Western Australia

Child Care Services Act 2007 [1]

# Child Care Services (Child Care) Regulations 2006

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# Child Care Services (Child Care) Regulations 2006

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Child Care Services (Child Care) Regulations 2006* [1].

*[Regulation 1 amended: Gazette 1 Mar 2006 p. 930; 7 Aug 2007 p. 4031.]*

### 2. Commencement

These regulations come into operation on the day on which the *Children and Community Services Act 2004* section 250 comes into operation [1].

### 3. Terms used

In these regulations, unless the contrary intention appears —

***care session*** means a discrete period during which children are in the care of a service;

***child care licence*** means a licence granted under section 13 authorising the provision of a service;

***class A contact staff member*** means a contact staff member who holds —

(a) a degree or diploma in early childhood care or early childhood education from a recognised Australian university or other tertiary institution; or

(b) an equivalent qualification as determined by the CEO;

***class A* contact staff member*** means a contact staff member who holds —

(a) a qualification referred to in the definition of class A contact staff member which includes a specialist course on the principles and practices of the care and education of children in the 0-24 months age range, in addition to practical experience of 100 hours (minimum) with children in that age range; or

(b) an equivalent qualification as determined by the CEO;

***class B contact staff member*** means a contact staff member who holds —

(a) a 2 year certificate in child care studies; or

(b) a diploma or associate diploma in child care; or

(c) an equivalent qualification as determined by the CEO;

***class B* contact staff member*** means a contact staff member who holds —

(a) a qualification referred to in the definition of class B contact staff member which includes a specialist course on the principles and practices of the care and education of children in the 0-24 months age range, in addition to practical experience of 100 hours (minimum) with children in that age range; or

(b) an equivalent qualification as determined by the CEO;

***class C contact staff member*** means a contact staff member who is —

*[(a) deleted]*

(b) the holder of a mothercraft nursing qualification; or

(c) the holder of an equivalent qualification as determined by the CEO;

***class D contact staff member*** means a person who does not hold a qualification referred to in the definitions of class A, A*, B, B*, C or E contact staff member;

***class E contact staff member*** means a person who has reached 18 years of age and —

(a) has at least 2 years' experience working in an early childhood care setting; or

(b) is the holder of —

(i) a Certificate III in Community Services (Children's Services); or

(ii) a qualification equivalent to that referred to in subparagraph (i) as determined by the CEO;

***contact staff member*** —

(a) means a person employed by the licensee to take direct care of enrolled children; and

(b) when the licensee is personally taking direct care of enrolled children, includes the licensee; and

(c) when a supervising officer is personally taking direct care of enrolled children, includes the supervising officer;

***current criminal record check*** means a criminal record check issued not more than 2 years before the material time;

***enrolled child***, in relation to a service, means a child for whom the service is provided;

***first aid qualification*** means a certificate or other document evidencing the successful completion of an approved first aid training course;

***licence*** means a child care licence;

***licensee*** means the holder of a licence;

***lunch period*** means a period of not more than 3 hours in any day during which contact staff members are permitted to have lunch breaks;

***on duty*** has the meaning given to that term in regulation 5;

***place*** means —

(a) the place specified in a licence as the place at which a service is authorised to be provided; and

(b) in relation to a licence application, the place at which the licence applicant proposes to operate the service to which the application relates;

***primary school age enrolled child*** means an enrolled child who is old enough to be required to be enrolled in an educational programme under the *School Education Act 1999* section 9(1) but who has not commenced a secondary programme;

***qualified rescuer*** means a person who holds at least one of the following qualifications —

(a) an RLSSA Aquatic Rescue Certificate;

(b) an RLSSA Bronze medallion;

(c) an RLSSA Swimming Teacher Rescue Certificate;

(d) a Surf Life Saving Western Australia Incorporated Bronze medallion;

(e) a qualification that is, in the opinion of the CEO, equivalent to a qualification referred to in paragraph (a), (b), (c) or (d);

***RLSSA*** means the Royal Life Saving Society — Australia, Western Australia Branch Inc.;

***secondary programme*** has the meaning given to that term in the *School Education Regulations 2000* regulation 3(1);

***section*** means a section of the Act;

***service*** means a child care service;

***staff member*** means a member of the staff of a service;

***volunteer*** means a person who is not a contact staff member and who has reached 18 years of age;

***water activity*** means swimming or any other activity in a body of water;

***working day*** means a day that is not a Saturday, Sunday, public holiday or public service holiday.

*[Regulation 3 amended: Gazette 1 Mar 2006 p. 930-1; 8 Dec 2006 p. 5370-2; 7 Aug 2007 p. 4031; 6 Jan 2012 p. 15; 5 Mar 2013 p. 1111.]*

## 4. Saving

Nothing in these regulations limits the operation of local laws made under the *Health (Miscellaneous Provisions) Act 1911* or the *Local Government Act 1995* or affects any lawful requirement of the FES Commissioner, as defined in the *Fire and Emergency Services Act 1998* section 3.

*[Regulation 4 amended: Gazette 2 Aug 2013 p. 3527; 10 Jan 2017 p. 179.]*

## 5. Term used: on duty

(1) A contact staff member is ***on duty*** if he or she is directly engaged in caring for enrolled children, but not if engaged in cleaning the place or in administrative or other duties.

(2) Subregulation (1) does not prevent a contact staff member who is on duty from undertaking minor incidental duties such as marking the roll for a care session or carrying out minor cleaning duties arising directly from the care of an enrolled child.

## 6. Child care services: section 4

(1) For the purposes of section 4, the age of 15 years and 6 months is prescribed.

(2) For the purposes of section 4(b), the services described in the *Education and Care Services National Regulations 2012* regulation 5(2)(c), (h) and (k) are prescribed as types of services to which the Act applies.

*[Regulation 6 inserted: Gazette 5 Mar 2013 p. 1111.]*

# Part 2 — Licences

## Division 1 — Prescribed matters

### 7. Prescribed qualifications: section 12(2)(c)

(1) For the purposes of section 12(2)(c), the following qualifications are prescribed as a qualification for an individual applicant —

(a) a degree or diploma in early childhood care or early childhood education from an Australian university or other tertiary institution;

(b) a 2 year certificate in child care studies;

(c) a diploma or associate diploma in child care;

(d) a mothercraft nursing qualification;

(e) a degree or diploma in education, social and behavioural sciences;

(f) a first aid qualification.

*[(2) deleted]*

*[Regulation 7 amended: Gazette 1 Mar 2006 p. 932; 7 Aug 2007 p. 4031; 6 Jan 2012 p. 15.]*

### 8. Prescribed details: section 33

For the purposes of section 33, the following details are prescribed —

(a) the name of the licensee;

(b) the name of the service;

(c) the location of the place at which the service is authorised to be provided;

(d) the period for which the licence has effect;

(e) the maximum number of children who may attend a care session and any other conditions to which the licence is subject under section 19(1).

*[Regulation 8 amended: Gazette 1 Mar 2006 p. 933; 7 Aug 2007 p. 4031.]*

## Division 2 — Licence applications and renewal applications

*[Heading inserted: Gazette 6 Jan 2012 p. 16.]*

### 9. Prescribed time for renewal applications

For the purposes of section 22(2)(b), the prescribed time is not less than 60 days before the licence expires.

*[Regulation 9 amended: Gazette 7 Aug 2007 p. 4031.]*

### 10. Documents and information to accompany licence application

(1) For the purposes of section 11(b) the following documents and information are prescribed —

(a) in the case of an individual applicant —

(i) a criminal record check on the applicant issued not more than 6 months before the date of the application; and

(ii) a copy of each qualification prescribed in regulation 7(1) that is held by the applicant; and

(iii) information about the time spent by the applicant engaged in children's or education services or in child development, administration and staff management;

(b) in the case of a corporate applicant, a criminal record check on each managerial officer of the applicant issued not more than 6 months before the date of the licence application;

(c) a financial assessment in the approved form;

(d) if the licence applicant is a company, a printout from the national database kept by the Australian Securities and Investments Commission containing up-to-date information obtained by the Commission about the company;

(e) if the licence applicant is an incorporated association, a copy of the certificate of incorporation of the association;

(f) a site plan, drawn to a scale of not less than 1:500, showing the location of each building at the place;

(g) a plan of the building or buildings at the place, drawn to a scale of not less than 1:100, showing the use to which each part of the building or buildings will be put;

(h) if the place has not previously been used for a child care service, any current certificate of classification relating to the place issued under the *Building Regulations 1989* Part 5 [2].

(2) Subregulation (1)(h) does not apply to a place that is owned by a public authority.

*[Regulation 10 inserted: Gazette 6 Jan 2012 p. 16-17.]*

## 11. Documents and information to accompany renewal application

(1) In this regulation —

***relevant period*** means —

(a) if the renewal application is the first renewal application in respect of the licence, the period since the licence was granted;

(b) in any other case, the period since the licence was last renewed.

(2) For the purposes of section 22(2)(c) the following documents and information are prescribed —

(a) in the case of a renewal application by an individual —

(i) a criminal record check on the renewal applicant issued not more than 6 months before the date of the application or evidence that a criminal record check has been applied for; and

(ii) a copy of each qualification prescribed in regulation 7(1) that is held by the renewal applicant unless the qualifications held by the renewal applicant have not changed in the relevant period and the application is accompanied by a statement to that effect;

(b) in the case of a renewal application by a body corporate that is not a public authority, a criminal record check on each managerial officer of the renewal applicant issued not more than 6 months before the date of the application or evidence that a criminal record check has been applied for;

(c) a financial assessment in the approved form;

(d) if the renewal applicant is a company, a printout from the national database kept by the Australian Securities and Investments Commission containing up-to-date information obtained by the Commission about the company unless that information has not changed in the relevant period and the renewal application is accompanied by a statement to that effect;

(e) if the renewal applicant is an incorporated association, a copy of the certificate of incorporation of the association unless that certificate has not changed in the relevant period and the renewal application is accompanied by a statement to that effect.

*[Regulation 11 inserted: Gazette 6 Jan 2012 p. 17-18.]*

*[**12.** Deleted: Gazette 6 Jan 2012 p. 17.]*

## Division 3 — Matters ancillary to licence applications

*[Heading amended: Gazette 6 Jan 2012 p. 18.]*

### 13. Referees

(1) If a licence application nominates referees for the licence applicant, those referees must include —

(a) a referee who knows the licence applicant and who has had experience in children's services; and

(b) a referee who is a previous employer of the licence applicant or who has worked with the licence applicant in a paid or unpaid capacity.

(2) A person is not eligible to act as a referee for a licence applicant if the person is —

(a) an employee of the licence applicant; or

(b) married, or related (including by marriage), to the licence applicant; or

(c) a de facto partner of the licence applicant; or

(d) another licence applicant or an applicant for an approval under the *Child Care Services Regulations 2007* Part 3A.

*[Regulation 13 inserted: Gazette 6 Jan 2012 p. 18.]*

*[**14.** Deleted: Gazette 6 Jan 2012 p. 18.]*

*[**15.** Deleted: Gazette 8 Dec 2006 p. 5373.]*

*[**16.** Deleted: Gazette 6 Jan 2012 p. 18.]*

## Division 4 — Surrenders

### 17. Surrender of licences

(1) A licensee may at any time by notice in writing to the CEO surrender the licence.

*[(2) deleted]*

*[Regulation 17 amended: Gazette 7 Aug 2007 p. 4032; 6 Jan 2012 p. 18.]*

# Part 3 — Obligations of licensee

## Division 1 — General obligations

### 18. Exemptions

(1) The CEO may, in special circumstances in a particular case, exempt a licensee from a provision of these regulations for the period, and subject to the conditions, if any, specified in the exemption.

(2) An exemption must —

(a) be in writing; and

(b) identify the provision of the regulations to which the exemption relates; and

(c) specify the period for which it is to be in force.

(3) An exemption may be expressed to be in force —

(a) for as long as the special circumstances set out in the exemption continue; or

(b) for as long as a condition specified in the exemption is complied with.

(4) The CEO may renew or revoke an exemption.

(5) An exemption stops being in force at the end of the period specified in it under subregulation (2)(c) unless it is sooner revoked.

(6) During the period an exemption is in force, the licensee must ensure that the exemption is displayed in a prominent position at or near the main entrance to the place.

Penalty: a fine of $2 000.

### 19. Notification of change of circumstances

(1) A licensee must immediately notify the CEO in writing if any of the following happens —

(a) the licensee ceases to occupy the place specified in the licence;

(b) if the licensee is an individual, the licensee is or will for any reason be unable for more than 30 consecutive working days to supervise and control on a day-to-day basis the provision of the service;

(c) if the licensee is a body corporate or public authority, the supervising officer dies, is dismissed, retires, resigns or becomes incapable of being responsible for the day-to-day supervision and control of the service;

(d) if the licensee is a body corporate or public authority, the supervising officer is or will for any reason be unable for more than 30 consecutive working days to supervise and control on a day-to-day basis the provision of the service;

(e) if the licensee is a body corporate, there is a change in the managerial officers of the body corporate;

*[(f) deleted]*

(g) the licensee becomes aware of any change to any other fact or circumstance relating to or affecting the provision of the service.

(2) The notice must include particulars of the change of circumstances, including, where relevant, the name and address of the new managerial officer.

(3) A new managerial officer referred to in subregulation (2) must, within 30 days of the date of the change —

(a) complete a form approved by the CEO and give it to the CEO; and

(b) give the CEO a current criminal record check on or relating to the officer.

Penalty: a fine of $2 000.

*[Regulation 19 amended: Gazette 1 Mar 2006 p. 933; 8 Dec 2006 p. 5373; 6 Jan 2012 p. 19.]*

**20. Notification of harm to enrolled child**

(1) A licensee must notify the CEO of —

(a) the death of an enrolled child during a care session and the circumstances in which the death occurred; and

(b) an injury to an enrolled child during a care session that results in the child being admitted to a hospital, the nature of the injury and the circumstances in which it occurred.

(1a) A licensee must notify the chief executive officer of the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004* of any allegation of abuse, neglect or assault, including sexual assault, of an enrolled child during a care session, or of an offence under *The Criminal Code* Chapter XXII committed against an enrolled child during a care session, that is made against the licensee, a managerial officer of the licensee, a staff member or a volunteer.

(2) A notification under subregulation (1) or (1a) must be given within one working day after the day on which the death or injury occurred or the allegation was made, as the case requires.

(3) A licensee must notify the chief executive officer of the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004* of the outcome of any investigation into an allegation referred to in subregulation (1a).

Penalty: a fine of $6 000.

*[Regulation 20 amended: Gazette 7 Aug 2007 p. 4032-3.]*

### 21. Visual images of enrolled child

(1) A licensee must ensure that a visual image of an enrolled child is not taken or recorded at the place without the written consent of the child's parent.

(2) A licensee must ensure that a visual image of an enrolled child taken or recorded at the place for the purpose of monitoring an enrolled child is not —

(a) transmitted on the Internet; or

(b) removed from the place.

(3) A licensee or staff member must not use a visual image of an enrolled child taken or recorded at the place for any purpose without the written consent of the child's parent.

(4) Subregulation (1) does not apply to the taking or recording of a visual image —

(a) by a licensing officer when exercising a power or performing a duty under the Act; or

(b) for the purpose of monitoring an enrolled child.

(5) Subregulation (3) does not apply to the use of a visual image for the purpose of monitoring an enrolled child.

Penalty: a fine of $3 000.

*[Regulation 21 amended: Gazette 8 Dec 2006 p. 5373.]*

## Division 2 — Staffing requirements

### 22. Presence of supervising officer at place

(1) For the purposes of section 18, the supervising officer may be absent from the place at which the service is provided at the times when the service is provided —

(a) to accompany enrolled children on an excursion; or

(b) for not more than 2 consecutive days if the absence is due to illness or injury; or

(c) in an emergency situation; or

(d) to undertake continuing professional development in matters relating to child care; or

(e) to attend a meeting or other event that is relevant to the supervision and control of the service; or

(f) to obtain or eat a meal; or

(g) to attend to other duties relevant to the provision of the service such as banking and shopping for food or drinks.

(2) Despite the supervising officer for a service being absent from the place at which the service is provided for a reason referred to in subregulation (1), the supervising officer must be present at the place for —

(a) not less than 25 hours per week in any week during which the service is provided; or

(b) 70% of the time for which the service is provided during a week,

whichever is the lesser.

*[Regulation 22 amended: Gazette 1 Mar 2006 p. 931, 932 and 933; 7 Aug 2007 p. 4033.]*

**23. Staff supervision of enrolled children**

(1) A licensee must ensure that the contact staff members on duty supervise the enrolled children in a manner that is sufficient to ensure the wellbeing of the children and is appropriate to —

(a) the children's stage of development; and

(b) the activity in which the children are engaging.

(2) Without limiting subregulation (1), a licensee must ensure that an ill or injured child is adequately supervised by a staff member with a first aid qualification.

(3) If there are not more than 4 enrolled children in attendance at a care session, the licensee must ensure that the children are

supervised by at least one person who has reached 18 years of age.

(4) If there are 5 or more enrolled children in attendance at a care session, the licensee must ensure that the children are supervised by at least 2 contact staff members, one of whom must —

(a) have reached 18 years of age; and

(b) be a class A, B or C contact staff member.

Penalty: a fine of $6 000.

*[Regulation 23 amended: Gazette 8 Dec 2006 p. 5374.]*

**24. Staff under 18 years of age**

In employing contact staff members for the purpose of complying with regulation 81(1), (2) or (3) or 81A, a licensee must employ at least one staff member who has reached 18 years of age for each staff member who has not reached 18 years of age.

Penalty: a fine of $4 000.

*[Regulation 24 amended: Gazette 8 Dec 2006 p. 5374.]*

**25. Additional staff**

(1) The CEO may require a licensee to employ contact staff members for a care session, in addition to those required under regulation 81(1), (2) or (3) or 81A, where the special needs of one or more children attending the service during the care session require the additional staff.

(2) The licensee must comply with a requirement under subregulation (1).

Penalty: a fine of $2 000.

*[Regulation 25 amended: Gazette 1 Mar 2006 p. 933; 8 Dec 2006 p. 5374.]*

### 26. Food preparation staff

(1) If a service provides food prepared at the place on a regular basis for 20 or more enrolled children the licensee must employ a person to prepare the food.

(2) The licensee must not employ a person for the purposes of subregulation (1) unless —

(a) the person has completed —

(i) a food handling and hygiene course approved by the CEO; and

(ii) a course of training in nutrition approved by the CEO;

or

(b) the licensee is satisfied that the person has enrolled or intends to enrol in a course of that kind.

(3) The licensee must not continue to employ a person employed under subregulation (2)(b) if the person —

(a) in a case where the person had not enrolled in a food handling and hygiene course or course of training in nutrition approved by the CEO, fails to enrol in the course within one month after the person is employed; or

(b) in a case where the person had enrolled in a food handling and hygiene course or course of training in nutrition approved by the CEO, fails to complete a course within 6 months after the person is employed.

Penalty: a fine of $4 000.

*[Regulation 26 amended: Gazette 1 Mar 2006 p. 932; 8 Dec 2006 p. 5374-5.]*

### 27. Absent or indisposed staff

A licensee must develop and set down in writing appropriate procedures to be followed by contact staff members for dealing

with the situation where a contact staff member fails to report for duty, becomes ill or injured, or is otherwise required to leave the place at short notice.

Penalty: a fine of $2 000.

*[**28, 29.** Deleted: Gazette 6 Jan 2012 p. 19.]*

### 30. First aid officers

(1) In this regulation —

***specified*** means specified in a notice under subregulation (4).

(2) A licensee must ensure that at least one person possessing a first aid qualification is in attendance at the place at all times enrolled children are attending a care session at the place.

Penalty: a fine of $4 000.

(3) Subregulation (2) does not apply to a licensee if the licensee is the subject of a notice under subregulation (4).

(4) If, having regard to the matters mentioned in subregulation (5), the CEO considers it appropriate to do so, the CEO may, by written notice given to a licensee, require the licensee to ensure that a specified number of persons possessing a first aid qualification are in attendance at the place at all times, or at specified times, when enrolled children are attending a care session at the place.

(5) For the purposes of subregulation (4), the matters are —

(a) the layout of the place; and

(b) the hours of operation of the service; and

(c) the staffing requirements for the service.

(6) A licensee must comply with a notice given to the licensee under subregulation (4).

Penalty: a fine of $4 000.

*[Regulation 30 inserted: Gazette 6 Jan 2012 p. 19-20.]*

### 31. Medical clearance for contact staff and staff preparing food

A licensee must ensure that a person who —

(a) is employed in the service; and

(b) is a contact staff member or prepares food for those children,

provides the licensee with a medical certificate in a form approved by the CEO within 14 days after beginning employment in the service.

Penalty: a fine of $4 000.

*[Regulation 31 amended: Gazette 1 Mar 2006 p. 933.]*

## Division 3 — Requirements for place

### 32. Play areas on place

(1) A licensee must ensure that the place has an area of indoor space suitable for children's play of at least —

(a) 3.25 $m^2$ multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence; and

(b) 1 $m^2$ multiplied by the number equal to the number of enrolled children from 0 to 2 years of age present at the place during a care session.

(2) A licensee must ensure that the place has an area of outdoor space suitable for children's play of at least 9.3 $m^2$ multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence.

(3) When calculating the area of indoor space for the purposes of subregulation (1) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.

(4) The CEO may waive or vary the outdoor space requirement under subregulation (2) if —

(a) there is an equivalent area of playing space within walking distance for the enrolled children; or

(b) the outdoor space available is augmented by a larger indoor space suitable for children's play.

Penalty: a fine of $3 000.

**33. Exits**

(1) A licensee must ensure that children are able to open interconnecting doors of rooms at the place that they are permitted to use and that door handles are positioned between 750 mm and 1 000 mm from the floor.

(2) A licensee must ensure that doors giving direct access from the place to the street —

(a) have handles positioned between 1 300 mm and 1 500 mm from the floor; and

(b) are locked in a manner that does not prevent effective evacuation of the place.

(3) A licensee must ensure that there are at least 2 exits from the place, and that those exits are as widely separated as practicable and are readily accessible.

(4) A licensee must ensure that every room at the place having accommodation for 20 children or less has at least one doorway not less than 800 mm wide giving direct access to the outdoor space or to a thoroughfare or passage giving direct access to the outdoor space.

(5) A licensee must ensure that every room at the place having accommodation for more than 20 children has at least 2 doorways not less than 800 mm wide giving direct access to the outdoor space or to a thoroughfare or passage giving direct

access to the outdoor space, and that those doorways are as widely separated as practicable.

Penalty: a fine of $4 000.

### 34. Shade

A licensee must ensure that outdoor space required under regulation 32 is provided with adequate shade in accordance with guidelines approved by the CEO.

Penalty: a fine of $4 000.

### 35. Fencing

(1) A licensee must ensure that the place is enclosed by a fence, or an equivalent barrier approved by the CEO, of not less than 1 200 mm in height.

(2) A licensee must ensure that a gate in a fence, or in an equivalent barrier, referred to in subregulation (1) is not less than 1 200 mm in height.

(3) A licensee must ensure that a gate in a fence at the place that offers access from the place or to a hazard is equipped with an efficient self-locking mechanism or lock.

(4) A licensee must ensure that a place that is adjacent to or provides access to any creek, river, dam or similar body of water is separated from that body of water by a fence that conforms with the requirements of subregulations (1), (2) and (3).

Penalty: a fine of $4 000.

### 36. Swimming pools

A licensee must ensure that there is no swimming pool at the place.

Penalty: a fine of $4 000.

### 37. Smoke or fire detectors

(1) A licensee must ensure that the place is equipped with smoke or fire detection devices fitted in accordance with the manufacturer's instructions.

(2) A licensee must ensure that a device required under subregulation (1) is maintained in working order.

Penalty: a fine of $4 000.

### 38. Staff room

(1) A licensee must ensure that staff members have access to an area at the place that is suitable for the withdrawal or respite of the staff members.

(2) The licensee must ensure that an area referred to in subregulation (1) has not less than 7.5 $m^2$ of useable space.

(3) The requirement in subregulation (2) does not apply to the holder of a licence or permit —

(a) in force on the commencement of the *Community Services (Child Care) Amendment Regulations 2001* [3]; and

(b) to which section 59 applies,

while that licence or permit remains in force.

Penalty: a fine of $3 000.

*[Regulation 38 amended: Gazette 7 Aug 2007 p. 4033.]*

### 39. Area for administration etc.

A licensee must ensure that staff members have access to an area at the place, separate from an area required under regulation 38, that is suitable for administrative activities and private consultations with parents.

Penalty: a fine of $3 000.

### 40. Kitchen

A licensee must ensure that the place has a kitchen equipped with at least a sink, stove, refrigerator and supply of hot water.

Penalty: a fine of $3 000.

### 41. Laundry

(1) Subject to subregulation (2), a licensee must ensure that the place has a laundry area.

(2) Subregulation (1) does not apply if —

(a) no enrolled child attends a care session at the place for more than 20 hours in any week; or

(b) arrangements approved by the CEO have been made for treating laundry away from the place and for the hygienic storage of soiled laundry.

(3) A licensee must ensure that the laundry is equipped with a washing machine, trough, hot water supply and sink or other facility suitable for dealing with soiled nappies.

(4) If nappies are not laundered at the place, a licensee must ensure that a suitable sealed container for soiled nappies is provided.

Penalty: a fine of $3 000.

### 42. Windows

A licensee must ensure that windows at the place, when opened, do not create a hazard to children.

Penalty: a fine of $3 000.

### 43. Bathroom facilities

(1) A licensee must ensure that the place has —

(a) one junior lavatory or one adult lavatory with a firm step and a junior seat; and

(b) one hand basin either with a firm step, or at a height so as to provide reasonable child access,

for every 15 enrolled children or part of that number attending a care session.

(2) If enrolled children who have not reached 3 years of age are cared for by a service, a licensee must ensure that following are provided at the place —

(a) a changing bench or mat with a washable top;

(b) one sink type bath that is —

(i) supplied with hot and cold water; and

(ii) positioned adjacent to the changing bench or mat referred to in paragraph (a).

(3) In addition to the requirements of subregulation (1), the licensee must ensure that there is at least one adult lavatory and hand basin at the place for each multiple of 10 staff members and any remainder of fewer than 10 staff members.

(4) If a primary school age enrolled child attends a care session, a licensee must ensure that there is at least one toilet at the place that provides privacy and that is not used by a staff member for each multiple of 15 primary school age enrolled children and remainder fewer than 15 primary school age enrolled children.

Penalty: a fine of $3 000.

*[Regulation 43 amended: Gazette 1 Mar 2006 p. 932; 7 Aug 2007 p. 4033.]*

### 44. Hot water

A licensee must ensure that every hot water tap to which an enrolled child has access at the place is —

(a) thermostatically controlled at a temperature of less than 42°C; or

(b) fitted with a device approved by the CEO which effectively prevents the operation of the tap by an enrolled child.

Penalty: a fine of $3 000.

### 45. Storage

(1) A licensee must ensure that the place has shelves or other facilities for indoor and outdoor storage of equipment and consumable items for the use of the service and for each child's personal clothing and possessions.

(2) A licensee must ensure that shelves or other facilities provided under subregulation (1) are so positioned as to enable a child who has reached 3 years of age to have ready access to their personal clothing and possessions.

Penalty: a fine of $2 000.

*[Regulation 45 amended: Gazette 1 Mar 2006 p. 933.]*

### 46. Electrical installations

(1) A licensee must ensure that an electrical distribution board or control panel located in a children's play or rest area at the place is behind a lockable door and installed at a minimum height of 1 200 mm above the adjacent floor level.

(2) A licensee must ensure that aerial power supply cables operating at voltages in excess of extra low voltage are located at the place so that clearances from mesh fences, gates and similar climbable structures are in accordance with Australian Standard AS/NZS 3000:2000 — Electrical installations — Buildings, structures and premises (known as the SAA Wiring Rules).

(3) A licensee must ensure that cable pits and similar installations at the place are provided with lids which by weight or mechanical means restrict access.

Penalty: a fine of $4 000.

### 47. General purpose power outlets

A licensee must ensure that a general purpose power outlet at the place —

(a) is installed at a minimum height of 1 200 mm above the floor; or

(b) is fitted with approved integral safety shutters or with an earth leakage circuit breaker.

Penalty: a fine of $4 000.

### 48. Telephone

A licensee must ensure that a telephone service is connected to the place.

Penalty: a fine of $2 000.

### 49. Heating

(1) If a radiant type electrical heater is used in play or rest rooms at the place, a licensee must ensure that it is fixed in position and installed so that any part of the heating element is at least 2 130 mm above the floor and at least 300 mm below the ceiling.

(2) A licensee must ensure that a portable kerosene heater is not used at the place.

(3) A licensee must ensure that an oil-filled, fan type or similar low surface temperature heater is not used at the place unless the appliance —

(a) is fitted with its own temperature safety thermostat; and

(b) does not constitute a fire hazard; and

(c) is effectively shielded or guarded so that live parts cannot be probed by a child.

(4) A licensee must ensure that a fire or heating apparatus at the place (other than a low surface temperature heater) is effectively shielded or guarded when in use to prevent —

(a) direct contact by or access to any child; and

(b) the emission of any sparks or flame.

Penalty: a fine of $4 000.

*[Regulation 49 amended: Gazette 8 Dec 2006 p. 5375.]*

**50. Fans**

(1) A licensee must ensure that wall mounted fans at the place —

(a) have blade guards fitted in accordance with the manufacturer's instructions; and

(b) are located so that blades are at least 2 000 mm above the floor.

(2) A licensee must ensure that a ceiling mounted fan at the place that has blades 2 400 mm or less above the floor below it is not operated if —

(a) an enrolled child is present at the place; and

(b) an enrolled child has access to the area in which the fan is located.

(3) A licensee must ensure that free standing fans are not used in indoor or outdoor play areas at the place.

(4) A licensee must ensure that free standing fans at the place are located so that children are adequately protected from inadvertent physical contact with the blades.

Penalty: a fine of $3 000.

*[Regulation 50 amended: Gazette 8 Dec 2006 p. 5375.]*

## Division 4 — Other obligations relating to the place

### 51. Display of licence

(1) A licensee must display the licence in a prominent position at or near the main entrance to the place.

(2) A person must not alter or deface a licence.

Penalty: a fine of $2 000.

### 52. Place not to be used as a residence

A licensee must ensure that the place, or any part of the place, is not used as a residence.

Penalty: a fine of $3 000.

### 53. First aid kit

(1) A licensee must ensure that a fully equipped and properly maintained first aid kit is kept at the place at all times, except in the circumstances permitted by regulation 87(3).

(2) A licensee must ensure that a first aid kit kept for the purposes of subregulation (1) includes the following items —

(a) a triangular bandage;

(b) a crepe bandage;

(c) an adequate variety of sterile wound dressings;

(d) a resuscitation face shield;

(e) a notebook and pencil;

(f) scissors;

(g) disposable gloves.

Penalty: a fine of $2 000.

### 54. Furniture

A licensee must ensure that adequate furniture is available at the place to meet the physical and developmental needs of children attending the place.

Penalty: a fine of $2 000.

### 55. Storage of tools and dangerous materials

(1) A licensee must ensure that tools at the place are stored so that they are inaccessible to children.

(2) A licensee must ensure that cleaning supplies, first aid supplies and other toxic materials at the place are —

(a) clearly identified as such; and

(b) stored so that they are inaccessible to children.

(3) A licensee must ensure that flammable materials at the place are stored separately from anything that constitutes or is likely to constitute a fire hazard.

Penalty: a fine of $4 000.

### 56. Outdoor playground equipment

*[(1) deleted]*

(2) A licensee must ensure that outdoor play equipment at the place does not pose a hazard to children because of its design, manufacture, installation or use.

Penalty: a fine of $2 000.

*[Regulation 56 amended: Gazette 8 Dec 2006 p. 5375.]*

### 57. Animals on place

(1) A licensee must ensure that an animal or bird kept at the place is maintained in a clean and healthy condition.

(2) If an animal or bird is kept at the place, a licensee must ensure that —

(a) the place has an area where the animal or bird can be kept that is separate and apart from any area used by children; and

(b) enrolled children are not allowed access to the animal or bird except under the direct supervision of a person of not less than 18 years of age.

(3) If an animal or bird is kept at the place, the CEO may direct the licensee to keep it in the separate area referred to in subregulation (2)(a).

(4) The licensee must comply with a direction under subregulation (3).

Penalty: a fine of $2 000.

### 58. Plants

A licensee must identify any poisonous vegetation at the place and ensure that the vegetation is not accessible to children.

Penalty: a fine of $2 000.

### 59. Cleanliness, maintenance and repair of place

(1) A licensee must ensure that the place and all equipment and furnishings at the place are maintained in a thoroughly safe, clean and hygienic condition and in good repair.

(2) A licensee must ensure that the place is kept free from rodents, cockroaches and other vermin.

Penalty: a fine of $3 000.

### 60. People convicted of a prescribed offence

(1A) In this regulation —

***current assessment notice*** means an assessment notice issued under the *Working with Children (Screening) Act 2004* section 12(1)(a) not more than 3 years before the material time;

***prescribed offence*** means a Class 1 offence or a Class 2 offence, as those terms are defined in the *Working with Children (Screening) Act 2004* section 4.

(1) A licensee must ensure that a person who —

(a) has been convicted of a prescribed offence; and

(b) does not have a current assessment notice,

is not permitted to attend the place during a care session without the prior written approval of the CEO.

Penalty: a fine of $5 000.

(2) In proceedings for an offence under subregulation (1), it is a defence for the licensee to show that the licensee did not know, and could not reasonably be expected to have known, that the person had been convicted of a prescribed offence.

*[Regulation 60 amended: Gazette 6 Jan 2012 p. 20.]*

### 61. Application to modify the place

(1) A licensee must not modify the place without the prior written approval of the CEO.

(2) The approval of the CEO under subregulation (1) may be given subject to conditions.

(3) A licensee must comply with any condition imposed under subregulation (2).

(4) An application for approval under subregulation (1) must —

(a) be in a form approved by the CEO; and

(b) be lodged with the CEO at least 30 days before the proposed modification is expected to begin; and

(c) show that the wellbeing of children attending the service will not be affected by the modification.

(5) On completion of the modification of the place, a licensee must give the CEO a copy of any current certificate of classification relating to the place issued under the *Building Regulations 1989* Part 5 [2].

Penalty: a fine of $2 000.

*[Regulation 61 amended: Gazette 8 Dec 2006 p. 5375.]*

## Division 5 — Operating procedures

### 62. Compliance with procedures

A licensee must ensure that —

(a) copies of the procedures developed under this Division are made available to contact staff members and parents of enrolled children; and

(b) contact staff members are aware of the procedures and follow them as far as practicable.

Penalty: a fine of $3 000.

### 63. Emergency procedures and rehearsals

(1) A licensee must develop and set down in writing —

(a) evacuation and emergency procedures to be followed by contact staff members in case of fire, natural disaster or other emergencies; and

(b) appropriate procedures to be followed by contact staff members for the care of ill or injured children.

(2) A licensee must ensure that the emergency procedures include specific procedures applicable during lunch periods.

(3) A licensee must ensure that a rehearsal of the evacuation and emergency procedures set down under subregulation (1) is conducted at least twice in each calendar year.

Penalty: a fine of $3 000.

### 64. Behaviour management procedures

(1) A licensee must develop and set down in writing appropriate procedures to be followed by contact staff members in managing the behaviour of enrolled children.

(2) A licensee must develop and set down in writing appropriate procedures to be followed by contact staff members in managing the behaviour of individuals, other than enrolled children, who are violent or abusive towards contact staff members or enrolled children.

Penalty: a fine of $2 000.

### 65. Procedure for dealing with parent's concerns

A licensee must develop and set down in writing appropriate procedures to be followed by contact staff members in dealing with concerns of parents.

Penalty: a fine of $2 000.

### 66. Transport procedures

A licensee must develop and set down in writing appropriate procedures for the transport of enrolled children that include, but are not limited to —

(a) procedures for supervising enrolled children while walking to and from a vehicle and while travelling in a vehicle; and

(b) the kinds of vehicle which may be used to transport enrolled children; and

(c) procedures for engaging and utilising the services of transport providers and volunteers; and

(d) rules relating to the behaviour of enrolled children while they are being collected or transported and strategies for enforcing those rules; and

(e) procedures in case of a breakdown of a vehicle or an accident or other emergency.

Penalty: a fine of $2 000.

## Division 6 — Administration of service

*[Heading amended: Gazette 1 Mar 2006 p. 932.]*

### 67. Enrolment form

(1) A licensee must ensure that an enrolment form is kept for each child who attends the service.

(2) The enrolment form must, as far as is practicable, include the following —

(a) the full name, date of birth and address of the child;

(b) the full name of each parent;

(c) the residential address and telephone number of each parent;

(d) the address and telephone number of each parent's place of employment;

(e) the signature of a parent;

(f) the full name and telephone number of a person authorised by a parent to collect the child from the place;

(g) the full name, address and telephone number of a person, other than a parent, who may be contacted in an emergency;

(h) the name, address and telephone number of the child's medical practitioner or hospital;

(i) a parent's written authorisation for medical attention to be sought for the child if required in an emergency;

(j) any written authorisation referred to in regulation 91 or 96;

(k) details of any court order relating to —

(i) the long-term care, welfare and development of the child; or

(ii) the residence of the child; or

(iii) contact of a person with the child;

(l) details of any —

(i) specific healthcare needs of the child, including any medical condition; and

(ii) allergies, including whether the child has been diagnosed as at risk of anaphylaxis;

(m) details of any plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (l);

(n) details of any medication necessary for the management or treatment of a specific healthcare need, medical condition or allergy referred to in paragraph (l);

*[(o) deleted]*

(p) any other relevant information relating to the child.

(2A) The enrolment form must —

(a) if the *Public Health Act 2016* section 141B applies to the child —

(i) include the immunisation status of the child given in accordance with that section; and

(ii) if the child has a Medicare number — include the Medicare number of the child;

and

(b) otherwise — include, as far as is practicable, the immunisation status of the child.

(3) A licensee must ensure that the enrolment form is updated annually.

(4) A licensee must not allow a child to attend the service unless the supervising officer has sighted the child's birth certificate, extract of birth certificate or equivalent document.

Penalty: a fine of $3 000.

*[Regulation 67 amended: Gazette 1 Mar 2006 p. 933; 6 Jan 2012 p. 20; 19 Jul 2019 p. 2843.]*

### 68. Record of medication

(1) A licensee must ensure that a record is kept of any medication administered to an enrolled child during a care session.

Penalty: a fine of $3 000.

(2) A record of medication must include —

(a) the name of the medication; and

(b) the date and time of the administration of the medication; and

(c) the quantity of medication administered; and

(d) the name of the person who administered the medication; and

(e) except in an emergency, a parent's written authorisation for the administration of the medication and any instructions as to the administration of the medication.

### 69. Record of injury or accident

(1) A licensee must ensure that a record is kept of —

(a) any injury to or accident involving an enrolled child during a care session, including details of the nature and circumstances of the injury or accident; and

(b) any treatment given to an enrolled child who is injured or becomes ill during a care session; and

(c) the death of an enrolled child during a care session, including details of the circumstances in which the child died.

(2) A licensee must ensure that —

(a) a record under subregulation (1)(a) or (b) concerning a child is retained until the child reaches 24 years of age; and

(b) a record under subregulation (1)(c) is retained for a period of 6 years from the day on which the record was made.

Penalty: a fine of $3 000.

### 70. Record of attendance

(1) A licensee must ensure that a record of attendance is kept for each care session in accordance with the requirements of subregulations (2) to (5).

Penalty: a fine of $3 000.

(2) The record of attendance must include the following —

(a) the time of arrival and the time of departure of each enrolled child;

(b) the signature of the person responsible for verifying the accuracy of the record.

(3) The time of arrival must be entered in the record of attendance immediately after the child arrives at the place.

(4) The time of departure must be entered in the record of attendance immediately before the child leaves the place.

(5) The record of attendance must be retained for a period of 3 years after the day on which the record was made.

*[Regulation 70 inserted: Gazette 6 Jan 2012 p. 20-1.]*

### 71. Record of excursions

(1) A licensee must ensure that a record of each excursion is kept, including the following —

(a) the name of each enrolled child who participated in the excursion;

(b) for each of those children, the authorisation given by a parent of the child under regulation 86(1)(b)(i);

(c) the destination;

(d) the times of departure from and return to the place;

(e) a copy of the written plan required by regulation 86(1)(a).

(2) A licensee must ensure that a record of an excursion is retained for a period of 3 months from the day of the excursion.

Penalty: a fine of $2 000.

### 72. Other records

(1) A licensee must ensure that the following are kept —

(aa) a record of a course enrolled in by a person referred to in regulation 26(2)(b) and evidence that the person has completed the course;

(a) a record of each rehearsal of emergency procedures conducted in accordance with regulation 63(3);

(b) an authorisation given under regulation 81(4)(b);

(c) evidence of the qualifications of each contact staff member, including any qualifications in first aid, resuscitation, swimming or water rescue;

(d) a record of the days and times a contact staff member is employed by the licensee;

(e) written particulars of the programme of activities provided under regulation 83.

(2) A licensee must ensure that —

(a) a record or authorisation under subregulation (1)(aa), (a), (b) or (d) is retained for a period of 3 years from the day on which the record or authorisation was made or given; and

(b) evidence under subregulation (1)(aa) or (c) is retained for a period of 3 years from the day on which it was given to the licensee; and

(c) a record under subregulation (1)(e) is retained for a period of 3 months.

Penalty: a fine of $2 000.

*[Regulation 72 amended: Gazette 8 Dec 2006 p. 5376.]*

### 73. Storing records

(1) A licensee must ensure that a record required to be kept under regulation 67, 68, 69, 70, 71 or 72 relating to an enrolled child is kept in an up-to-date form and in a safe and secure area at the place.

(2) A licensee must ensure that a record required to be kept under regulation 67, 68, 69, 70, 71 or 72 relating to a former enrolled child is kept in a safe and secure location.

Penalty: a fine of $2 000.

### 74. Confidentiality of records

A licensee must ensure that information recorded under regulation 67, 68, 69, 70, 71 or 72 is not directly or indirectly disclosed or communicated to another person except —

(a) as required or permitted under the Act or any other written law; or

(b) with the written authorisation of the person or, in the case of a child, a parent of the child, to whom the information relates.

Penalty: a fine of $5 000.

### 75. Falsification of records

A person must not falsify a record kept under regulation 67, 68, 69, 70, 71 or 72.

Penalty: a fine of $5 000.

### 76. Information for parents

(1) A licensee must ensure that the following information is available in writing to a parent upon request —

(a) a statement of the service philosophy;

(b) an outline of the service programme;

(c) times and days of opening;

(d) fees;

(e) the service practice and policy regarding excursions;

(f) the service practice and policy regarding delivery and collection of enrolled children;

(g) the service procedures for managing the behaviour of enrolled children;

(h) the service practice and policy regarding food, nutrition and the dietary needs of individual enrolled children;

(i) the service practice and policy regarding sun protection for enrolled children;

(j) the service practice and policy regarding illness and infections, including any practice or policy relating to the exclusion of enrolled children suffering from a communicable disease;

(ka) the service practice and policy regarding the treatment of children experiencing an anaphylactic reaction;

(k) the service practice and policy regarding the appointment of a person to act in place of the licensee or nominated supervising officer;

(l) emergency and evacuation procedures;

(m) procedures for dealing with concerns of parents;

(n) the periods of time for which particular records are required to be retained under regulations 69, 71 and 72;

(o) the name, address and telephone number of the Child Care Licensing and Standards Unit of the Department.

(2) A licensee must ensure that the particulars referred to in subregulation (1)(m) and (o) are displayed in a prominent position at or near the main entrance to the place.

(3) A licensee must ensure that a current copy of the Act and these regulations are available to parents upon request.

Penalty: a fine of $2 000.

*[Regulation 76 amended: Gazette 1 Mar 2006 p. 933; 6 Jan 2012 p. 21.]*

### 77. Parent visit

A licensee must permit a parent who is responsible at the time for the attendance of an enrolled child at the service to visit the child at the place at any reasonable time.

Penalty: a fine of $2 000.

*[Regulation 77 amended: Gazette 1 Mar 2006 p. 933.]*

### 78. Insurance

(1) A licensee must hold a current policy of insurance (the ***policy***) against the public liability of that person in respect of the provision of the service.

(2) The insured amount must be adequate, in the opinion of the CEO, to cover any potential liability of the licensee in relation to the operation of the service.

(3) A licensee must keep at the place evidence that the policy is current.

Penalty: a fine of $3 000.

*[Regulation 78 amended: Gazette 1 Mar 2006 p. 933.]*

# Part 4 — Operating the service

*[Heading amended: Gazette 1 Mar 2006 p. 932.]*

## Division 1 — Children at care session

### 79. Children who are not enrolled children

A licensee must ensure that a child who is not an enrolled child is not present at the place during a care session, or present on an excursion with enrolled children during a care session, unless the child —

(a) is present on a temporary basis; and

(b) is adequately supervised by a person other than a contact staff member.

Penalty: a fine of $2 000.

### 80. Primary school age enrolled child

(1) If —

(a) 5 or more primary school age enrolled children attend a care session; or

(b) the percentage of primary school age enrolled children attending a care session is greater than 10% of the maximum number of children who may attend a care session specified in the licence,

a licensee must ensure that —

(c) the primary school age enrolled children and the other enrolled children do not use the same areas of indoor or outdoor space suitable for children's play; and

(d) a contact staff member does not supervise both primary school age enrolled children and the other enrolled children at the same time; and

(e) at least one of the contact staff members supervising the primary school age enrolled children is at least 21 years of age.

*[(2) deleted]*

Penalty: a fine of $4 000.

*[Regulation 80 amended: Gazette 7 Aug 2007 p. 4033.]*

## Division 2 — Contact staff requirements

### 81. Minimum contact staff members required

(1) Subject to regulations 23, 24, 25, 81A and 82, a licensee must ensure that at a care session —

(a) for every 4 or fewer than 4 enrolled children who have not reached 24 months of age present at the care session there is one class A*, B*, C, D or E contact staff member on duty; and

(b) for every 12 or fewer than 12 enrolled children who have not reached 24 months of age present at the care session the contact staff members required under paragraph (a) include a class A*, B* or C contact staff member.

Penalty: a fine of $6 000.

(2) Subject to regulations 23, 24, 25, 81A and 82, a licensee must ensure that at a care session —

(a) for every 5 or fewer than 5 enrolled children who have reached 24 months of age but not reached 36 months of age present at the care session there is one class A, B, C, D or E contact staff member on duty; and

(b) for every 15 or fewer than 15 enrolled children greater than 5 enrolled children who have reached 24 months of age but not reached 36 months of age present at the care session the contact staff members required under

paragraph (a) include a class A, B or C contact staff member.

Penalty: a fine of $6 000.

(3) Subject to regulations 23, 24, 25, 80, 81A and 82, a licensee must ensure that at a care session —

(a) for every 10 or fewer than 10 enrolled children who have reached 36 months of age present at the care session there is one class A, B, C, D or E contact staff member on duty; and

(b) for every 30 or fewer than 30 enrolled children greater than 10 enrolled children who have reached 36 months of age present at the care session the contact staff members required under paragraph (a) include a class A, B or C contact staff member.

Penalty: a fine of $6 000.

(4) For the purpose of determining the number of contact staff required under subregulations (1), (2) and (3), the licensee may include an enrolled child in an age range that is up to 6 months higher or 6 months lower than the child's actual age if the licensee —

(a) is satisfied on reasonable grounds it is developmentally appropriate for the child to be included in that age range; and

(b) is authorised in writing by the child's parent to include the child in that age range.

(5) If under subregulation (4) an enrolled child is included in an age range that is up to 6 months higher than the child's actual age, the licensee must ensure that the contact staff members on duty include a class A, A*, B, B*, C or E contact staff member.

Penalty: a fine of $6 000.

*[Regulation 81 inserted: Gazette 8 Dec 2006 p. 5376-7.]*

### 81A. Contact staff requirements in certain circumstances

(1) Despite regulations 23(3) and (4) and 81, but subject to regulations 23(1) and (2), 24, 25 and 82, if there are fewer than 13 enrolled children present at the place during a care session including at least one enrolled child who has not reached 24 months of age the licensee must ensure that —

(a) for every 4 or fewer than 4 enrolled children present at the care session there is one contact staff member on duty; and

(b) the contact staff members referred to in paragraph (a) include —

(i) a contact staff member who has reached 18 years of age (who may be a contact staff member referred to in subparagraph (ii)); and

(ii) a class A*, B* or C contact staff member.

Penalty: a fine of $6 000.

(2) Despite regulation 81, but subject to regulations 23, 24, 25 and 82, if there are fewer than 16 enrolled children present at the place during a care session and all of the children present have reached 24 months of age the licensee must ensure that —

(a) for every 5 or fewer than 5 enrolled children present at the care session there is one contact staff member on duty; and

(b) the contact staff members referred to in paragraph (a) include —

(i) a contact staff member who has reached 18 years of age (who may be a contact staff member referred to in subparagraph (ii)); and

(ii) a class A, B or C contact staff member.

Penalty: a fine of $6 000.

*[Regulation 81A inserted: Gazette 8 Dec 2006 p. 5377-8.]*

### 82. Contact staff arrangements during lunch period

The requirements in regulation 81(1), (2) or (3) or 81A do not apply during a lunch period if at all times during that period —

(a) the number of contact staff members is at least 60% of the total number of contact staff members required under regulation 81(1), (2) or (3) or 81A; and

(b) children in the 0-24 months age range are supervised by at least one staff member who —

(i) is a class A, A*, B, B*, C or E contact staff member; or

(ii) has reached 18 years of age and who —

(I) has at least 2 years' experience of working in an early childhood setting; or

(II) is the holder of Certificate III in Community Services (Children's Studies); or

(III) is the holder of an equivalent qualification as determined by the CEO;

and

(c) no staff member under 18 years of age supervises more than 10 children; and

(d) if the maximum number of children who may attend a care session specified in a licence is 30 or more children, at least one of the contact staff members present is a class A, B or C contact staff member.

*[Regulation 82 amended: Gazette 8 Dec 2006 p. 5378.]*

## Division 3 — Programmes and behaviour management

### 83. Programme of activities

(1) A licensee must ensure the provision of a programme of activities which is developmentally appropriate to the needs of the children attending the service.

(2) A licensee must ensure that the programme —

(a) meets the play and relaxation needs of children; and

(b) provides a balance of indoor and outdoor activities; and

(c) includes activities that a child may choose to participate in; and

(d) is designed to stimulate and provide for the development of each child's social, cultural, physical, emotional, intellectual, language and creative potential.

(3) A licensee must ensure that a copy of the programme is prominently displayed in each indoor playing area at the place.

Penalty: a fine of $3 000.

### 84. Play equipment and materials

(1) A licensee must ensure that play equipment and materials are suitable —

(a) for the development stages of the enrolled children; and

(b) for the number of enrolled children; and

(c) to provide for all areas of child development and play; and

(d) for carrying out programmes.

(2) A licensee must ensure that enrolled children using play equipment are supervised at all times.

Penalty: a fine of $2 000.

### 85. Managing the behaviour of children

(1) A licensee must ensure that an enrolled child is given positive guidance directed towards acceptable behaviour.

(2) A licensee must ensure that an enrolled child is not subjected to any form of corporal punishment, punishment by solitary confinement, punishment by physical restraint or other demeaning, humiliating or frightening punishment.

(3) A licensee must ensure that an enrolled child taken from an activity for unacceptable behaviour is supervised by a contact staff member at all times.

(4) A licensee must ensure that an enrolled child is protected from bullying, violence and harassment.

Penalty: a fine of $4 000.

## Division 4 — Excursions

### 86. Excursions

(1) A licensee must ensure that enrolled children are not taken on an excursion from the place unless —

(a) the supervising officer has prepared an excursion plan in accordance with regulation 88; and

(b) a parent of each child to be taken on the excursion has, after being advised of the nature, location and date of the excursion, and the proposed times of departure from and return to the place —

(i) given authorisation for the child to be taken on that excursion; and

(ii) provided the licensee with contact details in the event of an emergency;

and

(c) the contact staff member in charge of the excursion has with him or her a list of all those children and the contact details referred to in paragraph (b)(ii) for those children.

(2) A licensee must ensure that a parent's authorisation for the purposes of subregulation (1)(b)(i) has been signed by the parent and includes the following information —

(a) the date of the excursion;

(b) the destination;

(c) the proposed times of departure from and return to the place.

(3) Subregulation (1) does not apply to an excursion that consists of a walk to and from a destination in the local area if a parent of each child on the outing has given permission for the child to go on that outing or on outings of that kind.

Penalty: a fine of $3 000.

### 87. First aid kit on excursions

(1) A licensee must ensure that a fully equipped and properly maintained first aid kit containing at least the items listed in regulation 53(2) is taken on all excursions from the place.

(2) Subregulation (1) does not apply to an excursion referred to in regulation 86(3).

(3) A first aid kit kept at the place under regulation 53(1) may be taken on an excursion if no enrolled child remains at the place during the period of the excursion.

Penalty: a fine of $2 000.

### 88. Excursion plans

A licensee must ensure that an excursion plan for the purposes of regulation 86 is in writing and includes details of the following —

(a) the nature, location and date of the excursion;

(b) the proposed times of departure from and return to the place;

(c) transport and supervision arrangements for the excursion;

(d) the programme of activities (including contingency plans for inclement weather);

(e) safety measures and emergency plans.

Penalty: a fine of $2 000.

### 89. Contact staff requirements for excursions

(1) A licensee must ensure that on an excursion from the place —

(a) a contact staff member who has reached 18 years of age is in charge of the children; and

(b) unless the children are travelling in a C class motor vehicle as referred to in regulation 89(2), the children are accompanied by enough contact staff members or volunteers to ensure that there is at least one staff member or volunteer for each multiple of 4 children and for any remainder of fewer than 4.

(2) If enrolled children are travelling in a C class motor vehicle seating no more than 12 people and fitted with seat belts for each person —

(a) 7 enrolled children may travel under the supervision of the person referred to in subregulation (1)(a); and

(b) 8 or more enrolled children may travel under the supervision of the person referred to subregulation (1)(a) and a contact staff member or volunteer.

Penalty: a fine of $3 000.

**90. Mobile telephones for excursions**

A licensee must ensure that the contact staff member in charge of an excursion has a mobile telephone and can be contacted on that telephone at all times during the excursion.

Penalty: a fine of $2 000.

**91. Transport of enrolled children**

A licensee must ensure an enrolled child is not transported in a motor vehicle without the written authorisation of a parent of the child.

Penalty: a fine of $2 000.

## Division 5 — Water activities

**92. Wading or paddling pools at the place**

(1) A licensee must ensure that a wading or paddling pool is not kept at the place unless it can be emptied by one person.

(2) A licensee must ensure that a wading or paddling pool at the place is emptied and stored while not in use in such a manner that it cannot collect water.

Penalty: a fine of $3 000.

**93. Contact staff requirements for water play**

A licensee must ensure that any enrolled child engaged in water play such as wading, paddling, vortex or water trolley at the place is directly supervised by at least one contact staff member who —

(a) has reached 18 years of age; or

(b) is under 18 years of age but has a first aid qualification or is a qualified rescuer.

Penalty: a fine of $3 000.

*[Regulation 93 amended: Gazette 8 Dec 2006 p. 5379; 6 Jan 2012 p. 21.]*

### 94. Contact staff requirements for water activity excursion

(1) A licensee must ensure that enrolled children taken on an excursion for a water activity are supervised by one contact staff member or volunteer for each enrolled child who is under 3 years of age and one contact staff member or volunteer for each multiple of 2 enrolled children who have reached 3 years of age and for any remainder.

(2) A licensee must ensure that at least one of the contact staff members supervising enrolled children engaged in a water activity on an excursion has a current basic rescue certificate and a resuscitation certificate or its equivalent.

(3) The requirements of this regulation are additional to the requirements of regulation 81 or 81A.

Penalty: a fine of $4 000.

*[Regulation 94 amended: Gazette 8 Dec 2006 p. 5379.]*

## Division 6 — Safety and health of enrolled children

### 95. Long attendance of enrolled child

(1) A licensee must notify the CEO in writing, before the commencement of the period of care or within 7 days after the completion of the period of care, if an enrolled child is placed in the care of that licensee for a period of more than 18 consecutive hours.

(2) A licensee must ensure that no enrolled child is placed in the care of that licensee for more than 14 24-hour periods in one calendar year without the prior written approval of the CEO.

Penalty: a fine of $4 000.

### 96. Protection of enrolled children leaving place

(1) A licensee must ensure that an enrolled child does not leave the place during or at the end of a care session unless —

(a) the child is in the care of the child's parent or a person authorised by the child's parent; or

(b) in the case of an emergency, when a person referred to in paragraph (a) is not available, the child is in the care of a person authorised by the licensee or supervising officer, having due regard to the wellbeing of the child.

(2) A licensee must ensure that the CEO is notified as soon as practicable if an enrolled child leaves the place in circumstances other than those referred to in subregulation (1)(a).

Penalty: a fine of $3 000.

*[Regulation 96 inserted: Gazette 6 Jan 2012 p. 21-2.]*

### 97A. Medication

(1) If the enrolment form kept by a licensee under regulation 67(1) for an enrolled child contains details of medication referred to in regulation 67(2)(n), the licensee must ensure that a parent of the child is asked to provide the medication so that it is available for administration to the child.

(2) A licensee must ensure that, except in an emergency, medication is not administered to an enrolled child without the written authority of a parent of the child specifying the name of the medication and the time, quantity and manner of administration of the medication.

(3) Subregulation (2) does not apply to the self-administration of a non-prescription asthma inhaler.

Penalty: a fine of $4 000.

*[Regulation 97A inserted: Gazette 6 Jan 2012 p. 22.]*

### 97. Illness or accident to enrolled child

*[(1), (2) deleted]*

(3) A licensee must ensure that an enrolled child or other person is excluded from the place if there are reasonable grounds for suspecting that the child or other person is suffering from a communicable disease.

(4) When deciding whether to exclude from the place an enrolled child or other person who is suspected of suffering from a communicable disease, the supervising officer may have regard to the guidelines set out in the document entitled *Communicable disease guidelines — For teachers, child care workers, local government authorities and medical practitioners* and published by the Department principally assisting the Minister in the administration of the *Public Health Act 2016*.

(5) A licensee must ensure that all reasonable measures are taken to notify staff members, parents of enrolled children and visitors to the place of an exclusion under subregulation (3).

(6) For the purposes of excluding an enrolled child or other person from the place under subregulation (3), the supervising officer may —

(a) refuse to admit the child or other person to the place; or

(b) in the case of an unaccompanied child or a child who is already at the place, request a parent of the child to take the child from the place as soon as practicable; or

(c) in the case of another person who is already at the place, request the person to leave the place immediately.

(7) A licensee must ensure that a parent of a child enrolled for a care session on any day is notified on the same day of an illness or injury suffered by the child during the care session, or of the occurrence of an accident involving the child during the care session.

Penalty: a fine of $4 000.

*[Regulation 97 amended: Gazette 6 Jan 2012 p. 22; 10 Jan 2017 p. 180; 19 Sep 2017 p. 4881.]*

### 98. Nutrition and food service

A licensee must ensure that —

(a) the food provided by the service to enrolled children is nutritious and varied; and

(b) regard is had to the dietary needs of individual enrolled children arising from any specific cultural, religious or health requirements; and

(c) the menu for each week and the food preparation hours are prominently displayed at the place.

Penalty: a fine of $4 000.

*[Regulation 98 amended: Gazette 1 Mar 2006 p. 933.]*

### 99. Hygiene standards

A licensee must ensure that staff members observe and maintain reasonable standards of hygiene in the provision of the service.

Penalty: a fine of $2 000.

*[Regulation 99 amended: Gazette 1 Mar 2006 p. 933.]*

### 100. Alcohol and drugs

(1) A licensee must ensure that no other person who appears to be adversely affected by alcohol, drugs, or any other potentially deleterious substance remains at the place during a care session.

(2) A licensee must ensure that a person who is at the place during a care session does not —

(a) consume alcohol; or

(b) take or possess illegal drugs; or

(c) take or possess any other potentially deleterious substance.

Penalty: a fine of $3 000.

### 101. Smoking

A licensee must ensure that a person who is at the place during a care session does not smoke a cigarette, cigar or pipe.

Penalty: a fine of $3 000.

### 102. Trampolines

A licensee must ensure that an enrolled child who is using a trampoline at the place is supervised at all times by a person who has reached 18 years of age.

Penalty: a fine of $4 000.

# Part 5 — Other matters

## 103. Medical examination

(1) The CEO may, by written notice, require a licensee or supervising officer to undergo a medical examination within the time specified in the notice.

(2) The CEO is to set out in the notice the purpose of the medical examination.

(3) A licensee or supervising officer must comply with a requirement under subregulation (1).

(4) A licensee or supervising officer who undergoes a medical examination in compliance with a requirement under subregulation (1) must —

(a) obtain a report on the examination in a form approved by the CEO; and

(b) give a copy of the report to the CEO.

Penalty: a fine of $2 000.

## 104. Notification of convictions

(1) For the purpose of Schedule 1 item 18 to the Act, a conviction of a licensee for an offence against the Act or these regulations (an ***offence***) is a prescribed matter.

(2) If a licensee is convicted of an offence, the CEO must notify the parents of children for whom the service is provided that the licensee has been convicted of that offence.

(3) For the purposes of giving the notice referred to in subregulation (2), the CEO may require the licensee to give the CEO a list of the names and addresses of the parents.

(4) A licensee must comply with a requirement under subregulation (3).

Penalty: a fine of $3 000.

*[Regulation 104 amended: Gazette 1 Mar 2006 p. 932; 7 Aug 2007 p. 4033.]*

### 105. Continued operation of service in certain circumstances

(1) In an emergency situation or in circumstances where the licence for the service is suspended or cancelled, the CEO may, in writing, authorise a person to continue to operate a service for a period specified in the authorisation.

(2) The period specified in the authorisation must not be longer than 3 months.

(3) A person authorised under subregulation (1) is to be taken to be the licensee for the purposes of the Act and the regulations.

*[Regulation 105 inserted: Gazette 1 Mar 2006 p. 932.]*

### 106. Licences in force immediately before 1 August 2012

(1) In this regulation —

***2012 amending regulations*** means the *Child Care Services (Child Care) Amendment Regulations (No. 3) 2012*;

***old licence*** means a licence that —

(a) was in force immediately before scheme commencement day; and

(b) authorised the provision of a service that, after the commencement of the 2012 amending regulations, is a child care service;

***scheme commencement day*** has the meaning given for Western Australia in the *Education and Care Services National Regulations 2012* regulation 4(1).

(2) If the period for which an old licence was expressed to have effect ended before, or ends not more than 30 days after, the

commencement of the 2012 amending regulations, then that licence continues to have effect for the period of 30 days after the commencement of the 2012 amending regulations.

(3) If the period for which an old licence was expressed to have effect ends more than 30 days after the commencement of the 2012 amending regulations, then that licence continues to have effect until the end of the period for the licence was expressed to have effect.

(4) Despite subregulations (2) and (3), a licence does not continue to have effect when it is suspended or has been cancelled or surrendered.

*[Regulation 106 inserted: Gazette 5 Mar 2013 p. 1111-12.]*

### 107. Certain new child care services taken to be licensed for a period of time

(1) In this regulation —

***2012 amending regulations*** means the *Child Care Services (Child Care) Amendment Regulations (No. 3) 2012*;

***new service*** means a service that —

(a) was being provided immediately before the commencement of the 2012 amending regulations; and

(b) was not a child care service immediately before scheme commencement day; and

(c) is a child care service immediately after the commencement of the 2012 amending regulations;

***scheme commencement day*** has the meaning given for Western Australia in the *Education and Care Services National Regulations 2012* regulation 4(1).

(2) A person who makes a licence application —

(a) for a licence authorising the person to provide a new service of a type specified in the application at a place specified in the application; and

(b) during the period of 60 days commencing on the day on which the 2012 amending regulations come into operation,

is, from the time the application is made until the application is determined, to be taken to hold a licence authorising the person to provide a service of the type specified, at the place specified, in the application.

*[Regulation 107 inserted: Gazette 5 Mar 2013 p. 1112-13.]*

*[Schedule 1 deleted: Gazette 8 Dec 2006 p. 5379.]*

# Notes

This is a compilation of the *Child Care Services (Child Care) Regulations 2006* and includes amendments made by other written laws. For provisions that have come into operation, or versions that include editorial changes made under the *Legislation Act 2021* Part 3, see the compilation table. For provisions affected by editorial changes see the editorial changes table.

## Compilation table

| Citation | Published | Commencement |
|---|---|---|
| *Children and Community Services (Early Childhood Care) Regulations 2006* [4] | 18 Jan 2006 p. 125-90 | 1 Mar 2006 (see r. 2 and *Gazette* 14 Feb 2006 p. 695) |
| *Children and Community Services (Early Childhood Care) Amendment Regulations 2006* | 1 Mar 2006 p. 930-3 | 1 Mar 2006 |
| **Reprint 1: The *Children and Community Services (Child Care) Regulations 2006* as at 21 Apr 2006** (includes amendments listed above) | | |
| *Children and Community Services (Child Care) Amendment Regulations 2006* | 8 Dec 2006 p. 5370-9 | 8 Dec 2006 |
| **Reprint 2: The *Children and Community Services (Child Care) Regulations 2006* as at 19 Jan 2007** (includes amendments listed above) | | |
| *Children and Community Services (Child Care) Amendment Regulations 2007* | 7 Aug 2007 p. 4030-3 | 10 Aug 2007 (see note to r. 1 and *Gazette* 9 Aug 2007 p. 4071) |
| **Reprint 3: The *Child Care Services (Child Care) Regulations 2006* as at 5 Oct 2007** (includes amendments listed above) | | |
| *Child Care Services (Child Care) Amendment Regulations 2011* | 6 Jan 2012 p. 14-22 | r. 1 and 2: 6 Jan 2012 (see r. 2(a)); Regulations other than r. 1 and 2: 7 Jan 2012 (see r. 2(b) and *Gazette* 6 Jan 2012 p. 3) |
| *Child Care Services (Child Care) Amendment Regulations (No. 3) 2012* | 5 Mar 2013 p. 1110-13 | r. 1 and 2: 5 Mar 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 6 Mar 2013 (see r. 2(b)) |
| **Reprint 4: The *Child Care Services (Child Care) Regulations 2006* as at 24 May 2013** (includes amendments listed above) | | |

| Citation | Published | Commencement |
|---|---|---|
| *Child Care Services (Child Care) Amendment Regulations (No. 2) 2012* | 2 Aug 2013 p. 3527 | r. 1 and 2: 2 Aug 2013 (see r. 2(a)); Regulations other than r. 1 and 2: 3 Aug 2013 (see r. 2(b)) |
| *Child Care Services (Child Care) Amendment Regulations 2016* | 10 Jan 2017 p. 179-80 | r. 1 and 2: 10 Jan 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jan 2017 (see r. 2(b) and *Gazette* 10 Jan 2017 p. 165) |
| *Child Care Services (Child Care) Amendment Regulations 2017* | 19 Sep 2017 p. 4881 | r. 1 and 2: 19 Sep 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 20 Sep 2017 (see r. 2(b)) |
| *Child Care Services (Child Care) Amendment Regulations 2019* | 19 Jul 2019 p. 2843 | r. 1 and 2: 19 Jul 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Jul 2019 (see r. 2(b) and *Gazette* 19 Jul 2019 p. 2841) |
| ***Child Care Services (Child Care) Regulations 2006* with editorial changes as at 14 Jun 2024** | | |

## Editorial changes table

The *Legislation Act 2021* Part 3 authorises the Parliamentary Counsel to make editorial changes to laws. This power cannot be used to change the effect of a law. If an editorial change is made to a law, the law has effect as if the change had been made by another law that amended the law and commenced on the day on which the change is made.

To see the editorial changes included in a version of a law, see the compare document for that version on the WA Legislation website.

| Provision/s affected | Authorising provision of *Legislation Act 2021* Part 3 | Effective date of change |
|---|---|---|
| r. 60(1A) | s. 25(2) | 14 Jun 2024 |

## Other notes

[1] These regulations were made under the *Children and Community Services Act 2004* but continue to operate under the *Child Care Services Act 2007* s. 52 from 10 August 2007 (see s. 56).

[2] The *Building Regulations 1989* were repealed by the *Building Act 2011* s. 157, as at 2 Apr 2012 (see s. 2(b) and *Gazette* 13 Mar 2012 p. 1033).

[3] The *Community Services (Child Care) Amendment Regulations 2001* commenced 13 Feb 2001 (see *Gazette* 13 Feb 2001 p. 872-91).

[4] Now known as the *Child Care Services (Child Care) Regulations 2006*; citation changed (see note under r. 1).

# Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*

| Defined term | Provision(s) |
|---|---|
| 2012 amending regulations | 106(1), 107(1) |
| care session | 3 |
| child care licence | 3 |
| class A contact staff member | 3 |
| class A* contact staff member | 3 |
| class B contact staff member | 3 |
| class B* contact staff member | 3 |
| class C contact staff member | 3 |
| class D contact staff member | 3 |
| class E contact staff member | 3 |
| contact staff member | 3 |
| current assessment notice | 60(1A) |
| current criminal record check | 3 |
| enrolled child | 3 |
| first aid qualification | 3 |
| licence | 3 |
| licensee | 3 |
| lunch period | 3 |
| new service | 107(1) |
| offence | 104(1) |
| old licence | 106(1) |
| on duty | 3, 5(1) |
| place | 3 |
| policy | 78(1) |
| prescribed offence | 60(1A) |
| primary school age enrolled child | 3 |
| qualified rescuer | 3 |
| relevant period | 11(1) |
| RLSSA | 3 |
| scheme commencement day | 106(1), 107(1) |
| secondary programme | 3 |
| section | 3 |
| service | 3 |
| specified | 30(1) |
| staff member | 3 |
| volunteer | 3 |

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