

CX302\*

Children and Community Services Act 2004

## **Children and Community Services (Child Care) Amendment Regulations 2006**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Children and Community Services (Child Care) Amendment Regulations 2006*.

### **2. The regulations amended**

The amendments in these regulations are to the *Children and Community Services (Child Care) Regulations 2006*\*.

[\* *Reprint 1 as at 21 April 2006.*]

### **3. Regulation 3 amended**

Regulation 3 is amended as follows:

- (a) in the definition of “first aid qualifications” by inserting after “the following” —  
“ or equivalent ”;
- (b) by inserting in the appropriate alphabetical positions —

“

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

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

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

**“class A\* contact staff member”** means a contact staff member who holds —

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

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

- (a) a 2 year certificate in child care studies; or
- (b) a diploma or associate diploma in child care; or
- (c) an equivalent qualification as determined by the CEO;

**“class B\* contact staff member”** means a contact staff member who holds —

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

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

- (a) a registered mothercraft nurse; or
- (b) the holder of a mothercraft nursing qualification; or
- (c) the holder of an equivalent qualification as determined by the CEO;

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

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

- (a) has at least 2 years’ experience working in an early childhood care setting; or
- (b) is the holder of —
  - (i) a Certificate III in Community Services (Children’s Services); or
  - (ii) a qualification equivalent to that referred to in subparagraph (i) as determined by the CEO.

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

- (a) an RLSSA Aquatic Rescue Certificate;
- (b) an RLSSA Bronze medallion;
- (c) an RLSSA Swimming Teacher Rescue Certificate;
- (d) a Surf Life Saving Western Australia Incorporated Bronze medallion;
- (e) a qualification that is, in the opinion of the CEO, equivalent to a qualification referred to in paragraph (a), (b), (c) or (d);

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

**4. Regulation 10 amended**

- (1) Regulation 10(1)(i) is deleted.
- (2) Regulation 10(2) is amended by deleting “Subregulation (1)(i) and (j) do” and inserting instead —

“ Subregulation (1)(j) does ”.

**5. Regulation 11 amended**

Regulation 11(5) is repealed.

**6. Regulation 12 amended**

Regulation 12(6) is repealed.

**7. Regulation 14 amended**

- (1) Regulation 14(1) is amended by deleting “, or the renewal of a licence,”.
- (2) Regulation 14(3) is amended as follows:
  - (a) by deleting paragraph (c);
  - (b) in paragraph (d) by deleting “and the full name and residential address of the nominated supervising officer or supervising officer”;

- (c) in paragraph (e) by deleting “or operates”;
- (d) in paragraph (f) by deleting “or renewal of licence”.
- (3) Regulation 14(4) is amended by deleting “or renew”.
- (4) Regulation 14(5) is repealed.

**8. Regulation 15 repealed**

Regulation 15 is repealed.

**9. Regulation 16 amended**

- (1) Regulation 16(1) is repealed and the following subregulation is inserted instead —

“

- (1) Any person may object to the grant of a licence on the ground that the applicant is not a fit and proper person to provide or be involved in the provision of a child care service.

”.

- (2) Regulation 16(3) is amended as follows:

- (a) by deleting “or 15”;
- (b) by deleting “, renew or amend the licence or give approval, as the case requires.” and inserting instead —  
“ the licence. ”.

**10. Regulation 19 amended**

Regulation 19(3) is amended as follows:

- (a) in paragraph (b) by deleting “or current assessment notice”;
- (b) in paragraph (c) by deleting “or current assessment notice”.

**11. Regulation 21 amended**

Regulation 21(4) is repealed and the following subregulations are inserted —

“

- (4) Subregulation (1) does not apply to the taking or recording of a visual image —
  - (a) by a licensing officer when exercising a power or performing a duty under the Act; or
  - (b) for the purpose of monitoring an enrolled child.
- (5) Subregulation (3) does not apply to the use of a visual image for the purpose of monitoring an enrolled child.

”.

**12. Regulation 23 amended**

- (1) Regulation 23(2) is amended by deleting “under the direct supervision of a contact staff member.” and inserting instead —
- “
- adequately supervised by a staff member with a first aid qualification.
- ”.
- (2) Regulation 23(4) is amended as follows:
- (a) after paragraph (a) by deleting “or” and inserting instead —
- “ and ”;
- (b) by deleting paragraph (b) and inserting the following paragraph instead —
- “
- (b) be a class A, B or C contact staff member.
- ”.

**13. Regulation 24 amended**

Regulation 24 is amended by deleting “regulation 81(1)” and inserting instead —

“ regulation 81(1), (2) or (3) or 81A ”.

**14. Regulation 25 amended**

Regulation 25(1) is amended by deleting “regulation 81(1)” and inserting instead —

“ regulation 81(1), (2) or (3) or 81A ”.

**15. Regulation 26 amended**

Regulation 26(2) is repealed and the following subregulations are inserted —

- “
- (2) The licensee must not employ a person for the purposes of subregulation (1) unless —
- (a) the person has completed —
- (i) a food handling and hygiene course approved by the CEO; and
- (ii) a course of training in nutrition approved by the CEO;
- or
- (b) the licensee is satisfied that the person has enrolled or intends to enrol in a course of that kind.
- ”.

- (3) The licensee must not continue to employ a person employed under subregulation (2)(b) if the person —
  - (a) in a case where the person had not enrolled in a food handling and hygiene course or course of training in nutrition approved by the CEO, fails to enrol in the course within one month after the person is employed; or
  - (b) in a case where the person had enrolled in a food handling and hygiene course or course of training in nutrition approved by the CEO, fails to complete a course within 6 months after the person is employed.

”.

**16. Regulation 49 amended**

Regulation 49(4) is repealed and the following subregulation is inserted instead —

“

- (4) A licensee must ensure that a fire or heating apparatus at the place (other than a low surface temperature heater) is effectively shielded or guarded when in use to prevent —
  - (a) direct contact by or access to any child; and
  - (b) the emission of any sparks or flame.

”.

**17. Regulation 50 amended**

Regulation 50(2) is repealed and the following subregulation is inserted instead —

“

- (2) A licensee must ensure that a ceiling mounted fan at the place that has blades 2 400 mm or less above the floor below it is not operated if —
  - (a) an enrolled child is present at the place; and
  - (b) an enrolled child has access to the area in which the fan is located.

”.

**18. Regulation 56 amended**

Regulation 56(1) is repealed.

**19. Regulation 61 amended**

Regulation 61(4) is amended as follows:

- (a) after paragraph (c) by deleting “; and” and inserting a full stop instead;
- (b) by deleting paragraph (d);
- (c) after each of paragraphs (a) and (b) by inserting —  
“ and ”.

**20. Regulation 72 amended****(1) Regulation 72(1) is amended as follows:**

- (a) before paragraph (a) by inserting the following paragraph —  
“
  - (aa) a record of a course enrolled in by a person referred to in regulation 26(2)(b) and evidence that the person has completed the course;”;
- (b) in paragraph (b) by deleting “regulation 81(2)(d);” and inserting instead —  
“ regulation 81(4)(b); ”.

**(2) Regulation 72(2) is amended as follows:**

- (a) in paragraph (a) by deleting “(1)(a)” and inserting instead —  
“ (1)(aa), (a) ”;
- (b) in paragraph (b) by deleting “(1)(c)” and inserting instead —  
“ (1)(aa) or (c) ”.

**21. Regulation 81 replaced by regulations 81 and 81A**

Regulation 81 is repealed and the following regulations are inserted instead —

“

**81. Minimum contact staff members required**

- (1) Subject to regulations 23, 24, 25, 81A and 82, a licensee must ensure that at a care session —
  - (a) for every 4 or fewer than 4 enrolled children who have not reached 24 months of age present at the care session there is one class A\*, B\*, C, D or E contact staff member on duty; and
  - (b) for every 12 or fewer than 12 enrolled children who have not reached 24 months of age present at the care session the contact staff members required under paragraph (a) include a class A\*, B\* or C contact staff member.

Penalty: a fine of \$6 000.

- (2) Subject to regulations 23, 24, 25, 81A and 82, a licensee must ensure that at a care session —
  - (a) for every 5 or fewer than 5 enrolled children who have reached 24 months of age but not reached 36 months of age present at the care session there is one class A, B, C, D or E contact staff member on duty; and

- (b) for every 15 or fewer than 15 enrolled children greater than 5 enrolled children who have reached 24 months of age but not reached 36 months of age present at the care session the contact staff members required under paragraph (a) include a class A, B or C contact staff member.

Penalty: a fine of \$6 000.

- (3) Subject to regulations 23, 24, 25, 80, 81A and 82, a licensee must ensure that at a care session —
  - (a) for every 10 or fewer than 10 enrolled children who have reached 36 months of age present at the care session there is one class A, B, C, D or E contact staff member on duty; and
  - (b) for every 30 or fewer than 30 enrolled children greater than 10 enrolled children who have reached 36 months of age present at the care session the contact staff members required under paragraph (a) include a class A, B or C contact staff member.

Penalty: a fine of \$6 000.

- (4) For the purpose of determining the number of contact staff required under subregulations (1), (2) and (3), the licensee may include an enrolled child in an age range that is up to 6 months higher or 6 months lower than the child's actual age if the licensee —
  - (a) is satisfied on reasonable grounds it is developmentally appropriate for the child to be included in that age range; and
  - (b) is authorised in writing by the child's parent to include the child in that age range.

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

Penalty: a fine of \$6 000.

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

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



- (b) the contact staff members referred to in paragraph (a) include —
  - (i) a contact staff member who has reached 18 years of age (who may be a contact staff member referred to in subparagraph (ii)); and
  - (ii) a class A\*, B\* or C contact staff member.

Penalty: a fine of \$6 000.

- (2) Despite regulation 81, but subject to regulations 23, 24, 25 and 82, if there are fewer than 16 enrolled children present at the place during a care session and all of the children present have reached 24 months of age the licensee must ensure that —
  - (a) for every 5 or fewer than 5 enrolled children present at the care session there is one contact staff member on duty; and
  - (b) the contact staff members referred to in paragraph (a) include —
    - (i) a contact staff member who has reached 18 years of age (who may be a contact staff member referred to in subparagraph (ii)); and
    - (ii) a class A, B or C contact staff member.

Penalty: a fine of \$6 000.

”.

## 22. Regulation 82 amended

Regulation 82 is amended as follows:

- (a) by deleting “regulation 81(1)” in both places where it occurs and inserting instead —

“ regulation 81(1), (2) or (3) or 81A ”;
- (b) by deleting subparagraph (b)(i) and “or” after it and inserting instead —

“

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

”;
- (c) in paragraph (d) by deleting “has a qualification referred to in regulation 81(3)(a), (c) or (e).” and inserting instead —

“ is a class A, B or C contact staff member. ”.
- (d) after each of paragraphs (a) and (b) by inserting —

“ and ”.

**23. Regulation 93 amended**

Regulation 93 is amended by deleting “has reached 18 years of age.” and inserting instead —

“

—

- (a) has reached 18 years of age; or
- (b) is under 18 years of age but has a first aid certificate or is a qualified rescuer.

”.

**24. Regulation 94 amended**

Regulation 94(3) is amended by deleting “regulation 81.” and inserting instead —

“ regulation 81 or 81A. ”.

**25. Schedule 1 repealed**

Schedule 1 is repealed.

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

  

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