



# EXEMPTION APPLICATION KIT

## *How to apply for a child care exemption*

*Child Care Services Act 2007  
Child Care Services (Child Care) Regulations 2006*

### Licence **exemption application** kit

This Exemption application kit includes:

- ☒ Help guide: How to apply for a child care exemption
- ☒ Exemption application
- ☒ Exemption application – emergency situation

### The **regulations**

The licensee is responsible for knowing and understanding the *Child Care Services (Child Care) Regulations 2006* (the Regulations). The *Exemption application* and the accompanying *Help guide* must be used in conjunction with the Regulations.

The Regulations are legally binding. Failure to comply with the Regulations may result in an exemption application being refused, or the cancellation or suspension of an existing licence, and/or pecuniary penalties.

It is essential the licensee has an up-to-date copy of the Regulations from the State Law Publisher. Please refer to website, [www.slp.wa.gov.au](http://www.slp.wa.gov.au) or telephone on 08 9321 7688.

### **Privacy** statement

The Department for Communities needs the information provided in the *Exemption application* to help assess the licensee's capability to operate the early childhood care service with the requested exemption. All information provided will be handled with care and will only be used for the purpose stated above.

### For **more information**

For further advice and support regarding exemption applications, speak to a Children's Services Officer at your local office of the Department of Child Protection or our check out our website at [www.childcare.wa.gov.au](http://www.childcare.wa.gov.au).



# HELP GUIDE

## *How to apply for a child care exemption*

**Child Care Services Act 2007  
Child Care Services (Child Care) Regulations 2006**

*This Help guide is a simple interpretation of the Act and Regulations.  
It is intended as a guide only and does not constitute legal advice.*

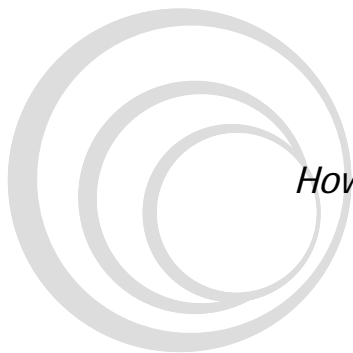


**Department for  
Communities**

**Child Care Licensing  
and Standards Unit**

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Tel. 1800 199 383 (Freecall STD)  
[www.childcare.wa.gov.au](http://www.childcare.wa.gov.au)

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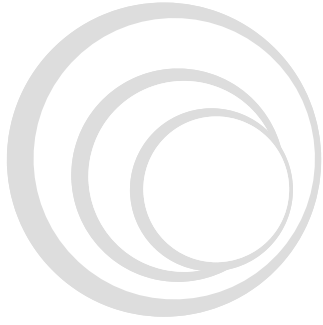


# HELP GUIDE

## *How to apply for a child care exemption*

*Child Care Services (Child Care) Regulations 2006*

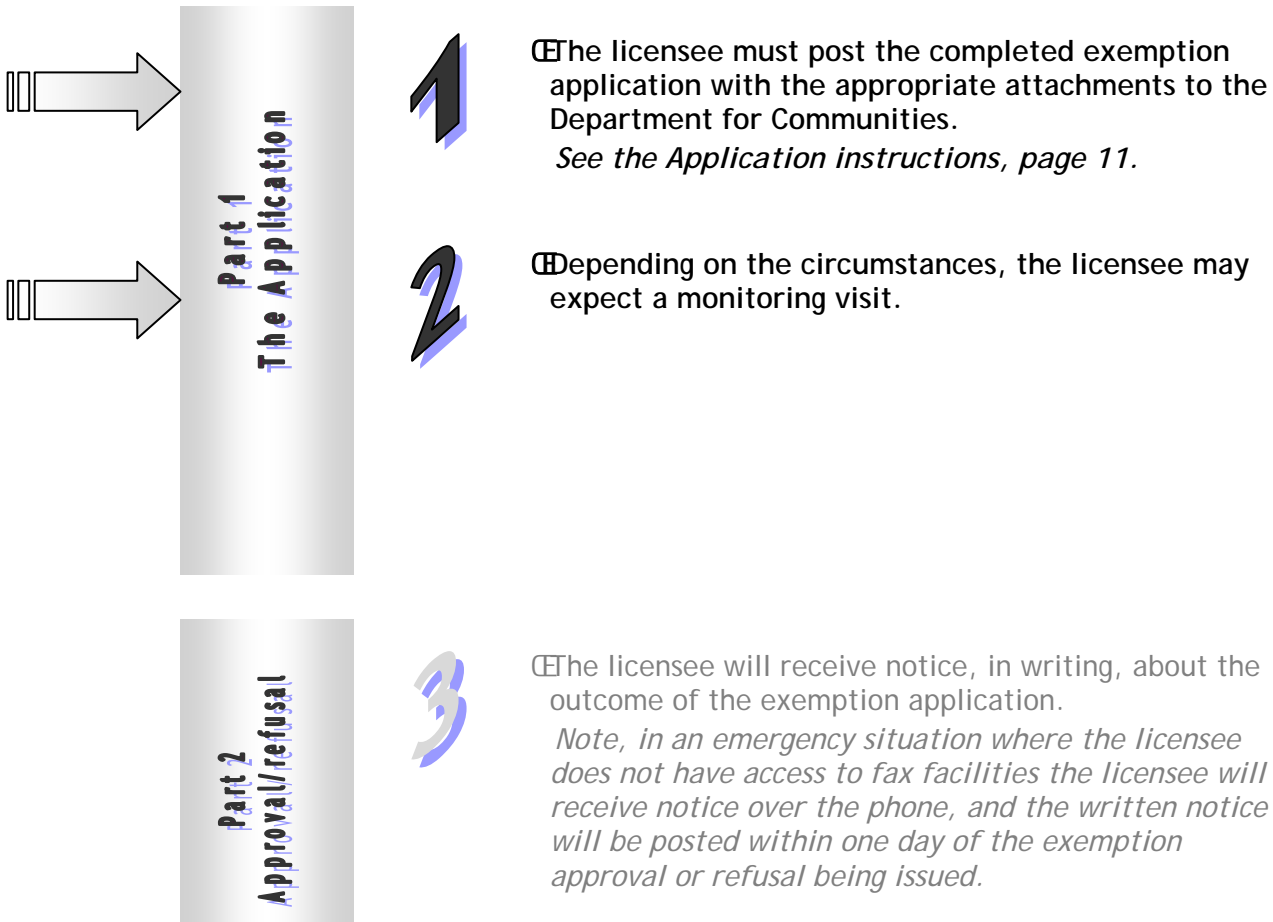
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# The Exemption Process

Children and Community Services (Child Care) Regulations 2006

## Ø Licence exemption in 3 easy steps



# INTRODUCTION

## *How to apply for a child care exemption*

*Child Care Services (Child Care) Regulations 2006*

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### Ø What is an exemption?

In special circumstances in a particular case, an exemption may apply to the child care service allowing the licensee to operate below the minimum standards set out in the Regulations. An exemption may be granted from any part of the regulations for a specified period of time as long as the special circumstance(s) and/or conditions apply.

### Ø When must a licensee apply for an exemption?

The licensee must apply for an exemption at least two weeks prior to the requested exemption date, unless in an emergency situation.

### Ø How will the exemption application be assessed?

In general, the application must show:

- ☒ special circumstances exist, that without the exemption the best interests of the children in care will be unreasonably compromised
- ☒ reasonable alternatives under the circumstances have been exhausted, and the exemption application is the licensee's last available option
- ☒ the wellbeing of the children attending the service will be upheld even with the exemption in place, that is all reasonable steps have been taken to help minimise the impact of the proposed exemption
- ☒ where applicable, reasonable steps have been taken to avoid this situation occurring in the future.

Finally, the licensee's exemption and compliance history of the child care service will also be considered.

### Ø What are 'reasonable alternatives'?

Reasonable alternatives will largely depend on the special circumstance in a particular case, and will therefore be unique to each exemption application. Exemptions will only be issued where all reasonable

alternatives have been exhausted, that is, an exemption is the last available option.

Reasonable alternatives may include, but are not limited to *an application for a staff exemption*:

☒ where the service is located in the metropolitan area it may be considered a reasonable alternative to advertise for a replacement staff member whilst the permanent staff member is on annual leave, rather than applying for a staff exemption to operate below the minimum standards.

If a similar service is located at a Kimberley town site, however, it may not be considered a reasonable alternative to advertise for a replacement staff member. In remote locations a qualified person may not be readily available and it would be unlikely that someone will, from Geraldton for example, be prepared to travel the distance and live away for such a short period of time.

☒ where the service may have an extra qualified non-contact staff member, it may be considered reasonable for this person to have direct contact with the children, rather than apply for a staff exemption to operate below the minimum standards.

#### Ø Who must make an application for an exemption?

The licensee, and when applicable the supervising officer for a body corporate or public authority, must sign off on any exemption application. The licensee, and if applicable the supervising officer, are responsible for meeting the requirements described in the Regulations. If these requirements cannot be met, the licensee, and where applicable the supervising officer, are accountable for ensuring the wellbeing of the children are upheld whilst the exemption is in place.

An exception will be made, in an emergency situation where the licensee may not be readily contactable. In this situation, the licensee should be informed of the exemption application.

Ø How long will it take to get an exemption?

For a straight forward exemption application, the licensee can expect the process to take approximately two weeks before the licensee will be notified of the outcome in writing.

Ø What is a service exemption?

An exemption that is approved with a workable staffing plan is known as a service exemption. A staffing plan relates to the total child care service, and not necessarily to an individual staff member, hence the term, 'service exemption'.

Ø What is a staff exemption?

A staff exemption is an exemption that applies to regulation 81, Minimum contact staff requirements. Regulation 81 prescribes a minimum number of qualified contact staff for each age range, and the minimum qualifications for those staff.

Importantly, the child care service must, at all times, meet the staff to child ratio stated in regulation 81 or as otherwise required by the Regulations. In special circumstances, however, the licensee may apply for a staff exemption, where despite all efforts, the service does not have enough *qualified* contact staff.

Where the Department for Communities approves the exemption request, the child care service may operate with less than the minimum number of *qualified* contact staff and instead count an unqualified staff member as a qualified staff member for the specified period of time, as long as the special circumstances exist or the conditions of the exemption are met.

Ø What is a staffing plan?

A staffing plan is a longer term arrangement, generally over a 12 month period, showing a workable step by step plan for managing staffing levels and developing staff skills, knowledge and experience. The purpose of a staffing plan is to help avoid future situations where the service may need to apply for a staff exemption. A staffing plan allows more flexibility to self

determine how the licensee will solve individual staffing problems and give the appropriate time to do so.

A workable staffing plan will require the licensee to show realistic objectives that will be achieved by the service during the implementation period of the staffing plan. Additionally, it will be necessary to report the progress, on a quarterly basis, to the Child Care Licensing and Standards Unit. This is important to ensure the wellbeing of the children attending the service is upheld at all times.

Ø **What is a 'Building exemption'?**

Any exemption granted under Part 3 Division 3 of the Regulations is generally known as a 'building exemption'. An example of a building exemption may be an exemption from regulation 38 (Staff room).

Ø **Can the licensee renew an exemption once it expires?**

The Department for Communities encourages all child care services to meet the minimum standards required by the Regulations at all times.

Although it is possible to renew an exemption if the special circumstances continue to exist, the Department for Communities will only consider renewing an exemption where there is evidence that the licensee has planned ahead and has reasonably tried to avoid the situation from continuing or re-occurring.

Ø **Does the licensee need extra public liability insurance?**

It is the licensee's responsibility to ensure the child care service public liability insurance will cover the situation described in the exemption.

Ø **Should the licensee expect a monitoring visit?**

A monitoring visit will only be conducted on a needs-basis, and depends on the nature of the exemption application. Certainly, the licensee can expect the details of the exemption will form part of future monitoring visit(s)

Ø **What happens if the licensee requires an exemption in an emergency?**

If the licensee is faced with an emergency situation and requires an exemption, the licensee may make a special application for an exemption in

an emergency situation. The licensee may fax this application, or if the licensee does not have access to fax facilities, the licensee may phone the Department for Communities on 6210 3333 (Metro) or 1800 199 383 (Freecall STD). Importantly, for an exemption to be approved in an emergency situation, it must meet the definition of an emergency.

**Ø What is an emergency situation?**

An emergency situation is a situation that could not have been reasonably foreseen or expected, and requires an immediate response.

An example of an emergency situation includes urgent staff replacement, and where no other suitably qualified staff are available at the place.

**Ø How long may an exemption in an emergency situation be valid for?**

Exemptions in an emergency situation will only be approved for the time period the licensee will need to make a standard exemption application, or for the period of the emergency, whichever is the lesser. These are generally issued for only one or two days.

**Ø How is an exemption in an emergency situation different from a standard exemption application?**

Due to the nature of an emergency, some exceptions are made for exemptions applied for in an emergency situation.

These include:

☒ where it is not possible, the application does not have to be signed by the licensee, but it is expected the licensee is at least informed of the application as soon as possible

☒ the application does not have to show future plans have been considered to avoid the situation from occurring in the future

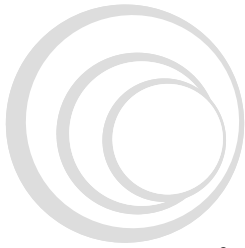
☒ the level of evidence required is less than for a standard exemption application. That is, other attachments are not required at this stage.

**Ø Where the licensee does not agree, how can the decision be reviewed?**

If the exemption application is refused and the licensee does not agree with the reason given or is dissatisfied with the fairness applied to the application process, the licensee may appeal to the Department for

Communities. Contact a local Children Services Officer for more information.

- Ø **Where can the licensee get more information on exemptions?**  
Contact a Children's Services Officer located at the local office of the Department for Child Protection for more information or check our website [www.childcare.wa.gov.au](http://www.childcare.wa.gov.au).



# The Application

## Application instructions



**The *Help guide* and *Exemption application* must be read in conjunction with the *Child Care Services (Child Care) Regulations 2006* (the Regulations).**

It is important the licensee is familiar with the minimum standards prescribed by the Regulations. Failure to comply with the Regulations may result in an application for an exemption being refused, or the cancellation or suspension of an existing licence, and/or pecuniary penalties.

- Ü **The licensee must answer every section of the exemption application. If insufficient information is provided the exemption application may be refused.**
- Ü Where a box is provided, please indicate your choice with either a tick (L ) or a cross (K ).
- Ü All relevant details and attachments must be completed and received by the Department for Communities before the exemption application will be assessed.
- Ü The exemption application will be assessed according to the minimum standards set out in the Regulations.

## Section 1: Application summary

*This section helps the Department for Communities contact the right person in case of a general enquiry.*

### Ü Contact person

The licensee must give the full name and contact details of the person to be contacted in case there are any general enquiries about the exemption application.

## Section 2: Exemption details

*This section requires the licensee to describe the special circumstances and how the wellbeing of the children attending the service will be protected.*

### *Question 2.2*

If the licensee wishes to make an application for a service exemption using a Staffing plan, to answer this question the licensee will need only indicate with a tick (L ) or a cross (K ) that the Staffing plan is attached. The licensee is not required to answer questions 2.3 to 2.6 as these issues are addressed in the Staffing plan. Importantly, all Staffing plans must be endorsed by the local Children's Services Officer.

For further details on Staffing plans, please contact a local Children's Services Officer located at the local Department for Child Protection Office.

### *Question 2.4*

This question is asking the licensee to *prove* to the Department for Communities that the licensee has taken every reasonable step to provide the children in the service the best possible care under the circumstances. What has the licensee put in place to ensure the wellbeing of the children in attendance will be upheld, if the exemption is approved?

### *Example for question 2.4*

If the licensee is applying for a staff exemption to operate the service without the minimum qualified staff, the licensee must prove to the Department for Communities the person that has been chosen to replace the exempted qualified staff member is the best possible person for the job. Questions the licensee may consider include — What makes this person the best choice? How much experience does the person have in the industry? Has the person nearly completed a qualification in Children's Services or perhaps he/she has some other relevant qualification and/or experience? Is this person especially good with handling and understanding children, and how can this be demonstrated to the Department?

### Section 3: Staff exemption

*This section requires staffing arrangement details and the number of children for each age range.*

Importantly, please indicate with the letter “E”, if any staff members are currently operating under an exemption.

### Section 4: Exemption duration

*This section requires the period of time the exemption is needed.*

The licensee is required to give specific times and dates. For a pattern occurring over some weeks or months please give the appropriate range of dates. If you require an exemption over two separate session times in the one day, two columns have been provided to accommodate this scenario. Remember emergency exemptions are only issued for the short term.

*Example*

5.1 Please give the dates you need the exemption		12 / 12 / 06 to 12 / 01 / 07			
	Days	Session times 1		Session times 2	
		<i>From</i>	<i>To</i>	<i>From</i>	<i>To</i>
	Monday(s)	<i>7.00am</i>	<i>9.00am</i>	<i>3.30pm</i>	<i>5.00pm</i>
	Tuesday(s)	—	—	—	—
	Wednesday(s)	<i>9.00am</i>	<i>3.00pm</i>	—	—
	Thursday(s)	<i>7.00am</i>	<i>9.00am</i>	<i>3.30pm</i>	<i>5.00pm</i>

*—Please note, if the licensee neglects to fill out all the appropriate dates and times, the exemption application may be delayed—*

### Section 5: Supporting evidence

*This section is an important tool to help ensure that your application is complete.*

Please note, documents of proof such as certificates, qualifications, to be copies. Please **do not send original** documents.

Please note, if the licensee does not need to attach any documents as evidence, please tick (L ) or cross (K ) the box marked 'No documents attached'.

## **Section 6: Declaration**

*The section asks the licensee, and where applicable the supervising officer of a body corporate or public authority, to declare the information provided in the application is true and correct, and that the signatory (-ies) is (are) aware of the consequences of not providing true and correct information.*

All licensees, and where applicable the supervising officer of a body corporate or public authority, must sign this section. An authorised witness must witness (attest) the signature of the individual licensee and the supervising officer.

### **Ü Body corporate or public authority signature**

It is important that only those persons who can legally execute a contract on behalf of the body corporate or public authority sign the application. In some circumstances, where the legal entity can legally execute a contract with a common seal, a common seal is sufficient.

### *Definition of authorised witness*

The following is a list of people who qualify as an authorised witness to declare and attest documents in Western Australia —

Academic (post-secondary institution), Accountant, Architect, Australian consular officer, Australian diplomatic officer, Bailiff, Bank manager, Chartered secretary, Chemist, Chiropractor, Company auditor or liquidator, Court officer (Judge, magistrate, registrar or clerk), Defence force officer (Commissioned, Warrant or NCO with 5 years continuous service), Dentist, Doctor, Engineer, Industrial organisational secretary, Insurance broker, Justice of the Peace, Lawyer, Local government CEO or deputy CEO, Local government councillor, Loss adjuster, Marriage celebrant, Member of Parliament (State or Commonwealth), Minister of Religion, Nurse, Optometrist, Patent attorney, Physiotherapist, Podiatrist, Police officer, Post officer manager, Psychologist, Public notary, Public servant (State or Commonwealth), Real estate agent, Settlement agent,

Sheriff or deputy sheriff, Surveyor, Teacher, Tribunal officer, Veterinary surgeon.

*—Note, Child Care Licensing Officers are authorised witnesses—*

## **Ž Post the application**

Please post the completed Exemption application, including all the appropriate attachments, to:

*Child Care Licensing and Standards Unit  
Department for Communities  
1<sup>st</sup> Floor Wellington Street, East Perth WA 6004  
PO Box 6242, East Perth Business Centre, EAST PERTH WA 6892*

















Department for  
Communities

Child Care Licensing  
and Standards Unit

1<sup>st</sup> Floor, 111 Wellington Street, East Perth WA 6004. Tel. (08) 6210 3333 (Metro) Tel. 1800 199 383 (Freecall STD) Fax. (08) 6210 3300

Licence No.							
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File No.									
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## Exemption – emergency situation

Child Care Services Act 2007

Child Care Services (Child Care) Regulations 2006

Exemptions are only issued in special circumstances in a particular case. All relevant details must be completed and received by the Department for Communities before this application will be assessed. Exemptions may apply to any regulation.

### SECTION 1: Child care service details

Name of service ..... Phone number ..... Fax number ..... Date of application .....

Name of person requesting exemption ..... If possible, licensee/supervising officer signature ..... £ Yes £ No ..... Location .....

Is the licensee/supervising officer informed of this application?

### SECTION 2: Rationale for exemption

£ **Staff exemption** (Regulation 81)

Absentee absent because...  
 £ Family emergency    £ Unforeseen illness    £ Other .....

Name of absentee .....  
 Absentee qualified?  
 £ Yes    £ No

Absentee acting under exemption?  
 £ Yes    £ No

Is your SO a contact staff member?  
 £ Yes    £ No

Age group absentee responsible for...  
 £ 0 – 24 mths    £ 24 – 36 mths    £ 36 mths +    £ Primary

Contacted relief list?    Contacted relief carers' agency?  
 £ Yes    £ No    £ Yes    £ No

Name of person to be exempted  
 £ .....

Qualifications of person to be exempted  
 £ ..... Child care experience  
 £ ..... Years

### SECTION 3: Duration of exemption

Please give the specific times and dates for when you need your proposed exemption.

Days	Dates		Times	
	From	To	From	To
Monday				
Tuesday				
Wednesday				
Thursday				
Friday				
Saturday				
Sunday				

Emergency exemptions will only be issued for the time period the licensee will need to make a standard exemption application or for the period of the emergency, whichever is the lessor. Generally these are for one or two days.

**SECTION 4: Other Regulation exemption**

Please give the regulation number this exemption application is for

Briefly describe the special circumstances why your child care service needs this exemption

What reasonable alternatives have you exhausted before making this exemption application?

**SECTION 5: Child Care service numbers and staffing**

£ Not applicable

Age group	No of children		Name of QUALIFIED <i>Please indicate with an 'E' if person already exempted</i>		Name of UNQUALIFIED	
	Licensed	Expected maximum				
0 – 24 months						
24 – 36 months						
36 months or older						
Primary sch age children						
TOTAL						