

Western Australia

**Child Care Services (Outside School Hours
Family Day Care) Regulations 2006**

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Child Care Services (Outside School Hours Family Day Care) Regulations 2006

CONTENTS

Part 1 — Preliminary

1.	Citation	1
2.	Commencement	1
3.	Terms used in these regulations	1
4.	Meaning of “school age”	4
5.	Meaning of “qualified rescuer”	4
6.	Outside school hours family day care service prescribed	5

Part 2 — Licences

Division 1 — Prescribed matters

7.	Prescribed qualifications: section 12(2)(c)	6
8.	Prescribed details: section 33	6

Division 2 — Applications

9.	Prescribed time for renewal applications	6
10.	Documents and information to accompany application	7
11.	Change of place	8
12.	Application for person to act in place of licensee and transitional	8

Division 3 — Matters ancillary to applications

13.	Referees	9
14.	Advertisement of application for licence	10

Contents

16.	Objections	10
	Division 4 — Surrenders	
17.	Surrender of licences	11
	Part 3 — Obligations of licensee	
	Division 1 — General obligations	
18.	Exemptions	12
19.	Notification of change of circumstances	13
20.	Notification of harm to enrolled child	13
21.	Visual images of enrolled child	14
	Division 2 — Supervision requirements	
22.	Supervising officer present at the place	15
23.	Supervision of enrolled children	16
	Division 3 — Requirements for place or obligations relating to place	
24.	Display of licence	16
25.	Telephone	16
26.	Play equipment and materials	16
27.	First aid kit	17
28.	Cleanliness, maintenance and repair of place	17
29.	Smoke or fire detectors	17
29A.	Heating	18
30.	Animals on place	18
31.	People convicted of a prescribed offence banned from place	18
32.	Application to modify the place	19
	Division 4 — Operating procedures	
33.	Compliance with procedures	20
34.	Emergency procedures and rehearsals	20
35.	Behaviour management procedures	20
36.	Procedure for dealing with parent's concerns	21
37.	Transport procedures	21
	Division 5 — Administration of care service	
38.	Enrolment form	21
39.	Record of medication	23
40.	Record of injury or accident	23
41.	Record of attendance	24
42.	Record of excursions	24
43.	Other records	25

44.	Storing records	25
45.	Confidentiality of records	25
46.	Falsification of records	26
47.	Parent visit	26
48.	Insurance	26

**Part 4 — Operating the outside
school hours family day care
service**

Division 1 — Children at care session

49.	Children who are not enrolled children	27
50.	Care for children in exceptional circumstances	27

**Division 2 — Programmes and behaviour
management**

51.	Programmes	28
52.	Managing the behaviour of children	28

Division 3 — Excursions and sleepovers

53.	Excursions from the place	29
54.	First aid kit on excursions	30
55.	Excursion plans	30
56.	Sleepovers	31
57.	Challenging activity excursions	31
58.	Engaging in challenging activities on excursions	31
59.	Transport of enrolled children	32

Division 4 — Water activities

60.	Additional requirements for water activities	32
61.	Wading or paddling pools at the place	32
62.	Swimming pools at the place	32
63.	Supervision of enrolled children and volunteers on an excursion involving water activities	33
64.	Water activities	33

**Division 5 — Safety and health of enrolled
children**

65.	Protection of enrolled children leaving the place	34
66.	Illness or accident to enrolled child	35
67.	Hygiene standards	36
68.	Alcohol and drugs	36
69.	Smoking	37

Contents

Part 5 — Other matters

70.	Medical examination	38
71.	Check on new usual occupant	38
72.	Notification of convictions	38
73.	Continued operation of service in certain circumstances	39

**Schedule 1 — Risk assessment form
for water activities**

1.	Children's swimming ability	40
2.	Number of people using the venue	40
3.	Water visibility	40
4.	Water movement	40
5.	Wind speed	40
6.	Swimming area	40
7.	Lifesaving facilities	41
8.	Signs or other evidence of danger or health risk	41

Notes

	Compilation table	42
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Child Care Services (Outside School Hours Family Day Care) Regulations 2006

Part 1 — Preliminary

1. Citation

These regulations are the *Child Care Services (Outside School Hours Family Day Care) Regulations 2006* ¹.

*[Regulation 1 amended in Gazette 1 Mar 2006 p. 934;
7 Aug 2007 p. 4041.]*

2. Commencement

These regulations come into operation on the day on which the *Children and Community Services Act 2004* section 250 comes into operation ¹.

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 family day 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;

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(c) bush walking;

(d) caving; and

(e) horse riding;

“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;

“enrolled child”, in relation to an outside school hours family day 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 school;

“licence” means an outside school hours family day care licence;

“licensee” means the holder of a licence;

“low risk water activity” means a water activity assessed as low risk under regulation 64(1)(a);

“medium risk water activity” means a water activity assessed as medium risk under regulation 64(1)(a);

“outside school hours family day care licence” means a licence granted under section 13 authorising the provision of an outside school hours family day care service;

“outside school hours family day care service” means a family day care service provided outside school hours for children of school age or kindergarten children;

“place” means —

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

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

“qualified rescuer” has the meaning given to that term in regulation 5;

“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;

“section” means a section of the Act;

“SLSWA” means Surf Life Saving Western Australia Incorporated;

“volunteer” means a person who is not a supervising officer 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.

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*[Regulation 3 amended in Gazette 1 Mar 2006 p. 934-5;
8 Dec 2006 p. 5384; 7 Aug 2007 p. 4041.]*

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. 935.]

5. 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).
- (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).

6. Outside school hours family day care service prescribed

An outside school hours family day care service is prescribed as a type of child care service.

[Regulation 6 inserted in Gazette 1 Mar 2006 p. 935; amended in Gazette 7 Aug 2007 p. 4041.]

Part 2 — Licences

Division 1 — Prescribed matters

7. Prescribed qualifications: section 12(2)(c)

For the purposes of section 12(2)(c), first aid qualifications are prescribed as a qualification for an individual applicant for a licence.

[Regulation 7 amended in Gazette 7 Aug 2007 p. 4042.]

8. Prescribed details: section 33

For the purposes of section 33, the following details are prescribed —

- (a) the name of the licensee;
- (b) the location of the place at which the outside school hours family day care service is authorised to be provided;
- (c) the period for which the licence has effect;
- (d) the maximum number of children who may attend a care session and any other conditions to which the licence is subject under section 19(1).

*[Regulation 8 amended in Gazette 1 Mar 2006 p. 936;
7 Aug 2007 p. 4042.]*

Division 2 — Applications

9. Prescribed time for renewal applications

For the purposes of section 22(2)(b), the prescribed time is not less than 60 days before the licence expires.

[Regulation 9 amended in Gazette 7 Aug 2007 p. 4042.]

10. Documents and information to accompany application

- (1) Under section 11(b) the following documents and information are prescribed —
- (a) a criminal record check on the applicant issued not more than 6 months before the date of the application;
 - (b) 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;
 - (c) a copy of the applicant's qualifications prescribed under regulation 7;
 - (d) a statement by the applicant indicating the time he or she has been engaged in providing children's, educational or recreational services or in child development;
 - (e) a financial assessment in a form approved by the CEO;
 - (f) a site plan, drawn to a scale of not less than 1:500, showing the location of each building on the land comprising the place where the outside school hours family day care service is to be provided;
 - (g) a plan of the building or buildings at the place, drawn to a scale of not less than 1:100, showing the use to which each part of the building or buildings will be put;
 - (h) if there is a swimming pool at the place, a statement by the applicant indicating whether or not the place complies with the requirements of the *Building Regulations 1989* Part 10.
- (2) Under section 22(2)(c) the following documents and information are prescribed —
- (a) a criminal record check on the applicant issued not more than 6 months before the date of the application;
 - (b) 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;
 - (c) a financial assessment in a form approved by the CEO;

- (d) a copy of the applicant's qualifications prescribed under regulation 7.

*[Regulation 10 amended in Gazette 1 Mar 2006 p. 936;
7 Aug 2007 p. 4042.]*

11. Change of place

- (1) The licensee may apply under section 32 to amend the licence so that it specifies a different place at which the outside school hours family day care service is authorised to be provided.
- (2) An application under subregulation (1) must be made by the licensee 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 10(1)(f), (g) and (h).

*[Regulation 11 amended in Gazette 1 Mar 2006 p. 936;
7 Aug 2007 p. 4042.]*

12. Application for person to act in place of licensee and transitional

- (1) A licensee must not appoint a person to act in place of the licensee without the prior written approval of the CEO.
- (2) An application for approval of a person under subregulation (1) must be made by the licensee in a form approved by the CEO.
- (3) An application must be accompanied by —
- (a) the documents and information referred to in regulation 10(1)(a), (b), (c) and (d) as if a reference in those paragraphs to the applicant were a reference to the proposed supervising officer; and
 - (b) information about any condition relating to the health of the proposed supervising officer that could affect his or her ability to supervise and control on a day-to-day basis the provision of the outside school hours family day care service to which the application relates.

- (4) The CEO must not give approval unless the CEO is satisfied that the licence would have been granted under section 15 if the person to act in the place of the licensee had been the applicant for the licence.

[(5) repealed]

- (6) Subregulation (3) does not apply in relation to a person who has been approved by the CEO on the application of another licensee if that approval has not been withdrawn.

- (7) A person who immediately before the day on which these regulations come into operation was approved under the *Community Services (Child Care) Regulations 1988*² regulation 7A to provide relief family day care for a licensee is to be taken to have been appointed to act in place of the licensee with the approval of the CEO until the licence expires unless the approval is sooner withdrawn by the CEO.

*[Regulation 12 amended in Gazette 1 Mar 2006 p. 936;
8 Dec 2006 p. 5385; 7 Aug 2007 p. 4042.]*

Division 3 — Matters ancillary to applications

13. Referees

- (1) The referees named for a person in an application for a licence or under regulation 12 (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 a licence or under regulation 12, as the case may be.

14. Advertisement of application for licence

- (1) An applicant for 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.
- (3) The notice, in a form approved by the CEO, must include the following —
 - (a) the full name and residential address of the applicant;
 - (b) a statement to the effect that an objection to the issue 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 unless the CEO has received proof that the applicant has complied with this regulation.

[Regulation 14 amended in Gazette 8 Dec 2006 p. 5385.]

[15. Repealed in Gazette 8 Dec 2006 p. 5385.]

16. Objections

- (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) 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 14, the CEO must

consider the objection before deciding whether or not to grant the licence.

- (4) If an objection is made to the CEO at any other time, the CEO may consider it.

[Regulation 16 amended in Gazette 8 Dec 2006 p. 5385.]

Division 4 — Surrenders

17. 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 section 29(2) and the matter has not been disposed of by the Tribunal.

[Regulation 17 amended in Gazette 7 Aug 2007 p. 4043.]

Part 3 — Obligations of licensee

Division 1 — General obligations

18. 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.

19. Notification of change of circumstances

- (1) A licensee must immediately notify the CEO in writing if any of the following happens —
- (a) the licensee ceases to occupy the place specified in the licence;
 - (b) the licensee ceases permanently or temporarily to provide the outside school hours family day care service;
 - (c) the licensee is or will for any reason be unable for more than 30 working days in any calendar year to supervise and control on a day-to-day basis the provision of the outside school hours family day care service;
 - (d) the licensee, a supervising officer or a usual occupant of the place is convicted of a prescribed offence;
 - (e) a person becomes a usual occupant of the place;
 - (f) the licensee modifies or installs a swimming pool at the place;
 - (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 family day care service.
- (2) The notice must include particulars of the change of circumstances, including, where relevant, the name of the new usual occupant.

Penalty: a fine of \$2 000.

[Regulation 19 amended in Gazette 1 Mar 2006 p. 936.]

20. 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; and
 - (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.

[(c) deleted]

- (1a) A licensee must notify the chief executive officer of the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004* of 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 supervising officer, a usual occupant of the place or a volunteer.
- (2) A notification under subregulation (1) or (1a) must be given within one working day after the day on which the death or injury occurred or the allegation was made, as the case requires.
- (3) A licensee must notify the chief executive officer of the department of the Public Service principally assisting in the administration of the *Children and Community Services Act 2004* of the outcome of any investigation into an allegation referred to in subregulation (1a).

Penalty: a fine of \$6 000.

[Regulation 20 amended in Gazette 7 Aug 2007 p. 4043.]

21. 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 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) 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.

Penalty: a fine of \$3 000.

[Regulation 21 amended in Gazette 8 Dec 2006 p. 5385.]

Division 2 — Supervision requirements

22. Supervising officer present at the place

- (1) For the purposes of section 18, the supervising officer may be absent from the place at which the outside school hours family day care service is provided at the times when the service is provided in an emergency situation.
- (2) If the supervising officer is absent from the place in an emergency situation and enrolled children remain at the place during his or her absence, the licensee must ensure that —
 - (a) an adult supervises the enrolled children remaining at the place during the supervising officer's absence; and
 - (b) a parent of an enrolled child remaining at the place is notified that the supervising officer is absent from the place and that the child is being supervised by an adult.

Penalty: a fine of \$6 000.

*[Regulation 22 amended in Gazette 1 Mar 2006 p. 936;
7 Aug 2007 p. 4043.]*

23. Supervision of enrolled children

- (1) A licensee must ensure that enrolled children are supervised 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 supervising officer.

Penalty: a fine of \$6 000.

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

24. 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.

25. Telephone

A licensee must ensure that a telephone service is connected to the place.

Penalty: a fine of \$2 000.

26. 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.

27. 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.
- (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.

28. 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.

29. 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.

29A. Heating

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.

Penalty: a fine of \$4 000.

[Regulation 29A inserted in Gazette 8 Dec 2006 p. 5386.]

30. Animals on place

- (1) A licensee must ensure that any animal or bird kept on or about 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.
- (2a) 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.
- (3) 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).
- (4) A licensee must comply with a direction under subregulation (3).

Penalty: a fine of \$2 000.

[Regulation 30 amended in Gazette 8 Dec 2006 p. 5386.]

31. 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.

32. 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.
- (5) On completion of the modification of the place, a licensee must give the CEO a copy of any current certificate of classification relating to the place issued under the *Building Regulations 1989* Part 5.

Penalty: a fine of \$2 000.

Division 4 — Operating procedures

33. Compliance with procedures

A licensee must ensure that —

- (a) copies of the procedures developed under this Division are made available to a supervising officer and parents of enrolled children; and
- (b) a supervising officer is aware of the procedures and follows them as far as practicable.

Penalty: a fine of \$3 000.

34. Emergency procedures and rehearsals

- (1) A licensee must develop and set down in writing —
 - (a) evacuation and emergency procedures to be followed by a supervising officer in case of fire, natural disaster or other emergencies; and
 - (b) appropriate procedures to be followed by a supervising officer 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 twice in any calendar year.

Penalty: a fine of \$3 000.

35. Behaviour management procedures

- (1) A licensee must develop and set down in writing appropriate procedures to be followed by a supervising officer in managing the behaviour of enrolled children.
- (2) A licensee must develop and set down in writing appropriate procedures to be followed by a supervising officer in managing the behaviour of individuals, other than enrolled children, who are violent or abusive towards a supervising officer or enrolled children.

Penalty: a fine of \$2 000.

36. Procedure for dealing with parent's concerns

A licensee must develop and set down in writing appropriate procedures to be followed by a supervising officer in dealing with concerns of parents.

Penalty: a fine of \$2 000.

37. 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

38. Enrolment form

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

- (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 59 or 65;
 - (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.

[Regulation 38 amended in Gazette 1 Mar 2006 p. 936.]

39. 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.

40. 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 —
 - (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.

41. 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.

42. 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 53(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 53(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.

43. 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 34(2);
 - (b) written particulars of the programme of activities provided under regulation 51;
 - (c) a risk assessment form completed under regulation 64(1)(a).
- (2) A licensee must ensure that —
 - (a) a record under subregulation (1)(a) is retained for a period of 3 years from the day on which the record was made; and
 - (b) a record under subregulation (1)(b) or a form under subregulation (1)(c) is retained for a period of 3 months.

Penalty: a fine of \$2 000.

44. Storing records

- (1) A licensee must ensure that a record required to be kept under regulation 38, 39, 40, 41, 42 or 43 relating to an enrolled child is 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 38, 39, 40, 41, 42 or 43 relating to a former enrolled child is kept in a safe and secure location.

Penalty: a fine of \$2 000.

45. Confidentiality of records

A licensee must ensure that information recorded under regulation 38, 39, 40, 41, 42 or 43 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.

46. Falsification of records

A person must not falsify a record kept under regulation 38, 39, 40, 41, 42 or 43.

Penalty: a fine of \$5 000.

47. 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 family day care service to visit the child at the place at any reasonable time.

Penalty: a fine of \$2 000.

[Regulation 47 amended in Gazette 1 Mar 2006 p. 936.]

48. 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 family day 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 family day care service.
- (3) A licensee must keep at the place evidence that the policy is current.

Penalty: a fine of \$3 000.

[Regulation 48 amended in Gazette 1 Mar 2006 p. 936.]

Part 4 — Operating the outside school hours family day care service

[Heading amended in Gazette 1 Mar 2006 p. 935.]

Division 1 — Children at care session

49. Children who are not enrolled children

- (1) A licensee must ensure that a school age child who is not an enrolled child does not attend at the place during a care session unless —
 - (a) the child is adequately supervised; and
 - (b) the presence of the child does not detrimentally affect the wellbeing of the enrolled children.
- (2) A licensee must ensure that a child who has not reached school age is not present during a 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 the licensee or supervising officer.
- (3) Subregulation (2) does not apply to a kindergarten child who is an enrolled child.

Penalty: a fine of \$2 000.

[Regulation 49 amended in Gazette 1 Mar 2006 p. 936.]

50. Care for children in exceptional circumstances

Nothing in regulation 49 prevents a licensee or a supervising officer from caring for a child who is not an enrolled child 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 — Programmes and behaviour management

51. 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.

52. 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 3 — Excursions and sleepovers

53. Excursions from the place

- (1) A licensee must ensure that enrolled children are not taken on an excursion from the place unless —
 - (a) an excursion plan has been prepared in accordance with regulation 55;
 - (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) a list of all those children and the contact details referred to in paragraph (b)(ii) for those children are taken on the excursion.
- (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.

54. 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 27(2) is taken on all excursions from the place.
 - (2) Subregulation (1) does not apply to an excursion referred to in regulation 53(3).
- Penalty: a fine of \$2 000.

55. Excursion plans

A licensee must ensure that an excursion plan for the purposes of regulation 53 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.

56. Sleepovers

- (1) If a number of enrolled children are taken on an excursion involving a sleepover, a licensee must ensure that the licensee or supervising officer and the children are accompanied by one volunteer.
- (2) A licensee must ensure that the beds, mattresses or sleeping bags used by the children and volunteers during the sleepover are arranged so that there is easy access to and from each of them and to each exit.
Penalty: a fine of \$4 000.

57. Challenging activity excursions

- (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 licensee or supervising officer and the children are accompanied by one volunteer.
- (2) A licensee must ensure that enrolled children engaged in a challenging activity are supervised at all times by the licensee or supervising officer and a volunteer.
Penalty: a fine of \$4 000.

58. Engaging in challenging activities on excursions

- (1) A licensee must ensure that enrolled children are not permitted to 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.

59. 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 4 — Water activities

60. 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 3.

61. Wading or paddling pools at the place

- (1) Regulations 63 and 64 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.

62. Swimming pools at the place

- (1) Regulations 63 and 64 do not apply to water activities in a swimming pool at the place.

- (2) A licensee must ensure that enrolled children do not use a swimming pool at the place unless —
- (a) the children are under the supervision of someone who has current first aid qualifications, including a resuscitation certificate obtained not more than 12 months previously; and
 - (b) a parent of each of those children has given written permission for the child to use the pool.

Penalty: a fine of \$4 000.

63. Supervision of enrolled children and volunteers on an excursion involving water activities

A licensee must ensure that children taken on an excursion involving water activities and any volunteers accompanying the children are supervised and managed.

Penalty: a fine of \$3 000.

64. Water activities

- (1) A licensee must ensure that enrolled children are not permitted to enter or remain in any body of water unless —
- (a) the supervising officer has completed the risk assessment form for water activities set out in Schedule 1 and has assessed the risk of the activity accordingly as low or medium, but not high;
 - (b) if the risk has been assessed as low, the children are supervised by a supervising officer and one volunteer;
 - (c) if the risk has been assessed as medium, the children are supervised by a supervising officer and one volunteer; and
 - (d) one of the persons supervising the children is a qualified rescuer.

- (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.

Division 5 — Safety and health of enrolled children

65. 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 a 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.

66. 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 the licensee or a supervising officer.
- (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*.
- (6) A licensee must ensure that all reasonable measures are taken to notify 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.

67. Hygiene standards

A licensee must ensure that a supervising officer observes and maintains reasonable standards of hygiene in the provision of the outside school hours family day care service.

Penalty: a fine of \$2 000.

[Regulation 67 amended in Gazette 1 Mar 2006 p. 936.]

68. 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 family day 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 drugs or possess illegal drugs; or

- (c) take or possess any other potentially deleterious substance.

Penalty: a fine of \$3 000.

[Regulation 68 amended in Gazette 1 Mar 2006 p. 936.]

69. 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

70. 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.
- (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.

71. Check on new usual occupant

If the CEO is notified under regulation 19(1)(e) that an adult has become a usual occupant of the place, the CEO must conduct a criminal record check on that person and such other checks on that person's character and background as the CEO considers appropriate for the purpose of determining whether the person is a fit and proper person to associate with children.

[Regulation 71 amended in Gazette 8 Dec 2006 p. 5386.]

72. Notification of convictions

- (1) For the purpose of Schedule 1 item 18 to the Act, a conviction of a licensee for an offence against the Act 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 family day care service is provided that the licensee has been convicted of that offence.
- (3) For the purposes 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.

*[Regulation 72 amended in Gazette 1 Mar 2006 p. 936;
7 Aug 2007 p. 4044.]*

73. Continued operation of service in certain circumstances

- (1) In an emergency situation or in circumstances where the licence for the outside school hours family day 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 73 inserted in Gazette 1 Mar 2006 p. 936.]

Schedule 1 — Risk assessment form for water activities

[r. 64(1)]

Risk assessment factor	Points
1. Children’s swimming ability	
(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
2. Number of people using the venue	
(a) up to 50	1
(b) 51 to 100	2
(c) more than 100	3
3. Water visibility	
(a) bottom is clearly visible	0
(b) bottom is not visible	2
4. Water movement	
(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
5. Wind speed	
(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
(d) strong wind warning (more than 24 knots) ...	15
6. Swimming area	
(a) purpose built	1
(b) natural, with change rooms, toilets, telephone and	

Risk assessment factor	Points
similar infrastructure	2
(c) natural, with no change rooms, toilets, telephone or similar infrastructure	3
7. Lifesaving facilities	
(a) available	0
(b) not available	1
8. Signs or other evidence of danger or health risk	
Including “No swimming sign”, rips, algal bloom, amoebic meningitis risk, boating activity and dangerous marine life	16

Record your score here _____

Low risk 0 to 10 points
Medium risk 11 to 15 points
High risk 16 points or more

Notes

- ¹ This is a compilation of the *Child Care Services (Outside School Hours Family Day Care) Regulations 2006* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Children and Community Services (School Age Family Day Care) Regulations 2006</i> ³	18 Jan 2006 p. 191-238	1 Mar 2006 (see r. 2 and <i>Gazette</i> 14 Feb 2006 p. 695)
<i>Children and Community Services (School Age Family Day Care) Amendment Regulations 2006</i>	1 Mar 2006 p. 934-6	1 Mar 2006
Reprint 1: The Children and Community Services (Outside School Hours Family Day Care) Regulations 2006 as at 21 Apr 2006 (includes amendments listed above)		
<i>Children and Community Services (Outside School Hours Family Day Care) Amendment Regulations (No. 2) 2006</i>	8 Dec 2006 p. 5384-6	8 Dec 2006
Reprint 2: The Children and Community Services (Outside School Hours Family Day Care) Regulations 2006 as at 19 Jan 2007 (includes amendments listed above)		
<i>Children and Community Services (School Age Family Day Care) Amendment Regulations 2007</i>	7 Aug 2007 p. 4041-4	10 Aug 2007 (see note to r. 1 and <i>Gazette</i> 9 Aug 2007 p. 4071)

- ² Repealed by the *Children and Community Services Act 2004* s. 250.
- ³ Now known as the *Child Care Services (Outside School Hours Family Day Care) Regulations 2006*; citation changed (see note under r. 1).
- ⁴ These regulations were made under the *Children and Community Services Act 2004* but continue to operate under the *Child Care Services Act 2007* s. 52 from 10 August 2007 (see s. 56).