

## Child Care Services (Child Care) Amendment Regulations 2011

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Child Care Services (Child Care) Amendment Regulations 2011*.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Child Care Services Amendment Act 2011* Part 2 comes into operation.

### 3. Regulations amended

These regulations amend the *Child Care Services (Child Care) Regulations 2006*.

### 4. Regulation 3 amended

- (1) In regulation 3 delete the definitions of:

*current assessment notice*

*first aid qualifications*

*proposed supervising officer*

- (2) In regulation 3 insert in alphabetical order:

*first aid qualification* means a certificate or other document evidencing the successful completion of an approved first aid training course;

- (3) In regulation 3 in the definition of *class C contact staff member* delete paragraph (a).
- (4) In regulation 3 in the definition of *place* delete paragraph (b) and insert:

- (b) in relation to a licence application, the place at which the licence applicant proposes to operate the service to which the application relates;

**5. Regulation 7 amended**

- (1) In regulation 7(1):
  - (a) delete “applicant for a licence —” and insert:  
  
applicant —
  - (b) delete paragraph (d) and insert:  
  
(d) a mothercraft nursing qualification;
- (2) Delete regulation 7(2).

**6. Part 2 Division 2 heading replaced**

Delete the heading to Part 2 Division 2 and insert:

**Division 2 — Licence applications and renewal applications**

**7. Regulations 10, 11 and 12 replaced**

Delete regulations 10, 11 and 12 and insert:

**10. Documents and information to accompany licence application**

- (1) For the purposes of section 11(b) the following documents and information are prescribed —
  - (a) in the case of an individual applicant —
    - (i) a criminal record check on the applicant issued not more than 6 months before the date of the application; and
    - (ii) a copy of each qualification prescribed in regulation 7(1) that is held by the applicant; and
    - (iii) information about the time spent by the applicant engaged in children’s or education services or in child development, administration and staff management;

- (b) in the case of a corporate applicant, a criminal record check on each managerial officer of the applicant issued not more than 6 months before the date of the licence application;
  - (c) a financial assessment in the approved form;
  - (d) if the licence applicant is a company, a printout from the national database kept by the Australian Securities and Investments Commission containing up-to-date information obtained by the Commission about the company;
  - (e) if the licence applicant is an incorporated association, a copy of the certificate of incorporation of the association;
  - (f) a site plan, drawn to a scale of not less than 1:500, showing the location of each building at the place;
  - (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 the place has not previously been used for a child care service, any current certificate of classification relating to the place issued under the *Building Regulations 1989* Part 5.
- (2) Subregulation (1)(h) does not apply to a place that is owned by a public authority.

**11. Documents and information to accompany renewal application**

- (1) In this regulation —  
*relevant period* means —
- (a) if the renewal application is the first renewal application in respect of the licence, the period since the licence was granted;
  - (b) in any other case, the period since the licence was last renewed.
- (2) For the purposes of section 22(2)(c) the following documents and information are prescribed —
- (a) in the case of a renewal application by an individual —
    - (i) a criminal record check on the renewal applicant issued not more than 6 months before the date of the application or evidence that a criminal record check has been applied for; and

- (ii) a copy of each qualification prescribed in regulation 7(1) that is held by the renewal applicant unless the qualifications held by the renewal applicant have not changed in the relevant period and the application is accompanied by a statement to that effect;
- (b) in the case of a renewal application by a body corporate that is not a public authority, a criminal record check on each managerial officer of the renewal applicant issued not more than 6 months before the date of the application or evidence that a criminal record check has been applied for;
- (c) a financial assessment in the approved form;
- (d) if the renewal applicant is a company, a printout from the national database kept by the Australian Securities and Investments Commission containing up-to-date information obtained by the Commission about the company unless that information has not changed in the relevant period and the renewal application is accompanied by a statement to that effect;
- (e) if the renewal applicant is an incorporated association, a copy of the certificate of incorporation of the association unless that certificate has not changed in the relevant period and the renewal application is accompanied by a statement to that effect.

**8. Part 2 Division 3 heading amended**

In the heading to Part 2 Division 3 after “**to**” insert:

**licence**

**9. Regulation 13 replaced**

Delete regulation 13 and insert:

**13. Referees**

- (1) If a licence application nominates referees for the licence applicant, those referees must include —
  - (a) a referee who knows the licence applicant and who has had experience in children’s services;
  - and

- (b) a referee who is a previous employer of the licence applicant or who has worked with the licence applicant in a paid or unpaid capacity.
- (2) A person is not eligible to act as a referee for a licence applicant if the person is —
  - (a) an employee of the licence applicant; or
  - (b) married, or related (including by marriage), to the licence applicant; or
  - (c) a de facto partner of the licence applicant; or
  - (d) another licence applicant or an applicant for an approval under the *Child Care Services Regulations 2007* Part 3A.

**10. Regulations 14 and 16 deleted**

Delete regulations 14 and 16.

**11. Regulation 17 amended**

Delete regulation 17(2).

**12. Regulation 19 amended**

- (1) Delete regulation 19(1)(f).
- (2) In regulation 19(3):
  - (a) in paragraph (a) delete “CEO;” and insert:  
  
CEO; and
  - (b) in paragraph (b) delete “officer; and” and insert:  
  
officer.
  - (c) delete paragraph (c).

**13. Regulations 28 and 29 deleted**

Delete regulations 28 and 29.

**14. Regulation 30 replaced**

Delete regulation 30 and insert:

**30. First aid officers**

- (1) In this regulation —  
*specified* means specified in a notice under subregulation (4).

- (2) A licensee must ensure that at least one person possessing a first aid qualification is in attendance at the place at all times enrolled children are attending a care session at the place.  
Penalty: a fine of \$4 000.
- (3) Subregulation (2) does not apply to a licensee if the licensee is the subject of a notice under subregulation (4).
- (4) If, having regard to the matters mentioned in subregulation (5), the CEO considers it appropriate to do so, the CEO may, by written notice given to a licensee, require the licensee to ensure that a specified number of persons possessing a first aid qualification are in attendance at the place at all times, or at specified times, when enrolled children are attending a care session at the place.
- (5) For the purposes of subregulation (4), the matters are —
  - (a) the layout of the place; and
  - (b) the hours of operation of the service; and
  - (c) the staffing requirements for the service.
- (6) A licensee must comply with a notice given to the licensee under subregulation (4).  
Penalty: a fine of \$4 000.

## 15. Regulation 60 amended

Before regulation 60(1) insert:

- (1A) In this regulation —

***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;

***prescribed offence*** means 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.

## 16. Regulation 67 amended

Delete regulation 67(2)(l) and (m) and insert:

- (l) details of any —
  - (i) specific healthcare needs of the child, including any medical condition; and

- (ii) allergies, including whether the child has been diagnosed as at risk of anaphylaxis;
- (m) details of any plan to be followed with respect to a specific healthcare need, medical condition or allergy referred to in paragraph (l);
- (n) details of any medication necessary for the management or treatment of a specific healthcare need, medical condition or allergy referred to in paragraph (l);
- (o) the immunisation status of the child;
- (p) any other relevant information relating to the child.

**17. Regulation 70 replaced**

Delete regulation 70 and insert:

**70. Record of attendance**

- (1) A licensee must ensure that a record of attendance is kept for each care session in accordance with the requirements of subregulations (2) to (5).  
Penalty: a fine of \$3 000.
- (2) The record of attendance must include the following —
  - (a) the time of arrival and the time of departure of each enrolled child;
  - (b) the signature of the person responsible for verifying the accuracy of the record.
- (3) The time of arrival must be entered in the record of attendance immediately after the child arrives at the place.
- (4) The time of departure must be entered in the record of attendance immediately before the child leaves the place.
- (5) The record of attendance must be retained for a period of 3 years after the day on which the record was made.

**18. Regulation 76 amended**

After regulation 76(1)(j) insert:

- (ka) the service practice and policy regarding the treatment of children experiencing an anaphylactic reaction;

**19. Regulation 93 amended**

In regulation 93(b) delete “certificate” and insert:

qualification

**20. Regulation 96 replaced**

Delete regulation 96 and insert:

**96. Protection of enrolled children leaving place**

- (1) A licensee must ensure that an enrolled child does not leave the place during or at the end of a care session unless —
  - (a) the child is in the care of the child’s parent or a person authorised by the child’s parent; or
  - (b) in the case of an emergency, when a person referred to in paragraph (a) is not available, the child is in the care of a person authorised by the licensee or supervising officer, having due regard to the wellbeing of the child.
- (2) A licensee must ensure that the CEO is notified as soon as practicable if an enrolled child leaves the place in circumstances other than those referred to in subregulation (1)(a).

Penalty: a fine of \$3 000.

**97A. Medication**

- (1) If the enrolment form kept by a licensee under regulation 67(1) for an enrolled child contains details of medication referred to in regulation 67(2)(n), the licensee must ensure that a parent of the child is asked to provide the medication so that it is available for administration to the child.
- (2) A licensee must ensure that, except in an emergency, medication is not administered to 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.
- (3) Subregulation (2) does not apply to the self-administration of a non-prescription asthma inhaler.

Penalty: a fine of \$4 000.



**21. Regulation 97 amended**

Delete regulation 97(1) and (2).

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.

---