

Children and Community Services Regulations 2006

Compare between:

[02 Feb 2007, 01-a0-04] and [10 Aug 2007, 01-b0-03]



Reprinted under the Reprints Act 1984 as at 2 February 2007

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 operation ¹.

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
 - the CEO is satisfied that the individual
 - 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;
 - is able to work cooperatively with officers, a (iii) child's family and other people when providing care for a child;
 - is able to take responsibility for the development (iv) of his or her competency and skills as a carer; and
 - is a person of good character and repute; (v) 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.
- The CEO may, subject to subregulation (3), revoke an approval (2) under subregulation (1) if
 - the CEO can no longer be satisfied as to a matter referred to in subregulation (1)(a) in relation to the individual;
 - a negative notice or an interim negative notice has been (b) issued to the individual under the Working with Children (Criminal Record Checking) Act 2004; or

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- (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

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 Account ².

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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.

Costs of report 20.

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

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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	\$ 251.93 294.08
7 to 12 years of age	\$ 316.45 <u>366.00</u>
13 to 18 years of age	\$ 405.45 454.40

(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-**Prescribed offences**

An offence that is a Class 1 offence or a Class 2 offence, as those terms are defined in the Working with Children (Criminal Record Checking) Act 2004 section 4, is prescribed for the purposes of the definition of "prescribed offence" in section 197.

Age prescribed for s. 198(1)

The age of 15 years and 6 months is prescribed for the purposes of section 198(1).

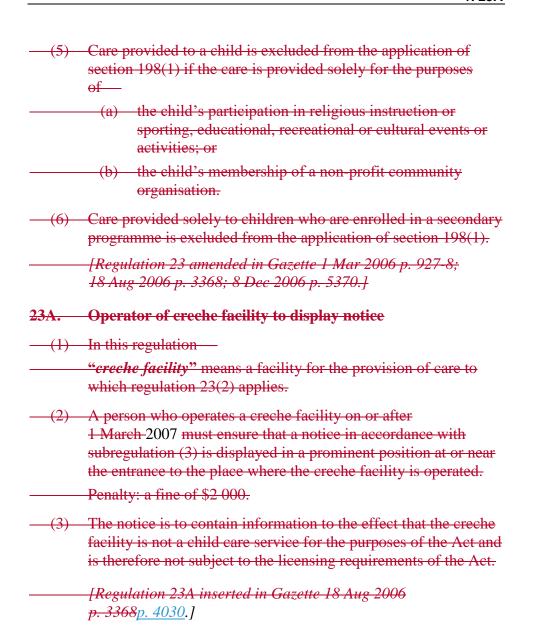
[Regulation 22A inserted-23A. Repealed in Gazette 1 Mar 2006 p. 927; amended in Gazette 187 Aug 2006 p. 3367.]

23.	Care that is not a child care service				
(1)	In this regulation				
	"care giver" means a person who provides care to the child;				
	"care session" means a discrete period during which care is provided to the child;				
	"first aid qualifications" means a certificate or other evidence of successful completion of first aid training in at least the following 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;				
	"secondary programme" has the meaning given to that term in the School Education Regulations 2000 regulation 3(1).				
(2)	Care provided to a child is excluded from the application of section 198(1) if—				
-	(a) the child has reached 2 months of age;				
	[(b) deleted]				
	(c) a parent or other relative of the child is available to attend to the child's immediate physical needs;				
	(d) each care session does not exceed 3 hours;				
	(e) the care sessions in any week do not exceed 12 hours;				
	(f) the number of care sessions on any day does not exceed 2 and those sessions are separated by a period of at least one hour;				
	(g) in circumstances where there is one care giver				
	(i) the care giver has reached 21 years of age;				
	(ii) the care giver has current first aid qualifications; and				

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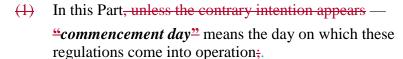
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	(iii) another person who has reached 18 years of age is available to provide assistance in an emergency situation; and
	(h) in circumstances where there are 2 or more care givers
	(i) at least one of the care givers has reached 21 years of age; and
	(ii) at least one of the care givers has current first aid qualifications.
(3)	Care provided to a child with a disability is excluded from the application of section 198(1) if
	(a) the care is funded by a grant of financial assistance approved under the <i>Disability Services Act 1993</i> section 24(1)(c);
	(b) the grant of financial assistance was made to a body corporate; and
	(c) the care is provided by an employee of that body corporate.
-(4)	Care provided to a child with a disability is excluded from the application of section 198(1) for the period of 2 years after the day on which these regulations come into operation if the eare—
	(a) is funded by a grant of financial assistance approved under the <i>Disability Services Act 1993</i> section 24(1)(a) or (b); or
	(b) is funded by a grant of financial assistance approved under the <i>Disability Services Act 1993</i> section 24(1)(c) and is not care to which subregulation (3) applies.



Part 7 — Transitional arrangements

24. Terms used in this Part



"existing authorisation" means a licence or permit referred to in the Act Schedule 1 clause 18(1);

"initial authorisation period", in relation to an existing authorisation, means the period for which the authorisation has effect after commencement day excluding any period for which it is renewed under the Act.

(2) If a term used in this Part is defined in section 197, it has the same meaning in this Part unless the contrary intention appears.

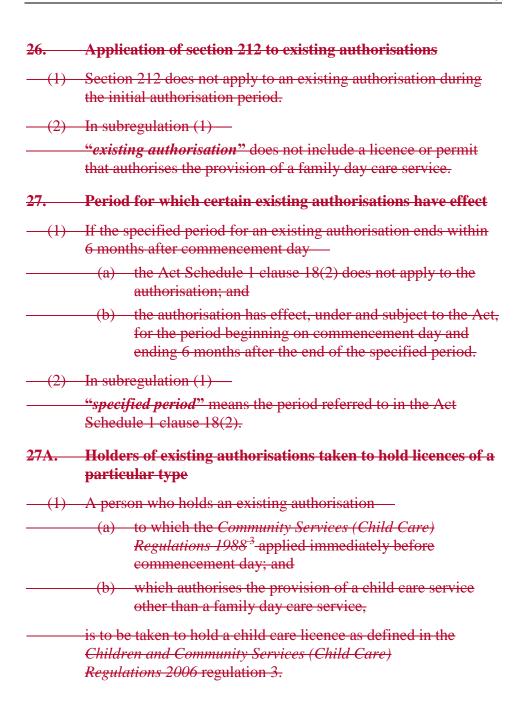
25. Responsible officers to continue as supervising officers

- (1) A person who, immediately before commencement day, was the responsible officer for a child care service to which an existing authorisation applies is to be taken to be the supervising officer for the service for the purposes of regulations referred to in section 232 until
 - (a) the end of the initial authorisation period; or
- (b) the appointment of another supervising officer for the service.

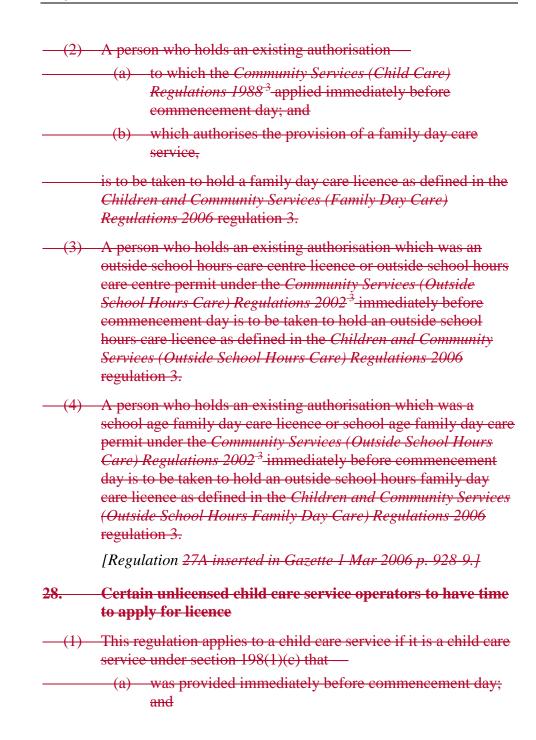
whichever happens first.

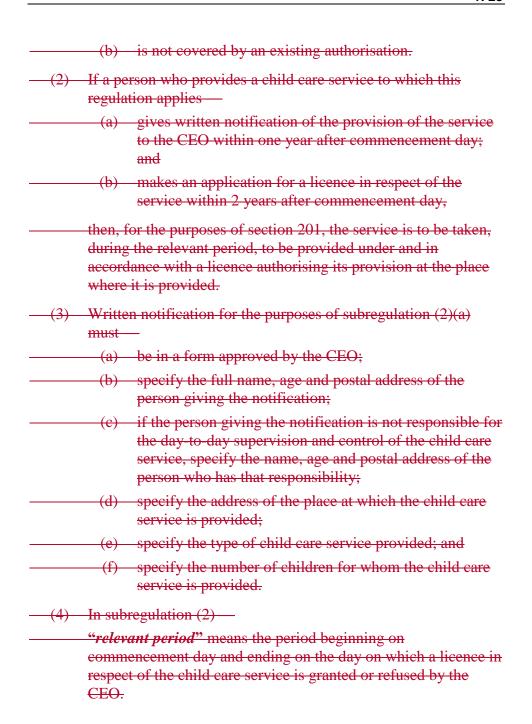
(2) In subregulation (1)

"responsible officer" for a child care service means the individual who, under the Community Services (Child Care)
Regulations 1988³ or the Community Services (Outside School Hours Care) Regulations 2002³, was directly responsible for the effective supervision of the service.









For the purposes of the definition of "relevant period" in subregulation (4), if the application referred to in subregulation (2)(b) is withdrawn, a licence in respect of the child care service is to be taken to have been refused by the CEO.

[Regulation 2824 amended in Gazette 187 Aug 20062007 p. 33684030.1

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

29. Children in the CEO's care

- This regulation applies to a child if immediately before (1) commencement day the child
 - was being cared for by a person pursuant to an (a) arrangement made
 - by the Director-General as defined in the Child Welfare Act 1947³ section 4(1); and
 - with the consent of a parent of the child; (ii) and
 - was not the subject of an order or proceedings under the (b) Child Welfare Act 1947³.
- (2) A child to whom this regulation applies is to be taken to be a child
 - who is in the CEO's care for the purposes of the Act (a) Part 4; and
 - to whom care is provided under a placement (b) arrangement as defined in section 3.

Notes

This reprint is a compilation as at 2 February 2007 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
Children and Community Services Regulations 2006	18 Jan 2006 p. 353-72	1 Mar 2006 (see r. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
Children and Community Services Amendment Regulations 2006	1 Mar 2006 p. 927-9	1 Mar 2006
Children and Community Services Amendment Regulations (No. 2) 2006	18 Aug 2006 p. 3367-8	18 Aug 2006
Children and Community Services Amendment Regulations (No. 3) 2006	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)

Children and Community Services	7 Aug 2007	r. 1 and 2: 7 Aug 2007 (see
Amendment Regulations 2007	p. 4029-30	<u>r. 2(a));</u>
		Regulations other than r. 1 and 2:
		10 Aug 2007 (see r. 2(b) and
		Gazette 9 Aug 2007 p. 4071)

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.