

CG305

**COMMUNITY SERVICES ACT 1972
COMMUNITY SERVICES (CHILD CARE) AMENDMENT
REGULATIONS 1991**

Made by His Excellency the Governor in Executive Council.

Citation

1. These regulations may be cited as the *Community Services (Child Care) Amendment Regulations 1991*.

Principal regulations

2. In these regulations the *Community Services (Child Care) Regulations 1988** are referred to as the principal regulations.

[*Published in the Gazette on 25 November 1988 at pp. 4684-4695.]

Regulation 3 amended

3. Regulation 3 of the principal regulations is amended in the definition of "licensee" by deleting "or permits".

Regulation 6 amended

4. Regulation 6 of the principal regulations is amended—

- (a) in subregulation (4) by deleting "or permit" in both places where it occurs;
- (b) by inserting after subregulation (4) the following subregulation—
 - " (4a) The Director-General shall not grant a licence until he or she has received proof that the applicant for the licence has complied with subregulation (4). ";
- (c) in subregulation (5)—
 - (i) by inserting " and " after paragraph (c);
 - (ii) in paragraph (d) by deleting "construction;" and substituting the following—
 - " construction. ";
 - (iii) by deleting "and" after paragraph (d);
 - and
 - (iv) by deleting paragraph (e).

Regulation 7A inserted

5. After regulation 7 of the principal regulations the following regulation is inserted—

Approval to provide relief family day care

- " 7A. (1) An application for approval to provide relief family day care in accordance with the *Community Services (Child Care Services) Exemption Order 1991* shall—
 - (a) be made in a form approved by the Director-General;
 - (b) contain authority to obtain details of any record of criminal convictions of the applicant; and
 - (c) be accompanied by the name, address and telephone number of 3 referees who are not related, married or related by marriage to the applicant.
- (2) The Director-General may approve, or refuse to approve, an application under subregulation (1) and may revoke an approval at any time.
- (3) An approval to provide relief family day care may be made subject to such conditions as the Director-General thinks fit. "

Regulation 13 amended

6. Regulation 13 of the principal regulations is amended by repealing subregulation (3).

Regulation 14 amended

7. Regulation 14 of the principal regulations is amended in subregulation (2) by deleting "licensee" and substituting the following—

" person ".

Regulation 17 amended

8. Regulation 17 of the principal regulations is amended—

- (a) in paragraph (a) by deleting “or permit”;
- (b) in paragraph (d) by deleting “or permit”; and
- (c) by deleting “the licensee shall forthwith” and substituting the following—
 - “ the holder of the relevant licence or permit shall forthwith ”.

Regulation 18 amended

9. Regulation 18 of the principal regulations is amended by repealing subregulations (1) and (2) and substituting the following subregulations—

“ (1) The holder of a licence or permit may at any time by notice in writing to the Director-General surrender the licence or permit and upon surrender the licence or permit it shall cease to have effect.

(2) Where the holder of a licence or permit dies or becomes bankrupt or, in the opinion of the Director-General, incapable of providing the child care service to which the licence or permit relates the holder of the licence or permit shall be deemed to have surrendered the licence or permit. ”.

Regulation 22 amended

10. Regulation 22 of the principal regulations is amended in subregulation (1) by deleting “Every licensee” and substituting the following—

“ The holder of a licence or permit ”.

Regulation 26 amended

11. Regulation 26 of the principal regulations is amended—

- (a) by deleting “The licensee” and substituting the following—

“ (1) A licensee or permit holder ”;

- (b) by deleting “of that licensee are in accordance with this Part.” and substituting the following—

“ of that licensee or permit holder are in accordance with this Part.

Penalty: \$1 500 and a daily penalty of \$100. ”; and

- (c) by inserting the following subregulation—

“ (2) Each licensee or permit holder shall comply with the requirements of this Part that apply to that person.

Penalty: \$1 500 and a daily penalty of \$100. ”.

Regulation 27 amended

12. Regulation 27 of the principal regulations is amended—

- (a) in subregulation (2) by deleting “licensee’s own children” and substituting the following—

“ children of the licensee or permit holder ”;

- (b) in subregulation (3) by inserting after “the licence” in both places where it occurs the following—

“ or permit ”.

Regulation 28 amended

13. Regulation 28 is amended by inserting after subregulation (2) the following subregulation—

“ (3) In this regulation “licensed” includes authorized under a permit and “licensee” shall be construed accordingly. ”.

Regulation 29 amended

14. Regulation 29 of the principal regulations is amended by deleting paragraph (c) and substituting the following paragraph—

“ (c) the public liability insurance of the licensee or permit holder in respect of the child care service is valid at all such times. ”.

“ 36. (1) Subject to subregulation (2), a licensee or permit holder shall ensure that a person possessing current first-aid qualifications approved by

the Director-General is in attendance at the child care premises of the licensee or permit holder at all times children are attending a child care service on those premises.

(2) Notwithstanding subregulation (1), a family day care service may be supervised on an emergency basis, or on a relief basis in accordance with the *Community Services (Child Care Services) Exemption Order 1991*, by a person who does not possess current first-aid qualifications if the licensee or permit holder for that family day care service provides the emergency or relief care giver with a clear, written emergency procedure before supervision commences.

Health certificate

37. (1) A licensee or permit holder shall ensure that a person who—

(a) is employed in the child care service of that licensee or permit holder; and

(b) has contact with children attending that service,

provides that licensee or permit holder with a medical certificate, including a tuberculosis clearance, in a form approved by the Director-General, within 14 days of commencing employment in the child care service.

(2) A licensee or permit holder, shall upon a written request by the Director-General, provide the Director-General with a medical certificate in a form approved by the Director-General within the time specified in the request.

Outings

38. (1) A licensee or permit holder shall ensure that on outings from the child care premises of the licensee or permit holder—

(a) the licensee, permit holder or a responsible staff member over the age of 18 years is in charge of the children; and

(b) unless the children are travelling in an A class motor vehicle as referred to in subregulation (2), the person referred to in paragraph (a) has the care of not more than 4 children.

(2) Notwithstanding subregulation (1) (b) where children are travelling in an A class motor vehicle seating no more than 8 people and fitted with seat belts for each person, 7 children may travel under the supervision of the person referred to in subregulation (1) (a).

(3) Volunteers over the age of 18 years may be used to augment adult:child ratios on outings.

(4) A licensee or permit holder shall ensure that on outings from the child care premises of the licensee or permit holder—

(a) where the children are not in a vehicle they are, depending on their age, appropriately restrained in a pram or stroller or by other suitable means; and

(b) where the children are in an A class motor vehicle they are restrained by a seat belt or safety capsule. ”.

Regulation 39 amended

19. Regulation 39 of the principal regulations is amended in subregulation (1) by deleting “swimming, the licensee” and substituting the following—

“ taken on a swimming outing, the licensee or permit holder ”.

Regulation 40 repealed and a regulation substituted

20. Regulation 40 of the principal regulations is repealed and the following regulation is substituted—

Compliance with requirements

“ 40. A licensee or permit holder shall ensure that the child care premises specified in the licensee's licence or the permit holder's permit, as the case may be, comply with this Part and with the *Building Regulations 1989* made under the *Local Government Act 1960* as if the child care premises were classified as a single dwelling house.

Penalty: \$1 500 and a daily penalty of \$100. ”.

Regulation 42 amended

21. Regulation 42 of the principal regulations is amended in subregulation (3) by deleting “*Uniform Private Swimming By-laws*” and substituting the following—

“ *Building Regulations 1989* ”.

Regulation 44 repealed and a regulation substituted

22. Regulation 44 of the principal regulations is repealed and the following regulation is substituted—

Staff room

“ 44. Child care premises shall—

- (a) include an area separate from areas used by children and suitable for the withdrawal or respite of staff of the child care service; or
- (b) have access to an area that is suitable for the withdrawal or respite of staff of the child care service. ”.

Regulation 46 amended

23. Regulation 46 of the principal regulations is amended by repealing subregulation (1) and substituting the following subregulation—

“ (1) Except where—

- (a) child care premises are used exclusively for occasional, casual or part time child care; or
- (b) arrangements approved by the Director-General have been made for treating laundry away from the child care premises and for the hygienic storage of soiled laundry,

child care premises shall include a laundry area. ”.

Regulation 50 amended

24. Regulation 50 of the principal regulations is amended—

- (a) by repealing subregulation (1) and substituting the following subregulations—

“ (1) In child care premises there shall be—

- (a) one lavatory and one hand basin for every 10 children or part of that number over the age of 2 years attending the child care centre; and
- (b) one lavatory and one hand basin for every 15 children or part of that number under the age of 2 years attending the child care centre,

but in any case it shall not be necessary to have more than one lavatory: 10 children or part of that number and one hand basin: 10 children or part of that number.

(1a) In subregulation (1)—

“hand basin” means a hand basin either with a firm step, or at a height so as to provide reasonable child access;

“lavatory” means a junior lavatory or an adult lavatory with a firm step and a junior seat. ”;

- (b) in subregulation (2)—

(i) by inserting “and” after paragraph (a);

(ii) by deleting “; and” after paragraph (b) and substituting a full stop; and

(iii) by deleting paragraph (c); and

- (c) in subregulation (3) by deleting “There” and substituting the following—

“ In addition to the requirements of subregulation (1), in child care premises, other than the premises of a family day care service, there ”.

Regulation 51 amended

25. Regulation 51 of the principal regulations is amended—

- (a) in subregulation (2) by inserting after “licensed” the following—

“ or authorized by permit ”;

- (b) in subregulation (3) by deleting “General purpose” and substituting the following—

“ Subject to subregulation (3a), general purpose ”;

- (c) by inserting after subregulation (3) the following subregulation—

“ (3a) Notwithstanding subregulation (3), general purpose power outlets on the premises of a family day care service that are not installed at a minimum of 1 200 mm above the adjacent floor level may be fitted with safety plugs approved by the Board, or otherwise protected in a manner approved by the Board, in lieu of compliance with subregulation (3). ”; and

- (d) in subregulation (6) by deleting "adequately protected from inadvertent physical contact" and substituting the following—

" children are adequately protected from inadvertent physical contact with the fan ".

Regulation 55 amended

26. Regulation 55 of the principal regulations is amended in subregulation (1)—

- (a) by inserting after "The licensee" the following—

" or permit holder ";

- (b) in paragraph (b) by inserting after "licensee" the following—

" , permit holder " ; and

- (c) in paragraph (c) by deleting "of the child care service" and substituting the following—

" or permit holder ".

Regulation 57 amended

27. Regulation 57 of the principal regulations is amended by repealing subregulation (1) and substituting the following subregulations—

- " (1) The licensee or permit holder shall ensure that—

- (a) any child in the care of that licensee or permit holder who is using a wading or paddling pool is under the direct supervision of a person of not less than 18 years of age; and

- (b) when not in use any wading or paddling pool on the child care premises is emptied and stored in such a manner that it cannot collect water.

- (1a) The licensee or permit holder shall ensure that any child in the care of the licensee or permit holder who is using a trampoline is under the direct supervision of a person of not less than 18 years of age. "

Regulation 64 repealed and a regulation substituted

28. Regulation 64 of the principal regulations is repealed and the following regulation is substituted—

Long attendance of child

- " 64. (1) A licensee or permit holder shall notify the Director-General in writing, before the commencement of the period of care or within 7 days of the completion of the period of care, if any child is placed in the care of that licensee or permit holder for a period of more than 18 consecutive hours.

(2) A licensee or permit holder shall ensure that no child is placed in the care of that licensee or permit holder for more than 14 24-hour periods in one year without the approval of the Director-General.

- (3) In subregulation (2) "year" means a period of 12 months commencing on 1 July. "

Regulation 66A inserted

29. After regulation 66 of the principal regulations the following regulation is inserted—

Offences

- " 66A. Subject to the conditions of his or her licence or permit, a licensee or permit holder who fails to comply with a regulation under this Part commits an offence.

Penalty: \$1 500 and a daily penalty of \$100. "

Regulation 71 amended

30. Regulation 71 of the principal regulations is amended by inserting after paragraph (g) the following paragraph—

" (ga) the child care service practice and policy regarding relief family day care; "

Regulation 73 repealed and a regulation substituted

31. Regulation 73 of the principal regulations is repealed and the following regulation is substituted—

Insurance

- " 73. Every licensee and permit holder shall obtain and keep current a policy of insurance that will adequately meet the public liability of that person in respect of the provision of a child care service. "

Regulation 74A inserted

32. After regulation 74 of the principal regulations the following regulation is inserted—

Offences

- “ 74A. Subject to the conditions of his or her licence or permit, a licensee or permit holder who fails to comply with a regulation under this Part commits an offence.

Penalty: \$1 500 and a daily penalty of \$100. ”.

References to “permit holder” inserted

33. The principal regulations are amended by inserting after “licensee” wherever it occurs in the provisions referred to in the Table to this regulation the following—

“ or permit holder ”.

Table

Regulation 12 (1)	Regulation 57 (2)
Regulation 14 (1)	Regulation 58
Regulation 15	Regulation 59
Regulation 17 (e)	Regulation 60 (1) and (2)
Regulation 18 (3)	Regulation 61
Regulation 31 (1)	Regulation 62
Regulation 32 (1)	Regulation 63
Regulation 34	Regulation 65
Regulation 35 (1), (2) and (3)	Regulation 66 (1), (2) and (3)
Regulation 52	Regulation 67 (1)
Regulation 53 (1), (2), (3) and (4)	Regulation 68
Regulation 54	Regulation 69
Regulation 55 (2)	Regulation 71
Regulation 56	Regulation 72
	Regulation 74 (1)

By His Excellency's Command,

L. M. AULD, Clerk of the Council.