.				
Details of child	Surname		Date of birth		
	Given names		Gender		
	Address				
Details of applicant	Name				
	Division				
	Address				
	Telephone		Fax		Email
Section	This warrant is issued under section <input type="checkbox"/> 34(3) <input type="checkbox"/> 52(4) <input type="checkbox"/> 135(5)				
Authority and directions	<p>This warrant authorises you —</p> <p>(a) to enter, at any time, any place where you reasonably believe the child to be; and</p> <p>(b) to search the place for the purpose of finding the child; and</p> <p>(c) to remain at the place for as long as you consider reasonably necessary to find the child; and</p> <p>(d) if the child is found, to remain at the place and have access to the child for as long as the officer considers reasonably necessary.</p>				

	This warrant must be executed in accordance with the <i>Children and Community Services Act 2004</i> section 124.			
Issuing details	Name of magistrate			
	Date		Time	
Magistrate's signature	Issued by me on the above date and at the above time.			Court seal
Execution details	Date		Time	
	Address			
	<input type="checkbox"/> The warrant was executed.			
	<input type="checkbox"/> The warrant could not be executed despite every reasonable effort.			
	<input type="checkbox"/> The warrant was not executed after the determination that access was no longer necessary.			
Authorised officer in charge of execution	Name			
	Position			
	Signature			

[Form 1 inserted in Gazette 19 Jun 2009 p. 2226-7.]

2. Warrant (apprehension)

In the Children's Court at	Warrant (apprehension)
File No.	

cl. 2

To	All authorised officers. All police officers.					
Details of child	Surname		Date of birth			
	Given names		Gender			
	Address					
Details of applicant	Name					
	Division					
	Address					
	Telephone		Fax		Email	
Section	This warrant is issued under section <input type="checkbox"/> 85(3) <input type="checkbox"/> 86(3)					
Authority and directions	<p>This warrant authorises you —</p> <p>(a) to enter, at any time, any place where you reasonably believe the child to be; and</p> <p>(b) to search the place for the purpose of finding the child; and</p> <p>(c) to remain at the place for as long as you consider reasonably necessary to find the child; and</p> <p>(d) if the child is found, to apprehend the child and —</p> <p>(i) in the case of a warrant issued under the <i>Children and Community Services Act 2004</i> section 85, to take the child to such place as the CEO directs; or</p> <p>(ii) in the case of a warrant issued under section 86 of that Act, to take the child to the place referred to in section 86(1) or such other place as the CEO directs.</p> <p>This warrant must be executed in accordance with the <i>Children and Community Services Act 2004</i> section 124.</p>					

Issuing details	Name of magistrate			
	Date		Time	
Magistrate's signature	Issued by me on the above date and at the above time.			Court seal
Execution details	Date		Time	
	Address			
	<input type="checkbox"/> The warrant was executed.			
	<input type="checkbox"/> The warrant could not be executed despite every reasonable effort.			
	<input type="checkbox"/> The warrant was not executed after the determination that apprehension of the child was no longer necessary.			
Authorised officer in charge of execution	Name			
	Position			
	Signature			

[Form 2 inserted in Gazette 19 Jun 2009 p. 2227-8.]

3. Warrant (provisional protection and care)

In the Children's Court at	Warrant (provisional protection and care)
File No.	
To	All authorised officers. All police officers.

cl. 3

Details of child	Surname		Date of birth		
	Given names		Gender		
	Address				
Details of applicant	Name				
	Division				
	Address				
	Telephone		Fax		Email
Section	This warrant is issued under section <input type="checkbox"/> 35(3) <input type="checkbox"/> 133(3)				
Authority and directions	<p>This warrant authorises you —</p> <p>(a) to enter, at any time, any place where you reasonably believe the child to be; and</p> <p>(b) to search the place for the purpose of finding the child; and</p> <p>(c) to remain at the place for as long as you consider reasonably necessary to find the child; and</p> <p>(d) if the child is found, to take the child into provisional protection and care and to such place as the CEO directs.</p> <p>This warrant must be executed in accordance with the <i>Children and Community Services Act 2004</i> section 124.</p>				
Issuing details	Name of magistrate				
	Date		Time		
Magistrate's signature	Issued by me on the above date and at the above time.			Court seal	

Execution details	Date		Time	
	Address			
	<input type="checkbox"/> The warrant was executed.			
	<input type="checkbox"/> The warrant could not be executed despite every reasonable effort.			
<input type="checkbox"/> The warrant was not executed after the determination that taking the child into provisional protection care was no longer necessary.				
Authorised officer in charge of execution	Name			
	Position			
	Signature			

[Form 3 inserted in Gazette 19 Jun 2009 p. 2228-9.]

Notes

- ¹ 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
Reprint 1: The Children and Community Services Regulations 2006 as at 2 Feb 2007 (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)
<i>Children and Community Services Amendment Regulations 2008</i>	9 Dec 2008 p. 5107-8	r. 1 and 2: 9 Dec 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2009 (see r. 2(b) and <i>Gazette</i> 9 Dec 2008 p. 5107)
<i>Children and Community Services Amendment Regulations 2009</i>	19 Jun 2009 p. 2225-9	r. 1 and 2: 19 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Jun 2009 (see r. 2(b))

- ² 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).

- ³ Repealed by the *Children and Community Services Act 2004* s. 250.