

Western Australia

## **Child Care Services Regulations 2007**

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## Child Care Services Regulations 2007

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Western Australia

Child Care Services Act 2007

## **Child Care Services Regulations 2007**

### **Part 1 — Preliminary**

#### **1. Citation**

These regulations are the *Child Care Services Regulations 2007*.

Note: Under the *Interpretation Act 1984* section 25(3), these regulations take effect on the day on which the *Child Care Services Act 2007* section 52 commences.

## **Part 2 — General provisions**

### **2. 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 3 of the Act.

### **3. Age prescribed for s. 4(1)**

The age of 15 years and 6 months is prescribed for the purposes of section 4(1) of the Act.

### **4. 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;

*disability* has the meaning given in the *Disability Services Act 1993* section 3;

*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 in the *School Education Regulations 2000* regulation 3(1).

- (2) Care provided to a child is excluded from the application of section 4(1) of the Act if —
- (a) the child has reached 2 months of age; and
  - (b) a parent or other relative of the child is available to attend to the child's immediate physical needs; and
  - (c) each care session does not exceed 3 hours; and
  - (d) the care sessions in any week do not exceed 12 hours; and
  - (e) 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; and
  - (f) in circumstances where there is one care giver —
    - (i) the care giver has reached 21 years of age; and
    - (ii) the care giver has current first aid qualifications; and
    - (iii) another person who has reached 18 years of age is available to provide assistance in an emergency situation;and
  - (g) 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 4(1) of the Act if —
- (a) the care is funded by a grant of financial assistance approved under the *Disability Services Act 1993* section 24(1)(c); and
  - (b) the grant of financial assistance was made to a body corporate; and

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- (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 4(1) of the Act until 31 August 2009 if the care —
  - (a) is funded by a grant of financial assistance approved under the *Disability Services Act 1993* section 24(1)(a) or (b); or
  - (b) is funded by a grant of financial assistance approved under the *Disability Services Act 1993* section 24(1)(c) and is not care to which subregulation (3) applies.
- (5) Care provided to a child is excluded from the application of section 4(1) of the Act if the care is provided solely for the purposes of —
  - (a) the child's participation in religious instruction or sporting, educational, recreational or cultural events or activities; or
  - (b) the child's membership of a non-profit community organisation.
- (6) Care provided solely to children who are enrolled in a secondary programme is excluded from the application of section 4(1) of the Act.

*[Regulation 4 amended in Gazette 26 Feb 2008 p. 659.]*

**5. Operator of creche facility to display notice**

- (1) In this regulation —  
***creche facility*** means a facility for the provision of care to which regulation 4(2) applies.
- (2) A person who operates a creche facility must ensure that a notice in accordance with subregulation (3) is displayed in a prominent position at or near the entrance to the place where the creche facility is operated.



Penalty: a fine of \$2 000.

- (3) The notice is to contain information to the effect that the creche facility is not a child care service for the purposes of the Act and is therefore not subject to the licensing requirements of the Act.

**5A. Prescribed circumstances — s. 50(2)(e)**

For the purposes of section 50(2)(e) of the Act the following circumstances are prescribed in relation to the disclosure of information —

- (a) circumstances where the information is relevant to the performance of the functions of the National Childcare Accreditation Council Inc. and is disclosed to that body;
- (b) circumstances where the information is relevant to the performance of the functions of the Department of Families, Community Services and Indigenous Affairs of the Commonwealth relating to child care services and is disclosed to that body.

*[Regulation 5A inserted in Gazette 30 Nov 2007 p. 5929-30.]*

## **Part 3 — Transitional matters**

### **6. Terms used in this Part**

(1) In this Part —

**commencement day** means the day on which these regulations come into operation;

**initial licence period**, in relation to a licence, means the period for which the licence has effect after the commencement day excluding any period for which it is renewed under the Act;

**notified service** means a child care service that has been the subject of written notification under the *Children and Community Services Regulations 2006* regulation 28(2)(a);

**Part 8 provisions** has the meaning given in section 54 of the Act.

(2) A reference in this Part to a provision of the *Children and Community Services Regulations 2006* is a reference to that provision as in force before its repeal by the *Children and Community Services Amendment Regulations 2007*.

### **7. Supervising officers**

If, immediately before the commencement day, a person was taken to be the supervising officer for a child care service because of the operation of the *Children and Community Services Regulations 2006* regulation 25, the person is to be regarded as the supervising officer for that child care service for the purposes of the Act until —

- (a) the end of the initial licence period for the licence relating to that child care service; or
- (b) the appointment of another supervising officer for that child care service,

whichever happens first.

**8. Application of s. 18 to certain licences**

If, immediately before the commencement day, the *Children and Community Services Act 2004* section 212 did not apply to a licence because of the operation of the *Children and Community Services Regulations 2006* regulation 26, section 18 of the Act does not apply to the licence during the initial licence period.

**9. Holders of particular types of licence**

If, immediately before the commencement day, a person was taken to be the holder of a particular type of licence because of the operation of the *Children and Community Services Regulations 2006* regulation 27A(1), (2), (3) or (4), the person is to be regarded as the holder of that type of licence under and subject to the Act.

**10. Notified services**

- (1) If, immediately before the commencement day, an application for a licence in respect of a notified service has been made under the Part 8 provisions but has not been determined, the notified service is to be taken to be provided under and in accordance with a licence authorising its provision at the place where it is provided until the day on which a licence in respect of the notified service is granted or refused by the CEO.
- (2) If, immediately before the commencement day, an application for a licence in respect of a notified service has not been made under the Part 8 provisions, the notified service is to be taken to be provided under and in accordance with a licence authorising its provision at the place where it is provided until —
  - (a) in the case where an application for a licence in respect of the notified service is made under the Act before 1 March 2008 — the day on which a licence in respect of the notified service is granted or refused by the CEO; and
  - (b) in any other case — 1 March 2008.

**Notes**

<sup>1</sup> This is a compilation of the *Child Care Services Regulations 2007* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Child Care Services Regulations 2007</i>	7 Aug 2007 p. 4059-70	10 Aug 2007 (see note to r. 1 and <i>Gazette</i> 9 Aug 2007 p. 4071)
<i>Child Care Services Amendment Regulations 2007</i>	30 Nov 2007 p. 5929-30	r. 1 and 2: 30 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Dec 2007 (see r. 2(b))
<i>Child Care Services Amendment Regulations 2008</i>	26 Feb 2008 p. 659	r. 1 and 2: 26 Feb 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 27 Feb 2008 (see r. 2(b))