



Western Australia

## **Children and Community Services (Outside School Hours Care) Regulations 2006**

Compare between:

[01 Mar 2006, 00-b0-04] and [08 Dec 2006, 00-c0-04]



## **Children and Community Services (Outside School Hours Care) Regulations 2006**

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Children and Community Services (Outside School Hours Care) Regulations 2006*.

**2. Commencement**

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

**3. Terms used in these regulations**

In these regulations, unless the contrary intention appears —

**“care session”** means a discrete period during which children are in the care of an outside school hours care service;

**“challenging activity”** means any activity (except a water activity) that requires special skills or poses increased risks, and includes —

- (a) abseiling;
- (b) archery;
- (c) bush walking;
- (d) caving; and
- (e) horse riding;

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**“contact staff member”** —

- (a) means a person employed by the licensee to take direct care of enrolled children;
- (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 assessment notice”** means an assessment notice issued under the *Working with Children (Criminal Record Checking) Act 2004* section 12(1)(a) not more than 3 years before the material time;

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

**“enrolled child”**, in relation to an outside school hours care service, means a child for whom the service is provided;

**“first aid qualifications”** means a certificate or other evidence of successful completion of first aid training in at least the following [or equivalent](#) subjects —

- (a) cardiopulmonary resuscitation;
- (b) expired air resuscitation;
- (c) management of emergency situations that could be life threatening or cause permanent damage to a casualty;
- (d) management of injuries;

**“kindergarten child”** means —

- (a) a child who is attending an education programme for children in the first year of a pre-compulsory education programme; or
- (b) a child who, immediately before the end of the last term of a calendar year, attended an education programme for children in the first year of a pre-compulsory education programme but who has not commenced the second year of a pre-compulsory education programme;

**“licence”** means an outside school hours care licence;

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

**“low risk water activity”** means a water activity assessed as low risk under regulation 79(1)(a);

**“lunch period”** means an unbroken period of not more than 2 hours between the hours of 11.30 a.m. and 2.30 p.m. on any day;

**“medium risk water activity”** means a water activity assessed as medium risk under regulation 79(1)(a);

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

**“outside school hours care licence”** means a licence granted under the Act section 205(1) authorising the provision of an outside school hours care service;

**“outside school hours care service”** means a child care service provided outside school hours for children of school age or kindergarten children but does not include an outside school hours family day care service as defined in the *Children and Community Services (Outside School Hours Family Day Care) Regulations 2006* regulation 3;

**“place”** means —

- (a) the place specified in a licence as the place at which an outside school hours care service is authorised to be provided; and

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- (b) in relation to an application for a licence, the place at which the applicant for the licence proposes to operate the outside school hours care service to which the application relates;

**“proposed supervising officer”** means a person in respect of whom an application is made under regulation 12 or 13;

**“qualified care giver”** means a person who holds —

- (a) a Certificate IV in children’s studies covering the age range of 4-14 years under the Australian Qualifications Framework;
- (b) a degree or diploma in education, recreation, sport science, leisure studies or children’s studies covering the age range of 4-14 years from an Australian university or other tertiary institution; or
- (c) a qualification that is, in the opinion of the CEO, equivalent to a qualification referred to in paragraph (a) or (b);

**“qualified rescuer”** has the meaning given to that term in regulation 6;

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

**“school age”**, in relation to a child, has the meaning given to that term in regulation 4;

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

**“SLSWA”** means Surf Life Saving Western Australia Incorporated;

**“staff member”** means a member of the staff of an outside school hours care service;

**“volunteer”** means a person who is not a contact staff member and who has reached 16 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 in Gazette 1 Mar 2006 p. 925; 8 Dec 2006 p. 5382.]*

**4. Meaning of “school age”**

A child is of **“school age”** in a particular year if the child —

- (a) has reached 5 years and 6 months of age or will reach 5 years and 6 months of age in that year; and
- (b) is under 15 years and 6 months of age.

*[Regulation 4 inserted in Gazette 1 Mar 2006 p. 926.]*

**5. Meaning of “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 a particular child.

**6. Meaning of “qualified rescuer”**

- (1) A person is a **“qualified rescuer”** in relation to a low risk water activity in a pool environment or other still water if the person 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 qualification that is, in the opinion of the CEO, equivalent to a qualification referred to in paragraph (a), (b) or (c).

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- (2) A person is a “**qualified rescuer**” in relation to a medium risk water activity in a pool environment or other still water if the person holds a minimum of one of the following qualifications —
- (a) an RLSSA Bronze medallion;
  - (b) a qualification that is, in the opinion of the CEO, equivalent to the qualification referred to in paragraph (a).
- (3) A person is a “**qualified rescuer**” in relation to a low risk water activity in the sea if the person holds a minimum of one of the following qualifications —
- (a) an SLSWA Bronze medallion;
  - (b) an SLSWA Surf Rescue certificate;
  - (c) a qualification that is, in the opinion of the CEO, equivalent to a qualification referred to in paragraph (a) or (b).
- (4) A person is a “**qualified rescuer**” in relation to a medium risk water activity in the sea if the person holds a minimum of one of the following qualifications —
- (a) an SLSWA Bronze medallion;
  - (b) a qualification that is, in the opinion of the CEO, equivalent to the qualification referred to in paragraph (a).

**7. Outside school hours care service prescribed**

Under the Act section 232(a), an outside school hours care service is prescribed as a type of child care service.



## **Part 2 — Licences**

### **Division 1 — Prescribed matters**

#### **8. Prescribed qualifications for the purpose of the Act section 204(2)(d)**

- (1) For the purposes of the Act section 204(2)(d), the following qualifications are prescribed as a qualification for an individual applicant for a licence —
  - (a) a Certificate IV in children's studies covering the age range of 4-14 years under the Australian Qualifications Framework;
  - (b) a degree or diploma in education, recreation, sport science, leisure studies, social and behavioural science or nursing or a degree or diploma in children's studies covering the age range of 4-14 years under the Australian Qualifications Framework;
  - (c) a first aid qualification.
- (2) For the purposes of the Act section 204(2)(d), the following qualifications are prescribed as a qualification for a nominated supervising officer in relation to an outside school hours care service —
  - (a) a Certificate IV in children's studies covering the age range of 4-14 years under the Australian Qualifications Framework;
  - (b) a degree or diploma in education, recreation, sport science, leisure studies, social and behavioural science or nursing or a degree or diploma in children's studies covering the age range of 4-14 years under the Australian Qualifications Framework;
  - (c) a first aid qualification.

**9. Prescribed details: the Act section 210**

For the purposes of the Act section 210, the following details are prescribed —

- (a) the name of the licensee;
- (b) the name of the outside school hours care service;
- (c) the location of the place at which the outside school hours care 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 the Act section 213(1).

**Division 2 — Applications**

**10. Prescribed time for renewal applications**

For the purposes of the Act section 217(2)(b), the prescribed time is not less than 60 days before the licence expires.

**11. Documents and information to accompany application**

- (1) Under the Act section 203(b) the following documents and information are prescribed —
  - (a) in the case of an application by an individual —
    - (i) a criminal record check on the applicant issued not more than 6 months before the date of the application;
    - (ii) a statement by the applicant indicating whether or not he or she has been convicted of a prescribed offence in the period since the criminal record check was issued;
    - (iii) a copy of the applicant's qualifications prescribed under regulation 8(1); and
    - (iv) information about the time spent by the applicant engaged in children's services, education or

- recreational services or in child development, administration and staff management;
- (b) in the case of an application by a corporate applicant —
- (i) a criminal record check on each managerial officer of the applicant issued not more than 6 months before the date of the application; and
  - (ii) a statement by each managerial officer indicating whether or not the officer has been convicted of a prescribed offence in the period since the criminal record check was issued;
- (c) in the case of an application by a corporate applicant or a public authority —
- (i) a criminal record check on the nominated supervising officer of the applicant issued not more than 6 months before the date of the application;
  - (ii) a statement by the nominated supervising officer indicating whether or not the officer has been convicted of a prescribed offence in the period since the criminal record check was issued;
  - (iii) a copy of the nominated supervising officer's qualifications prescribed under regulation 8(2); and
  - (iv) information about the time spent by the nominated supervising officer engaged in children's services, education or recreational services or in child development, administration and staff management;
- (d) a financial assessment in a form approved by the CEO;
- (e) in the case of an applicant that 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;

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- (f) in the case of an applicant that is an incorporated association, a copy of the certificate of incorporation of the association;
  - (g) a plan showing —
    - (i) the facilities to be provided on the place; and
    - (ii) the measurements of all indoor and outdoor spaces that form part of the place.
- (2) Under the Act section 217(2)(c) the following documents and information are prescribed —
- (a) in the case of an application by an individual —
    - (i) a criminal record check on the applicant issued not more than 6 months before the date of the application; and
    - (ii) a statement by the applicant indicating whether or not the applicant has been convicted of a prescribed offence in the period since the criminal record check was issued;
  - (b) in the case of an application by a corporate applicant —
    - (i) a criminal record check on each managerial officer of the applicant issued not more than 6 months before the date of the application; and
    - (ii) a statement by each managerial officer indicating whether or not the officer has been convicted of a prescribed offence in the period since the criminal record check was issued;
  - (c) in the case of an application by a corporate applicant or a public authority —
    - (i) a criminal record check on the supervising officer of the applicant issued not more than 6 months before the date of the application; and
    - (ii) a statement by the supervising officer indicating whether or not the officer has been convicted of a

prescribed offence in the period since the criminal record check was issued;

- (d) a financial assessment in a form approved by the CEO;
- (e) in the case of an applicant that 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;
- (f) in the case of an applicant that is an incorporated association, a copy of the certificate of incorporation of the association;
- (g) a copy of any qualification prescribed under regulation 8(1) or (2) held by the applicant or the supervising officer of the applicant.

**12. Change of supervising officer**

- (1) If a licence is held by a body corporate or public authority, the licensee may apply under the Act section 215 to amend the licence so that it specifies a different person as the person responsible for the day-to-day supervision and control of the outside school hours care service.
- (2) An application under subregulation (1) must be in a form approved by the CEO.
- (3) An application under subregulation (1) must be accompanied by the documents and information referred to in regulation 11(1)(c) as if a reference in that paragraph to the nominated supervising officer were a reference to the proposed supervising officer.
- (4) The CEO must not amend the licence unless the CEO is satisfied the licence would have been granted under the Act section 208 or 209 if the proposed supervising officer had been the nominated supervising officer.

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~~(5) The CEO must not amend a licence until he or she has received proof that the applicant has complied with regulation 16 in relation to the proposed supervising officer.~~

*[(5) repealed]*

*[Regulation 12 amended in Gazette 8 Dec 2006 p. 5382.]*

**13. Application for person to act in place of licensee or supervising officer**

- (1) A licensee must not appoint a person to act in place of the licensee or the supervising officer without the prior written approval of the CEO.
- (2) An application under subregulation (1) must be made by the licensee in a form approved by the CEO.
- (3) An application by an individual must be accompanied by the documents and information referred to in regulation 11(1)(a) as if a reference in that paragraph to an applicant were a reference to the proposed supervising officer.
- (4) An application by a corporate applicant or a public authority must be accompanied by the documents and information referred to in regulation 11(1)(c) as if a reference in that paragraph to the nominated supervising officer were a reference to the proposed supervising officer.
- (5) The CEO must not give approval unless the CEO is satisfied that the licence would have been granted —
  - (a) under the Act section 207, if the person to act in the place of the licensee had been the applicant for the licence; or
  - (b) under the Act section 208 or 209, if the person to act in the place of the supervising officer had been the nominated supervising officer.

~~(6) The CEO must not give approval until the CEO has received proof that the applicant has complied with regulation 16 in relation to the proposed supervising officer.~~

~~[(6) repealed]~~

~~[Regulation 13 amended in Gazette 8 Dec 2006 p. 5382.]~~

### **Division 3 — Matters ancillary to applications**

#### **14. Referees**

- (1) The referees named for a person in an application for a licence or under regulation 12 or 13 (the “**subject**”) must include —
  - (a) a referee to whom the subject is known, and who has had experience in children’s, educational, recreational or human services; and
  - (b) a referee who is a previous employer of the subject, or who has worked with him or her in a paid or unpaid capacity.
- (2) A person is not eligible to act as a referee for a subject if the person is —
  - (a) an employee of the subject;
  - (b) related, married, or related by marriage, to the subject;
  - (c) a de facto partner of the subject; or
  - (d) the applicant for the licence or under regulation 12 or 13, as the case may be.

#### **15. Advertisement of application for licence ~~or renewal of licence~~**

- (1) An applicant for a licence, ~~or the renewal of a licence,~~ must arrange for notice of the application to be published in an edition of *The West Australian* newspaper.
- (2) The notice must be published within 28 days after the date on which the application was made.

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- (3) The notice, in a form approved by the CEO, must include the following —
- (a) if the applicant is an individual, the full name and residential address of the applicant;
  - (b) if the applicant is a corporate applicant or public authority, the full name and business address of the applicant;
  - ~~(c) if the applicant is a corporate applicant, the full name and residential address of the nominated supervising officer and each managerial officer of the applicant;~~
  - ~~[(c) deleted]~~
  - (d) if the applicant is a public authority, the full name of its chief executive officer ~~and the full name and residential address of the nominated supervising officer;~~
  - (e) the address of the place at which the applicant proposes to operate ~~or operates~~ the outside school hours care service;
  - (f) a statement to the effect that an objection to the issue of the licence ~~or renewal of the licence~~ may be made in writing to the CEO, at the address specified in the advertisement, within 14 days after the date on which the advertisement is published.
- (4) The CEO must not grant a licence ~~or renewal~~ unless the CEO has received proof that the applicant has complied with this regulation.
- (5) Despite subregulation (3), the CEO may approve the publication of a notice that does not include the residential address of an individual applicant ~~or of the managerial officer or nominated supervising officer~~ if the CEO is satisfied that disclosure of that address might place the person or any other person who lives at the address at risk of harm.



**16. ~~Advertisement about proposed supervising officer~~**

- ~~(1) A licensee must arrange for notice of an application under regulation 12 or 13 to be published in an edition of *The West Australian* newspaper.~~
- ~~(2) The notice must be published within 7 days after the date on which the application was made.~~
- ~~(3) The notice, in a form approved by the CEO, must include—~~
- ~~(a) the full name and business address of the applicant;~~
  - ~~(b) the full name and residential address of the proposed supervising officer;~~
  - ~~(c) the address of the place specified in the licence; and~~
  - ~~(d) a statement to the effect that an objection to the appointment of the proposed supervising officer may be made in writing to the CEO, at the address specified in the advertisement, within 14 days after the date on which the advertisement is published.~~
- ~~(4) Despite subregulation (3), the CEO may approve the publication of a notice that does not include the residential address of the proposed supervising officer if the CEO is satisfied that disclosure of that address might place the person or any other person who lives at the address at risk of harm.~~

~~[\[Regulation 15 amended in Gazette 8 Dec 2006 p. 5382-3.\]](#)~~

~~[\[16. Repealed in Gazette 8 Dec 2006 p. 5383.\]](#)~~

**17. Objections**

- (1) Any person may—
- ~~(a) object to the grant of a licence on the ground that the applicant ~~or the applicant's nominated supervising officer~~ is not a fit and proper person to provide or be involved in the provision of a child care service;~~

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- ~~(b) object to the renewal of a licence on the ground that the applicant or the applicant's supervising officer is not a fit and proper person to provide or be involved in the provision of a child care service; or~~
- ~~(c) object to a proposed supervising officer on the ground that the person is not a fit and proper person to be involved in the provision of a child care service.~~
- (2) An objection must —
- (a) be made to the CEO in writing; and
  - (b) set out the grounds on which it is made.
- (3) If an objection is made to the CEO within 14 days after the advertisement is published under regulation 15 ~~or 16~~, the CEO must consider the objection before deciding whether or not to grant ~~or renew~~ the licence, ~~amend the licence or give approval, as the case requires.~~
- (4) If an objection is made to the CEO at any other time, the CEO may consider it.

*[Regulation 17 amended in Gazette 8 Dec 2006 p. 5383.]*

#### **Division 4 — Surrenders**

##### **18. Surrender of licences**

- (1) A licensee may at any time by notice in writing to the CEO surrender the licence.
- (2) Subregulation (1) does not apply if a matter relating to the licensee has been referred to the State Administrative Tribunal under the Act section 224(2) and the matter has not been disposed of by the Tribunal.

## **Part 3 — Obligations of licensee**

### **Division 1 — General obligations**

#### **19. 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;
  - (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.

#### **20. Notification of change of circumstances**

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

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- (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 outside school hours care service;
  - (c) if the licensee is a body corporate or public authority, the supervising officer dies, is dismissed, resigns, retires or becomes incapable of being responsible for the supervision and control of the outside school hours care 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 outside school hours care service;
  - (e) if the licensee is a body corporate, there is a change in the managerial officers of the body corporate;
  - (f) the licensee, a managerial officer of the licensee or the supervising officer is convicted of a prescribed offence;
  - (g) the licensee becomes aware of any change to any other fact or circumstance relating to or affecting the provision of the outside school hours care 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;
  - (b) give the CEO a current criminal record check ~~or current assessment notice~~ on or relating to the officer; and

- (c) give the CEO a statement by the managerial officer indicating whether or not the officer has been convicted of a prescribed offence in the period since the current criminal record check ~~or current assessment notice~~ was issued.

Penalty: a fine of \$2 000.

*[Regulation 20 amended in Gazette 8 Dec 2006 p. 5383.]*

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**21. 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;
  - (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; and
  - (c) 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) The notification must be given within one working day after the day on which the death or injury occurred or the allegation was made.
- (3) A licensee must notify the CEO of the outcome of any investigation into an allegation referred to in subregulation (1)(c).

Penalty: a fine of \$6 000.

**22. 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) and (3) do~~ Subregulation (1) does not apply to the taking or recording of a visual image ~~used at the place~~ —
  - (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 22 amended in Gazette 8 Dec 2006 p. 5383-4.]

**Division 2 — Staffing requirements**

**23. Presence of supervising officer at place**

- (1) For the purposes of the Act section 212, the supervising officer may be absent from the place at which the outside school hours care service is provided at the times when the service is provided —
  - (a) to accompany enrolled children on an excursion;

- (b) for not more than 2 consecutive days if the absence is due to illness or injury;
  - (c) in an emergency situation;
  - (d) to undertake continuing professional development in matters relating to child care;
  - (e) to attend a meeting or other event that is relevant to the supervision and control of the service;
  - (f) to obtain or eat a meal; or
  - (g) to attend to other duties relevant to the provision of a child care service such as banking and shopping for food or drinks.
- (2) Despite the supervising officer for an outside school hours care 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 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.

#### **24. Staff supervision of enrolled children**

- (1) A licensee must ensure that contact staff members on duty supervise 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 under the direct supervision of a contact staff member.

Penalty: a fine of \$6 000.

**25. Additional staff**

- (1) The CEO may require a licensee to employ contact staff for a care session in addition to those required under regulation 62 where the special needs of one or more children attending the outside school hours care service during the care session require the additional staff.
- (2) A licensee must comply with a requirement under subregulation (1).  
Penalty: a fine of \$2 000.

**26. 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.

**27. Criminal record check for each staff member**

- (1) A licensee must not employ or continue to employ a person as a staff member unless the person gives the licensee a copy of a current criminal record check or a current assessment notice for the person within 30 days after —
  - (a) if the person is employed by the licensee on the day on which these regulations come into operation, that day; or
  - (b) the day on which the person is first employed as a staff member,and after that day at intervals of not more than 2 years from the date on which the staff member last gave the licensee the copy.
- (2) The CEO may request the licensee to produce to the CEO a current criminal record check or a current assessment notice in respect of a staff member.



- (3) A licensee must comply with a request under subregulation (2) within 30 days after it is made.

Penalty: a fine of \$6 000.

**28. Employment of person convicted of a prescribed offence**

A licensee must not employ a person as a staff member without the prior written approval of the CEO if that person —

- (a) has been convicted of a prescribed offence; and
- (b) does not have a current assessment notice.

Penalty: a fine of \$6 000.

**Division 3 — Requirements for place or obligations relating to place**

**29. Play areas on place**

- (1) A licensee must ensure that the place has —
- (a) an area of indoor space suitable for children's play of at least 3.25 m<sup>2</sup> multiplied by the number equal to the number of children specified in the licence; and
  - (b) an area of outdoor space suitable for children's play of at least 9.3 m<sup>2</sup> multiplied by the number equal to the number of children specified in the licence.
- (2) When calculating the area of indoor space for the purposes of subregulation (1)(a) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.
- (3) The CEO may waive or vary the outdoor space requirement under subregulation (1)(b) 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.

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- (4) A licensee must ensure that indoor and outdoor play areas are clearly defined and identifiable.
- (5) A licensee must ensure that indoor play areas include a separate and clearly defined space suitable for relaxation or quieter activities such as reading and homework.  
Penalty: a fine of \$3 000.

**30. 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.

**31. Telephone**

A licensee must ensure that a telephone service is connected to the place.  
Penalty: a fine of \$2 000.

**32. Boundaries to place and play areas**

A licensee must display a diagram at the place showing clearly the boundaries of the place and the areas available for children's play.  
Penalty: a fine of \$2 000.

**33. Play equipment and materials**

A licensee must ensure that —

- (a) equipment and materials that support the developmental and recreational needs of the enrolled children are provided at the place; and
- (b) there is enough storage space at the place for the equipment and materials.

Penalty: a fine of \$2 000.

**34. 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 68(2).
- (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.

**35. 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.

**36. 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.

**37. Animals on place**

- (1) A licensee must ensure that any 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 the place has an area where the animal or bird can be kept that is separate and apart from any area used by children.
- (3) If an animal or bird is kept at the place, a licensee must ensure that a child is not allowed access to the animal or bird except under the direct supervision of a person of not less than 18 years of age.
- (4) 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).
- (5) A licensee must comply with a direction under subregulation (4).  
Penalty: a fine of \$2 000.

**38. Place not to be used as a residence**

A licensee must ensure that no part of the place is used as a residence.

Penalty: a fine of \$3 000.

**39. People convicted of a prescribed offence banned from place**

- (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.

**40. 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;
  - (b) be lodged with the CEO at least 30 days before work on the proposed modification is expected to begin;
  - (c) show that the wellbeing of children attending the service will not be affected by the modification; and
  - (d) show that the place as modified complies with this Division.

Penalty: a fine of \$2 000.

**Division 4 — Operating procedures**

**41. 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.

**42. 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 a rehearsal of the evacuation and emergency procedures set down under subregulation (1) is conducted at least once in every school term and school holiday.  
Penalty: a fine of \$3 000.

**43. 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.

**44. 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.

**45. Bathroom procedures**

A licensee must develop and set down in writing —

- (a) appropriate procedures to be followed by contact staff members to ensure the health and safety of enrolled children when they use bathroom facilities; and
- (b) appropriate procedures to ensure the privacy of enrolled children when they use bathroom facilities that are designed for children not yet of school age.

Penalty: a fine of \$3 000.

**46. 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;
- (b) the kinds of vehicle which may be used to transport enrolled children;
- (c) strategies for locating and collecting enrolled children from school;
- (d) procedures for engaging and utilising the services of transport providers and volunteers;
- (e) rules relating to the behaviour of enrolled children while they are being collected or transported and strategies for enforcing those rules; and
- (f) procedures in case of a breakdown of a vehicle or an accident or other emergency.

Penalty: a fine of \$2 000.

**Division 5 — Administration of care service**

**47. Enrolment form**

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

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- (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) a parent's written authorisation for medical attention to be sought for the child if required in an emergency;
  - (i) any written authorisation or permission referred to in regulation 75 or 81;
  - (j) details of any court order relating to —
    - (i) the long-term care, welfare and development of the child;
    - (ii) the residence of the child; or
    - (iii) contact of a person with the child;
  - (k) relevant details of the child's medical history including current immunisation status and any allergies suffered by the child;
  - (l) any other relevant information relating to the child.

Penalty: a fine of \$3 000.



**48. Record of medication**

- (1) A licensee must ensure that a record is kept of any medication administered to, or self-administered by, 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;
  - (b) the date and time of the administration of the medication;
  - (c) the quantity of medication administered;
  - (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.
- (3) This regulation does not apply to the self-administration of non-prescription asthma inhalers.

**49. 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;
  - (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 —

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- (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.

**50. Record of attendance**

- (1) A licensee must ensure that a record of attendance is kept for each care session, including —
  - (a) the times of arrival and departure of each enrolled child; and
  - (b) the signature of the person responsible for verifying the accuracy of the record.
- (2) A licensee must ensure that a record of attendance is retained for a period of 3 years from the day on which the record was made.

Penalty: a fine of \$3 000.

**51. 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 67(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 67(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.

**52. Other records**

- (1) A licensee must ensure that the following are kept —
- (a) a record of each rehearsal of emergency procedures conducted in accordance with regulation 42(2);
  - (b) evidence of the qualifications of each contact staff member, including any qualifications in first aid, resuscitation, swimming or water rescue;
  - (c) a record of the days and times a contact staff member is employed by the licensee;
  - (d) written particulars of the programme of activities provided under regulation 65;
  - (e) a Risk Assessment Form completed under regulation 79(1)(a).
- (2) A licensee must ensure that —
- (a) a record under subregulation (1)(a) or (c) is retained for a period of 3 years from the day on which the record was made;
  - (b) evidence under subregulation (1)(b) 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)(d) or a Form under subregulation (1)(e) is retained for a period of 3 months.
- Penalty: a fine of \$2 000.

**53. Storing records**

- (1) A licensee must ensure that a record required to be kept under regulation 47, 48, 49, 50, 51 or 52 relating to an enrolled child is

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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 47, 48, 49, 50, 51 or 52 relating to a former enrolled child is kept in a safe and secure location.

Penalty: a fine of \$2 000.

**54. Confidentiality of records**

A licensee must ensure that information recorded under regulation 47, 48, 49, 50, 51 or 52 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.

**55. Falsification of records**

A person must not falsify a record kept under regulation 47, 48, 49, 50, 51 or 52.

Penalty: a fine of \$5 000.

**56. Parent visit**

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

Penalty: a fine of \$2 000.

**57. 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 outside school hours care 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 outside school hours care service.
- (3) A licensee must keep at the place evidence that the policy is current.

Penalty: a fine of \$3 000.

**Division 6 — Mobile services**

**58. Application of regulations to mobile services**

If an outside school hours care service is operated at a place that is not a fixed place —

- (a) regulations 29, 31, 32, 33(b), 35, 36, 37, 38 and 40 do not apply in relation to the operation of the service; and
- (b) for the purpose of calculating the number and qualifications of the contact staff members required to be on duty during a care session, Part 4 Division 4 (Excursions and sleepovers) applies instead of Part 4 Division 2.

**59. Mobile telephone**

If an outside school hours care service is operated at a place that is not a fixed place, a licensee must ensure that the contact staff members caring for enrolled children at the place can be contacted during a care session by means of a mobile telephone.

Penalty: a fine of \$2 000.

## **Part 4 — Operating the outside school hours care service**

### **Division 1 — Children at care session**

#### **60. Children who are not enrolled children**

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

#### **61. Care for children in exceptional circumstances**

Nothing in regulation 60 prevents a licensee or a contact staff member from caring for a child who is not an enrolled child for a care session contrary to that regulation if the circumstances are exceptional and all reasonable steps have been taken to have the child collected by a parent as soon as is practicable.

### **Division 2 — Contact staff requirements**

#### **62. Minimum contact staff**

- (1) Subregulations (3) and (4) apply if the enrolled children at a care session do not include a kindergarten child.
- (2) Subregulations (5) and (6) apply if the enrolled children at a care session include a kindergarten child.
- (3) If the number of children attending a care session falls within the range specified in the first column of an item in Schedule 1 Table 1, a licensee must ensure that the number of contact staff members on duty at the place during the care session —

- (a) is at least the number specified in the second column of the item;
  - (b) includes at least the number of qualified care givers and first aid officers specified in the third and fourth columns of the item respectively; and
  - (c) includes at least the number of contact staff members specified in the fifth, sixth or seventh column of the item who have reached the age specified in the respective columns.
- (4) If the number of children attending a care session exceeds 143, a licensee must ensure that the number of contact staff members on duty at the place during the care session is that arrived at by applying subregulation (3)(a), (b) and (c) to the number of children up to and including 143 and adding to those numbers the numbers arrived at by applying subregulation (3)(a), (b) and (c), respectively, to the remainder.
- (5) If the number of children attending a care session falls within the range specified in the first column of an item in Schedule 1 Table 2, a licensee must ensure that the number of contact staff members on duty at the place during the care session —
- (a) is at least the number specified in the second column of the item;
  - (b) includes at least the number of qualified care givers and first aid officers specified in the third and fourth columns of the item respectively; and
  - (c) includes at least the number of contact staff members specified in the fifth, sixth or seventh column of the item who have reached the age specified in the respective columns.
- (6) If the number of children attending a care session exceeds 110, a licensee must ensure that the number of contact staff members on duty at the place during the care session is that arrived at by applying subregulation (5)(a), (b) and (c) to the number of children up to and including 110 and adding to those numbers

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the numbers arrived at by applying subregulation (5)(a), (b) and (c), respectively, to the remainder.

Penalty: a fine of \$6 000.

**63. Contact staff reduction during short periods**

- (1) Despite regulation 62, the number of contact staff members on duty at the place during a care session may be reduced during periods of time before or after school on a school day if —
  - (a) the combined duration of the periods does not exceed one hour;
  - (b) at least one contact staff member who has reached 18 years of age is on duty at all times at the place during the periods for each multiple of 10 enrolled children and any remainder of fewer than 10 enrolled children present at the place;
  - (c) at least one of the contact staff members on duty at the place has current first aid qualifications; and
  - (d) the contact staff members who are on duty at the place adapt the activities of the children in a manner that ensures that the children's health and safety are not prejudiced by the reduction in the number of contact staff on duty at the place.
- (2) Despite regulation 62, the number of contact staff members on duty at the place during a care session may be reduced during periods of time (except the lunch period) during a day on which there is no school if —
  - (a) the combined duration of the periods does not exceed 2 hours;
  - (b) at least one contact staff member who has reached 18 years of age is on duty at the place at all times during the periods for each multiple of 10 enrolled children and any remainder of fewer than 10 enrolled children present at the place;



- (c) at least one of the contact staff members on duty at the place has current first aid qualifications; and
- (d) the contact staff members who are on duty at the place adapt the activities of the children in a manner that ensures that the children's health and safety are not prejudiced by the reduction in the number of contact staff members.

**64. Contact staff reduction during lunch periods**

- (1) Despite regulation 62, if 27 or more enrolled children are present at the place during a lunch period, a licensee must ensure that during the lunch period —
  - (a) the number of contact staff members on duty at the place is at least the number specified in the second column of an item in Schedule 1 Table 3, relative to the number of contact staff required under regulation 62 to be on duty at the place, as specified in the first column of the item;
  - (b) one of the contact staff members on duty has reached 18 years of age and has current first aid qualifications; and
  - (c) the contact staff members on duty adapt the activities of the enrolled children in a manner that ensures the children's health and safety are not prejudiced by the variation permitted under paragraph (a).
- (2) If the number of contact staff members required under regulation 62 to be on duty at the place exceeds 12, a licensee must ensure that the number of contact staff members on duty during a lunch period is that arrived at by applying subregulation (1)(a) and adding to that number the number arrived at by applying subregulation (1)(a) to the remainder.  
Penalty: a fine of \$3 000.

### **Division 3 — Programmes and behaviour management**

#### **65. Programmes**

- (1) A licensee must ensure that a programme of activities is provided during care sessions that —
  - (a) is developmentally appropriate for the enrolled children; and
  - (b) meets the play, recreation and relaxation needs of the enrolled children.
  
- (2) Without limiting subregulation (1), a licensee must ensure that the programme of activities, as far as practicable —
  - (a) is suited to each child's skills and interests;
  - (b) provides a balance of indoor and outdoor activities;
  - (c) provides a range of activities from which a child may choose; and
  - (d) includes —
    - (i) physical activities (for example, sport, climbing, ball games or gymnastics);
    - (ii) creative activities (for example, art and craft, music or sewing);
    - (iii) activities involving construction (for example, cubby building, woodwork or construction kits);
    - (iv) exploratory activities (for example, nature walks, science activities or sand or water activities);
    - (v) dramatic activities (for example, puppetry, dressing up and plays); and
    - (vi) cognitive play activities (for example, board games, computer activities or reading).

Penalty: a fine of \$3 000.

**66. 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 is protected from bullying, violence and harassment.

Penalty: a fine of \$4 000.

**Division 4 — Excursions and sleepovers**

**67. Excursions from the place**

- (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 69;
  - (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.

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- (2) A licensee must ensure that a parent's authorisation for the purposes of subregulation (1)(b)(i) is 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 outing 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.

**68. 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 34(2) is taken on all excursions from the place.
- (2) A first aid kit kept at the place under regulation 34(1) may be taken on an excursion if no enrolled child remains at the place during the period of the excursion.
- (3) Subregulation (1) does not apply to an excursion referred to in regulation 67(3).
- Penalty: a fine of \$2 000.

**69. Excursion plans**

A licensee must ensure that an excursion plan for the purposes of regulation 67 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;
- (f) in the case of an excursion involving a sleepover, the menu.

Penalty: a fine of \$2 000.

**70. Contact staff in charge of excursions**

A licensee must ensure that the contact staff member in charge of an excursion from the place is at least 21 years of age.

Penalty: a fine of \$3 000.

**71. Routine excursions: staff numbers**

If a number of enrolled children are taken on an excursion that does not involve challenging activities, a licensee must ensure that children are accompanied and supervised by —

- (a) the contact staff members required for that number of children under regulation 62; and
- (b) enough additional contact staff members or volunteers to ensure that there is at least one staff member or volunteer for each multiple of 10 children and for any remainder of fewer than 10.

Penalty: a fine of \$3 000.

**72. Sleepovers: staff numbers**

- (1) If a number of enrolled children are taken on an excursion involving a sleepover, or remain for a sleepover at the place, a licensee must ensure that the children are supervised by —
  - (a) the contact staff members required for those children under regulation 62;

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- (b) if only one contact staff member would be required under paragraph (a), at least one other contact staff member or volunteer; and
  - (c) enough additional contact staff members or volunteers to ensure that there is at least one contact staff member or volunteer for each multiple of 10 children and for any remainder of fewer than 10.
- (2) A licensee must ensure that the beds, mattresses or sleeping bags used by the children, contact staff members and volunteers during the sleepover are arranged so that there is easy access to and from each of them and to each exit.
- (3) If an outside school hours care service routinely provides overnight care for enrolled children, subregulation (1)(b) and (c) do not apply to a routine overnight care session if the enrolled children sleep at the place.
- Penalty: a fine of \$4 000.

**73. Challenging activity excursions: staff numbers**

- (1) When a number of enrolled children are taken on an excursion from the place that involves challenging activities, a licensee must ensure that the children are accompanied and supervised by —
- (a) the contact staff members required for that number of children under regulation 62;
  - (b) if only one contact staff member would be required under paragraph (a), at least one other contact staff member or volunteer; and
  - (c) enough additional contact staff members or volunteers to ensure that there is at least one contact staff member or volunteer for each multiple of 5 children and for any remainder of fewer than 5.

- (2) A licensee must ensure that enrolled children engaged in a challenging activity are supervised at all times by a contact staff member or volunteer.

Penalty: a fine of \$4 000.

**74. Engaging in challenging activities on excursions**

- (1) A licensee must ensure that enrolled children do not participate in challenging activities on an excursion unless —

- (a) the activity is developmentally appropriate for the children;
- (b) likely hazards are identified and anticipated and steps are taken to minimise those hazards;
- (c) skills, experience and qualifications of any persons conducting or assisting in the activity are appropriate;
- (d) all necessary safety equipment is available; and
- (e) the children have received any necessary training before engaging in the activity.

- (2) A licensee must ensure that —

- (a) safety standards set by the organisers of the challenging activity are appropriate;
- (b) the children comply with those safety standards and wear any necessary safety equipment; and
- (c) the children follow safe practices when engaging in a challenging activity.

Penalty: a fine of \$4 000.

**75. Transport of enrolled children**

A licensee must ensure that 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**

**76. Additional requirements for water activities**

If enrolled children are taken on an excursion from the place to engage in water activities, the requirements of this Division are additional to the requirements of Division 4.

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

- (1) Regulations 78, 79 and 80 do not apply to water activities in or near a wading or paddling pool at the place.
- (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.

**78. Contact staff member in charge of water activities**

A licensee must ensure that the contact staff member in charge of supervising enrolled children engaged in a water activity —

- (a) is at least 21 years of age; and
- (b) supervises and manages the children engaged in the activity and the other contact staff members and any volunteers accompanying the children.

Penalty: a fine of \$3 000.

**79. Water activities generally**

- (1) A licensee must ensure that enrolled children are not permitted to enter or remain in any body of water unless —
  - (a) the contact staff member in charge of the water activity has completed the Risk Assessment Form for Water Activities set out in Schedule 2 and has assessed the risk of the activity accordingly as low or medium, but not high; and



- (b) the children are supervised by the contact staff members and qualified rescuers required under regulation 80.
- (2) A licensee must ensure that enrolled children are not permitted to enter the sea unless —
  - (a) the area entered is a closed water environment where the water is still or slow moving; or
  - (b) the children enter the water in an area that is patrolled by SLSWA or the relevant local government and that is designated accordingly by flags or other signs.

Penalty: a fine of \$4 000.

**80. Water activities: contact staff required**

- (1) While a number of enrolled children are engaged in a low risk water activity, a licensee must ensure that they are supervised at all times by —
  - (a) the contact staff members required for that number of children under regulation 62;
  - (b) if only one contact staff member would be required under paragraph (a), at least one other contact staff member or volunteer;
  - (c) in the case of a low risk water activity, as many additional contact staff members or volunteers as are required to ensure that —
    - (i) there is at least one contact staff member or volunteer for each multiple of 10 children and for any remainder of fewer than 10 children; and
    - (ii) of the contact staff members and volunteers who supervise the children, there is at least one who is a qualified rescuer for each multiple of 20 children and for any remainder of fewer than 20 children;

and

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- (d) in the case of a medium risk water activity — as many additional contact staff members or volunteers as are required to ensure that —
  - (i) there is at least one contact staff member or volunteer for each multiple of 5 children and for any remainder of fewer than 5 children; and
  - (ii) of the contact staff members and volunteers who supervise the children, there is at least one who is a qualified rescuer for each multiple of 10 children and for any remainder of fewer than 10 children.
- (2) If kindergarten children engage in a low or medium risk water activity, a licensee must ensure that the kindergarten children are supervised in the ratio of one contact staff member or volunteer to 2 kindergarten children.  
Penalty: a fine of \$4 000.

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**81. Protection of enrolled children leaving the place**

- (1) A licensee must ensure that an enrolled child is not permitted to leave the place during or at the end of a care session unless —
  - (a) the child is in the care of —
    - (i) the child's parent or a person authorised in writing by the child's parent; or
    - (ii) in the case of an emergency, when a person referred to in subparagraph (i) is not available to take charge of the child, a person authorised by the licensee or supervising officer, having due regard to the wellbeing of the child;
  - or
  - (b) the child has written permission from the child's parent, or a person authorised by the child's parent, to leave the

place while not in the care of a person referred to in paragraph (a).

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

Penalty: a fine of \$3 000.

**82. Illness or accident to enrolled child**

- (1) A licensee must ensure that, except in an emergency, medication is neither administered to an enrolled child nor self-administered by 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.
- (2) A licensee must ensure that medication is not self-administered by an enrolled child without the direct supervision of a contact staff member.
- (3) Subregulation (2) does not apply to the self-administration of a non-prescription asthma inhaler.
- (4) 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.
- (5) 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, Local Authorities and Child Care Centres* and published by the Department principally assisting the Minister in the administration of the *Health Act 1911*.

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- (6) 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 (4).
- (7) For the purposes of excluding an enrolled child or other person from the place under subregulation (4), the supervising officer may —
  - (a) refuse to admit the child or other person to the place;
  - (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.
- (8) 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.

**83. Hygiene standards**

A licensee must ensure that contact staff members observe and maintain reasonable standards of hygiene in the provision of the outside school hours care service.

Penalty: a fine of \$2 000.

**84. Alcohol and drugs**

- (1) If an enrolled child appears to be adversely affected by alcohol, drugs, or any other potentially deleterious substance, a licensee must ensure that a parent of the child is called to collect the child from the outside school hours care service as soon as practicable.

- (2) 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.
- (3) A licensee must ensure that a person who is at the place during a care session does not —
  - (a) consume alcohol;
  - (b) take or possess illegal drugs; or
  - (c) take or possess any other potentially deleterious substance.

Penalty: a fine of \$3 000.

**85. 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.

## **Part 5 — Other matters**

### **86. 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, relating to a matter that is relevant to the health and safety of children.
- (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 the notice 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.

### **87. Notification of convictions**

- (1) For the purpose of the Act section 232(r), a conviction of a licensee for an offence against the Act Part 8 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 an outside school hours care service is provided that the licensee has been convicted of that offence.
- (3) For the purpose 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.

**88. Continued operation of service in certain circumstances**

- (1) In an emergency situation or in circumstances where the licence for the outside school hours care 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 88 inserted in Gazette 1 Mar 2006 p. 926.]*

**Schedule 1 — Contact staff requirements**

[r. 62 and 64]

**Table 1**

No. of enrolled children	No. of contact staff	No. of qualified care givers	No. of first aid officers	Minimum contact staff (routine periods) (if no kindergarten child is at the care session)		
				No. of contact staff who have reached the age of —		
				21	18	16
1-10	1	1	1	1	0	0
11-26	2	1	1	1	1	0
27-39	3	1	1	1	1	1
40-52	4	2	2	2	1	1
53-65	5	2	2	2	2	1
66-78	6	2	2	3	2	1
79-91	7	3	3	4	2	1
92-104	8	3	3	4	3	1
105-117	9	3	3	4	3	2
118-130	10	4	4	5	3	2
131-143	11	4	4	5	4	2

**Table 2**

No. of enrolled children	No. of contact staff	No. of qualified care givers	No. of first aid officers	Minimum contact staff (routine periods) (if a kindergarten child is at the care session)		
				No. of contact staff who have reached the age of —		
				21	18	16
1-10	1	1	1	1	0	0
11-20	2	1	1	1	1	0
21-30	3	1	1	1	1	1
31-40	4	2	2	2	1	1



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Contact staff requirements **Schedule 1**

<b>Minimum contact staff (routine periods) (if a kindergarten child is at the care session)</b>						
<b>No. of enrolled children</b>	<b>No. of contact staff</b>	<b>No. of qualified care givers</b>	<b>No. of first aid officers</b>	<b>No. of contact staff who have reached the age of —</b>		
				<b>21</b>	<b>18</b>	<b>16</b>
41-50	5	2	2	2	2	1
51-60	6	2	2	3	2	1
61-70	7	3	3	4	2	1
71-80	8	3	3	4	3	2
81-90	9	3	3	4	3	2
91-100	10	4	4	5	3	2
101-110	11	4	4	5	4	2

**Table 3**

<b>Minimum contact staff (lunch period)</b>	
<b>Minimum number of contact staff required under regulation 62</b>	<b>Minimum number of contact staff permitted during a lunch period</b>
3	2
4	3
5	3
6	4
7	4
8	5
9	5
10	6
11	6
12	7

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**Schedule 2 — Risk assessment form for water activities**

[r. 79(1)]

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<b>Risk assessment factor</b>	<b>Points</b>
<b>1. Children's swimming ability</b>	
(a) unknown .....	10
(b) mixed swimming ability .....	3
(c) certificate up to level 5, issued by RLSSA or the Department of Education .....	2
(d) certificate level 6 or higher, issued by RLSSA or the Department of Education .....	1
<b>2. Number of people using the venue</b>	
(a) up to 50 .....	1
(b) 51 to 100 .....	2
(c) more than 100 .....	3
<b>3. Water visibility</b>	
(a) bottom is clearly visible .....	0
(b) bottom is not visible .....	2
<b>4. Water movement</b>	
(a) no water movement .....	0
(b) slight water movement (up to 0.5 m swell) ...	1
(c) moderate water movement (more than 0.5 m to 1 m swell) .....	3
(d) high water movement (more than 1 m swell)	5
<b>5. Wind speed</b>	
(a) calm to light breeze (up to 6 knots) .....	1
(b) gentle to moderate breeze (more than 6 knots to 16 knots) .....	2
(c) fresh to strong breeze (more than 16 knots to 24 knots) .....	5

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Risk assessment form for water activities **Schedule 2**

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<b>Risk assessment factor</b>	<b>Points</b>
(d) strong wind warning (more than 24 knots) ...	15
<b>6. Swimming area</b>	
(a) purpose built .....	1
(b) natural, with change rooms, toilets, telephone and similar infrastructure .....	2
(c) natural, with no change rooms, toilets, telephone or similar infrastructure .....	3
<b>7. Lifesaving facilities</b>	
(a) available .....	0
(b) not available .....	1
<b>8. Signs or other evidence of danger or health risk</b>	
Including "No swimming sign", rips, algal bloom, amoebic meningitis risk, boating activity and dangerous marine life .....	16

**Record your score here** \_\_\_\_\_

<b>Low risk</b>	<b>0 to 10 points</b>
<b>Medium risk</b>	<b>11 to 15 points</b>
<b>High risk</b>	<b>16 points or more</b>

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**Notes**

- <sup>1</sup> This is a compilation of the *Children and Community Services (Outside School Hours Care) Regulations 2006* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Children and Community Services (Outside School Hours Care) Regulations 2006</i>	18 Jan 2006 p. 289-351	1 Mar 2006 (see r. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
<i>Children and Community Services (Outside School Hours Care) Amendment Regulations 2006</i>	1 Mar 2006 p. 925-6	1 Mar 2006
<a href="#"><u><i>Children and Community Services (Outside School Hours Care) Amendment Regulations (No. 2) 2006</i></u></a>	<a href="#"><u>8 Dec 2006</u></a> <a href="#"><u>p. 5382-4</u></a>	<a href="#"><u>8 Dec 2006</u></a>