

Western Australia

## **School Premises Regulations 1981**

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# **School Premises Regulations 1981**

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## **NOTES**

Western Australia

EDUCATION ACT 1928

## **School Premises Regulations 1981**

Made by the Minister for Education under sections 28 and 28A.

### **1. Citation**

These regulations may be cited as the *School Premises Regulations 1981*.

## Part I — Preliminary

## 2. Interpretation

In these regulations, unless the contrary intention appears —

**“licence”** means a licence granted under section 6B of the Act to a person for the use of real or personal property vested in the Minister;

“park” includes the standing of a vehicle which is occupied, except where the vehicle is standing for the purpose of taking up or setting down passengers or goods;

**“principal”** means the person for the time being in charge of a Government school;

**“school premises”** means —

(a) all lands which are —

(i) vested in, or under the control and management of, the Minister or both; and

(ii) used for or in connection with a Government school; and

(b) all buildings, structures and erections, whether temporary or permanent, standing or being on lands described in paragraph (a), and includes any school premises for which a committee of management has been appointed as mentioned in regulation 22;

“vehicle” means

(a) a motor car, motor truck, omnibus, minibus, motor cycle, motor scooter, bicycle, trailer or caravan; and

(b) in addition, any vehicle described in the First Schedule to the *Road Traffic Act 1974*

[Regulation 2 amended in Gazette 24 December 1996 p 7110.]

## **Part II — Trespass on school premises**

### **3. Persons who may be on school premises**

- (1) A person who, without authority, enters or remains on any part of school premises commits an offence and is liable to a fine not exceeding \$40.
- (2) Subject to this regulation and to regulations 4 (7), 5 (7) and 14 the following persons, and no others, have authority to enter and remain on school premises for the purposes of subregulation (1) —
  - (a) any person required or authorised to be on the premises as a student or teacher or person giving religious instruction to students;
  - (b) any person involved in or attending at an activity or gathering on the school premises, being an activity or gathering for which permission has been given by the principal;
  - (ba) any person who, under a licence, enters or remains on a part of the school premises;
  - (c) any person attending to official or other lawful business on the school premises;
  - (d) any person visiting the school as provided in subregulation (4).
- (3) The authority conferred by subregulation (2) is limited —
  - (a) to entering or remaining on school premises at or for a reasonable or appropriate time or period; and
  - (b) where paragraph (b) thereof applies, to that part of the school premises specified by the principal when granting permission under that paragraph or, in other cases, that part of the school premises reasonably associated with the status, pursuits or business of the person asserting that he has authority under subregulation (2); and

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- (c) where paragraph (b) thereof applies, to persons acting in compliance with the terms and conditions of the permission; and
- (d) where paragraph (ba) thereof applies, to persons acting in accordance with the terms and conditions of the licence.

(4) With the permission of the principal of a school, a person may visit the school premises during the hours of instruction for the purpose of observing how the school is conducted, but may not take part or attempt to take part in the work of the school.

(5) A person who has authority to be on school premises under subregulation (2) (c) shall not interview any teacher about a complaint against that teacher or another teacher without obtaining the permission of the principal to do so; but a person who contravenes this provision does not thereby cease to have authority to remain on school premises unless he is required to leave the premises under regulation 14.

(6) Where the Parents and Citizens Association of a school has provided facilities for the school, the principal shall not under subregulation (2) (b) withhold permission for an activity or gathering of the Association in or on those facilities unless exceptional circumstances require that he do so; and where an application for the use of such facilities is made by any person in competition with an application by the Association the principal shall give priority to the Association.

*[Regulation 3 amended in Gazette 24 December 1996 p.7110.]*

**4. Principal may prohibit person from entering school premises**

(1) Subject to regulation 22, where any person has been convicted of an offence —

- (a) against these regulations in respect of any school premises; or

(b) against any other enactment and the wrongful act or omission was committed on or in respect of any school premises,

the principal of the school may, by order in writing (in this regulation called a **“prohibition order”**) served personally on that person, prohibit him from entering those premises, except with the permission of the principal for the time being of the school, during such period as may be specified in the order, but not exceeding the period of 3 months after the date of the conviction.

(2) The principal may at any time vary or revoke a prohibition order by further order served personally on the person against whom it was made, but no variation may extend the period of operation of an order.

(3) A prohibition order shall not be made against a person who is authorised or required to enter school premises as a student or teacher or person giving religious instruction to students, and if an order is in force against a person who becomes authorised or required to so enter it ceases to have effect as from the time when he becomes so authorised or required.

(4) A prohibition order may provide for exceptions to the prohibition in certain specified circumstances and every order shall be deemed to provide for an exception where entry to school premises is necessary to prevent or mitigate injury to a person or damage to property.

(5) On the expiry of a prohibition order one, and only one, further order may be made under subregulation (1), for a further period not exceeding 3 months from such expiry, on the ground of any conviction which occurred before the date on which the expiring order was made.

(6) A person against whom a prohibition order has been made may at any time while it is in force request the chief executive officer to review the order, and upon such a review the chief executive

officer may confirm or revoke the order and may, where he revokes the order, make a new order and any further order under subregulation (2) or (5) as if the powers of a principal under this regulation were vested in him.

- (7) Paragraphs (b), (ba), (c) and (d) of regulation 3 (2) do not apply to a person against whom a prohibition order is in force except to the extent that the principal otherwise permits under subregulation (1) or an exception applies pursuant to subregulation (4).
- (8) In subregulation (1) “convicted of an offence” includes a conviction entered following a plea of guilty and any finding of guilt for which no punishment is imposed by the court.

*[Regulation 4 amended in Gazette 30 December 1988 p.5112; 24 December 1996 p.7110.]*

**5. Principal may close part of school premises**

- (1) Subject to regulation 22, where the safety or protection of life or of the school premises so requires the principal may by order in writing prohibit all persons while the order is in force from entering any specified part of school premises (in this regulation called “the closed area”), except with the permission of the principal.
- (2) Copies of an order made under subregulation (1) and any variation thereof shall be prominently displayed in and around the closed area and sufficient signs shall be erected and maintained indicating that entry to the area is prohibited except with the permission of the principal.
- (3) The principal may at any time, by further order, vary or revoke an order under subregulation (1).
- (4) An order under subregulation (1) may provide for general exceptions to the prohibition and every order shall be deemed to provide for an exception where entry to the closed area is

necessary to prevent or mitigate injury to a person or damage to property.

- (5) Any person may at any time request the chief executive officer to review an order under subregulation (1), and upon such a review the chief executive officer may confirm or revoke the order and may, where he revokes the order, make a new order and any further order under subregulation (3) as if the powers of a principal under this regulation were vested in him.
- (6) Any person who is present in a closed area shall leave the area as soon as is reasonably practicable after being notified of the making of an order under subregulation (1) unless he is authorised to remain therein by the order or by permission of the principal under subregulation (1).
- (7) Regulation 3 (2) does not apply so as to authorise any person to enter or remain on any part of school premises which is for the time being a closed area except to the extent that the order otherwise provides or the principal otherwise permits under subregulation (1).

[Regulation 5 amended in Gazette 30 December 1988 p.5112.]

## **Part III — Conduct prohibited on school premises**

### **6. Threatening, abusing or insulting teacher**

A person who —

- (a) uses any threatening, abusive or insulting language towards a teacher acting in his capacity as an officer of the department; and
- (b) does so on school premises and in the presence or hearing of any group of students of the school,

commits an offence and is liable to a fine not exceeding \$200.

*[Regulation 6 amended in Gazette 30 December 1988 p.5112.]*

### **7. Defacing school premises**

A person who, without the permission of the principal —

- (a) posts, paints or otherwise affixes any placard, paper, notice, advertisement or other written, printed, or graphic matter; or
- (b) writes, draws or paints,

on or to any building, structure or tree on school premises or otherwise defaces any such building, structure or tree, commits an offence and is liable to a fine not exceeding \$40.

### **8. Lighting fire or bringing explosive on school premises**

A person who, without the permission of the principal —

- (a) lights a fire on any part of school premises; or
- (b) brings, or allows to be brought, on to any part of school premises any bomb or other explosive substance,

commits an offence and is liable to a fine not exceeding \$200.

**9. Bringing animal on school premises**

A person who, without the permission of the principal, brings any animal on to school premises commits an offence and is liable to a fine not exceeding \$20.

**10. Having intoxicating liquor on school premises**

- (1) Subject to subregulation (2) of this regulation, a person who consumes, or has in his possession, any alcoholic liquor on school premises commits an offence and is liable to a fine not exceeding \$200.
- (2) Subregulation (1) does not apply to a person who consumes or has in his possession any alcoholic liquor on school premises under and in accordance with permission granted in that behalf by the principal.

*[(3) repealed]*

*[Regulation 10 amended by Gazettes 27 August 1982 p.3440; 30 December 1988 p.5112; 24 December 1996 p.7110.]*

**11. Driving vehicle off roadways and parking areas**

Where any area on school premises is clearly set apart and marked as a roadway or for the parking of vehicles, a person who, without the permission of the principal or other lawful excuse, drives, brings, or parks a vehicle on the school premises except on such an area commits an offence and is liable to a fine not exceeding \$80.

**12. Exceeding speed limit or driving in dangerous or inconsiderate manner**

A person who drives a vehicle on school premises —

- (a) at a speed exceeding 20 kilometres per hour or exceeding any lower speed indicated in accordance with regulation 13; or
- (b) in a dangerous or careless manner; or

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- (c) without reasonable consideration for other persons in the vicinity, commits an offence and is liable, in the case of an offence against paragraph (b), to a fine not exceeding \$200 and in the case of an offence against paragraph (a) or (c) to a fine not exceeding \$80.

**13. Disobeying traffic sign**

- (1) The principal may cause to be erected on school premises any sign or notice clearly indicating any reasonable restriction or requirement of a kind described in subregulation (2) to be complied with by any person using, driving, or parking a vehicle on the premises.
- (2) The restrictions or requirements referred to in subregulation (1) shall relate only to the regulation of traffic including provision as to the speed of, manner of driving, and the parking and standing of vehicles, and the routes, entrances and exits to be used for them.
- (3) A person who, without the permission of the principal or other lawful excuse, fails to comply with a sign erected and maintained in conformity with subregulation (1) commits an offence and is liable to a fine not exceeding \$40.

## **Part IV — Enforcement**

### **14. Suspected offender to identify himself and leave premises if required**

- (1) A principal or police officer may require a person whom he reasonably suspects —
  - (a) to have committed an offence against these regulations or to have contravened regulation 3 (5); or
  - (b) to have materially disrupted, or to be likely to materially disrupt, the discipline or good order of any class on school premises; or
  - (c) to have used threatening, abusive or insulting language towards a teacher acting in his capacity as an officer of the department,

to forthwith —

  - (d) state his name and usual place of residence; and
  - (e) effectually leave, and remain away from for the time being, the school premises or such part thereof as the principal or police officer may specify.
- (2) A person who —
  - (a) fails to comply with a requirement directed to him under subregulation (1); or
  - (b) in response to a requirement mentioned in paragraph (d) thereof knowingly gives any false or misleading information,

commits an offence and is liable to a fine not exceeding \$40.
- (3) A person to whom a requirement under subregulation (1) (e) is directed shall comply with it notwithstanding that his entry on to the school premises was authorised by regulation 3.

*[Regulation 14 amended in Gazette 30 December 1988 p.5112.]*

**15. Principal may cause offending vehicle to be moved or removed**

- (1) The principal may authorize a person to remove from the school premises, or to move within the school premises, to a place specified by the principal any vehicle —
  - (a) which is parked in breach of regulation 11 or contrary to a sign or notice conforming with regulation 13; or
  - (b) which appears to the principal to have been abandoned.
- (2) A person authorized by the principal under subregulation (1) may do all such things as may be reasonably necessary to move or remove the vehicle including breaking into, driving, or towing it, and neither he, nor the principal, shall be liable for any loss of or damage to the vehicle which occurs without negligence or wilful misconduct on his part.
- (3) The Minister may, in a court of competent jurisdiction, recover from the owner of a vehicle all costs and expenses reasonably incurred in the moving or removing of a vehicle in accordance with this regulation and any person may, on the instructions of a principal, refuse to deliver possession of the vehicle to the owner until such costs and expenses are paid.

**16. Proceedings may be taken in name of chief executive officer**

- (1) Proceedings before a court under any provision of these regulations may be instituted and taken by the chief executive officer or any authorized person.
- (2) For the purposes of subregulation (1) “authorized person” means —
  - (a) a police officer; or
  - (b) an officer of the department appointed in writing by the chief executive officer as an authorized person,

and where the proceedings are instituted by a person referred to in paragraph (b) he shall be deemed to have been appointed in conformity with paragraph (b) unless the contrary is shown.

*[Regulation 16 inserted by Gazette 11 January 1985 p.218; amended in Gazette 30 December 1988 p.5112.]*

**17. Defences**

- (1) Where a person is charged under these regulations with entering or remaining on any part of school premises without authority or with doing any act without the permission of the principal or the chief executive officer or a committee referred to in regulation 22 it shall be a defence if he shows —
  - (a) where it is established that he entered or remained on any part of school premises without authority under these regulations, that he believed that he had such authority;
  - (b) where it is established that an activity or gathering was held or continued on any part of school premises without permission under these regulations, that he believed that it was so permitted and that the permission continued in force at the relevant time;
  - (c) where it is established that he did or continued any act without permission under these regulations, that he believed that the act was so permitted and that the permission continued in force;
  - (d) where it is established that he did not comply with a term or condition of the permission —
    - (i) that he was not aware, and could not reasonably be expected to have been aware, of that term or condition; or
    - (ii) that he took all steps reasonably available to him to observe or perform the condition.
- (2) Nothing in this regulation affects the operation of section 72 of the *Justices Act 1902*.

*[Regulation 17 amended in Gazette 30 December 1988 p.5112.]*

**18. Offender may be ordered to pay compensation for damage done**

- (1) Where a person is convicted of an offence against regulation 7, 8, 9, 11, 12 or 13 the court may instead of, or in addition to, imposing any penalty order the offender to pay to the Minister such sum as the court thinks reasonable by way of compensation for the damage done by the wrongful act or omission, but not exceeding \$500 in respect of any one offence.
- (2) Where an order is made under subregulation (1) the amount ordered to be paid may be recovered as a judgment debt in a court of competent jurisdiction.
- (3) Nothing in this regulation affects any other remedy for the recovery of damages or compensation for a wrongful act or omission referred to in subregulation (1).

*[Regulation 18 amended in Gazette 24 December 1996 p.7111.]*

## **Part V — Miscellaneous**

### **19. Chief Executive Officer may issue instructions to principals**

- (1) The chief executive officer may, generally or in any particular case, issue instructions to principals or to any principal or class of principals as to the exercise and performance, and the manner of the exercise and performance, of any of their or his functions, powers, and duties under these regulations.
- (2) A principal, and every person to whom he has delegated any function, power, or duty under regulation 21, shall comply with any instruction given to him under subregulation (1) but a failure to do so shall not of itself invalidate anything done or omitted by the principal or his delegate which is contrary to or inconsistent with the direction.

*[Regulation 19 amended in Gazette 30 December 1988 p.5112.]*

### **20. General provisions as to permissions**

- (1) Where in regulations 3 (2) (b), 3 (4), 3 (5), 4 (1), 5 (1), 7, 8, 9, 10 (2), 11, and 13 (3) provision is made whereby any act may be done of any activity or gathering may be held only with the permission of the principal, or whereby if any act is done without the permission of the principal an offence is committed, the principal may refuse permission or, in the exercise of the power to grant permission may —
  - (a) grant permission generally or for a specific instance;
  - (b) grant permission on and subject to reasonable terms and conditions including provision as to —
    - (i) the part of the school premises which may be entered or used;
    - (ii) the class or description of persons to whom the permission extends or, where regulation 3 (2) (b) applies, who may attend the activity or gathering,

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and the principal may amend or revoke a permission which has been granted.

- (2) A permission referred to in subregulation (1) shall be in writing and shall be obtained before the act is done or the activity or gathering is held.
- (3) Where a permission has been given to a person subject to any condition the permission shall be deemed, in any prosecution against that person, to have lapsed during any period when the condition was not observed or performed according to its tenor by that person, unless he exculpates himself as provided in regulation 17 (d) (ii).
- (4) This regulation applies to the exercise of its powers by a committee referred to in regulation 22 where, by operation of that regulation, a reference to the permission of a principal is to be read as a reference to the permission of both the principal and such a committee.
- (5) Where in regulations 7, 8, 9, 10 (2), 11 and 13 (3) provision is made whereby any act may be done only with the permission of the principal, or whereby if any act is done without the permission of the principal an offence is committed, a reference in those provisions and in regulation 17 (1) to the permission of the principal includes a reference to being authorized under a licence to the extent that the terms and conditions of the licence allow the act to be done.

*[Regulation 20 amended by Gazettes 27 August 1982 p.3440; 30 December 1988 p.5112; 24 December 1996 p.7111.]*

**21. Delegation by principal**

- (1) A principal may, either generally or as otherwise provided by the instrument of delegation, by writing under his hand —
  - (a) delegate to any person approved by the chief executive officer his powers to grant permission under regulations 3 (2) (b), 3 (4), 3 (5), 4 (1), 5 (1), 7, 8, 9, 10 (2), 11, and 13 (3) or any of those powers; and

(b) with the prior approval of the chief executive officer, delegate to any person approved by the chief executive officer the powers of enforcement conferred on him by regulations 14 (1) and 15 (1) or either of those powers; and may do so subject to any condition or exception, and may vary or revoke the delegation.

(2) A power so delegated, when exercised by the delegate shall, for the purposes of these regulations, be deemed to have been exercised by the principal.

(3) A delegation under this regulation does not prevent the exercise of a power by the principal.

(4) A principal who delegates any power shall ensure that all relevant instructions given by the chief executive officer under regulation 19 are brought to the attention of the delegate.

*[Regulation 21 amended in Gazette 30 December 1988 p.5112; 24 December 1996 p.7111.]*

**22. Particular provisions as to school premises for which local authority has appointed management committee**

(1) Where facilities have been provided on a part of school premises by means of funds wholly or partially provided by a local government and a committee has been appointed under the *Local Government Act 1995* to manage such facilities, references in these regulations to a principal shall be read as references to both the principal and such a committee for the purposes of —

(a) the giving of permission for an activity or gathering referred to in regulation 3 (2) (b) which is to take place on that part of the school premises;

- (b) the making, variation or revocation of a prohibition order under regulation 4 in respect of that part of the school premises (which order shall not be reviewable under regulation 4 (6)), or the giving of permission under regulation 4 (1) where such an order is in force;
- (c) the making, variation, or revocation of an order under regulation 5 in respect of that part of the school premises (which order shall not be reviewable under regulation 5 (5)) or the giving of permission under regulation 5 (1) where such an order is in force; and
- (d) the application of regulations 7, 8, 9, or 11 to any act or omission on, or in respect of, that part of the school premises.

*[(2) repealed by Gazette 27 August 1982 p.3440.]*

- (3) Subject to subregulation (4), the signature of the chairman or a member of a committee referred to in subregulation (1) to an order or permission which the committee is empowered to make or give shall be sufficient to authenticate the fact that the committee has duly made the order or given the permission, without the need for the same to be signed by every member of the committee.
- (4) A committee referred to in subregulation (1) may, either generally or as otherwise provided by the instrument of delegation, in writing under the hand of the chairman delegate to the principal for the time being of the school in which the facilities managed by the committee are situated all or any of the powers and functions vested in it by this regulation, other than this power of delegation; and the committee may do so subject to any condition or exception, and may vary or revoke the delegation.
- (5) A power so delegated, when exercised by the principal shall, for the purposes of these regulations, be deemed to have been exercised by the committee.

*[Regulation 22 amended in Gazette 24 December 1996 p.7111.]*

**23. Repeals**

The *Education Act Regulations 1960*<sup>2</sup> are amended —

- (a) by repealing —
  - (i) regulation 49; and
  - (ii) Division 8 of Part III; and
- (b) in regulation 275 by deleting “Halls, sports ovals, tennis courts, public” and substituting the following —

“

Public

”.

**24. Transitional provisions**

- (1) A permission which is in force under regulation 49 of the *Education Act Regulations 1960* immediately before the commencement of these regulations shall have effect, according to its tenor, for the purposes of regulation 3 (2) (b) or 22 (2) of these regulations, as the case may be.
- (2) A permission of the nature referred to in regulation 7, 8, 9, 10 (2), 11 or 13 (3) which is in force immediately before the commencement of these regulations shall have effect, according to its tenor, for the purposes of such regulation.
- (3) An order may be made under regulation 4 (1) only on the ground of a conviction which occurs after the commencement of these regulations.
- (4) A sign or notice of the nature referred to in regulation 13 which is in existence immediately before the commencement of these regulations shall have effect for the purposes of that regulation.

## **Notes**

<sup>1</sup>. This is a compilation of the *School Premises Regulations 1981* and includes the amendments referred to in the following Table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>School Premises Regulations 1981</i>	28 Aug 1981 pp.3592-7	28 Aug 1981
	27 Aug 1982 p.3440	
	11 Jan 1985 p.218	
	30 Dec 1988 p.5112	
<i>School Premises Amendment Regulations 1996</i>	24 Dec 1996 pp.7109-11	1 Jan 1997 (see regulation 2)

<sup>2</sup> Reprinted in *Government Gazette* 19 March 1971.