
COMMUNITY DEVELOPMENT

CX301*

Working with Children (Criminal Record Checking) Act 2004

Working with Children (Criminal Record Checking) Amendment Regulations 2006

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Working with Children (Criminal Record Checking) Amendment Regulations 2006*.

2. Commencement

These regulations come into operation on the day on which the *Children and Community Services Act 2004* section 250 comes into operation.

3. The regulations amended

The amendments in these regulations are to the *Working with Children (Criminal Record Checking) Regulations 2005**.

[* *Published in Gazette 21 December 2005, p. 6189-214.*]

4. Regulation 10 amended

- (1) Regulation 10(1) is amended by deleting “and (3),” and inserting instead —
“ , (3) and (3a), ”.
- (2) Regulation 10(3) is amended by deleting “If” and inserting instead —
“ Subject to subregulation (3a), if ”.
- (3) After regulation 10(3) the following subregulation is inserted —
“
 - (3a) If a provision of the Act would, but for this regulation, apply to, or in relation to a person, from 2 or more different days and those days are provided under regulations 16 and 22 then the provision is to apply to, or in relation to, the person —
 - (a) from the day that applies under regulation 22;
or”

- (b) from the day that is earliest in time, if the person has more than one child-related job.

”.

5. Regulation 11 amended

Regulation 11(1) is amended as follows:

- (a) by deleting “or” after paragraph (a);
 (b) by inserting after paragraph (a) —

“

- (aa) if the applicant for the notice is a person carrying out child-related business specified in regulation 21(2), 4 months;
 (ab) if the applicant for the notice is a person who is employed in child-related employment specified in regulation 21(3), 4 months; or

”.

6. Regulation 19 amended

After regulation 19(3)(b) the following paragraph is inserted —

“

- (ba) referred to in section 6(1)(a)(vii) in connection with the performance by an officer, as defined in the *Children and Community Services Act 2004* section 3, of a function given to the officer under that Act;

”.

7. Regulations 21 and 22 inserted

After regulation 20 the following regulations are inserted —

“

21. Work in connection with a child care service (s. 57(1), 60(2) and 61)

- (1) For the purpose of section 57(1), section 24(b) applies to a person who starts to carry on a child-related business referred to in section 6(1)(a)(i) in connection with a child care service on or after 1 January 2007, from when the person starts to carry on the business.
- (2) For the purpose of section 57(1), section 24(b) applies to a person who carries on a child-related business referred to in section 6(1)(a)(i) in connection with a child care service before 1 January 2007 and who —
- (a) immediately before the commencement of the *Children and Community Services Act 2004* section 250 was the holder of a licence or a permit issued under the *Community Services Act 1972* section 17B; or

- (b) holds a licence, or is a managerial officer in relation to a body corporate that holds a licence, under the *Children and Community Services Act 2004* Part 8,

from the day on which the term of the licence or permit expires.

- (3) Sections 22(4) and 24(a) do not apply in relation to a person who is employed in child-related employment referred to in section 6(1)(a)(i) in connection with a child care service before 1 January 2007 until —

- (a) in the case of a person who has produced, or given, to a licensee or permit holder —
 - (i) a current criminal record check for the person under the *Community Services (Child Care) Regulations 1988* regulation 37A(1); or
 - (ii) a copy of a current criminal record check for the person under the *Community Services (Outside School Hours Care) Regulations 2002* regulation 42(1),

the day that —

- (iii) is on or after 1 January 2007; and
 - (iv) is 2 years after the day on which a check or copy was produced, or given, to the licensee or permit holder;
- (b) in the case of a person who has before 1 January 2007 given a licensee a copy of a current criminal record check under the *Children and Community Services (Early Childhood Care) Regulations 2006* regulation 28(1) or the *Children and Community Services (Outside School Hours Care) Regulations 2006* regulation 27(1), 2 years after the day on which the copy was given to the licensee;
 - (c) in the case of a person who is the subject of a criminal record check provided by a licensee under the *Children and Community Services (Early Childhood Care) Regulations 2006* regulation 11(3) or 12(3) or (4), the day on which the term of the licence of the licensee expires;
 - (d) in the case of a person who —
 - (i) is the subject of a criminal record check provided by a licensee under the *Children and Community Services*

(Early Childhood Family Day Care) Regulations 2006 regulation 11(3)(a); or

- (ii) is to be taken to have been appointed to act in place of the licensee with the approval of the CEO under the *Children and Community Services (Early Childhood Family Day Care) Regulations 2006* regulation 11(7),

the day that —

- (iii) is on or after 1 January 2007; and
 - (iv) is 2 years after the day on which a check or copy was produced, or given, to the licensee or permit holder;
- (e) in the case of a person who is the subject of a criminal record check provided by a licensee under the *Children and Community Services (Outside School Hours Care) Regulations 2006* regulation 12(3) or 13(3) or (4), the day on which the term of the licence of the licensee expires; or
 - (f) in the case of a person who —
 - (i) is the subject of a criminal record check provided by a licensee under the *Children and Community Services (School Age Family Day Care) Regulations 2006* regulation 12(3)(a); or
 - (ii) is to be taken to have been appointed to act in place of the licensee with the approval of the CEO under the *Children and Community Services (School Age Family Day Care) Regulations 2006* regulation 12(7),

the day that is on or after 1 January 2007 on which the term of a licence of the licensee expires.

- (4) Sections 22(4) and 24(a) do not apply in relation to a person who starts to be employed in child-related employment referred to in section 6(1)(a)(i) in connection with a child care service on or after 1 January 2007, until the person starts to be so employed.

22. Work in connection with a placement arrangement under the *Children and Community Services Act 2004* (s. 57(1) and 60(2))

- (1) For the purpose of section 57(1), section 24(b) applies to a person who carries on a child-related business referred to in section 6(1)(a)(vi) in connection with a

placement arrangement under the *Children and Community Services Act 2004* —

- (a) from 1 January 2008, if the person starts to carry on the business before 1 January 2007; or
 - (b) from when the person starts to carry on the business, if the person starts to carry on the business on or after 1 January 2007.
- (2) For the purpose of section 60(2), sections 22(6) and 24(b) apply in relation to a person who is being employed in child-related employment referred to in section 6(1)(a)(vi) in connection with a placement arrangement under the *Children and Community Services Act 2004* —
- (a) from 1 January 2008, if the person starts to be employed in the employment before 1 January 2007; or
 - (b) from when the person starts to be employed in the employment, if the person starts to be so employed on or after 1 January 2007.

”.

8. Schedule 1 amended

- (1) Schedule 1 is amended by inserting before clause 1 the following clause —

“

1a. Child care services (s. 6(1)(a)(i))

Work —

- (a) referred to in section 6(1)(a)(i) in connection with a child care service; and
- (b) carried out on a voluntary basis by a parent of a child —
 - (i) to whom the service is being provided; or
 - (ii) who is enrolled for, or otherwise ordinarily is provided with, the service.

”.

- (2) Schedule 1 is amended by deleting item 13 and inserting instead the following item —

“

13. Community kindergartens, educational institutions, coaching or private tuition services and overnight camps (s. 6(1)(a)(ii), (iii), (iv) and (xv))

Work —

- (a) referred to in section 6(1)(a)(ii), (iii) or (iv) in connection with —
 - (i) a community kindergarten registered under the *School Education Act 1999* Part 5;
 - (ii) an educational institution for children; or

- (iii) a coaching or private tuition service;
- or
- (b) referred to in section 6(1)(a)(xv) in connection with an overnight camp arranged by a kindergarten, educational institution or service referred to in paragraph (a),

and carried out by a person who is a member of the Western Australian College of Teaching established under the *Western Australian College of Teaching Act 2004*.

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By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.