

Early Learning and Child Care Act

CHAPTER 120 OF THE REVISED STATUTES, 1989

as amended by

2018, c. 33



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CHAPTER 120 OF THE REVISED STATUTES, 1989
amended 2018, c. 33

**An Act Respecting
Early Learning and Child Care**

title amended 2018, c. 33, s. 1.

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Short title

1 This Act may be cited as the *Early Learning and Child Care Act*. R.S., c. 120, s. 1; 2018, c. 33, s. 2.

Interpretation

2 In this Act,

(a) “agency” means a person licensed by the Minister to manage family child-care homes;

(b) “care provider” means a person approved by an agency to provide a family home child-care program in the care provider’s home;

(c) “child care” means services providing children with care, guidance and supervision that support the child’s development and learning and that are provided by an individual other than the child’s parent, except those services exempted by the regulations;

(d) “Director” means the Director appointed pursuant to this Act;

(e) “facility” means a building or part of a building where child care is provided, but does not include a place such as a hospital or a school that is subject to other statutory regulation;

(f) “family child-care home” means a care provider’s home where a family home child-care program is provided;

(g) “family home child-care program” means a child-care program provided by a care provider in the care provider’s home;

(h) “licence” means a licence issued or renewed pursuant to this Act;

(i) “licensee” means the person or agency in whose name a licence has been issued;

(j) “Minister” means the Minister of Education and Early Childhood Development;

(k) “parent” means a parent, guardian, foster parent or any other person having the care and custody of a child. 2018, c. 33, s. 3.

Director

3 For the purposes of this Act a Director may be appointed in accordance with the *Civil Service Act*. R.S., c. 120, s. 3.

Licence required

4 No person shall conduct, maintain, operate or manage a facility or hold out that a facility is being operated unless there is a valid licence to operate the facility. R.S., c. 120, s. 4; 2018, c. 33, s. 4.

Licence to operate facility

5 (1) A person may make application in the prescribed form and manner for a licence or the renewal of a licence to operate a facility.

(1A) An agency may make an application in the prescribed form and manner for a licence or the renewal of a licence to operate as an agency.

(2) The Minister may issue or renew a licence if satisfied that

(a) the applicant, the facility and the agency comply with the Act and the regulations; and

(b) the fee prescribed by regulation is paid.

(3) The Minister may from time to time attach to any licence such terms and conditions or restrictions as the Minister deems advisable.

(4) A licence shall be in the form prescribed by the regulations and shall expire one year from the date on which it was issued or at such other time as the Minister may prescribe in the licence. R.S., c. 120, s. 5; 2018, c. 33, s. 5.

Cancellation, suspension or refusal

6 (1) The Minister may cancel, suspend, refuse to issue or refuse to renew a licence if the Minister is satisfied that the holder of the licence or an agent

or employee of the holder of the licence has violated any provision of this Act or the regulations or has not complied with any term, condition or restriction attached to the licence.

(2) The Minister shall provide written reasons for the cancellation, suspension or refusal.

(3) A person affected by the Minister's action taken pursuant to subsection (1) may request the Minister to review the action. R.S., c. 120, s. 6; 2018, c. 33, s. 6.

Deemed cancellation

7 A licence is deemed cancelled when

- (a) a person to whom it was issued ceases to operate or own a facility; or
- (b) an agency ceases to manage family child-care homes. 2018, c. 33, s. 7.

Duties of agency

7A An agency shall

- (a) recruit and approve persons, who meet the qualifications set out in the regulations, as care providers;
- (b) approve family child-care homes, that meet the requirements set out in the regulations, as places where family home child-care programs may be provided;
- (c) enter into agreements with care providers as required;
- (d) manage and monitor care providers to ensure compliance with the requirements set out in the regulations for care providers;
- (e) monitor family child-care homes to ensure compliance with the requirements set out in the regulations for family child-care homes;
- (f) revoke approvals given pursuant to this Section to a care provider or a family child-care home if there is a failure by the care provider or family child-care home to comply with the requirements set out in the regulations;
- (g) hire a family home consultant who has the qualifications prescribed by the regulations;
- (h) ensure the family home consultant provides services and support to care providers and to family child-care homes managed by the agency in accordance with the regulations; and
- (i) perform any other duties assigned by the Director or prescribed by the regulations. 2018, c. 33, s. 8.

Duties of care provider

7B Every care provider shall

- (a) provide a family home child-care program in accordance with the program standards and requirements set out in the regulations; and

(b) have responsibility for the health and safety of the children in the family child-care home enrolled in the family home child-care program as required by the regulations. 2018, c. 33, s. 8.

Right of entry

8 (1) The Director, or a person acting on the Director's behalf, may at any reasonable time enter

(a) a facility, or any place that the Director has reasonable grounds to believe is a facility; or

(b) an agency,

and may examine the premises, equipment, facilities, books and records located in the facility or agency.

(1A) With the consent of the care provider, the Director, or a person acting on the Director's behalf, may attend and inspect a family child-care home to ensure compliance by the agency with the regulations.

(2) The licensee or person in charge of a facility shall

(a) permit the Director, or a person acting on the Director's behalf, at all reasonable times to enter and inspect the facility and the agency and examine the premises, equipment, facilities;

(b) produce to the Director, or person acting on the Director's behalf, for examination, the accounts, books and records of the facility and the agency; and

(c) permit the Director, or any person acting on the Director's behalf, to assess the program and services of the facility and the agency. R.S., c. 120, s. 8; 2018, c. 33, s. 9.

Identification of Director

8A The Director, or a person acting on the Director's behalf, carrying out an inspection under this Act shall produce, on request, the identification provided to the Director or person for this purpose. 2018, c. 33, s. 10.

Records, returns and reports

9 (1) The person to whom a licence is issued shall forward to the Director such records, returns and reports as the Director requests and in the form and manner and within the time requested by the Director.

(2) Every licensee and care provider shall maintain files, log books, records, returns and other documents as prescribed by the regulations. R.S., c. 120, s. 9; 2018, c. 33, s. 11.

Alteration of facility

10 No person shall permit or cause a facility for which a licence is in force to be altered so as to increase or decrease its capacity or to significantly affect the care of children without first submitting to the Minister plans of the alteration or addition and receiving the approval of the Minister. R.S., c. 120, s. 10; 2018, c. 33, s. 12.

Condition for holding out

11 No person shall advertise or hold out any place to be a facility or assume, use or display in connection with the place, any terms, signs, title or words which imply or lead the public to believe that the place is a facility, unless there is a valid licence for that facility. R.S., c. 120, s. 11; 2018, c. 33, s. 13.

Municipal facility

12 (1) With the approval of the Minister, a municipal unit or two or more municipal units that enter an agreement may, directly or through an agent, erect, acquire, purchase, lease, alter, add to, improve, furnish and equip a building or part of a building as a facility and may purchase, lease or otherwise acquire land therefor and may operate and maintain a facility.

(2) A facility provided or operated by a municipal unit shall be regulated by by-laws made by the council of the municipal unit subject to the approval of the Minister.

(3) A facility provided or operated by two or more municipal units or by an agent of one or more municipal units shall be regulated in the manner agreed upon by the Minister and the municipal unit or units.

(4) The sums required by a municipal unit for the establishment or operation of a facility shall be sums required for the ordinary lawful purposes of the municipal unit and shall be raised, levied and collected in the same manner and in all respects as other sums required for the ordinary lawful purposes of the municipal unit are raised, levied and collected.

(5) In this Section “municipal unit” means a municipality to which the *Municipal [Government] Act* applies, a city or a town. R.S., c. 120, s. 12.

Penalty

13 Every person failing to comply with any of the provisions of this Act or the regulations, or with any term, condition or restriction attached to a licence, is liable on summary conviction to a penalty of not more than one hundred dollars and in default of payment to imprisonment for not more than fifty days. R.S., c. 120, s. 13; 2018, c. 33, s. 14.

Separate offence

14 Every day that a person fails to comply with any of the provisions of this Act or the regulations, or fails to comply with any term, condition or restriction attached to a licence, constitutes a separate violation and the punishment may be imposed as many times as there are separate offences proved. R.S., c. 120, s. 14; 2018, c. 33, s. 15.

Regulations

- 15 (1)** The Governor in Council may make regulations
- (a) exempting a child-care service from the operation of this Act;
 - (b) prescribing forms and providing for their use;

- (c) prescribing the procedure to make an application for a licence and a licence renewal;
- (d) prescribing the fees to be paid for a licence;
- (e) prescribing criteria for revocation or suspension of a licence;
- (f) prescribing the requirements for approval as a care provider;
- (g) prescribing qualifications for care providers;
- (h) prescribing the requirements for approval of a care provider's home as a family child-care home;
- (i) prescribing qualifications for a family home consultant;
- (j) prescribing the role, powers and duties of an agency;
- (k) prescribing the standards and requirements for a family home child-care program;
- (l) establishing policies, procedures and requirements for the health and safety of children in a facility, family child-care home and an agency play space;
- (m) prescribing the manner in which a licence is to be viewable by the public;
- (n) respecting a review by the Minister of action taken pursuant to this Act;
- (o) respecting files, log books, records and other documents maintained for the purpose of this Act;
- (p) prescribing the procedures for responding to the Director's request to provide information;
- (q) respecting the conditions, including the maximum number of children in a facility or family child-care home and child-staff ratios for which the facility or agency is licensed;
- (r) respecting fees, subsidization, capital and operating costs;
- (s) requiring and prescribing standards of programs, services, health, space, fire protection and safety in or for a facility, family child-care home and an agency play space;
- (t) respecting a child-care advisory committee to advise the Minister;
- (u) respecting the establishment of facilities and agencies;
- (v) defining any word or expression used by but not defined in this Act;
- (w) further defining any word or expression defined in this Act;
- (x) respecting any manner or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2018, c. 33, s. 16.

Existing facility

16 Any day nursery or day care centre licensed or registered under the former *Day Nurseries Act* or the former *Day Care Services Act* immediately before the first day of January, 1980, shall be deemed to be a facility and subject to this Act. R.S., c. 120, s. 16.
