



Western Australia

Children and Community Services Regulations 2006

Compare between:

[01 Jan 2009, 01-c0-01] and [20 Jun 2009, 01-d0-03]

Western Australia

Children and Community Services Act 2004

Children and Community Services Regulations 2006

Part 1 — Preliminary

1. Citation

These regulations are the *Children and Community Services Regulations 2006*¹.

2. Commencement

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

3. Terms used in these regulations

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

Part 2 — Children in the CEO's care

4. Approval of carers

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

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

5. Records — prescribed information

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

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

Part 3 — Restraint, search and seizure

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

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

7. Officer to record use of restraint

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

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

8. How seized articles are to be dealt with

- (1) In this regulation —
seized article means a thing or substance seized under section 116.
- (2) This regulation applies if it is not reasonably practicable for an officer to return a seized article to a child.
- (3) The CEO may direct that the seized article be sold or destroyed or disposed of in some other way.
- (4) If the CEO issues a direction under subregulation (3), the officer must arrange for the sale, destruction or disposal of the seized article in accordance with the direction.
- (5) If the seized article is sold, the proceeds of the sale, after the deduction of the reasonable costs of the sale, must be credited to the Consolidated Account².

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Part 4AA — Warrants

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

9AA. Form of warrant (access)

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

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

9AB. Form of warrant (apprehension)

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

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

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

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

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

Part 4A — Reporting sexual abuse of children

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

9A. Information to be included in report

- (1) In this regulation —
report and *reporter* have the respective meanings given in section 124A.
- (2) For the purposes of section 124C(3)(e) a report is to contain the following information, to the extent that it is known to the reporter, in respect of any person alleged to be responsible for the sexual abuse —
 - (a) the person's name;
 - (b) the person's contact details;
 - (c) the person's relationship to the child.

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

Part 4 — Pre-hearing conferences

9. Terms used in this Part

In this Part —

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

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

10. Appointment of convenors

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

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

11. Tenure, terms and conditions of appointment

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

12. Resignation

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

13. Removal from office

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

14. People who may attend pre-hearing conference

- (1) The following people may attend a pre-hearing conference —
 - (a) the child unless the convenor of the conference otherwise directs;
 - (b) any other party to the protection proceedings;
 - (c) a legal representative of a party to the protection proceedings;
 - (d) a person allowed to attend under subregulation (2).
- (2) The convenor of a pre-hearing conference may allow a person to attend the conference if the convenor considers that the person is significant in the child's life.

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

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

Part 5 — Reports about child

16. Terms used in this Part

In this Part —

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

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

17. Appointment of people to provide reports

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

18. President to establish panel

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

19. Terms and conditions of appointment

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

20. Costs of report

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

Part 6 — Miscellaneous

21. Payments to enduring parental carers

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

Table

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

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

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

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

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

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

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

Part 7 — Transitional arrangements

24. Terms used in this Part

In this Part —

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

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

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

29. Children in the CEO's care

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

cl. 1

Schedule 1 — Forms of warrants

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

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

1. Warrant (access)

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

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

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

2. Warrant (apprehension)

<u>In the Children's Court at</u>	<u>Warrant (apprehension)</u>
<u>File No.</u>	

cl. 2

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

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

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

3. Warrant (provisional protection and care)

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

cl. 3

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

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

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

Notes

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

Compilation table

Citation	Gazettal	Commencement
<i>Children and Community Services Regulations 2006</i>	18 Jan 2006 p. 353-72	1 Mar 2006 (see r. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
<i>Children and Community Services Amendment Regulations 2006</i>	1 Mar 2006 p. 927-9	1 Mar 2006
<i>Children and Community Services Amendment Regulations (No. 2) 2006</i>	18 Aug 2006 p. 3367-8	18 Aug 2006
<i>Children and Community Services Amendment Regulations (No. 3) 2006</i>	8 Dec 2006 p. 5369-70	8 Dec 2006
Reprint 1: The Children and Community Services Regulations 2006 as at 2 Feb 2007 (includes amendments listed above)		
<i>Children and Community Services Amendment Regulations 2007</i>	7 Aug 2007 p. 4029-30	r. 1 and 2: 7 Aug 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Aug 2007 (see r. 2(b) and <i>Gazette</i> 9 Aug 2007 p. 4071)
<i>Children and Community Services Amendment Regulations 2008</i>	9 Dec 2008 p. 5107-8	r. 1 and 2: 9 Dec 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jan 2009 (see r. 2(b) and <i>Gazette</i> 9 Dec 2008 p. 5107)
<u><i>Children and Community Services Amendment Regulations 2009</i></u>	<u>19 Jun 2009</u> <u>p. 2225-9</u>	<u>r. 1 and 2: 19 Jun 2009 (see r. 2(a));</u> <u>Regulations other than r. 1 and 2: 20 Jun 2009 (see r. 2(b))</u>

² Under the *Financial Legislation Amendment and Repeal Act 2006* Sch. 2 cl. 13 a reference to the Consolidated Fund may, where the context so requires, be read as if it had been amended to be a reference to the Consolidated Account. This reference was changed under the *Reprints Act 1984* s. 7(5)(a).

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