



Province of Alberta

# **EARLY LEARNING AND CHILD CARE ACT**

Statutes of Alberta 2007  
Chapter E-0.1

Current as of February 1, 2021

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2017 cR-2.5 s5 adds s5(1.1).

### Regulations

The following is a list of the regulations made under the *Early Learning and Child Care Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Early Learning and Child Care Act</b>		
Early Learning and Child Care.....	143/2008 .....	185/2008, 154/2011, 31/2012, 62/2013, 152/2016, 10/2019, 81/2019, 299/2020

# **EARLY LEARNING AND CHILD CARE ACT**

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Definitions**

**1** In this Act,

- (a) “child” means
  - (i) a child under the age of 13 years, and
  - (ii) a child of 13 or 14 years of age who because of a special need requires child care;
- (b) “child care” means the temporary care and supervision of a child by an individual other than the child’s parent or guardian, but does not include
  - (i) a group home, foster home or other residential care setting;
  - (ii) a program or service provided under the *Education Act*;
  - (iii) a day camp, vacation camp or other recreational program that is operated for less than 12 consecutive weeks in any 12-month period;
  - (iv) supervision of children at a recreational facility, retail centre or other commercial establishment where the parents or guardians of the children remain on the premises and are immediately available;
- (c) “child care program” means a facility-based program or a family day home program;
- (d) “Court” means the Court of Queen’s Bench;
- (e) repealed 2020 c31 s4;
- (f) “facility-based licence” means a licence issued under section 5;
- (f.1) “facility-based program” means a child care program that is offered or provided under a facility-based licence;

- (f.2) “family day home agency licence” means a licence issued under section 18.3;
- (f.3) “family day home program” means a child care program that is offered or provided by an individual
  - (i) in the individual’s private residence, and
  - (ii) under the oversight of a licensed family day home agency;
- (f.4) “licensed facility-based program” means a facility-based program in respect of which a licence has been issued under section 5;
- (f.5) “licensed family day home agency” means the holder of a family day home agency licence;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “statutory director” means an individual designated by the Minister as the statutory director for the purposes of this Act.

2007 cC-10.5 s1;2012 cE-0.3 s288;2020 c31 s4

**Principles**

**1.1** This Act is to be interpreted and applied in accordance with the following principles:

- (a) the safety, security, well-being and development of the child is to be supported and preserved;
- (b) flexibility in child care supports choice and accessibility for families;
- (c) engagement of parents, guardians and community members in the provision of child care supports the child’s optimal development.

2020 c31 s5

**Matters to be considered by providers of child care programs**

**1.2** All providers of child care programs shall take into consideration the following matters as well as any other matter the provider considers relevant:

- (a) children should be encouraged in having care and play experiences that support their development and learning;

- (b) the child is to be protected from all forms of physical punishment, physical and verbal abuse and emotional deprivation;
- (c) diversity in
  - (i) the background and circumstances of children in the program and their families, including those who may be experiencing social or economic vulnerability, and
  - (ii) the abilities of the children in the programis to be respected and valued;
- (d) the child's familial and Indigenous or other cultural, social, linguistic and spiritual heritage are central to the child's safety, well-being and development;
- (e) care of the child must be appropriate to the child's mental, emotional, spiritual and physical needs and stage of development;
- (f) involvement and engagement of parents and guardians supports accountability of child care program providers, monitoring of child care programs and maintenance of good quality child care programs.

2020 c31 s5

**Statutory director**

**2(1)** The Minister may designate an employee of the Government who is under the administration of the Minister as the statutory director for the purposes of this Act.

**(2)** The statutory director may delegate any powers and duties of the statutory director, including the power to form an opinion and the power to subdelegate, to any person employed or assisting in the administration of this Act.

2007 cC-10.5 s2;2020 c31 s6

## **Part 1**

### **Facility-based Licences**

**Requirement for facility-based licence**

**3** No person shall, except in accordance with a facility-based licence, offer or provide child care to more than 6 children, not including the person's own children.

2007 cC-10.5 s3;2020 c31 s7

**Application for issuance or renewal of facility-based licence**

**4(1)** An application for the issuance or renewal of a facility-based licence may be made by an adult or a corporation.

**(2)** An application under this section

- (a) must be made to the statutory director in a form and manner satisfactory to the statutory director,
- (b) must contain the information required by the regulations and any other information the statutory director requests, and
- (c) must be accompanied with the application fee set under subsection (5).

**(3)** A person who

- (a) has been refused a facility-based licence or a renewal of a facility-based licence under section 5(1)(b),
- (b) has been refused reinstatement of a suspended facility-based licence under section 15(5), or
- (c) has had a facility-based licence cancelled under section 16,

is ineligible, for a period set under subsection (4), to apply for an initial licence to provide a facility-based program.

**(4)** The statutory director has discretion to decide the length of a period of ineligibility for a person referred to in subsection (3), but the period must not exceed 2 years from the date of the refusal or cancellation.

**(5)** The statutory director may charge a fee for an application under this section and may set the amount of the fee.

2007 cC-10.5 s4;2020 c31 s8

**Licence to provide facility-based program**

**5(1)** On considering an application under section 4, the statutory director may

- (a) issue or renew, with or without conditions, a licence to provide a facility-based program, or
- (b) refuse to issue or to renew a licence to provide a facility-based program if the statutory director



- (i) is not satisfied that the applicant is capable of providing a facility-based program in accordance with this Act or the regulations,
- (ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or
- (iii) has reasonable and probable grounds to believe that any individual associated with the provision of the proposed facility-based program is not suitable to provide child care.

**(2)** When issuing an initial facility-based licence, the statutory director shall set the term of the licence for at least one year but not more than 3 years, as the statutory director considers appropriate.

**(3)** A facility-based licence issued or renewed under this section authorizes the holder to provide a facility-based program in accordance with this Act, the regulations and the terms and conditions of the licence.

2007 cC-10.5 s5;2020 c31 s9

#### **Provisions and variation of facility-based licence**

**6(1)** A facility-based licence that is issued or renewed must indicate the following:

- (a) the name of the licence holder;
- (b) repealed 2020 c31 s10;
- (c) the location of the premises where the facility-based program is authorized to be provided;
- (d) the maximum number of children who may be cared for in the facility-based program;
- (e) in the case of an initial licence, the term of the licence;
- (f) any other conditions to which the licence is subject.

**(2)** The statutory director may, on the application by a licence holder in a manner satisfactory to the statutory director, vary a provision of a licence referred to in subsection (1)(c) to (f).

2007 cC-10.5 s6;2020 c31 s10

**Safety codes**

**6.1** It is a condition of every facility-based licence that the licence holder must comply with all applicable zoning, health and safety requirements.

2020 c31 s11

**Licence not transferable**

**7** A facility-based licence is not transferable by the licence holder to any other person.

2007 cC-10.5 s7;2020 c31 s12

**Notice of change in licence holder's directors or officers**

**7.1** Where a facility-based licence is held by a corporation and there is a change in the directors or officers of the corporation, the licence holder must notify the statutory director of the change, in writing, within 15 days of the change.

2020 c31 s13

**Expiry**

**8** An initial facility-based licence expires at the end of the term of the licence unless it is renewed.

2007 cC-10.5 s8;2020 c31 s14

**Duty to post information and inform parents or guardians**

**9** A holder of a facility-based licence must post, in a clearly visible and prominent place on the premises where the licensed facility-based program is being provided,

- (a) the licence,
- (b) any report provided by the statutory director under section 10(3),
- (c) any conditions imposed on the licence under section 5(1) or 13,
- (d) any provisions of the licence that are varied under section 12, and
- (e) any probationary licence issued under section 15,

and must inform the parents or guardians of all children in the program of any posting under clause (d) or (e).

2007 cC-10.5 s9;2020 c31 s15

**Inspection and monitoring of licensed facility-based program**

**10(1)** For the purpose of ensuring compliance with this Act, the regulations and the conditions, if any, of a facility-based licence, the statutory director may

- (a) at any reasonable hour, enter any premises where a licensed facility-based program is being offered or provided and inspect the premises and monitor the provision of the facility-based program, and
- (b) require the production of any records or other documents relevant to the operation of the facility-based program and remove them temporarily for the purpose of examining them and making copies.

**(2)** When the statutory director removes any records or other documents pursuant to subsection (1)(b), the statutory director must

- (a) give to the individual from whom those items were taken a receipt for those items, and
- (b) return those items to the licence holder after they have served the purpose for which they were taken.

**(3)** The statutory director must, following an inspection and monitoring under subsection (1), provide the licence holder with a report of the results of the inspection and monitoring.

**(4)** If a person

- (a) refuses or fails to permit the statutory director to enter any premises under subsection (1)(a), or
- (b) after permitting the statutory director to enter the premises obstructs the statutory director in exercising rights and performing duties under this section,

the statutory director may apply to the Court for an order under subsection (5).

**(5)** On being satisfied that an order is necessary for the purpose of ensuring compliance with this section, the Court may make an order

- (a) directing the licence holder to allow the statutory director to enter the premises where the facility-based program is being offered or provided and inspect the premises and monitor the facility-based program,

- (b) directing the licence holder to produce to the statutory director any records or other documents required by the statutory director,
  - (c) directing any police officer to assist the statutory director in enforcing the order, and
  - (d) addressing any other matter the Court considers appropriate.
- (6) An application under subsection (4) may be made ex parte if the Court considers it appropriate.

2007 cC-10.5 s10;2009 c53 s34;2020 c31 s16

## **Part 2**

### **Enforcement Respecting Licensed Facility-based Programs**

#### **Authority of statutory director**

**11** Where the statutory director is of the opinion that a licensed facility-based program is not being provided in accordance with this Act, the regulations or the conditions, if any, of the licence, the statutory director may take any action authorized by this Part that the statutory director considers appropriate.

2007 cC-10.5 s11;2020 c31 s17

#### **Notice of non-compliance**

**11.1** The statutory director may issue a written notice of non-compliance to the holder of a facility-based licence in respect of any non-compliance that is found during an inspection and is immediately remedied by the licence holder.

2020 c31 s17

#### **Variation of licence provisions**

**12** The statutory director may vary a provision of a facility-based licence referred to in section 6(1)(c) to (f).

2007 cC-10.5 s12;2020 c31 s18

#### **Imposition of conditions on licence**

**13** The statutory director may impose conditions on a facility-based licence for a specified period of time.

2007 cC-10.5 s13;2020 c31 s19

#### **Order to remedy non-compliance**

**14** The director may, in writing, order a licence holder to take measures specified in the order within the time limits specified in the order.

**Suspension of facility-based licence and issuance of probationary licence**

**15(1)** The statutory director may suspend a facility-based licence and issue a probationary licence.

**(2)** The term of a probationary licence

- (a) must not be more than 3 months, and
- (b) must not exceed the unexpired term of the suspended licence.

**(3)** A probationary licence must indicate, in addition to the matters referred to in section 6(1),

- (a) the non-compliance that resulted in the issuance of the probationary licence,
- (b) the measures the licence holder is required to take to remedy the non-compliance, and
- (c) the time within which the licence holder is required to remedy the non-compliance.

**(4)** If the statutory director is satisfied that a licence holder to whom a probationary licence has been issued has taken the measures indicated in the probationary licence in the time specified in that licence, the statutory director may, at any time during the term of the probationary licence, reinstate the suspended licence for the remainder of the unexpired term of the suspended licence.

**(5)** If a licence holder to whom a probationary licence has been issued fails to take the measures indicated in the probationary licence within the time specified in that licence, the statutory director may refuse to reinstate the suspended licence, and in that case both the probationary licence and the suspended licence expire at the end of the term of the probationary licence.

**(6)** A probationary licence may not be renewed.

2007 cC-10.5 s15;2020 c31 s21

**Cancellation of facility-based licence**

**16(1)** The statutory director may cancel a facility-based licence.

**(2)** The cancellation of a facility-based licence takes effect

- (a) immediately on the posting of a notice of cancellation on the premises, if the statutory director is of the opinion that the licensed facility-based program is being provided in a

manner that presents an imminent danger to the health, safety or well-being of a child, or

- (b) 15 days after the day on which a notice of cancellation is served on the licence holder under section 17(1), in any other case.

(3) A person whose licence is cancelled under subsection (1) must inform the parents or guardians of all children in the program of the cancellation.

2007 cC-10.5 s16;2020 c31 s22

#### **Duty to notify licence holder**

**17(1)** Where the statutory director takes an action under sections 12 to 16, the statutory director must serve on the licence holder a notice in writing

- (a) setting out the action taken by the statutory director and the reasons for the action, and
- (b) informing the licence holder of the licence holder's right to appeal the matter to an appeal panel under section 21.

(2) Where the cancellation of a facility-based licence under section 16 takes effect immediately, the notice under subsection (1) must be served forthwith.

(3) A notice under subsection (1) may be served

- (a) by personal service,
- (b) by ordinary mail to the licence holder's last address known to the statutory director,
- (c) by fax to the licence holder's last fax number known to the statutory director, if there is a record of the fax,
- (d) by email to the licence holder's last email address known to the statutory director, if there is a record of the email, or
- (e) in any manner that may be directed by the Court.

(4) The Court may, on the application of the statutory director, make an order directing the manner of service on a licence holder of a notice under subsection (1).

2007 cC-10.5 s17;2020 c31 s23

#### **Posting of notice**

**18(1)** The statutory director

- (a) may post a notice of an action taken under sections 12 to 15, and
- (b) must post a notice of a cancellation under section 16,

in a clearly visible and prominent place on the premises where the licensed facility-based program is provided.

(2) A notice posted under subsection (1)(b) must indicate when the cancellation takes effect.

2007 cC-10.5 s18;2020 c31 s24

## **Part 2.1**

### **Family Day Home Programs and Licensed Family Day Home Agencies**

#### **Restriction on family day home programs**

**18.1** No person shall offer or provide a family day home program that provides child care to more than 6 children, not including the person's own children.

2020 c31 s25

#### **Application for family day home agency licence**

**18.2(1)** An application for the issuance or renewal of a family day home agency licence may be made by an adult or a corporation.

(2) An application under this section

- (a) must be made to the statutory director in a form and manner satisfactory to the statutory director,
- (b) must contain all the information that the statutory director directs must be included, and
- (c) must be accompanied with the application fee set under subsection (3).

(3) The statutory director may charge a fee for an application under this section and may set the amount of the fee.

2020 c31 s25

#### **Family day home agency licence**

**18.3(1)** On considering an application under section 18.2, the statutory director may

- (a) issue or renew, on any conditions the statutory director considers appropriate, a family day home agency licence, or
- (b) refuse to issue or to renew a family day home agency licence if the statutory director

- (i) is not satisfied that the applicant is capable of providing appropriate oversight of family day home programs,
- (ii) is satisfied that the applicant has made a false statement in the application or in any information provided to the statutory director in support of the application, or
- (iii) has reasonable and probable grounds to believe that any individual associated with the applicant is not suitable to oversee the provision of child care by family day home programs.

(2) The statutory director has discretion to decide the term of a family day home agency licence, which must be at least one year but not more than 3 years.

(3) A family day home agency licence issued or renewed under this section authorizes the holder to oversee family day home programs in accordance with this Act, the regulations and the terms and conditions of the licence.

2020 c31 s25

#### **Provisions of family day home agency licence and variation**

**18.4(1)** A family day home agency licence that is issued or renewed must indicate the following:

- (a) the name of the licence holder;
- (b) the address of the licensed family day home agency;
- (c) the maximum number of family day home programs that the family day home agency is authorized to oversee;
- (d) the term of the licence;
- (e) any other conditions to which the licence is subject;
- (f) any other information the statutory director considers necessary.

(2) The statutory director may, on the application by a licence holder in a manner satisfactory to the statutory director, vary a provision of a family day home agency licence referred to in subsection (1)(b) to (f).

2020 c31 s25

#### **Licence not transferable**

**18.5** A family day home agency licence is not transferable by the licence holder to any other person.

2020 c31 s25



**Notice of change in licence holder's directors or officers**

**18.6** Where a family day home agency licence is held by a corporation and there is a change in the directors or officers of the corporation, the licence holder must notify the statutory director of the change, in writing, within 15 days of the change.

2020 c31 s25

**Expiry**

**18.7** A family day home agency licence expires at the end of the term of the licence unless it is renewed for a further term.

2020 c31 s25

**Authority of statutory director**

**18.8** Where the statutory director is of the opinion that a licensed family day home agency is not providing oversight of family day home programs in accordance with this Act, the regulations or the conditions, if any, of the licence, the statutory director may take any action under section 18.9 or 18.91 that the statutory director considers appropriate.

2020 c31 s25

**Variation, imposition of conditions or order to remedy**

**18.9** The statutory director may

- (a) vary a provision of a family day home agency licence,
- (b) impose conditions on a family day home agency licence for a specified period of time, or
- (c) in writing, order a holder of a family day home agency licence to take measures specified in the order within the time limits specified in the order to remedy any non-compliance with this Act, the regulations or the conditions of the licence.

2020 c31 s25

**Cancellation of family day home agency licence**

**18.91(1)** The statutory director may cancel a family day home agency licence.

**(2)** The cancellation of a family day home agency licence takes effect

- (a) immediately after the statutory director has given notice of the cancellation to every family day home program being overseen by the family day home agency, if the statutory director is of the opinion that any act or omission by the agency presents an imminent danger to the health, safety or well being of a child, or

- (b) 15 days after the day on which a notice of cancellation is served on the licence holder under section 18.92(1), in any other case.

2020 c31 s25

**Duty to notify licence holder**

**18.92(1)** Where the statutory director takes an action under section 18.9 or 18.91, the statutory director must serve on the licence holder a notice in writing

- (a) setting out the action taken by the statutory director and the reasons for the action, and
- (b) informing the licence holder of the licence holder's right to appeal the matter to an appeal panel under section 21.

**(2)** Where the cancellation of a family day home agency licence under section 18.91 takes effect immediately, the notice under subsection (1) must be served on the licence holder forthwith.

**(3)** A notice under subsection (1) may be served

- (a) by personal service,
- (b) by ordinary mail to the licence holder's last address known to the statutory director,
- (c) by fax to the licence holder's last fax number known to the statutory director, if there is a record of the fax,
- (d) by email to the licence holder's last email address known to the statutory director, if there is a record of the email, or
- (e) in any manner that may be directed by the Court.

**(4)** The Court may, on the application of the statutory director, make an order directing the manner of service on a licence holder of a notice under subsection (1).

2020 c31 s25

### **Part 3**

## **Reviews, Alternative Dispute Resolution and Appeals**

**Definitions for Part 3**

**18.93** In this Part,

- (a) "licence" means a facility-based licence or a family day home agency licence;

- (b) “licence holder” means a person who holds a facility-based licence or a family day home agency licence.

2020 c31 s27

**Administrative reviews**

**18.94(1)** A licence holder who is subject to a decision of the statutory director respecting the licence may request, within 30 days of the decision, that the statutory director review the decision.

(2) A request under subsection (1) must set out

- (a) the decision in sufficient details for the statutory director to be able to identify the decision, and
- (b) the grounds for the review.

(3) In reviewing a decision, a statutory director may receive oral or written submissions from the licence holder who requested the review.

(4) On completing a review the statutory director

- (a) may confirm, vary or rescind the decision that has been reviewed, and
- (b) must, within 15 days of receiving the request under subsection (1), provide the licence holder who requested the review with a copy of the decision under clause (a) that includes the reasons.

(5) If a copy of the decision is not received under subsection (4)(b) within 15 days of the making of the request under subsection (1), the licence holder who requested the review is deemed to have received a copy of the decision stating that the statutory director has confirmed the decision that was reviewed.

2020 c31 s27

**Alternative dispute resolution**

**18.95(1)** Subject to the regulations, a licence holder may, without having requested a review under section 18.94 or after the completion of the review if the licence holder requested a review, request to enter into alternative dispute resolution with the statutory director in respect of any decision made by the statutory director respecting the licence.

(2) All information provided orally during alternative dispute resolution is confidential and is the privileged information of the person providing it, and all documents and records created as a result of alternative dispute resolution are confidential and are privileged documents and records of the person creating them.

(3) No person shall disclose or be compelled to disclose the documents, records or information described in subsection (2) except

- (a) with the consent of all who participated in the alternative dispute resolution,
- (b) if disclosure is necessary to make or to carry out an agreement under this Act,
- (c) if disclosure is pursuant to an order of the Court granted with the consent of all the parties to the Court application,
- (d) to the extent that the disclosure is necessary to protect the safety, security or development of the child, or
- (e) for the purposes of disclosure required by section 4.

(4) If there is a conflict or inconsistency between subsection (2) or (3) and the *Freedom of Information and Protection of Privacy Act*, subsection (2) or (3) prevails despite that Act.

(5) No action may be brought against a person who conducts alternative dispute resolution under this section for any act done or omitted to be done with respect to the alternative dispute resolution unless it is proved that the person acted maliciously and without reasonable and probable cause.

(6) The Minister may establish the alternative dispute resolution processes that are to be used for the purposes of this section.

2020 c31 s27

#### **Appeal panel**

**19(1)** The Minister may establish one or more appeal panels.

(2) The Minister may, subject to any applicable regulations under the *Alberta Public Agencies Governance Act*,

- (a) fix the term of office of a member of an appeal panel in accordance with the regulations,
- (b) designate the chair and one or more vice-chairs of an appeal panel, and
- (c) authorize and provide for the payment of the remuneration and expenses of the members of an appeal panel.

(3) The quorum to hear an appeal is 3 members, but an appeal may be heard by one member for procedural matters related to the

appeal or in emergency circumstances provided for in the regulations.

**(4)** Notwithstanding subsection (2)(a), where the appointment of a member of an appeal panel expires, the member continues to hold office until

- (a) the member is reappointed,
- (b) a successor is appointed, or
- (c) a period of 3 months has elapsed,

whichever occurs first.

2007 cC-10.5 s19;2009 cA-31.5 s32;2016 c19 s5

#### **Appeal panel powers**

**20(1)** The *Administrative Procedures and Jurisdiction Act* applies to the proceedings of an appeal panel.

**(2)** An appeal panel

- (a) may confirm, vary or rescind a decision of the statutory director that is appealed under section 21, and
- (b) must notify the appellant and the statutory director in writing of its decision.

**(3)** The decision of an appeal panel is final.

2007 cC-10.5 s20;2020 c31 s28

#### **Appeals**

**21(1)** A decision of the statutory director that is made under this Act or the regulations in respect of a licence or an application for a licence or the renewal of a licence and that is prescribed in the regulations as being appealable under this subsection may be appealed to an appeal panel by the licence holder or the person who applied for the licence or renewal.

**(1.1)** A decision of the statutory director that is made under this Act or the regulations and that is prescribed in the regulations as being appealable under this subsection may be appealed to an appeal panel by a person to whom the decision pertains.

**(2)** The following decisions remain in force pending the outcome of an appeal:

- (a) the refusal to issue a licence under this Act;
- (b) the imposition or variation of any conditions of a licence;

- (c) the cancellation of a licence;
- (d) the suspension of a facility-based licence and issuance of a probationary licence under section 15.

**(3)** An appeal must be commenced by serving a notice of appeal on the statutory director within 30 days after the day on which the appellant is notified of the decision that is being appealed.

**(4)** The statutory director must, within 10 days after receiving a notice of appeal, deliver it to the chair of an appeal panel.

2007 cC-10.5 s21;2020 c31 s29

## **Part 4**

### **Investigation Respecting Unlicensed Child Care**

#### **Investigation**

**22(1)** If the statutory director has reasonable and probable grounds to believe that either of the following applies in respect of a person's offering or providing of child care, the statutory director may exercise the powers set out under subsection (1.1):

- (a) the person is offering or providing the child care to more than 6 children, not including the person's own children, without being authorized to do so under a facility-based licence, or
- (b) an imminent threat to the health, safety or welfare of any children to whom the person is offering or providing the child care exists.

**(1.1)** The statutory director may, with the permission of the person in charge of the premises in which the child care referred to in subsection (1) is being offered or provided

- (a) enter the premises at any reasonable hour for the purpose of conducting an investigation with respect to the matter, and
- (b) examine any documents or other records, whether in physical or electronic form, found within that premises that are relevant to the investigation.

**(2)** The statutory director may apply to the Court for an order under subsection (3) if

- (a) the person in charge of the premises

- (i) refuses to permit the statutory director to enter the premises or to examine records or documents under subsection (1.1), or
- (ii) after permitting the statutory director to enter the premises, obstructs the statutory director in exercising rights and performing duties under this section,

or

- (b) the statutory director is of the opinion that requesting permission to enter from the person in charge of the premises might compromise the purpose of an investigation.

(3) On being satisfied that subsection (1)(a) or (b) applies to a person's offering or provision of child care, the Court may make an order

- (a) directing the person in charge of the premises to allow the statutory director to enter the premises where the child care is being offered or provided for the purpose of conducting an investigation with respect to the matter,
- (b) directing the person in charge of the premises to produce to the statutory director any records or other documents relevant to the investigation,
- (c) directing any police officer to assist the statutory director in enforcing the order, and
- (d) addressing any other matter the Court considers appropriate.

(4) An application under subsection (2) may be made ex parte if the Court considers it appropriate.

2007 cC-10.5 s22;2009 c53 s34;2020 c31 s31

#### **Stop order**

**23(1)** The statutory director may, in writing, order a person to cease offering or providing child care if the statutory director has reasonable grounds to believe that

- (a) the person is offering or providing the child care to more than 6 children, not including the person's own children, without being authorized to do so under a facility-based licence, or
- (b) an imminent threat to the health, safety or welfare of the children to whom the person is offering or providing child care exists.

**(1.1)** On determining that an imminent threat in respect of which an order has been made under subsection (1)(b) no longer exists, the statutory director must immediately

- (a) rescind, in writing, the order, and
- (b) provide to the person who is the subject of the order a written notice stating that the order
  - (i) is rescinded, and
  - (ii) is no longer in effect.

**(2)** If the person to whom an order under subsection (1) is directed fails to comply with the order, the statutory director may make an application to the Court for an order directing that person cease offering or providing the child care described in the order.

**(3)** On being satisfied that subsection (1)(a) or (b) applies to a person's offering or provision of child care, the Court may make an order directing the person to cease offering or providing that child care.

**(4)** The statutory director must serve an order under subsection (1) or (3) by personal service on the person to whom it is directed and must, in writing, inform the parents or guardians of all children to whom the child care was being offered or provided of the order.

**(4.1)** The statutory director may require a person to whom an order under subsection (1) is directed to disclose to the statutory director the names of, and contact information for, all parents and guardians of children to whom the child care was being offered or provided, and the statutory director may collect, use and disclose that information for the purposes of informing the parents and guardians of the order.

**(4.2)** The statutory director may, on request, disclose to a person whether any stop orders under this section have been issued to an identified person in the 24 months immediately preceding the request.

**(5)** A person to whom an order of the Court under subsection (3) is directed may appeal that order to the Court of Appeal within 30 days after the day on which the order was served on that person.

**(6)** A notice of appeal under subsection (5) must be served on the statutory director within 7 days after the filing of the notice.

2007 cC-10.5 s23;2009 c53 s34;2020 c31 s32



## Part 5 General Matters

### Exemption, variation or new terms

**24(1)** The Minister may, by order, temporarily exempt a licence holder or a category of licence holders from any requirement of this Act or the regulations if the Minister is of the opinion that

- (a) there is an exceptional and extraordinary circumstance that warrants a temporary exemption, and
- (b) it is in the public interest that a temporary exemption be granted.

**(2)** The Minister may, by order, vary the terms and conditions of a licence or impose new terms and conditions on a licence if the Minister is of the opinion that

- (a) there is an exceptional and extraordinary circumstance that warrants the variation or the new terms and conditions, and
- (b) it is in the public interest that the variation or the new terms and conditions be ordered.

2007 cC-10.5 s24;2020 c31 s33

### Standards and certification

**24.1(1)** The Minister may set standards respecting

- (a) the skills, training and other qualifications that an individual must have, and
- (b) the conduct requirements that an individual must meet

in order to hold a child care certification under the regulations.

**(2)** The standards under subsection (1)(a) may set different training requirements for each level of child care certification established in the regulations.

2020 c31 s33

**25** Repealed 2020 c31 s34.

### Offence

**26** Any person who

- (a) offers or provides a child care program without a licence,
- (a.1) provides, or engages another person to provide, child care in a child care program without meeting the applicable training

or certification standards set by the Minister under section 24.1, or

- (b) obstructs or interferes with, or attempts to obstruct or interfere with, the statutory director, the statutory director's delegate, a police officer or any other duly authorized person exercising any power or performing any duty under this Act

is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a period of not more than 12 months or to both a fine and imprisonment.

2007 cC-10.5 s26;2020 c31 s35

### Regulations

**27(1)** The Minister may make regulations

- (a) respecting forms required under this Act;
- (b) respecting the information that must accompany an application under section 4;
- (c) respecting fees payable with an application under section 4;
- (c.1) respecting the information that must accompany an application under section 18.2;
- (d) respecting the application process for the purposes of section 4 or 18.2;
- (d.1) giving the statutory director discretion, despite section 18.3, to decline to consider applications that are or may be made under section 18.2;
- (e) respecting categories of child care programs;
- (f) respecting the standards that must be maintained by licence holders in respect of child care programs;
- (g) establishing levels of child care certification and respecting the certification of individuals by the statutory director under section 24.1;
- (h) respecting the term of office of persons appointed as members of an appeal panel and the reappointment of members;
- (i) prescribing, for the purposes of section 21(1) or (1.1) or both, decisions of the statutory director that may be appealed to an appeal panel;

- (i.01) respecting notices of appeal;
- (i.1) respecting the emergency circumstances in which an appeal may be heard by one member of an appeal panel;
- (j) respecting exemptions from the need to comply with one or more requirements of the regulations.

**(2)** A regulation under subsection (1) may adopt or incorporate, in whole or in part or with modifications, standards, codes, orders, guidelines or other bodies of rules, as they read at a particular time or as amended from time to time, that relate to any matter in respect of which a regulation may be made under subsection (1) if the standards, codes, orders, guidelines or other bodies of rules have been published and copies are available.

**(2.1)** Where the Lieutenant Governor in Council has made an order under section 52.1 of the *Public Health Act* declaring a state of public health emergency, the Minister may, in addition to or instead of making regulations under subsection (1), make any regulations that the Minister considers necessary or advisable to enable the intents and purposes of this Act to be carried out in a safe, practical and sustainable manner despite the public health emergency.

**(2.2)** Regulations under subsection (2.1) may, without limitation, and without limiting the generality of that subsection,

- (a) provide for the granting of waivers or reductions of the 2-year period referred to in section 4(2), and
- (b) authorize the director to vary the requirements of a child care program, despite the issuance of a licence, and impose the varied requirements as conditions of the licence on reasonable notice to the licence holder.

**(2.3)** Regulations under subsection (2.1)

- (a) may be made retroactive to a date not earlier than the date on which the state of public health emergency was declared, and
- (b) unless they sooner expire or are repealed, are repealed
  - (i) 60 days after the lapsing of the order declaring the state of public health emergency, or
  - (ii) if the order declaring the state of public health emergency is continued by a resolution of the

Legislative Assembly, 60 days after the day on which the continuation ends.

**(3)** If regulations under the *Alberta Public Agencies Governance Act* apply in respect of the term of office of persons appointed as members of an appeal panel or the reappointment of members, those regulations prevail, to the extent of any conflict or inconsistency, over any regulations made under subsection (1)(h).

2007 cC-10.5 s27;2009 cA-31.5 s32;2016 c19 s5;2020 c13 s2;  
2020 c31 s36

#### Transitional

**28(1)** A licence issued under the *Social Care Facilities Licensing Act* with respect to a day care facility that is in existence immediately before the coming into force of this Act is deemed to be a licence issued under this Act until

- (a) the term of the licence expires, or
- (b) the licence is cancelled by the statutory director under section 16.

**(2)** An appeal before an appeal board under the *Social Care Facilities Licensing Act* that commenced before the coming into force of this Act is to be concluded under the *Social Care Facilities Licensing Act* as if this Act had not come into force.

2007 cC-10.5 s28;2020 c31 s37

#### Transitional

**28.1(1)** In this section,

- (a) “former Act” means this Act as it read immediately before the coming into force of this section;
- (b) “former regulations” means the regulations as they read immediately before the coming into force of this section.

**(2)** Where, immediately before the coming into force of this section, a child care program is being offered or provided under the former regulations as a day care program, an out of school program or a pre-school program,

- (a) this Act and the regulations, as they read on the coming into force of this section, do not apply in respect of the child care program until February 1, 2021,
- (b) the former Act and the former regulations continue to apply in respect of the child care program until the expiration of January 31, 2021, and

- (c) notwithstanding the term specified in the licence under which the child care program is being offered or provided, the licence expires on the expiration of January 31, 2021 unless it is sooner cancelled under section 16 of the former Act.

(3) Where, immediately before the coming into force of this section, a child care program is being offered or provided under the former regulations as a group family child care program or an innovative child care program,

- (a) this Act and the regulations, as they read on the coming into force of this section, do not apply in respect of the child care program,
- (b) the former Act and the former regulations continue to apply in respect of the child care program, and
- (c) notwithstanding the term specified in the licence under which the child care program is being offered or provided, the licence does not expire but remains subject to cancellation under section 16 of the former Act.

(4) Where, immediately before the coming into force of this section, a person is co-ordinating and monitoring the provision of child care under an agreement under section 25 of the former Act,

- (a) the agreement remains valid, notwithstanding the repeal of section 25 of the former Act, until it expires or is terminated, and
- (b) the person is not required to hold a family day home agency licence until after the agreement expires or is terminated, as the case may be.

2020 c31 s38

**29** *(This section amends other Acts; the amendments have been incorporated into those Acts.)*

#### **Coming into force**

**30** This Act comes into force on Proclamation.

*(NOTE: Proclaimed in force November 1, 2008.)*







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